



An
Bord
Pleanála

Inspector's Report

ABP-320384-24

Type of Appeal

Appeal under section 653BJ(1) of the Taxes Consolidation Act 1997, as amended, against the inclusion of land on the Residential Zoned Land Tax Map.

Location

Range of lands within the Cherrywood Planning Scheme Area, as follows: L1 and L2 – Growth Area 2 – Development Area 1; TC5 and TC6 – Growth Area 1 – Development Area 2; P7 – Growth Area 3 – Development Area 3; T1, T3, T5, T13 – Growth Area 3 – Development Area 8.

Local Authority

Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.

DM24/0015

Appellants

Quintain Developments Ireland Limited

Inspector

John Duffy

1.0 Site Location and Description

Cherrywood is located close to Cabinteely village, north of Loughlinstown and west of Ballybrack. The appeal lands comprise a series of sites located at different locations within the Cherrywood Planning Scheme Area, as follows:

L1 and L2 – Parcel ID DELA000000039 refers.

TC5 – Parcel ID DELA000000026 refers.

TC6 – Parcel ID DELA000000021 refers.

T1 – Parcel ID DELA000000015 refers.

T3 – Parcel ID DELA000000030 refers.

T5 – Parcel ID DELA000000027 refers.

T13 – Parcel ID DELA000000029 refers.

2.0 Zoning and Other Provisions

The relevant plan is the Cherrywood Planning Scheme 2014 (updated 2023):

- All of the subject lands, with the exception of T1 are zoned 'Residential.' Residential is listed as permitted in principle on zoned residential lands. T1 lands are zoned 'Village Centre' in the Planning Scheme, which is a mixed-use zoning within which residential development is also permitted.
- In Chapter 2 'Proposed Development in Cherrywood' the following lands are designated to deliver residential development as follows:

Land	Zoning	No. of units
L1	Res 3	Min 1417 - Max 3161.
L2	Res 4	Min 502 - Max 1033.
TC5	Res 2	Min 2003 - Max 3338.
TC6	Res 4	Min 502 - Max 1033.
T1	Village Centre	Max c 2,160 residential units in the Town Centre and the three Village Centres.
T3	Res 4	Min 502 - Max 1033.
T5	Res 2	Min 2003 - Max 3338.
T13	Res 2	Min 2003 - Max 3338.
P7	Res 3	Min 1417 - Max 3161.

- In Chapter 7 'Implementation: Sequencing and Phasing of Development' the following Development Areas apply to the subject lands:

L1 and L2: Development Area 1 – Lehaunstown, located at the northern end of the SDZ is a mixed-use development area comprising green infrastructure, a village centre and residential areas.

TC5 and TC6: Development Area 2 – Cherrywood, located centrally within the SDZ, is a mixed-use development area comprising a range of uses including residential, retail, restaurants, and leisure.

P7: Development Area 3 – Priorsland, located at the northern part of the SDZ, is a mixed-use development area comprising a range of uses including residential, retail, restaurants and leisure.

T1, T3, T5, and T13: Development Area 8 - Located in the north-western section of the SDZ comprises lands for residential and mixed-use purposes.

- The 8 Development Areas are grouped together into 3 Growth Areas as follows:
Growth Area 1: Development Areas 2, 4,5, and 6A.

Growth Area 2: Development Areas 1 and 3.

Growth Area 3: Development Areas 6B, 7 and 8.

- Section 7.2.1 states the residential development in Growth Area 1 can be permitted immediately on the basis that necessary infrastructure has been permitted and is under construction. Up to 2,300 residential units in either Growth Area 2 or 3 can be provided in tandem with Growth Area 1.

Relevant sections of the Dun Laoghaire Rathdown County Development Plan 2022-2028 include the following:

- Section 2.3.7.1 'Potential Residential Yield' states that the Cherrywood SDZ area with yield between 5,596 to 8,186 units.

- Section 2.4.4 of the Core Strategy states the following:

'The full capacity of the Cherrywood Strategic Development Zone is incorporated into the Core Strategy Table below and comprises an estimated residential yield of between 5,596 to 8,186 units. While the Cherrywood SDZ lands comprise Tier 1 and 2 zoned residential lands that may be developed within the lifetime of the Plan, it is acknowledged that the full build-out of Cherrywood may extend beyond the timeframe of the Plan.'

