



An  
Bord  
Pleanála

## Inspector's Report ABP-316872-23.

---

<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 11c Milltown Road, Dublin 6.
<b>Local Authority</b>	Dublin City Council.
<b>Local Authority Reg. Ref.</b>	RZLT 000026.
<b>Appellant</b>	Charlemont Project Limited.
<b>Inspector</b>	Dáire McDevitt.

## **1.0 Site Description**

The lands subject to this appeal, identified as RZLT 000026 (Parcel ID DCC000002583), are located on the western side of Milltown Road, between the rear of the car sales garage, Autovision which fronts onto Milltown Road and the single storey Gheel Community Services. The lands comprise a number of single storey structures and prefab structures to the rear of Autovision, formerly the location of St. Joseph's Junior Education Centre. A vehicular access road extends along the northern side of the existing building from Milltown Road to the Gheel facility.

DCC Determination issued to Brian Carey. Appeal Lodged by Charlemont Project Limited (signed by Jamie Rohan, Director, Charlemont Project Limited).

## **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. 4115/21 (ABP Ref. 313048-22) refers to a July 2023 grant of permission to Charlemont Project Limited for development at the former Murphy and Gunn site (noted as currently Autovision) and the former St. Joseph's Junior Education Centre consisting of the demolition of existing structures and construction of 97 BTR apartments. (Appeal lodged in March 2022) (The site comprised of No. 9-14 and 11c Milltown Road, Dublin 6). Appeal was undecided at the time of the LA Determination on RZLT.

## **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 while zoned for residential, are an authorised development used to carry on a trade by a business which is liable to commercial rates and provides employment.

## **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 brownfield lands:

- Are zoned solely or primarily for residential use.
- Have access, or can be connected, to public infrastructure and facilities.
- Do not qualify for an exemption under sec.653B c)(i) of the T&C Act 1997 as amended, as the use on the lands is unauthorised.
- Satisfy the other relevant qualifying criteria in section 653B of the T&C Act as amended.

## **6.0 The Appeal**

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

The grounds of appeal are summarised as follows:

- Autovision Motors are the current tenants of the car showroom premises at 9-14 Milltown Road, lease commenced May 2021. The agreement includes 11c Milltown Road. The inclusion of this building and carpark is stated to be integral to the efficient operation of their business.

## **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).

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.

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'*.

The planning authority determined the lands at 9-14 Milltown Road were scoped out on the basis that a permitted commercial use that is liable to commercial rates, providing a service to the residents of adjacent residential areas. And that lands at 11c Milltown Road were scoped in as the use of the lands is unauthorised. On the basis of the information submitted I have no evidence that the current use of 11c complies with the requirements set out in the Guidelines on the date the local authority made its Determination. I note that the text does not refer to 'either/or' scenario with regard to criteria to be met. Based on the available information I am not satisfied that the lands meet the criteria for exclusion set out in section 653B(c)(i) and the grounds of appeal should be dismissed.

The appellants had lodged an application with DCC for a BTR development on the lands which was on appeal at the time the appellants made their submission on the draft RZLT Map to DCC.

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 other 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 000026 (Parcel ID DCC000002583) 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 000026 (Parcel ID DCC000002583) 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.

I recommend that the Board confirm the determination of the local authority and that the lands identified as RZLT 000026 (Parcel ID DCC000002583) 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 000026 (Parcel ID DCC000002583) 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

22<sup>nd</sup> August 2023