



An
Coimisiún
Pleanála

Inspector's Report ACP-323245-25

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

Richmond Street South, Dublin 2.

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

RZLT000256

Appellant(s)

Gordon Property Limited

Inspector

Colin McBride

1.0 Site Location and Description

- 1.1. The site is located on the western side of Richmond Street South and is made up of 4 separate parcels of land (labelled parcels 1, 2, 3 and 5). Parcel no. 1 to the north of the site contains a temporary site compound for a construction site located elsewhere, parcel no. 2 is occupied by a two-storey public house, which is a protected structure and is currently vacant, parcel 3 is a portion of vacant land, parcel 4 is not in the appellants ownership and is not part of the RZLT site and is vacant site owned by DCC that the appellants have an agreement to purchase (not subject of this appeal). Parcel 5 is a strip of vacant land that is physically separated from parcel no.s 1, 2 and 3 by parcel no. 4.

2.0 Zoning and Other Provisions

- 2.1. The site is zoned Z10 'Inner Suburban and Inner City Sustainable Mixed Uses' with a stated objective 'to consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses'.
- 2.2. For the Z10 zoning the following is noted:

"In order to ensure that a mixed-use philosophy is adhered to on Z10 zoned lands, the focus will be on delivering a mix of residential and commercial uses. There will be a requirement that a range of 30% to 70% of the area of Z10 zoned lands can be given to one particular use, with the remaining portion of the lands to be given over to another use or uses (e.g. Land-use Zoning | Chapter 14 541 residential or office/employment). For very small sites, typically less than 0.5ha, flexibility on mix requirement may be considered on a case-by-case basis, where it can be demonstrated that the proposal would not result in an undue concentration of one particular land-use on the Z10 landholding as a whole.

The primary uses supported in this zone are residential, office and retail, with ancillary uses also facilitated where they deliver on the overall zoning objective.

There will be a requirement that for any significant scheme (on Z10 zoned lands greater than 0.5ha in size) seeking to increase densities and/or height, a masterplan is prepared (see also Appendix 3: Achieving Sustainable Compact Growth). The

requirement to prepare a masterplan in respect of future development will also specifically apply to Z10 zoned lands at Malahide Road, Harmonstown Road, Goldenbridge Industrial Estate, 110-114 Cork Street, Glenview Industrial Estate and Brickfield House/ Sunshine Estate”.

3.0 Planning History

- 3.1. ABP-318150-23 (4148/23): Permission granted for the demolition of an extension to a protected structure and construction of mixed-use building and associated site works.
- 3.2. ABP-320429: Confirmation of determination by local authority to retain the site on the RZLT map (16-17 Richmond Street South).
- 3.3. ABP-320462-24: Confirmation of determination by local authority to retain the site on the RZLT map (8-14 Richmond Street South).

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 on the basis that:
 - The lands are not vacant or idle and is required for office type development. It is not the intention of the landowner to develop residential use on the lands.
 - The intention of the Z10 lands is questioned in terms of location of mix across the lands.
 - Any residential development would be solely single aspect with sub-standard amenity based on site constraints and residential is not possible on the site.
 - Rates were paid in January 2025 with respect of the public house notwithstanding that it is currently not operating.

5.0 Determination by the Local Authority

5.1. The Planning Authority determined that the site satisfies the qualifying criteria set out in Part 22A of the Taxes Consolidation Act 1997 for inclusion on the RZLT map for the following reasons:

The lands:

- Are zoned for a mixture of uses, including residential use.
- Have access, or can be connected, to public infrastructure and facilities and with sufficient service capacity.
- Are vacant/idle, as there was no construction activity at the site on the date of site visit and the temporary construction compound/unused land area not considered required for, or integral to, the operation of a trade or profession being carried out on, or adjacent the land.
- Meet the other relevant criteria under Section 653B of the TC Act, as amended.

6.0 The Appeal

6.1. Grounds of Appeal

The following points were made in support of the appeal:

- In relation to zoning the appellants highlights the Z10 zoning and that residential is one of 46 permissible land uses and the appellants have no obligation to develop residential on site. The appellant highlights that there is a provision that a range of 30-70% shall be given over to one particular use with the remainder to be another use, however there is flexibility for sites smaller than 0.5ha. The appellant highlights that the small size of the site (0.22ha) is such that this flexibility would apply and the intention is to develop commercial development on site, which would be allowable under the zoning.
- The appellants highlight that the Commission have granted permission for a solely commercial development under ABP-318150. The appellant intends to

implement the permission however such was only granted in October 2024. The appellant also highlights that the wider context of the city block the site is part of, which is zoned Z10 including the permitted development on site accounts for 50% of the Z10 zoned land in the city block it is part off. The appellants argue that it is appropriate for the appellants to develop the site wholly for commercial development and applying RZLT to the site is inappropriate having regard to the planning history of the site.

- The lands are not vacant or idle with parcel 1 in use as construction compound for a development to the east of the site, parcel 2 is occupied by an existing public house for which commercial rates are being paid (evidence provided).

6.2. Planning Authority Response

No response.

