



An  
Bord  
Pleanála

## Inspector's Report ABP-316376-23

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<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>	Love Lane, Bray, Co. Wicklow.
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	DM22/0019
<b>Appellant(s)</b>	Visdon Ltd
<b>Inspector</b>	Colin McBride

## 1.0 Site Location and Description

- 1.1. The subject site consists of 1.8 hectares and is located approximately 1.2km west of Bray town centre and is located immediately to the east of the M11. The site consists of undeveloped scrub land.

## 2.0 Zoning and Other Provisions

- 2.1. The site is located on lands zoned Objective A – To provide residential development and improve residential amenity while protecting the existing residential amenities under the Dun Laoghaire Rathdown County Development Plan 2022 – 2028.

## 3.0 Planning History

- 3.1. LRD23A/0170: Permission sought for demolition of an existing dwelling, and construction of 108 no. apartments, a childcare facility and associated site works. Currently pending decision.

## 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:
  - Lands do not qualify under criteria for inclusion on having regard to 635B(c)(iii)(II). Development of these lands is restricted/delayed due to the N11/M11 upgrade project.
  - The N11/M11 has progressed to preferred route stage and may not be required to facilitate the project however until such time as a planning application is lodged and granted on this site such cannot be confirmed unequivocally.
  - The site should not be included until a final grant of planning permission is secured and should not be included on the RZLT map.

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

5.1. The Local Authority determined that the land was in scope and should remain on the map. The applicant is progressing an LRD application based on the land take associated with the N11/M11 Junction 4 to Junction 14 Improvement Scheme, Phase 2 Option Selection report (December 2021) and such requires a portion of the applicant's landholding that is not included with the red line boundary defining the lands subject to the determination. The site is suitably zoned for residential development and it was considered that the site does have reasonable access to services. It was concluded that the land is not affected, in terms of its physical condition, by matters to a sufficient extent to preclude provision of dwellings.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- The appellants outline the planning history of the site including proposals for an SHD application that was aborted based on Pre-Application Consultation issued by the Board relating to the impact of N11/M11 Junction 4 to Junction 14 Improvement Scheme.
- The lands do not qualify under criteria for inclusion on having regard to Section 635B(c)(iii)(II). Development of these lands is restricted/delayed due to the N11/M11 upgrade project.
- The appellant states that there is a current live LRD application on these lands, which have been subject to observations from the TII and Kildare National Roads Office claiming that the development is premature pending final determination of the N11/M11 Junction 4 to Junction 14 Improvement Scheme (copies of these submissions attached to the appeal).
- The N11/M11 has progressed to preferred route stage and may not be required to facilitate the project however until such time as a planning application is lodged and granted on this site such cannot be confirmed unequivocally.

## 7.0 Assessment

7.1. The appeal grounds relate to inclusion on the map on the basis that securing permission/development of the lands in question is restricted and delayed by the proposed N11/M11 Junction 4 to Junction 14 Improvement Scheme. The appellants are of the view that until permission is secured then the lands should be excluded from the map on the basis of Section 635B(c)(iii)(II). Under section 635(c)(iii)...

A reference to land which satisfies the relevant criteria is a reference to land that-  
(c) it is reasonable to consider is not affected, in terms of physical condition, by matters of sufficient extent to preclude the provision of dwellings, including contamination or the presence of known archaeological or historic remains,

But which is not land-

(iii) that it is reasonable to consider is required for, or is integral to occupation by –  
(II) transport facilities and infrastructure.

7.2 Based on the information provided by the Local Authority there has been progress in the status of the N11/M11 Junction 4 to Junction 14 Improvement Scheme and the designation of a preferred route. Phase 2 Option Selection report (December 2021) has confirmed the preferred route and such requires a portion of the applicant's landholding that is not included within the red line boundary defining the lands subject to the determination. I am satisfied that there is sufficient information available to determine that the lands subject to this determination are not required for the purposes of "transport facilities and infrastructure" and do not qualify for exclusion on the basis of Section 635B(c)(iii)(II).

7.3 Having regard to the above, I am of the view that the lands are suitably zoned for residential development and the land is not affected, in terms of its physical condition, by matters to a sufficient extent to preclude provision of dwellings, I

therefore consider that the site should remain on the map in accordance with the recommendation of the Planning Authority.

## 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

- 9.1. The appellants requested that their site be removed on the basis of the criteria under Section 635B(c)(iii)(II) with the site affected by the planned N11/M11 Junction 4 to Junction 14 Improvement Scheme. At the time of determination this scheme has progressed to preferred route status with the lands in question not required to facilitate provision of the improvement scheme. The lands in question are not required for the purposes of “transport facilities and infrastructure” and do not qualify for exclusion on the basis of Section 635B(c)(iii)(II).
- 9.2. The subject lands satisfy 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 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.

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Colin McBride  
Senior Planning Inspector

04<sup>th</sup> August 2023