



An
Coimisiún
Pleanála

Inspector's Report

ACP-323264-25

Development

Inclusion of the land on the residential zoned land tax final map on lands at Chesterfield, Cross Avenue, Blackrock, Co. Dublin.

Location

Chesterfield, Cross Avenue, Blackrock, Co. Dublin.

Planning Authority

Dun Laoghaire Rathdown County Council

Local Authority Reg. Ref.

DM25/005

Appellant

Cairn Homes PLC

Inspector

Frank O'Donnell

1.0 Site Location and Description

- 1.1. The site identified as DM25/025 (Land Parcel ID DELA00002108) is located on the southern side of Cross Avenue in Blackrock, County Dublin. The site comprises Chesterfield House which is listed as a Protected Structure (171) and surrounding attendant grounds. The site is surrounded on all sides by established residential development. The subject land parcel has a stated area of 3.17 hectares.

2.0 Zoning

- 2.1. The site is zoned Objective A in the Dún Laoghaire-Rathdown County Development Plan, 2022 to 2028. The relevant Zoning Objective is *'to provide residential development and improve residential quality while protecting the existing residential amenities.'*
- 2.2. The Dún Laoghaire-Rathdown (DLR) County Development Plan, 2022 to 2028, comprises a main Written Statement, a total of 17 no. Appendices, accompanying Environmental Reports and a number of Maps.
- 2.3. Chapter 2 of the Written Statement relates to Core Strategy. The majority of the urban footprint within DLR, as per table 2.10 (RSES Settlement Hierarchy as applicable to DLR) falls within Teir 1 (Dublin City and Suburbs), this includes the subject RZLT Appeal site. As per Table 2.11 (Core Strategy Table) Infill/ Windfall – Sites with no planning permission, which are considered to include the subject RZLT Appeal Site, are projected to result in an overall residential yield of 1,436 units over the plan period from 2022 to 2028. The following Policy Objectives contained in Chapter 2 (Core Strategy) are considered to be of note:
- **Policy Objective CS11** – Compact Growth. It is a Policy Objective to deliver 100% of all new homes, which pertain to Dublin City and Suburbs, within or contiguous to its geographic boundary. (Consistent with RPO 3.2 of the RSES).
 - **Policy Objective CS12** – Brownfield and Infill Sites. It is a Policy Objective to establish a database of strategic brownfield and infill sites to be regularly updated and monitored so that brownfield re-use can be managed and coordinated across multiple stakeholders.

- 2.4. Section 2.6.2 relates to Active Land Management and includes Section 2.6.2.1 Compact Growth and Regeneration and Section 2.6.2.2 Vacant Sites. Section 2.6.2.1 ii) relates to Brownfield and Infill Lands.
- 2.5. Chapter 11 relates to Heritage and Conservation. Section 11.4 relates to Architectural Heritage. Section 11.4.1 relates to Record of Protected Structures and includes the following policy objectives:
- ***Policy Objective HER7: Record of Protected Structures.***
 - ***Policy Objective HER8: Work to Protected Structures.***
 - ***Policy Objective HER9: Protected Structures Applications and Documentation***
 - ***Policy Objective HER10: Protected Structures and Building Regulations***
 - ***Policy Objective HER12: National Inventory of Architectural Heritage (NIAH)***
- 2.6. Chapter 12 relates to Development Management. Section 12.7 of the Plan relates to Green Infrastructure and Biodiversity. Section 12.8 relates to Open Space and Recreation with Section 12.8.11 relating to Existing Trees and Hedgerows.
- 2.7. Chapter 13 relates to Land Use Zoning.

3.0 Planning History

- 3.1. On the subject Appeal site:
- **ABP-211878 (Local Authority Ref. No. D04A/1416):** Permission for House with associated services and site works within the curtilage of a protected structure. Permission was **GRANTED** in August 2005 subject to 12 no. conditions.
 - **ABP-210828 (Local Authority Ref. No. D04A/0950):** Permission for 76 no. houses, 45 no. apartments, demolish 1 no. habitable dwelling, car parking and associated site works. The application lands include a Protected Structure. Permission was **REFUSED** in June 2005 for 1 no. reason relating to impact on Protected Structure/ Out of Character.

