



An  
Bord  
Pleanála

## Inspector's Report ABP-316628-23.

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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
<b>Location</b>	Lands at Griffith Avenue/R102, Glasnevin, Dubin 9.
<b>Local Authority</b>	Dublin City Council.
<b>Local Authority Reg. Ref.</b>	RZLT 000045.
<b>Appellant</b>	Dublin City University.
<b>Inspector</b>	Dáire McDevitt

## **1.0 Site Description**

The lands subject to this appeal, identified as RZLT 000045 (Parcel ID DCC000003708) run 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 ABP316606-23 for lands adjacent to the DCU Campus and Albert College Park, 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**

None stated that refer to the appeal lands. PA Ref.1006/00 refers to adjacent lands.

## **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 the site is currently not accessible, planning permission would be required to provide an access which could be challenging and require third party engagement. The lands are in the ownership of DCU and may be required for future development to accommodate university needs.

## **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, 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, as stated by the Transportation Planning Division of Dublin City Council access is possible from Griffith Avenue subject to planning permission for creation of new entrance.
- c) 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:

- Issues with site access. There are a number of physical challenges such as a bus stop, bus set down, on street parking and large trees which may potentially impede the future access to the lands off Griffith Avenue.
- Reference to submission on the land use zoning during the review of the Dublin City Development Plan 2022-2028.
- Potential future development of lands for educational use associated with DCU. And does not satisfy relevant criteria in section 653B(iii)(I) (appellant's reference).

## **7.0 Assessment**

While not raised as a grounds of appeal I note that reference to submission pertaining to land use zoning during the review of the current Dublin City Development has been raised in the appeal documentation. As such I wish to highlight that 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).

Pg. 24 of the RZLT guidelines state:

*If the works required to connect the land to services are materially significant, for example require access to 3rd party lands which are in private ownership or would require CPO or planning permission in themselves, then the land should be considered to be out of scope.*

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.

It is submitted that said lands should be excluded as provision of lack of access off Griffith Avenue. The appellants have argued that there are potential physical challenges to providing an access off the public road such as a bus stop, bus set down, on street parking and large trees which may potentially impede the future access to the lands off Griffith Avenue. And that planning permission would be required for said access along with relevant consents. The local authority considered the lands to be within scope and a report from the Transportation Planning Division is included in the assessment documentation. I am of the view that the site can be served in principle by the existing road network that is in place and is on zoned lands where residential development is a permissible use. As with all development, the applicants/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 and assessed on its merits through the development management process. I consider that is reasonable to consider that the site may have access to public roads and this ground of appeal should be dismissed.

With regard to the provision of access, footpaths, public lighting, utilities, foul sewer drainage and water connection and the requirement for 'significant works'. For the purposes of falling within the scope of RZLT the criteria is whether it to 'is reasonable to consider'. In my opinion it is reasonable to consider that the provision of an

access, footpaths, public lighting and water connections may be provided where land is in the control of the landowner or local authority. On this basis the land, therefore, does satisfy the criteria cited in section 653B(b) of the Taxes Consolidation Act 1997, as amended.

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)

The appellants have submitted that the lands should be excluded on the basis that they may be required to accommodate future expansion of DCU. 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 from the map.

Having regard to the foregoing I consider that the lands identified as RZLT 000045 (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 000045 (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 000045 (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 lands be retained on the map.

## **9.0 Reasons and Considerations**

The lands identified as RZLT 000045 (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.*

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Dáire McDevitt  
Senior Planning Inspector

5<sup>th</sup> July 2023