



An
Bord
Pleanála

Inspector's Report ABP-320365-24

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

Lands at Blackglen Road, Sandyford, Dublin 18

Planning Authority

Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.

DM24/0012

Appellant(s)

Zolbury Limited

Inspector

John Duffy

1.0 Site Location and Description

- 1.1. The subject lands are located on the southern side of Blackglen Road in Sandyford, Dublin 18. The site is at a transitional location within the urban fringe of Dublin, at the foothills of the Dublin Mountains and approximately 1.4km south west of the M50 interchange at Kilgobbin Road. The lands are identified as part of Land Parcel ID DELA00002337 on the RZLT map.

2.0 Zoning and Other Provisions

- 2.1. The operative Development Plan is the Dun Laoghaire Rathdown County Development Plan 2022 – 2028.
- 2.2. The appeal lands are zoned Objective A in the Development Plan with the zoning objective ‘To provide residential development and improve residential amenity while protecting the existing residential amenities.’
- 2.3. The Dun Laoghaire Rathdown Biodiversity Action Plan 2021-2025 sets out a number of indicative wildlife corridors within the county. It appears that a portion of the subject lands lies within the Ticknock to the River Dodder corridor.

3.0 Planning History

An Bord Pleanála Ref. ABP-314459-22 refers to a July 2023 decision to refuse permission for a Strategic Housing Development on the appeal lands comprising 360 apartments, creche and associated site works.

An Bord Pleanála Ref. PL06D.247285 / Planning Authority Ref. D07A/1598 refers to a January 2017 decision to refuse permission for a new vehicular access and all associated works.

An Bord Pleanála Ref. PL06D.227869 / Planning Authority Ref. D16A/0493 refers to a 2008 decision to refuse permission for 180 residential units and a creche on the lands.

4.0 Submission to the Local Authority

4.1 The appellant made a submission to the Local Authority seeking to have a portion of the lands (approximately 0.45 ha) removed from the map, as they must be given over to facilitate a required ecological corridor. This area is a protected space and cannot form part of any open space provision associated with any future development scheme on the lands.

5.0 Determination by the Local Authority

5.1 The Local Authority determined that the lands are in scope for the following reasons:

- The land is zoned solely or primarily for residential use.
- It is reasonable to consider the land may have access, or be connected, to public infrastructure and facilities necessary for dwellings to be developed and with sufficient service capacity available for such development.
- It is reasonable to consider the land is not affected, in terms of its physical condition, by matters to such an extent to preclude the provision of dwellings.

6.0 The Appeal

6.1 Grounds of Appeal

The following points are made in support of the appeal:

- Acknowledges that the site is zoned for residential development; a Large Residential Development scheme is presently at pre-planning stage.
- The entirety of the site is not available for residential development given the need to provide ecological linkages from the Dublin Mountains to Fitzsimons Wood. In this regard, reference is made to feedback from the Local Authority and the previous SHD application on the lands (ABP-314459-22), which noted that any

development must respond to the policies and objectives of the Dun Laoghaire Rathdown Biodiversity Action Plan 2021-2025, in terms of the Ticknock to River Dodder Wildlife Corridor.

- The ecological corridor is a protected space and cannot form part of any open space provision associated with any future scheme on the lands.
- Removal of a portion of lands, equating to approximately 0.45 ha is sought, having regard to the exclusion set out under section 653B(c)(iii)(iv), which rules land out of scope that is subject to a statutory designation that may preclude development.
- The Dun Laoghaire Biodiversity Action Plan 2021-2025 is informed by the National Biodiversity Action Plan / Wildlife Amendment Act 2023 and a statutory obligation is therefore imposed on the lands, precluding development in part.

The appeal includes the following attachments:

- Copy of previous submission made to Local Authority
- Copy of Local Authority Evaluation
- Copy of Local Authority Determination

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 1997 as amended, sets out the criteria for inclusion on the map, and states that the first consideration for inclusion 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 subject lands are zoned Objective A - Residential and are considered within the scope of section 653B(a)(i).
- 7.3 The lands are located at a transitional location within the urban fringe of Dublin. The lands adjoin the Blackglen Road to the south and they have access to public infrastructure and facilities necessary for dwellings to be developed and with sufficient service capacity for such development as required by section 653B(b).
- 7.4 In terms of section 653B(c), given the residential zoning of the site, it is reasonable to consider the lands are not affected by issues to a sufficient extent which would preclude the provision of houses, including contamination or the presence of known archaeological or historic remains.
- 7.5 The appellant contends that a portion of the appeal lands should be excluded from the scope of RZLT on the basis they are subject to a statutory designation that precludes development, and as such, the exemption under section 653B(c)(iii)(iv) applies.

