



An
Bord
Pleanála

Inspector's Report

ABP-316670-23

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

Goat Pet Farm, Lower Kilmacud Road, Goatstown, Dublin 14

Planning Authority

Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.

DM22/0069

Appellant(s)

Charjon Investment Limited.

Inspector

Rachel Gleave O'Connor

1.0 Site Location and Description

- 1.1. The site is situated on the corner of Lower Kilmacud Road and Goatstown Road, south of Taney Grove, north west of the rear of properties for Drummartin Terrace and east of properties for Birchfield Lawn. To the west of the subject site is car parking, The Goat Bar & Grill and Goatstown Pharmacy.

2.0 Zoning and other provisions

- 2.1. The site is zoned under the Dún Laoghaire Rathdown Development Plan 2022-2028. The north eastern half of the site is zoned as 'Objective NC' 'To protect, provide for and or improve mixed-use neighbourhood centre facilities' and the south western half is zoned 'Objective A' 'To provide residential development and improve residential amenity while protecting the exiting residential amenities.'
- 2.2. Residential is a permitted in principle use under both zonings.
- 2.3. Specific Local Objective 120 also applies to the site described in the Development Plan as follows:

“Any redevelopment of the Goat site should include the creation of a village square/civic space and a new pedestrian friendly street and should improve the appearance, quality and overall function of the public realm within the area.”

3.0 Planning History

- 3.1. As part of a wider site area Reg. Ref. ABP 309553-21: Permission REFUSED for strategic housing development, for the demolition of some existing structures and construction of 299 No. residential units, a 22 No. bedroom hotel, 6 No. retail units, the change of use of the 2 No. existing cottages at Nos. 240 and 242 Lower Kilmacud Road from residential use to facilitate the provision of a childcare facility, and the construction of an extension at ground floor of c. 601.6 sq m to the existing public house, as well as other ancillary works. Refused for one reason, relating to height, failure to integrate with the existing character of the area and design strategy/visual prominence. 17/06/2021

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 are exempt from the RZLT under Section 653B(c)(iii)(I)-(VII) as they provide an instrumental role in providing waste management and disposal infrastructure. They also provide a number of recreational amenities to local residential including a pet farm.
- The Goat has both bottle and can disposal facilities on the site proposed for the RZLT. This is the only bottle bank within a 15-minute distance of an existing residential area.
- The zoned land contains a pet farm.
- The site has previously been the subject of numerous other development attempts, most notable was the Goat SHD project (307162-20).

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:

- No response received to further information request, requesting a OS map to identify the subject site and therefore the applicable zoning (i.e. objective A or NC lands). Nonetheless, evaluation based upon both zonings.
- The bottle bank referenced by the submitted is portable (noting a previous position it occupied on the site) and could be incorporated into any future development of the site. The photograph appears to show the location of the bottle bank in a location that is not within the area proposed for inclusion on the draft map, which excludes the car park.
- With respect to the NC zoned land, it is not considered that the presence of animals in the area characterised by the submitter as a 'pet farm' is 'integral' to the trade or profession that is being carried on in the adjoining premises that are subject to commercial rates. In relation to 'recreational infrastructure' reference is made to documents submitted for the previous SHD application

on the site that referred to the area as undeveloped greenfield lands, a field, used for occasional livestock grazing. Not a pet farm.

- With respect to the A zoned land, the current use of the lands does not constitute recreational under the meaning of the Act.
- It is reasonable that the lands are connected or able to be connected to public infrastructure and facilities necessary for dwellings to be developed.

6.0 The Appeal

6.1. Grounds of Appeal

- A key long-established element of The Goat is that it has accommodated generations of animals on site, which are an attraction particular to local children.
- The land included under reference DLA00001750 includes a large area in respect of which the ownership is fragmented. The appellant owns only a part of the land assessed by DLRCC. DLRCC has not properly mapped the area.
- There is a digital TV screen in the grassed area directly adjacent to the Apres Ski element – also located on lands owned by the appellant. This tv screen is a critical functioning part of the Apres Ski. An application (Reg. Ref. D22A/0441) for the retention of inter alia Apris [sic] Ski and the Upright Outdoor Television was decided with a Split Decision. The Apris [sic] Ski element was granted permission by DLRCC, while the television was refused. This decision has been appealed to ABP and is awaiting a decision. So the Apres Ski is an authorised use.

7.0 Assessment

- 7.1. The appeal grounds refer to use of the site as a petting farm. This part of the site is in use for the occasional grazing of animals. While people (including children) may observe and reach through the fence to the animals, it is understood that there is no supervision of this activity, permitted access within the fence, or official operation with regards a 'petting farm'. As such, I agree with the Local Authority that this does not form a "...trade or profession is being carried on, that is liable to commercial

rates, that it is reasonable to consider is being used to provides services to residents of adjacent residential areas...” with reference to Section 653B(i) of the Taxes Consolidation Act 1997 as amended. The use of the land for occasional grazing is not ancillary to the operation of The Goat Bar & Grill to the east of the site.

- 7.2. With respect to the Apres Ski area and TV Screen, application reg. ref. D22A/0441 and associated Appeal Ref. ABP-314573-22 (awaiting decision) refers to a split decision granting permission for a range of matters, including a beer garden structure referred to as ‘Apres Ski’ and refusing permission for a range of matters, including an upright outdoor television screen. The redline extent for that application overlays a northern strip of the subject site. The covered beer garden structure could be considered ancillary to a business operating adjacent to the site (The Goat Bar & Grill) which is subject to rates, and as such could be exempt; however, this use would need to be operation on the land, not just benefit from planning permission. Therefore, this section of the site therefore remains in scope for the purposes of the RZLT map, alongside the remainder of the site.
- 7.3. I note the appellants comments regarding the mapping of the site which covers a larger area subject to multiple parcels in individual ownership. The subject site is formed of RZLT ID parcel DELA00002311 covering the area zoned ‘NC’ and ID parcel DELA00001750 covering the area zoned ‘A’. ID parcel DELA00001750 covers a wider extent taking in residential estates to the west, south and east of the subject site. This type of mapping, using a large extent to cover multiple plots, is reflective of the approach by Local Authorities in general to the RZLT map. DLR’s determination is clearly based upon the subject site itself, and not the wider extent, with specific reference throughout that evaluation to the characteristics of the subject site itself. This appeal has also been assessed on the bases of the subject site, in the landownership of the appellant, only, and does not take in consideration of adjacent plots. The ownership maps to be included with each RZLT determination / appeal file dictates the area to which an assessment relates.
- 7.4. The subject site fronts onto Taney Road which will facilitate access to necessary infrastructure via this road which is in public control and includes connection to the pedestrian network. As such, the site is 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

25 August 2023