



An
Bord
Pleanála

Inspector's Report ABP-316442-23

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	Sector 3, Aiken's Village, Townlands of Woodside and Kilgobbin, Stepside, Co. Dublin.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	DM22/0015
Appellant(s)	Ironborn Real Estate Limited
Inspector	Colin McBride

1.0 **Site Location and Description**

- 1.1. The subject site consists of 3.10 hectares and are located in 'Sector 3', Aiken's Village, Stepside. The lands are bounded by Thornberry Road to the north, Ferncarrig Avenue to the east, Atkinson Drive to the west and by Village Road to the south. The site is greenfield/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. ABP-314546-22: Permission sought for 438 no. Build to Rent apartments, crèche and associated site works. Pending decision.
- 3.2. ABP-309828-21: Permission granted for 445 no. Build to Rent apartments, crèche and associated site works. Subject to a current Judicial Review.

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 in question does not reasonable access to services and do not comply with criteria for inclusion under Section 653B(b) as significant works are required on lands outside of the landowners control to connect the land to foul sewerage drainage.

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 with the works required to provide the underground tank on lands within the Council's control (letter of consent provided in relation to SHD application). It is also noted that permission was granted albeit currently subject to judicial review and supports the position that the land is serviceable and developable. 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 meet the criteria for inclusion under section 635B(b) and the appellant refers to the Residential Zoned Land Tax-Guidelines for Planning Authorities (June 2022) and Appendix 4, Assessment checklist for land in scope-residential. The lands are not in scope in relation to wastewater as to facilitate development would require significant works on lands outside of the control of the landowners. Wastewater upgrades required include a storage tank that will also cater for future development in the area and is not currently part of the Irish Water Investment Plans. The land should be considered to be not in scope for inclusion.
- The appeal submission rejects the Planning Authorities determination noting that the works required are significant infrastructural works and that a grant of permission does not negate this fact and also refer to Section 34(13) of the Planning and Development Act.

7.0 Assessment

- 7.1. The grounds of appeal relate to Section 635B(b) and the contention that the site does not have reasonable access to services in particular wastewater services. The Uisce Eireann pre-connection query submitted with the appeal submission indicates that water supply is feasible without upgrades and wastewater is feasible subject to upgrades including provision of a storage tank (c.500m³) to mitigate the impact of storm water with these works not currently on the Irish Water Investment Plan and the applicant required to fund such. The appellants highlight that these works are significant infrastructural works and on lands not under the landowners control and do not meet the criteria under section 635B(b) based on the assessment of lands as outlined under Section 4.1.1 of the residential Zoned land tax-Guidelines for Planning Authorities (June 2022).
- 7.2. Under Section 635B(b) in my view it is reasonable to consider that the lands in question may have access to infrastructure and facilities including wastewater drainage and water supply. I would acknowledge that the wastewater infrastructure (underground storage tank) may not be located adjoining, intersecting, at a boundary or corner of the land bank, or 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 (on lands under the control of the Local Authority). 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 under ABP-309828-21 (granted but subject to current judicial review) and ABP-314546-22 (pending decision) which in both cases the infrastructure in question has been proposed as part of the development (letter of consent from Local Authority). In regards to the applicants 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 and this has been the strategy in the case of applications submitted on this landholding.

- 7.3. 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 wastewater infrastructure. The site is located within an existing established urban area and there are suitable services including wastewater 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 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

09th August 2023