Inspector's Report

ACP-324510-26

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 Chesterfield, Cross Avenue, Blackrock, Co. Dublin.
Local Authority	Dun Laoghaire-Rathdown County Council.
Planning Authority Reg. Ref.	DM 26/003
Parcel ID	DELA00002108
Appellant(s)	Cairn Homes
Inspector	Irené McCormack

1.0 Site Location and Description

1.1.1. The site identified as DM25/025 (Land Parcel ID DELA00002108) is located on the southern side of Cross Avenue in Blackrock, County Dublin. The site comprises Chesterfield House which is listed as a Protected Structure (171) and surrounding attendant grounds. The site is surrounded on all sides by established residential development. The subject land parcel has a stated area of 3.17 hectares.

2.0 Zoning and Other Provisions

Dún Laoghaire-Rathdown County Development Plan 2022-2028

The site is zoned Objective A in the Dún Laoghaire-Rathdown County Development Plan, 2022 to 2028. The relevant Zoning Objective is 'to provide residential development and improve residential quality while protecting the existing residential amenities.'

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.

Chapter 2 of the Written Statement relates to Core Strategy. The majority of the urban footprint within DLR, as per table 2.10 (RSES Settlement Hierarchy as applicable to DLR) falls within Teir 1 (Dublin City and Suburbs), this includes the subject RZLT Appeal site. As per Table 2.11 (Core Strategy Table) Infill/ Windfall – Sites with no planning permission, which are considered to include the subject RZLT Appeal Site, are projected to result in an overall residential yield of 1,436 units over the plan period from 2022 to 2028. The following Policy Objectives contained in Chapter 2 (Core Strategy) are considered to be of note:

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

• Policy Objective CS12 – Brownfield and Infill Sites. It is a Policy Objective to establish a database of strategic brownfield and infill sites to be regularly updated and monitored so that brownfield re-use can be managed and coordinated across multiple stakeholders.

Section 2.6.2 relates to Active Land Management and includes Section 2.6.2.1 Compact Growth and Regeneration and Section 2.6.2.2 Vacant Sites. Section 2.6.2.1 ii) relates to Brownfield and Infill Lands.

Chapter 11 relates to Heritage and Conservation. Section 11.4 relates to Architectural Heritage. Section 11.4.1 relates to Record of Protected Structures and includes the following policy objectives:

• Policy Objective HER7: Record of Protected Structures.

• Policy Objective HER8: Work to Protected Structures.

• Policy Objective HER9: Protected Structures Applications and Documentation.

• Policy Objective HER10: Protected Structures and Building Regulations.

• Policy Objective HER12: National Inventory of Architectural Heritage (NIAH).

Chapter 12 relates to Development Management. Section 12.7 of the Plan relates to Green Infrastructure and Biodiversity. Section 12.8 relates to Open Space and Recreation with Section 12.8.11 relating to Existing Trees and Hedgerows.

Chapter 13 relates to Land Use Zoning.

3.0 Planning History

RZLT

ABP-316411-23 (Local Authority Ref. No. DM22/0036): Inclusion of the land on the Residential Zoned Land Tax draft map. Decision issued in August 2023 to Confirm the determination of the Local Authority.

ABP-320314-24 (Local Authority Ref. no. DM24/0003): Inclusion of the land on the Residential Zoned Land Tax draft map. Decision issued in October 2024 to Confirm the determination of the Local Authority.

ACP 323264-25 (Local Authority Ref. No. DM25/0005): Inclusion of the land on the Residential Zoned Land Tax draft map. Decision issued in November 2025 to Confirm the determination of the Local Authority.

Recent Planning History on the Subject Lands

ACP 324043-26 / LRD25A/0637/WEB (Large Scale Residential Development (LRD): Permission granted on 15/05/2026 for 52 residential units in two 5-8 storey blocks with

childcare facilities, residential amenities, and associated works.

