



An
Bord
Pleanála

Inspector's Report ABP-317947-23

Type of Appeal

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

Location

Crumlin Shopping Centre, Crumlin Road, Dublin 12

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

RZLT-000167

Appellant(s)

Better Value Unlimited Company

Inspector

John Duffy

1.0 Site Location and Description

- 1.1. The subject brownfield lands accommodate the Crumlin Leisure Centre and the majority of the Crumlin Shopping Centre building located on the northern side of the Crumlin Road. The site on the supplemental map (Land Parcel ID DCC000005001 refers) excludes the surface car park to the north and west of the shopping centre and the Dunnes Stores supermarket operating from the northern part of the shopping centre building. Both the shopping centre and the leisure centre are closed to the public and their front elevations are boarded up.

2.0 Zoning and Other Provisions

- 2.1. The subject site is zoned Z4 – ‘Key Urban Villages and Urban Villages’ in the Dublin City Development Plan 2022-2028. This zoning objective seeks ‘To provide for and improve mixed-services facilities.’ Crumlin Shopping Centre is designated as ‘KUV 9’ in the Development Plan. The subject lands are zoned for a mixture of uses, with residential use permissible in the Z4 land-use zoning objective.
- 2.2. Key Urban Villages and Urban Villages (formerly District Centres) function to serve the needs of the surrounding catchment providing a range of retail, commercial, cultural, social and community functions that are easily accessible by foot, bicycle or public transport; in line with the concept of the 15-minute city.

3.0 Planning History

3.1. Subject lands

PA Ref. 3372/23 – Current planning application for demolition of existing buildings, construction of shopping centre, café, library and gym facility. for demolition of buildings, construction of 24 storey mixed use building with all ancillary site works.

PL29S.235004 / PA Ref.3078/09 – Permission granted for the demolition and redevelopment of substantial part of existing shopping centre. An extension of duration of this permission was granted up to 17th March 2020.

PA Ref. 3093/09 – Permission granted for the demolition of Crumlin Leisure centre buildings and the construction of a two storey mixed use building to contain an off-

licence, hot-food take away outlet and 2no. retail units and health club/gymnasium at first floor level. An extension of duration of this permission was granted up to 5th December 2017.

4.0 Submission to the Local Authority

4.1. The appellant made a submission to the Local Authority seeking to have the lands removed from the RZLT map on the basis that the Dublin City Development Plan does not provide for the delivery of residential units on the site which is zoned 'Key Urban Village' (KUV). The objective of the Plan is for KUVs to be expanded to provide a variety of retail, commercial, community services and employment. As such inclusion of the land on the map will not satisfy the principal objective of the tax, which is to expand housing supply. Furthermore, the shopping centre is an authorised development providing an essential retail service to nearby residents and it is subject to commercial rates.

5.0 Determination by the Local Authority

5.1. The Local Authority determined that the site is in scope. The lands are zoned for a mixture of uses, including residential use. The lands have access or can be connected to public infrastructure and facilities with sufficient service capacity as evidenced by their city centre location and planning history. The lands are vacant / idle as there is currently no active permitted use on the lands (and there has not been for a number of years). The lands are not required for, or integral to, the operation of a trade or profession being carried out on, or adjacent to the land. Other qualifying criteria under section 653B are met.

6.0 The Appeal

6.1. Grounds of Appeal

The following points are made in support of the appeal:

- The site is occupied by a lawful retail development, Crumlin Shopping Centre, since 1974.

- During the Development Plan making process the Elected Members rejected a proposal to rezone part of the site for housing.
- Crumlin Shopping Centre site is identified as a Key Urban Village (KUV 9). A key Development Plan objective is to develop such centres to provide a range of retail, commercial, employment, community and other services.
- While residential uses are permitted in principle within KUV sites, the Core Strategy does not allocate any proposed residential yields for Crumlin KUV due to the speculative and uncertain nature of delivering housing at this location.
- A significant quantum of residential development at the site would affect the potential to deliver a convenience led retail development in accordance with the zoning and KUV designation of the site. Development of housing at this location would require the complete demolition of the shopping centre.
- The supermarket provides an essential retail service to nearby residents and is subject to commercial rates.
- Access to the supermarket's yard is from the service road adjoining the building to the east. Land Parcel ID DCC000005001 cannot be separated from the existing shopping centre development and developing the land parcel would mean the supermarket could not be serviced and could discontinue operations.
- The lands considered to be in scope for RZLT are essential to the continued operations of the anchor supermarket on the site. They cannot be developed without compromising the operation of adjoining land in the same ownership.
- Part of the lands (the shopping centre structure) are vacant. However, the supermarket, the service yard and the customer car park remain operational. A strict interpretation of section 653B (c) (ii) is that it cannot be concluded that the shopping centre structure is vacant or idle.

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 included in the Dublin City Development Plan 2022-2028 and is zoned for a mixture of uses, including residential use as required by section 653B of the Taxes Consolidation Act 1997, as amended. The site is within an urban 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. Page 12 of the RZLT Guidelines set out that ‘vacant or idle land’ means land which, having regard only to development (within the meaning of the Act of 2000), is not required for, or integral to, the operation of a trade or profession being carried out on, or adjacent to, the land.

It is clear that a large part of the site is vacant or idle. The majority of the shopping centre with the exception of the supermarket premises, has been vacant or idle for a number of years. Similarly, the adjoining Crumlin Leisure Centre is also vacant or idle. My view therefore is that site cannot avail of the exclusion as set out under section 653B (c) (ii) of the Taxes Consolidation Act 1997 as amended.

The Local Authority appropriately excluded the supermarket operating from the site and the extensive areas of associated surface car parking to the north and west of the buildings from the RZLT map, given that these lands are integral to the operation of the supermarket business.

- 7.3. Section 3.2.3 of the Guidelines (Residential Zoned Land Tax - Guidelines for Planning Authorities, June 2022) states the following:

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.

Section 3.3.2 of the Guidelines also confirms that An Bord Pleanála is restricted to considering whether the land meets the qualifying criteria set out in section 653B only.

The appeal refers to Development Plan objectives, issues relating to core strategy, rezoning of lands in the context of the making of the Development Plan and possible

potential future impacts on the shopping centre if housing is built on the lands. These grounds of appeal relate to matters outside of the qualifying criteria in section 653B; as such they cannot be considered in the appeal process and should be dismissed.

- 7.4. I consider that the land should remain for inclusion on the Residential Land Tax Map given the site is zoned for a mixture of uses including residential development, that it is vacant or idle and that it does not fall within the exemptions as set out under section 653B (c) (i) – (v) of the Taxes Consolidation Act 1997, as amended.

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 site is within an urban 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(c) of the Taxes Consolidation Act 1997, as amended.

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.

John Duffy
Planning Inspector

17th October 2023