



An  
Coimisiún  
Pleanála

## Inspector's Report ACP-323337-25

### Development

Inclusion of the land on the residential zoned land tax final map on lands at Cherrywood, Co. Dublin.

### Location

Cherrywood, Co. Dublin.

### Planning Authority

Dun Laoghaire Rathdown County Council

### Local Authority Reg. Ref.

DM25/010

### Appellant

Evara

### Inspector

Frank O'Donnell

## 1.0 Site Location and Description

- 1.1. The lands identified as DM25/010 (Land Parcel IDs DELA00000039, DELA00000026, DELA00000021 & DELA00000015) are located with the Cherrywood SDZ Planning Scheme at various locations, in Development Areas 1, 2 and 8.
- 1.2. Cherrywood is located close to Cabinteely Village, to the north of Loughlinstown and to the west of Ballybrack.
- 1.3. The subject RZLT Appeal relates to the following Land Parcels:

Parcel ID	Site Area	Zoning	Development Area	Tile Name
DELA00000039	5.9 hectares	Residential	DA 1 - Lehaunstown	L1/L2
DELA00000015	0.9 hectares	Village Centre	DA 8 – Tully	T1

- 1.4. The above 2 no. subject RZLT appeal Land Parcels have a combined site area of 6.8 hectares.

## 2.0 Zoning and other provisions

- 2.1. The relevant plan is the Cherrywood Planning Scheme (updated 2023). Land Parcel DELA00000039 is zoned Residential. Land Parcel DELA00000015 is zoned 'Mixed Use' where residential development is permitted in principle.
- 2.2. In Chapter 2 'Proposed Development in Cherrywood' the following lands are designated to deliver residential development, as follows:

Land	Zoning	No. of Units
L1	Res 3	Min 1417 – Max 3161
L2	Res 4	Min 502 – Max 1033
T1	Village Centre	Max c. 2,160 residential units in the Town Centre and 3 no. Village Centres

2.3. Chapter 7 of the Planning Scheme relates to Implementation: 'Sequencing and Phasing of Development'. The following Development Areas apply to the subject lands:

- L1 and L2: Development Area 1 – Lehaunstown, located at the northern end of the SDZ is a mixed-use development area comprising green infrastructure, a village centre and residential areas. (Growth Area 2)
- T1: Development Area 8 - Located in the north-western section of the SDZ comprises lands for residential and mixed-use purposes. (Growth Area 3)

2.4. The 8 no. Development Areas are grouped together into 3 Growth Areas, as follows:

- Growth Area 1: Development Areas 2, 4, 5, and 6A.
- Growth Area 2: Development Areas 1 and 3.
- Growth Area 3: Development Areas 6B, 7 and 8.

2.5. Section 7.2.1 of the Planning Scheme relates to Sequencing and Implementation Growth Areas. In relation to Residential and separately in relation to Village Centre, the following is stated in Section 7.2.1:

- **Residential:**

*Growth Area 1 can be permitted immediately. In addition, on the basis of the infrastructure permitted to-date and under construction (Roads Phase 1, Tully Park, Ticknick Park and Beckett Park), it is considered appropriate that in addition to the residential development of Growth Area 1, development up to a maximum of 2,300 residential units in total, in either Growth Area 2 or 3 may be permitted in tandem with Growth Area 1 (Refer To Map 7.2).*

*Accordingly, the sequencing requirements allow for the delivery of residential units in Growth Areas 2 & 3 in tandem with the Growth Area 1. In addition, the Village Centres may be permitted as supporting uses for the initial threshold of 2,300 residential units in Growth Areas 2 & 3.*

- **Village Centres:**

*The villages along with the neighbourhood concept underpin the vision and key principles for a sustainable Cherrywood. With their range of local retail, services and easy access by walking or cycling to the adjoining residential areas, the villages lie at the heart of the community. To ensure their delivery in tandem with the new residential areas, each of the Village Centres must be permitted prior to the grant of permission for any development exceeding the minimum quantum of residential units in the associated Development Areas, i.e. Development Areas 1, 3 & 8.*

2.6. 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.

