Inspector's Report

ACP-324503-26

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	Lands at TC3 Cherrywood, Dublin 18.
Local Authority	Dun Laoghaire-Rathdown County Council.
Planning Authority Reg. Ref.	DM 26/004
Parcel ID	DELA00000013
Appellant(s)	DLR Ltd.
Inspector	Irené McCormack

1.0 Site Location and Description

1.1.1. The lands identified within quadrant TC3 Cherrywood at Cherrywood Avenue and Wyattville Link Road, Cherrywood, Dublin 18 (Parcel ID DELA00000013).

1.1.2. The lands are located to the south of the R118 which forms the northern site boundary; to the east is the LUAS line (Brides Glen stop); and to the south and west Cherrywood Avenue. The site has a stated site area of c.5.38ha.

1.1.3. The general area around the site is characterised by new residential development and Cherrywood Business Park.

2.0 Zoning and Other Provisions

The Cherrywood SDZ Planning Scheme 2014 (as amended)

2.1.1. The site is part of an area identified as the Cherrywood SDZ. The Cherrywood SDZ Planning Scheme 2014 (as amended) sets out a detailed framework for the future development of the area.

2.1.2. Chapter 1 of the Planning Scheme states that 'the adopted Planning Scheme is a standalone planning document from the County Development Plan and is not superseded by future County Development Plans'. However, where the Planning Scheme document does not address an aspect of a development proposals the policies and objectives of the County Development Plan 2022-2028 will apply.

2.1.3. The role of the Cherrywood Development Agency Project Team (DAPT) is to examine the planning applications and to assess whether it has addressed the relevant policies and objection of the adopted Cherrywood SDZ.

Note: Amendment 11 relates to the development of the Town Centre and immediate environs, including the subject site. This Amendment, including all the Proposed Material Alterations/Modifications was approved by Resolution at a Special Meeting of DLR County Council on 4 June 2026. Boards Decision 1st July 2026 (Case reference: ZF06D.321573 - Proposed Amendment No. 11 of the Cherrywood Planning Scheme 2014 (as amended) relating to the Town Centre and Environs lands [including Related and Ancillary amendments throughout the Approved Planning Scheme, and to include replacement of the Town Centre Urban Form Development Framework (UFDF) with an Urban Development Code as a New Appendix B and related Urban Design Guidelines as a New Appendix C in the Planning Scheme]. However, this is a tax

statute and the date of assessment is 1 January. Matters that arose after 1 January cannot be taken into account in this assessment.

2.1.4. Zoning - The site is zoned Town Centre (TC3) and is located within Development Area 2.

2.1.5. Chapter 1 relates to the Planning Scheme – inter alia Structure, Context, Background

2.1.6. Chapter 2 relates to the Proposed Development in Cherrywood

This Chapter addresses:

A. The nature of development proposed describes the Primary Land Uses and supporting land uses.

B. The scale of development proposed sets out the overall quantum of different land uses, density of development across the Plan Area, plot ratio for non-residential development and units per hectare for residential areas.

C. The form of development describes urban form, building height, linkages, views and prospects.

Section 2.2 relates to Primary Land Uses.

2.1.7. Chapter 6 – Development Areas

The lands is identified within Development Area 2: Cherrywood, development quadrant – TC3

Table 6.2.2: Breakdown of Development Quantum for Sites TC1, TC2, TC3 and TC4 Cherrywood Town Centre includes:

TC3 SITE AREA SQM	53,880			
Use	Min Area Sq.m	No. Units Circa	Max Area Sq.m	No. Units Circa
Retail Gross	3,000		3,100	
High Intensity Employment	54,800		74,300	
Residential	27,000	287	33,600	358
Non Retail	8,000		10,000	
Community	1,100		1,500	
Total	**93,900**	287	**122,500**	358
Plot Ratio	1.7		2.3	

Table 6.2.3: Infrastructure Requirements Development Area 2 Cherrywood.
See Maps 4.1-4.5.

Road Requirements
• Reconstruct existing roundabout at A to signalised 4 arm junction.
• Complete existing Tully Vale Road (Grand Parade) A to B in accordance with cross sections.
• Construct Street A1 to F1.
• Construct at-grade junction (left in/left out) on Wyattville Road.
• Construct road J to WLR.
• Set up Traffic Management Plan to facilitate construction of bridge over Wyattville Link Road.
• Construct Overbridge on WLR and street A2-A3.
• Complete existing road A3 to H to WLR in accordance with cross section.
• Reconstruct existing road A3 to I to A in accordance with cross section.
• Construct street A2-B.
• Construct streets linking to overbridges on WLR and complete the core street network.
• Construct remainder of street network specified for Development Area 2 i.e. all other streets designed to suit development of buildings and the urban landscape.

