



An
Bord
Pleanála

Inspector's Report ABP-316546-23.

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	Lands at Former Mall Shopping Centre, Quay Street & High Street, Balbriggan, Co. Dublin.
Local Authority	Fingal County Council.
Local Authority Reg. Ref.	RZLT 064/22
Appellant	Rhonellen Properties Ltd
Inspector	Dáire McDevitt

1.0 Site Description

- 1.1. The site comprises c.0.361 hectares of land located at the former Mall Shopping Centre, Quay Street and High Street in Balbriggan, Co. Dublin. At present a 3 storey building occupies the site (former Mall Shopping Centre), the site has road frontage along Quay Street and High Street and is located within the centre of Balbriggan.

2.0 Zoning

- 2.1. The site is zoned for MC Town Centre by the Fingal County Development Plan 2017-2023 with a stated objective ‘ to protect, provide and/or improve town centre facilities.’ Residential development is permitted in principle.
- 2.2. There are no protected structures, national monuments or any other similar item indicated on the development plan maps.

3.0 Planning History

Permission granted in November 2021 under ABP Ref. No. 311095 for development comprising of the demolition of existing buildings and construction of 95 BTR apartments (reduced by condition from 101), 2 no. commercial units and associated sit works (SHD Application). Subject to Judicial Review at present.

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 site has been the subject of an SHD application that was granted planning permission by An Bord Pleanála in November 2021 which is the subject of a third party Judicial Review, therefore the appellants have been unable to develop the site.

5.0 Determination by the Local Authority

5.1. The local authority determined that the site was in scope and should remain on the map. As the site is included in the Development Plan or Local Area Plan and is zoned residential or zoned for a mixture of uses that includes residential development. The land is serviced, or is reasonable to consider may have access to services.

6.0 The Appeal

6.1. Grounds of Appeal

- Permission was granted in November 2021 for an SHD Application consisting of BTR apartments and commercial units. This is the subject of a current third party Judicial Review, as such the applicants are unable to proceed with the development granted permission by ABP and there is no timeframe for the juridical review process. Therefore the site is outside the scope to the RZLT tax as the applicants are unable to develop the lands at present due to the third party judicial review.

6.2 Planning Authority response to the Appeal

The Planning Authority noted had no further comment to make.

7.0 Assessment

The appellant requested that their site be removed from the map as they are unable to proceed with the permitted development on site due to third party judicial review proceedings.

The lands are zoned MC Major Town Centre under the current County Development Plan. Section 653B(c)(ii) sets out land that is referred to in paragraph (a)(i), unless it is reasonable to consider that the land is vacant or idle. The relevant land in this instance includes the former shopping mall (3 storey structure) which is vacant. Page 12 of the Guidelines set out that temporary uses of land should not result in land being excluded from the tax measure. On the basis of the information

submitted the lands fall within the scope of vacant or idle asset out in the legislation. Therefore should be retained on the RZLT map as it meets the criteria for inclusion under section 653B(c)(ii).

With regard to the permitted development on the site which is the subject of judicial review proceedings, this is not included in the criteria for exclusion as set out under section 653B, therefore this ground of appeal should be dismissed.

There is no correspondence on file from Uisce Éireann. Whilst infrastructure elements may not be in place at present, these would be expected to be provided in conjunction with the development of a site, generally developer led.

I therefore consider that the site should be retained on the RZLT Map.

7.1. Conclusion

The site is located on lands zoned MC Town Centre where residential use is permitted in principle. The site can be served by the existing road network that is in place. As with all development, the applicant/ developer will be expected to provide for any internal road network necessary to serve the site and similarly a connection to the public road network would be provided by the developer in accordance with the requirements of the Local Authority.

A grant of planning permission (including one which is the subject of judicial review) is not a criteria set out under section 653B (c) for exclusion from the maps.

I therefore consider that the site should be retained on the RZLT Map as it does not meet the criteria set out under 653B(c) of the Taxes and Consolidation Act 1997 as amended (as introduced by the Finance Act 2021) for its exclusion.

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

A grant of planning permission (including one which is the subject of judicial review) is not a criteria set out under section 653B(c) for exclusion from the maps.

The site satisfies the criterion for inclusion on the map set out in section 653B(c) of the Taxes Consolidation Act 1997, as amended.

Dáire McDevitt
Senior Planning Inspector

26th May 2023