



An  
Bord  
Pleanála

## Inspector's Report ABP-320368-24

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**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**

Rear of Lanigan's Funeral Directors,  
2B & 2C Faussagh Avenue, Cabra  
West, Dublin 7.

**Planning Authority**

Dublin City Council

**Planning Authority Reg. Ref.**

RZLT-000222

**Appellant(s)**

Corah Buckmaster

**Inspector**

Fergal Ó 'Bric

## **1.0 Site Location and Description**

- 1.1 The subject site contains an irregular shaped area of land located to the north-east of Faussagh Avenue, Cabra, Dublin 7. The overall site is located to the rear (north) of Lanigan's Funeral Home and comprises an area of undeveloped land located to the rear of the funeral home building. The lands are identified as parcel id number DCC000060378 and comprise an area of c. 0.39 hectares.
- 1.2 To the east of the site is St Attracta's Road, which consists of two-storey terraced houses. Lands to the west comprise the railway line between the Phoenix Park tunnel and Glasnevin.

## **2.0 Zoning and Other Provisions**

- 2.1 The lands, the subject of this appeal, are zoned Z1 – Sustainable Residential Neighbourhoods in the Dublin City Development Plan 2022 – 2028.
- 2.2 The site is not located within any architectural conservation area (ACA) or areas of archaeological importance and there is no indication that the site is contaminated.

## **3.0 Planning History**

Planning reference 000057-DCC determined that the lands met the relevant criteria and should be include within the RZLT map. This determination was upheld by the Board under reference number 316569-23.

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

The appellant made a submission to the Local Authority seeking to have her lands removed from the RZLT map on the basis that they do not have direct access to necessary piped water services, footpaths or roads. The lands are effectively landlocked. The subject lands form part of a larger land bank and their development would result in piecemeal development.

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

The local authority determined to include the site on the final RZLT map on the basis that the site constitutes land satisfying the relevant criteria set out in in Section 653B of the Act.

The reasons set out by the Local Authority are as follows:

The lands:

- a) Are zoned for a mixture of uses, including residential use.
- b) Have access to, or can be connected, to public infrastructure and facilities, as confirmed by Uisce Eireann and the DCC Transportation Planning Division and as evidenced by the current uses on surrounding lands (including the funeral home that forms part of the landownership on the lands).
- c) Do not qualify for an exemption under Section 653B of the Taxes Consolidation Act, 1997, as amended, as the lands are not in use.
- d) Satisfy the other relevant criteria under section 653B of the Taxes Consolidation Act, 1997, as amended.

## **6.0 The Appeal**

### **Grounds of Appeal**

The following points were made in support of the appeal:

- The lands are inaccessible as they are located to the rear of Lanigan's funeral home. If planning permission was to be sought on the subject lands, access would be through the funeral home site and would cause disruption to the operations of the funeral home business.
- The development of the subject lands would result in piecemeal development and should be developed in tandem with the adjoining lands to the west. However, to date, the appellant has been unsuccessful in making contact with the adjoining landowner to the west regarding progressing an integrated development.
- They accept that the site is suitably zoned.

- The development of the lands would be premature pending the decision on the DART + proposal under Board reference 316119 pertaining to the electrification of the rail line from Celbridge & Hazelhatch to Hueston Station.
- The electrification of the line could exacerbate subsidence issues to the west of the subject lands.
- The proposal to develop lands to the west of the subject site would further restrict the development of the subject lands for residential uses.

## **7.0 Planning Authority Response**

No further comment.

## **8.0 Assessment**

8.1 The comments raised in the appeal submission are noted. The site identified for inclusion on the RZLT map is zoned for residential use. The Planning Authority determined that the site remain on the RZLT map. The comments raised in the appeal submission are noted. The lands identified for inclusion on the RZLT map are zoned Z1 'Sustainable Residential Neighbourhoods' 'in the Dublin City Development Plan 2022-2028. The Planning Authority determined that the site remain on the RZLT map. The Local Authority set out that the site is within an inner-city area with services available and no capacity or other reasons have been identified that would prevent the development of these lands for residential purposes.

8.2 The Taxes Consolidation Act 1997 as amended by the Finance Act 2021, includes in Section 653B the criteria for inclusion in the map. This states that it is applicable to lands zoned '(a) (i) solely or primarily for residential use, or (ii) for a mixture of uses, including residential use' but not land '(c) (ii) that is referred to in paragraph (a)(ii) unless it is reasonable to consider that the land is vacant or idle.' The land is zoned primarily for residential use, and not for mixed use, and, therefore, an exemption under part (c)(ii) does not apply.