Construction Access
• From Wyattville Link Road via junction A or left in/out junction.
• Traffic Management proposal to be prepared and approved to keep traffic operational in a safe manner on the Wyattville Link Road during construction of the Cherrywood Town Centre.
Stormwater Requirements
• Attenuation ponds at outfall 5A.
• 450mm approx. diameter SW sewer from J environs to outfall 5A and 300mm diameter SW outlet to Cherrywood Road SW sewer.
• Attenuation Pond at Outfall 2B.
• 450mm approx diameter SW sewer from A2 environs to pond 2B.
Foul Sewer Requirements
• 450mm approx. diameter from K environs and under Luas connecting into the Carrickmines Sewer near pond 2B.
• 450mm approx diameter sewer from the environs of J and H along the Wyatville Road upsizing to 525mm approx. and on to the Carrickmines Sewer.
Water Supply Requirements
• Connection to DCC Stillorgan 24" Main.
• 400mm approx. diameter from 24" main to A.
• Upsizing (600mm) and re-route of existing 20" AC Main.
• 500 to 300mm diameter loop around Cherrywood Town Centre, from upsized 600mm diameter main.

2.1.8. <u>Chapter 7 relates to Implementation – Sequencing and Phasing of Development</u>

Section 7.2 Overview

The overall Plan Area is divided into 8 Development Areas (Chapter 6). The 8 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. (specific objective H27).
- Growth Area 3: Development Areas 6B, 7 and 8.

Section 7.2.1 Sequencing & Implementation Growth Areas

Table 7.3: Transportation Infrastructure

Section 7.2.2 Infrastructure Delivery

Section 7.2.2 of the Planning Scheme states: '…… it is acknowledged that there may be exceptional or unforeseen circumstances beyond the reasonable control of an individual developer or the local authority, whereby a piece of infrastructure necessary to progress the development of a Growth Area cannot be provided in the short to medium term (circa 0-3 years). In such instances, there may be an appropriate

alternative utilising other infrastructure as provided for under the Planning Scheme, as an interim measure to facilitate the early delivery of housing…..

Construction Access -The Planning Scheme also identifies construction access points/routes for the Development Areas. Where any such construction accesses as identified in Chapter 6, cannot be achieved and where alternatives are proposed, the Planning Authority will consider such proposals on their merits…..'

Table 7.5: Strategic Infrastructure and Services – *Phasing & Threshold*

The document also includes Appendices A- I

Appendix A – Primary Land Use Matrix Cherrywood Planning Scheme.

Dún Laoghaire-Rathdown County Development Plan 2022-2028

2.1.9. Chapter 2- Core Strategy

2.6.1.1 Cherrywood Strategic Development Zone

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.

2.1.10. Chapter 13 – Land Use Zoning

Section 13.1.9 Cherrywood SDZ Planning states -

The Cherrywood SDZ Planning Scheme was approved by An Bord Pleanála in April 2014. There have been a number of amendments to the scheme.

<u>Other relevant CDP Policies/Objectives</u>

2.1.11. Chapter 2 – Core Strategy

Section 2.6.2 relates to Active Land Management

Policy Objective CS11 – Compact Growth -It is a Policy Objective to deliver 100% of all new homes, that pertain to Dublin City and Suburbs, within or contiguous to its geographic boundary. (Consistent with RPO 3.2 of the RSES)

Table 2.7 of the plan indicates the housing target up to Q1 2028 is 18,515, which is reflective of the target outlined in the RESE. This equates to a population increase of 38,125. Table 2.9 of the Plan indicates that there are approx. 553.28 ha. of serviced land available.

2.1.12. Chapter 4 - Neighbourhood - People, Homes and Place

2.1.13. Chapter 5 – Transport and Mobility

2.1.14. Chapter 12 – Development Management

3.0 Planning History

RZLT

DM22-0024 – The Local Authority determined that the subject land was not in scope and should be exclude from the RZLT maps for the following reason:

Whilst the land is zoned for a mixture of uses including residential uses; it is reasonable to consider that lands does not have access to public infrastructure and facilities necessary for dwellings to be development and with sufficient service capacity available for such development, in the form of surface water infrastructure.