2.7. Chapter 2 of the Written Statement relates to Core Strategy and includes a number of Sections considered to be of relevance, as follows:

- Section 2.3.7.1 'Potential Residential Yield' where in reference to the Cherrywood SDZ area a residential yield of between 5,596 to 8,186 units is stated.
- Section 2.4.4 relates to the Dún Laoghaire-Rathdown (DLR) Core Strategy where in relation to Cherrywood, the following is stated:
  - *'The full capacity of the Cherrywood Strategic Development Zone is incorporated into the Core Strategy Table below and comprises an estimated residential yield of between 5,596 to 8,186 units. While the Cherrywood SDZ lands comprise Tier 1 and 2 zoned residential lands that may be developed within the lifetime of the Plan, it is acknowledged that the full build-out of Cherrywood may extend beyond the timeframe of the Plan.'*
- Table 2.9 designates the area of Cherrywood as Tier 1 and Tier 2. The Plan does not indicate which areas of the SDZ are Tier 1 or Tier 2.
- Policy Objective CS9 – Strategic Development Zone: It is a Policy Objective to continue to implement the approved Planning Scheme for the Cherrywood Strategic Development Zone.

- 2.8. Chapter 11 relates to Heritage and Conservation.
- 2.9. Chapter 12 relates to Development Management.
- 2.10. Chapter 13 relates to Land Use Zoning.

### 3.0 Planning History

#### 3.1. Planning History

There is an extensive planning history associated with the subject land parcels **(Land Parcels DELA00000039 and DELA00000015)**, as follows:

##### L1 & L2 (Growth Area 2)

- **DZ15A/0758 (as extended):** Permission for Roads and Infrastructure (Phase 1) as approved under the Cherrywood SDZ Planning Scheme (2014) for form part of public road network providing access and services for the future development of the adjoining SDZ lands. Permission was GRANTED in August 2016. The duration of this permission was EXTENDED under planning reg. ref. no. DZ15A/0758/E up to November 2024.
- **DZ21A/0334:** Permission for development that included 482 no. dwellings in a mixture of houses, duplexes, triplexes and apartments. Permission was GRANTED in April 2022.
- **DZ23A/0005:** Permission for the inclusion of 89 no. residential units. Permission was GRANTED in July 2023.
- **DZ23A/0468:** Permission for Amendments to planning reg. ref. no. DZ21A/0334 for an overall increase in residential units permitted under planning reg. ref. no. DZ21A/0344 from 488 no. to 492 no. (4 no. additional units). Permission was GRANTED in May 2024.
- **DZ25A/0044:** Permission for amendments to development permitted under planning reg. ref. no. DZ21A/0334 and DZ23A/0468 to increase the overall scheme from 492 no. units to 517 no. units. Permission was GRANTED in July 2025.

Condition no. 3 b) reads as follows:

- 3 b) *Grand Parade B - C as permitted under DZ15A/0758 shall be fully completed to a taking in charge standard and opened for use prior to the commencement of development to facilitate a construction access route to the site.*

T1 (Growth Area 3)

- **DZ23A/0106:** Permission for a mixed use development including 139 no. dwelling units, supermarket, retail units, community facility and employment units. Permission was GRANTED in September 2023.

Condition 2 of planning Reg. Ref. no. **DZ23A/0106** reads as follows:

2. a) *Regarding Roads Phase 1, Residential units shall not be occupied prior to the completion of Roads Phase 1: Junction at A, roads I1-A-A1-B-L-P2-C-D-D1-K1-K-F1-J-A2-A1 and road B-A2 (provided by permission DZ15A/0758 and as amended by DZ17A/0862) to Taking in Charge Standard.*
- b) *The road network elements as permitted under DZ15A/0758 that have not been Taken-In-Charge and which serve the proposed development for construction and occupation access, shall not be a public road and shall remain as a private road until such time as Taken in Charge by the Planning Authority in accordance with DZ15A/0758 and DZ17A/0862.*

REASON: To ensure consistency with the Phasing and Sequencing requirements of Cherrywood Planning Scheme Table 7.3 Transportation Infrastructure, to ensure that the road materials and specifications meet with the requirements of the Planning Authority and in the interests of the proper planning and sustainable development of the area.