- Table 2.9 designates the area of Cherrywood as Tier 1 and Tier 2. The Plan does not indicate which areas of the SDZ are Tier 1 or Tier 2.

- Policy Objective CS9 - Strategic Development Zone It is a Policy Objective to continue to implement the approved Planning Scheme for the Cherrywood Strategic Development Zone.

3.0 Planning History

Concurrent RZLT appeals on Cherrywood lands

An Bord Pleanála Ref. ABP-320378-24 / Planning Authority Ref. DM24/0017 in respect of the following plots: DM5, TC5 and DM4. It is noteworthy that lands TC5 are also one of the areas which are the subject of this appeal.

An Bord Pleanála Ref. ABP-320448-24 / Planning Authority Ref. DM24/0004 in respect of lands at Priorsland, Carrickmines, Dublin 18.

RZLT Appeal (2023)

PA Ref. DM22-0087, ABP Ref. 316999-23: On the 24th October 2023, the Board confirmed the determination of the local authority and retained the following lands on the RZLT map: L1W, L1E, L2, TC5, TC6, P7, T1, T2, T3, T5 and T13. Two plots (M1 and M4) were excluded from the RZLT map.

Proposed Amendment to Cherrywood Planning Scheme 2014, as amended

An Bord Pleanála Ref. ZF06D.317574 – Proposed Amendment No. 9 of the Cherrywood Planning Scheme 2014 (as amended) relating to residential car parking standards (Section 4.2.10 of the Approved Planning Scheme, 2014 (as amended)). No decision to date.

L1 and L2 (Growth Area 2)

Planning Authority Ref. DZ23A/0468 – Permission granted for amendments to development permitted under Reg. Ref. DZ21A/0334 for an overall increase in residential units permitted under Reg. Ref. DZ21/0344 from 488 no. to 492 no. (4no. additional units net).

Planning Authority Ref. DZ23/0005 - Permission granted for development including 89 no. residential units comprising of 43 No. three storey terraced houses and 46 No. duplexes and apartments.

Planning Authority Ref. DZ21A/0334 – Permission granted for development that included 482 no. dwellings in a mixture of houses, duplexes, triplexes and apartments.

TC5 (Growth Area 1)

Planning Authority Ref. DZ21/0932 – Permission granted for 146 Dwelling Units.

Planning Authority Ref. DZ18A/0499 – Permission granted for 146 Dwelling Units.

TC6 (Growth Area 1)

Planning Authority Ref. DZ22A/0133 – Permission granted for 162 no. dwellings.

An Bord Pleanála Reference ABP-303429-19 (SHD application) – Permission granted in April 2019 for 184 no. dwellings.

T1 (Growth Area 3)

Planning Authority Ref. DZ23A/0106 – Permission granted for a mixed-use development including 139 no. dwelling units, supermarket, retail units, community facility and employment units.

T3 (Growth Area 3)

Planning Authority Ref. DZ22A/0729 – Permission granted for 57 no. dwellings.

T5 (Growth Area 3)

Planning Authority Ref. DZ21A/1042 – Permission granted for 122 no. dwellings.

T13 (Growth Area 3)

Planning Authority Ref. DZ23A/0028 – Permission granted for 56 no. dwellings.

4.0 Submission to the Local Authority

The appellants made a submission to the local authority seeking to have their lands removed from the final map on the basis that the Planning Scheme imposes phasing and sequencing arrangements for the development of the subject lands, and that the build-out of these lands may extend beyond the timeframe of the Development Plan. Furthermore, there are a number of infrastructural matters preventing the lands falling into the scope, including the incomplete Grand Parade Road, Castle Street and Pond 2A to facilitate surface water drainage. It is contended that the landowner does not have legal rights to complete works on or utilise roads outside their ownership which are required to facilitate the development and occupation of the subject lands.

5.0 Determination by the Local Authority

By Order dated 27th June 2024 the Local Authority made a split decision, to include the following lands on the final map of the Residential Zoned Land Tax for the following reasons:

- L1 and L2 - Parcel ID DELA000000039
- TC 5 - Parcel ID DELA000000026

- TC 6 - Parcel ID DELA000000015
- T1 - Parcel ID DELA000000015
- T3 - Parcel ID DELA000000030
- T5 - Parcel ID DELA000000027
- T13 - Parcel ID DELA000000029

1. The land is zoned solely or primarily for residential use, or for a mixture of uses, including residential. Where zoned for a mixture of uses, it is reasonable to consider that the lands are vacant or idle.

