An Coimisiún Pleanála

Inspector's RZLT Report

File Ref. No.: ACP-324543-26

Local Authority Ref. No. FIN-C917-RZD27-3

Location: Flemington, Balbriggan, Co. Dublin.

Local Authority: Fingal County Council

Appellant(s): James O Shaughnessy

Inspector: Fergal Ó Bric

Site Location & Description
The lands are located along the western side of the access road to the Flemington Park residential development with access to road frontage onto this access road in Balbriggan, Co. Dublin. To the north of the lands are four individual dwellings on generous plot sizes that front onto Flemington Lane. There is a permitted residential scheme to the south and west of the subject lands which is presently under construction. To the east of the site is the access road to Flemington Park. The site comprises undeveloped greenfield lands.
Zoning & Other Provisions
The lands which are the subject of this appeal is zoned 'RA Residential' in the current Fingal County Development Plan, 2023-2029. The zoning objective is ‘To provide for new residential communities subject to the provision of the necessary social and physical infrastructure’.
Planning History
I am not aware of any planning history pertaining to the subject lands. <u>On lands immediately adjacent to subject lands:</u> Case Ref. No. ABP-316713-23: In 2023, the Coimisiún confirmed the determination of the Local Authority that the lands are in scope of Section 653B of the Taxes and Consolidation Act 1997, as amended. A decision was issued on 9th day of August 2023.

Case Ref. No. ACP-319343-24: In 2024, the Coimisiún granted planning permission for a large scale residential development comprising of 764 residential units. This residential scheme is presently under construction and is located immediately to the south and west of the subject lands.

Submissions by Prescribed Bodies – PA Stage

None.

Determination by the Local Authority

It has been determined (on the 30th day of June 2026) that the site in question fulfils the qualifying criteria set out in Part 22a of the Taxes Consolidation Act 1997 (as introduced by the Finance Act 2021) and the 2022 Section 28 Ministerial Guidelines 'Residential Zoned Land Tax-Guidelines for Planning authorities' for inclusion on the RZLT map for the following reasons:

1) The land in question is included in a development plan or local area plan and is zoned for residential development or zoned for a mixture of uses, that includes residential development.

2) The land is serviced, or it is reasonable to consider may have access to services. Serviced means having access to the necessary public infrastructure and facilities including road and footpath access, public lighting, foul sewer drainage, surface water drainage and water supply necessary for dwellings to be developed and for which there is service capacity available sufficient to enable housing to be developed.

3) The land is not affected in terms of its physical condition, by matters to a sufficient extent to preclude the provision of dwellings, including contamination or the presence or archaeological or historic remains.

4) The existing non-residential use of the lands that are the subject of the submission are not considered to benefit from the exclusions set out in the Finance Act 2021 at Section 653B.

The Appeal

The following points were raised within the appeal submission:

- There is no available connection to the essential water services, wastewater infrastructure or other utilities required to support housing development.
- The absence of such infrastructure means that the lands are not capable of being developed for residential purposes without significant investment and the provision of new infrastructure.
- The lands have no direct access to the public road network and are effectively landlocked.
- The absence of lawful access represents a fundamental impediment to development.
- The residential zoning alone is not sufficient to justify inclusion on the RZLT map. The legislation envisages that the lands included on the map should be serviced, or capable of being serviced, and reasonably capable of being activated for residential development.
- Given the absence of both servicing and access, the subject lands cannot reasonably be regarded as being suitable for residential development at this time.
- The objective of the RZLT is to encourage the activation of serviced residential land. Applying the tax to lands that cannot be developed due to circumstances beyond the landowners control would not further the purpose of the legislation.

- Instead, it would impose a tax burden on landowners where the constraints preventing development cannot be addressed by the owner alone
- The inclusion of the lands on the RZLT map is neither appropriate nor consistent with the intent of the legislation.
- Requests that the lands at Flemington, Balbriggan be removed from the RZLT map.

Submissions by Prescribed Bodies – Appeal Stage

Uisce Eireann-Referral response received by the Coimisiún from Uisce Eireann on the 14th day of August 2026 who confirm that the area is serviced for both water and wastewater. They state that a short developer led extension <40 metres is required to service the lands. They also state that access to the network services would be from Flemington Park (located immediately east of the subject lands).

