



An
Bord
Pleanála

Inspector's Report ABP-320423-24

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

Location

Holy Cross College, Clonliffe Road, Drumcondra, 'Dublin 3.

Local Authority

Dublin City Council.

Local Authority Reg. Ref.

RZLT 000209.

Appellant

CWTC Multi Family ICAV.

Inspector

Fergal Ó Bric

1.0 Site Description

The lands subject to this appeal, identified as RZLT 000209 (Parcel ID number DCC000003706) are located on the eastern side of Coolock Drive and south of the junction with Greencastle Road. The lands comprise the Holy Cross College, a former seminary college, the Diocesan Centre at Clonliffe/Drumcondra Road. The lands are bound by the Drumcondra Road to the west, Clonliffe Road and residential dwellings to the south, Belvedere College Rugby grounds and residential dwellings to the east and by sports grounds and the River Tolka to the north. The subject lands have been divided into four plots.

2.0 Policy and Zoning

The lands are zoned Z1 (Sustainable Residential Neighbourhoods) and Z12 - Institutional land (Future Development Potential) in the current Dublin City Development Plan 2022-2028.

3.0 Planning History

The relevant planning history is considered to include the following:

PA reference number SHD0015/21, ABP 310860-21 refers to a grant of permission for the demolition of existing buildings and construction of 495 no. BTR apartments, creche, café, gym and associated site works on a site area of 8.9 hectares. The Board's decision to grant permission was quashed by the Courts.

There are a number of older applications pertaining to the lands included in the local authority assessment.

4.0 Submission to the Local Authority

The appellants made a submission to the local authority seeking to have their lands removed from the RZLT final map on the basis that they had an extant planning permission on the lands under Board reference number 310860-21-for an SHD residential development largely pertaining to a development of apartment units (1,614 apartments), including a creche, café and gymnasium. Subsequently, this decision was quashed following a decision from the Courts. The Z12 zoning sets out the requirement for the preparation of a master plan and a minimum requirement of 25% open space. There are six recorded monuments within 500 metres of the subject lands and an SMR site is located immediately east of the subject lands. In addition, there are nine protected structures within the lands, a road scheme is to be provided for as well as provision for the River Tolka Corridor Conservation Area. The appellants have clearly sought to develop the lands and, therefore, should not be liable for inclusion within 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 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 solely or primarily for residential use.
- b) Have access to, or can be connected, to public infrastructure and facilities, necessary for dwellings to be developed and with sufficient service capacity available for such development, as evidenced by their location within the footprint of the city in consultation with and the planning history on the lands,
- c) Are not subject to a statutory designation that may preclude development as the fact that there are protected structures on the lands would not preclude development which accords with the Dublin City Development Pan 2022-2028/.
- d) Satisfy the other relevant criteria under Section 653B of the TC Act.

6.0 The Appeal

6.1. Grounds of Appeal

- The subject lands are not those which the RZLT legislation is designed to target.
- The site is subject to a statutory designation that may preclude development.
- The Z12 zoning sets out the requirement for the preparation of a master plan and a minimum of 25% open space.
- There are six recorded monuments within 500 metres of the subject lands and an SMR site is located immediately east of the subject lands.
- In addition, there are nine protected structures within the lands, a road scheme is to be provided for as well as provision for the River Tolka Corridor Conservation Area.
- The purpose of the RZLT is to free-up lands not being utilised for development.
- The appellants have clearly sought to develop the lands and, therefore, should not be liable to inclusion within the final RZLT map.
- The appellants have actively sought to develop the lands for residential development.

