



An
Bord
Pleanála

Inspector's Report

ABP-316663-23

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

Car Park G/Racecourse South,
Leopardstown Racecourse, Co. Dublin

Planning Authority

Dun Laoghaire Rathdown County
Council

Planning Authority Reg. Ref.

DM22/0067

Appellant(s)

Horse Racing Ireland

Inspector

Rachel Gleave O'Connor

1.0 Site Location and Description

- 1.1. The appeal site is formed of lands to the south east of the hardstanding area in Car Park G as part of Leopardstown Racecourse.
- 1.2. The determination by the Local Authority related to three RZLT land parcels. RZLT parcel ID DELA00000632 is situated to the south west of the Leopardstown Racecourse and bounded by the M50. It is connected to the racecourse lands by a vehicular link over the M50 and forms an overflow unpaved car park ('Car Park E'). RZLT parcel ID DELA00000711 is situated to the south east of the Leopardstown Racecourse and bounded by the M50 to the south west and the Green Luas Tram Line to the south west. The second parcel contains a large car park ('Car Park G') and undeveloped area. To the south west of the second site is the third RZLT land parcel, forming part of a wider area identified under parcel ID DELA00000451 (which the Local Authority has included within the same extent as the second land parcel). The third land parcel also forms part of the 'Car Park G' area albeit without any form hardstanding areas. The third parcel is bound by the Green Luas Tram Line to the north east and is formed of undeveloped land.
- 1.3. Following the determination of the Local Authority, this appeal relates to the undeveloped parts of Car Park G, being formed of part of RZLT land parcel ID DELA00000711 and part of RZLT land parcel ID DELA00000451.

2.0 Zoning and other provisions

- 2.1. The site (being formed of the three land parcels) is zoned under the Dún Laoghaire Rathdown Development Plan 2022-2028 'Objective A' 'To provide residential development and improve residential amenity while protecting the exiting residential amenities.'
- 2.2. The site is also within the boundary for the Ballyogan and Environs Local Area Plan.
- 2.3. Special Local Objective 143 applies to the second and third land parcels, RZLT IDs DELA00000711 and DELA00000451. It is described as follows in the Development Plan:

"To carry out in consultation with TII and the NTA a collaborative Area Based Transport Assessment (ABTA) prior to the development of lands at Racecourse

South. The Local Authority will engage with the landowner on the preparation of the ABTA. The ABTA will address how development will avoid undermining the safe and efficient operation of the National Road and light rail network and ensure that the strategic function of the M50 will be maintained with full build out of the lands. The ABTA will include assessment of impact on Junction 15 and LUAS operation and will be carried out in accordance with the TII/NTA Area Based Transport Assessment (ABTA) Advice/Guidance Notes (2018). The outcome and recommendations of the ABTA shall be taken into account in the assessment of future planning applications.”

3.0 Planning History

- 3.1. D22A/0535 – Planning permission REFUSED by DLR on 14th September 2022 for temporary use of part of the site for a temporary ice rink. Refused for one reason relating to the isolated nature of the site and the quantum of car parking proposed. Currently subject to APPEAL to An Bord Pleanála (Reg. Ref. ABP-314797-22).
- 3.2. Other planning activity on the site relates to the operation of the Racecourse.
- 3.3. Adjacent sites:
- 3.4. The site traverses the first land parcel to provide access across the M50, Reg. Ref. D18A/1171 and ABP-308843-19. Permission GRANTED by DLR and ABP for the construction of a new part 1-storey; part 2-storey and part 3-storey, 11,256sqm Post-Primary School.

4.0 Submission to the Local Authority

- 4.1. The appellant made a submission to the Local Authority seeking to have its land removed from the draft map. It stated that:
 - The lands at Racecourse South/Car Park G and Car Park E play an instrumental role in providing transport facilities and infrastructure, and recreational infrastructure, and accordingly are exempt from the RZLT.
 - Car parking is instrumental to supporting the venue to host events, which include but are not exclusive to, race days, family events, private functions and community events.

