



An  
Coimisiún  
Pleanála

## **Inspector's Report ACP-323316-25**

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<b>Type of Appeal</b>	Appeal under section 653J (1) of the Taxes Consolidation Act 1997, as amended, against the inclusion of land on the Residential Zoned Land Tax
<b>Location</b>	Carpenterstown Road, Dublin 15
<b>Local Authority</b>	Fingal County Council.
<b>Local Authority Reg. Ref.</b>	FIN-C790-RZD 26-18
<b>Appellant</b>	Winterwood Developments Limited.
<b>Inspector</b>	Fergal Ó Bric

## 1.0 Site Description

The appeal lands identified as FIN-C790-RZD 26-18 and Parcel ID number FL0000002164 (part of). The lands comprise a stated area of 1.87 hectares of land and is part of a larger plot of land further east which comprises a total area of 8.52 hectares and includes the Balroy Hall apartment development located immediately east of the subject lands. The subject lands are located south of the Carpenterstown Road and north-east of the Diswellstown Road.

## 2.0 Zoning and Other Provisions

- 2.1. The site is zoned RS-Residential area in the current Fingal Development Plan 2023-2029 where the zoning objective is “To provide for residential development and protect and improve residential amenity.

## 3.0 Planning History

### 3.1. Site

PA reference number LRD0056/S3E in May 2025, Fingal County Council granted planning permission for a large-scale residential development relating to the development of 175 residential units on the lands and this decision was subsequently upheld by An Coimisiún Pleanála in September 2025, under reference number 322813-25.

## 4.0 Submission to the Local Authority

The appellants raised the following issues:

- The subject lands are located south of the Carpenterstown Road and west of the Balroy Hall apartment development.
- The subject lands are occupied by a single residential property and ancillary building and set within extensive landscaped grounds.
- The subject lands satisfy Section 653B (a) of the Taxes Consolidation Act 1997, as amended as the site is zoned RS residential within the current Fingal Development Plan 2023-2029.

- With regard to the availability of piped water services, Uisce Eireann (UE) have confirmed that there are presently network constraints within the 9C trunk sewer catchment area. UE have stated that in order to accommodate a large scale residential development (LRD) within the subject lands that it would be necessary to identify areas of groundwater infiltration to the sewer network and/or storm water misconnections and carry out repair works to offset the impact of any proposed residential development.
- Given the identified network capacity constraints within the wastewater network, the subject land should be deemed out of scope and removed from the final RZLT map for 2026.

## 5.0 Determination by the Local Authority

The local authority determined that the site fulfils the qualifying criteria to be included in the Final Map for the Residential Zoned Land Tax for 2026 for the following reasons:

- 1) The land is included in a Development Plan or a local area plan and is zoned for residential development or zoned for a mixture of uses, that includes residential development.
- 2) The land is serviced, or it is reasonable to consider may have access to services. Serviced means having access to the necessary public infrastructure and facilities including road and footpath access, public lighting, foul sewer drainage, surface water drainage and water supply necessary for dwellings to be developed and for which there is service capacity available sufficient to enable housing to be developed.
- 3) The land 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 or archaeological or historic remains.
- 4) The existing non-residential use of the lands that are the subject of the submission are not considered to benefit from the exclusions set out in the Finance Act 2021 at Section 653B.

## **6.0 The Appeal**

### **6.1 Grounds of Appeal**

- The subject lands are located south of the Carpenterstown Road and west of the Balroy Hall apartment development.
- The subject lands are occupied by a single residential property and ancillary building and set within extensive landscaped grounds.
- A large-scale residential development was permitted on the lands by Fingal County Council in May 2025 and this decision has been appealed to An Coimisiún Pleanála under reference number 322813-25.
- The subject lands satisfy Section 653B (a) of the Taxes Consolidation Act 1997, as amended as the site is zoned RS residential within the current Fingal Development Plan 2023-2029.
- UE have stated that there is an existing 300mm diameter foul sewer and 225mm watermains located north of the subject lands along the Carpenterstown Road
- With regard to the availability of piped water services, Uisce Eireann (UE) have confirmed that there are presently network constraints within the 9C trunk sewer catchment area. UE have stated that in order to accommodate a large scale residential development (LRD) within the subject lands that it would be necessary to identify areas of groundwater infiltration to the sewer network and/or storm water misconnections and carry out repair works to offset the impact of any proposed residential development.
- Given the identified network capacity constraints within the wastewater network, the subject land should be deemed out of scope and removed from the final RZLT map for 2026.
- The appellants acknowledge that the lands are developable for residential purposes within the period of any planning permission that may be granted by the Commission. However, in terms of inclusion within the final RZLT map for 2026, the lands are not currently developable for residential purposes.

- The applicants will not be in a position to engage with UE without a grant of planning permission which would establish the number of residential units to be facilitated and, therefore, the extent of repairs to the sewer network to offset the impact of the proposed development.

## **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 RS-Residential within the current Fingal Development Plan 2023-2029 and, therefore, are within the scope of Section 653B(a) of the Act.

The comments raised in the appeal submission are noted. The Local Authority determined that the lands are in scope and that they remain on the RZLT map. The Local Authority set out that the site is within a designated urban settlement with services available and no capacity or other reasons have been identified that would prevent the development of these lands for residential purposes.

