



An
Coimisiún
Pleanála

Inspector's Report ACP-323292-25

Type of Appeal

Appeal under section 653J of the Taxes Consolidation Act 1997, as amended, against the inclusion of land on the Residential Zoned Land Tax Map

Location

Numbers 61 and 62 Fitzwilliam Lane, Dublin 2.

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

RZLT-000306

Appellant(s)

Dromeenagh LLC

Inspector

Fergal Ó Bric

1.0 Site Location and Description

- 1.1. The subject site identified as RZLT-000306 and Parcel ID number DCC000061943 is located at Numbers 61 and 62 Fitzwilliam Lane which in turn is accessed off Merrion Street Upper and are located south of Merrion Square, Dublin 2. The appellants state that the buildings (Numbers 61 and 62) comprise a Mews building incorporating a mix of commercial and residential uses (used by two separate commercial enterprises) and number 62 is in residential use as residential apartments. The appellants state that the subject lands form part of a larger land holding which includes Number 62 Merrion Square, stated to be in residential use

2.0 Zoning and Other Provisions

- 2.1. The subject site is within Zone Z1 – ‘Sustainable Residential Neighbourhoods’ in the Dublin City Development Plan 2022-2028. This zoning objective seeks to protect, provide and improve residential amenities.

3.0 Planning History

The relevant planning history is considered to include the following:

Planning Authority reference number 0343/91-Dublin City Council granted permission for retention of a two-storey office development with two apartments over. This decision was upheld by An Bord Pleanála.

PA reference number RZLT-000039, in 2023 Dublin City Council determined that the lands should be included within the RZLT map. ABP reference 316804-23, in 2023, the Board confirmed the determination of the Planning Authority and directed the local authority to retain the lands identified as land parcel ID number DCC000061943, under PA reference number RZLT-000039 on the RZLT map.

4.0 Submission to the Local Authority

- 4.1. The appellants made a submission to the Local Authority seeking to have the lands excluded from the RZLT map and raised the following issues:

- Seeking to have the lands rezoned from Z1—Sustainable Residential Neighbourhoods to Z6-Employment/Enterprise.
- The site comprises a mews development, comprising office and residential uses. The mews building at Number 62 was converted from office to residential use under planning reference 2830/14.
- The office space in the Mews building has the benefit of planning permission under planning reference 0343/91 and its use is long established for over thirty years. The office space is in use by a trade or profession and is liable to commercial rates.
- Over 50% of the proper is in residential use.
- The subject lands should be removed from the RZLT map and be rezoned from Z1-Sustainable residential neighbourhoods to Z6-employment/enterprise.
- Fitzwilliam Lane is occupied by commercial use and businesses including offices, a public house, medical practice and embassy/administration uses.
- The existing permitted office use within the site has been in operation for in excess of thirty years.
- The site is in compliance with Section 653B (a) (i) in that the site is ‘included within a Development Plan and is zoned solely or primarily for residential use’.
- The commercial uses on site are in compliance with Section 653B (c) (I) and (ii) which sets out ‘development which ‘is not unauthorised development, 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 is being used to provide services to residents of adjacent residential areas’....and ‘unless it is reasonable to consider that the land is vacant or idle’.
- A trade or profession is being carried on with the Mews building, that is liable to commercial rates, the lands are not vacant or idle and therefore, the site should be exempt from the RZLT under Section 653B (c) (i) and (ii) of the Taxes Consolidation Act 1997, as amended.
- Existing residential properties are not subject to the RZLT.

- The RZLT Guidelines for Planning authorities, June 2022 provides guidance on ‘operating uses on residential zoned lands’
- In order for existing uses to be excluded from the final RZLT on lands zoned primarily for residential uses, four criteria must be satisfied. These criteria are ‘they must provide a service to the existing or future residential community, it must be an authorised use, must be considered a premises in use by a trade or profession and must be liable to commercial rates.
- The lands are stated not to be either ‘vacant or idle’.

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,
- c) Do not qualify for an exemption under Section 653B (c) (i) of the Taxes Consolidation Act 1997 as amended, as the lands are not in use as a premises in which a trade or profession is being carried on and which is liable to commercial rates and it is reasonable to consider the lands are not being used to provide services to residents of adjacent residential areas,
- d) Satisfy the other relevant criteria under section 653B of the Taxes Consolidation Act, as amended.

6.0 **The Appeal**

The appellants raised the following issues within their appeal submission:

- They request to have the lands rezoned from Z1—Sustainable Residential Neighbourhoods to Z6-Employment/Enterprise.