- The Racecourse South/Car Park G site is bound by the Racecourse to the north and the M50 to the west, meaning the opportunity of connecting to pedestrian infrastructure is limited. An existing footpath along a road adjacent to the western boundary of the site is noted.
- The nearest connecting point is between 15 and 20 minutes from the closest public transport stop and is therefore considered to be outside a reasonable walking distance.
- Connecting to existing pedestrian infrastructure in the housing estate to the east would require cutting through forested land and privately owned gardens. A connection to the south would be difficult, requiring cutting through privately owned land and crossing the Luas line.
- The Car Park E portion of the zoned land contains some 200 no. overflow car parking spaces for Leopardstown Complex via an important crossing point. These facilities are vital to the operation of the racecourse.
- Car Park G lands also serve as an important recreational function providing a number of seasonal based recreation assets for the local residents and wider Dún Laoghaire-Rathdown catchment area. It has offered a retro-drive in cinema, circus gerbola and funfair.
- Car Park G has a Specific Local Objective (SLO), with an inherent requirement that no planning applications can be advanced in the absence of the ABTA (area based transport assessment). Until this study is completed in collaboration with TII and NTA, the landowner cannot proceed with a development.
- The lands at Car Park G are not serviced by ESB, Telecoms, Gas,
- Foul sewer and wastemain [sic] infrastructure are present on the Racecourse South Site, however capacity is likely to be compromised and require significant service upgrades.
- The adequacy of existing stormwater network and need for upgrades is subject to confirmation from DLR.

5.0 Determination by the Local Authority

5.1. The local authority provided an evaluation of the site with reference to the RZLT Guidelines, confirming the following:

- Response from Uisce Éireann confirms that both sites contain sewers & watermains, some of a strategic nature. In relation to lands at Car Park E, UÉ can confirm that this is not currently serviced for water but is serviceable from the watermain to the south-west of the site. This may involve 3rd party lands. The site has a sewer running through it, so is serviced. However, subject to the scale of any future development, upgrades may be necessary. In relation to lands at Car Park G, this has watermains and sewers crossing the site so can be considered serviced. There is a requirement to maintain a wayleave over infrastructure.
- DLR Municipal Services considers lands to be serviced.
- DLR Transport confirm the ABTA is pending for the immediate area.
- The role of the lands at Car Park G and E in the ongoing operation of the racecourse (a business that pays rates) is noted. The exemption set out in Section 653B(i) is also noted. To the extent that the car parks are associated with this use, it is considered that they should enjoy the same exemption. It is not considered that the undeveloped lands further to the south east are in use as premises, in which a trade or profession is being carried on, that is liable to commercial rates.
- In relation to the footpath network, the lands to the south east are connected to the footpath network, albeit along a busy road, but with onward connection to the Luas stop at Carrickmines. Whilst onward connection to the public transport network is not a specific requirement of the act, the proximity of the Luas station and bus stops along the Glenamuck Road North speak to the ability of the site to be connected. It is therefore not accepted that the site does not have access to the pedestrian network.
- In relation to the ABTA due to SLO143, Section 653B of the TCA 1997 does not provide an exclusion for land from the RZLT mapping on these grounds.

Notwithstanding the comments of DLR Transportation Planning, this is not a reason for the exclusion of the land as per Section 653B of the TCA 1997.

- Recommendation: Exclude the area of lands at Car Park E and the paved/gravel area in Car Park G at Leopardstown Racecourse from the final map and include the balance of the subject lands to which the submission relates on the final map.

6.0 The Appeal

6.1. Grounds of Appeal

- Reference to DLR Transport Planning comments on the determination, being 'Valid: Pending the ABTA for the immediate area'.
- The Racecourse South/Car Park G site is bound by the Racecourse to the north and the M50 to the west, meaning the opportunity of connecting to pedestrian infrastructure is limited. An existing footpath along a road adjacent to the western boundary of the site is noted.
- The nearest connecting point is between 15 and 20 minutes from the closest public transport stop and is therefore considered to be outside a reasonable walking distance.
- Connecting to existing pedestrian infrastructure in the housing estate to the east would require cutting through forested land and privately owned gardens. A connection to the south would be difficult, requiring cutting through privately owned land and crossing the Luas line.
- The LDA Report on Relevant Public Land 2023 identifies the site as 'temporary car park'. However, racecourse south provides ongoing services to the overall Racecourse operation: it is a principal car park for racedays.