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. Section 4.1.1 of the RZLT Guidelines set out the following: iii) Services to be considered of the guidelines state that "*in assessing whether land or landbanks are able to connect to services, Planning Authorities should take into account the following:- In the first instance, where the infrastructure is located adjoining, intersecting, at a boundary or corner of a landbank, in a nearby public road, or is connected to an existing development adjoining the landbank, the lands should be considered to be 'connected' or 'able to connect' and therefore are in-scope*".

Section 4.1.1 ii) Review of land with planning permission of the guidelines states 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....Significant works by the applicant to undertake the development which are a part of the plans and particulars lodged as*

*a part of the permitted development should be given careful consideration in light of Section 4.1.1.(iii) of these Guidelines.*

Of relevance, I note that the site has been the subject of a grant of planning permission for the construction of a large-scale residential development by the Local Authority under planning reference LRD0056/S3E. Permission was subsequently granted to Winterwood Developments Limited on 19/08/2025 by An Coimisiún Pleanála under reference number 322813-25 for the construction of one hundred and seventy five residential units. I have reviewed the conditions attached to this grant of planning permission and note there is no specific condition relating to wastewater upgrades or constraints that would preclude development coming forward on the site.

The Planning Authority within their assessment have set out that the site is serviceable in terms of roads, footpaths, public lighting, water supply, wastewater, and surface water infrastructure. Correspondence from UE on file states that there is access to watermains and the wastewater network immediately north of the subject lands along the Carpenterstown Road and that capacity is available within the piped networks. UE acknowledge that 'there are some downstream constraints in the 9B sewer. Depending on the size of development proposed, offsets (such as removal of infiltration and misconnections) may be required'. The appellants

acknowledge within their appeal submission that the site has access to services, or it is reasonable to consider may have access to services.

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'.

I consider that the subject lands could access the public services via the public networks, notwithstanding that capacity within the foul sewer network and Oranmore foul pumping station is presently restricted. I have consulted (on the 11<sup>th</sup> day of November 2025) the Uisce Eireann (UE) capacity register [Fingal | Wastewater Treatment Capacity Register | Uisce Éireann \(formerly Irish Water\)](#) published in August 2025, it is green for water supply indicating that there is water capacity available and that there is also capacity available in the public foul network supply, albeit there is a level of service (LoS) improvement required for water supply. Fingal County Council determined that the lands are in scope.

The provision of infrastructure to the subject lands is considered to be in the control of Fingal County Council or Uisce Eireann 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.



Page 8 of the Residential Zoned Land Tax - Guidelines for Planning Authority, June 2022 (RZLT Guidelines) sets out 'that a need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist'. Issues relating to capacity within the foul sewer network were raised by the appellants and it is contended that there is access to a foul sewer main and public watermain in proximity to the subject lands, albeit that upgrade works are required to the 9B sewer network in the Fingal area, as confirmed by the Uisce Eireann within their written report. I consider that the lands be deemed in scope' in accordance with the provisions of Section 653B (b) of the taxes Consolidation Act 1997, as amended.

No road capacity issues were raised in the local authority report or within the referral responses it received. On this basis, it is reasonable to consider that there is capacity available in the local road network to cater for development.

Based on the information available, I am satisfied that the lands do not meet the criteria for exclusion set out in section 653B.

The appeal grounds do not raise any other matters that would apply to the subject lands and warrant its removal from the map, with reference to the Taxes Consolidation Act 1997 as amended and the RZLT Guidelines.

## **7.0 Recommendation**

I recommend that the Coimisiún confirm the determination of the local authority and direct the local authority to include the site on the final RZLT map.

## **8.0 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 FIN-C790-RZD 26-18 (Parcel ID number FL0000002164 - part of) located on residentially zoned lands identified within the current Fingal County Development Plan are considered in scope of Section 653B of the Taxes Consolidation Act 1997, as amended. The lands are zoned for residential purposes. The lands are located within an established urban area with services available, and no piped services capacity or other reasons including access to roads infrastructure have been identified that would prevent the development of these lands in principle for residential purposes in accordance with the residential zoning objective that applies to these lands. I note that the Residential Zoned Land Tax - Guidelines for Planning Authority, June 2022 (RZLT Guidelines) set out 'that a need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist'.

#### **11.0 Recommended Draft Coimisiún Order**

**Taxes Consolidation Act 1997 as amended.**

**Planning Authority:** Fingal County Council

**Local Authority Reference Number:** FIN-C790-RZD 26-18

**Appeal** Winterwood Developments Ltd. Company 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 Fingal County Council on the 25<sup>th</sup> day of June 2025 in respect of the site described below.

**Lands at:** Carpenterstown Road, Dublin 15

#### **Decision**

The Coimisiún 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 Coimisiún confirms the determination of the local authority and direct the Local Authority to retain the lands identified as Parcel ID number FL0000002164 (part of) under FIN-C790-RZD 26-18 should be placed 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 FIN-C790-RZD 26-18 (Parcel ID number FL0000002164 - part of) located on residentially zoned lands identified within the current Fingal County Development Plan are considered in scope of Section 653B(a) of the Taxes Consolidation Act 1997. as amended. The lands are zoned for residential purposes. The lands are located within an established urban area with services available, and no piped services capacity or other reasons including access to roads infrastructure have been identified that would prevent the development of these lands in principle for residential purposes in accordance with the residential zoning objective that applies to these lands. I note that the Residential Zoned Land Tax - Guidelines for Planning Authority, June 2022 (RZLT Guidelines) set out 'that a need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist'. I

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.

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Fergal Ó Bric  
Planning Inspectorate

12th day of November 2025