Statutory designations refer to areas required under European and national legislation for the conservation/protection of habitats and species. Examples of statutory designations include Special Areas of Conservation (SAC), Special Protection Areas (SPAs) and Natural Heritage Areas (NHAs).

While noting the appellant’s observation that the Dun Laoghaire Biodiversity Action Plan 2021-2025 is informed by the National Biodiversity Action Plan / Wildlife

Amendment Act 2023, having examined the Development Plan maps and both EPA and NPWS online mapping pertaining to the appeal lands, it is the case that no parts of the lands are subject to a statutory designation. The Local Authority's report refers to the map of a proposed wildlife corridor on the lands provided by the landowner, but notes this proposal has no legal standing and that the identification of the subject lands within a wildlife corridor in the DLR Biodiversity Action Plan does not constitute a statutory designation.

As referenced above under section 2.3, the DLR Biodiversity Action Plan 2021-2025 sets out a number of indicative wildlife corridors within the county and it appears to include a portion of the subject lands which lies within the Ticknock to the River Dodder corridor. The map provided by the appellant indicating their proposal for the location of an ecological corridor on the subject lands relates to a possible future LRD application on the lands. The identification of a portion of the subject lands in the DLR Biodiversity Action Plan as an indicative wildlife corridor does not confer a statutory declaration on the appeal lands. Having regard to the foregoing, I conclude that the subject lands do not avail of the exemption as set out under 653B(c)(iii)(iv) of the Taxes Consolidation Act 1997, as amended.

8.0 Recommendation

8.1 I consider that the lands identified as part of Parcel ID DELA00002337 on the RZLT Final Map meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended. There are no matters arising that warrant exclusion of the subject lands from the final map and, therefore, I recommend that the Local Authority determination should be confirmed, and the lands be retained on the map.

9.0 Reasons and Considerations

The lands identified as part of Parcel ID DELA00002337 on the RZLT Final Map are considered in scope of section 653B(a). The lands are located within the urban fringe of Dublin, at the foothills of the Dublin Mountains, and adjoin the Blackglen Road. The lands have access to public infrastructure and facilities necessary for residential development with sufficient service capacity for such development as required by section 653B(b), and in accordance with the Objective A residential zoning objective

of the Dun Laoghaire County Development Plan 2022-2028 that applies to the lands. The lands are not subject to a statutory designation. The identification of a portion of the lands in the Dun Laoghaire Rathdown Biodiversity Action Plan as an indicative wildlife corridor does not confer a statutory declaration on the appeal lands, and as such, the lands are in scope and do not meet the provision of section 653B(c)(iii)(iv) for exclusion from the map.

10.0 Recommended Draft Board Order

Taxes Consolidation Act 1997 as amended.

Planning Authority: Dun Laoghaire Rathdown County Council

Local Authority Reference Number: DM24/0012

Appeal by Zolbury Limited of Ireland 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 Dun Laoghaire Rathdown County Council on the 25th day of June 2024 in respect of the site described below.

Lands at: Blackglen Road, Sandyford, Dublin 18

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:

The Board confirm the determination of the local authority and direct the local authority to retain the lands identified as part of Parcel ID DELA00002337 on the final map.

Reasons and Considerations

The lands identified as part of Parcel ID DELA00002337 on the RZLT Final Map are considered in scope of section 653B(a). The lands are located within the urban fringe of Dublin, at the foothills of the Dublin Mountains, and adjoin the Blackglen Road.

The lands have access to public infrastructure and facilities necessary for residential development with sufficient service capacity for such development as required by section 653B(b), and in accordance with the Objective A residential zoning objective of the Dun Laoghaire County Development Plan 2022-2028 that applies to the lands. The lands are not subject to a statutory designation. The identification of a portion of

the lands in the Dun Laoghaire Rathdown Biodiversity Action Plan as an indicative wildlife corridor does not confer a statutory declaration on the appeal lands, and as such, the lands are in scope and do not meet the provision of section 653B(c)(iii)(iv) for exclusion 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.

John Duffy
Planning Inspector

3rd October 2024