7.0 Assessment

- 7.1. I note the appellant refers to the requirement for an Area Based Transport Assessment (ABTA) as set out in SLO 143 applicable to the site (refer to section 2 above). The objective states that '...The Local Authority will engage with the

landowner on the preparation of the ABTA...’ which implies that the landowner will have leading role in the preparation of the ABTA, in consultation with relevant bodies. The preparation of studies and assessments to inform an appraisal of potential impacts of a development proposition would be standard for any multi-unit residential development application. The requirement does not hinder the development potential, and merely seeks information to support an appraisal of impacts arising from any such development proposition. As such, this requirement does not alter the in-scope status of the site. I note the DLR Transport Planning sections comment as referred to in the Local Authority Determination, however the ABTA would form part of the Development Management Process and would inform, not prevent, propositions for development of the lands.

- 7.2. I note the appellants comments with respect to connectivity. Proximity to public transport is not a consideration under the RZLT criteria. Footpaths are available to the south west of the site connecting to Glenamuck Road, and onto the wider pedestrian network for the area.
- 7.3. The appellant suggests that the site is not serviced with reference to a range of utilities. UÉ has confirmed that the site can connect to water and wastewater networks. With reference to the UÉ wastewater capacity register, both wastewater treatment plants in Dún Laoghaire have capacity. The RZLT guidelines are clear that the need for network upgrades is not considered to exclude lands (page 8). The site has frontage to the public road to the south west which facilitates connection to infrastructure. Such connections would be part of the normal parameters of any multi-unit development proposition.
- 7.4. The Local Authority concluded that the undeveloped lands to the southeast of the hardstanding area for Car Park G was not ancillary to the operations of the racecourse, while the formally laid out car parking areas were a part of the commercial operations on the site that are subject to rates (e.g. the racecourse). The appellant states that racecourse south (Car Park G) is a principle car park for racedays, although they make reference to the LDA Report on Relevant Public Land 2023 which identifies the subject site as part of a wider parcel of land, as a ‘temporary car park’.

- 7.5. The LDA report categorised the current land use of a wider site area, which included Car Park G, as well as undeveloped land and adjoining traveller site to the south east, as 'Temporary Car Park, Traveller Accommodation, Undeveloped Land'. The land being referred to by the LDA is a wider land parcel than that subject to the appeal. The hardstanding area for the car park has already been recommended for removal from the RZLT map by the Local Authority and would equate to the 'temporary car park' referred to in the LDA report in my view. The traveller accommodation referenced in the LDA report is outside of the subject site extent. Therefore, the LDA would appear to be referring to the subject site as undeveloped land in their report, which I would agree with and also remains the conclusion of the Local Authority.
- 7.6. In any case, my assessment is based upon the criteria set out in the Taxes Consolidation Act 1997 as amended and does not rely upon the LDA report. The appellant has not clearly asserted that the undeveloped lands are used as a principle car park, and refers more generically to 'Racecourse South' which I understand to include the formal hardstanding area for Car Park G, which was concluded by the Local Authority to not be in scope.
- 7.7. In relation to temporary uses, page 12 of the RZLT states the following:
"Temporary Uses – Temporary uses of land should not result in land being excluded from the tax measure. As the aim of the taxation measure is to activate land which has been the benefit of significant investment in servicing infrastructure and to reduce vacancy and idleness in settlements, only those uses which are not unauthorised, are operational and provide for an integral part of a trade or profession carried out on the land or on adjoining land should be considered for exclusion where relevant."
- 7.8. From the grounds of appeal submitted, it is concluded that the undeveloped lands that form the site subject to this appeal, are not in operational use, and do not form an integral function ancillary to the racecourse.
- 7.9. The site is zoned for residential development, and it is reasonable to consider that the site may have access, or be connected, to public infrastructure and facilities, necessary for dwellings to be developed (and with sufficient service capacity), in accordance with the criteria set out in Section 653B of the Taxes Consolidation Act

1997 as amended. As such, the subject site remains in-scope for inclusion on the RZLT map.

8.0 Recommendation

- 8.1. I recommend that the Board confirm the determination of the local authority and direct the local authority to include the site 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 the Guidelines for Planning Authorities on the Residential Zoned Land Tax, the site is considered in scope for the purposes of the RZLT map.

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.

Rachel Gleave O'Connor
Senior Planning Inspector

31 August 2023