



An
Coimisiún
Pleanála

Inspector's Report ABP-323266-25

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

182A Clonliffe Road, Dublin 3,
D03X6K3

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

RZLT-000295

Appellant(s)

Clonliffe Property Investments Limited

Inspector

Colin McBride

1.0 Site Location and Description

- 1.1. The site is located on the northern side of Clonliffe Road. The site was formerly part of Clonliffe Dublin Diocesan Seminary associated with Clonliffe College. The site is located to the north of Croke Park and adjacent to the intersection of Clonliffe Road and Jones Road. The site is currently under construction with the 7-storey hotel granted under ABP-308193-20 being built on site.

2.0 Zoning and Other Provisions

- 2.1. The site is zoned Z12 Institutional Land (Future Development Potential) under the Dublin City Council Development Plan 2022-2028 with a stated objective 'to ensure existing environmental amenities are protected in the predominantly residential future use of these lands'.
- 2.2. Where lands zoned Z12 are to be developed, a minimum of 25% of the site will be required to be retained as accessible public open space to safeguard the essential open character and landscape features of the site. Where such lands are redeveloped, the predominant landuse will be residential. In considering any proposal for development on lands subject to zoning objective Z12, other than development directly related to the existing community and institutional uses, Dublin City Council will require the preparation and submission of a masterplan setting out a clear vision for the future development of the entire landholding. In particular, the masterplan will need to identify the strategy for the provision of the 25% public open space requirement associated with any residential development, to ensure a co-ordinated approach to the creation of new high-quality public open space linked to the green network and/or other lands, where possible. In addition, development shall have regard to the standards in Chapter 15.

3.0 Planning History

- 3.1. ABP-320423-24: Inclusion of the land on the residential zoned land tax final map on lands at Holy Cross College, Clonliffe Road, Drumcondra, Dublin 3. Confirmation of determination of the Local Authority October 2024.
- 3.2. ABP-308193-20 (2935/20): Permission granted for a 7-storey hotel development and associated site works. Granted April 2021.

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 site does not meet the criteria set out in Section 653B(a).
 - The property if determined to be a relevant site, Section 653AG applies as the site is being developed for a purpose other than residential development with permission granted under ABP-308193-20 for a hotel that is under construction and practically complete and will be liable for commercial rates meeting the criteria under Section 653(b)(i).

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 solely or primarily for residential use,
- Have access, or can be connected, to public infrastructure and facilities and with sufficient service capacity available for such development,

- Do not qualify for an exemption from inclusion on the map under S.653B of the TC Act, 1997, as amended,
- Satisfy the other relevant criteria under Section 653B of the TC Act.

6.0 The Appeal

6.1. Grounds of Appeal

The following points were made in support of the appeal:

- The lands are zoned Z12 and do not meet the criteria under Section 635B
- The site should be excluded on the basis that it is subject to a Specific Objective that requires preparation of a masterplan, and such is masterplan is subject to consideration under the LRD process. The appellant notes that should the applicant have applied for residential development on the site alone it would not be approved.
- If the site is a relevant site, Section 635AG applies as the site, which relates to commencement of development within 12 months of a grant of permission for non-residential development. The appellant notes that Covid is a factor that prevented commencement of the project within 12 months of April 2021 due to public health and constrained finances and that construction has commencement at the earliest opportunity.
- The site did not meet the criteria in Section 653B(b) on the 1 January 2022 as the there was no connection to essential services with electricity supply highlighted. The appellant had to expend €8000,00 in agreeing service connections with the electricity supply board as the supply on Clonliffe Road was not of sufficient capacity. The necessary public infrastructure was not available at the site on 1 January 2022 and are only now being put in place at which point the site has ceased to be a 'relevant site'.

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) and (b) in that they are zoned for a mixture of uses (653B(a)(ii)), including residential use and the urban location means it is reasonable to consider it may have access, or be connected to public infrastructure and facilities with no indication of impediment to services.
- 7.3. 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 Z12- Institutional lands (Future Development Potential) and, therefore, within the scope of the legislation as residential use is a permitted use under the Development Plan. The need for a

masterplan for the Z12 lands does not impact the fact the site is zoned solely or primarily for residential use, or for a mixture of uses including residential.

