



An
Coimisiún
Pleanála

Inspector's Report ACP-323345-25

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

70 Merrion Square and 1-2 Mews 70 Fitzwilliam Lane, Dublin 2.

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

RZLT-000285

Appellant(s)

Michael Maughen

Inspector

Daire McDevitt

1.0 Site Location and Description

- 1.1. The subject site identified as RZLT-000285 and Parcel ID number DCC000061943 is located at 70 Merrion Square and 1-2 Mews 70 Fitzwilliam Lane which is accessed off Merrion Street Upper and are located south of Merrion Square, Dublin 2.
- 1.2. I wish to highlight to the Commission that while the Local Authority refer to the RZLT site as 70 Merrion Square and 1-2 Mews 70 Fitzwilliam Lane., 70 Merrion Square is not included within the RZLT – 000285 boundaries.
- 1.3. I also wish to highlight from the outset to the Commission that Parcel ID number DCC000061943 includes a number of properties along Fitzwilliam Lane which are not the subject of this appeal and have separate RZLT references. Concurrent appeals for Parcel ID include ACP Ref. 323292 Dromeenagh LLC for 61-62 Fitzwilliam Lane (DCC RZLT 000306). The current appeal before the Commission refers to 1-2 Mews 70 Fitzwilliam Lane.
- 1.4. 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 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.

Z1 – Permissible Uses:

Assisted living/retirement home, buildings for the health, safety and welfare of the public, childcare facility, community facility, cultural/recreational building and uses, delicatessen, education, embassy residential, enterprise centre, halting site, home-based economic activity, medical and related consultants, open space, place of public worship, public service installation, residential, shop (local), sports facility and recreational uses, training centre.

Z1 – Open for Consideration Uses:

Allotments, beauty/ grooming services, bed and breakfast, betting office, Build to Rent residential, café/tearoom, car park, civic and amenity/recycling centre, garden centre/plant nursery, guesthouse, hostel (tourist), hotel, industry (light), laundromat, live/work units, media-associated uses, mobility hub, off-licence, off-licence (part), office, park and ride facility, petrol station, pigeon loft, postal hotel/motel, primary health care centre, public house, residential institution, restaurant, student accommodation, veterinary surgery.

3.0 Planning History

The relevant planning history is considered to include the following:

PA Ref. 2337/16 (ABP Ref. 246580-16) refers to a refusal of permission for the demolition of a 3 storey building and the erection of a 3 storey over basement mews office/cultural use building (protected structure). Permission refused for 3 reasons. 1) design/scale/height and projection forward of building line would have a serious and detrimental impact on the character and setting of the original mews building and protected structures, 2) office use not permissible in principle on Z1 lands and the proposal would lead to an intensification of a non-conforming use and materially contravene the zoning and 3) excessive scale of hard surfacing proposed and failure to comply with s.17.10.7 of the 2011-2017 City Plan.

PA Ref. 1000/83 Refers to a grant of permission for the change of use of the second and third floor of the main building at 70 Merrion Square from residential to offices, and for construction of a residential mews at the rear of 70 Merrion Square.

Other applications on the site relate to works to 70 Merrion Square.

There is no record of previous RZLT appeals for 1-2 Mews 70 Fitzwilliam Lane.

4.0 Submission to the Local Authority

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

- Mews 1& 2 and 70 Merrion Square are shown as a single plot on the map.

- The front part of 70 Merrion Square has been excluded from the draft 2026 RZLT Map.
- Mews 1& 2 and 70 Merrion Square are leased to third parties and used as offices. One of the mews properties is leased to the same entity that leases 70 Merrion Square.
- Seeking to have the property excluded from the 2026 Map on the basis that the property is property that falls within scope of section 653B(i) as the offices provide employment as the provision of services to residents of adjacent areas making reference to offices.

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 landowner has not demonstrated that the development at 1-2 Mews No. 70 Fitzwilliam Lane is authorised and since it is reasonable to consider the existing office use at the premises does not provide services to residents of adjacent residential areas.
- d) 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.
- e) Satisfy the other relevant criteria under section 653B of the Taxes Consolidation Act, as amended.

I wish to highlight to the Commission that the LA determination is not accompanied by a map and I note does not reference 70 Merrion Square.

6.0 The Appeal

The appellants raised the following issues within their appeal submission:

- The property is leased by the Arts Council of Ireland and is liable to commercial rates, therefore should be excluded under section 653B(c)(i).
- A number of employees of the Arts Council are located at 70 Merrion Square.
- It is submitted that the use of the property is not unauthorised as it has been in use for commercial purposes for a number of years.
- It is submitted that permission was granted for office in the 1980s and that further details relating to this would be submitted when papers located.
- Part 22A-01-01 of the Revenue Manual specifically includes employment as the provision of services to residents of adjacent areas making reference to offices.

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.