**This was primarily related to Pond 5a. Pond 5a completed and operational (2025).

Planning History

Town Centre 3 (TC3)

DZ22A/0591 – Permission granted on 20th June 2023 to RGRE Devco 4 Limited for or a mixed-use development on lands comprising of c. 3.71 ha including the provision of 418 no. Build-To-Rent apartments unit. The site is located in the Cherrywood Planning Scheme area and forms part of the block Town Centre 3 (TC3).

Condition no. 6 stipulated:

6. (a) Appropriate pedestrian and cycling facilities, to be determined by the Planning Authority, and agreed in writing, shall commence construction prior to or in tandem with the commencement of the development of the above podium structure, or as otherwise agreed, and shall be complete to a Taking in Charge standard prior to the occupation of any of the development.

(b) The subject ***development 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 a Taking in Charge Standard****.*

REASON: To ensure consistency with the Phasing and Sequencing requirements of Table 7.3 Transportation Infrastructure, of the Cherrywood Planning Scheme.

Condition no. 37 stipulated:

Regarding Cherrywood Avenue, the Applicant/Developer shall comply with the following requirements:

a) The ***construction upgrade of the elements of Cherrywood Avenue West (H-J) and Cherrywood Avenue South (H-A3) permitted under this application, including cycle, pedestrian and SuDS facilities, will be carried out by the Developer as part of the development works and shall be completed to a taking in charge standard prior to the occupation of the first phase of the subject development.*** *The Cherrywood Avenue upgrade works the subject of this application shall be constructed in accordance with the Planning Scheme requirements and shall be carried out by the Developer under an appropriate licence from the Roads Authority.*

(b) The Applicant/Developer shall submit the detailed design of the elements of Cherrywood Avenue West (H-J) and Cherrywood Avenue South (H-A3) permitted under this application, inclusive of drawings and cross sections that detail the location of service ducts, pipes, manholes and service chambers, for the written agreement of the Planning Authority prior to commencement of development. The detailed design for the elements of Cherrywood Avenue West (H-J) and Cherrywood Avenue South (H-A3) permitted under this application shall be in accordance with Planning Scheme Figure 4.4 and so the design for the element of Cherrywood Avenue West (H-J) as set out in this application shall be revised to accord with Planning Scheme Figure 4.4. The provision and location of service ducts, pipes, manholes and service chambers shall be agreed with the relevant service providers prior to commencement of the road construction works. The services to be considered include electricity, surface water, wastewater, water, gas, telecoms, traffic communication, and public lighting. Full details for the physical, structural and visual tie in to the existing Cherrywood Avenue granted permission under DZ17A/0862, and to junction H granted permission under DZ21A/1017, shall form part of the detailed design for the extent of Cherrywood Avenue West (H-J) and Cherrywood Avenue South (H-A3) permitted under this application. This detailed design for Cherrywood Avenue, shall correspond with all surface water infrastructure (including SuDS measures), water supply infrastructure and landscape design proposals.

(c) The Developer shall submit, for the written agreement of the Planning Authority prior to the commencement of development, full pavement construction details for Cherrywood Avenue, including the specification of the proposed finish materials that will align with the engineering details of the permitted Cherrywood Avenue under DZ17A/0862.

(d) The detailed design of the Cherrywood Avenue road drainage to be installed as part of this development, inclusive of linear tree pits, shall be submitted by the Developer to the Planning

Authority for written agreement prior to the commencement of development.

(e) The Developer shall submit a full phasing schedule for the construction of the elements of Cherrywood Avenue West (H-J) and Cherrywood Avenue South (H-A3) permitted under this application for the written agreement of the Planning Authority prior to commencement of development. ***In this regard, the Applicant/Developer shall engage with the developer of the Beckett Road project DZ21A/1017 and subsequently submit a detailed construction methodology, including timelines, for both interfacing projects, for the elements of Cherrywood Avenue West (H-J) and Cherrywood Avenue South (H-A3) for written agreement with the Planning Authority, prior to commencement of development****.*

REASON : In the interests of orderly development, maintaining consistency with PI 6, PI 10, PI 12 and PI 14 of the Planning Scheme and UFDF Section 5.4.1 and to ensure the timely progression of the Cherrywood Road network.

DZ20A/0052 - Permission granted on 13th April 2021 to RGRE Devco 4 Limited for or a mixed-use development on lands comprising of c. 1.86ha. The development comprises the construction of a mixed-use development including 198 no. Built-To-Rent apartments.

