



An  
Bord  
Pleanála

## Inspector's Report ABP-320420-24

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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**

Phibsborough Road, Phibsborough, Dublin 7

**Planning Authority**

Dublin City Council

**Planning Authority Reg. Ref.**

RZLT-000239

**Appellant(s)**

ESB

**Inspector**

Fergal Ó Bric

## **1.0 Site Location and Description**

- 1.1. The subject lands comprise a stated area of 0.1 hectares and are located on the eastern side of Phibsborough Road and the Royal Canal Bank is located east of the subject site. The appeal site contains 38kv electricity substation buildings as well as two 38 KV transformers, which are set back from adjoining buildings and the principal building line of the street. The site extends from the Phibsborough Road to the west of the site to the boundary with the Royal Canal Bank to the east of the lands. The lands comprise a land parcel, DCC000061756.

## **2.0 Zoning and Other Provisions**

- 2.1. The subject site is subject of a Z1– Sustainable Residential Neighbourhoods land use zoning objective in the Dublin City Development Plan 2022-2028, where the zoning objective is: To protect, provide and improve residential amenities.
- 2.2. The site is located within area RMP DU018-020 Historic City.
- 2.3. The site is not located within an Architectural Conservation Area (ACA).

## **3.0 Planning History**

I am not aware of any relevant planning history pertaining to the lands.

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

- 4.1. The appellant made a submission to the Local Authority seeking to have its lands removed from the draft map on the basis that the site is not vacant or idle and that the property comprises a 38KV electricity substation. It accommodates critical electricity infrastructure of national and regional importance, serving thousands of commercial and domestic customers in the north inner city. ESB staff regularly locate at this site for operation inspection and maintenance of the power substation. All ESB outdoor substations contain exposed line electrical equipment. It is standard practice to have an outer compound associated with the station, that acts as a safety buffer for members of the public. ESB lands at this location are required for, integral to, and occupied by energy infrastructure and utilities. Section 653B c) (iii) (III) provides for land that is reasonable to consider is required for. or is integral to, or

occupation by energy infrastructure and facilities. On this basis, we seek the removal of the ESB lands at the Phibsborough 38 KV substation site from the final RZLT map.

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

The local authority determined to include the site on the final RZLT map on the basis that part of the site (western portion) 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 solely or primarily for residential use.
- b) Have access to, or can be connected, to public infrastructure and facilities, with sufficient service capacity,
- 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 property comprises a 38KV substation and two 38 KV transformers.
- Whilst the area identified by Dublin City Council may look vacant, there are several high voltage underground cables entering the substation through this area. The cables pass through the transformers and exit to the rear on the Royal Canal bank. The area identified by DCC falls within the outer compound and forms part of the safe zone of the site and serves as a laydown area for maintenance.

- The only route available to access the two transformers, is via the front of the site from the Phibsborough Road and replacement transformers would be installed via this route.
- The site accommodates critical electricity infrastructure of national and regional importance, serving thousands of commercial and domestic customers in the north inner city.
- ESB staff regularly locate at this site for operation inspection and maintenance of the power substation.
- All ESB outdoor substations contain exposed live electrical equipment. It is standard practice to have an outer compound associated with the station, that acts as a safety buffer for members of the public.
- ESB lands at this location are required for, integral to and occupied by energy infrastructure and utilities. Section 653B c) (iii) (III) provides for land that is reasonable to consider is required for. or is integral to, occupation by energy infrastructure and facilities.
- On this basis, we seek the exclusion of the ESB lands at the Phibsborough 38 KV substation from the RZLT map.

## **7.0 Planning Authority Response**

The local authority made no comment in relation to this appeal.

## **8.0 Assessment**

8.1 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 comments raised in the appeal submission are noted. The Local Authority determined that the western part of the site be included within the RZLT map. The Planning 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, specifically within Section 653B sets out the criteria for inclusion within the RZLT map. This section of the legislation states that it is applicable to lands zoned solely or primarily for residential use or (ii) for a mixture of uses, including residential use' in Section 653B (a), but Section 653B '(c) (ii) which provides for land that is reasonable to consider is required for. or is integral to, occupation by energy infrastructure and facilities.

8.3 The Planning Authority set out that having regard to the brownfield nature of the lands it is considered that the western section of the site is not affected by issues to a sufficient extent which would qualify them for an exemption under Section 653B of the Taxes Consolidation Act 1997, as amended.

8.4 The appellant contends that because the site contains a 38 KV substation, two 38 KV transformers and associated high voltage underground cables as well as the site providing as a laydown area for maintenance personnel, all related to energy infrastructure and serving commercial and domestic customers in this part of the north inner city. For these reasons, the appellant considers that the lands should be excluded from consideration for the development of dwellings, and as such it should be removed from the final RZLT map. I am of the opinion that the appellant has set out a sound rationale concerning the use of the lands integral to, and occupation by energy infrastructure and facilities falls within the parameters of the exemptions provided within the legislation. I consider that the site satisfies the criteria set out within Section 653B (c) (iii) (III) of the Taxes Consolidation Act 1997, as amended, regarding energy infrastructure and facilities.

8.5 I, therefore, consider that the site should be deemed out of scope for the reasons set out above and be removed the Residential Land Tax Maps.

## 9.0 Recommendation

I recommend that the board set aside the determination of the Local Authority and that the site be removed from the final RZLT map.

## 10.0 Reasons and Considerations

The lands identified as RZ:LT-000239, parcel ID number DCC000061756 on Z1-Sustainable Residential Neighbourhoods zoned lands identified within the current Dublin City Development Plan are considered out of scope under the provisions of Section 653B (c) (iii) (III) of the Taxes Consolidation Act 1997, as amended. The lands are located within an established urban area with services available. However, given the lands are integral to, and in occupation by energy infrastructure and facilities, the appellants have provided sufficient technical energy and infrastructural reasons that would prevent the development of these lands in principle for residential purposes in accordance with the Z1 zoning objective that pertains 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-000239

**Appeal** ESB 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:** Phibsborough Road, Phibsborough, 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 setting aside of the local authority determination and direct the Local Authority to remove the lands identified as Parcel ID number DCC000061756 and Local Authority reference number RZLT-000239 from the final RZLT map.

## **Reasons and Considerations**

The lands identified as RZ:LT-000239, parcel ID number DCC000061756 on Z1-Sustainable Residential Neighbourhoods zoned lands identified within the current Dublin City Development Plan are considered out of scope under the provisions of Section 653B (c) (iii) (III) of the Taxes Consolidation Act 1997, as amended. The lands are located within an established urban area with services available. However, given the lands are integral to, and in occupation by energy infrastructure and facilities, the appellants have provided sufficient technical energy and infrastructural reasons that would prevent the development of these lands in principle for residential purposes in accordance with the Z1 zoning objective that pertains 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.

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Fergal Ó Bric  
Planning Inspectorate

12<sup>th</sup> day of September 2024