



An
Bord
Pleanála

Inspector's Report ABP-316391-23

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	Cross Avenue, Blackrock, Co. Dublin
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	DM22/0026
Appellant(s)	Players Land Limited
Inspector	Colin McBride

1.0 Site Location and Description

- 1.1. The subject site consists of approximately 1.2 hectares of lands to the north of Cross Avenue approximately 0.75km south of Blackrock. The site in is question was formerly part of Blackrock College campus and is currently a development site.

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-311190-21: Permission granted for 244 no. Build to Rent apartments and associated site works.

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 to services in the case of access to water supply with sufficient capacity with a requirement to provide a 150mm watermain for a length of c.140m along Cross Avenue on the public road.
 - The submission refers to the RZLT Guidelines and Section 4.1.1(ii) in relation services to be considered.
 - It is considered that the lands in question do not satisfy the criteria under Section 635B of due to lack of access to water supply and Uisce Eireann’s lack of plans to provide such an upgrade in the area.

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 determination does not comply with the provision of Section 635(b) of the Finance Act 20221 as the lands do not have reasonable access to water supply with sufficient service capacity to develop the land for which planning permission has been obtained. There is a requirement for a new 150m diameter watermain for the length of c. 140m along Cross Avenue on the public.
- The appellant points to Section 4.1.1 of the RZLT Guidelines in particular part (iii) of such section in relation to “Services to be considered”.
- The landowner does not have access to public infrastructure (water supply) and Uisce Eireann have confirmed they have no plans to provide such an upgrade. This is a significant piece of infrastructure with substantial outlay for the landowner and the lands do not meet the criteria for inclusion under Section 635B(b).

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 inclusion on the map on the grounds of section 635B (a) or (c).

- 7.2. Uisce Eireann's response indicates that's water supply capacity is limited and development of the site requires provision of 150mm diameter watermain for the length of c. 140m along Cross Avenue to connect to existing main in Mount Merrion Avenue. In terms of wastewater it is confirmed there is a sewer in close proximity along Cross Avenue.
- 7.3. The appellants argue that to develop the land requires a significant infrastructure with Uisce Eireann having no plans to provide such an upgrade. The appellants' state that the lands do not meet the criteria under Section 635B9(b) and quote Section 4.1.1(iii) of the RZLT Guidelines (quoted verbatim with no elaboration in terms argument).
- 7.4. Under Section 635B(b) in my view it is reasonable to consider that the lands in question may have access infrastructure and facilities water supply. I would acknowledge that such infrastructure may not be located adjoining, intersecting, at a boundary or corner of the land bank, however it could be classified as being in a nearby public road and the RZLT Guidelines (section 4.1.1(iii)) recommend that such lands should be considered to be 'connected' or 'able to connect'. Even if not considered to be nearby the works in question to facilitate access are on public land under the control of the local authority or land that would be available to the landowner/developer and do not need access to 3rd party lands. In relation to the significance of such works, such are works that are within the scope of a prospective applicant to carry out and the land in question has been granted permission for major housing development under ABP-311190-21 for 244 residential units and based on the information provide, works have commenced on site. The RZLT guidelines (section 4.1.1 (ii) state that where land has permission the same consideration should apply.
- 7.5. 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 appellant requested that their site be removed from the map due constraints on public infrastructure and facilities in relation to water supply infrastructure. The site is located within an existing established urban area and there are suitable services including water supply nearby with feasibility to connect to such and any works required to facilitate such are on public land under the control of the local authority or land that would be available to the landowner/developer with no need access to 3rd party lands to facilitate the development of these lands.
- 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.

Colin McBride
Senior Planning Inspector

04th August 2023