Town Centre - TC1,TC2 & TC4

DZ17A/0862 – Permission granted on 29th May 2028 to Hines Cherrywood Dev Fund ICAVA for a 10-year permission. The proposed development relates to a mixed-use town centre development on plots TC1, TC2 and TC4 in accordance with the Cherrywood SDZ Planning Scheme 2014 (As Amended). The proposed development will comprise a total of 191,115sq.m (gross floor area - GFA) in 15 blocks including: 1,269 no. residential units (115,332 sqm), Retail Gross (20,284 sqm), High Intensity Employment (HIE) uses (22,946 sqm), Non Retail uses (31,115 sqm), Community uses (1,437 sqm) and all associated roads, streets and public spaces, services infrastructure and all associated site and development works.

4.0 Submissions by Prescribed Bodies – PA Stage

Uisce Eireann – serviceable for water, significant sewer network upgrade maybe required.

Development Agency Project Team (DAPT) (29th May 2026) – The following is noted:

- Development partially permitted – access within ownership/public road.

- Pond 5a completed and operational (2025).
- It is noted that amendment 11 not yet approved as of January 2026 and not relevant.
- Roads Phase 1 is substantially complete and Grande Parade A2-B is scheduled for completion Q2 2026 (not required for access).
- DZ22A/0591 – Conditions were at a point in time. Roads Phase 1 is now substantially complete.
- Works to junction O and junction A do not apply as Amendment 11 not yet approved.
- Works required to Cherrywood Avenue required for the development of TC3 are either within the control of the landowner or taken in charge. Further works are being carried out with the delivery of Beckett Road. No impediment regarding access to TC3.
- Residential has already been delivered across other town centre quadrants.
- The site is serviceable.

5.0 Determination by the Local Authority

Date of Determination: 15th June 2026

The local authority determined that:

'*A determination pursuant to Section 653E(1)(a)(ii)(I) of the Taxes Consolidation Act 1997 (as amended), for submission reference DM26/004, to INCLDE the above lands at TC3Cherrywood – DELA00000013 on the Final Map of the Residential Zoned Land Tax as defined by 6536K of the Taxes Consolidation Act 1997 (as amended) for the (3) reasons set out above is hereby made.*'

Reasons:

1. *The lands is zoned solely or primarily for residential use, to a mixture of uses, including residential. Where zoned for a mixture of uses, it is reasonable to consider that the lands are vacant or idle.*
2. *It is reasonable to consider the land may have access, or be connected, to public infrastructure and facilities necessary for dwellings to be development and with*

sufficient service capacity available for such development.

3. *It is reasonable to consider the lands is not affected, in terms of its physical condition by matters to a sufficient extent to preclude the provision of dwellings.*

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are summarised as follows:

- In the first instance the appeal references Amendment no. 11 The Cherrywood SDZ Planning Scheme 2014 (as amended).
- Referring to condition no. 6 of DA22A/0591, it is set out that based on inspections, the following roads have not been made available to the public and thus it is not possible to comply with condition no. 6:
    - B to A2 which forms part of a development site, and
    - C to P2 which is blocked off from public access.
- The appeal highlights that the works to Cherrywood Avenue as permitted under DA22A/0591(condition no. 37) requires the consent of a third party to implement. It is further stated that thy would require coordination with the developer of DZ21A/1017, which up to late 2025 was a third party, compliance submission now confirms that the Local Authority has obtained funding and is acting as the developer. It is further set out that DZ21A/1017 (condition no. 20) required elements of roads infrastructure permitted under DZ17A/0519 to be delivered before part of TC3 could be occupied are still outstanding.
- It is argued that the lands should be excluded from the map as it does not satisfy that RZLT criteria.
- The Cherrywood Planning Scheme (Chapter 7) and Amendment 11 requires that development of the Cherrywood lands to be undertaken on a phased basis subject to the provisions of certain infrastructure.
- The Scheme (even without Amendment 11) requires the completion of roads infrastructure before units can be occupied.
- Whilst the site may adjoin roads and services, under the terms of the Planning

Scheme it is not capable of being developed for residential in the absence of additional infrastructure.

