



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316611-23

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<b>Type of Appeal</b>	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
<b>Location</b>	Lands at Tandy's Lane, Finnstown, Lucan, Co. Dublin.
<b>Local Authority</b>	South Dublin County Council
<b>Local Authority Reg. Ref.</b>	SD-C259-06
<b>Appellant(s)</b>	Mary, Timothy & Henry Crowley
<b>Inspector</b>	Frank O'Donnell

## 1.0 Site Location and Description

1.1. The subject site is located off Tandy's Lane, in Finnstown, on the north/ north eastern side of Adamstown Way and to the immediate north-west of Finnstown Castle Hotel. The site has an estimated area of 2.38 hectares and is located within Adamstown Strategic Development Zone (SDZ). The site is located in the central area of Adamstown SDZ, within Development Area 7 – 'St. Helens' under the Adamstown SDZ Planning Scheme Area.

## 2.0 Zoning and other provisions

2.1. The site forms part of Adamstown Strategic Development Zone (SDZ) which in turn forms part of the South County Dublin Development Plan, 2022 to 2028. The relevant zoning objective is: *'To provide for strategic development in accordance with approved planning schemes.'*

2.2. Section 3.1.1 of the Guidelines for Planning Authorities on Residential Zoned Land Tax states the following in relation to Strategic Development Zones:

*'To satisfy the criteria as identified in section 653B, land must be zoned residential use or for mixed uses including residential within a Development Plan, Strategic Development Zone Planning Scheme or a Local Area Plan. This can include lands which are identified solely or primarily for residential purposes within a zoning matrix and mixed-use zonings where residential developments are permitted in principle.'*

2.3. The subject site therefore complies with the provisions of Section 653B a) of the Act.

2.4. The following Protected Structure is located adjacent to the site:

- Protected Structure Finnstown House RPS Ref 112; Two Storey House & Castle.

2.5. The outbuildings on site are listed on the National Inventory of Architectural Heritage, NIAH Reg No 11204045.

### **3.0 Planning History**

#### **3.1. Planning History for the subject site**

- 3.2. SDZ20A/0020. Strategic Development Zone (SDZ) application. Applicants: Timothy & Henry Crowley. Permission granted for 111 residential units comprising 69 houses, 18 apartments and 24 duplex apartments and all other associated site works above and below ground. Permission was GRANTED on 12/08/2021 subject to 34 no. conditions.
- 3.3. SDZ15A/0002: Ted Crowley. Permission for construction of a ground and first floor extension (34.7sq.m at ground floor). Permission was GRANTED on 05/05/2015.
- 3.4. SDZ14B/0314: Tom Crowley. INCOMPLETE APPLICATION.

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

- 4.1. The Appellant made a submission to the Local Authority seeking to have their land removed from the draft map.
- 4.2. The main items raised in the submission are summarised, as follows:
- Residential development permitted under Reg. Ref. SDZ20A/2020 of these lands is dependent upon the facilitation of a connection to adjacent services in the ownership of a third party, namely Adamstown Infrastructure Designated Activity Company.
  - The residential development permitted under Reg. Ref. SDZ20A/0020 of these lands is dependent upon both the delivery of an additional new access road, footpaths and public lighting on lands in third party ownership.
  - These lands principally comprise residential properties that are continually subject to Local Property Tax and as such should not be subject to the Residential Zoned Lands Tax in the first instance.

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

- 5.1. Local Authority Decision: To retain Land Parcel SDLA00113568 on the map.
- 5.2. It has been determined that Land Parcel SDLA001135568 fulfils the qualifying criteria set out in Part 22A of the Taxes Consolidation Act 1997 (as introduced by the Finance

Act 2021) and the 2022 Section 28 Ministerial guidelines 'Residential Zoned Land Tax - Guidelines for Planning Authorities' for inclusion on the RZLT map for the following reasons:

1. *The land in question is included in a development plan or local area plan and is zoned for residential development or zoned for a mixture of uses, that includes residential development.*
2. *The land is serviced, or it is reasonable to consider may have access to services. Services means having access to the necessary public infrastructure and facilities including road and footpath access, public lighting, foul sewer drainage, surface water drainage and water supply necessary for dwellings to be developed and for which there is service capacity available sufficient to enable housing to be developed.*
3. *The land 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 archaeological or historic remains.*

5.3. The Local Authority determined that the site was in scope and should remain on the map.

## **6.0 The Appeal**

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

6.2. The Grounds of Appeal are summarised below.

- On 1<sup>st</sup> January 2022, there was no ability to connect to services and appropriate access to serve the subject lands was not available and thus, the lands are clearly 'Out of Scope'.
- The residential development of the lands is dependent upon the facilitation of a connection to adjacent services in the ownership of a Third Party. It has not been possible to obtain consent for a connection to the services.
- The residential development of the lands subject to this appeal is dependent upon the delivery of an access road, footpaths and public lighting on lands in third party ownership.

- The residential properties on the lands subject to this appeal are permanently occupied and continually subject to Local Property Tax.

## 7.0 Assessment

- 7.1. The comments raised in the appeal are noted.
- 7.2. Planning permission was Granted on site for a total of 111 dwelling units, as planning reg. ref. no. SDZ20A/0020 refers. Irish Water raised no objection to the proposed development from a water supply and waste-water drainage perspective. In addition, the Local Authority Water Services Section similarly raised no objection to the proposed development from a surface water treatment/ disposal perspective.
- 7.3. Condition no. 2 relates to phasing.
- 7.4. Condition no. 8 relates to the Irish Water Connection Agreement, Condition no. 9 to the Attenuation Tank, Condition no. 11 relates to Surface Water Management and Condition no. 14 relates to Sustainable Urban Drainage Systems (SUDS).
- 7.5. Irish Water raise no objection subject to conditions in respect of planning reg. ref. no. SDZ20A/0020. Similarly, the Water Services Section of South Dublin County Council raise no objection to that proposed development subject to conditions. The permitted development boundary under SDZ20A/0020 extends to the distributor road to the south at Stratton Heath/ Adamstown Way. Services including public road, footpaths, public lighting, storm water and foul sewer are already in place along the distributor road, Stratton Heath/ Adamstown Way.
- 7.6. This section of connecting road is within the control/ ownership of a third party and consent has not been forthcoming to date.
- 7.7. The appeal submission includes a legal letter in relation to consent. The content of the letter is noted. The content of the original submission is also noted.
- 7.8. Section 4.1.1 iii) of the Guidelines relates to Services to be considered. In order to access the subject lands, it will be necessary traverse third party lands to the south. The proposed access road at this location, which links the consented development to the adjacent existing public road to the south, is estimated to measure c. 37 metres in length.

- 7.9. The balance of the subject lands includes 3 no. residential properties which are accessed via Tandys Lane to the north. There is no existing footpath or public street lighting along this lane. The westernmost dwelling is estimated to be within 72 metres of the nearest footpath to the north-west.
- 7.10. Having regard to the provisions of Section 653b b) of the Act, I am satisfied that it is reasonable to consider that the lands may not 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.
- 7.11. The subject Land Parcel (SDLA00113568) should therefore be removed from scope.

## 8.0 Conclusion

- 8.1. The site does not have consent for access, or consent to connect 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. The site does not satisfy the criterion for inclusion on the map set out in Section 653B(b) of the Taxes Consolidation Act 1997, as amended.

## 9.0 Recommendation

- 9.1. I recommend that the Board set aside the determination of the Local Authority and that the indicated site be removed from the map.

## 10.0 Reasons and Considerations

- 10.1. The lands identified as SD-C259-06 (Land Parcel ID: SDLA00113568), do not meet the qualifying criteria set out in Section 653B of the Taxes Consolidation Act 1997, as amended. The site does not have consent for access, or consent to connect 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.
- 10.2. I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought

to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Frank O'Donnell

Planning Inspector  
25<sup>th</sup> August 2023