- **ABP-218536 (Local Authority Ref. no. D06A/0069):** Permission for 204 apartment units, and associated car parking, and refurbishment of Chesterfield House (protected structure) to an office building office building and all associated works. Permission was **GRANTED** in December 2006 subject to 18 no. conditions.
- **D10A/0591/E:** Extension of Duration **GRANTED**.
- **ABP-238361 (Local Authority Ref. No. D10A/0591):** Permission for 97 no. residential units and all associated site works, partly located within the curtilage of a protected structure. Permission was **GRANTED** in May 2011 subject to 18 no. conditions.
- **ABP-301097-18:** Strategic Housing Development (SHD). Pre-Application Consultation. Decision issued in April 2018: **Is a reasonable application basis.**
- **ABP-302921-18:** Strategic Housing Development (SHD). Demolition of the non-original fabric of Chesterfield House (a protected structure) and derelict sheds. Construction of 214 apartments and 7 no. houses, residents amenity facility and all associated works. **Decision: QUASHED** by Order of the High Court in July 2019 (ABP Legal Case Ref. No. **GL0912**).
- **ABP-310942-21:** Strategic Housing Development (SHD). Pre-Application Consultation. Decision issued in November 2021: **Is reasonable Application basis.**
- **ABP-313252-22:** Strategic Housing Development (SHD). Demolition of the non-original fabric of Chesterfield House and sheds, construction of 366 no. residential units (8 no. houses, 358 no. apartments), creche and all associated site works. A **SPLIT DECISION** was issued in September 2024. Permission was **GRANTED** for, inter alia, 11 no. units, subject to 14 no. conditions.

Permission was **REFUSED** for 355 no. build to rent (BTR) apartments and a creche facility. The Board considered that the development would represent an over-proliferation of BTR in the area. The Board noted that a residential development of this size in this serviced residential development site would in

principle be consistent with the relevant objectives of the Development Plan and National Policy. The 1 no. reasons for REUFSAL read as follows:

Having regard to the relative proximity of ABP 311190-21 (at 244 no. BTR units) ca. 220m to the northeast of the site which is currently under construction and also accessing directly onto Cross Avenue, the cumulative impacts of a further 358 Build-to-Rent units as proposed in one area would result in the over proliferation of Build-to-Rent at this location and would be contrary to section 4.3.2.3 and Policy Objective PHP27, as it relates to 'sustainable residential communities' and Policy Objective PHP28, as it relates to 'over proliferation' of Build-to-Rent development of the Dún Laoghaire-Rathdown County Development Plan 2022-2028 and would, therefore, be contrary to the proper planning and sustainable development of the area.

- **ABP-316411-23 (Local Authority Ref. No. DM22/0036):** Inclusion of the land on the Residential Zoned Land Tax draft map. Decision issued in August 2023 to **Confirm the determination of the Local Authority.**
- **ABP-320314-24 (Local Authority Ref. no. DM24/0003):** Inclusion of the land on the Residential Zoned Land Tax draft map. Decision issued in October 2024 to **Confirm the determination of the Local Authority.** This decision of the Board to confirm the determination of the Local Authority is the subject of a current **Judicial Review** to the High Court, a hearing for which is understood to be scheduled for **January 2026.**
- **LRD25A/0637/WEB (Large Scale Residential Development (LRD):** The development will consist of: (i) The demolition of 2 existing shed structures with a total combined area of 55.7sq.m.; (ii) The construction of 252 residential units with a cumulative gross floor area of c. 26,250 sq.m. comprising: a) 236 apartments across 2 blocks ranging in height from 5-8 storeys over basement incorporating 43 no. 1-bed, 137 no. 2-bed and 56 no. 3-bed units, all with private amenity space; b) 16 no. 5-bedroom terrace houses; (iii) A childcare facility (480 sq.m. GFA) with outdoor secure play area; (iv) Residential amenities including a gym, yoga room, meeting room and a resident's lounge & kitchen and bathroom facilities; (v) Realignment and

enlargement of the existing on-site ornamental pond to facilitate surface water attenuation; (vi) Installation of infrastructure along Cross Avenue to facilitate connections to the municipal potable water supply at the junction of Cross Avenue and Booterstown Avenue and the surface water sewer at the junction of Cross Avenue and Mount Merrion Avenue; and (vii) The provision of pedestrian and vehicular access, landscaping, amenity and open space areas, boundary treatments, associated bicycle and car parking, associated plant, bike, bin and bulky storage, public lighting and all ancillary development works. The proposed development adjoins Protected Structure – Chesterfield House (RPS: No. 171), to the north. **A REQUEST FOR ADDITIONAL INFORMATION** was issue on 7th October 2025 on 12 no. main points relating to issues including Appropriate Assessment Screening, an updated Ecological Impact Assessment (EclA), Design and Layout, Boundary Treatments, Cycle Parking, Car Parking, Traffic Design and Layout, Landscaping and the Concerns of Third Parties.