- Planning permission is required to deliver the infrastructure in question.
- The appeal notes the PA acknowledgement that Grand Parade and A2-B is not required to access the permitted development (DZ22A/0591) this is still referenced in the conditions and remains a constraint that influences risk and funding.
- It is further argued that while the PA state that any new permission would not be subject to occupation conditions with regards roads, in this case the maximum area of residential development within TC3 as set out in the planning scheme have already been permitted through DZ22A/0591.
- Under the terms of the planning scheme, residential units cannot be occupied.
- Section 4.1.1ii) of the Residential Zoned Land Tax -Guidelines for Planning Authorities June 2022 provides for exemptions.
- The appeal further states that if the Commission considered it appropriate to levy the RZLT on these lands, it is submitted that it should not apply to the entirety of the landholding but rather just the part which relates to the previous permission (DZ22A/0591), i.e. 3.71ha. which included the maximum quantum of housing possible within TC3 at the time the RZLT Map was created.
- In this context, it is argued that DLR's approach to other Town Centre sites would support the case that if the RZLT applies to the site, it should only apply to the portion of lands identified for residential use, as per the Urban Development Framework as set out in the Planning Scheme.

7.0 Submissions by Prescribed Bodies – Appeal Stage

Uisce Eireann (17th August 2026) – This report reiterates comments made to DLRCC that the lands are serviceable for water and a significant sewer network upgrade maybe required.

8.0 Assessment

8.1. Date of Assessment:

The date the land was first added to the RZLT map was the 1st January 2026 (Residential Zoned Land Tax – Annual Daft Map for 2027). I confirm that the date of

my assessment as to whether the lands are in scope is as of 1st January 2026.

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[1] 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".

8.2. **Zoning:**

The subject lands/site

a) is included in a development plan, in accordance with section 10(2)(a) of the Act of 2000, or local area plan, in accordance with section 19(2)(a) of the Act of 2000, zoned—

(ii) for a mixture of uses, including residential use,

The lands are zoned Town Centre (TC3) incorporating mixed use land uses including residential as set out in Table 6.2.2: *Breakdown of Development Quantum for Sites TC1, TC2, TC3 and TC4 Cherrywood Town Centre* of the Cherrywood SDZ Planning Scheme 2014 (as amended) and are considered within scope of section 653B(a)(ii).

8.3. **Status of Lands:**

653B(c)(ii) (mixture of uses)

653B(c)(ii) It is reasonable to consider that the land is vacant or idle

8.3.1. The first party request that in the event that the Commission consider it appropriate to levy the RZLT on these lands, it is submitted that it should not apply to the entirety of

[1] Now An Coimisiún Pleanála

the landholding but rather just the part which relates to the previous permission (DZ22A/0591), i.e. 3.71ha. which included the maximum quantum of housing possible within TC3 at the time the RZLT Map was created. It is argued that DLR's approach to other Town Centre sites would support the case that if the RZLT applies to the site, it should only apply to the portion of lands identified for residential use, as per the Urban Development Framework as set out in the Planning Scheme.

8.3.2. With regard to residential zoned land, and mixed-use zoned land, sections 653B(c)(i) and (c)(ii) respectively identify where certain uses may be excluded from the tax measure. The guidelines state:

8.3.3. *'Operating Uses on Mixed Use Zoned Lands - With reference to land that is included in a development plan or local area plan and is zoned for a mixture of uses, including residential such as TC-Town Centre, DC-District Centre, RE-Regeneration, LC-Local Centre and RV-Rural Village, all land should be excluded from the map unless is it considered 'vacant or idle'. 'For clarity, lands on mixed use zonings only fall into scope where residential development is a 'permitted in principle' use in that zoning*.'(Guidelines Pg 11).

8.3.4. Appendix A: *Primary Land Use Matrix Cherrywood Planning Scheme* of the planning scheme establishes that residential *is 'permitted in principle'* within the Town Centre zoning. The Guidelines clearly establish that the aim of the taxation measure is to activate vacant or underused land for provision of housing and on land which is located within mixed use zones and which permits a variety of uses including residential should only be considered to be in scope for the tax where they are vacant or idle. In this instance there is no dispute over the land use zoning assigned to the lands nor does the first party argue that the land is not 'vacant or idle' within the meaning of the Guidelines. Therefore, it is reasonable to consider that the entirety of the land zoned Town Centre (TC3) incorporating mixed use land uses including residential is vacant or idle and considered to be in scope for the tax.

8.4. **Public Infrastructure and Facilities:**

8.4.1. The primary focus of the appeal relates to the provision of infrastructure to service the site in so far as the Cherrywood Planning Scheme (Chapter 7) requires that development of the Cherrywood lands to be undertaken on a phased basis subject to the provisions of certain infrastructure roads, water and wastewater. It is further argued

that conditions relating to planning permission on the site (DA22A/0591) restrict occupancy until such time certain infrastructure is provided.

