



An  
Bord  
Pleanála

## Inspector's Report ABP-320379-24

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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 Map

**Location**

Adamstown, Co. Dublin

**Land Parcel ID**

SDLA00045282, SDLA00045278, SDLA00027511, SDLA00048147, SDLA00045279, SDLA00027497, and SDLA00071476.

**Planning Authority**

South Dublin County Council

**Planning Authority Reg. Ref.**

SD-C315-08

**Appellant(s)**

Quintain Developments Ireland Limited

**Inspector**

Paul O'Brien

## **1.0 Site Location and Description**

- 1.1. The appeal lands, identified as Parcel IDs SDLA00045282, SDLA00045278, SDLA00027511, SDLA00048147, SDLA00045279, SDLA00027497, and SDLA00071476 on the RZLT Final Map, are located on lands located to the north east of Adamstown, Co. Dublin.
- 1.2. Parcel ID SDLA00045282 is located to the east of Somerton View and to the west of the Lucan Shopping Centre. The lands are undeveloped and have a stated site area of 0.85 hectares.
- 1.3. Parcel ID SDLA00045278 (site area 0.13 hectares) and SDLA00027511 (site area 0.83 hectares), adjoin each other and are located to the north of Tandy's Lane and to the east of Somerton Drive. These lands are behind hoarding and are undeveloped.
- 1.4. The remaining Parcel IDs SDLA00048147 (site area 0.14 hectares), SDLA00045279 (site area 0.23 hectares), SDLA00027497 (site area 0.041 hectares), and SDLA00071476 (site area 0.39 hectares) are located to the north of Tandy's Lane, west of Somerton Drive and east of Somerton View. These lands are in use as builders compound.

## **2.0 Zoning and Other Provisions**

- 2.1. The appeal sites are zoned 'Adamstown SDZ' on the South Dublin County Development Plan 2022 – 2028 with the objective 'To provide for strategic development in accordance with approved planning schemes.'
- 2.2. The Planning Scheme allows for residential development for each of the appeal sites; Parcel ID SDLA00045282 and SDLA00071476 allow, in addition to residential development, for a 'Flexible Use Building' on their relevant sites.

## **3.0 Planning History**

Parcel ID SDLA00045282 only:

PA Ref. SDZ21A/0016 refers to an October 2021 decision to grant permission for a change of permitted rear boundary treatment of 8 permitted residential units.

PA Ref. 316619-23 refers to an October 2021 decision to grant permission for 237 dwellings.

PA Ref. SDZ07A/0012 refers to an August 2008 decision to grant permission for 189 dwelling units.

Other Parcel IDs:

PA Ref. 316619-23 refers to an October 2021 decision to grant permission for 237 dwellings.

#### **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 for the following reasons:

- The lands are considered to be Strategic Long Term Development Areas in accordance with the core strategy.
- The development of these lands is to be on a phased basis.
- There is a requirement for the provision of infrastructure to enable the development of these lands.
- There is an amendment to the Adamstown Planning Scheme currently with An Bord Pleanála for consideration.

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

5.1. The Local Authority issued an 'Updated Notification of determination in accordance with Section 653E(5) of the Taxes Consolidation Act 1997' on the 17<sup>th</sup> of July 2024, and states the following:

'To retain all Land Parcels listed in Appendix A (as attached with errata removed) located within the Adamstown SDZ lands on the map.

It has been determined that all Land Parcels listed in Appendix A (as attached) fulfil 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 land in question is included in a development plan or local area plan and is zoned for residential development or zoned for a mixture of uses, that includes residential development.

The land is serviced, or it is reasonable to consider may have access to services. Serviced means having access to the necessary public infrastructure and facilities including road and footpath access, public lighting, foul sewer drainage, surface water drainage and water supply necessary for dwellings to be developed and for which there is service capacity available sufficient to enable housing to be developed.

The land is not affected in terms of its physical condition, by matters to a sufficient extent to preclude the provision of dwellings, including contamination or the presence of archaeological or historic remains. Then the lands that are excluded would have to be listed.

To remove all Land Parcels listed in Appendix B (as attached) from the map It has been determined that all Land Parcels listed in Appendix B (as attached) do not fulfil the qualifying criteria set out in Part 22A of the Taxes Consolidation Act 1997 (as introduced by the Finance Act 2021) and the Amendments to the Taxes Consolidation Act 1997 as a consequence of the enactment of the Finance (No.2) Act 2023 and will be excluded from the annual final map published on 31 January 2025.