3.2. On the adjacent site to the immediate north of Chesterfield House site:

- **ABP-304913-19:** Permission to demolish existing dwelling and outbuildings and construct apartment block providing 33 apartments with balconies. Car Parking. Permission was **GRANTED** in December 2019 subject to 23 no. conditions.
- **ABP-320576-24:** Permission for the construction of a dwelling house on western side of property including a new boundary wall to subdivide the property and all associated site works. Permission was **GRANTED** in January 2025 subject to 8 no. conditions.

4.0 Submission to the Local Authority

The Appellant submits that the lands are out of scope for the reasons set out in the submission which include:

- The Landowner has been actively engaged in seeking to develop the subject lands since they were acquired in 2017. Approved SHD Application, as Case Ref. No. ABP-302921-18 refers, was quashed. Case Ref. no. ABP-313252-22 was a split decision issued in September 2024 which Granted 11 no. units

and Refused 366 units. Additional challenges and difficulties encountered by the Landowner in developing the lands are outlined in the submission all of which have had the effect of stymying efforts to progress.

- A Judicial Review decision is pending which challenges the validity of the 2024 RZLT Order issued by An Bord Pleanála.
- The Landowner requests that the lands be excluded from the RZLT mapping on the basis that it does not meet the criteria under Section 653B(b) of the Taxes Consolidation Act 1997 (as amended).
- The Landowner is seeking the exclusion of the lands under Section 653(b) (infrastructure) as the lands do not have reasonable access to public infrastructure with particular reference to surface water drainage and water supply.
- Surface Water Drainage: In order to service the subject lands, a new 225 mm surface water drain will need to be provided along Cross Avenue West to connect to the surface water manhole at Mount Merrion Avenue junction, a distance of c. 600 metres. The need for these works was identified in discussions/ engagement with the Local Authority Drainage Division as part of the preparation of the SHD Planning Application as Case Ref. no. ABP-313252-22, current LRD discussion pertaining to the lands and as part of the RZLT evaluation process. The Landowner submits that these works cannot be considered to be minor, that they will incur significant additional costs to the development and that such costs are not within the normal realm of associated costs.
- Water Supply: As per the Uisce Éireann Confirmation of Feasibility (COF) relating to a future LRD application on the site, a new watermain is required to replace the existing cast iron public watermain on Cross Avenue which runs from the site entrance to the subject lands to Booterstown Avenue Junction, c. 200 metres further to the east. The Landowner considers these additional costs are not within the normal realm of associated costs.
- In order to provide the infrastructure required to connect the subject site to the watermain, planning permission would be required. This, the Landowner

submits, would not be viable for the 11 no. units on site and therefore the subject lands should not be included on the Draft RZLT map.

- Based on the Assessment Checklist contained in Appendix 4 of the guidelines, the lands are not in scope as, from the viewpoint of the Landowner, they are not connected or able to be connected to surface water and water supply services.

5.0 Determination by the Local Authority

The Local Authority determined pursuant to Section 653E(1)(a)(ii)(I) of the Taxes and Consolidation Act 1997 (as amended), for Submission Reference DM25/005, to INCLUDE the land (at Chesterfield, Cross Avenue, Blackrock, Co. Dublin) on the Final Map of the Residential Zoned Land Tax as defined by Section 653K of the Taxes and Consolidation Act 1997 (as amended) for the 3 no. reasons set out.

The reasons set out by the Local Authority are as follows:

- 1) The land is zoned solely and primarily for residential use.
- 2) It is reasonable to consider the land may have access, or be connected, to public infrastructure and facilities necessary for dwellings to be developed and with sufficient service capacity available for such development.
- 3) It is reasonable to consider the land is not affected, in terms of its physical condition, by matters to a sufficient extent to preclude the provision of dwellings.

6.0 The Appeal

6.1. Grounds of Appeal

- The lands are not connected or have reasonable access to Public Infrastructure and, in particular, Surface Water Drainage and Water Supply. The Appellant disputes the conclusions reached by the Local Authority in respect of the existence of public infrastructure and the capacity of the public infrastructure to service residential development.
- The Appellant submits it is not reasonable to consider that the subject lands may have access or be connected to surface water drainage infrastructure necessary for dwellings to be developed on the subject lands.
- The Appellant submits it is not reasonable to consider that the subject land may have access or be connected to water supply.
- The Local Authority determination has not implemented (or correctly applied) the assessment checklist included in the Residential Zoned Tax – Guidelines for Planning Authorities (2022).
- The Appellant requests the Board/ Commission to either set aside the Determination of the Local Authority or to defer its decision until such time as the Judicial Review proceedings (hearing scheduled for January 2026) are concluded.

