



An
Bord
Pleanála

Inspector's Report

ABP-316709-23

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	Lands at Ashton Avenue, Blackrock, Cork.
Local Authority	Cork City Council.
Planning Authority Reg. Ref.	CRK-RZLT-17.
Appellant(s)	Dwellings Development Ltd.
Inspector	Daire McDevitt.

1.0 Site Location and Description

The lands identified as CRK-RZLT-17 (Parcel ID CCLA00019050) refer to lands at No. 1 and No. 2 Ashton Avenue in Blackrock, Cork.

2.0 Zoning and other provisions

The relevant plan is the Cork City and Development Plan 2022-2028.

The lands are zoned ZO 01 Sustainable Residential Neighbourhood (Map 6).

Located within Architectural Conservation Area.

3.0 Planning History

None noted.

4.0 Submission to the Local Authority

The appellants made a submission to the local authority seeking to have their land removed from the draft map, requesting that lands be excluded on the basis that the land are below the required 0.4ha and are used as ancillary lands/gardens at No. 1 and 2 Ashton Avenue and are not regarded as within scope of section 653O TCA 1997.

5.0 Determination by the Local Authority

The local authority determined that:

- The land is included in the Cork City Development Plan 2022-2028, in accordance with section 10(2)(a) of the Act and is further zoned (i) solely or primarily for residential use, or (ii) mixed uses, including residential use.
- Pursuant to section 653B(c)(v) of the Act, a derelict levy is not payable in accordance with the Derelict Sites Act 1990 on the lands.

6.0 The Appeal

6.1. Grounds of Appeal

Grounds of appeal are summarised as follows:

- The land is below the required 0.4ha and are used as ancillary lands/gardens at No. 1 and 2 Ashton Avenue and are not regarded as within scope of section 653O TCA 1997.

7.0 Assessment

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 ZO 01 Sustainable Residential Neighbourhood and therefore within scope of section 653B(a)(i).

The grounds of appeal set out that the lands should be excluded as the lands are below the required 0.4047 ha threshold and are used as ancillary lands/gardens associated with No. 1 and No. 2 Ashton Avenue.

Page 4 of the Residential Zoned Land Tax -Guidelines for Planning Authorities June 2022 sets out that ' a number of exemptions are also set out within the provision, and while existing permanently -occupied residential dwellings will be indicated on the maps where located within a residential zoning, homes are not within the scope of the tax and the owners of such properties will not be liable for this tax.'

Section 3.1.1 of the guidelines includes guidance on the criteria for inclusion with the scope of the tax measure. This sets out with regard to residential properties that *"Land which is zoned residential and contains existing residential development such as estates or individual houses are also considered 'in scope' from a zoning perspective and therefore must be included on the maps, however homeowners of residential properties within these areas will not be liable for tax (see section 653O (1)(a) of the legislation).*

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 whether a site is a 'relevant site' by applying the provisions of section 653O or whether a site is ultimately liable for a charge under the RZLT. 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 the restrictions to considering criteria for inclusion. This states 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"*.

Whether the site complies section 653O 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. The grounds of appeal have not raised matters under section 653B of the Taxes Consolidation Act 1997, as amended.

8.0 Conclusion & Recommendation

The grounds of appeal have not raised matters under section 653B that would warrant the exclusion of the lands from the final RZLT map. Having regard to the foregoing I consider that the lands identified as CRK-RZLT-17 (Parcel ID CCLA00019050) 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.

9.0 Reasons and Considerations

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 3.1.2 of the 2022 Guidelines for Planning Authorities on the Residential Zoned Land Tax.

The grounds of appeal have not raised matters under section 653B of the Taxes Consolidation Act 1997, as amended and there are no matters arising that warrant exclusion of the lands identified as CRK-RZLT-17 (Parcel ID CCLA00019050) 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.

Dáire McDevitt

Senior Planning Inspector

7th September 2023