



An
Bord
Pleanála

Inspector's Report ABP-320415-24

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

Unit 81A & B, Cookstown Industrial Estate, Tallaght, Dublin 24

Land Parcel ID

SDLA00094810

Planning Authority

South Dublin County Council

Planning Authority Reg. Ref.

SD-C315-09

Appellant(s)

Onyx Ireland 2022 Propco Limited

Inspector

Paul O'Brien

1.0 Site Location and Description

- 1.1. The lands, identified as Parcel ID SDLA00094810 on the RZLT Final Map, are located to the south east and east of the Cookstown Estate Roads. The site is rectangular in shape, except where it adjoins a roundabout to its north west and measures 1.05 hectares. The site contains an office block, large warehousing unit and surface car parking surrounding these buildings.
- 1.2. The appeal only refers to the southern portion of the lands – large warehousing unit and associated car parking/ yard area. This is clearly indicated on the submitted plans in the appeal.

2.0 Zoning and Other Provisions

- 2.1. The appeal site is zoned REGEN with an objective 'To facilitate enterprise and/or residential-led regeneration subject to a development framework or plan for the area incorporating phasing and infrastructure delivery.' Residential development is listed as Permitted in Principle. The zoning does not provide a primacy for enterprise over residential, and does not equate to a mixed use.
- 2.2. CS5 Objective 5 states: 'To ensure that a section of any lands zoned EE or REGEN are set aside for local enterprise hubs for developing businesses or for shared workspaces serving people who are unable to work from home but who want to carry out their work close to where they live.'

3.0 Planning History

- ABP Ref. 309731-21 refers to a July 2021 decision to refuse permission for an SHD including the demolition of existing industrial and commercial buildings, construction of 1,104 no. apartments, creche and all other associated site works. Refused due to the tenure mix at 100% BTR, plot ratio to height would conflict with the development of Tallaght town centre and development was premature due to deficiencies in the water supply and foul drainage networks.
- PA Ref. SD23A/0186 refers to a November 2023 decision to grant permission for the retention of alterations to existing buildings to include, cladding over of brick

facade at the ground floor level, blocking up of roller shutter doors and over cladding of same and new fire escape doors at Building 1, Units 1a, 1b, 1c, Cookstown Estate Road. Removal of dormant fire escape stairs, over cladding of facade, blocking up of roller shutter doors and over cladding of same and new fire escape doors at Buildings 81a and 81b. Also, the demolition of car wash annex building.

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 landowner is marketing this unit in order to get a new tenant.
- Works undertaken to the building were extensive and demonstrate the landowner's commitment to it into the future.
- Planning decisions indicate that there are deficiencies in the water supply and foul drainage networks.
- Rate have been paid on site up to and including 2023.

5.0 Determination by the Local Authority

5.1. The Local Authority determined on the 26th of June 2024:

'To retain Land Parcel SDLA00094810 on the map.

It has been determined that Land Parcel SDLA00094810, in part, as shown in Figure B below, fulfils the qualifying criteria set out in Part 22A of the Taxes Consolidation Act 1997 (as introduced by the Finance Act 2021), as amended by Circular NRUP: 01/2024 – Residential Zoned Land Tax: Amendments to the Taxes Consolidation Act 1997 as a consequence of the enactment of the Finance (No.2) Act 2023, 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.'

6.0 The Appeal

6.1. Grounds of Appeal

The following points were made in support of the appeal:

- The land and premises will be leased to Uisce Éireann in the near future. This will be completed prior to the publication of the Final RZLT maps.
- A trade/ profession will be carried out on site in advance of the completion of the Final RZLT maps.
- The landowner has consistently paid rates to the local authority.
- The new tenant, Uisce Éireann, will provide essential services to the residents of the area. They will also address deficiencies in the public water supply network.

Requests that the site be omitted from the Final Maps. Supporting documentation, photographs and plans have been provided in support of the appeal. Proof of ownership has also been provided and details from the Revenue Commissioners.

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 regeneration (REGEN zoning), allowing for residential development and therefore within scope of section 653B(a). The Planning Authority determined that the site remain on the RZLT map.
- 7.3. The current use does not prevent the development of this site for residential use. I note the details provided in the appeal, but the indication of the taking up of a lease does not exempt the inclusion of lands on the Final Maps. This may be an issue that can be taken up with the Revenue Commissioners at a later stage of the RZLT process. I note who the tenant may be and that they may provide a service to the local community, but no final tenancy agreement has been provided to date.
- 7.4. I accept that rates have been paid on these lands, but I refer to the report of South Dublin County Council and that the site/ premises is not in use at present. This situation does not exempt these lands from inclusion on the Final Map.

7.5. I am of the view that the land satisfies criteria 653B (b) of the Taxes Consolidation Act 1997, as amended, and that it is 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 have development potential.

8.0 Recommendation

8.1. Having regard to the foregoing, I consider that the lands identified as Parcel ID SDLA00094810 on the RZLT Final Map meets 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.

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 SDLA00094810 on the RZLT Final Map zoned REGEN – Regeneration Lands are considered to be within scope of Section 653B(a). The appellant has not adequately demonstrated that the lands are necessary for a trade or business in operation in the area. 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.

10.0 Recommended Draft Board Order

Taxes Consolidation Act 1997 as amended

Planning Authority: South Dublin County Council

Local Authority Reference Number: SD-C315-09

Appeal by Onyx Ireland 2022 Propco 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 26th day of June 2024 in respect of the site described below.

Lands at: Unit 81A & B, Cookstown Industrial Estate, Tallaght, Dublin 24

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 SDLA00094810 on the final map.

Reasons and Considerations

The lands identified as Parcel ID SDLA00094810 are zoned 'REGEN' and are considered to be in scope of section 653B(a)(i). The lands are located within an established urban area. The lands are not necessary for the operation of a trade or business. 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