



An
Bord
Pleanála

Inspector's Report

ABP-316712-23

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 Anderson's Quay, Oliver Plunkett Street Lower and Clontarf Street, Cork

Local Authority

Cork City Council.

Planning Authority Reg. Ref.

CRK-RZLT-72

Appellant(s)

Hilltrent Ltd & Yvonne Maher.

Inspector

Daire McDevitt.

1.0 Site Location and Description

The lands identified as CRK-RZLT-72 (Parcel ID CCLA00042985, CCLA00042986, CCLA00042987, CCLA00042989 and CCLA00042990) refer to lands at that are bounded to the north by Anderson's Quay, to south by Oliver Plunkett Street Lower and to the west by Clontarf Street in Cork city.

2.0 Zoning and other provisions

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

The lands are zoned ZO 05 City Centre (Map 1) where residential use is permitted in principle.

3.0 Planning History

None stated.

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 lands are occupied by Meitheal Mara which provides important social/community uses/services supported and funded by Government Departments.

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) for a mixture of uses, including residential use.
- Pursuant to section 653B 9 c)(ii) of the Act, it is reasonable to consider the land is vacant or idle.

6.0 The Appeal

6.1. Grounds of Appeal

Grounds of appeal are summarised as follows:

- The lands are occupied by Meitheal Mara which provides important social/community uses/services supported and funded by Government Departments.
- Land is not vacant/idle.
- It is their ambition to redevelop the site for residential use in the future. Falling in scope of the RZLT would be a significant obstacle to this.
- The land is “required for, or is integral to, occupation by (I) social, community or governmental infrastructure and facilities, including infrastructure and facilities used for purposes of public administration or the provision of education or healthcare.”

7.0 Assessment

The comments raised in the appeal are noted.

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 lands are Zoned ZO 05 City Centre where residential use is permissible and such are considered within scope of section 653B(a)(ii).

Section 653B(c)(ii) sets out land that is referred to in paragraph (a)(ii), unless it is reasonable to consider that the land is vacant or idle. The relevant land in this instance includes building / areas of hard standing. Page 12 of the Guidelines set out that 'vacant or idle land' means land which, having regard only to a) development (within the meaning of the Act of 2000), is not required for, or integral to, the operation of a trade or profession being carried out on, or adjacent to, the land. And b) if the development is unauthorised. Page 12 of the RZLT Guidelines states "*if the development on the land complies with the first step and is not unauthorised, then it is not in scope and should not be included within the maps. Conversely, if development on the land complies with the first step but is unauthorised, then it is in scope and should be included on the maps*". On the basis of the information submitted the lands fall within the scope of vacant or idle as set out in the legislation.

Section 653B(c)(iii) refers to lands where it is reasonable to consider is required for, or is integral to, occupation by (I) social, community or governmental infrastructure and facilities, including infrastructure and facilities used for purposes of public administration or the provision of education or healthcare. The appellants have submitted that the lands are occupied by Meitheal Mara for the past 13 years and have signed a renewed lease on the site. Meitheal Mara is stated to be a registered charity and training centre which focuses on the creation of an inclusive community of all ages. There is no comment from the local authority relating specifically to this.

Page 10 of the RZLT Guidelines notes ‘as set out in the legislation, it is reasonable to exclude land required for the provision of community services and infrastructure which will sustain existing and future residential communities’. The RZLT applies to lands within scope of Section 653B(a). Page 11 states “ *Where a zoning facilitates residential development, but also makes provision for other uses included the uses identified in {section 653B(c)} (I)-(VII) by way of statement or written objective, but does not specifically identify land within a statutory plan for those uses, the whole of the land area should be considered to be in scope unless the location and scale of the excluded uses is clearly set out*”. In this instance the lands are zoned ZO 05 City Centre where residential use is permissible. There are no exclusions of specific objective pertaining to the community use of these lands and as such I consider them to be within the scope and do not meet the provision of section 653B(c)(iii)(I) for exclusion from the map.

Having regard to the foregoing I consider that the lands identified as CRK-RZLT-72 (Parcel ID CCLA00042985, CCLA00042986, CCLA00042987, CCLA00042989 and CCLA00042990) meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended.

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

8.0 Conclusion & Recommendation

The lands identified as CRK-RZLT-72 (Parcel ID CCLA00042985, CCLA00042986, CCLA00042987, CCLA00042989 and CCLA00042990) are located on lands where residential development is permissible, with services available and no capacity or other reasons have been identified that would prevent the development of these lands for residential purposes. The lands are accessible and there is no reason why they cannot be developed in principle in accordance with the zoning objective – ZO 05 that applies to this site.

I consider, having reviewed the documentation on file, submissions and grounds of appeal, that the lands identified as CRK-RZLT-72 (Parcel ID CCLA00042985, CCLA00042986, CCLA00042987, CCLA00042989 and CCLA00042990) meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended. And I recommend that the board confirm the determination of the local authority and direct the local authority to retain the lands on the final 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 lands identified as CRK-RZLT-72 (Parcel ID CCLA00042985, CCLA00042986, CCLA00042987, CCLA00042989 and CCLA00042990) are located on lands where residential development is permissible, with services available and no capacity or other reasons have been identified that would prevent the development of these lands for residential purposes. The lands are accessible and there is no reason why they cannot be developed in principle in accordance with the zoning objective – ZO 05 that applies to this site.

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.

Dáire McDevitt

Senior Planning Inspector

8th September 2023