



An  
Bord  
Pleanála

## Inspector's Report ABP-316453-23

---

**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 Map

**Location**

Carmelite Monastery of the Immaculate Conception, Roebuck Road, Clonskeagh, Dublin 14

**Planning Authority**

Dun Laoghaire-Rathdown County Council

**Planning Authority Reg. Ref.**

DM22/0051

**Appellant(s)**

The Trustees of Carmelite Monastery of the Immaculate Conception

**Inspector**

John Duffy

## 1.0 Site Location and Description

- 1.1. The subject lands are located adjacent to the junction of Roebuck Road and the Goatstown Road, with Roebuck Road forming the southern and south-western boundary of the site. St. Killian's Deutsche Schule is located east of the site while the Islamic Cultural Centre of Ireland is located on the adjoining site to the west. UCD lands are situated to the north. The lands are indicated to contain accommodation for the resident Carmelite sisters, a chapel, gardens, car parking and an area for agricultural purposes. I note there is a lodge situated near the entrance of the site.

## 2.0 Zoning and Other Provisions

- 2.1. The subject land is zoned 'Objective A' in the Dun Laoghaire Rathdown County Development Plan 2022-2028, which states 'To provide residential development and improve residential amenity while protecting the existing residential amenities.'
- 2.2. There is a mapped Objective 'INST' pertaining to the lands as follows: 'To protect and/or provide for Institutional use in open lands.'
- 2.3. Development Plan Policy Objective PHP21 'Development on Institutional Lands' is relevant in this regard and states the following: *It is the Policy Objective to retain the open character and/or recreational amenity of land parcels that are in institutional use (such as religious residential or other such uses) and are proposed for redevelopment.*
- 2.4. Section 12.3.7.10 of the Development Plan also refers to Institutional Lands and states the following:

*Where no demand for an alternative institutional use is evident or foreseen, the Council may permit alternative uses subject to the area's zoning objectives and the open character of the lands being retained. There are still a number of large institutions in the established suburbs of the County which may be subject to redevelopment pressures in the coming years. The principal aims of any eventual redevelopment of these lands will be to achieve a sustainable amount of development while ensuring the essential setting of the lands and the integrity of the main buildings are retained. In order to promote a high standard of development*

*a comprehensive Masterplan should accompany a planning application for institutional sites. Such a Masterplan must adequately take account of the built heritage and natural assets of a site and established recreational use patterns. Public access to all or some of the lands may be required. Every planning application lodged on institutional lands shall clearly demonstrate how they conform with the agreed Masterplan for the overall site. Should any proposed development deviate from the agreed Masterplan then a revised Masterplan shall be agreed with the Planning Authority. A minimum public open space provision of 25% of the total site area will be required on Institutional Lands. This provision must be sufficient to maintain the open character of the site - with development proposals built around existing features and layout, particularly by reference to retention of trees, boundary walls and other features as considered necessary by the Council.*

### **3.0 Planning History**

#### Subject lands:

VV06D.303518 / PA. Ref. VS0063 – Appeal against entry of site located west of Carmelite Monastery on Vacant Sites Register. Appeal upheld - decision made to cancel.

### **4.0 Submission to the Local Authority**

- 4.1. The appellant made a submission to the Local Authority seeking to have their lands removed from the draft map on the basis that, inter alia, the Monastery is the home of Carmelite sisters, Local Property Tax is paid, the site is a refuge for flora and fauna, and mass is held in the on-site chapel daily and is open to the public. Furthermore, a trade (distribution of altar breads) operates from the site. Including the lands on the map would be contrary to the 'INST' objective which relates to the site.

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

5.1. The Local Authority determined that the site was in scope. The land is zoned for residential use. It is reasonable to consider it has access or can be connected to public infrastructure and facilities necessary for dwellings to be developed and with sufficient service capacity available for such development. It is reasonable to consider the land is not affected in terms of its physical condition by matters which would preclude the provision of dwellings.