8.4.2. The appeal argues that the lands should not be considered liable as they do not meet the definition under Section 653B. Under Section 653B of the provisions, the definition of land in- scope for RZLT identifies lands which are connected to, or able to be connected to services as being in scope.

8.5. Section 4.1.1 ii) of the Residential Zoned Land Tax - Guidelines for Planning Authority, June 2022 (RZLT Guidelines) – *Review of land with planning permission* states '*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, subject to (iii) below. This includes housing developments proposed by local authorities and approved housing bodies. 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.*

While the aim of the tax is to activate land which can be developed for housing, this should not result in land being considered in scope for the tax where significant works are required to enable connection to services which are outside of the control of the applicant or the relevant planning authority to enable. In particular, where planning permissions have been granted subject to requirements for significant infrastructure to be delivered by infrastructure providers, this land should not be considered to be 'in-scope'.'

8.5.1. Section 4.1.1 (iii) *Services to be considered* 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"*.

8.5.2. With specific regard to road access the Guidelines established '*In considering road access, the Planning Authority must take into account the ease of access to existing road infrastructure by the identified lands. Construction of significant sections of new*

road access across other landholdings, should be discounted with the exception of Local Authority owned lands, where use and access are a matter for the authority. Where provision has been made, but not yet constructed for road and pathway access through Local Authority consenting processes, then lands can be considered in-scope, where the process of tendering for construction of the permitted road or pathways has commenced.'

8.5.3. The Commission will note that permission has been granted for residential development as part of a mixed-use scheme on the lands. Referring to condition no. 6 of this permission - DA22A/0591**,** it is argued that the following roads have not been made available to the public and thus it is not possible to comply with condition no. 6:

- B to A2 which forms part of a development site, and
- C to P2 which is blocked off from public access.

The first party also contend that it is not possible to comply with condition no. 37 and works to Cherrywood Avenue.

8.5.4. With respect to access, I draw the Commission's attention to the report from the Development Agency Project Team (DAPT) (which forms part of the PA assessment) which notes that Roads Phase 1 is substantially complete and Grande Parade A2-B is scheduled for completion Q2 2026 and that this is not required for access. It is further set out that works required to Cherrywood Avenue required for the development of TC3 are either within the control of the landowner or taken in charge and that further works are being carried out with the delivery of Beckett Road and as such there is no impediment regarding access to TC3. Therefore, the lands required to access the site are either within the control of the applicant or taken in charge and as such the lands should be considered to be 'connected' or 'able to connect' and therefore are in-scope.

8.5.5. As regards the first party contention that C to P2 is blocked off from public access, whilst this may currently be the case, I note that this through access is not required to access the lands nor does it impede the development of these lands by virtue of the fact that this route is to the northeast of the lands and not directly abutting the lands.

8.5.6. Regarding phasing, The DAPT report goes on to state that DZ22A/0591 conditions were at a point in time and any new permission would not include such conditions.

8.5.7. Nothwithstanding, with respect to infrastructure delivery and development phasing established as part of Cherrywood Scheme (chapter 7) and planning permission DZ22A/0591, the guidelines state *"in certain instances, phasing of particular settlements via an SDZ, LAP or non-statutory land use plan may require significant road or public transport infrastructure to be in place prior to development. Where such plans allow for a certain quantum of residential development prior to such projects being permitted or constructed, all of the land which may be able to access the infrastructure, or if specifically identified in the plan, the relevant phased area of land, should be considered in scope.'*.

8.5.8. In addition, Circular letter NRUP 01/2024 provided an Amendment to Section 653B - *Phased Land.* Section 653B of the TCA was amended by insertion of paragraph (iia) which identifies an exclusion for land which is subject to phasing objectives in a development plan or a local area plan, and the development of which would not conform with those objectives.

8.5.9. I note the Appellants case in relation to phasing. I note Land Parcel DELA00000013 is located in Growth Area 1, Development Area 2 (Map 7.1 *Development Areas* of the Planning Scheme) and section 7.2.1 *Sequencing & Implementation Growth Areas* of the Planning Scheme states that residential can be permitted immediately in Growth Area 1 on the basis that as set out in section 7.2 *Sequence of Development* of the Planning Scheme that '*The Planning Scheme has successfully promoted and facilitated the significant front-loading of key infrastructure elements'*. Furthermore, the Commission will note that that planning permission is in place on the site for residential development (DZ22A/0591). Therefore, it is reasonable to consider that said lands are no longer subject to further phasing requirements.

