



An
Bord
Pleanála

Inspector's Report ABP-316652-23

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

Tedcastles, Dunleary Hill, Monkstown, Co. Dublin.

Planning Authority

Dun Laoghaire-Rathdown County Council

Planning Authority Reg. Ref.

DM22/0044

Appellant(s)

Ted Living Limited

Inspector

John Duffy

1.0 Site Location and Description

- 1.1. The site is located at the junction of Dunleary Hill with Dunleary Road, west of Dun Laoghaire town centre in County Dublin. The Dublin to Wexford rail line is located to the north and the area around the site is built up with a combination of apartments and older two storey buildings. The site is contained within a high concrete block and stone wall. Dunleary House, a large two storey over basement dwelling which is a protected structure (RPS No. 2131) is located to the front of the site.
- 1.2. The lands comprise Parcel ID No. DELA00002314 on the draft RZLT map.

2.0 Zoning

- 2.1. In the Dun Laoghaire Rathdown County Development Plan 2022 – 2028 the site is governed by zoning objective 'NC' - 'To protect, provide for and/or improve mixed-use neighbourhood centre facilities.' Residential use class is listed as 'Permitted in Principle' within this zoning objective.
- 2.2. Specific Local Objective 37 relates to the site and states the following: '*That Dunleary House (Yellow Brick House) and associated boundary be retained in situ and renovated and ensure its rehabilitation and suitable reuse of the building which makes a positive contribution to the character and appearance of the streetscape at this location.*'

3.0 Planning History

Subject site

ABP-312070-21– SHD application for construction of 146 no. Build to Rent apartments and associated site works. No decision made to date.

ABP-307445-20 – SHD application for 161 no. Build to Rent apartments and associated site works. This application was withdrawn.

VV06D.302115 – Decision made in 2019 to cancel the entry of the site on the Vacant Sites Register.

PL06D.204799 – Permission granted for 67 apartments, café/coffee shop and car parking.

4.0 Submission to the Local Authority

- 4.1. The appellant made a submission to the Local Authority seeking to have the subject lands removed from the RZLT map given that a significant upgrade to water supply infrastructure outside of the site is required. As such the lands are out of scope.

5.0 Determination by the Local Authority

- 5.1. The Local Authority determined that the site was in scope. The land is zoned for a mixture of uses including for residential use. It is reasonable to consider it has access or can be connected to public infrastructure and facilities necessary for dwellings to be developed and with sufficient service capacity available for such development. It is reasonable to consider the land is not affected in terms of its

physical condition by matters to a sufficient extent to preclude the provision of dwellings.

6.0 The Appeal

6.1. Grounds of Appeal

The following points were made in support of the appeal:

- The site is not, for the purposes of the ZLT Act serviced land. In terms of water services, a significant upgrade is needed to infrastructure outside of the site to service residential development. The Drainage Section of the Local Authority reported there is currently a capacity issue affecting the site, and as such the site does not meet the requirement for capacity. Uisce Éireann reported that upgrades and network extension may be required and that sewer diversions will be necessary. The Local Authority cannot ignore that the lands in their current condition are not serviced for the purposes of the ZLT Act.

6.2. Planning Authority Response

- No response on file.

7.0 Assessment

7.1. The comments raised in the appeal submission are noted as is the evaluation report of the Planning Authority which was received by An Bord Pleanála.

7.2. The grounds of appeal raise the issue of water infrastructure capacity. Section 653B, of the Taxes Consolidation Act 1997 as amended, states lands to be included on the map should be serviced:

“(b) it is reasonable to consider 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.”

7.3. The Act therefore asks that service capacity is available for development. Page 27 of the RZLT Guidelines expands upon this and sets out a ‘Serviced Land Definition’ on

page 8 of the Guidelines, “...A need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist.” The definition also states that “Information from stakeholders such as Irish Water will play a key role in identifying these lands and providing confirmation of existing capacity in wastewater treatment plants and water treatment plants along with data informing the date of connection or ability to connect to services, where this date was after 1 January 2022.”

7.4. In terms of water infrastructure provision, the opinion of the Drainage Planning Section of the Local Authority indicates that ‘there currently is not capacity for development on this site, due to existing deficiencies.’

7.5. UÉ’s report of January 2023 to the Local Authority states the following:

Water Networks – UE can confirm that the site is serviceable. From our available GIS data, there are existing watermains in close proximity around the perimeter of the site. Upgrades / Network extension may be required on full development of the site.

Wastewater Networks – Sewers transverse the site and are in the roads around 3 site of the site boundaries. Sewer diversions will be necessary to develop the site.

I note that Uisce Éireann’s wastewater treatment capacity register for the area is ‘Green’ which indicates available capacity. In terms of water supply capacity, Uisce Éireann’s capacity register indicates ‘Capacity Available – LoS improvement required. This means that capacity is available to meet 2032 population targets although a level of service improvement is required. Improvement proposals will include but are not limited to leakage reduction and/or capital investment.

7.6. Section 4.1.1(iii) of the RZLT Guidelines state the following: *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.*

7.7. It is clear from the information on file that water infrastructure upgrades are / may be required in the area. As set out in the RZLT Guidelines, a need for network upgrades

should not exclude lands, where sufficient treatment capacity exists. The UÉ water capacity registers indicate available capacity and I note the locations of the watermain and foul sewer in close proximity to the site and within the site respectively.

- 7.8. As such, I am of the opinion that the land satisfies criterion 653B (b) and that it is serviced or has access to services necessary for dwellings to be developed and with sufficient service capacity available for such development.

8.0 Recommendation

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

9.0 Reasons and Considerations

- 9.1. Having regard to the determination by the Local Authority, the submitted grounds of appeal, the provisions of the section 653B of the Taxes Consolidation Act 1997, as amended, and the advice in section 4.1.1 of the Guidelines for Planning Authorities on the Residential Zoned Land Tax, the site (zoned for residential use) is considered in scope for the purposes of the RZLT map.

I confirm that the report represents my professional 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.

John Duffy
Planning Inspector

19th September 2023