Condition no. 3 planning Reg. Ref. no. **DZ23A/0106** reads as follows:

3. *The proposed temporary pond shall remain in use until the date of the commissioning and commencement of operation of the permanent Regional Attenuation Pond (Pond 2A). The temporary pond shall then cease use within 6 months of the date of the commissioning and commencement of operation of the permanent Regional Attenuation*

*Pond (Pond 2A). It is envisaged that the period of time for the use of the temporary pond will be in the region of 2 years.*

*REASON: in the interest of clarity and the proper planning and sustainable development of the area.*

- **DZ25A/0014:** Permission for amendments to development permitted under DZ23A/0106 consisting of the reconfiguration of the basement layout, layout alterations at ground floor level, bike facilities and parking, reduction in number of car parking spaces, amendments to attenuation tank. Permission was GRANTED in March 2025.

### 3.2. **RZLT Cases with relevance to the subject Appeal sites (Land Parcels DELA00000039 and DELA00000015)**

- **ABP-316999-23 (Local Authority Ref. no. DM22-0087):** The Board decided to Confirm the determination of the Local Authority that the following plots L1W, L1E, L2, TC5, TC6, P7, T1, T2, T3, T5 and T13, within the subject lands were in scope and should remain on the RZLT map: L1W, L1E, L2, TC5, TC6, P7, T1, T2, T3, T5 and T13. 2 no. plots (M1 and M4) within the subject lands were excluded from the RZLT map. A decision was issued on 24<sup>th</sup> October 2023.
- **ABP-320378-24 (Local Authority Ref. no. DM24-17):** The Board decided to Confirm the determination of the Local Authority that the lands identified as a Range of lands within the Cherrywood Planning Scheme Area, Dublin 18: Plot 1 - Growth Area 2 - L3; Plot 2 - Growth Area 3 - T4; Plot 3 - Growth Area 1 - DM5; Plot 4 - Growth Area 1 - DM6; Plot 5 - Growth Area 1 - TC5; Plot 6 - Growth Area 1 - DM4; Plot 7 – Growth Area 1 – DM3 (Parcel ID DELA00000036, DELA00000031, DELA00000033, DELA00000026, DELA00000032, DELA00000034, DELA00000028). The appeal against the LA determination relates only to Plot 3 (Parcel ID DELA00000033), Plot 5 (Parcel ID DELA00000026), and Plot 6 (Parcel ID DELA00000032). A decision was issued on 16<sup>th</sup> October 2024.

- **ABP-320384-24 (Local Authority Ref. no. DM24-0015):** The Board Decided to Confirm the determination of the Local Authority that the following plots L1 and L2, TC5, TC6, T1, T3, T5 and T13 within the subject lands were in scope and should remain on the RZLT map and that Plot P7 within the subject lands was excluded from the RZLT map. A decision was issued on 22<sup>nd</sup> October 2024.

This decision (ABP-320384-24) is the subject of a current **Judicial Review** to the High Court as case ref. no. **GL1531** refers. The case is understood to be next before the Court for mention on 4<sup>th</sup> November 2025. A hearing date has yet to be set.

#### 4.0 **Submission to the Local Authority**

The Appellants made a submission to the Local Authority seeking to have their land removed from the final map on the basis that:

- The Appellant considers the Local Authority has adopted a strict interpretation of the Residential Zoned Land Tax as it relates to Tax liability. The Appellant has referenced Case Law in support of this assertion.
- The Appellant considers that they do not have the legal rights to complete works on, connect to or utilise roads, footpaths, surface water and water supply outside their control/ ownership and which are required for access to facilitate the development and occupy the subject lands.
- Various infrastructural issues are identified by the Appellant which they contend prevent the lands from being considered to be in scope for the RZLT. The infrastructural issues identified include restrictions on the temporary use of Castle Street, the incomplete nature of Grand Parade Road and Pond 2A for the surface water solution and required upgrades to the water supply infrastructure. Owing to a lack of access to the necessary infrastructure, the Appellant contends that this makes it unreasonable to consider the lands to be eligible for the RZLT.



