



An
Bord
Pleanála

Inspector's Report ABP-316881-23.

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 153-155 Harolds Cross, Dublin 6W.
Local Authority	Dublin City Council.
Local Authority Reg. Ref.	RZLT 000060.
Appellant	Red Rock Harold's X Ltd.
Inspector	Dáire McDevitt.

1.0 Site Description

The lands subject to this appeal, identified as RZLT 000060 (Parcel ID DCC000002694), refers to the former Michael Grant Motors site located between Peggy Kellys Public House and the entrance to Harolds Cross ETSS.

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. 4200/21 refers to a grant of permission for change of use of existing two storey building previously used as garage and showroom to inter alia a retail (convenience) use and a café.

PA Ref. 2712/21 (ABP 310947-21) refers to a grant of permission for a BTR development of 38 apartments.

PA Ref. 2172/20 refers to a decision to refuse permission to demolish structures and construct a c. 7 storey a residential development.

PA Ref. 0230/20 refers to a decision to refuse OPP for second floor offices and first floor workshop.

PA Ref. 1584/92 refers to a grant of permission for extension to garage and new car salesroom.

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 it is currently being used for retail purposes, is actively trading serving the wider community and the trade being carried out is liable to commercial rates payable to DCC.

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, including roads and footpaths, public lighting, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed and with sufficient service capacity available for such development, as evidence by the planning history of the site.
- Are not liable to commercial rates.
- Are not in use as a premises in which a trade or profession is being carried on and it is not reasonable to consider are being used to provide services to residents of adjacent residential areas.
- 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:

- The appellants outline that the lands are in use for retail purposes and should not be subject to the RZLT. Commercial rates paid to DCC.

- The lands have been in use for trade for retail purposes inclusive of a car dealership and most recently a Christmas Tree Shop. Not liable to RZLT as there is an extant commercial use in operation on the site.
- The property is listed for rent as an industrial unit. It is marketed in such a manner that it is anticipated that the commercial use will resume.

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 are included on the Draft map as the lands are not liable to commercial rates, not in use as a premises in which a trade or profession in being carried on and it is not reasonable to consider are being used to provide services to residents of adjacent residential areas. On the basis of the information submitted I have no evidence that the lands identified as RZLT 000060 (Parcel ID DCC000002694 comply with the requirements set out in the Guidelines for exclusion on the date the local authority made its Determination. Furthermore 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.

Overall I am of the view that it 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 000060 (Parcel ID DCC000002694) 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 000060 (Parcel ID DCC000002694) 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 000060 (Parcel ID DCC000002694) 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 000060 (Parcel ID DCC000002694 from the map.

I confirm that the report represents my professional 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

22nd August 2023