



An
Bord
Pleanála

Inspector's Report ABP-320331-24

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 Map

Location

Griffith Avenue/ R102, Glasnevin.
Dublin 9

Land Parcel ID

DCC000064064

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

RZLT-000201

Appellant(s)

Dublin City University

Inspector

Paul O'Brien

1.0 Site Location and Description

- 1.1. The appeal lands with an area of 3.95 hectares, identified as Parcel ID DCC000064064 on the RZLT Final Map, are located to the north of Griffith Avenue, Ballymun Road to Swords Road section, and to the west of Walnut Rise. The lands are undeveloped, under grass and in agricultural use. Lands to the north are in similar use, those to the south, east and west are in residential use. A nursing home is located to the north west of the subject lands.

2.0 Zoning and Other Provisions

- 2.1. The subject lands are zoned Z12 – ‘Institutional Land (Future Development Potential)’ with an objective ‘To ensure existing environmental amenities are protected in the predominantly residential future use of these lands.’
- 2.2. The following is also stated in the Dublin City Development Plan 2022 – 2028 in relation to Z12 lands and their development:

‘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.

In considering any proposal for development on lands subject to zoning objective Z12, other than development directly related to the existing community and institutional uses, Dublin City Council will require the preparation and submission of a masterplan setting out a clear vision for the future development of the entire landholding.

In particular, the masterplan will need to identify the strategy for the provision of the 25% public open space requirement associated with any residential development, to ensure a coordinated approach to the creation of new high-quality public open space

linked to the green network and/or other lands, where possible. In addition, development shall have regard to the standards in Chapter 15.

On Z12 lands, the minimum 25% public open space shall not be split up into sections/fragmented and shall comprise soft landscape suitable for relaxation and children's play, unless the incorporation of existing significant landscape features and the particular recreational or nature conservation requirements of the site and area dictate that the 25% minimum public open space shall be apportioned otherwise.

Where there is an existing sports pitch or sports facility on the Z12 lands subject to redevelopment, commensurate recreational/social infrastructure will be required to be provided and retained for community use where appropriate as part of any new development (see also Chapter 10: Green Infrastructure and Recreation, Policy GI49).'

- 2.3. Permissible uses include 'Assisted living/retirement home, bed and breakfast, buildings for the health, safety and welfare of the public, café/ tearoom, childcare facility, community facility, conference centre, cultural/recreational building and uses, delicatessen, education, embassy residential, enterprise centre, garden centre/ plant nursery, golf course and clubhouse, guesthouse, halting site, home-based economic activity, hostel (tourist), hotel, live-work units, mediaassociated uses, medical and related consultants, open space, place of public worship, primary health care centre, public service installation, residential, residential institution, restaurant, shop (local), sports facility and recreational uses, training centre.' Under 'Open for Consideration Uses' are 'Build to Rent Residential', 'Student Accommodation' amongst other uses.
- 2.4. There is a section of Z9 – Amenity/ Open Space Lands/ Green Network zoning to the south of the site along Griffith Avenue.

3.0 Planning History

- 3.1. ABP Ref. 316606-23, RZLT File, refers to an August 2023 decision to confirm the determination of the Local Authority.
- 3.2. There are no other recent, relevant applications on these lands.

4.0 Submission to the Local Authority

4.1. The appellant made a submission to the Local Authority seeking to have their lands removed from the Final Map on the basis that:

- Access to the site cannot be easily provided for.
- The site is required for the future development of the university.

Supporting documentation was provided to the Local Authority.

5.0 Determination by the Local Authority

5.1. The Planning Authority determined that the site 'fulfils the qualifying criteria set out in Part 22A of the Taxes Consolidation Act 1997' for inclusion on the RZLT map for the following reasons:

'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 and as stated by the Transportation Planning Division of Dublin City Council access is possible from Griffith Avenue subject to planning permission for the creation of a new entrance,
do not qualify for an exclusion for educational infrastructure/ facilities,
satisfy the other relevant criteria under Section 653B of the TC Act.'

5.2 I note that the Planning Authority have provided comments from the Dublin City Transportation Planning Division stating that access may be provided to this site from Griffith Avenue or Walnut Rise subject to planning permission.

6.0 The Appeal

6.1. Grounds of Appeal

The following points were made in support of the appeal:

- Vehicular access to the site is difficult to achieve at present. To provide an access onto Griffith Avenue would require development over lands zone for amenity/ open space use. This zoning is in place to protect the character of the area/ the tree lined avenue in particular. The history of this Z9 zoning is provided in the appeal.
- The site is in agricultural use at present and other lands in the area were omitted from the RZLT map.
- The site is required for future development as the university expands over time the use of the lands will be clearer. The lands may be used as part of university courses such as soil sampling for the DCU Geography Department.