## 5.0 Determination by the Local Authority

5.1. I note in respect of L1/L2 (DA 1 Lehaunstown – Growth Area 2) to which Land Parcel **DELA0000039** relates, the following points are of note, as set out in the Internal Report from the Development Agency Project Team (DAPT):

- *Permitted – not commenced – sub 2,300 threshold – threshold does not apply.*
- *Completion of Roads Phase 1 required under Sequencing and Phasing Table 7.3 for Growth Area 2 for purpose of permission. AS the site has permission, it is no longer subject to further phasing requirements.*
- *Site can be accessed via Roads Phase 1. Consent given by 3<sup>rd</sup> Party landowner for construction and operational access and for the purposes of facilitating future connections to public infrastructure (surface water drainage).*
- *Site is serviceable by way of an interim surface water management solution, in lieu of Pond 2A, on lands within the applicant's landownership.*
- *Site is serviceable – based on the objective information available to DAPT at the time of this recommendation in respect of access rights conferred by third party landowners, it is reasonable to consider that the site 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.*

5.2. I further note, in respect of T1 (DA 3 – Tully - Growth Area 3) to which Land Parcel **DELA0000015** relates, the following points are of note, as set out in the Internal Report from the Development Agency Project Team (DAPT):

- *Permitted VC Village Centre zoned land inc. Residential and not subject to 2,300 threshold.*
- *Consent given by 3<sup>rd</sup> Party landowner for construction and operational access and for the purposes of facilitating future connections to public infrastructure (surface water drainage).*
- *Village Centre – not subject to any Phasing Requirements.*

- *Site is serviceable by way of an interim surface water management solution, in lieu of Pond 2A, on lands within the applicant's landownership.*
- *Site is serviceable – based on the objective information available to DAPT at the time of this recommendation in respect of access rights conferred by third party landowners, it is reasonable to consider that the site 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.*

5.3. The Local Authority determined pursuant to Section 653E(1)(a)(ii)(I) of the Taxes and Consolidation Act 1997 (as amended), for Submission Reference DM25/010, to INCLUDE Land Parcels **DELA00000039** (L1 & L2) and **DELA00000015** (T1) on the Final map of the Residential Zoned Land Tax as defined by 653K of the Taxes Consolidation Act 1997 (as amended) for the following (3) reason(s):

5.4. The land is zoned solely and primarily for residential use.

5.5. 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.

5.6. 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.

5.7. The Local Authority also considered that a portion of the subject land (**DELA00000026** (TC5) and **DELA00000021** (TC6)) does not constitute land satisfying the criteria as per Section 653E(1)(a)(ii)(I) of the Taxes Consolidation Act 1997 (as amended) and it is recommended to EXCLUDE the above subject lands for the reason(s) set out above.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The appeal is concerned with 2 no. sites which the Local Authority has decided to include on the RZLT Map.

- Access to the Lands and Access to Services is dependent upon the agreement of a third party. As of 1 January 2022, and up to and including 1<sup>st</sup> January 2025, the Appellant was therefore not able to connect to those roads and services, and the lands were therefore Out of Scope as a result.
- Under planning reg. ref. no. DZ15A/0758 planning conditions require completion of Roads Phase 1. Grand Parade Road which forms part of Roads Phase 1 and which is still under construction, is in separate third party ownership/ control and the Appellant does not have consent to connect to same, until the said road is taken in charge. The lands must therefore be considered Out of Scope of RZLT.
- The legal position relating to Grand Parade was not fully recognised by the Local Authority. Letters of consent for planning permission do not extend to lands outside the permitted red line boundary and may have been misinterpreted as consenting to access. The lands are therefore Out of Scope of RZLT on the basis of access as they are not connected to or have capacity for road infrastructure.
- Condition no. 3 b) of planning reg. ref. no. DZ25A/0044 (quoted above in Section 3.0 Planning History) relates to Sections B to C of Grand Parade Road. This section did not have planning permission as of 1<sup>st</sup> January 2025 as the previous permission, the duration of which was extended, had withered, see planning reg. Ref. no. DZ15A/0758 (as extended) (Expired in November 2024). The delivery of this section of road is not within the control of the Applicant but is instead in third party ownership/ control. The Appellant states that this section of road (Grand Parade B to C) is outside of the defined redline boundary for DZ25A/0044, nor was it required to gain access to the