ABP-313252-22: Strategic Housing Development (SHD). Demolition of the non-original fabric of Chesterfield House and sheds, construction of 366 no. residential units (8 no. houses, 358 no. apartments), creche and all associated site works. A SPLIT DECISION was issued in September 2024. Permission was GRANTED for, inter alia, 11 no. units, subject to 14 no. conditions.

4.0 Submissions by Prescribed Bodies – PA Stage

Uisce Eireann – The subject site is serviceable for both water and wastewater. A watermain upgrade will be required at 230m.

4.1. Internal Submission

Water Services – '*There is currently a requirement for a new surface water drainage sewer to serve the site, extending for approximately 600m from the site entrance. As well as the watermain requirements as identified by UE.*

Based on the ABP determination of October 2023, October 2024 and November 2025 that the site is located within an existing established urban area, with the feasibility to connect into these services on local authority or publicly available land, it is considered that residential development at an appropriate scale could be accommodated on these lands.'.

5.0 Determination by the Local Authority

Date of Determination: 29th 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 INCLUDE the above lands* (lands a Chesterfield, Cross Avenue, Blackrock, Co, Dublin (Parcel ID DELA00002108) *on the Final Map of the Residential Zoned Land Tax as defined by 6536K of the Taxes Consolidation Act 1997 (as amended) for the following reasons:*

1. *The lands is zoned solely or primarily for residential use.*
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:

Planning History

- It is argued that the Draft 2027 RZLT Map denotes the lands as having met relevant criteria in section 563B as of 1st January 2022 and the LRD application (ACP 324043-26 / LRD25A/0637/WEB) is therefore not a relevant consideration for the purposes of determining whether the lands are in scope as of the date.
- No planning permission for the necessary water supply and surface water infrastructure was in place as of 1st January 2026, being the latest point in times lands can have satisfied s. 653B to be considered in scope for the Draft 2027 RZLT.

Timing

- It is argued that the RZLT legislation specifically required local authorities to assign a later date if the lands only satisfied the relevant criteria at a later date. The Council incorrectly deemed the lands to have satisfied criteria in s. 653B on 1 January 2022.

Public Infrastructure

- It is submitted that the conclusion reached by the Council with respect to the existence of public infrastructure and the capacity of public infrastructure to service residential development is incorrect and reason no. 2 is incorrectly applied.
- It is not reasonable to consider that the subject lands have access or be connected to surface water drainage or water supply.
- It is argued that the 225mm surface water drain required to be installed along Cross Avenue to connect to surface water sewer manhole at Mount Merrion junction would add a significant cost to the development of the subject lands and cannot be considered to be within the 'normal' realm of associated costs.
- The DLR Water Services section confirmed that new surface water infrastructure

is necessary to serve the site.

- A new watermain is required to service the site from the entrance to the lands to the existing main at Booterstown Avenue junction, 230m west.
- These works are significant and combined with the surface water sewer would add a significant cost approx. €1.35m to the development. Such works cannot, therefore, be considered minor.
- There is no existing infrastructure at the location identified in section 4.1.1 (iii) of the guidelines.
- It is set out that while required infrastructure could be delivered within the public road network, which is in the Council's control, it necessitates the appellant securing planning permission. As of the 1st January 2022 and 1st January 2026, no planning permission existed which would enable the appellant to carry out these works.
- It is argued that the Council incorrectly applied criteria in section 653B(b).

7.0 Submissions by Prescribed Bodies – Appeal Stage

Uisce Eireann (17th August 2026) – This report notes that the site is serviceable, but subject upgrades and the appellant would be required to fund these local upgrades and there is no Uisce Eireann project associated with this site.

8.0 Assessment

8.1. Date of Assessment:

The date the land was first added to the RZLT map was the 1st January 2022.

I confirm that the date of my assessment as to whether the lands are in scope is as per draft map published on the 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—

(i) solely or primarily for residential use,

The lands are zoned Objective A – '*To provide residential development and improve residential amenity while protecting the existing residential amenities*' in the Dún Laoghaire-Rathdown County Development Plan 2022-2028. Residential use is permitted in principle under this zoning designation. The lands are considered within scope of section 653B(a)(i).