6.2. Response of the Local Authority

- None

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 Commission'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 (the Guidelines), 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. The legislation clearly sets out that land in scope will be zoned for residential development or a mixture of uses including residential; be serviced or have access to servicing by water, wastewater, road, footpath and public lighting; and not be affected by contamination or significant archaeological remains which would preclude development taking place.

7.3. Section 653B of the Taxes Consolidation Act, 1997, as amended, sets out the criteria for inclusion on the map. The first consideration for inclusion 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 Objective A in the current Dún Laoghaire-Rathdown County Development Plan, 2022 to 2028 and are considered to be within the scope of Section 653B (a)(i).

7.4. Having regard to Section 653B (b) the lands are currently served by an existing vehicular access and there is no identified impediment to future access. Therefore, it is reasonable to consider that the site may have access, or be connected, to public infrastructure and facilities, including the public road and footpaths.

- 7.5. In relation to water and surface water connections, the Local Authority set out within the RZLT assessment that it is reasonable to consider that the lands are connected or able to be connected to public infrastructure and facilities necessary for dwellings to be developed and with sufficient service capacity for such development.
- 7.6. I note the Appeal submission includes a Confirmation of Feasibility (COF) from Uisce Éireann dated 21st July 2025 which relates to a proposed a multi/ mixed use development of 261 unit(s) at the subject RZLT site. In relation to a Water Connection, it is stated in the COF that this is feasible subject to upgrades in the form of an *'upgrade of the existing 4 " CI main to a new 150 mm ID pipe for approximately 230 metres..'*. No water supply capacity issues are raised in this COF from Uisce Éireann. In terms of Surface Water drainage infrastructure, the Applicant states the Local Authority Drainage Planning Division advise that a new surface water sewer would be required, extending for approximately 600 metres from the entrance to the lands.
- 7.7. As per the Service Land Definition provided in Section 3.1.1 (Criteria for Inclusion within the Scope of the Tax Measure) of the Guidelines, it is stated that the need for network upgrades is not considered to exclude lands, where sufficient treatment capacity exists. Based on the said guidance, the need for upgrade works to the water supply network and surface water drainage network do not therefore, in my opinion, mean the subject lands should be excluded from scope. Notwithstanding the upgrade works identified, which it is accepted are necessary to accommodate a significant scale of residential development on the lands, it is noted there is an existing public watermain fronting the site and an existing combined sewer. It is clear therefore that the lands, irrespective of the identified upgrade works to accommodate a larger scale of development at the site, have access to a public water supply and surface water drainage system, necessary for dwellings to be developed and with sufficient spare capacity for residential development.
- 7.8. This is supported by the most recent Split Decision for a Strategic Housing Development (SHD) planning application pertaining to the lands, as SHD Case Ref. no. ABP-313252-22 refers. The Commission will note that as part of this said decision, the Board permitted 11 no. units and refused 335 Build to Rent Units and that infrastructure upgrades along Cross Avenue to facilitate connection to the municipal potable water supply and the surface water sewer were expressly omitted

under point no. 13 of the refusal element of the said Split Decision. In other words, in order to serve 11 no. dwellings on the lands, the identified upgrade works to the existing water supply and surface water drainage system were not deemed to be necessary and, in fact, were expressly omitted.

- 7.9. I note Section 4.1.1 Considerations and subsections ii) Review of land with planning permission and iii) Services to be considered of the Guidelines. Under subsection ii) it is stated, inter alia, that *'Where development for housing or housing and a mix of other uses has been permitted on land which falls into the scope of the tax as set out within the legislation, then default presumption should be given to considering all such lands with permissions to be within scope, subject to (iii) below.'*
- 7.10. Having regard to the guidance in subsection iii) 'Services to be considered', the subject lands are located adjacent to existing services (water supply and combined sewer), are 'able to connect' and are therefore in-scope. The remaining guidance under subsection iii) applies to where the infrastructure does not meet the aforementioned threshold of being 'able to connect', is concerned with whether the services are located on public land under the control of the Local Authority where no planning permission is in place, the significance/ scale of the works required and the requirement or otherwise for access to third party lands. Such additional considerations are not, in my view, applicable to the subject case as the lands are deemed to be 'able to connect' and are therefore already in scope.
- 7.11. The remaining guidance under the same Section 4.1.1, subsection iii) relates to the scenario where the land has permission and states that the same considerations should apply. In the case of the permitted development, reg. ref. no. SHD Case Ref. no. ABP-313252-22 (11 no. units), I do not consider the works required to connect the land to services to be 'materially significant.' I therefore consider the lands remain in scope. It is accepted that more significant infrastructural works (water supply upgrade and surface water sewer upgrade) are likely to be required in the future should permission be granted for a larger development on the lands however this is not the test set out in Section 653B b).
- 7.12. For clarity, the test set out in Section 653B b) is if it is reasonable to consider may have access, or be connected to public infrastructure and facilities, including roads and footpaths, public lighting, foul sewer drainage, surface water drainage and water

supply, necessary for dwellings to be developed and with sufficient service capacity available for such development.