lands in question, nor indeed within the letter of consent from the adjoining third party to allow the inclusion of their land in said planning application. Condition 3 b) is at odds with the Appellants objection submission in June 2025 to the inclusion of the L1/L2 lands on the draft RZLT Maps.

- The 2 no. of the sites, the subject of this appeal, are dependent upon the completion of Pond 2A for their permanent surface water solution. Delivery of this pond is in the control of the Local Authority and is not anticipated to commence until at least Q1 of 2026. The permission on the L1/L2 site includes a Condition which prevents required works on the L1/L2 site pending completion of Pond 2A. The other site (T1) has an interim surface water management arrangement pending the completion of Pond 2A. This has a knock on impact on the cost of each unit.
- The Appellant submits that as per Circular Letter NRUP 01/2024, land is to be excluded from the RZLT Maps if it is subject to phasing objectives in the development plan. The Cherrywood SDZ has clear phasing and sequencing arrangements to accommodate the development of the lands. The Cherrywood Planning Scheme remains in Phase 1 and an extensive degree of infrastructure is required to be completed before progress to the later stages of the scheme.
- The County Core Strategy instructs that the lands within Cherrywood Planning Scheme are subject to phased management under the Scheme and that the full build out of the scheme may extend beyond the timeframe of the plan. The delivery of the required phasing infrastructure is outside of the control/ ownership of the Appellant.
- As per Section 7.2.1 of the Planning Scheme, Phase 1 Roads are required to be completed in order to facilitate development in Growth Areas 2 & 3. In order to enable development and/ or occupation, the completion of some or all of the Phase 1 roads are required under the planning permissions for all the plots subject to this appeal. The Appellant has no control over the timeline for completion or indeed some of the land required for Phase 1 Roads.

- The RZLT Maps for other SDZs have largely excluded lands recognised as strategic and subject to long term phasing objectives, see for example Poolbeg, Clonburris, Grand Canal Dock and North Lotts. The inclusion of the subject lands on the RZLT Maps is therefore unfair and inconsistent.
- In summary, the subject lands are Strategic, Subject to Phased management over time as part of the planning scheme which extends beyond the lifetime of the plan, and are subject to the delivery of phased infrastructure which has not taken place to date and is outside the control of the landowner.

The following Appendices and attachments are included with the appeal submission:

- Appendix 1 – Planning Context
- Appendix 2 – Scoping Exercise for the 2 no. sites
- Attachments to the Appeal are stated as follows:
  - RZLT Cover Letter
  - RZLT Appeal Report
  - Original RZLT Submission Report
  - Local Authority Determination and Evaluation Report
  - Third Party Letter of Consent (1 no.)
  - Site Location Maps
  - Third Party Letters of Consent (2 no.)
  - Notification of Decision to Grant Permission for L1/L2 amendments, reg. ref. no. DZ25A/0044/WEB, dated July 2025.

