



An
Bord
Pleanála

Inspector's Report

ABP-316713-23

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 Darcytown, Balrothery, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	RZLT068/22
Appellant(s)	Dean Swift Property Holdings Limited Company
Inspector	Rachel Gleave O'Connor

1.0 Site Location and Description

- 1.1. The site is located to the west of Ringfort View and south of Ringfort Avenue. To the south, east and west of the site there are agricultural fields, while to the north there is residential estates and the built up area for Balrothery.

2.0 Zoning and other provisions

- 2.1. The site is zoned RS – Residential and within the defined Development Boundary for Balbriggan under the Fingal County Development Plan 2023-2029. The site was previously zoned RS – Residential under the Fingal County Development Plan 2017-2023 which was the plan in force at the time the Local Authority determined that the site was in scope for the RZLT Maps.

3.0 Planning History

- 3.1. Reg. Ref. F13A/0322 – Planning Permission GRANTED 3rd December 2013 for demolition of 2 no. derelict single storey former dwellings and the construction of 10 no. two storey, four bedroom detached dwellings, new vehicular access, internal roads, footpaths and cycle tracks.
- 3.2. Reg. Ref. F14A/0488 / ABP-245229 – Planning Permission GRANTED on 10th November 2015 on Appeal to An Board Pleanála for Construction of 42 no. two storey dwellings (12 no. semi-detached three bedroom and 30 no. four bedroom detached houses), forming Phase 2 of the Garrai Linn development, a new vehicular access from the Darcystown Road serving 7 no. four bedroom detached dwellings, vehicular and pedestrian access to Garrai Linn, internal roads, footpaths, public open space, landscaping, boundary treatments, street lighting, SUDS drainage, piped and other services, ESB substations and all other ancillary site development works necessary to facilitate the development, all on lands south of the Garrai Linn development currently under construction (Reg. Ref. F13A/0322) and adjacent to the Ringfort housing estate. This application was subject to an Extension of Duration which extends the life of the permission to 24th December 2025.
- 3.3. Reg. Ref. F16A/0550 – Planning Permission GRANTED on 6th June 2017 for alterations to previously approved development (Reg. Ref. F14A/0488-An Bord

Pleanála Ref. No. PL 06F.245229). The proposed alterations consist of minor revisions to the approved site layout only. No increase in unit numbers or change to approved house types is proposed. The development will consist of 42 no. two storey dwellings (18 no. semi-detached three bedroom and 24 no. four bedroom detached houses) forming Phase 2 of the Garrai Linn development, a new vehicular access from the Darcystown Road, vehicular and pedestrian connection to Garrai Linn, internal roads, footpaths (including link to Balruddery Grove), public open space, landscaping, boundary treatments, street lighting, SUDS drainage, piped and other services, ESB substations and all other ancillary site development works necessary to facilitate the development.

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. The submission states that the landowner has every intention in facilitating the activation of the extant permission and provide for 42 no. much needed residential dwellings. Request that the Council take into consideration the circumstances which have prevented commencement of development, namely, a bereavement of a joint landowner of the lands and a parcel of the lands subsequently entering into probate. The sale of the lands is essential for the development to proceed as approved, and this has been delayed due to unfortunate circumstances. Once this has been facilitated, the development will be in a position to be carried out. By including the lands on the RZLT, this may reduce the commercial viability of the lands, thus preventing development.

5.0 Determination by the Local Authority

5.1. The local authority states that as indicated in the RZLT Guidelines, matters which are unrelated to the criteria identified in section 653B (Finance Act 2021), such as planning permission, commencement on land in-scope, finance or personal circumstances are not matters to be taken into account during consideration of submissions.

5.2. The local authority determined that the site was in scope and should remain on the map.

6.0 The Appeal

6.1. Grounds of Appeal

- The subject lands form an essential component of the landowners agricultural business, comprising fertile, free draining, sandy soils which are ideal for farming. Reference to Our Rural Future Rural Development Policy 2021-2025. Reference to comments made by Minister for Finance that lands being actively used for farming, and not vacant or idle, will not be liable for the tax.
- 'Further Reasoning', the submission lands should not be subject to RZLT due to the fact that there is an extant planning application attached to the site.
- The landowner has every intention in facilitating the activation of the extant permission and provide for 42 no. much needed residential dwellings. Request that the circumstances be taken into consideration, which have prevented commencement of development, namely, a bereavement of a joint landowner of the lands and a parcel of the lands subsequently entering into probate. The sale of the lands is essential for the development to proceed as approved, and this has been delayed due to unfortunate circumstances. Once this has been facilitate, the development will be in a position to be carried out. By including the lands on the RZLT, this may reduce the commercial viability of the lands, thus preventing development.

7.0 Assessment

- 7.1. The Taxes Consolidation Act 1997 as amended by the Finance Act 2021, includes in section 653B the criteria for inclusion in the map. This states that it is applicable to lands zoned '(a) (i) solely or primarily for residential use, or (ii) for a mixture of uses, including residential use' but not land '(c) (ii) that is referred to in paragraph (a)(ii) unless it is reasonable to consider that the land is vacant or idle.' The land is zoned primarily for residential use, and not for mixed use, and therefore the exemption under part (c)(ii) does not apply. The RZLT Guidelines confirm that use of land for agricultural or horticultural purposes are not considered to be exempted from scope as they are not subject to rates.

7.2. Section 3.2.3 of the RZLT Guidelines state that *“Matters which are unrelated to the criteria identified in section 653B such as **planning permission**, commencement on land in-scope, **finance**, or **personal circumstances** are not matters to be taken into account during consideration of submissions.”* (My emphasis). As such, the site is in scope for the RZLT.

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 section 3.1.2 of 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

07 July 2023