## **6.0 The Appeal**

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

The following points were made in support of the appeal:

- Accept that the land is zoned for residential use. The Monastery is a residential institution and home to Carmelite sisters. Local Property Tax is paid by the sisters. As such RZLT is not chargeable in respect of residential properties.
- The sisters do not leave the site except for exceptional reasons. As such the grounds form an integral part of the Monastery complex and are crucial for both the physical and mental wellbeing of the sisters. It can be perceived the lands are affected by their physical condition and current use to a sufficient extent to preclude the provision of dwellings.
- Accept that the site can be connected to public infrastructure and facilities.
- The Carmelite sisters carry out a trade from the site, namely the distribution of altar bread sold to churches and communities across the country. A listing of local churches which are supplied altar bread by the monastery is provided. This trade, which it is deemed would not require planning permission, would be subject to commercial rates however the monastery is a registered charity and as such is exempt from payment of rates.
- Including the subject lands on the RZLT map which are subject to the 'INST' objective (which relates to the protection/provision of institutional uses at this location) would contravene the Development Plan.

- Daily mass is held in the chapel on the subject site and is open to everyone.
- Reference made to Appeal VVO6D.303518 which directed that the lands are not entered onto the Vacant Sites Register.

## 6.2. Planning Authority Response

- No response on file.

## 7.0 Assessment

- 7.1. The comments raised in the appeal submission are noted. The site identified for inclusion on the RZLT map is zoned for residential use and the Planning Authority determined that the site remain on the RZLT map. The site is within a built-up area with services available and no capacity or other reasons have been identified that would prevent the development of these lands for residential purposes.
- 7.2. The appeal submission indicates the Monastery and its grounds are used as a residential institution and home to varying numbers of Carmelite sisters, and that the grounds are vital to the physical and mental well-being of the residents. It is stated that Local Property Tax is payable in respect of Monastery. Section 3.1.1 of the RZLT Guidelines states the following:

*Land which is zoned residential and contains existing residential development such as estates or individual houses are also considered 'in scope' from a zoning perspective and therefore must be included on the maps, however owners of residential properties within these areas will not be liable for the tax (See section 653O(1)(a) of the legislation).*

*While residential properties, the associated curtilage of which exceeds 0.4047 ha are also not liable for the tax (see section 653O(2) of the legislation), owners of such properties must register for the RZLT and provide certain information to the Revenue Commissioners. This does not require any action on the part of the Planning Authority.*

Having regard to the above, it is apparent that the landowner (appellant) must register for the RZLT and provide information to the Revenue Commissioners to demonstrate that the tax will not be payable. The issue of liability under the Tax

Code is a matter for the Revenue Commissioners and is not a consideration under this appeal process.

- 7.3. Page 11 of the RZLT Guidelines states the following in relation to Operating Uses on Residential Zoned lands:

*With reference to land that is included in a development plan or local area plan and is zoned solely or primarily for residential use such as 'Residential' or 'New Residential', existing uses to be excluded from the scope of mapping for the tax measure must provide a service to the existing or future residential community, must be an authorised use, must be considered a premises in use by a trade or profession and must be liable to commercial rates. Local Authorities should seek input from their Rates Offices in this regard.*

I am not satisfied that the distribution business operating from the lands provides services to residents of adjacent residential areas, as required by section 653B (c) (i) of the legislation. I also note that the business operating from the site does not have the benefit of planning permission and as set out in the appeal submission, no commercial rates are liable. As such, it is apparent that the site does not qualify for exclusion from the map under section 653B (c) (i) of the Taxes Consolidation Act 1997, as amended.

- 7.4. Section 653B (c) states the following:

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

I do not accept the position put forward by the appellant that the land is affected by its physical condition and current use such that the provision of dwellings would be precluded. The physical condition of the land and/or its current use would not preclude the development of dwellings at this location.

- 7.5. My opinion is that the 'INST' Objective which relates to these residentially zoned lands does not preclude the development of dwellings at this location. It is clear from Section 12.7.3.10 of the Development Plan that alternative uses may be permitted 'subject to the area's zoning objectives and the open character of the lands being retained.'

- 7.6. I agree with the Local Authority that the on-site chapel where mass is held does not come within exclusion criteria listed under section 654B (c) (iii) (l) given it is ancillary to the residential/monastery uses on the lands and that it is not a parish church.
- 7.7. The remaining Grounds of Appeal do not relate to any of the relevant qualifying criteria set out in Section 653B of the Act.
- 7.8. I am of the view that the land satisfies criteria 653B (b) of the Taxes Consolidation Act 1997, as amended, and that it is serviced or has access to services necessary for dwellings to be developed and with sufficient service capacity available for such development. As such the lands could have development potential.

## 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 site is within an established urban area with services available and no capacity or other reasons have been identified that would prevent the development of these lands for residential purposes. The site does satisfy the criteria 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.

---

John Duffy  
Planning Inspector

19<sup>th</sup> September 2023