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Bord  
Pleanála

## Inspector's Report ABP-316837-23.

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<b>Type of Appeal</b>	Appeal under section 653J(1) of the Taxes Consolidation Act 1997, as amended, against the inclusion of land on the Residential Zoned Land Tax
<b>Location</b>	Lands at Shaws Lane, Bath Avenue, Dublin 4.
<b>Local Authority</b>	Dublin City Council.
<b>Local Authority Reg. Ref.</b>	RZLT 000081.
<b>Appellant</b>	Uniball Bars Limited.
<b>Inspector</b>	Dáire McDevitt.

## **1.0 Site Description**

The lands subject to this appeal, identified as RZLT 000081 (Parcel ID DCC000002429), refers to lands at Shaws Lane, Bath Avenue in Dublin 4. The lands are located to the rear of dwellings on the southern side of Bath Avenue and comprise office/commercial structures and a warehouse.

## **2.0 Zoning**

The lands are zoned Z1 Sustainable Residential Neighbourhoods in the Dublin City Development Plan 2022-2028. Residential is a permissible use under this land use zoning objective.

## **3.0 Planning History**

PA Ref. 0900/98 refers to a grant of permission to Kingram Studios for the demolition of existing sheds and erection of a light industrial unit.

PA Ref. 2388/16 (ABP Ref. 247174) refers to a grant of permission to Uniball Bars Ltd for the demolition of the existing commercial building and provision of residential development.

PA Ref. 3489/19 (ABP Ref. 305555-19) refers to an invalid appeal relating to the refusal of permission by DCC for extension and renovation of the existing warehouse.

PA Ref. 0001/19 (ABP 304108-19) refers to a Section 5 Declaration sought by Crossfit 353 relating to the change of use from the permitted light industrial unit to use as a gym which conclude that it is development and is not exempted development.

## **4.0 Submission to the Local Authority**

The appellants made a submission to the local authority seeking to have their lands removed from the draft map on the basis that the lands are in commercial use.

## **5.0 Determination by the Local Authority**

The local authority determined that the site should be included on the final map on the basis that the site constitutes land satisfying the relevant criteria set out in in Section 653B of the Act.

Reason:

The lands:

- Are zoned solely or primarily for residential use.
- Have access, or can be connected, to public infrastructure and facilities as evidenced by their location in the city centre and by past permissions for development on the lands.
- Do not qualify for an exemption under sec.653B (c)(i) of the T&C Act 1997 as amended, as it is reasonable to consider that the existing office and warehouse uses do not provide services to residents of adjacent residential areas.
- Satisfy the other relevant qualifying criteria in section 653B(c)(i) of the TC Act as amended.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The grounds of appeal are summarised as follows:

- The lands are not vacant and serve an employment and service for the adjacent communities and extended.
- It is submitted that commercial rates and providing services are separate criteria in which the appellant needs to meet one of them.
- It is submitted that the RZLT criteria is being misinterpreted.
- Commercial use for past 10 years and no intended residential use currently of the lands.

## **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 Z1 Sustainable Residential Neighbourhood and therefore within scope of section 653B(a).

With regard to the use of the lands currently for commercial uses. The appellant submits that the lands should be excluded as the existing uses are commercial as set out under section 653B (c)(i). The local authority determined that the lands are within scope.

As noted on page 11 of the 2022 RZLT Guidelines that *'land which is zoned solely or primarily for residential use such as 'Residential' or 'New Residential', existing uses to be excluded from the scope of mapping for the tax measure must provide a service to the existing or future community, must be an authorised use, must be considered a premises in use by a trade or profession and must be liable to commercial rates'*. On the basis of the information submitted I have no evidence that the uses on site comply with the requirements set out in the Guidelines. Furthermore the text does not refer to 'either/or' scenario with regard to criteria to be met. Based on the available information I am satisfied that the lands do not meet the criteria for exclusion set out in section 653B(c)(i) and the grounds of appeal should be dismissed.

With regard to the provision of footpaths, public lighting, utilities, foul sewer drainage and water connection and the requirement for 'significant works'. For the purposes of falling within the scope of RZLT the criteria is whether it to 'is reasonable to consider'. In my opinion it is reasonable to consider that the provision of a footpaths, public lighting and water/foul connections may be provided where land is in the control of the landowner or local authority. Overall I am of the view that is reasonable to conclude that the site may have access to public infrastructure and utilities, including roads and footpaths as such complies with criteria for inclusion under section 653B(b)

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 RZLT 000081 (Parcel ID DCC000002429), from the map.

## **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 RZLT 000081 (Parcel ID DCC000002429), 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.

- 7.1.** I recommend that the Board confirm the determination of the Local Authority and that the indicated site be retained on 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 RZLT 000081 (Parcel ID DCC000002429) 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.*

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Dáire McDevitt  
Senior Planning Inspector

21<sup>st</sup> August 2023