- 7.4. In relation to the applicants claim that did not meet the criteria in subsection (b) on the 1 January 2022 in relation to electricity, I would consider that the site does meet the criteria under subsection (b). This is evidenced by the fact the applicant has secured permission for development on the site under ABP-308193-20 (granted April 2021) and is currently implementing this permission on site. In this regard it is reasonable to conclude that the land may have access or be connected to public infrastructure that is necessary for dwellings to be developed.
- 7.5. The appellants claim that if the site is a relevant site, Section 635AG applies and account should be taken of the impact of Covid-19 on commencement of the project. In the case of Section 635AG, where planning permission is granted for non-residential development in respect of all of a relevant site which is zoned for mixed use purposes, the commencement of non-residential development brings that relevant site outside the scope of the tax. Where the commencement of non-residential development occurs within 12 months of the date of the grant of planning permission, the pre-development deferred RZLT under section 653AGA is no longer due and payable.
- 7.6. In this regard I would note that the legislation does provide for provision whereby the calculation and duration of payment of taxes under 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 and has commenced on site, however not within 12 months of the grant of permission. I do consider that this is relevant factor in determining whether the lands are in scope, however not on the basis of Section 653AG but on the basis of Section 653B(c), which is one of the main three criteria for inclusion on the map. Section 653(c) requires that "it is reasonable to consider 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 of known archaeological or historic remains". In this case the site is affected, in terms of its physical condition, by matters to a sufficient extent to preclude provision of dwellings, due to the fact that permission for a hotel has been granted on site and the building of such has

commenced and is at a very advanced stage of construction. I consider that means the lands in question do not meet the criteria set down under Section 653B for inclusion on the RZLT and specifically Section 653B(c).

8.0 Recommendation

- 8.1. I recommend that the board set aside the determination of the Local Authority and that the site be removed from the final RZLT map.

9.0 Reasons and Considerations

The lands identified as parcel ID number DCC000064062 on lands zoned Z12 Institutional Land (Future Development Potential) within the current Dublin City Development Plan 2022-2028 are considered out of scope under the provisions of Sections 653B(c) of the Taxes Consolidation Act 1997 as amended. The lands are zoned mixed use (Z12) and are located within an established urban area with services available. The lands have been subject to a grant of permission for a hotel development under ABP-308193-20, which has commenced construction and is at such an advanced stage of construction that the site is affected, in terms of its physical condition, by matters to a sufficient extent to preclude provision of dwellings.

10.0 Recommended Draft Board Order

Taxes Consolidation Act 1997, as amended

Planning Authority: Dublin Council

Local Authority Reference Number: RZLT-000295/D-0014

Appeal by Clonliffe Property Investments Limited in accordance with section 653J of the Taxes Consolidation Act 1997 as amended, against the inclusion of the land on the 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: 182A Clonliffe Road, Dublin 3, D03 X6K3.

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 set aside the determination of the local authority and allow the appeal in relation to the lands identified as Parcel ID number DCC000064062 and Local Authority reference number RZLT-000295/D-0014 on the final map.

Reasons and Considerations

The lands identified as part of Land Parcel ID DCC000064062 on the RZLT Final Map zoned Z12 Institutional Land (Future Development Potential) are considered out of scope under the provisions of Sections 653B(c) of the Taxes Consolidation Act 1997, as amended. The lands are zoned for mixed use (Z12) within the current Dublin City Development Plan and are located within an established urban area with services available. The lands have been subject to a grant of permission for a hotel development under ABP-308193-20, which has commenced construction and is at such an advanced stage of construction that the site is affected, in terms of its physical condition, by matters to a sufficient extent to preclude provision of dwellings.

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.

Colin McBride
Senior Planning Inspector

14th October 2025