



An
Bord
Pleanála

Inspector's Report ABP-316626-23

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	Golf Lane, Carrickmines, Dublin 18.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	DM220018
Appellant(s)	Patrick Mooney
Inspector	Colin McBride

1.0 Site Location and Description

1.1. The subject site is consists of lands located on the southern site of Golf Lane to the north east of Carrickmines. The land is under grass.

2.0 Zoning and Other Provisions

2.1. The site is located on lands split over two zonings objectives, with the majority of the site zoned Objective A-Residential and a portion of the site within the Cherrywood SDZ Planning Scheme under the Dun Laoghaire Rathdown County Development Plan 2022 – 2028 and is not zoned and is located with the boundary of the SDZ.

3.0 Planning History

3.1. No planning history.

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:

- Lands are impacted by a road reservation with no timeframe for delivery of such. The likelihood of getting permission for a vehicular access to serve the site is noted as being unlikely with a planning history of restricted access off Golf Lane.
- This scenario is a major development constraint and the only option for achieving access acceptable to the Council and ABP at the current time would be access through a third party development.
- No planning permission is in place and lands required to facilitate vehicular access are in 3rd party ownership (adjoining apartment development, The Glen), the lands in question do not meet the criteria under Section 635B in terms of reasonable access.

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. It is noted based on the RZLT guidelines that it is sufficient that lands 'are able to connect' to services to meet the criteria.
- 5.2. It was noted that an SHD development (ABP-309026-20) off Golf lane and it is reasonable to consider that development of lands residential purposes at an appropriate scale may be possible without the need for the Kiltiernan Link Road.
- 5.3. The lands are suitably zoned for residential use and are able to connect to public infrastructure with sufficient capacity for such development and meet the criteria under Section 635B to merit inclusion on the map.

6.0 The Appeal

6.1 Grounds of Appeal

- The lands are mainly zone Objective A with a portion of the lands along Golf Lane excluded and reserved for the provision of road upgrade works, the proposed Kiltiernan Link Road and is listed as Phase 3 of the road and traffic upgrades as part of the Cherrywood SDZ Planning Scheme.
- Lands are impacted by a road reservation with no timeframe for delivery of such. The likelihood of getting permission for a vehicular access to serve the site is noted as being unlikely with a planning history of restricted access off Gold Lane.
- This scenario is a major development constraint and the only option for achieving access acceptable to the Council and ABP access through a third party development.
- No planning permission is in place and lands required to facilitate vehicular access are in 3rd party ownership (adjoining apartment development, The Glen) and the lands in question do not meet the criteria under Section 635B in terms of reasonable access.

7.0 Assessment

7.1. The appeal concerns the status of the lands in the context of the criteria under Section 635B(b) on whether it is reasonable to consider such may 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 and with sufficient service capacity available for such development. In this case it is road access with it noted that a portion of the site (entire existing road frontage) is within the Cherrywood SDZ boundary and reserved for road upgrades (provision of Kilternan Link Road), which is a long term road objective and in Phase 3 of the Cherrywood SDZ. The appeal notes that planning permission for a direct entrance off Golf Lane to serve a residential development is unlikely to be forthcoming on this basis, the planning history of the area illustrates such and that only access option at the current time would be through third party land/development.

7.2. Section 4.1.1 of the Residential Zoned Land Tax-Guidelines for Planning Authorities under part (iii) relates to 'Services to be considered'. The following is noted...

"Under Section 635B of the provisions, the definition of land in-scope for RZLT identifies lands which are connected to, or able to be connected to services as being in scope".

"In assessing whether land or landbanks are able to connect to services, Planning Authorities should take into account the following:- In the first instance, where the infrastructure is located adjoining, intersecting, at a boundary or corner of a landbank, in a nearby public road, or is connected to an existing development adjoining the landbank, the lands should be considered to be 'connected' or 'able to connect' and therefore are in-scope."

"Where the infrastructure does not meet the threshold above, the following needs to be considered:

- Where no planning permission is in place, are the works to connect the landbank to the services on public land under the control of the local authority or land which will be available to the landowner/developer, in which case the land may be in-scope?
- Do the connections to services involve minor works, in which case the land may be in-scope?
- Do the connections to services require access to 3rd party lands or 3rd party development to take place, in which case the land may be out of scope?”.

7.3. In this case the lands in question have road frontage along Golf Lane under the control of the landowner. In this regard I consider it reasonable to conclude that the landowner may have access, or be connected, to public infrastructure and facilities, including roads and fulfils the criteria under Section 635B(b). In relation to the location of part of the site within the boundary of the Cherrywood SDZ Planning Scheme such relates to road improvements and an objective to upgrade the road as part of the Kilternan Link Road. The appeal submission highlight that permission for direct access off Golf Lane is unlikely to be forthcoming based on this scenario and that access would be required through 3rd party lands in the form of adjoining residential development. I do not consider that this conclusion can be relied on and would note that this report is not an assessment on whether permission would be granted for access off the public. In my assessment of the land in question as it stands is that it is reasonable to conclude that the lands may have access, or be connected, to public infrastructure and facilities, including roads. Despite the appellants’ reference to planning history it is notable that permission has been granted for direct access off Golf Lane (part of the site within the Chrerrywood SDZ Planning Scheme) for a major residential development under ABP-309026-20) on a site further to the west meaning the existing designation has not precluded residential development.

7.4. I would recommend that the portion of the site within the Cherrywood SDZ Planning Scheme be excluded as it is not zoned residential or for a mixed uses including residential use and does not fulfil the criteria under Section 635B(a), however the

remainder of the site zoned Objective A-Residential should remain on the map in accordance with the recommendation of the Planning Authority.

8.0 Recommendation

- 8.1. I recommend that the board amend the determination of the Local Authority and that the portion of the site zoned Objective A-Residential be retained on the map, whereas the portion to north within the Cherrywood SDZ Planning Scheme be excluded.

9.0 Reasons and Considerations

- 9.1. The appellant requested that their site be removed from the map due to constraints in terms of road access as part of the site is within the boundary of the Cherrywood SDZ Planning Scheme and subject to an objective for road improvement upgrades along Golf Lane as part of the provision of the Kiltiernan Link Road with uncertainty regarding the timescale of such and the only option for access at the current times being through third party lands meaning the lands does not fulfil the criteria under section 635B(b). The site is located within an existing established urban area and has a significant road frontage along the public road within the landowner's control. It is reasonable to consider such may have access, or be connected, to public infrastructure and facilities, including roads and fulfils the criteria under Section 635B(b).
- 9.2. The northern portion of the site is not zoned solely or primarily for residential use, or for a mixture of uses, including residential uses and does not fulfil the criteria under Section 635B(a) and shall be excluded from the map. The remainder of the lands zoned Objective A-Residential under the Dun Laoghaire Rathdown County Development Plan, 2022-2028 satisfy the criterion for inclusion on the map set out in section 653B(b) of the Taxes Consolidation Act 1997, as amended.

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.

Colin McBride
Senior Planning Inspector

09th August 2023