



An
Bord
Pleanála

Inspector's Report ABP-316411-23

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	Chesterfield, Cross Avenue, Blackrock, Co. Dublin
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	DM22/0036
Appellant(s)	Cairn Homes PLC
Inspector	Colin McBride

1.0 Site Location and Description

- 1.1. The subject site consists of 3.17 hectares of lands to the south Cross Avenue approximately 1km south west of Blackrock Village. The site in is question is occupied by Chesterfield House an existing dwelling has extensive lands within its curtilage.

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.
- 2.2. There is a protected structure on site in the form of Chesterfield House.

3.0 Planning History

- 3.1. ABP-313252-22: Permission is sought for demolition of the non-original fabric of Chesterfield House and sheds, construction of 366 no. residential units (8 no. houses, 358 no. apartments), crèche and all associated site works. Pending decision.
- 3.2. ABP-302921-18: Permission for demolition of the non-original fabric of Chesterfield House (a protected structure) and derelict sheds. Construction of 214 apartments and 7 no. houses, residents' amenity facility and all associated works quashed by order of the High Court.

4.0 Submission to the Local Authority

- 4.1. The appellants 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 relation to surface water drainage and water supply a requirement to provide a 225mm surface water drain along Cross Avenue and a new watermain from the entrance to the site to the existing main at Booterstown Avenue junction 200m away. It is noted that these works are significant in cost and not within the normal realm of associated costs.

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 635B(b) of the Finance Act 20221 as the lands do not have reasonable access to public infrastructure and facilities in the case of surface water or water supply.
- The Council failed to screen the development in the context of Section 4.1.1 of the RZLT Guidelines in terms of the threshold (infrastructure adjoining the site, intersecting the site, at the boundary or corner of landbank, in a nearby public road or connected to an existing development adjoining) for considering whether the lands are connected or able to connect to services and infrastructure and the further criteria for consideration, where these thresholds are not met (works to connect on public land, involve minor works or require access to 3rd part lands).
- There is no permission in place on site, the works to connect to surface water and water supply infrastructure are significant in cost and cannot be considered minor works

- Lands should not be included where work required to connect are materially significant or statutory consents are required. It would be necessary for the landowner to secure permission for the watermain and the lands do not meet the criteria for inclusion under Section 635B(b).
- The Councils assessment places emphasis on criteria relating to land on which there is a grant of permission and in this case the site does not have an extant permission.

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. Uisce Eireann's response indicates that's water supply will require a watermain from the site at Chesterfield to the existing main at Booterstown Avenue approx. 200m away and that the site is serviceable for wastewater. The appellants' argue that to develop the land requires a mew 225m surface water drain along Cross Avenue for a distance of 600m and a new watermain as indicated above and that these works are significant works and do not meet the criteria under Section 4.1.1 of the RZLT Guidelines in the case where services are not immediately adjoining or intersecting lands. The appellant also emphasises there is no extant permission and that works for the watermain require statutory consent.
- 7.3. Under Section 635B(b) in my view it is reasonable to consider that the lands in question may have access infrastructure and facilities including surface water drainage and 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 subject to applications for major housing development including a current application under ABP-302921-18 for 366 residential units. In regards to the applicant argument that statutory consent is required (planning permission) for works in relation to water supply, there is no reason that such cannot be sought as part of any application to development the lands.

- 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 appellant requested that their site be removed from the map due constraints on public infrastructure and facilities in relation to surface water drainage and water supply infrastructure. The site is located within an existing established urban area and there are suitable services including surface water drainage and 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