8.5.10. 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 Parcel DELA00000013 and therefore the lands remain in scope and are not exempt on the basis of phasing as per the provisions of Section 653B (iia).

8.5.11. With respect to reference by the appellant to Amendment No .11, the Commission will note that the relevant date for inclusion on the draft map was 1st January 2026 prior to the adoption of Amendment No. 11 and therefore not a relevant consideration.

8.5.12. I draw the Commission's attention to the report from Uisce Eireann (17th August 2026) which notes that the lands are serviceable for water but that a significant sewer network upgrade maybe required.

8.5.13. Section 3.1.1 *Criteria for Inclusion within the Scope of the Tax Measure* of the guidelines states 'the land must be connected to, or have access to public infrastructure and facilities necessary for dwelling to be developed and with sufficient service capacity available for such development. All lands which fulfil the criteria set out within the provisions of the legislation, whether privately or publicly owned are considered to be in scope.'

8.5.14. A review of Uisce Eireann capacity register on 20th October 2026 indicted *'= Potential Capacity Available to meet 2035 population targets - Level of service (LoS) improvement required. Capacity constraints exist and additional analysis of Pre-connection Enquiries and Connection Applications will be undertaken as required by UÉ on an individual basis considering their specific load requirements. Improvement proposals will include but are not limited to leakage reduction and/or capital investment. These proposals will be required to maintain/improve levels of service as demand increases. These proposals will be developed & prioritised through the National Water Resources Plan and investment planning process*.' Therefore, notwithstanding the report from UE there is uncertainly around the capacity of the water network to accommodate the development of the lands. Having regard to the foregoing, I am not satisfied it is reasonable to consider that the lands 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.

8.5.15. As regards wastewater, a review of the Uisce Eireann capacity register on 20th October 2026 indicate 'spare capacity' is available in the wastewater network. However, the Uisce Eireann report (17th August 2026) states that a significant sewer network upgrade maybe required. The works have not be quantified nor have UE clarified who would carry out this required works. Therefore, there is uncertainly around the capacity of the wastewater network to accommodate the development of the lands. Having regard to the foregoing, I am not satisfied it is reasonable to consider that the lands 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.

8.5.16. The guidelines set out that in assessing whether land or landbanks are able to connect to services, account should be taken of 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.

8.5.17. In this context, I am satisfied that as of the date of assessment – the 1st of January 2026, there were infrastructural; deficits and constraints that were beyond the scope of the developer to deliver, particularly in relation to the capacity of the water and waste network:

- Roads – YES - As detailed above the land is accessible to the immediately adjacent road network.
- Footpaths – YES – As detailed above the land is accessible to the immediately adjacent road network and associated footpaths etc.
- Public Lighting – YES - As detailed above the land is accessible to the immediately adjacent road network and associated public lighting etc.
- Foul Sewer Drainage – No - Uisce Eireann report (17th August 2026) states that a significant sewer network upgrade maybe required. The works have not been quantified nor have UE clarified who would carry out this required works. Therefore, there is uncertainly around the capacity of the wastewater network to accommodate the development of the lands.
- Water Supply –No – constrained –Uisce Eireann Capacity Register sets out that a '*Level of service (LoS) improvement required. Capacity constraints exist and additional analysis of Pre-connection Enquiries and Connection applications*' will be required. Therefore, there is uncertainty around water supply capacity.

8.6. **Physical Condition:**

8.6.1. 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, including contamination or the presence of known archaeological or historic remains. No matters were raised in this regard.

8.7. **Exclusions - 653B(c) (iii) to (v):**

8.7.1. Section 3.1.2 *Exclusions from the Map* of the guidelines state that exclusions of particular lands as set out in the legislation and as clarified in the guidelines should be taken into account.

8.7.2. Firstly, with regards to 653B(c) (iii) to (v), I note the lands are not specifically identified for the provision of, or is integral to, occupation by:

- social, community or governmental infrastructure and facilities, including infrastructure and facilities used for the purposes of public administration or the provision of education or healthcare - NO
- transport facilities and infrastructure - NO
- energy infrastructure and facilities - NO
- telecommunications infrastructure and facilities - NO
- water and wastewater infrastructure and facilities -NO
- waste management and disposal infrastructure – NO
- recreational infrastructure, including sports facilities and playgrounds -NO

or

(iv) that is subject to a statutory designation that may preclude development - NO

or

(v) on which the derelict sites levy is payable in accordance with the Derelict Sites Act 1990 - NO

8.7.3. The guidelines state that where a zoning facilitates residential development but also makes provision for other uses including the uses identified in (iii) – (v) above by way of a statement or written objective but does not specifically identify land within a statutory plan for those uses, the whole of the land area should be considered to be in scope unless the location and scale of the excluded uses is clearly set out. Therefore, by virtue of the fact that the development plan does not identify these lands for the provision of uses identified in (iii) above, nor is the site subject to any statutory designations (iv) or the subject of a Derelict Site Notice (v), it is reasonable to consider that the entirety of the land is in scope.