8.2.1. I note the grounds of appeal argue the fact that the land is zoned for residential is not in itself sufficient to bring them with the scope of RZLT. As set out above, 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. These are addressed in more detail below.

8.3. **Status of Lands:**

653B(a)(i) (primarily residential use)

653B(c)(i) Development which is not unauthorised and is in use as a premises, in which a trade or profession is being carried on, that is liable to commercial rates, that it is reasonable to consider is being used to provides services to residents of adjacent residential areas.

[1] Now An Coimisiún Pleanála

- The site is infill urban site. It is not in use as a premises in which a trade or profession is being carried out that it liable to commercial rates.

8.4. **Public Infrastructure and Facilities:**

Provisions of 653B(b)

8.4.1. The main issue raised by the appellant is that at the relevant cut off date – the 1st of January 2026, the subject lands did not have access or be connected to surface water drainage or water supply. It is set out that a new watermain is required to service the site from the entrance to the lands to the existing main at Booterstown Avenue junction, c.230m west and a c.225mm surface water drain is required to be installed along Cross Avenue to connect to surface water sewer manhole at Mount Merrion junction. The appellant contends that these works would add a significant cost to the development of the subject lands and cannot be considered to be within the 'normal' realm of associated costs. It is further argued that while required infrastructure could be delivered within the public road network, which is in the Council's control, it necessitates the appellant securing planning permission. As of the 1st January 2022 and 1st January 2026, no planning permission existed which would enable the appellant to carry out these works

8.4.2. The PA determined with reference to 'significant works' that it 'is necessary to take account of the local context of the lands as well as the size of the landholding and its ability to accommodate residential development (i.e. what might constitute significant works for a small holding that can only accommodate limited number of dwellings would be different to that of a large landholding that could accommodate tens or hundreds on units)' as this the potential yield in these lands. The PA refer to previous planning history on the lands and refer to section 3.1.1 *Criteria for Inclusion within the Scope of the Tax Measure* - Serviced Land Definition of the guidelines where it is states that 'a *need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist'.*

8.4.3. In this regard the Commission will note that Uisce Eireann of 17th August 2026 notes that the land is serviceable. A review of the Uisce Eireann capacity register on 23/10/2026 indicate 'spare capacity' is available in the wastewater network and 'Capacity Available - LoS improvement required' in the water network.

8.4.4. Whilst there is no dispute in this instance as regards wastewater connection, notwithstanding, the capacity availability in the wider Uisce Eireann network, the Commission will note that watermain and surface water upgrade works are required to service the lands and Uisce Eireann has stated that the water main upgrade works would be required to be funded by the appellant as there is no Uisce Eireann project associated with this site.

8.4.5. Under section 4.1.1(iii) it is further detailed:

"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. Where the infrastructure does not meet the threshold above, the following needs to be considered:

• Where no planning permission is in place, are the works to connect the landbank to the services on public land under the control of the local authority or land which will be available to the landowner/developer, in which case the land may be in-scope?

• Do the connections to services involve minor works, in which case the land may be in scope?

• Do the connections to services require access to 3rd party lands or 3rd party development to take place, in which case the land may be out of scope?"

8.4.6. As noted above, the date of this assessment is the 1st of January 2026 and it is this date that must be considered as to whether 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.

8.4.7. The submission from UE dated the 17th of August 2026 and the internal report from DLR Water Services section confirmed that at the date of assessment, there were water supply constraints which required the appellant to deliver a 230m watermain upgrade which as on the 1st January 2026 there was uncertainty around the delivery of this infrastructure in so far as the appellant had not obtained planning permission

(ACP 324043-26 / LRD25A/0637/WEB granted on 15/05/2026). In addition, approx. 600m of new surface water drainage sewer is required to service the lands. No planning permission was in place for these works 1st of January 2026 and contrary to the opinion of the PA, I am of the opinion that the works required to upgrade the watermain and to provide a surface water sewer to service the lands are not 'minor works' and necessitate works beyond the site boundary and at additional cost to the appellant.