7.0 Local Authority Submission

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 site identified for inclusion on the RZLT map are zoned Z1 – ‘Sustainable Residential Neighbourhoods’ and Z12 Institutional lands (Future Development Potential) in the Dublin City Development Plan 2022-2028. Residential development is permissible in principle under both of these zoning objectives. The local authority set out that the lands are within a built-up 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 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:
- 8.3. "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 the 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".
- 8.4. 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 within the RZLT 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 subject lands are zoned Z1 (Sustainable Residential Neighbourhoods) and Z12- Institutional lands (Future Development Potential) and, therefore, within the scope of the legislation. The local authority determined the lands to be in scope having regard to the residential zoning pertaining to the lands.
- 8.5. There is no correspondence on file from Uisce Eireann. The local authority in their planning assessment set out that the location of the subject lands within the footprint of Dublin city, and the planning history pertaining to the lands, that it is reasonable to consider that the lands have access to or can be connected to the public infrastructure and facilities. Issues relating to capacity were not raised. Based on the information submitted and available, I have no evidence that this is an issue.
- 8.6. Of relevance, I note that the site has been the subject of a recent grant of planning permission ABP 310860-21 refers to a grant of permission for the demolition of

existing buildings and construction of 1614 no. BTR apartments, creche, café, gym and associated site works. The issue of capacity to accommodate residential development was not raised as a concern.

- 8.7. The provision of piped water services infrastructure to the subject lands are considered to be in the control of Dublin City Council and Uisce Eireann and it is the determination of the local authority that the subject lands are in scope and, therefore, should be included within the RZLT Final Map.
- 8.8. Whilst it is submitted that infrastructure elements/connections may not be in place at present, these would be expected to be provided in conjunction with the development of a site, generally developer led.
- 8.9. With regard to the provision of roads, footpaths and public lighting, and the requirement for 'significant works'. For the purposes of falling within the scope of RZLT, the criteria is whether it 'is reasonable to consider'. In my opinion it is reasonable to consider that the provision of roads, footpaths and public lighting may be provided where land is in the control of the landowner or local authority. On this basis the land, therefore, does satisfy the criteria cited in section 653B(b) of the Taxes Consolidation Act 1997, as amended.
- 8.10. The appellants reference the statutory designations that pertain to the lands. The Z12 zoning sets out the requirement for the preparation of a master plan and a minimum of 25% open space. There are six recorded monuments within 500 metres of the subject lands and an SMR site is located immediately east of the subject lands. In addition, there are nine protected structures within the lands, a road scheme is to be provided for as well as provision for the River Tolka Corridor Conservation Area. I note the existence of these designations, however having regard to the exclusions as set out within Section 653 B (c) (iii) of the Taxes Consolidation Act, 1997, as amended. I consider that it is reasonable to consider that the lands are available for residential development.
- 8.11. Overall, I am of the opinion that it is reasonable to conclude that the site may have access to public infrastructure and utilities, including roads and footpaths as such complies with criteria for inclusion under section 653B(b).
- 8.12. Having regard to the foregoing I consider that the lands identified as RZLT 000209 (Parcel ID number Parcel ID number DCC000003706), meet the qualifying criteria

set out in section 653B of the Taxes Consolidation Act 1997, as amended, and that there are no matters arising that warrant exclusion from the RZLT map.

9.0 Recommendation

- 9.1. 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 RZLT-000209 (Parcel ID number DCC000003706 located on Z1 Sustainable Residential Neighbourhoods and Z12-Institutional lands (Future Development potential) identified within the current Dublin City Development Plan are considered in scope of 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 have been identified that would prevent the development of these lands in principle for residential purposes in accordance with the Z1 and Z12 zoning objectives that apply 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-000209

Appeal CNTC Multi Family ICAV. 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 17th day of June 2024 in respect of the site described below.

Lands at: Holy Cross College, Clonliffe Road, Drumcondra, Dublin 3.

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 DCC000003706 and Local Authority reference number RZLT-000209 should be included within the RZLT map.

Reasons and Considerations

The lands identified as RZLT-000209 (Parcel ID number DCC000003706 located on Z1 Sustainable Residential Neighbourhoods and Z12-Institutional lands (Future Development potential) identified within the current Dublin City Development Plan are considered in scope of 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 have been identified that would prevent the development of these lands in principle for residential purposes in accordance with the Z1 and Z12 zoning objectives that apply 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.

Fergal Ó Bric
Planning Inspectorate

2nd day of October 2024