



An
Bord
Pleanála

Inspector's Report ABP-316606-23.

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 adjacent to Dublin City University Glasnevin Campus and Albert College Park, Glasnevin, Dublin 9.

Local Authority

Dublin City Council.

Local Authority Reg. Ref.

RZLT 000046.

Appellant

Dublin City University.

Inspector

Dáire McDevitt

1.0 Site Description

The lands subject to this appeal, identified as RZLT 000046 (Parcel ID DCC000003708) runs along the northern side of Griffith Avenue, adjoining its boundary with Walnut Rise. The site is grassed with trees along all boundaries and a long frontage along Griffith Avenue.

DCU have a concurrent RZLT appeal under ABP316628-23 for lands adjacent at Griffith Avenue/R102, Glasnevin, Dublin 9 with the same Parcel ID (DCC000003708). And Sparantus Ltd, Frostdale Ltd & Highfield Healthcare have a concurrent appeal under ABP 316696-23 for lands with the same Parcel ID (DCC000003708).

2.0 Zoning

The lands are zoned Z12 Institutional land (Future Development Potential) in the Dublin City Development Plan 2022-2028. Residential is a permissible use under this land use zoning objective.

3.0 Planning History

PA Ref. 1006/00 refers to a 22 bedroom extension and ancillary accommodation to protected structure Elmhurst Convalescent Home, Hampstead, Glasnevin, Dublin 9.

PA Ref. 2895/21 refers to a decision to refuse permission for the erection of new 2.7m high boundary fence along DCU lands and a new gate entry point from the main campus.

PA Ref. 3177/22 refers to a decision to refuse permission to permanently retain a previously permitted temporary site entrance/access gate (PA Ref. 3804/11 and 4179/16) on Collins Avenue frontage of DCU Campus.

4.0 Submission to the Local Authority

The appellants made a submission to the local authority seeking to have their lands removed from the draft map on the basis that lands are in the ownership of DCU and may be required for future development to accommodate university needs. A Masterplan has been prepared for the future expansion of DCU Campus to include the lands.

5.0 Determination by the Local Authority

The local authority determined to include the site on the final map on the basis that the site constitutes land satisfying the relevant criteria set out in Section 653B of the Act.

Reason:

The lands:

- a) Are zoned solely or primarily for residential use.
- b) Have access to, or can be connected, to public infrastructure and facilities and with sufficient service capacity available for such development,
- c) Do not qualify for an exemption under S.653B(c)(iii)(I) of the TC Act 1997 as amended., as the Dublin City Development Plan does not contain a specific objective for educational use on these lands.
- d) Satisfy the other relevant criteria under section 653B of the TC Act.

6.0 The Appeal

6.1. Grounds of Appeal

Grounds of appeal are summarised as follows:

- The land should be excluded as it does not satisfy the relevant RZLT criteria. Dublin City University (DCU) have demonstrated the overall strategic importance of this lands for the future development of DCU Glasnevin Campus in the Dublin City University Masterplan Marketing document (November 2021) included with the appeal documentation.

- DCU, in their submission. Provided an alternative option to Dublin City Council for the potential rezoning of these lands in accordance with section 653 (l)(1)(a), part 6 section 80 of the Finance Act. The Determination issued by the planning authority does not indicate that this alternative option was given any consideration.

7.0 Assessment

The grounds of appeal refer to the appellants submission which provided an alternative option to Dublin City Council for the potential rezoning of these lands in accordance with section 653 (l)(1)(a), part 6 section 80 of the Finance Act. The Determination issued by the planning authority does not indicate that this alternative option was given any consideration.

Under section 653J the board's role in the current appeal is to review the determination of the local authority under section 653E which is based on the application of the relevant criteria set out in section 653B of the act for inclusion on the RZLT map. The legislation does not give the board a role in determining zoning submissions by applying the provisions of section 653I. This position is consistent with the Residential Zoned Land Tax- Guidelines for Planning Authorities June 2022 which clearly sets out in section 3.3.2 that "in considering appeals, An Bord Pleanála is restricted to considering the grounds of appeal, the determination of the local authority on the submission made during public display period, and any additional information on the servicing or use of the land which the Board may seek from the landowner, Local Authority or stakeholders identified in article 28 of the 2001 regulations. In assessing any appeal, the Board is restricted to considering whether the lands meet the qualifying criteria set out in section 653B only".

Compliance with the provisions of section 653I or not does not fall within the remit of this report. The role of An Bord Pleanála in this instance is restricted to considering compliance with the qualifying criteria set out in section 653B.

Section 653B of the Taxes Consolidation Act 1997 as amended, sets out the criteria for inclusion in the map, and states that the first consideration for inclusion in the

map is land which in subsection (a) 'is included in a development plan' or 'local area plan' zoned solely or primarily for residential use, or for a mixture of uses including residential. The appeal lands are zoned Z12 Institutional Land (Future Development Potential)) and therefore within scope of section 653B(a).

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 was determined by the local authority to be vacant/idle. 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).

It is submitted that said lands should be excluded as it does not satisfy the relevant RZLT criteria. Dublin City University (DCU) have submitted that the lands are of overall strategic importance for the future developemtn of DCU Glasnevin Campus in the Dublin City University Masterplan Marketing document (November 2021) included with the appeal documentation.

Page 11 of the Residential Zoned Land Tax – Guidelines for Planning Authorities 2022 states '*where a zoning facilitates residential development, but also makes provision for other uses including the uses identified in (I)-(IV) by way of a statement or written objective, but does not specifically identify land within a statutory plan for those uses, the whole of the lands area should be considered to be in scope unless the location and scale of the excluded uses is clearly set out.*' In this instance the lands are zoned Z12 where residential use is permissible. There are no exclusions of specific objective pertaining to the education use of these lands and as such I consider them to be within the scope and do not meet the provision of section 653B(c) for exclusion form the map.

The provision of infrastructure to the subject lands are considered to be in the control of Dublin City Council and Uisce Eireann and it is determination of the local authority

that the subject lands are in scope and therefore retained within the RZLT Final Map. Overall I am of the view that it is reasonable to conclude that the site may have access to public infrastructure and utilities, including roads and footpaths as such complies with criteria for inclusion under section 653B(b)

Having regard to the foregoing I consider that the lands identified as RZLT 000046 (Parcel ID DCC000003708) meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, and that there are no matters arising that warrant exclusion from the map.

Conclusion

The lands identified as RZLT 000046 (Parcel ID DCC000003708) are located on lands where residential development is permissible, with services available and no capacity or other reasons have been identified that would prevent the development of these lands for residential purposes. The lands are accessible and there is no reason why they cannot be developed in principle in accordance with the zoning objective – Z12 that applies to this site.

I consider, having reviewed the documentation on file, submissions and grounds of appeal, that the lands identified as RZLT 000046 (Parcel ID DCC000003708), meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, should be retained on the map and the grounds of appeal dismissed .

8.0 Recommendation

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

The lands identified as RZLT 000046 (Parcel ID DCC000003708) meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, and that there are no matters arising that warrant exclusion from the map.

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.

Dáire McDevitt
Senior Planning Inspector

5th July 2023