The appellant contends that 70 Merrion Square and 1-2 Mews 70 Fitzwilliam Square by reason of its established and permitted commercial/office uses, stated by the appellants to be used by the Arts Council of Ireland should be excluded from liability under section 635B(i). No supporting documentation from the Arts Council is included with the appeal. I note that the Annual Draft map for 2026 (accessed 12 November 2026) does not include 70 Merrion Square but includes numerous other properties under parcel ID DCC000061943 along Fitzwilliam Lane which are not the subject of this appeal. My assessment considers 1-2 Mews Fitzwilliam Lane and refers to 70 Merrion Square as this was raised in the grounds of appeal.

The appellant has submitted that the change of use to offices was permitted in the 1980s, however, no evidence to support this has been included with the grounds of appeal. I note that DCC in their report dated 19th June 2025 have included a Planning History for the site which includes reference to 1000/83 relating to a grant of permission for change of use of the second and third floor of the main building (70 Merrion Square) from residential use to offices. This permission also included permission for the construction of a residential mews to the rear of 70 Merrion Square. There is no record of permission for the change of use of 1-2 Mews to office. I further note under 1337/16 (ABP 246580-16) permission was refused for the demolition of the 3 storey building and construction of a 3 storey over basement

mews office/cultural use for a number of reasons including that office was not deemed permissible under the Z1 land use objective at the time.

I accept that DCC in their correspondence dated 10th September 2025 highlight that 70 Merrion Square and 1&2 Mews 70 Fitzwilliam Lane have a 'zero valuation as occupied by the Arts Council and exempt from commercial rates. I note that the DCC RZLT report highlights that an investment advisory company also occupies the offices.

It is submitted by the appellant that the Arts Council occupy a Mews with some employees also based in 70 Merrion Square. The appellant has not submitted details of occupations, length of time office have been in place and occupied.

Notwithstanding, in respect of 1-2 Mews, on the basis of the information submitted with the appeal, I do not consider that the appellant has demonstrated that the use of the Mews' as offices are authorised. Nor has the appellant submitted details to support the case that the use (even if it has the benefit of planning permission) would 'provide services to residents of adjacent residential areas' as required under Section 653B(i) of the Taxes Consolidation Act 1997 as amended and therefore, should be placed on the 2026 RZLT map.

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 that it was reasonable to consider that the subject lands are serviced due to the location of the lands and that the premises is in commercial use as offices.

While not raised in the ground of appeal, in the interest of completeness I address section 653B(b) below.

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. 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 accessible to the site. There are existing connections to the network albeit for current use. I am satisfied that the lands meet 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'.

The provision of infrastructure to the subject lands is considered to be in the control of Dublin City 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.

The appeal grounds do not raise any exclusions 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.

Having regard to the foregoing, I consider that the lands zoned Z1-Sustainable residential neighbourhoods identified as land parcel ID number DCC000061943 under RZLT-000285 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.

8.0 Recommendation

- 8.1. I recommend that the Commission confirm the determination of the Local Authority and that the indicated site be retained on the map.

9.0 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-000285 (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(a)(i) of the Taxes Consolidation Act 1997, as amended. Section 653B(i) provides an exemption from RZLT for lands solely or primarily for residential use, provided that the development on the land is authorised development, that is in use as a premises in which a trade or profession is being carried out 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. Compliance with all the criteria in section 653B(i) is required for the lands to be excluded from the Map. While it is noted that the premises is exempted from rates as occupied by the Arts Council of Ireland, the Mews where the office are located does not have the benefit of planning permission for office use. The Commission is not satisfied that that the office uses occupying 1-2 Mews 70 Fitzwilliam Lane provide services to residents of adjacent residential areas. The lands are located within an established urban area with services available, and no capacity or other reasons, including those raised in relation to 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. The subject lands are

considered to be in scope, given that they accord with the criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended.

10.0 Recommended Draft Board Order

Taxes Consolidation Act 1997 as amended.

Planning Authority: Dublin City Council

Local Authority Reference Number: RZLT-000285

Appeal by Michael Maughen. 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 1st day of August in respect of the site described below.

Lands at: 70 Merrion Square and 1-2 Mews 70 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-000285 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-000285 (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(a)(i) of the

Taxes Consolidation Act 1997, as amended. Section 653B(i) provides an exemption from RZLT for lands solely or primarily for residential use, provided that the development on the land is authorised development, that is in use as a premises in which a trade or profession is being carried out 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. Compliance with all the criteria in section 653B(i) is required for the lands to be excluded from the Map. While it is noted that the premises is exempted from rates as occupied by the Arts Council of Ireland, the Mews where the office are located does not have the benefit of planning permission for office use. The Commission is not satisfied that that the office uses occupying 1-2 Mews 70 Fitzwilliam Lane provide services to residents of adjacent residential areas. The lands are located within an established urban area with services available, and no capacity or other reasons, including those raised in relation to 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. The subject lands are considered to be in scope, given that they accord with the criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended.

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.

Daire McDevitt
Planning Inspectorate

17th November 2025