- 7.13. The Appellant refers to the cost of service upgrades and submits that this should be a material consideration in determining whether the lands are in scope for the purposes of Section 653B b). The fact that there is a significant additional cost to provide an upgraded watermain and surface water sewer is not, in my opinion, the relevant consideration in this instance as it is reasonable to consider, in the absence of such upgrades, the site may have access, or be connected, to public infrastructure and facilities, including water supply and surface water drainage.
- 7.14. Having regard to the foregoing, the lands fall within scope as per the provisions of Section 653B b).
- 7.15. In terms of Section 653B(c), given the residential zoning of the site, it is reasonable to consider the lands are not affected by issues to a sufficient extent which would preclude the provision of houses, including contamination or the presence of known archaeological or historic remains.
- 7.16. The grounds of appeal raise issues / shortcomings with the assessment processes used by the Local Authority. While noting that the appellant is dissatisfied with the processes used to assess the lands for RZLT and associated purported shortcomings, such matters are not for consideration by the Commission in this appeal, as it is restricted to considering whether the lands meet the qualifying criteria set out in section 653B only.
- 7.17. The Appellant refers seeks for the Commission to defer its decision on the subject appeal until such time as a current Judicial Review in respect of a previous RZLT case, ref. no. ABP-320314-24 (Local Authority Ref. no. DM24/0003), is heard at the end of January 2026. This matter is outside the parameters of section 653B and, therefore, not for consideration in this appeal.

8.0 Recommendation

- 8.1. In the assessment of this appeal, regard was had to the content of the Residential Zoned Land Tax- Guidelines for Planning Authority June 2022 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.

- 8.2. Having regard to the foregoing, I consider that the lands identified as DM25/025 (Land Parcel ID DELA00002108) 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 other matters arising that would warrant exclusion of the subject lands from the final map.
- 8.3. I recommend that the Commission confirm the determination of the Local Authority and direct the Local Authority to include the site on the map.

9.0 Reasons and Considerations

- 9.1. In the assessment of this appeal, regard was had to the content of the Residential Zoned Land Tax Guidelines for Planning Authorities June 2022 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 legislation.
- 9.2. The lands identified as DM25/025 (Land Parcel ID DELA00002108) located on Objective A zoned lands identified within the current Dún Laoghaire-Rathdown County Development Plan, 2022 to 2028 are considered in scope of Section 653B of the Taxes Consolidation Act 1997, as amended. The subject 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 Objective A zoning that applies to these lands.
- 9.3. Having regard to the provisions of Section 653B a) i) and Section 653B(b) of the Taxes Consolidation Act, 1997, as amended, the subject RZLT Land Parcels fall within scope and should therefore remain on the Final RZLT Map.

10.0 Recommended Draft Commission Order

Taxes Consolidation Act 1997, as amended.

Local Authority: Dún Laoghaire-Rathdown County Council

Local Authority Reference Number: DM25/025

Appeal: Cairn Homes PLC 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 Dún Laoghaire-Rathdown County Council on the 25th day of June 2025 in respect of the site described below.

Lands at: Chesterfield, Cross Avenue, Blackrock, Co. Dublin.

Decision

The Commission 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 Commission confirms the determination of the Local Authority and direct the Local Authority to retain the lands identified as Parcel ID number DELA00002108 and Local Authority reference number DM25/025 on the RZLT map.

Reasons and Considerations

In the assessment of this appeal, regard was had to the content of the Residential Zoned Land Tax Guidelines for Planning Authorities June 2022 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 legislation.

The lands identified as DM25/025 (Land Parcel ID DELA00002108) located on Objective A zoned lands identified within the current Dún Laoghaire-Rathdown County Development Plan, 2022 to 2028 are considered in scope of Section 653B of the Taxes Consolidation Act 1997, as amended. The subject 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 Objective A zoning that applies to these lands.

- 10.1. Having regard to the provisions of Section 653B a) i) and Section 653B(b) of the Taxes Consolidation Act, 1997, as amended, the subject RZLT Land Parcels fall within scope and should therefore remain on the Final RZLT Map.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Frank O'Donnell
Planning Inspector

29th October 2025