



An  
Bord  
Pleanála

## Inspector's Report ABP-316619-23

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### 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

Lands at Townlands of Doddsborough & Finnstown, Adamstown, Lucan, Co. Dublin.

### Local Authority

South Dublin County Council

### Local Authority Reg. Ref.

SD-C259-23

### Appellant(s)

Somerton II Residential DAC

### Inspector

Frank O'Donnell

## 1.0 Site Location and Description

- 1.1. The site which is subject to this appeal is located to the rear (west) of Lucan Shopping Centre and to the west of existing residential development at Westbury. The site has a general triangular shape and has an overall estimated approximate site area of c. 4.25 hectares. The site, for the most part, includes established residential development.
- 1.2. The entire site is located within Adamstown Strategic Development Zone (SDZ). The majority of the site is within Development Area 2 – ‘Somerton’ with the balance, at the south-western corner, located within Development Area 3 – ‘Airlie Stud.’

## 2.0 Zoning and other provisions

- 2.1. The subject 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 lands are ascribed the following zoning objective: *'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.

## 3.0 Planning History

- 3.1. Relevant Planning History for the subject site
- 3.2. SDZ21A/0016: Quintain Developments Ireland Limited. Permission for Development a change of permitted rear boundary treatment of 8 permitted residential units. Permission was GRANTED on 21/10/2021.

- 3.3. SDZ19A/0004: DRES Properties. Planning permission for 237 dwellings. Permission was GRANTED on 15/10/2019 subject to 38 no. conditions.
- 3.4. SDZ07A/0012: Maplewood Developments. Permission for a residential development consisting of 189 no. dwelling units. Permission was GRANTED on 08/08/2008.

#### **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. Item 1: While the construction of the residential development permitted under SDZ19A/0004 on the land subject to the submission are substantially complete and occupied, the future construction of the outstanding blocks 2, 3, 4 & 5 permitted thereunder is dependent upon the facilitation of a connection to the Wastewater Drainage Infrastructure in Third Party Ownership.
- 4.3. It is stated that the landowner of this site and the third-party landowner reached a legal agreement which allowed the constructed residential development at this site to proceed. An additional legal agreement is required with the third party to facilitate the wastewater drainage connections from the permitted but not yet constructed elements (Blocks 2, 3, 4 and 5) and to date an agreement has not been reached regarding this connection.
- 4.4. It is stated that the development cannot be completed as the final stage does not have capacity for wastewater. The submission is therefore seeking the exclusion of the subject lands from the 'supplemental map' and the 'final map'.

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

- 5.1. Local Authority Decision: To retain Land Parcel SDLA00045282 on the map.
- 5.2. It has been determined that Land Parcel SDLA00045282 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**

The Grounds of Appeal are summarised below:

- The connection of the permitted residential development, in its entirety, is dependent upon the facilitation of a connection to wastewater drainage infrastructure in third party ownership.

## **7.0 Assessment**

7.1. The comments raised in the appeal are noted.

7.2. The Appeal submission shows a site outlined in red in figure 2.1. This site is consistent with the defined site outlined in red in figure 2.1 of the submission lodged with the Local Authority and dated 22/12/2022. The Local Authority assessment is based on Land Parcel ID SDLA00045282 which has a stated site area of 0.85 hectares. The majority of the remainder of the defined site, which is the subject of this appeal, has been developed for residential purposes. The balance of the lands which includes the

areas of the site where permitted Blocks 2, 3, 4 & 5 are proposed remain undeveloped for residential purposes.

- 7.3. The Appellant refers to a Deed of Easement & Transfer and has provided a copy of same. This relates to access to existing services via the adjacent residential development at Hillcrest Grove to the north. This said Deed of Easement & Transfer relates to 12 no. houses and 36 no. Part V apartments.
- 7.4. The Appellant has not provided any other Deed of Easement & Transfer.
- 7.5. The above referenced Deed of Easement & Transfer refers to an Irish Water (Uisce Eireann) Confirmation of Feasibility, ref. CDS2100394801 dated 6/07/2021. The Appellant has not provided a copy of this said Confirmation of Feasibility.
- 7.6. The Appellant refers to a requirement for a separate Deed of Easement & Transfer for Blocks 2, 3, 4, & 5. Based on the initial submission to the Local Authority the relevant third party in the case of such a separate Deed of Easement & Transfer is the same as the current/ agreed Deed of Agreement & Transfer.
- 7.7. Permission was Granted for a total of 237 no. units, as planning reg. ref. no. SDZ19A/0004 refers. The Appellant states that the majority of this scheme is constructed and occupied with the exception of Blocks 2, 3, 4 & 5 which is dependent upon a connection to Wastewater Drainage Infrastructure in Third Party Ownership. Although such an agreement is stated to have not been reached, there is nothing to indicate that same will not be forthcoming or is being withheld.
- 7.8. Condition no. 2 of planning reg. ref. no. SDA19A/0004 relates to a phasing plan. The submitted Phasing plan indicates Apartment Blocks 2, 3, 4 & 5 within Phase 3, the third and final phase. A letter from the Local Authority dated 23/05/2023 attached to the planning file confirms that the phasing plan submitted in relation to condition 2 is satisfactory.
- 7.9. Irish Water (Uisce Eireann), as per the Pre-Connection Enquiry letter dated 14/10/2019, attached to planning reg. ref. no. SDZ19A/0004, raise no specific concerns in relation to water supply or wastewater infrastructure. Similarly, no capacity issues are raised.

## **8.0 Conclusion**

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

## **9.0 Recommendation**

- 9.1. I recommend that the Board confirm the determination of the Local Authority and that the indicated site be retained on the map.

## **10.0 Reasons and Considerations**

- 10.1. The lands identified as SD-C259-23 meet the qualifying criteria set out in Section 653B of the Taxes Consolidation Act 1997, as amended. There are no matters raised in the Grounds of Appeal that warrant exclusion from the map.
- 10.2. The Grounds of Appeal do not support a different conclusion in relation to this matter.
- 10.3. 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  
14<sup>th</sup> September 2023