2. It is reasonable to consider the land may have access to, or be connected, to public infrastructure and facilities necessary for dwellings to be developed and with sufficient service capacity available for such development.

3. It is reasonable to consider the land is not affected, in terms of its physical condition, by matters to a sufficient extent to preclude the provision of dwellings.

And;

the Local Authority decided to exclude the following land on the final map of the Residential Zoned Land Tax for the following reason:

- P7 – DELA000000040

1. Whilst the land is zoned solely or primarily for residential use, it is reasonable to consider that proposals for development on the subject plots are permissible density levels would exceed the sequencing and phasing of development for the Growth Areas 2 and 3 in accordance with Objective 7.2.1 of the Cherrywood Planning Scheme regarding phased delivery of residential units.

6.0 The Appeal

6.1. Grounds of Appeal

This appeal is concerned with the seven sites which the Local Authority decided to include on the RZLT map. The grounds of appeal are summarised as follows:

- Several infrastructure issues across the development lands which result in the lands being out of scope, including that it is out of the control of the

landowners' control to connect to roads, footpaths, surface water and water supply infrastructure.

- Planning conditions relating to all seven sites require completion of Roads Phase 1 and in most cases require construction and occupation access via a road called Grand Parade (which forms part of the Roads Phase 1 project). The majority of Grand Parade is in third party ownership and therefore landowners do not have any legal right to complete works on or utilise that portion of Grand Parade outside their ownership, until lands are taken in charge by the Local Authority. In this context, the lands are subject to a Statutory Designation which may preclude development.
- The legal position relating to Grand Parade was not fully recognised by the Local Authority. Letters of consent for planning purposes only extend to consent to include those lands in the red line of the planning application. They do not convey any legal right to utilise the lands.
- Four sites are dependent on completion of Pond 2A for a permanent surface water drainage solution. Delivery of this pond is in the control of the Local Authority. While permission has been granted, delivery is not expected until at least Q4 of 2024.
- Permission at lands L1/L2 includes a condition preventing required works there until Pond 2A is completed. Three other sites (T1, T3, T5) have agreed interim / temporary privately managed solutions at significant costs pending delivery of Pond 2A.
- The Planning Scheme involves a clear phasing and sequencing arrangement to accommodate the development of the lands. The Scheme provides phasing provisions specific to three criteria i.e. Development Area, Growth Area and to the quantum of development. The Planning Scheme remains at Phase 1 and there is an extensive degree of infrastructure required to be completed before progression can be made to later phases.
- The core strategy as set out in the Development Plan notes Cherrywood lands are subject to phased management under the Planning Scheme.

Section 7.2.1 of the Planning Scheme requires completion of Phase 1 Roads to facilitate Growth Areas 2 and 3.

- Permission for all plots require completion of some / all Phase 1 Roads to enable development.
- Undeveloped lands in other SDZs have been recognised as strategic and subject to long terms phasing objectives and largely excluded from RZLT maps.
- Changes in the Finance Act 2023 exclude lands for phased development from the RZLT. Reference made to Circular NRUP 01/2024 confirms that lands subject to phasing are to be removed from RZLT.

The following Appendices and attachments are included with the appeal submission:

Appendix 1 sets out the Planning Context of the lands

Appendix 2 includes a Scoping Exercise for seven sites

Attachments to the appeal are as follows:

- Original RZLT submission.
- Local Authority Determination and Evaluation Report.
- Letters of consent.
- Site Location Map.
- Copy of McCann Fitzgerald letter to Local Authority concerning ownership of part of Grand Parade road.

7.0 Assessment

7.1 It is noted that the Local Authority's decision to exclude P7 lands from the map is not appealed by the appellant. Therefore, this assessment relates only to those land parcels which the Local Authority determined to include on the map, as set out in section 1.0 of this report.

7.2 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.”

- 7.3 Page 7 of the RZLT Guidelines state “to satisfy the criteria as identified in section 653B, land must be zoned residential use or for mixed uses including residential within a Development Plan, Strategic Development Zone Planning Scheme or a Local Area Plan. This can include lands which are identified solely or primarily for residential purposes within a zoning matrix and mixed use zonings where residential development are permitted in principle.”