## 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 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, and states that 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 lands which are the subject of this RZLT Appeal comprises 2 no. Land Parcels, i.e. DELA000000039 (5.9 Hectares) and DELA000000015 (0.9 Hectares).
- 7.4. Land Parcel DELA000000039 is zoned Residential in the Cherrywood SDZ Planning Scheme and is therefore within scope as per Section 653B(a)(i).
- 7.5. Land Parcel DELA000000015 is zoned Village Centre in the Cherrywood SDZ Planning Scheme where a mixture of uses, including residential use, are permitted in principle. This said Land Parcel (DELA000000015) is considered to be vacant and idle (undeveloped) and therefore, having regard to the provisions of Section 653B (ii) is considered to be within the scope of Section 653B (a) ii).
- 7.6. The Appellant considers there are infrastructure issues which preclude development and result in the lands being Out of Scope.

- 7.7. I note the northernmost Land Parcel DELA000000039 has an L shape and that its northwestern boundary is adjacent to a partially complete distributor road, Barrington's Road/ Aoibhín's Way. I note Loughinstown Luas stop and the Luas (Green) line are located along the northeast boundary of this land parcel and that this is in turn adjacent to the route of Grand Parade distributor road. The route of Grand Parade Road links to Valley Drive Road further to the southeast which in turn connects to the R118 Regional Road further to the southeast. The southeast site boundary of Land Parcel DELA000000039 runs along Gun and Drum Hill distributor road. There is an existing housing development, part of which is still under construction, located to the immediate southwest of the subject Land Parcel, which includes a number of potentially viable access points to Land Parcel (DELA000000039). I note, as per available satellite imagery dated May 2025, that a construction entrance to this Land Parcel is established along its northern site boundary (Aibhine's Way) and that the northern part of the Land Parcel includes construction materials including several shipping containers.
- 7.8. In relation to the Land Parcels which are the subject of this Appeal, UÉ has confirmed that the sites are serviced/ are serviceable with watermains and sewer networks located in close proximity to the sites. UÉ state the capacity registers for water supply and wastewater treatment are available on its website. UÉ state water supply in the Greater Dublin Area is somewhat constrained and that there is sufficient wastewater treatment capacity.
- 7.9. I note the planning history of Land Parcel (DELA000000039) which includes planning reg. ref. no's DZ21A/0334, DZ23A/0468 and DZ25A/0044. I note that under planning reg. ref no. DZ25A/0044, in particular, a total of 517 residential units are permitted on this Land Parcel and that Condition no. 3 b), as referenced by the Appellant, requires Grand Parade B – C as permitted under DZ15A/0758 to be fully completed to a taking in charge standard and opened for use prior to the commencement of development to facilitate a construction access route to the site. I estimate the distance between points B to C on Grand Parade Road, as shown on Map 7.2 of Chapter 7 (Implementation: Sequencing and Phasing of Development) of Cherrywood SDZ Planning Scheme, to measure approximately 866 metres. I note as per the aforementioned satellite imagery, dated May 2025, that Grand Parade Road from its junction with Aoibhín's Way to the north of the Land Parcel to its junction

with Gun and Drum Hill Road to the east of the Land Parcel has cycle lanes, footpaths and the road carriageway installed and is nearing full completion save for a small section highlighted in the Appellants Appeal submission, see page 12. A separate section of this Road, as highlighted by the Appellant on the same extract, although adjacent to point B, relates to a separate road from point B to point A2 and is therefore, in my opinion, not relevant to Condition no. 3 b) not indeed Land Parcel (DELA00000039).