Assessment

Date of Assessment: 16th day of October 2026

Section 653B (2)-Zoning Status of Land

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 RA-Residential Area in the current Fingal County Development Plan 2023-2029 and are considered within scope of Section 653B(a)(i) of the Taxes Consolidation Act 1997 as amended. 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 Coimisiún*

		is restricted to considering whether the lands meet the qualifying criteria set out in section 653B only".
Status of Lands		
Section 653B (a)(i) (primarily residential use)	**Section 653B(a) (i)** Lands are zoned solely or primarily for residential use,	
Section 653B (c)(i)	(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	Based on the information submitted, neither the appellant nor the Planning Authority have submitted details of any trade or profession, authorised or not, operating from the subject lands.
653B(b)(2)	Is it reasonable to consider 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.	I consider that by virtue of the suburban location and, it is reasonable to consider the lands may have access, or be connected to public infrastructure and

		facilities, including road access, foul sewer drainage, surface water drainage and water supply as per the information set out within the internal reports from the Transportation Planning and Water Services Planning Sections within Fingal County Council and the referral response to the Coimisiún from Uisce Eireann dated the 14th day of August 2026. The Uisce Eireann capacity register (published in April 2026) sets out that there is capacity available in the wastewater network and within the watermains network, subject to a level of service improvement works.
	Roads	YES
	Footpaths	YES
	Public Lighting	YES

	Foul sewer Drainage	YES-See referral response from Uisce Eireann.
	Water Supply	YES- See referral response from Uisce Eireann.
	Does 653B(2)(c) apply?	
Provisions of 653B (c)		
653B(c)	It is reasonable to consider 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.	Yes
Exclusions 653B (c) (iii) to (v) –		
BUT which is not land (iii) that it is reasonable to consider is required for, or is integral to, occupation by:	(I) 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
	(II) transport facilities and infrastructure,	NO-See internal report from the Transportation

		Planning Section within Fingal County Council
	(III) energy infrastructure and facilities,	NO
	(IV) telecommunications infrastructure and facilities,	NO
	(V) water and wastewater infrastructure and facilities,	NO- See internal report from the Water Services Planning Section within Fingal County Council and the referral response to the Coimisiún from Uisce Eireann.
	(VI) waste management and disposal infrastructure, or	NO
	(VII) recreational infrastructure, including sports facilities and playgrounds,	NO.
(iv) that is subject to a statutory designation that may preclude development, or		NO
(v) on which the derelict sites levy is payable in accordance with		NO

the Derelict Sites Act 1990		

Assessment – Key Conclusions

The date the land was first added to the RZLT map was the 1st January 2022. For the purposes of falling within the scope of the RZLT, the criteria is whether it 'is reasonable to consider'. The local authority determined the lands to be in scope as it is reasonable to consider that the lands have access or may be connected to public infrastructure and facilities including road access, footpaths, public lighting, foul sewer drainage, surface water drainage and water supply that is necessary for dwellings to be developed and that have sufficient service capacity for such development and the lands are not affected in terms of their physical condition by matters to a sufficient extent to preclude the provision of dwellings. The provision of infrastructure to the subject lands is considered to be in the control of Fingal County Council or Uisce Eireann and the local authority determined that that the subject lands are in scope and, therefore, retained within the RZLT Final Map.

Based on the information contained in the Uisce Eireann referral response (dated 14th day of August 2026) and the UE capacity register (dated April 2026), UE have confirmed that the area is serviced for both water and wastewater and that there is capacity available, albeit a level of service improvement in required in relation to water supply**.** I consider that based on this information, it is reasonable to consider that there is access to/or a connection can be facilitated to sewer and water connections on land that is the control of the local authority and/or the landowner. On this basis, the land, therefore, satisfies the criteria cited in section 653B(b) of the Taxes Consolidation Act 1997, as amended and the grounds of appeal should be dismissed.

Recommendation

Confirm	I consider that the lands identified at Flemington, Balbriggan, Co. Dublin (Parcel ID FL0000002197) meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended. The grounds of appeal have not raised other matters under Section 653B of the Taxes Consolidation Act 1997, as

	amended and there are no matters arising that warrant exclusion of the subject lands from 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 at Flemington, Balbriggan, Co. Dublin (Parcel ID FL0000002197) located on lands zoned RA-Residential Area are considered in scope of section 653B(a). The lands are located within an established urban area, are accessible by road to the west with documentary evidence from Uisce Eireann that services are available and that there is sufficient wastewater capacity to serve the lands. No capacity or other reasons have been identified that would prevent the development of these lands in principle for residential purposes in accordance with the residential zoning objective that applies to these lands.

Recommended Draft Order

Taxes Consolidation Act 1997 as amended

Planning Authority: Fingal County Council

Local Authority Reference Number: FIN-C917-RZD27-3

Appeal by James O Shaughnessy 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 30th day of June 2026 in respect of the site described below.

Lands at: Flemington, Balbriggan, 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, the Coimisiún hereby decided to:

Confirm the determination of the local authority and direct the local authority to retain the lands identified at Flemington, Balbriggan, Co. Dublin (Parcel ID FL0000002197) on the final map.

Reasons and Considerations

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Declaration

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.

Fergal Ó Bric

Planning Inspectorate

Date: 16th day of October 2026