Section 653B of the Taxes Consolidation Act 1997 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 majority of the appeal lands are identified for residential use with one plot, T1, zoned for ‘Town Centre’ where residential use is permissible and therefore within scope of section 653B(a). All of the subject lands are within scope of section 653B(a).

In terms of plot T1 zoned ‘Town Centre’ section 653B(c)(ii) sets out that land which is referred to in paragraph (a)(ii) is excluded from the map, unless it is reasonable to consider that the land is vacant or idle. The appellants have not disputed that plot T1 is vacant or idle.

- 7.4 The grounds of appeal consider there to be several infrastructure issues across the development lands precluding development and resulting in the lands being out of scope. The appellants contend that a number of services require third party consents

and, as such, the lands are out of scope. The Local Authority assessment report incorporates comments received from both Uisce Éireann (UÉ) and the Development Agency Project Team Cherrywood SDZ (DAPT).

In relation to all the land parcels which are the subject of this appeal, UÉ has confirmed that they are serviced by water supply networks and wastewater networks, which are located either within the lands (in the case of L1 and L2) or in close proximity to the lands, within adjoining areas / roads. The appellant contends that the lands at TC6 should be ruled out of scope on the basis that watermain upgrades are required to be completed by UÉ across third party lands, including to Brides Glen watermain as identified in the Planning Scheme. Comments from UÉ in relation to TC6 lands note that there is a distribution watermain along Bishop Street and the north-eastern boundary. I note also that DAPT has confirmed the upgrade is currently in progress and that it is not considered to be an impediment to development.

Noting the appellants comments that there is a significant upgrade required in this regard, I refer to the Residential Zoned Land Tax - Guidelines for Planning Authorities, 2022, 'Serviced Land Definition', which states "Information from stakeholders such as Irish Water will play a key role in identifying these lands and providing confirmation of existing capacity in wastewater treatment plants and water treatment plants along with data informing the date of connection or ability to connect to services, where this date was after 1 January 2022. A need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist." Having regard to the Guidelines, a need for upgrades to an existing system is not considered criteria for exclusion under Section 653B (b) of the Taxes Consolidation Act 1997, as amended. The UÉ 10-Year Water Supply Capacity Register Published June 2023 (accessed 8th October 2024) indicates that there is capacity available at the Greater Dublin Area Water Resource Zone however, Level of Service (LoS) improvements are required to meet 2032 population targets. Having regard to the foregoing, it is reasonable to consider that there is water supply capacity to serve all the lands the subject of this appeal, including T6 lands, and in this regard, the lands meet criteria 653B(b).

- 7.5 The appellants contend that T3, T5, L1 and L2 lands are out of scope on the basis that it is not possible to connect into surface water infrastructure as Attenuation Pond 2A has not been delivered to date. I note that residential development comprising 55 units, 146 units, 492 units and 89 units respectively have been permitted on these

lands. Permission is in place for a temporary and alternative surface water infrastructure pending delivery of Pond 2A, which is allowed for under section 7.2.2 of the Planning Scheme. Both the DAPT and the Local Authority have advised that a temporary storm water pond has been constructed and is operational. Having regard to the foregoing, it is reasonable to consider that the subject lands may have access, or be connected to public infrastructure and facilities, including surface water drainage necessary for dwellings to be developed, and in this regard, the lands meet criteria 653B(b).

7.6 The appellants consider that all of the appeal lands are not able to connect to roads, while only one land area (TC6) can connect to footpaths. The rationale provided for this argument is that planning conditions relating to permitted development on the subject lands require completion of Roads Phase 1 and the lands generally require construction and occupation access via Grand Parade, which is largely in third party ownership, with landowners not having access to portions of that road outside their own ownership, until lands are taken in charge by the Local Authority. In this context, I note the comments of the DAPT, that the appellant has to date implemented permissions utilising Roads Phase 1, with third party consent. Furthermore, appropriate consents to include and utilise roads and infrastructure outside the appellant's ownership to make multiple planning applications across all the appeal lands have been provided at planning application stage. Notwithstanding the comments made by the appellant regarding the scope of the consents including, inter alia, that they only extend to including lands in the red line of the planning application and they convey no legal right to utilise the lands, it is the case that the red line boundary relates to all the land necessary to carry out the proposed development, including lands required for access. Having regard to the foregoing, it is reasonable to consider that the subject lands may have access, or be connected to public infrastructure and facilities, including roads and footpaths necessary for dwellings to be developed, and in this regard, the lands meet criteria 653B(b).

