



An  
Bord  
Pleanála

## Inspector's Report ABP-317924-23

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<b>Type of Appeal</b>	Appeal under section 653J(2) of the Taxes Consolidation Act 1997, as amended, against the inclusion of land on the Residential Zoned Land Tax Map
<b>Location</b>	Lands at Sandford Road, Ranelagh, Dublin 4
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	RZLT-000165
<b>Appellant(s)</b>	Sandford Living Limited
<b>Inspector</b>	John Duffy

## 1.0 Site Location and Description

- 1.1. The subject site is located at Milltown Park, southeast of Ranelagh Village, bounded by Sandford Road to the north and Milltown Road to the southeast. Up until 2019, the existing buildings and lands on the site were utilised by the Jesuit Community for institutional purposes. A group of linked buildings are located to the south of the site and comprise Milltown Park House and extensions, Tabor House, The Chapel, Archive Building and Finlay Wing, ranging in heights from 2-4 storeys. The site is bounded to the north and west by two-storey housing in Norwood Park and Cherryfield Avenue Lower respectively. The wider area is characterised by mature housing stock of a detached, semi-detached and terraced character, and apartment blocks.

## 2.0 Zoning and Other Provisions

- 2.1. The subject site is zoned Z12 – Institutional Land (Future Development Potential) in the Dublin City Development Plan 2022-2028. This zoning objective seeks to ensure existing environmental amenities are protected in the predominantly residential future use of these lands. ‘Residential’ is a permissible use within zone Z12.
- 2.2. Section 14.7.12 of the Development Plan states the following in relation to Institutional lands:

*These are lands, the majority of which are or which have been in institutional use, which may be developed for other uses in the future. They may include colleges, and residential health care institutions (e.g. hospitals). Significant ancillary facilities such as staff accommodation and dedicated open space and sports/recreational facilities are also often included.*

*Where lands zoned Z12 are to be developed, a minimum of 25% of the site will be required to be retained as accessible public open space to safeguard the essential open character and landscape features of the site. Where such lands are redeveloped, the predominant land use will be residential.*

### 3.0 Planning History

**PA Ref: LRD6026/23-S3 / ABP-317921-23:** Large-scale Residential Development for construction of 636 apartments and associated site works. Demolition of structures on site including Milltown Park House. The Planning Authority granted permission. The appeal is due for decision on 19<sup>th</sup> December 2023.

**ABP-311302-21:** Permission granted for SHD application comprising demolition of existing structures on site, 671 no. Built to Rent apartments, creche and associated site works. The appellant has indicated that this decision is currently the subject of Judicial Review proceedings.

**PA Ref. 3866/20 / ABP. Ref.: PL29S.311552:** Permission granted for demolition of 83.7 sqm of the red brick link and construction of 2.4 metre high boundary wall. Alterations to structure and all ancillary works.

**PA Ref. 3913/18:** Retention permission granted for the temporary accommodation permitted under register reference 2673/16 / PL29S.246869 until the 31st August 2019.

**PA Ref. 2673/16 / ABP Ref. PL29S.246869:** Extension of duration granted for temporary accommodation on the Society of Jesus Lands.

**PA Ref.:4333/15:** Permission granted for demolition of the existing boundary wall and sliding gate at the side entrance to Milltown Park on Milltown Road, and its replacement with a new boundary wall and set back entrance. This entrance

provides access to the remaining Jesuit lands and is located to the south of the proposed entrance to the subject development.

**PA Ref.:3044/13 / ABP Ref. PL29S.242764:** Permission granted for single storey temporary accommodation for school.

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

4.1. The appellant made a submission to the Local Authority seeking to have the land removed from the supplemental map on the basis that it is not possible to activate the lands for residential development because there is presently a legal challenge questioning the validity of the planning permission, which has not yet been determined. Furthermore, imposition of the tax would prevent rather than encourage the activation of land for residential development.

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

5.1. The Local Authority determined that the site was in scope. The site is zoned solely or primarily for residential use, has access, or can be connected to public infrastructure and facilities with sufficient service capacity as evidenced by its suburban location and planning history. The lands do not qualify for an exemption under section 653B given that they are no longer in use for institutional purposes / any purpose, as stated in the planning report submitted with the Large Scale Residential Development application on the site. Furthermore, the lands meet the other qualifying criteria under section 653B of the Taxes Consolidation Act 1997, as amended.

#### **6.0 The Appeal**

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

The following points are made in support of the appeal:

- The owner of the lands should not be burdened with the tax. Its imposition prevents rather than encourages the activation of land for residential development.

- The site should be excluded from the scope of the tax given that it is impossible to activate the lands for residential development on account of the legal challenge affecting the property.
- The Board is obliged to do more than that listed in section 653B and ensure protection by excluding the lands, where a permission is granted but subject to a pending legal challenge.

## 6.2. **Planning Authority Response**

- No response on file.

## 7.0 **Assessment**

7.1. The comments raised in the appeal submission are noted. The site identified for inclusion on the RZLT map is zoned predominantly for residential use and the Planning Authority determined that the site remain on the RZLT map. The site is within a suburban area with services available and no capacity or other reasons have been identified that would prevent the development of these lands for residential purposes. The site does satisfy the criteria for inclusion on the map set out in section 653B (b) of the Taxes Consolidation Act 1997, as amended.

7.2. Section 3.2.3 of the Guidelines (Residential Zoned Land Tax - Guidelines for Planning Authorities, June 2022) 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."

The appellant has outlined that development of the lands is not presently possible due to legal proceedings affecting the property. This issue does not fall within the criteria for exclusion as set out under section 653B of the Taxes Consolidation Act 1997 as amended. As such, this ground of appeal should be dismissed.

7.3. Section 3.3.2 of the Guidelines confirms that An Bord Pleanála is restricted to considering whether the land meets the qualifying criteria set out in section 653B only. I note the remaining grounds of appeal also relate to matters outside of the qualifying criteria in the legislation and as such they cannot be considered in the appeal process.

7.4. I am of the opinion that the land satisfies criterion 653B (b) and that it is serviced or has access to services necessary for dwellings to be developed and with sufficient service capacity available for such development.

## 8.0 Recommendation

8.1. 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

9.1. The appellant requested that their site be removed from the map on the basis that, inter alia, the land cannot be activated for residential development on account of a legal challenge affecting the property.

9.2. 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 sections 3.2.3 and 3.3.2 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 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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John Duffy  
Planning Inspector

17<sup>th</sup> October 2023