- The site comprises a mews development, comprising office and residential uses. The mews building at Number 62 was converted from office to residential use under planning reference 2830/14.
- The office space in the Mews building has the benefit of planning permission under planning reference 0343/91 and its use is long established for over thirty years. The office space is in use by a trade or profession and is liable to commercial rates.
- Over 50% of the site is in residential use.
- The subject lands should be removed from the RZLT map and be rezoned from Z1-Sustainable residential neighbourhoods to Z6-employment/enterprise.
- Fitzwilliam Lane is occupied by commercial uses and businesses including offices, a public house, medical practice and embassy/administration uses.
- The existing permitted office use within the site has been in operation for in excess of thirty years.
- The site is in compliance with Section 653B (a) (i) in that the site is 'included within a Development Plan and is zoned solely or primarily for residential use'.
- The commercial uses on site are in compliance with Section 653B c) (i) and (ii) which sets out 'development which 'is not unauthorised development, is in use as aa premises, in which a trade or profession is being carried on, that is liable to commercial rates, that it is reasonable to consider is being used to provide services to residents of adjacent residential area'....and 'unless it is reasonable to consider that the land is vacant or idle'.
- A trade or profession is being carried on within one of the Mews buildings, that is liable to commercial rates, the lands are not vacant or idle and therefore, the site should be exempt from the RZLT under Section 653B c) (i) and (ii) of the Taxes Consolidation Act 1997, as amended.
- Existing residential properties are not subject to the RZLT.
- The RZLT Guidelines for Planning authorities, June 2022 provides guidance on 'operating uses on residential zoned lands'

- In order for existing uses to be excluded from the final RZLT on lands zoned primarily for residential uses, four criteria must be satisfied. These criteria are ‘they must provide a service to the existing or future residential community, it must be an authorised use, must be considered a premises in use by a trade or profession and must be liable to commercial rates.
- The lands are not vacant nor idle.

7.0 Local Authority Submission

The Local Authority made no comment in relation to this appeal.

8.0 Assessment

The grounds of appeal have been fully considered. Under Section 653J of the Taxes Consolidation Act 1997 (as amended) the role of the Coimisiún in the current appeal is to review the determination of the local authority under section 653E of the Act which is based on the application of the relevant criteria set out in section 653B of the Act for inclusion on the RZLT map. 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 Coimisiún 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 Coimisiún may seek from the landowner, Local Authority or stakeholders identified in Article 28 of the 2001 regulations. In assessing any appeal, the Coimisiún is restricted to considering whether the lands meet the qualifying criteria set out in Section 653B of the Taxes Consolidation Act 1997 (as amended) only”.

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 in the map is land which in subsection (a) ‘is included in a development plan’ or ‘local area plan’ zoned (i) solely or primarily for residential use, (ii) or for a mixture of uses

including residential. The lands included within the RZLT map by the Planning Authority are zoned Z1-Sustainable Residential Neighbourhood and, therefore, are within the scope of Section 653B(a) (i) of the Act.

Section 653B (b) of the Taxes Consolidation Act 1997 as amended, specifically addresses the issue of connection to public infrastructure and states '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 for such development'.

The Local Authority within its assessment report sets out the following in this regard 'Given the location of the lands within the city centre and having regard to the existing use on the lands, it is reasonable to consider the lands have access, or can be connected, to public infrastructure and facilities'.

Under Section 653B (b) of the Taxes Consolidation Act, 1997, land is considered in scope for RZLT if it is either currently connected to, or capable of being connected to essential services, including foul sewer drainage. In this case, given the established and permitted uses within the Mews building on site which are all stated to be occupied, I consider that the subject lands are presently connected to public services, and they are located within an area where connection is feasible, and the UE capacity register confirms that there is capacity available within the watermains and foul sewer networks which are located in close proximity to the subject lands. Therefore, the land meets the statutory criteria as set out with Section 653B (b) of the taxes Consolidation Act 1997, as amended where the consideration is as follows 'is it reasonable to consider that the lands may have access, or be connected, to public infrastructure and facilities, including roads and footpaths, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed and with sufficient service capacity available for such development'. and is accordingly liable for the tax'.

I note from an examination (on the 5th day of November 2025) of the Uisce Éireann capacity registers (published August 2025) [Dublin | Water Supply Capacity Register | Uisce Éireann \(formerly Irish Water\)](#) confirms that the subject lands are serviceable, which indicates no capacity issues for either water supply or wastewater. I note that the water supply is subject to a level of service (LoS) improvement works. On this basis, it is reasonable to consider that there is some capacity in the water supply and wastewater network to cater for development of the subject lands.