7.7 The appeal submission considers that a number of the appeal sites are the subject of a statutory designation, which may preclude development, with reference made, inter alia, to section 7.2.1 of the Planning Scheme relating to sequencing and implementation, including delivery of Phase 1 roads, in addition to planning conditions pertaining to previous applications, and are therefore not in scope. Planning conditions

are not considered to be a statutory designation. Cherrywood has been designated by the Government as a Strategic Development Zone, which enables the fast track delivery of new residential and non-residential development. This SDZ designation and the associated Cherrywood Planning Scheme are designed to facilitate development rather than preclude it.

In terms of section 653B(c)(iia) (II) which allows exclusion from the map on the basis of phasing, I concur with the Local Authority that section 7.2.1 of the Planning Scheme relating to phased delivery of land aligns with section 2.4.4 of the Core Strategy as set out in the Dun Laoghaire County Development Plan 2022-2028 (see section 2 above). Section 7.2.1 states that residential development in Growth Area 1 can be permitted immediately on the basis that necessary infrastructure has been permitted and is under construction. It also confirms that up to 2,300 residential units in either Growth Area 2 or 3 can be provided in tandem with Growth Area 1. As such, residential development can be permitted immediately in Growth Area 1, where appeal lands TC5 and TC6 are located. A significant quantum of residential development has already been permitted on other appeal lands across Growth Area 2 (L1 and L2) and Growth Area 3 (T1, T3, T5 and T13). This permitted quantum of residential development is within the additional threshold of 2,300 units that is allowable concurrently with the development of Growth Area 1, in accordance with section 7.2.1 of the Planning Scheme. Therefore it is reasonable to consider that the sequencing and implementation objective of the Planning Scheme does not preclude the provision of residential development on the appeal lands, and therefore the lands should not be excluded from the map.

- 7.8 In terms of section 653B(c), having regard to the planning history on the subject lands, I consider they are not affected by issues to a sufficient extent which would preclude the provision of dwellings, including contamination or the presence of known archaeological or historic remains.
- 7.9 The grounds of appeal refer to a lack of consistency in relation to how lands within other SDZs are treated and that they are largely excluded from the map as they are considered to be strategic. Such comparisons do not fall within the criteria for exclusion as set out under section 653B of the Taxes Consolidation Act 1997, as amended and as such, they are not for the consideration of the board.

8.0 Recommendation

Having regard to the foregoing, I consider that the lands identified as the range of lands within the Cherrywood Planning Scheme Area: L1 and L2 – Parcel ID DELA000000039, TC5 – Parcel ID DELA000000026, TC6 – Parcel ID DELA000000021, T1 – Parcel ID DELA000000015, T3 – Parcel ID DELA000000030, T5 – Parcel ID DELA000000027 and T13 – Parcel ID DELA000000029 meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended. The grounds of appeal have not raised other matters under 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. I recommend that the determination of the local authority be confirmed, and the lands retained on the RZLT 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 Authority 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 are identified as a range of lands within the Cherrywood Planning Scheme Area, as follows: L1 and L2 – Parcel ID DELA000000039, TC5 – Parcel ID DELA000000026, TC6 – Parcel ID DELA000000021, T1 – Parcel ID DELA000000015, T3 – Parcel ID DELA000000030, T5 – Parcel ID DELA000000027 and T13 – Parcel ID DELA000000029. The majority of the land parcels are zoned ‘Residential’ and are, therefore, considered in scope of section 653B(a). T1 – Parcel ID DELA000000015 is zoned for a mixture of uses as ‘Village Centre,’ within which residential development is permitted and which therefore is also considered in scope of section 653B(a). T1 – Parcel ID DELA000000015 is considered to be vacant or idle and does therefore not avail of the exemption under section 653B(a)(ii). The subject lands have direct frontage onto the surrounding road networks and have vehicular access to these roads. It is reasonable to consider that the lands can connect to and be served by this existing road infrastructure. It is reasonable to consider that all the subject lands, including TC6 – Parcel ID DELA000000021, can connect to water supply infrastructure.