A number of supporting documents were provided in support of the appeal.

6.2. Planning Authority Response

By letter dated 6th August 2024, no further comments are made.

7.0 Assessment

- 7.1. The grounds of appeal have been fully considered. Under section 653J of the Taxes Consolidation Act 1997 as amended, the Board's role in the current appeal is to review the determination of the local authority under section 653E which is based on the application of the relevant criteria set out in section 653B of the Act for inclusion on the RZLT map. This position is consistent with the Residential Zoned Land Tax-Guidelines for Planning Authorities June 2022 which clearly sets out in section 3.3.2 that:

“in considering appeals, An Bord Pleanála is restricted to considering the grounds of appeal, the determination of the local authority on the submission made during public display period, and any additional information on the servicing or use of the land which the Board may seek from the landowner, Local Authority or stakeholders identified in article 28 of the 2001 regulations. In assessing any appeal, the Board is

restricted to considering whether the lands meet the qualifying criteria set out in section 653B only”.

- 7.2. Section 653B of the Taxes Consolidation Act, 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 comments raised in the appeal are noted and I also note the report of the Planning Authority. The appeal lands are zoned for Z12 – Institutional Use but which allows for residential development and therefore is within scope of section 653B(a). The Planning Authority determined that the site remain on the RZLT map.
- 7.3. In relation to the issue of access, this is a Development Management consideration in relation to specific detailing, however I agree with Dublin City Council that there is no reason why an access from Griffith Avenue or Walnut Rise cannot be provided. The nature of the access would depend on the scale of development proposed, but there is no reason as to why these lands could not be accessed.
- 7.4. In terms of agricultural use, this is noted but the zoning here is for the development of these lands for use that would integrate with the existing form of development in the area.
- 7.5. The RZLT process seeks to activate lands for residential development and stating that they are required for future, unspecified, development is not acceptable. There are other processes within the planning system that would allow for lands to reserved for strategic reserve. The site has a clear zoning objective that allows for development with a residential use and the submitted appeal does not provide a justification for the omission of these lands from the Final RZLT Maps.

8.0 Recommendation

- 8.1. Having regard to the foregoing, I consider that the land identified as Parcel ID DCC000064064 on the RZLT Final Map meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, and there are no matters arising that warrant exclusion of the subject lands from the final map.

9.0 Reasons and Considerations

In the assessment of this appeal, regard was had to the content of the Residential Zoned Land Tax – Guidelines for Planning Authorities (June 2022) which are considered to be a helpful complement to understanding the spirit and intent of the primary legislation. However, the recommendation is made within the clear parameters of the applicable legislation.

The lands identified as Parcel ID DCC000064064 on the RZLT Map are within scope of Section 653B(a). The lands are located on lands zoned for R12 which includes/ provides for residential development, is serviced and where it has been demonstrated that access can be provided for. The lands are located within an established urban area. No capacity or other reasons have been identified that would prevent the development of these lands in principle for residential purposes in accordance with the zoning objective that applies to these lands.

10.0 Recommended Draft Board Order

Taxes Consolidation Act 1997 as amended

Planning Authority: Dublin City Council

Local Authority Reference Number: RZLT-000201

Appeal by Dublin City University in accordance with section 653J of the Taxes Consolidation Act 1997 as amended, against the inclusion of the land on the Residential Zoned Land Tax Map by Dublin City Council on the 17th day of June 2024 in respect of the site described below.

Lands at: Griffith Avenue, Glasnevin, Dublin 9

Decision

The Board in accordance with section 653J of the Taxes Consolidation Act 1997 as amended, and based on the reasons and considerations set out below, hereby decided to:

Confirm the determination of the local authority and direct the local authority to retain the lands identified as Parcel ID DCC000064064 on the final map.

Reasons and Considerations

In the assessment of this appeal, regard was had to the content of the Residential Zoned Land Tax – Guidelines for Planning Authorities (June 2022) which are considered to be a helpful complement to understanding the spirit and intent of the primary legislation. However, the recommendation is made within the clear parameters of the applicable legislation.

The lands identified as Parcel ID DCC000064064 are zoned Z12 – ‘Institutional Land’ and are considered to be in scope of section 653B(a). The lands are located within an established urban area. No capacity or other reasons have been identified that would prevent the development of these lands in principle for residential purposes in accordance with the residential zoning objective that applies to these lands.

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.

Paul O’Brien

Inspectorate

17th September 2024