



An  
Bord  
Pleanála

## Inspector's Report ABP-316341-23.

---

<b>Type of Appeal</b>	Appeal under section 653J(1) of the Taxes Consolidation Act 1997, as amended, against the inclusion of land on the Residential Zoned Land Tax
<b>Location</b>	Lands at Townsend Street & Shaw Street, Dublin 2.
<b>Local Authority</b>	Dublin City Council.
<b>Local Authority Reg. Ref.</b>	RZLT 000014
<b>Appellant</b>	Espirit Investments Limited.
<b>Inspector</b>	Dáire McDevitt

## **1.0 Site Description**

The lands subject to this appeal, identified as RZLT 000014 (Parcel ID DCC000004565), are located at the junction of Townsend Street and Shaw Street in Dublin 2. The plot is triangular in shape. The southern boundary is formed by the elevated railway line.

## **2.0 Zoning**

The lands are zoned Z5 City Centre in the Dublin City Development Plan 2022-2028. With a stated objective 'to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design, character and dignity'. Residential is a permissible use under this land use zoning objective.

The lands are located within the Zone of Archaeological Constraint for Recorded Monument DU018-020 (Dublin City).

The lands are located within the Zone of Archaeological Interest.

## **3.0 Planning History**

PA Ref. 4778/19 refer to a grant of permission for a mixed use development which includes the appeal lands.

PAT Ref. 3877/21 refers to a grant of permission to amendments to PA Ref. 4778/19.

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

The appellants made a submission to the local authority seeking to have their lands removed from the draft map on the basis that the site is occupied by a development under construction. The site will be occupied by a substantially completed building and/or complete and occupied at the operative date of 2024.

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

The local authority determined that the site should be included on the final map on the basis that the site constitutes land satisfying the relevant criteria set out in in Section 653B of the Act.

Reason:

The lands:

- Are zoned for mixture of uses, including residential use.
- Have access, or can be connected, to public infrastructure and facilities, with sufficient service capacity.
- Are vacant and idle as there was no construction activity on site and there was no evidence of recent construction activity.
- Meet the other qualifying criteria in section 653B of the TC Act as amended.

## **6.0 The Appeal**

### **6.1 Grounds of Appeal**

The grounds of appeal are summarised as follows:

- The site is not vacant/idle and significant construction works has been completed including clearance, excavation and piling.
- The site will be occupied by a substantially completed building and/or occupied building, will not be considered a relevant site for the purposes of the Taxes Consolidation Act 1997, and will be exempt from the RZLT at such time.

## **7.0 Assessment**

Section 653B of the Taxes Consolidation Act 1997 as amended, sets out the criteria for inclusion in the map, and states that the first consideration for inclusion in the map is land which in subsection (a) 'is included in a development plan' or 'local area plan' zoned solely or primarily for residential use, or for a mixture of uses including residential.

The lands are zoned Z5 City Centre under the current City Development Plan where residential is permissible and therefore are considered within scope of section 653B(a)(ii). Section 653B(c)(ii) sets out land that is referred to in paragraph (a)(ii), unless it is reasonable to consider that the land is vacant or idle. The relevant land in this instance includes building/areas of hard standing. Page 12 of the Guidelines set out that 'vacant or idle land' means land which, having regard only to development (within the meaning of the Act of 2000), is not required for, or integral to, the operation of a trade or profession being carried out on, or adjacent to, the land.

The appellant has submitted that the lands have the benefit of planning permission which is stated to have commenced on site by the relevant date with the construction to be substantially completed by 2024 and therefore is not considered vacant/idle. The local authority in their assessment noted that there was no evidence of construction on site at the time of inspection on the 8<sup>th</sup> February 2023 (photographs included on the file), nor evidence of recent construction activity. The purpose of this report is to assess compliance with section 365B criteria as set out in the Determination made by the local authority. Based on the information on file I have no evidence that construction activity was taking place on the lands on the date the local authority made its Determination. Therefore I am of the view that the lands fall within the scope of vacant or idle asset out in the legislation.

Section 4.1.1(ii) of the Residential Zoned Land Tax- Guidelines for Planning authorities June 2022, page 23 states " where development for housing or housing and a mix of other uses has been permitted on land which falls into the scope of the tax as set out within the legislation, then default presumption should be given to considering all such lands with permissions to be within scope, subject to (iii) below". Section 4.1.1 (iii) refers to services to be considered.

Under section 653J the board's role in the current appeal is to review the determination of the local authority under section 653E which is based on the application of the relevant criteria set out in section 653B of the act for inclusion on the RZLT map. The legislation does not give the board a role in determining relevant site by applying the provisions of section 653O. This position is consistent with the Residential Zoned Land Tax- Guidelines for Planning Authorities June 2022 which clearly sets out in section 3.3.2 that "in considering appeals, An Bord Pleanála is restricted to considering the grounds of appeal, the determination of the local authority on the submission made during public display period, and any additional information on the servicing or use of the land which the Board may seek from the landowner, Local Authority or stakeholders identified in article 28 of the 2001 regulations. In assessing any appeal, the Board is restricted to considering whether the lands meet the qualifying criteria set out in section 653B only".

Compliance with the provisions of section 653O or not does not fall within the remit of this report. The role of An Bord Pleanála in this instance is restricted to considering compliance with the qualifying criteria set out in section 653B.

The grounds of appeal have not raised matters under section 653B that would warrant the exclusion of the lands from the final RZLT map. Having regard to the foregoing I consider that the lands identified as identified as RZLT 000014 (Parcel ID DCC000004565) meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended.

## **8.0 Conclusion and Recommendation**

The land identified as identified as RZLT 000014 (Parcel ID DCC000004565) are considered in scope of section 653B(a). The lands are vacant/idle, are located within an established urban area with services available and no capacity or other reasons have been identified that would prevent the development of these lands in principle for residential purposes. The lands are accessible in principle and there is no reason why they cannot be developed in principle in accordance with the City Centre zoning objective, where residential is permissible, that applies to the lands identified as identified as RZLT 000014 (Parcel ID DCC000004565).

I consider that the lands meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, and that there are no matters arising that warrant exclusion from the map.

I recommend that the board confirm the determination of the local authority and direct the local authority to retain the lands identified RZLT 000014 (Parcel ID DCC000004565) on the map.

## **9.0 Reasons and Considerations**

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 2022 Guidelines for Planning Authorities on the Residential Zoned Land Tax.

The land identified as RZLT 000014 (Parcel ID DCC000004565). are considered in scope of section 653B(a). The lands are located within an established urban area with services available and no capacity or other reasons have been identified that would prevent the development of these lands in principle for residential purposes. The lands are accessible in principle and there is no reason why they cannot be developed in principle in accordance with the City Centre zoning objective, where residential development is permissible, that applies to the lands identified as RZLT 000014 (Parcel ID DCC000004565). The lands meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, and there are no matters arising that warrant exclusion from the map.

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

---

Dáire McDevitt  
Senior Planning Inspector

14<sup>th</sup> August 2023