The UÉ water supply capacity registers confirm there is sufficient capacity to serve the lands. A need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist. In terms of surface water drainage infrastructure, pending the completion of works to Attenuation Pond 2A, T3 – Parcel ID DELA00000030, T5 – Parcel ID DELA00000027, L1 and L2 – Parcel ID DELA00000039 can be served by a temporary storm water pond that has been constructed and is operational. As such, the subject lands meet the criteria under section 653B(b). There are no physical characteristics or constraints identified on the lands that would preclude the provision of dwellings and therefore they meet the criteria under Section 653B(c). The lands are not subject to a statutory declaration which would preclude the provision of dwellings. It is not considered that the phasing provisions of the Cherrywood planning scheme precludes the provision of dwellings on the lands. Appeal grounds relating to purported inconsistencies in the treatment of other SDZs in the context of RZLT do not fall within the criteria set out in section 653B and therefore cannot be considered. No other reasons have been identified that would prevent the development of these lands in principle for residential purposes in accordance with the ‘Residential’ and ‘Village Centre’ zoning objectives that apply to these lands.

10.0 Recommended Draft Board Order

Taxes Consolidation Act 1997 as amended

Planning Authority: Dun Laoghaire Rathdown County Council

Local Authority Reference Number: DM24/0015

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 Dun Laoghaire Rathdown County Council on the 27 day of June 2024 in respect of the site described below.

Lands at: Range of lands within the Cherrywood Planning Scheme Area, as follows: L1 and L2 – Parcel ID DELA00000039, TC5 – Parcel ID DELA00000026, TC6 – Parcel ID DELA00000021, T1 – Parcel ID DELA00000015, T3 – Parcel ID DELA00000030, T5 – Parcel ID DELA00000027 and T13 – Parcel ID DELA00000029.

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 range of lands within the Cherrywood Planning Scheme Area comprising L1 and L2 – Parcel ID DELA00000039, TC5 – Parcel ID DELA00000026, TC6 – Parcel ID DELA00000021, T1 – Parcel ID DELA00000015, T3 – Parcel ID DELA00000030, T5 – Parcel ID DELA00000027 and T13 – Parcel ID DELA00000029 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 Authority 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 are identified as a range of lands within the Cherrywood Planning Scheme Area, as follows: L1 and L2 – Parcel ID DELA00000039, TC5 – Parcel ID DELA00000026, TC6 – Parcel ID DELA00000021, T1 – Parcel ID DELA00000015, T3 – Parcel ID DELA00000030, T5 – Parcel ID DELA00000027 and T13 – Parcel ID DELA00000029. The majority of the land parcels are zoned 'Residential' and are, therefore, considered in scope of section 653B(a). T1 – Parcel ID DELA00000015 is zoned for a mixture of uses as 'Village Centre,' within which residential development is permitted and which therefore is also considered in scope of section 653B(a). T1 – Parcel ID DELA00000015 is considered to be vacant or idle and does therefore not avail of the exemption under section 653B(a)(ii). The subject lands have direct frontage onto the surrounding road networks and have vehicular access to these roads. It is reasonable to consider that the lands can connect to and be served by this existing road infrastructure. It is reasonable to consider that all the subject lands, including TC6 – Parcel ID DELA00000021, can connect to water supply infrastructure. The ÚÉ water supply capacity registers confirm there is sufficient capacity to serve the lands. A need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist. In terms of surface water drainage

infrastructure, pending the completion of works to Attenuation Pond 2A, T3 – Parcel ID DELA000000030, T5 – Parcel ID DELA000000027, L1 and L2 – Parcel ID DELA000000039 can be served by a temporary storm water pond that has been constructed and is operational. As such, the subject lands meet the criteria under section 653B(b). There are no physical characteristics or constraints identified on the lands that would preclude the provision of dwellings and therefore they meet the criteria under Section 653B(c). The lands are not subject to a statutory declaration which would preclude the provision of dwellings. It is not considered that the phasing provisions of the Cherrywood planning scheme precludes the provision of dwellings on the lands. Appeal grounds relating to purported inconsistencies in the treatment of other SDZs in the context of RZLT do not fall within the criteria set out in section 653B and therefore cannot be considered. No other reasons have been identified that would prevent the development of these lands in principle for residential purposes in accordance with the 'Residential' and 'Village Centre' zoning objectives that apply to these lands.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

John Duffy
Planning Inspector

10th October 2024