Please note: This updated Determination Letter and updated appendices A provide clarification that the subject lands ID SDLA00113552, SDLA00113712 and SDLA00113714 form part of Appendix B only and were determined to not fulfil the qualifying criteria set out in Part 22A of the Taxes Consolidation Act 1997 (as introduced by the Finance Act 2021) and the Amendments to the Taxes Consolidation Act 1997 as a consequence of the enactment of the Finance (No.2) Act 2023 and will be excluded from the annual final map published on 31 January 2025.'

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The following points were made in support of the appeal:

- The lands are considered to be Strategic Long Term Development Areas in accordance with the core strategy of the South Dublin County Development Plan 2022 - 2028.
- The development of these lands is to be on a phased basis.
- There is a requirement for the provision of infrastructure to enable the development of these lands.
- Legal dispute over the title to the lands referred to in Parcel ID SDLA00071476, and no court decision has been issued to date on this matter.

### 6.2. Planning Authority Response

No further comment 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 appeal lands are zoned for residential use and therefore within scope of section 653B(a). The Planning Authority determined that the listed sites/ subject to appeal, remain on the RZLT map.
- 7.3. The appeal refers to the need for services to cross third party lands. There is no indication that there are capacity restraints in the area and no evidence has been provided that services would not be permitted to cross over third-party lands. All the sites have road frontage at some point, and it is considered that the sites can be serviced with water/ drainage and access from these locations.
- 7.4. Considering the scale of development in Adamstown, there is no indication that the lands are restricted by phasing or by the core strategy requirements. The Planning Authority have raised no issues in this regard.
- 7.5. The appeal refers to legal issues over Parcel ID SDLA00071476; there is a dispute over title to the lands. The courts may prevent the development of these lands or the issue over title may prevent their development by the appellant. I consider it is appropriate to omit this parcel of land from the RZLT Final Maps, until such time as a decision is made on the title to these lands.
- 7.6. I am of the view that the lands, other than Parcel ID SDLA00071476 satisfy criteria 653B (b) of the Taxes Consolidation Act 1997, as amended, and that they are serviced or has access to services necessary for dwellings to be developed and with sufficient service capacity available for such development. As such the lands has development potential.

## **8.0 Recommendation**

- 8.1. Having regard to the foregoing, I consider that the lands identified as Parcel IDs SDLA00045282, SDLA00045278, SDLA00027511, SDLA00048147,

SDLA00045279, and SDLA00027497 meet the qualifying criteria set out in Section 653B of the Taxes Consolidation Act 1997, as amended. The grounds of appeal have not raised any other matters under Section 653B of the Taxes Consolidation Act 1997, as amended, and there no matters that warrant exclusion of the subject lands from the final map.

- 8.2. Having regard to the foregoing I consider that the lands identified as Parcel ID SDLA00071476 do not meet the qualifying criteria set out in Section 653B of the Taxes Consolidation Act 1997, as amended for the following reason.

## **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 SDLA00045282, SDLA00045278, SDLA00027511, SDLA00048147, SDLA00045279, and SDLA00027497 on the RZLT Final Map with a Strategic Development Zone zoning are considered to be within scope of Section 653B(a). The lands are located within an established urban area. No capacity, phasing requirements, 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.

The land identified as Parcel ID SDLA00071476 are considered to be out of scope as there is a legal issue over the ownership of these lands and which is subject to consideration of the courts. These lands may not be available for development in accordance with the Act.

## **10.0 Recommended Draft Board Order**

## **Taxes Consolidation Act 1997 as amended**

### **Planning Authority: South Dublin County Council**

### **Local Authority Reference Number: SD-C315-08**

**Appeal** by Quintain Developments Ireland Limited 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 South Dublin County Council on the 17<sup>th</sup> day of July 2024 in respect of the sites described below.

**Lands at:** Adamstown, Co. Dublin

### **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 Parcel ID SDLA00045282, SDLA00045278, SDLA00027511, SDLA00048147, SDLA00045279, and SDLA00027497 on the final map. The Board also direct that Parcel ID SDLA00071476 be removed from the final map.

### **Reasons and Considerations**

The lands identified as Parcel ID SDLA00045282, SDLA00045278, SDLA00027511, SDLA00048147, SDLA00045279, and SDLA00027497 are zoned for SDZs and are considered to be in scope of section 653B(a)(i). The lands are located within an established urban area. No capacity, phasing requirements, 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.

Land Parcel ID SDLA00071476 is considered to not be within scope of Section 653B(a)(i) due to uncertainty over who has title to these lands. Legal delays may prevent the development of 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.

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Paul O'Brien

Inspectorate

26<sup>th</sup> September 2024