8.4.8. 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.

8.4.9. Having regard to the RZLT guidelines, the works proposed are beyond minor network upgrades and constitute in my view substantive works which must be undertaken by landowner to undertake or implement in order to facilitate development.

8.4.10. In this context, I am satisfied that as of the date of assessment – the 1st of January 2026, there were significant infrastructural; deficits and constraints that were beyond the scope of the developer to deliver, particularly in relation to connection to the public water supply and surface water drainage sewer.

- Roads – YES access to Cross Avenue.
- Footpaths – YES along Cross Avenue.
- Public Lighting – YES along Cross Avenue.
- Foul Sewer Drainage – YES however further network upgrades required
- Water Supply – No – constrained – lands did not have access or be connected to surface water drainage or water supply. These works are developer driven and on 1st January 2026 there was uncertainty around the delivery of theses necessary infrastructure works. Planning permission was not granted until 15th May 2026 - ACP 324043-26 / LRD25A/0637/WEB.

8.5. **Physical Condition:**

8.5.1. Having regard to 653B(B)(c), it is reasonable to consider that 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.

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

I am satisfied none of the exclusions under 653B (c) (iii) to (v) apply.

8.7. **Conclusion:**

The subject lands are located within the urban envelope of Dublin and are zoned to facilitate residential development. However, having regard to the significant infrastructural constraints that prevail and as confirmed by Uisce Eireann on the 17th August 2026 and by the DLR Water Services section report (as set out in the PA assessment dated 29th June 2026), I am satisfied that lands are not within scope having regard to the provisions of 653B(b).

9.0 Recommendation

Having regard to the foregoing I consider that the lands identified as Land Parcel ID DELA00002108 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 Parcel ID DELA00002108 are located on lands zoned zoned Objective A – '*To provide residential development and improve residential amenity while protecting the existing residential amenities*' in the Dún Laoghaire-Rathdown County Development Plan 2022-2028 and are considered in scope of section 653B(a)(ii). The lands are located within an established urban area. However, having regard to the submission by Uisce Eireann (17.08.26) and the DLR Water Services section report (as set out in the PA assessment dated 29.06.26), at the date of assessment – the 1st of January 2026, there were significant water supply and surface water infrastructure constraints to servicing the lands. The nature of the works required to upgrade the network are substantive and implementation necessitated works beyond the site boundary and did not have the benefit of planning permission until

15.05.26. 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.

Recommended Draft Commission Order

Taxes Consolidation Act 1997 as amended

Planning Authority: Dun Laoghaire-Rathdown County Council.

Local Authority Reference Number: DM26-003

Land Parcel ID: Parcel ID DELA00002108

Appeal by CAIRN Homes PLC 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 Dun Loaghaire Rathdown County Council Kildare Council on the 29th day of June 2026 in respect of the site described below.

Lands at: Lands at Chesterfield, Cross Avenue, Blackrock, 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 set aside the determination of the local authority and allow the appeal in relation to the lands identified as Parcel ID DELA00002108.

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 Parcel ID DELA00002108 are located on lands zoned zoned Objective A – '*To provide residential development and improve residential amenity while protecting the existing residential amenities*' in the Dún Laoghaire-Rathdown

County Development Plan 2022-2028 and are considered in scope of section 653B(a)(ii). The lands are located within an established urban area.

However, having regard to the submission by Uisce Eireann (17.08.26) and the DLR Water Services section report (as set out in the PA assessment dated 29.06.26), at the date of assessment – the 1st of January 2026, there were significant water supply and surface water infrastructure constraints to servicing the lands. The nature of the works required to upgrade the network are substantive and implementation necessitated works beyond the site boundary and did not have the benefit of planning permission until 15.05.26.

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