



An
Bord
Pleanála

Inspector's Report ABP-316380-23

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	"Marmalade Lane", Wyckham Avenue, Dundrum, Dublin 16.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	DM22/0027
Appellant(s)	Wyckham Lane Limited
Inspector	Colin McBride

1.0 Site Location and Description

- 1.1. The subject site consists lands to the south Cross Avenue approximately c. 750m south of Dundrum Town Centre. The site is question lands to the rear of the Carmelite Oder complex and is currently vacant having been previous in use as an agricultural field.

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. ABP-312170-21: Permission granted for 531 no. Build to Rent apartments, crèche and associated site works. Subject to a current Judicial Review.
- 3.2. ABP-308157-20: Permission for 628 no. Build to Rent apartments, childcare facility and associated site works quashed by order of the High Court.

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 lands do not have reasonable access or is connected to public infrastructure and facilities as per Section 635B(b).
 - There is a cap on the service infrastructure capacity serving the proposed development of the lands in question and neighbouring lands. The development of lands are held up by a judicial review of the current SHD application on these lands and the quashing of a previous SHD application and as a result the cap on

infrastructure may be exceeded by the time a viable planning permission is achieved.

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 land is suitably zoned for residential development and it was considered that the site does have reasonable access to services including surface water and water supply. 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 lands do not have reasonable access or is connected to public infrastructure and facilities as per Section 635B(b).
- There is a cap on the service infrastructure capacity serving the proposed development of the lands in question and neighbouring lands. The development of lands are held up by a judicial review of the current SHD application on these lands and the quashing of a previous SHD application and as a result the cap on infrastructure may be exceeded by the time a viable planning permission is achieved.

7.0 Assessment

7.1. The appeal grounds relate to inclusion on the map on the basis of Section 635B(b), it is reasonable to consider may have access, or be connected to, public infrastructure and facilities, including roads and footpaths, public lighting, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed and with sufficient service capacity available for such development and does not dispute to inclusion on the map on the grounds of section 635B (a) or (c).

- 7.2. The appellants' contention is that there may be future cap on infrastructural services in the area (does not elaborate or provide any detail in terms of which services water supply, surface water drainage, wastewater) and that due to delays in achieving permission on the lands in question (current ABP decision to grant permission for an SHD development subject to judicial review with a previous decision to grant permission for an SHD development quashed by order of the High Court) will mean that this cap in services will be exceeded by the time a permission is achieved on the lands.
- 7.3. There is no response on the file from Uisce Eireann and the appellant has not provided any elaboration or detail to demonstrate that there is a constraint on public services and infrastructure in this area at the time of determination. It is notable that the planning permission has been sought and achieved on site albeit later quashed by order of the High Court and with a current decision to grant subject to a current Judicial Review, which indicates that the lands in question as things stand may have access, or be connected to, public infrastructure and facilities, including roads and footpaths, public lighting, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed and with sufficient service capacity available for such development. Notwithstanding such, the appellants have not demonstrated that the situation in terms of such is the contrary and the appeal is speculating on a potential future situation.
- 7.4. Having regard to the above, and as stated earlier in this section I am of the view that it is reasonable to consider that the lands in question may have access or be connected, to public infrastructure and facilities, including roads and footpaths, public lighting, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed and with sufficient service capacity available for such development. 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 from the map due to delays in achieving a planning permission on these lands (Judicial Review proceedings) may mean a potential cap on services that would facilitate development of the site and neighbouring lands would be exceeded by the time that an implementable planning permission is achieved. The site is located within an existing established urban area and it is reasonable to consider such may have access, or be connected to, public infrastructure and facilities, including roads and footpaths, public lighting, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed and with sufficient service capacity available for such development at the time of determination.
- 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 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.

Colin McBride
Senior Planning Inspector

04th August 2023