



An
Bord
Pleanála

Inspector's Report

ABP-316649-23

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 Map
Location	Lands at St. Mary's Priory, Tallaght, Co. Dublin.
Local Authority	South Dublin County Council
Local Authority Reg. Ref.	SD-C259-20
Appellant(s)	St. Mary's Medical, (Tallaght Ltd.)
Inspector	Frank O'Donnell

1.0 Site Location and Description

1.1. The subject site is located on the western side of the Old Greenhills Road/ R819 Regional Road (Greenhills Road), c. 100 metres to the north of Main Street in Tallaght Village centre. The site has an estimated site area of 0.69 hectares and forms part of a larger Land Parcel (Land Parcel ID SDLA00089524, as amended).

2.0 Zoning and other provisions

2.1. The subject site is zoned 'Village Centre (VC)' in the South County Dublin Development Plan, 2022 to 2028. The relevant zoning objective is '*to protect, improve and provide for the future development of Village Centres.*' Residential is identified as a use which is 'Permitted in Principle' on lands zoned Village Centre (VC).

2.2. The site is located within the Tallaght Village Architectural Conservation Area (Ref. ACA012).

2.3. There are 4 no. Protected Structures located in close proximity to the subject site, as follows:

- RPS Ref. No. 269: Address: The Priory, Tallaght. Description: Tallaght Castel Gate (RM). Map No. 09.
- RPS Ref. No. 270: Address: St. Mary's Dominican Priory, Tallaght Gothic Revival Priory. Description: Detached Multiple-Bay Three-Storey with Attic. Map No. 09.
- RPS Ref. No. 273: Address: St. Mary's Dominican Church, Tallaght Church. Description: Detached Gable Fronted Gothic Revival Church. Map No. 09.
- RPS Ref. No. 268: Address: St. Basil's Training Centre, Greenhills Road, Tallaght. Description: Detached Ten-Bay Single-Storey Building. Map No. 09.

2.4. There are 3 no. recorded monuments located within proximity to the subject site, as follows:

- R187980: Description: Ritual site - holy tree/bush (located c. 126 metres to the west of the subject site).

- R187889: Description: Gatehouse (located c. 135 metres to the south-west of the subject site).
- R187890: Description: Castle - tower house (located c. 102 metres to the south-east of the subject site).

3.0 Planning History

3.1. Planning History for the subject site

- 3.2. ABP-316828-23: South County Dublin County Council: Tallaght/Clondalkin to City Centre Bus Connect Core Bus Corridor Scheme. Case is due to be decided by 06/11/2023.
- 3.3. SD22A/0035: St. Marys Medical (Tallaght) Ltd. Permission for a 4 storey Nursing Home & Construction of construction of 60 one bed independent living units in 3 blocks. Permission was GRANTED on 3/02/2023 subject to 28 no. conditions.
- 3.4. SD21A/0136: Applicant: St. Mary's Medical (Tallaght) Ltd. Permission for (a) Construction of a 5-storey nursing home and construction of a part 5/part 6 storey building consisting of (i) 108 one-bedroom/two-person independent living units for older people. Permission was REFUSED on 19/07/2021 for 7 no. reasons including Design, Height, Scale and Mass/ Impact on the Character and integrity of the Priory Demesne (A Protected Structure) including its parkland setting, excessive plot ratio/ overdevelopment, building height, proximity of buildings to the boundary walls/ poor and cramped layout/ heritage impact of new entrance on the setting and character of the protected structure/ poor location of public open space/ existing trees compromised by the proximity of the eastern block/ tall trees/ impact on light to the apartments, Car parking shortfall/ Impact on illegal Parking in the area, lack of a detailed Conservation Plan (Section 6.2.1 of the Tallaght Town Centre Local Area Plan) and lack of an Ecological Assessment given the presence of mature trees/ older buildings which could support bat roosts/ contrary to Policy HCL15 of the South Dublin County Council Development Plan 2016 – 2022/ applicant has not addressed Objective VL9 of the LAP/ protect and preserve the heronry located within the site.

4.0 Submission to the Local Authority

- 4.1. The submission relates to the southern portion of land parcel SDLA000113574. The Appellant made a submission to the Local Authority seeking the exclusion of this portion of land from the RZLT Map for the following reasons.
- 4.2. Item 1: The lands at St. Marys' Priory Tallaght, measuring 1.04ha and forming part of the overall site identified as SDLA00089524 in the Draft RZLT Map are located within the curtilage of a Protected Structure and within an Architectural Conservation Area.
- 4.3. Item 2: The lands at St. Mary's Priory Tallaght, measuring 1.04 ha and forming part of the overall site identified as SDLA00089524 are not accessible to the west as they are closed off by a wall which forms part of the protected structure at the Priory. Access may only be provided to these lands via third party lands for both water and road access.

