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Bord  
Pleanála

## Inspector's Report ABP-320457-24

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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**

Santry Demense, Santry, Co. Dublin.

**Planning Authority**

Fingal County Council

**Planning Authority Reg. Ref.**

FIN-C657-24-37

**Appellant(s)**

Trinity College Dublin

**Inspector**

Fergal Ó Bric

## **1.0 Site Location and Description**

- 1.1. The subject lands comprise a stated area of 0.64 hectares and are located on the northern side of Santry Road and form part of a larger land holding of 14 hectares within the overall Santry Demesne. The are identified as the Trinity Sports Grounds and are the primary outdoor sports facilities serving Trinity College Dublin. The subject lands include grass and synthetic playing pitches used for a number of field sports including rugby, soccer, Gaelic football, hockey and camogie, training areas and a sports pavilion. The grounds also include a book depository facility associated with the university.
- 1.2. The part of the site included within the RZLT map is located east of the book depository facility and south of the playing pitches and is used as an informal training and warm up area and forms an integral part of the overall sports grounds. Maintenance access to the main playing pitches is via the western part of the subject lands. The lands comprise land parcel FL0000002598-part of.

## **2.0 Zoning and Other Provisions**

- 2.1. The site is zoned RS – Residential Area in the Fingal Development Plan 2023-2029. This zoning Objective – Provide for residential development and protect and improve residential amenity.
- 2.2. Local Objective 80 pertains to the subject lands which seeks to “Facilitate the provision of purpose-built student accommodation facility in an appropriately landscaped setting to preserve the predominantly open space character.
- 2.3. The remainder of the lands are zoned for open space purposes.

## **3.0 Planning History**

Planning reference number F13A/0384E1-Permisison was granted for five small playing pitches within the subject lands. This permission was never implemented and lapsed in 2022.

#### **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 lands:

- 1) Comprise part of the lands which are identified as the Trinity Sports Grounds and are the primary outdoor sports facilities serving Trinity College Dublin.
- 2) Do not come within the definition of vacant nor idle as set out within the Act nor the RZLT Guidelines.
- 3) The lands are out of scope by virtue of the exceptions set out under Section 653B c) (iii) (1), that it is reasonable to consider lands that are required for or integral to, occupation by social, community or government infrastructure and facilities, including infrastructure and facilities used for the purposes of public administration or the provision of education or healthcare.

#### **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:

- 1) The land is included in a Development Plan or a local area plan and is zoned for residential development or zoned for a mixture of uses, that includes residential development.
- 2) 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.
- 3) 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 or archaeological or historic remains.

- 4) The existing non-residential use of the lands that are the subject of the submission are not considered to benefit from the exclusions set out in the Finance Act 2021 or Section 653B(c).

## **6.0 The Appeal**

### **Grounds of Appeal**

The following points were made in support of the appeal:

- The subject lands comprise part of the lands which are identified as the Trinity Sports Grounds and are the primary outdoor sports facilities serving Trinity College Dublin.
- The subject lands include grass and synthetic playing pitches used for a number of field sports including rugby, soccer, Gaelic football, hockey and camogie, training areas and a sports pavilion.
- The grounds also include a book depository facility associated with the university.
- The sports grounds provide uses ancillary to TCD,s core educational functions.
- The Santry sports grounds provide important infrastructure for both education and research and for student wellbeing.
- The university has continually invested in maintaining and enhancing sports facilities at this location.
- The lands are maintained and in use as informal training and warm up areas and are therefore, not vacant or idle.
- Section 653B c) (iii) (I) provides for land that is reasonable to consider is required for, or is integral to, occupation by social, community or government infrastructure and facilities, including infrastructure and facilities used for the purposes of public administration or the provision of education or healthcare.
- On this basis, we seek the exclusion of the Trinity Sports grounds at Santry Demense 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 RS-residential within the current Fingal County Development Plan 2023-2029. The Planning Authority determined that the site remain on the RZLT map. The Local Authority determined that a 0.6-hectare portion of the overall lands with the RS-residential zoning be included within the RZLT map. The Local Authority set out that the site is within an urban 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 local objective number 80 that pertains to the lands for the provision of purpose-built student accommodation and that the remainder of the lands were omitted from the RZLT map as they provide for playing pitches and associated buildings.

8.4 The appellants contend that because the site provides for sports facilities which are an integral part of TCD's core educational functions and are the primary outdoor sports facilities serving Trinity College Dublin. The lands are maintained and in use as informal training and warm up areas and are therefore, not vacant or idle.

8.5 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 social, community or government infrastructure and facilities, including infrastructure and facilities used for the purposes of public administration or the provision of education or healthcare and would fall within the parameters of the exemptions provided within the legislation. I consider that the site satisfies the criteria for exclusion as set out within Section 653B (c) (iii) (I) of the Taxes Consolidation Act 1997, as amended, regarding social and community infrastructure and the provision of education related social infrastructure and facilities. The facilities should also be excluded from the RZLT map on the basis of the provisions set out under Section 653B (c) (iii) (VII) of the Taxes Consolidation Act 1997, as amended, regarding the provision of recreational infrastructure, including sports facilities.

8.6 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 FIN-C657-24-37, parcel ID number FL0000002598-part of. on RS-Residential zoned lands identified within the current Fingal County Development Plan are considered out of scope under the provisions of Sections 653B (c) (iii) (I) and (VII) of the Taxes Consolidation Act 1997. as amended. The lands are zoned RS-residential within the current Fingal Development Plan and are located within an established urban area with services available. However, given the lands are integral to, and in occupation by recreational infrastructure including sports facilities, it is not reasonable to consider that the lands are available for residential development.

## **11.0 Recommended Draft Board Order**

**Taxes Consolidation Act 1997 as amended.**

**Planning Authority:** Fingal County Council

**Local Authority Reference Number:** FIN-C657-24-37

**Appeal** Trinity College Dublin 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 Fingal County Council on the 27th day of June 2024 in respect of the site described below.

**Lands at:** Santry Demense, Santry, Co. Dublin.

### **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 FIN-C657-24-37 from the final RZLT map.

### **Reasons and Considerations**

The lands identified as FIN-C657-24-37, parcel ID number FL0000002598-part of. on RS-Residential zoned lands identified within the current Fingal County Development Plan are considered out of scope under the provisions of Sections 653B (c) (iii) (I) and (VII) of the Taxes Consolidation Act 1997. as amended. The lands are zoned RS-residential within the current Fingal Development Plan and are located within an established urban area with services available. However, given the lands are integral to, and in occupation by recreational infrastructure including sports facilities, it is not reasonable to consider that the lands are available for residential development.

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

26th day of September 2024