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. Firstly I would note that the lands meet the criteria for inclusion on the map under Section 653B (a)(b) and (c) in that they are zoned for a mixture of uses, including residential use, the city centre location means it is reasonable to consider it may have access, or be connected to public infrastructure and facilities and it is reasonable to consider that the it is not affected, in terms of its physical condition, by matters to a sufficient extent to preclude the provision of dwellings.
- 7.3. One of the main arguments of the appellants relates to the fact that zoning policy would allow for the entirety of the site to be developed for commercial purposes and the fact that a permission has been granted to this effect under ABP-318150-23. The appellants highlight that their intention is to development the site for these purposes and not residential and in this regard RZLT, should not apply. In this regard the legislation does not provide any exclusions/exemptions from inclusion on the map on the basis of intention to develop lands for a purpose other than residential. The site meets the criteria under Section 653(a) in regards to zoning, being a site zoned for “a mixture of uses, including residential use” (653B(a)(ii)). In this case the site is zoned Z10 ‘Inner Suburban and Inner City Sustainable Mixed Uses’ under which residential is a permissible use. The legislation does provide for whereby the calculation and duration of payment of taxes under the legislation is impacted by the commencement of non-residential development within 12 months of a grant of permission (Section 635AG), however such relates to where permission has been granted and has commenced. In this case permission has been granted but has not commenced. The lands currently meet the criteria for inclusion on the RZLT map on the basis of the zoning of the site.
- 7.4. The appellant argue that the lands in question are not vacant and idle and that Section 635B(ii) applies. The basis for such is that parcel 1 is in active use as a construction compound for development under construction to the east and that the existing public house on site although vacant is currently subject to rates and the appellants are actively trying to let it out to new tenants. The definition of “vacant or idle land’ under Section 653J means land which, having regard only to development (within the meaning of the Act 2000) which is not unauthorised development (within the meaning of the Act of 2000), is not required for, or integral to, the operation of a trade or profession being carried out on, or adjacent to, the land”.

- 7.5. In this case parcels no. 1, 3 and 4 are vacant sites with no active uses. I would consider that these parcels of land come under the definition of vacant and idle as set out under Section 635A(1). In the case of parcel 1 the use for construction is a temporary use and do not consider that that such falls under the definition of being required for, or integral to, the operation of a trade or profession being carried out on, or adjacent to, the land. In this regard I would consider that Parcel no. 1, 3 and 4 remain in scope for inclusion on the RZLT map.
- 7.6. Parcel no. 2 is occupied by a vacant public house, which is also a protected structure. The appellant highlights that commercial rates are being paid on this premises and argues that it should be excluded from the map in this regard. Under Section 653B(i) there is an exclusion based on development (within the meaning of the 2000) Act, which is not unauthorised development, is in use as premises, in which a trade or profession is being carried out, that is liable to commercial rates, that it is reasonable to consider is being used to provide services to residents of adjacent residential areas. This exclusion does not apply in this case as it refers only to land under Section 653B(a)(i), land solely or primarily for residential use, whereas the land in case falls under Section 653B(a)(ii), lands for a mixture of uses, including residential use. The existing public house is currently vacant and therefore Parcel 2 also fall under the definition of vacant or idle under Section 653J.
- 7.7. The status of the existing structure as a protected structure would not preclude the provision of residential development on these lands as part of a mixed use development and does not fail to meet the terms of criteria 653B(c), lands affected by physical condition to a sufficient extent to preclude provision of dwellings, or the exclusion under Section 653B(iv), subject to a statutory designation (protected structure). I would note that no issues were raised that would warrant exclusion under Section 653B(b).
- 7.8. I consider that the lands in question meet the criteria under Section 653B (a), (b) and (c) and that the Board should confirm the determination of the local authority to include such lands on the RZLT map.

8.0 Recommendation

- 9.0 Having regard to the foregoing, I consider that the lands identified as Land Parcel ID DCC000064290 meet 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.

10.0 Reasons and Considerations

- 10.1 In the assessment of this appeal, regard was had to the content of the Residential Zoned Land Tax- Guidelines for Planning Authority June 2022, as amended, 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 Land Parcel ID DCC000064290 are located on Z10 'Inner Suburban and Inner City Sustainable Mixed Uses' 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. It is acknowledged that that part of the lands is being used for construction works on adjacent lands and that the site is occupied by a vacant protected structure, which is subject to commercial rates. Notwithstanding such, the land meets the definition of 'vacant or idle' under Section 635J and does not meet the criteria for exclusion under Section 653B(ii), with the construction activity on Parcel 1 being a temporary use. In the case of the existing structure, the liability for commercial rates only relates to lands falling under Section 653(a)(i), lands solely or primarily for residential use with the lands in this case falling under Section 653(a)(ii), for a mixture of uses including residential use. The status of the existing structure as a protected structure would not preclude the provision of residential development on these lands as part of a mixed-use development and the lands are, therefore, are not affected by physical condition to a sufficient extent to preclude the provision of dwellings.

11.0 Recommended Draft Board Order

Taxes Consolidation Act 1997 as amended.

Planning Authority: Dublin City Council

Local Authority Reference Number: RZLT000256

Appeal Gordon Property Limited 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 27th day of June 2025 in respect of the site described below.

Lands at: Richmond Street South, Dublin 2.

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 Land Parcel ID DCC000064290 should remain on the RZLT map.

Reasons and Considerations

The lands identified as Land Parcel ID DCC000064290 are located on Z10 'Inner Suburban and Inner City Sustainable Mixed Uses' 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. It is acknowledged that that part of the lands is being used for construction works on adjacent lands and that the site is occupied by a vacant protected structure, which is subject to commercial rates. Notwithstanding such, the land meets the definition of 'vacant or idle' under Section 635J and does not meet the criteria for exclusion under Section 653B(ii), with the construction activity on Parcel 1 being a temporary use. In the case of the existing

structure, the liability for commercial rates only relates to lands falling under Section 653(a)(i), lands solely or primarily for residential use with the lands in this case falling under Section 653(a)(ii), for a mixture of uses including residential use. The status of the existing structure as a protected structure would not preclude the provision of residential development on these lands as part of a mixed-use development and the lands are, therefore, are not affected by physical condition to a sufficient extent to preclude the provision of dwellings.

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.

Colin McBride
Senior Planning Inspector

22nd October 2025