5.0 Determination by the Local Authority

- 5.1. Local Authority Decision: To amend Land Parcel SDLA00089524 on the map.
- 5.2. It has been determined that Land Parcel SDLA00089524, as amended, as shown in Figure B of the Local Authority Determination dated 29/03/2023, 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 published on 01 December 2023, subject to any further consultation relating to the identified additional land area as part of the publication of the Supplemental Map on 1st May 2023.
- 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

- Architectural Heritage:
 - The submission lands are located within lands associated with St. Mary's Priory, a Protected Structure (RPS No. 270). The lands fall under the curtilage of the Protected Structure and thus development potential is reduced.
 - Lands are located within the Tallaght Village Architectural Conservation Area. This places further restrictions on development on the lands thereby making it more difficult to obtain planning permission. A scheme has been accepted by the Planning Authority.
 - The lands designation as an ACA and lands associated with a Protected Structure have hindered development in the past.
 - In the Local Authority's assessment, it is clear that the lands, though separated in ownership, continue to be associated with the Protected Structure. The Appellant contends that accordingly the lands may be considered to be carrying out a social or recreational use.
 - The Appellant contends that this issue is in accordance with Step 6 of the RZLT Guidelines. (Step 6 relates to Statutory Designations).
- Infrastructure:
 - No direct entrance to the site from the road network.
 - Lands to south are under private ownership and therefore access is not possible.
 - Historic wall to east of site which adjoins the old Greenhills Road. This is within the curtilage of the Protected Structure.
 - Issues raised in the assessment of previous applications regarding the heritage impacts of an entrance first by the Case Officer in the initial application which was refused and subsequently by the Heritage Office in the second application which was granted. The Appellant contends

that the access to the submission lands is reliant upon the provision of a new entrance, yet the creation of such an entrance is generally not supported by the Planning Authority. The Appellant states that accordingly, the lands at the time they were deemed in scope, would not have had possible connections to the existing road infrastructure.

- In addition to the above, the Appellant states that the lands would equally be reliant on a new access to facilitate connections to wastewater, water supply and surface water infrastructure.
- Planning History:
 - The Appellant references 2 no. recent planning applications pertaining to the subject lands namely, planning reg. ref. no. SD22A/0035 which was Granted permission on 16/12/2022 and planning reg. ref. no. SD21A/0136 which was refused permission on 19/07/2021 for 7 no. reasons.
 - The Appellant contends that the refusal reasons (SD21A/0136) demonstrate that the lands are not standard 'greenfield' development as there are significant development inhibitors which reduce development capability. It is stated that although the Applicant has succeeded in gaining a planning approval in February 2023, the first refusal significantly delayed development from commencing. It is noted they have every intention in facilitating the activation of this permission as soon as reasonably possible. However, as the Appellant attests, at this point in time, the lands are precluded from development, as set out in the Appeal.
- The Appellant considers that the application of the RZLT to the lands, in the interim period between receiving planning permission and delivering the subject development would significantly compromise the viability of the site, to the extent wherein the proposed scheme would be untenable.

7.0 Assessment

- 7.1. The comments raised in the appeal are noted.
- 7.2. The location of the subject lands within the curtilage of a Protected Structure or within a defined Architectural Conservation Area, does not fall within the defined criterion for exclusion from the map, as set out in Section 653B of the Act.
- 7.3. Similarly, the presence of known archaeological remains in proximity to the subject site and where the relevant Zones of Archaeological Notification do not encroach into the defined site boundary, does not fall within the defined criterion for exclusion from the map, as set out in Section 653B of the Act.
- 7.4. It is my opinion therefore that the subject lands should remain on the map having regard to the provisions of Section 653B c) of the Act.
- 7.5. A new access directly from the Greenhills Road to the subject appeal site is permitted under planning reg. ref. no. SD22A/0035. I am satisfied therefore that the subject lands can be suitably accessed.
- 7.6. Irish Water, as per the Report dated 13/12/2022 attached to planning reg. ref. no. SD22A/0035, raise no objection to that proposed development in relation to water supply and wastewater treatment/ access to the foul sewer network, subject to the signing of a connection agreement, prior to the commencement of development. It is noted that condition no. 22 of the said permission relates to Water and Foul connections.
- 7.7. It is further noted that the Proposed Watermain Layout drawing, ref. D092-CSC-XX-XX-DR-C-0004, submitted in response to further information under planning reg. ref. no. SD22A/0035, indicates an existing 4" cast iron watermain in the public road/ footpath fronting the eastern site boundary.
- 7.8. Similarly, it is noted that there is an existing foul sewer spur shown in the public road along the eastern site frontage, as per the Drainage Layout drawing, ref. D092-CSC-XX-XX-DR-C-0003, also submitted in response to further information.
- 7.9. I am satisfied therefore that the subject lands can be suitably serviced in terms of water and wastewater. No capacity issues have been identified.

7.10. The Greenfield status of the lands, as referenced in the Local Authority submission, is not disputed. In my opinion, the lands have a vacant and idle status as described in Section 3.12 of the Residential Zoned Land Tax Guidelines for Planning Authorities, 2022.

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 which are the subject of this appeal, meet the qualifying criteria set out in Section 653B of the Taxes Consolidation Act 1997, as amended.

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.

Frank O'Donnell

Planning Inspector

7th September 2023