The provision of infrastructure to the subject lands is considered to be in the control of Dublin City Council or Uisce Éireann and the local authority determined that that the subject lands are in scope and, therefore, retained within the RZLT Final Map. For the purposes of falling within the scope of RZLT, among the criteria as set out within Section 653B (b) of the Taxes Consolidation Act 1997 as amended, is whether it 'is reasonable to consider'. In my opinion it is reasonable to consider that the provision of access, footpaths, public lighting, surface water drainage, sewer and water connections may be provided on lands under the control of the landowner and/or the Local Authority. Consideration has also been had to the provisions of the Residential Zoned Land Tax- Guidelines for Planning Authorities June 2022. On this basis, the land, therefore, does satisfy the criteria cited in section 653B(b) of the Taxes Consolidation Act 1997, as amended.

The appellants contend that the Mews building by reason of its established and permitted commercial/office uses, stated by the appellants to be used as an administrative office associated with a clothing company and as a sports company, following a change of use application permitted by Dublin City Council under planning reference number 0343/91 in excess of thirty years ago, that the property is out of scope of the Taxes Consolidation Act 1997, as amended. I acknowledge that the office use within the Mews building on site is permitted. I also accept that commercial rates (documentation submitted as part of appeal submission) have been paid in relation to these office uses. The appellants state that the offices are in use by professionals carrying out their business operations. On the basis of the information received, I am of the opinion that the appellants have not demonstrated

that the established and permitted office uses 'provide services to residents of adjacent residential areas' as required under Section 653B(c)(i) of the Taxes Consolidation Act 1997, as amended.

The appellants state that the office uses provide employment in the area and provides a complementary use to the residential zoning objective that pertains to the site and provide a sustainable mix of uses in the area. However, as per the provisions of Section 653B(c)(i) of the Taxes Consolidation Act 1997, as amended, I am of the opinion that it is not reasonable to consider that the office uses provide services to residents of adjacent areas as required under the legislation and, therefore, should be placed on the RZLT map for 2026.

The appellants also raised the issue of rezoning the lands from Z1-Sustainable residential neighbourhoods to Z6-Enterprise/employment. In addition to the above, the Commission will note the provisions contained in section 114(b) of the Finance Act 2024, which amends section 653I of the Taxes Consolidation Act 1997 provided a mechanism for landowners to seek to amend the zoning of lands which are subject to existing economic activity, by virtue of requests to amend the zoning, submitted to the relevant local authority in accordance with section 653I of the Taxes Consolidation Act 1997 (as amended). The requests were to be made to the relevant local authority between 1 February and 1 April 2025, inclusive, with a requirement for the local authority to provide written acknowledgement of the request to the landowner by 30 April 2025. The intention of this legalisation was to provide a recourse for landowners to identify land needed for a particular use type including agriculture and for the LA to evaluate the submission and review the zoning accordingly with a view to varying the relevant Plan in accordance with Section 13 of the Planning and Development Act, where a rezoning would be considered appropriate. It appears the applicants in this instance made a request to the local authority (correspondence from the appellants to the Local Authority dated 31st March 2025). The Z1- Sustainable residential neighbourhoods zoning remains the defined land use zoning for these lands. On this basis, it is reasonable to assume that the lands are in-scope.

Having regard to the foregoing I consider that the lands zoned Z1-Sustainable residential neighbourhoods identified as land parcel ID number DCC000061943 under RZLT-000306 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 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

In the assessment of this appeal, regard was had to the content of the Residential Zoned land Tax-Guidelines for Planning Authority's 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.

The lands identified as RZLT-000306 (Parcel ID number DCC000061943 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 lands are located within an established urban area with services available, and no capacity or other reasons, including those raised in relation established and permitted office uses within the site, have been identified that would prevent the development of these lands in principle for residential purposes in accordance with the Z1 Sustainable Residential Neighbourhoods zoning objective that applies to these lands.

11.0 Recommended Draft Board Order

Taxes Consolidation Act 1997 as amended.

Planning Authority: Dublin City Council

Local Authority Reference Number: RZLT-000306

Appeal by Dromeenagh LLC. 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 17th day of June 2024 in respect of the site described below.

Lands at: Numbers 61 and 62 Fitzwilliam Lane, Dublin 2.

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 DCC000061943 and Local Authority reference number RZLT-000306 should remain 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 Authority's 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.

The lands identified as RZLT-000306 (Parcel ID number DCC000061943 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 lands are located within an established urban area with services available, and no capacity or other reasons, including those raised in relation established and permitted office uses within the site, have been

identified that would prevent the development of these lands in principle for residential purposes in accordance with the Z1 Sustainable Residential Neighbourhoods zoning objective that applies 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

7th day of November 2025