



An
Bord
Pleanála

Inspector's Report ABP-316367-23.

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	Westend Office and Retail Park, Blanchardstown, Dublin 15.
Local Authority	Fingal County Council.
Local Authority Reg. Ref.	RZLT 058/22
Appellant	JOM Investments Unlimited.
Inspector	Dáire McDevitt

1.0 Site Description

- 1.1. The site comprises 0.22 hectares of land located at the corner of the Westend Office and Retail Park at the main entrance to Blanchardstown Town Centre in Blanchardstown, Dublin 15. The site is in use as a temporary carpark with a vacant dwelling. Access is via Sungborough Road.

2.0 Zoning

- 2.1. The site is zoned for MC Town Centre by the Fingal County Development Plan 2017-2023 with a stated objective ‘ to protect, provide and/or improve town centre facilities.’ Residential development is permitted in principle.
- 2.2. There are no protected structures, national monuments or any other similar item indicated on the development plan maps.

3.0 Planning History

- 3.1. None as per planning register.

4.0 Submission to the Local Authority

- 4.1. The appellant made a submission to the Local Authority seeking to have its lands removed from the draft map on the basis that the land use zoning identifies the land for a mix of uses – commercial and otherwise- and applying a blanket residential tax on said lands is unjust and inequitable. There are issues with service capacity and hindered access to the site given land ownership issues. The lands did not fall within the scope of section 653C by the 1 January 2022 or after. Correspondence from Irish Water dated 22 July 2021 included.

5.0 Determination by the Local Authority

- 5.1. The local authority determined that the site was in scope and should remain on the map. As there are services in the vicinity and it would be reasonable to expect such works to be included as part of any future planning application.

6.0 The Appeal

6.1. Grounds of Appeal

- Planning policy and Land Use Zoning. The appellant is of the view that a blanket residential tax on lands zoned MC Town Centre which identified for a mix of uses, commercial and otherwise under the County Development Plan is inappropriate and unjustifiable and therefore the land should be removed from the RZLT mapping.
- Site Services – Access. Land Registry maps submitted with the appeal to illustrate the appellant does not have unhindered access to the site and as such it is argued that the development potential of the site is hindered and does not fall within the scope.
- It is submitted that the appellant does not have the necessary consents to progress development on site as they do not have the relevant consents for access.

7.0 Assessment

The appellants have requested that their site be removed from the map due to its land use zoning (MC) which is identified for a mix of uses, commercial and otherwise under the County Development Plan is inappropriate and unjustifiable. The zoning of a site as MTC is not a criteria for exclusion under section 653B, however the Guidelines are clear that land which is located within mixed use zones, which permit a variety of uses, including residential, should only be considered to be in scope for the tax where they are vacant or idle.

And while not raised in the ground of appeal, section 653B(c)(ii) sets out land that is referred to in paragraph (a)(i), unless it is reasonable to consider that the land is vacant or idle. The relevant land in this instance refers to land at the corner of the Westend Office and Retail contains a vacant dwelling and is marked out as a car park which is stated to be in use as a temporary carpark. Page 12 of the Guidelines set out that temporary uses of land should not result in land being excluded from the

tax measure. On the basis of the information submitted the lands fall within the scope of vacant or idle due to the stated the temporary nature of the carpark. Therefore should be retained on the RZLT map as it meets the criteria for inclusion under section 653B(c)(ii).

The site can be serviced by water services, Uisce Éireann have confirmed that while the site is not serviced connection to UI infrastructure is feasible subject to upgrades as outlined in the Confirmation of Feasibility letter issued to the appellants in July 2021. No issues of capacity were raised.

7.1. Conclusion

The site is located on lands zoned MC Town Centre where residential use is permitted in principle. On the basis of the information submitted the lands fall within the scope of vacant or idle due to the stated the temporary nature of the carpark. Therefore should be retained on the RZLT map as it meets the criteria for inclusion under section 653B(c)(ii).

The site can be served by the existing road network that is in place. As with all development, the applicant/ developer will be expected to provide for any internal road network necessary to serve the site and similarly a connection to the public road network would be provided by the developer in accordance with the requirements of the Local Authority.

I therefore consider that the site should be retained on the RZLT Map as it does not meet the criteria set out under section 653B(a)(ii) and 653B(c) of the Taxes and Consolidation Act 1997 as amended (as introduced by the Finance Act 2021) for its exclusion.

8.0 Recommendation

- 8.1.** I recommend that the board confirm the determination of the local authority and that the indicated site be retained on the map.

9.0 Reasons and Considerations

The location of the site on lands zoned under land use zoning objective MC Town Centre does not refer to the criteria for excluding land on the Residential Zoned Land Tax set out in section 653B of the Taxes Consolidation Act 1997, as amended. The site falls within the scope of vacant or idle required for mixed use land uses as required under section 653B (c)(ii).

Foul drainage has been identified in the area and Uisce Éireann have reported no issue with the connection of the applicant's site to this system. There are existing roads and footpaths in the area that can be connected to the subject site.

The site satisfies the criterion for inclusion on the map set out in section 653B(c) of the Taxes Consolidation Act 1997, as amended.

I confirm that the report represents my professional 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

25th May 2023