



An
Bord
Pleanála

Inspector's Report ABP-320451-24

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

Shanowen Busiess Centre & Kaybee House, Shanowen Road, Santry, 'Dublin 9.

Local Authority

Dublin City Council.

Local Authority Reg. Ref.

RZLT 000221

Appellant

Ravenshire Ltd.

Inspector

Fergal Ó Bric

1.0 Site Description

The lands subject to this appeal, identified as RZLT 000221 (Parcel ID number DCC000060872) are located on the southern side of Shanowen Road and comprise a two storey commercial building (Shanowen Business Centre) which fronts onto the Shanowen Road and associated surface car parking within its curtilage and single storey commercial buildings (Kaybee House) to the rear. These buildings are all accessed off an internal access road, which is accessed off the Shanowen Road. The subject lands have been divided into four plots. The subject lands comprise a stated area of 1.085 hectares.

2.0 Policy and Zoning

The lands are zoned Z1 (Sustainable Residential Neighbourhoods) in the current Dublin City Development Plan 2022-2028.

There is a roads, street and bridge objective set out within the current city Development Plan pertaining to these lands, the Collins Avenue extension-Map B. The extent of land required for a new road and its exact location have not been identified.

3.0 Planning History

The relevant planning history is considered to include the following:

ABP reference number 313125-22 refers to a grant of permission for the demolition of existing commercial and warehouse buildings and the development of 593 student bedspaces within 72 apartments and 88 studios across 5 blocks and two buildings with a total gross floor area of 18,524 square metres. This is an SHD application and a decision from the Board remains pending.

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 have a current SHD application under consideration by the Board. under Board reference number 313125-22-for a student accommodation development comprising a total of 593 bedspaces. The appellants set out that there is a deficit of public infrastructure and facilities serving the lands and that the lands are not vacant or idle and are liable to commercial rates, The appellants have sought to develop the lands by virtue of their SHD application, and, therefore, should not be liable to 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, as conformed by Uisce Eireann and having regard to the planning history on the lands.
- c) Do not qualify for an exemption under Section 653B c) (i) of the T& C Act.1997, as amended, as it is reasonable to consider that the existing use does not provide services to residents of adjacent residential areas.
- d) Satisfy the other relevant criteria under Section 653B of the T& C Act, 1997, as amended.

6.0 The Appeal

6.1. Grounds of Appeal

- The appellants have a current SHD application on the subject lands under Board reference number 313125-22-for a student accommodation development comprising a total of 593 bedspaces.
- There is a deficit of public infrastructure and facilities serving the lands.
- Úisce Éireann have set out that a wastewater connection is feasible, subject to upgrades.
- The lands are not vacant or idle, are in use and are liable to commercial rates.

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’ in the current Dublin City Development Plan 2022-2028.
- 8.2. 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, therefore, within scope of section 653B(a). 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 (UE). The local authority in their submission assessment reference a report from UE dated the 25th day of April 2024 who have confirmed that the lands are serviced (water and wastewater) and that there is capacity available. The Planning Authority set out within their 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. I would concur with the stance of the Planning Authority in relation to piped water services.
- 8.6. The provision of 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, retained within the RZLT Final Map.
- 8.7. With regard to the provision of roads, footpaths and public lighting, utilities, and the requirement for ‘significant works. For the purposes of falling within the scope of RZLT the criteria is whether it to ‘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.
- 8.8. The appellants set out that the buildings on site are liable to commercial rates. However, the appellants have not demonstrated that the commercial uses on site

have the benefit of a valid planning permission. The local authority determined that the lands are within scope. Section 653B(c)(i) of the Taxes Consolidation Act 1997, as amended sets out that exemptions from the RZLT can be made where the development is not unauthorised, is in use as a premises, in which a trade or profession is being carried on, that is liable to commercial rates, that it is reasonable to consider that it is being used to provide services to residents of adjacent residential areas. The appellants have not demonstrated, based on the information submitted, that they meet the criteria for exclusion set out in section 653B(c)(i) of the Taxes Consolidation Act 1997, as amended.

- 8.9. Having regard to the foregoing I consider that the lands identified as RZLT 000221 (Parcel ID number Parcel ID number DCC000060872), 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-000221 (Parcel ID number Parcel ID number DCC000060872 located on Z1 Sustainable Residential Neighbourhoods zoned lands identified within the current Dublin City Development Plan are considered in scope of Section 653B of the Taxes Consolidation Act 1997, as amended. The appellants have not demonstrated that the commercial uses on site have the benefit of a valid planning permission or are liable to commercial rates or serve the local community in accordance with the legislation. 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 residential 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-000221

Appeal Ravenshire Ltd. 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: Shanowen Business Centre & Kaybee House, Shanowen Road, Santry, Dublin 9.

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 Parcel ID number DCC000060872 and Local Authority reference number RZLT-000221 should be included within the RZLT map.

Reasons and Considerations

The lands identified as RZLT-000221 (Parcel ID number Parcel ID number DCC000060872 located on Z1 Sustainable Residential Neighbourhoods zoned lands identified within the current Dublin City Development Plan are considered in scope of Section 653B of the Taxes Consolidation Act 1997, as amended. The appellants have not demonstrated that the commercial uses on site have the benefit of a valid planning permission or are liable to commercial rates or serve the local community in accordance with the legislation. 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 residential zoning objectives that pertain 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