8.8. **Conclusion:**

The subject lands are zoned to facilitate 'Town Centre' development. However the report from Uisce Eireann dated 17th August 2026 identified 'significant sewer network

upgrade maybe required'. The works have not been quantified nor have UE clarified who would carry out this required works. Therefore, there is uncertainly around the capacity of the wastewater network to accommodate the development of the lands. In addition, a review of the Eireann Capacity Register on 20th October 2026 sets out that a 'Level of service (LoS) improvement' is required as 'Capacity constraints exist and additional analysis of Pre-connection Enquiries and Connection applications' will be required to accommodate water connection capacity. There is uncertainty around the capacity of the water networks to accommodate development. As such, I am satisfied that lands are not within scope having regard to the provisions of 653B(b).

9.0 Recommendation

I consider that the lands identified as quadrant TC3 Cherrywood at Cherrywood Avenue and Wyattville Link Road, Cherrywood, Dublin 18 (Parcel ID DELA00000013) do not meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended for the following reasons.

10.0 Reasons and Considerations

In the assessment of this appeal, regard was had to the content of the Residential Zoned Land Tax- Guidelines for Planning Authority 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 quadrant TC3 Cherrywood at Cherrywood Avenue and Wyattville Link Road, Cherrywood, Dublin 18 (Parcel ID DELA00000013) located on lands zoned *Town Centre* are considered in scope of section 653B(a)(ii).

The report from Uisce Eireann report dated 17th August 2026 identified 'significant sewer network upgrade maybe required'. The works have not been quantified nor have UE clarified who would carry out this required works. Therefore, there is uncertainly around the capacity of the wastewater network to accommodate the development of the lands. In addition, a review of the Eireann Capacity Register on 20th October 2026 sets out that a 'Level of service (LoS) improvement' is required as 'Capacity constraints exist and additional analysis of Pre-connection Enquiries and Connection applications' will be required to accommodate water connection capacity. There is uncertainty around the capacity of the water networks to accommodate

development.

In this context, having regard to the provisions of 653B(b), it is reasonable to consider that the lands may not 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.

11.0 Recommended Draft Commission Order

Taxes Consolidation Act 1997 as amended

Planning Authority: Dún Loaghaire Rathdown County Council

Local Authority Reference Number: DM 26/004

Land Parcel ID: Parcel ID DELA00000013

Appeal by DLR Ltd. care of Tom Philips & Associates 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 Dún Loaghaire Rathdown County Council on the 15th June 2026 in respect of the site described below.

Lands at: Quadrant TC3 Cherrywood at Cherrywood Avenue and Wyattville Link Road, Cherrywood, Dublin 18

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 quadrant TC3 Cherrywood at Cherrywood Avenue and Wyattville Link Road, Cherrywood, Dublin 18 (Parcel ID DELA00000013) on the final 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 quadrant TC3 Cherrywood at Cherrywood Avenue and Wyattville Link Road, Cherrywood, Dublin 18 (Parcel ID DELA00000013) on the final map located on lands zoned *Town Centre* are considered in scope of section 653B(a)(ii).

The report from Uisce Eireann dated 17th August 2026 identified 'significant sewer network upgrade maybe required'. The works have not been quantified nor have UE clarified who would carry out this required works. Therefore, there is uncertainly around the capacity of the wastewater network to accommodate the development of the lands. In addition, a review of the Eireann Capacity Register on 20th October 2026 sets out that a 'Level of service (LoS) improvement' is required as 'Capacity constraints exist and additional analysis of Pre-connection Enquiries and Connection applications' will be required to accommodate water connection capacity. There is uncertainty around the capacity of the water networks to accommodate development.

In this context, having regard to the provisions of 653B(b), it is reasonable to consider that the lands may not 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.

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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way

Irené McCormack
Senior Planning Inspector

November 2026

Road Hierarchy – (Source: Cherrywood Planning Scheme - SDZ)

