



An
Coimisiún
Pleanála

Inspector's Report ACP-323314-25

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

9 Appian Way, Dublin.

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

RZLT-000284

Appellant(s)

Michael Maughan

Inspector

Colin McBride

1.0 Site Location and Description

- 1.1. The site is located on the southeastern side of Appian Way and is occupied by no. 9. which is a two-storey over basement detached property in office use. The appellant has a number of concurrent RZLT appeals currently before the Commission, these include ACP 323312 for 49/50 Berystede, Leeson Park, D6, ACP Ref. 323315 for 14 & 14A Leeson Park D6, ACP Ref. 323324 for 8 Appian Way, D6 and ACP Ref. 323314 for 9 Appian Way, D6.

2.0 Zoning and Other Provisions

- 2.1. The site is zoned Z2 'Residential Neighbourhoods (Conservation Areas)' with a stated objective 'to protect and/or improve the amenities of residential conservation areas in the Dublin City development Plan 2022-2028'.

3.0 Planning History

- 3.1. ACP-323324: Current appeal of determination to include no. 8 Appian Way adjacent the site on the final RZLT Map.
- 3.2. 246/82: ABP refused permission for a three-storey office development.
- 3.2. 1202/77: ABP refused permission for an office development at the rear of no. 9 and to convert no. 8 Appian Way to 4 flats.
- 3.3. 375/68: ABP refused for a new store to the rear of no. 9 Appian Way.

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:
- 9 Appian Way is currently being used as a commercial premises and should be excluded from the map on the basis of Section 653B(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,
- do not qualify for and exemption under S.653B(c)(i) of the TC Act, 1997 as amended, as the landowner has not demonstrated that the use on lands is authorised and since it is reasonable to consider that the existing office use at the premises does not provide services to residents of adjacent residential areas,
- satisfy 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:

- The subject site should be excluded on the basis that such satisfies the relevant criteria under Section 653B(i). The property although zoned residential has been used for commercial purposes for more than 60 years and the imposition of RZLT is inconsistent with the stated aim of the legislation.
- 9 Appian Way is currently leased to a number of commercial tenants including a solicitors practice and a renewable energy company and is liable for commercial rates.
- The appellant refers to the planning history of the site and existing structure and the fact that such demonstrates that the structure on site was in use as office accommodation pre-1963 and in this regard the current use as offices is authorised under the meaning of the Planning Act, 2000, as amended.

- In relation to whether the trade/business provides services to residents or adjacent residential areas, it is pointed out that a solicitors practice may provide legal services to local residents and the activity on site employs a number of people with Part 22A-01-01 of the Revenues Tax and Duty Manual including employment as a provision of services to residents.

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 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 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 solely or primarily for residential use (Z2), the urban 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 it is not affected, in terms of its physical condition, by matters to a sufficient extent to preclude the provision of dwellings.
- 7.3. The main issue on this case relates to the status of land under Section 653B(i) with the Local Authority determining that the appellant has not demonstrated that the use

on the lands is authorised and that the existing premises does not provide services to residents of adjacent residential areas.

- 7.4. The appellant has indicated that the site and the structure on site has been in long term commercial use as office accommodation with a number of existing occupiers including a solicitor's office and renewable energy firm (solar). In relation to whether the use is authorised or not, the planning history associated with the property indicates that office use is a long-established use of the premises. The appellant refers to a letter to the Board concerning ref no. 246/82 regarding a grant of permission for office extension overturned on appeal in which it is indicated that the property has been occupied by office pre-1963 and it is recognised that the applicant has established rights and this matter was cleared with Dublin Corporation before the property was purchased.
- 7.5. I would consider based on the evidence on file and the planning history of the site that use of the existing structure on site for commercial use (office use) is a long-established use and would appear to be a pre-1963 use and in this regard the current commercial use on site would not be unauthorised. In this regard I do not share the Local Authority's view that the applicant has not demonstrated that the use is authorised. I further point out the planning history shows a pattern of Dublin City Council/Dublin Corporation granting permission for extension of office use on site (albeit such applications have been overturned by An Bord Pleanála). These applications indicate a historical consideration that office use is an established and authorised use.
- 7.6. In relation to whether the trade /business provides services to residents or adjacent residential areas, the existing premises is occupied by a solicitor's office and a renewable energy company. I am satisfied that a solicitor's office would come under the terms of an operation that would provide services to residents of adjacent residential areas in the form of legal services. I would also consider that the provision of employment in an area would also constitute the provision of services to residents of adjacent residential areas. The appellant referred to Part 22A-01-01 of the Revenues Tax and Duty Manual: Guidance on the Residential Zoned Land Tax (January 2005, which should be read in conjunction with the Part 22A of the Taxes Consolidation Act 1997. This document states under section 2.4 "Other exclusions from the scope of the tax – section 653B TCA 1997 In addition to residential

properties, certain types of land are excluded from the tax despite being zoned for residential use and serviced and do not appear on an RZLT map”.

“These are: 1. Land that, while zoned residential, is an authorised development used to carry on a trade or profession by a business liable to pay commercial rates, and which provides services to residents of adjacent residential areas, for example shops or pubs, or employment uses, such as offices”.

I would consider that the existing uses are office uses that provides employment in the area and would constitute the provision of services to residents of adjacent residential areas. In addition, the existing use on site is liable for commercial rates. I would be of the view that the site, which is zoned solely or primarily for residential use and falls under Section 653B(a)(i), is eligible for exclusion from the RZLT map on the basis that it fulfils the criteria under Section 653B(i).

8.0 Recommendation

- 8.1. Having regard to the foregoing, I consider that the lands identified as Parcel ID DCC000063880 do not meet the qualifying criteria set out in Section 653B of the Taxes Consolidation Act 1997, as amended for the following reasons.

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

9.0 Reasons and Considerations

- 9.1 The lands identified as part of Land Parcel ID DCC000063880 on the RZLT Final Map zoned Z2 are considered out of scope under the provisions of Sections 653B(i) of the Taxes Consolidation Act 1997, as amended. The lands are zoned solely or primarily for residential use and are located within an established urban area with services available. However, given the lands are in commercial use (existing office use) that is liable to commercial rates, and that it is reasonable to consider is being used to provide services to residents of adjacent residential areas (legal services and employment), and is not unauthorised development based on the planning

history of the site, it is not reasonable to consider that the lands are available for residential development.

10.0 Recommended Draft Board Order

Taxes Consolidation Act 1997 as amended.

Planning Authority: Dublin City Council

Local Authority Reference Number: RZLT-000284/D-0035

Appeal by Maichael Maughan 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: 9 Appian Way, 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 set aside the determination of the local authority and allow the appeal in relation to the lands identified as Parcel ID number DCC000063880 under Planning reference number RZLT-000284/D-0035.

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, 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 part of Land Parcel ID DCC000063880 on the RZLT Final Map zoned Z2 'are considered out of scope under the provisions of Sections 653B(i) of the Taxes Consolidation Act 1997, as amended. The lands are zoned solely or primarily for residential use and are located within an established urban area with services available. However, given the lands are in commercial use (ancillary use in relation Croke Park Stadium) that is liable to commercial rates, and that it is reasonable to consider is being used to provide services to residents of adjacent residential areas, and is not unauthorised development, 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.

Colin McBride
Senior Planning Inspector

14th November 2025