8.3 Section 653B (c) relates to land where it is reasonable to consider is not affected, by reason of its physical condition, by matters to a sufficient degree, which would preclude

the provision of dwellings, including contamination or the presence of known archaeological or historic remains. I consider that the site satisfies the criteria for inclusion on the map set out in section 653B of the Taxes Consolidation Act 1997, as amended.

8.4 The appellant has stated that the subject lands are not accessible from the public domain, except via the rear and side of the funeral home. The Local authority state within their assessment that there is a connection from the public footpath to the subject site, passing through lands under the control of the landowners, as evidenced in the mapping submitted by the owners to the local authority. From the photographic images submitted by the local authority, it is apparent that there is access to the rear of the funeral home business from each side of the funeral home building, to its east and west. On balance, I am satisfied that it is reasonable to consider that the lands have access to the public roads and footpaths, albeit through lands within the landowners control.

8.5 The local authority reference a report prepared by Uisce Éireann (dated 25<sup>th</sup> April 2024) which confirms that the site can be served by public water supply and by foul drainage. Public surface water drainage is available in the area. I am satisfied that it is reasonable to consider that the lands have access to the public piped water services to enable the development of the subject lands.

8.6 The appellant raises the issue of piecemeal development. This is a matter that would be considered as part of the development management process and is not a matter for consideration under Section 653B of the Taxes Consolidation Act, 1997, as amended.

8.7 In relation to the subsidence issue and the potential development of the Dart + project, these are matters that would be addressed as part of the assessment of the DART+ proposals currently under examination by the Board under reference number 316119.

They are not matters for consideration under Section 653B of the Taxes Consolidation Act, 1997, as amended.

8.8 I, therefore, consider that the site should remain for inclusion on the Residential Land Tax Map as the site is suitably zoned for residential development and there is no reason as to why development cannot take place here.

## 9.0 **Recommendation**

I recommend that the board confirm the determination of the Local Authority and that the indicated site be retained on the map.

## 10.0 **Reasons and Considerations**

The lands identified as RZ:LT-000222, parcel ID number DCC000060378 on Z1-Sustainable Residential Neighbourhoods zoned lands identified within the current Dublin City Development Plan are considered in scope of Section 653B of the Taxes Consolidation Act 1997, as amended. The appellant has not demonstrated, based on the information submitted that the subject lands cannot be accessed from the public road and footpath area and/or through lands within their ownership and are, therefore, considered within the scope of Section 653B of the Taxes Consolidation Act 1997, as amended. The issues of piecemeal development and subsidence are not matters for consideration under Section 653B of the Taxes Consolidation Act, 1997, as amended. The lands are located within an established urban area with services available, and no capacity or other reasons (including access to the subject lands) have been identified that would prevent the development of these lands in principle for residential purposes in accordance with the Z1 zoning objective that pertain to these lands.

## 11.0 **Recommended Draft Board Order**

**Taxes Consolidation Act 1997 as amended.**

**Planning Authority:** Dublin City Council

**Local Authority Reference Number:** RZ:LT-000222

**Appeal** Corah Buckmaster in accordance with section 653J of the Taxes Consolidation Act 1997 as amended, against the inclusion of the land on the final Residential Zoned Land Tax Map by Dublin City Council on the 21st day of June 2024 in respect of the site described below.

**Lands at:** Rear of Lanigan's Funeral Directors, 2B and 2C Faussagh Avenue, Cabra West,, Dublin 7.

### **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 confirms the determination of the local authority and direct the Local Authority to retain the lands identified as Parcel ID number DCC000060378 and Local Authority reference number RZLT-000222 should remain on the RZLT map.

### **Reasons and Considerations**

The lands identified as RZ:LT-000222, parcel ID number DCC000060378 on Z1-Sustainable Residential Neighbourhoods zoned lands identified within the current Dublin City Development Plan are considered in scope of Section 653B of the Taxes Consolidation Act 1997. as amended. The appellant has not demonstrated, based on the information submitted that the subject lands cannot be accessed from the public road and footpath area and/or through lands within their ownership and are, therefore, considered within the scope of Section 653B of the Taxes Consolidation Act 1997, as amended. The issues of piecemeal development and subsidence are not matters for consideration under Section 653B of the Taxes Consolidation Act, 1997, as amended. The lands are located within an established urban area with services available, and no capacity or other reasons (including access to the subject lands) have been identified that would prevent the development of these lands in principle for residential purposes in accordance with the Z1 zoning objective that pertain to these lands.

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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Fergal Ó Bric  
Planning Inspectorate

3<sup>rd</sup> day of October 2024