- 7.10. The Appellant submits the delivery of this section of road is not within their control but is instead in third party ownership/ control. I note as per the Local Authority Assessment/ Determination Report, under the summary of the Internal Report from the Development Agency Project Team (DAPT) and with specific reference to the subject Land Parcel (DELA00000039) (L1/L2) it is stated that the '*site can be accessed via Roads Phase 1. Consent given by 3rd Party landowner for construction and operational access and for the purposes of facilitating future connections to public infrastructure (surface water drainage).*' The Appellant submits that the legal position relating to Grand Parade was not fully recognised by the Local Authority and that letters of consent for planning permission do not extend to lands outside the permitted red line boundary and may have been misinterpreted as consenting to access. I note the permitted redline boundary as per the site location map attached to planning reg. ref. no. DZ25A/0044, received by the Local Authority on 21<sup>st</sup> January 2025, includes the abovementioned incomplete section of Grand Parade Road positioned close to the northwest site boundary and within third party ownership. In my opinion, it is reasonable to consider the lands (Land Parcel DELA00000039) may have access, or be connected to public infrastructure and facilities, including roads and footpaths, in the area. Notwithstanding this opinion, I note the subject Land Parcel (DELA00000039) is, in theory, accessible from other locations along its boundaries.
- 7.11. Land Parcel DELA00000015 is accessible via Gun and Drum Hill Road and Castle Street.
- 7.12. I note the Appellant submits that the 2 no. sites, the subject of this Appeal (Land Parcel DELA00000039 and DELA00000015), are dependent upon the completion of Pond 2A for their permanent surface water solution, that delivery of this pond is in the control of the Local Authority and that this is not anticipated to commence until at



least Q1 of 2026. The site is served by an interim surface water management solution, in lieu of Pond 2A, on lands withing the Appellants ownership. In this regard, I note there is an existing pond located along the northeast site boundary of Land Parcel DELA00000039, adjacent to the Luas Line. The other site (Land Parcel DELA00000039 (T1)) also utilises the same interim surface water management arrangement pending the completion of Pond 2A.

- 7.13. The Appellant submits that the permission on the L1/L2 site includes a Condition which prevents required works on the L1/L2 site pending completion of Pond 2A. I note the permission referred to is planning reg. ref. no. DZ21A/0334 and that although the Appellant has not referenced which specific condition relates to Pond 2A that condition no. 6 (Phasing and Sequencing), 21 (Surface Water Drainage, Water Supply, and Wastewater Infrastructure & Utilities) and 22 (Stormwater Management) all relate to surface water/ stormwater management.
- 7.14. As per Section 653B b) the test is whether it is reasonable to consider the site may have access, or be connected, to public infrastructure and facilities, including, in this instance, surface water drainage. It is clear that the subject Land Parcels DELA00000039 and DELA00000015 during the period between 1<sup>st</sup> January 2022 and 1<sup>st</sup> January 2025 were connected to or could be connected to a surface water drainage system, albeit temporary pending a permanent solution in the form of Pond 2A. Planning permission (Part 8) for this said pond is understood to have already been secured and the works are anticipated to take place, according to the Appellant, in Q1 2025.
- 7.15. Therefore, having regard to the foregoing, it my opinion, that it is reasonable to consider the subject Land Parcels (DELA00000039 and DELA00000015) may have access, or be connected, to public infrastructure and facilities, as per the provisions of Section 653B b) and that therefore the lands should remain in scope.
- 7.16. I note the Appellants case in relation to phasing. I note in the case of Land Parcel DELA00000039 that planning permission is in place and that therefore the said lands are no longer subject to further phasing requirements. In addition, as discussed further above, it is reasonable to consider the lands have access, or can be accessed via the local road network. Land Parcel DELA00000015 is zoned Village Centre and is therefore not subject to phasing, as per the Cherrywood SDZ Planning

Scheme. Land Parcels DELA00000039 and DELA00000015 are within Growth Area 2 (L1 & L2) and Growth Area 3 (T1). The permitted residential units are within the additional 2,300 unit threshold that is permissible together with the development of Growth Area 1 in accordance with the Sequencing and Implementation objective of the Cherrywood Planning Scheme.

- 7.17. I note that although the Cherrywood SDZ lands comprise Tier 1 and Tier 2 zoned residential lands that may be delivered within the lifetime of the Dún Laoghaire Rathdown County Development Plan 2022-2028, it acknowledges that the full build out of Cherrywood may extend beyond the lifetime of the plan.
- 7.18. Having regard to the foregoing, it is my opinion that it is reasonable to conclude that the Sequencing and Implementation Objectives of the Cherrywood Planning Scheme do not preclude the provision of residential development on the subject Land Parcels (DELA00000039 and DELA00000015) and therefore the lands remain in scope and are not exempt on the basis of phasing as per the provisions of Section 653B (iia).
- 7.19. 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.

