



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316323-23

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**Type of Appeal**

Appeal under section 653J(1) of the Taxes Consolidation Act 1997, as amended, against the inclusion of land on the Residential Zoned Land Tax

**Location**

Lands located at 'Funchal' and 'Garryknock', Stillorgan rd., Foxrock, Dublin 18

**Planning Authority**

Dun Laoghaire Rathdown County Council

**Planning Authority Reg. Ref.**

DM22/0077

**Appellant(s)**

Kingscroft Developments Limited.

**Inspector**

Rachel Gleave O'Connor

## 1.0 Site Location and Description

- 1.1. The site is located to the south west of the N11 / Stillorgan Road and to the north east of the residential estate at Avonmore. The site is situated in a residential area and is occupied by two dwellinghouses.

## 2.0 Zoning and other provisions

- 2.1. The site is zoned under the Dún Laoghaire Rathdown Development Plan 2022-2028 as 'Objective A' 'To provide residential development and improve residential amenity while protecting the exiting residential amenities.'

## 3.0 Planning History

- 3.1. D18A/1112 / ABP 303816-19: Permission refused by DLR Council but GRANTED on appeal by An Bord Pleanála for the demolition of 2 no. two storey habitable dwellings and associated outbuildings, and construction of an apartment building of 4 storeys over basement, comprising 28 no. residential units. 24/09/2019
- 3.2. D16A/0670 / PL06D.247655: Permission REFUSED by DLR Council and An Bord Pleanála for the demolition of 2 no. two-storey habitable dwellings and construction of a residential development comprising 21 apartments and 8 no. houses. 13/04/2017
- 3.3. D14A/0400: Permission REFUSED for (A) Demolition of the existing dwelling house; (B) The splitting of the existing property into five plots; (C) The widening of the existing vehicular entrance from the Stillorgan road into 'Fairways' and 'Garrynock'; (D) The construction of three storey semi detached houses on Plots 1, 2, 3 & 4 and a three storey detached house on Plot 5; (E) Ancillary and contingent works. 14/08/2014
- 3.4. D14/0689 / PL06D.244399: Permission REFUSED by DLR Council and An Bord Pleanála for demolition of existing 2 storey house and garage, construction of 9 no. houses, consisting of: (i) 7 no. 4 bed 3-storey semi-detached houses, ranging in size from 148 sqm to 179 sqm; (ii) 1 no. 3 bed 3-storey semi-detached house of approx. 158 sqm; (iii) 1 no. 4 bed 3-storey detached house of approx. 153 sqm; (iv) ancillary

site development works including car parking spaces, landscaping, access road and boundary treatments. 09/06/2015

- 3.5. D07A/1208: Permission GRANTED for a) Demolition of the existing dwelling house, b) The splitting of the existing property into two plots, c) formation of a new entrance from the existing right of way through "Fairways" into the second plot, d) The construction of 2 no. two storey houses, one on each of the plots, e) Ancillary and contingent works. 17/10/2007
- 3.6. D07A/0523 Permission REFUSED for development consisting of:- a) demolition of the existing dwelling house, b) development of 4no. three storey terraced houses, c) relinquishment of the right of way with the adjoining site "Fairways" to the southeast, d) modification of the existing entrance to "Garrynock" and "Fairways" by way of new vehicle and pedestrian entrance to "Garrynock" incorporating a widened crossover to Stillorgan Road and for any ancillary and contingent works. 14/06/2007

#### **4.0 Submission to the Local Authority**

- 4.1. The appellant made a submission to the Local Authority seeking to have its land removed from the draft map. It stated that:
- The landholding in question is subject of a 'live' Grant of Planning Permission for Residential development.
  - Implementation of the development permitted under ABP ref.303816-19 has commenced with the first phase enabling works (demolition and site clearance) underway and nearing completion.
  - The landholding in question is thus not considered to be 'idle' and is the subject of implementation/construction of permitted development which is actively ongoing, with relevant Commencement Notices to be lodged with DLRCC imminently.

#### **5.0 Determination by the Local Authority**

- 5.1. The local authority provided an evaluation of the site with reference to the RZLT Guidelines, confirming the following:

- The implementation of the RZLT is a two-stage process, with mapping to be prepared by Local Authorities showing land that is subject to the tax and with the tax itself to be implemented and managed by the Revenue commissioners. Any reference to a deferral or abatement of tax is a matter for the Revenue Commissioners and not for the Local Authority.
- Whilst the reference to the lands not being idle is noted, this would only be a matter for the inclusion or exclusion of land from the map in a mixed use area, where the local authority were proposing to add the lands to the draft map on that basis. The subject land is proposed to be added to the draft map not because it is vacant or idle but because it is zoned and serviced under section 653B of the TCA 1997.
- The submitter has not provided any grounds for exclusion of the lands from the map.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.2. The grounds of appeal restate the submission to the Local Authority summarised in section 4 above.

## 7.0 Assessment

7.1. The grounds of appeal state that the subject site is eligible for a deferral of payment of the RZLT due to the commencement of residential development on the site.

7.2. Page 47 of the RZLT Guidelines states:

*“ii) Deferral for commencement of development*

*Deferral of the tax is available in circumstances where a residential led development on the scoped residential or mixed use zoned land is commenced. The tax is only deferred so long as the permitted development is completed within the duration of the planning permission. The period of duration of the planning permission is taken from the first commencement notice lodged on the land for development,*

*notwithstanding that amending permissions and subsequent commencement notices may be lodged for the same land or area of land.” (Page 47).*

- 7.3. Page 46 of the Guidelines make it clear that deferral is a matter between the landowner and Revenue.

*“Deferral of the tax is only available so long as the development is underway and completed within the duration of the planning permission. Records of commencement notices and certificates of compliance on completion of development must be made available via the BCMS system. This system will be utilised by landowners to provide evidence as part of self-assessment and annual tax returns regarding commencement and completion of development.” (Page 46).*

- 7.4. Whether the subject site is eligible for a deferral of the RZLT does not impact consideration of whether the site is in-scope for the purposes of the map. The site meets the criteria for inclusion for the RZLT map, being zoned residential and serviced, or with ease of connection to infrastructure and networks. Revenue is the appropriate body to engage with in relation to deferral of payment of the RZLT.

- 7.5. As such, the site is in-scope for inclusion on the RZLT map.

## **8.0 Recommendation**

- 8.1. I recommend that the Board confirm the determination of the local authority and direct the local authority to include the site on the map.

## **9.0 Reasons and Considerations**

- 9.1. Having regard to the determination by the local authority, the submitted grounds of appeal, the provisions of the section 653B of the Taxes Consolidation Act 1997, as amended, and the advice in section 3.1.2 of the Guidelines for Planning Authorities on the Residential Zoned Land Tax, the site is considered in scope for the purposes of the RZLT map. Deferral of the tax is available where a residential led development is commenced. Records of commencement notices will be required to demonstrate this as part of evidence for self-assessment and for annual tax returns. Deferrals of payment of the tax is a matter between the landowner and Revenue and does not

affect the consideration of whether a site is considered to be in-scope for the purposes of the RZLT map.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Rachel Gleave O'Connor  
Senior Planning Inspector

25 August 2023