## **8.0 Recommendation**

- 8.1. I recommend the Commission confirm the determination of the Local Authority and direct the Local Authority to include the 2 no. subject Land Parcels (DELA00000015 and DEAL00000039) 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 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.
- 9.2. The lands identified as Land Parcel ID DELA00000039 are zoned Residential in the Cherrywood SDZ Planning Scheme (updated 2023), which forms part of the Dún

Laoghaire Rathdown County Development Plan 2022-2028. Land Parcel ID DELA00000039 is therefore considered to be in scope as per Section 653B a).

- 9.3. The lands identified as Land Parcel ID DELA00000015 is zoned for a mixture of uses as 'Village Centre', within which residential development is permitted. The said Land Parcel DELA00000015 is considered to be vacant or idle and does not avail of the exemption under Section 653B (ii). The subject lands have direct frontage onto the surrounding road networks and have vehicular access to these roads. It is reasonable to consider that the lands can connect to and be served by this existing road infrastructure. Land Parcel DELA00000015 therefore falls within the scope of Section 653 B a) ii) and are therefore considered to be in scope.
- 9.4. It is reasonable to consider that both subject Land Parcels (DERAL00000039 and DEAL00000015) can connect to water supply infrastructure. The UÉ water supply capacity registers confirm there is potential capacity available (LoS improvement Required) to serve the lands. A need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist.
- 9.5. In relation to surface water drainage infrastructure, pending the completion of works to attenuation Pond 2A, L1 and L2 (Land Parcel DELA00000039) and T1 (Land Parcel DELA00000015) can be served by a temporary storm water pond that has been constructed and is operational. As such the lands meet the criteria under Section 653B (b).
- 9.6. The lands are not subject to a statutory declaration which would preclude the provision of dwellings. It is not considered that the phasing provisions of the Cherrywood planning scheme precludes the provision of dwellings on the lands.
- 9.7. 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.

## 10.0 Recommended Draft Commission Order

### **Taxes Consolidation Act 1997, as amended.**

**Local Authority:** Dún Laoghaire-Rathdown County Council

**Local Authority Reference Number:** DM25/010

**Appeal:** Evara 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 30th day of June 2025 in respect of the site described below.

**Lands at:** Cherrywood, 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 DELA000000039 and DELA000000015 and Local Authority reference number DM25/010 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 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 Land Parcel ID DELA000000039 are zoned Residential in the Cherrywood SDZ Planning Scheme (updated 2023), which forms part of the Dún Laoghaire Rathdown County Development Plan 2022-2028. Land Parcel ID DELA000000039 is therefore considered to be in scope as per Section 653B a). The lands identified as Land Parcel ID DELA000000015 is zoned for a mixture of uses as 'Village Centre', within which residential development is permitted and which therefore is also considered in scope of Section 653B (a). Land Parcel ID

DELA00000015 is considered to be vacant or idle and does therefore not avail of the exemption under Section 653B (a) (ii). The subject lands have direct frontage onto the surrounding road networks and have vehicular access to these roads. It is reasonable to consider that the lands can connect to and be served by this existing road infrastructure. It is reasonable to consider that both subject Land Parcels (DELA00000039 and DELA00000015) can connect to water supply infrastructure. The UÉ water supply capacity registers confirm there is potential capacity available (LoS improvement Required) to serve the lands. A need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist. In relation to surface water drainage infrastructure, pending the completion of works to attenuation Pond 2A, L1 and L2 (Land Parcel DELA00000039) and T1 (Land Parcel DELA00000015) can be served by a temporary storm water pond that has been constructed and is operational. As such the lands meet the criteria under Section 653B (b). The lands are not subject to a statutory declaration which would preclude the provision of dwellings. It is not considered that the phasing provisions of the Cherrywood planning scheme precludes the provision of dwellings on the lands. 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.

*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.*

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Frank O'Donnell  
Planning Inspector

6<sup>th</sup> November 2025