



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316362-23

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<b>Type of Appeal</b>	Appeal under section 653J(1) of the Taxes Consolidation Act 1997, as amended, against the inclusion of land on the Residential Zoned Land Tax
<b>Location</b>	Passage West, Monkstown, Co Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	DRZLT473646025
<b>Appellant(s)</b>	Finbar and Eileen Coakley
<b>Inspector</b>	Rachel Gleave O'Connor

## **1.0 Site Location and Description**

- 1.1. The site is located to the east of the L2474, and north east and north of Scotsman's Road. There is one-off housing to the north, east and south of the site. Agricultural/greenfield areas are situated adjacent to the site, and there is a golf course situated further to the east on the opposite side of the L2472.

## **2.0 Zoning and other provisions**

- 2.1. The site is zoned 'Existing Residential/Mixed Residential and Other Uses' under the Cork County Development Plan 2022-2028. Residential is identified as an appropriate use under the zoning Objective in the Development Plan.

## **3.0 Planning History**

- 3.1. Reg. Ref. 224042 – Planning Permission GRANTED 23<sup>rd</sup> November 2022 for construction of a residential development. The proposed development consists of 24 No. dwelling houses comprised of 13 no. 4 bedroom and 11 no. 5 bedroom detached dwelling houses, car parking, landscaping, boundary treatments and all ancillary site works and services. Access to the proposed development will be via an existing L-2474-40 public road.

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

- 4.1. The appellant made a submission to the Local Authority seeking to have its land removed from the draft map. It stated that:
- Responsibility for the delivery of upgrades to the infrastructure required for the landowners site to be developed, including access to the local water-supply network and waste-water system, lies with Uisce Éireann and is outside of the landowner control.
  - There is no definitive timeframe available for the delivery of infrastructure.
  - Recent grant of permission for residential development of the lands ref. 22/4042. As part of the grant of permission, condition no.38 requires the engagement of a archaeologist to carry out archaeological testing across the

site. With ref. to section 653B(c) outlined in the Taxes Consolidation Act 1997 (as amended), it is not reasonable to consider, that these lands are not affected by the presence of archaeological remains.

- The landowner has taken steps to engage with the planning process and are doing the utmost to activate these lands. Contend that the spirit of the legislation is not intended to penalise landowners who are actively attempting to unlock land for development.
- Irish Water does not have any plans to extend its network in the area but will facilitate connection at the cost of the developer, however the landowner has not received any correspondence from Irish Water regarding their availability to make the connection, or a timeframe for the same.
- The site does not have access to adequate footpaths and public lighting.

Enclosure: Appendix 1 map of subject site; Appendix 2 copy of confirmation of feasibility from Irish Water with respect to water and wastewater connections to facilitate development of the site; Appendix 3 copy of correspondence from Irish Water on planning application at Laurel Hill Monkstown (map confirming relates to subject site).

## 5.0 **Determination by the Local Authority**

5.1. The local authority provided an evaluation of the site with reference to the RZLT Guidelines, confirming the following:

- Planning consent granted for housing on the subject site under 22/4042. Uisce Éireann confirms that watermain and sewer are available.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

- Responsibility for the delivery of upgrades to the infrastructure required for the landowners site to be developed, including access to the local water-supply network and waste-water system, lies with Uisce Éireann and is outside of the landowner control.

- There is no definitive timeframe available for the delivery of infrastructure.
- Although Cork County Council have indicated through their evaluation report that Uisce Éireann have confirmed a connection to sewer and watermain is available there is no evidence of same and there is no evidence of official correspondence between Uisce Éireann and Cork County Council to reflect such confirmation was given. The landowner has not received any correspondence from Uisce Éireann indicating that any such connection is in place.
- The landowner has taken steps to engage with the planning process and are doing the utmost to activate these lands. Contend that the spirit of the legislation is not intended to penalise landowners who are actively attempting to unlock land for development.
- The decision taken by CCC is not consistent with section 3.1.1 and 4.1.1 of the RZLT Guidelines.
- The site does not have access to adequate footpaths and public lighting.

## 7.0 Local Authority Response

- Uisce Éireann confirmed the following in their response relating to the submission the subject of this appeal:
  - A watermain exists on the public road that can serve the subject site;
  - A sewer exists on the public road that can serve the subject site;
- The RZLT Guidelines set out on page 7 that lands must be connected, or have access to public infrastructure and on page 8 that a need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed.
- The site meets the criteria for inclusion with the RZLT map.

## 8.0 Assessment

- 8.1. The grounds of appeal assert that the site is not serviced with respect to water and wastewater. The Local Authority contend that Uisce Éireann have confirmed

availability of water and wastewater services proximate to the site and via the public road, however there is no correspondence included within the file on this RZLT case to support this statement. The Local Authority may be referring to correspondence from Uisce Éireann on the planning application approved on the site in November 2022, which the landowner appears to have appended to their original submission to the Local Authority (planning reference no. redacted). Planning permission has been granted on the subject site for residential development and would have required an assessment of feasibility to connect to water and wastewater services. However, section 3.2.3 of the RZLT Guidelines are clear that matters unrelated to the criteria set out under the Act, including planning permission, are not matters to be taken into account.

8.2. The subject site does adjoin the public road L2474 which would indicate availability to connect to public infrastructure that can be reached via that road in public control. However, without correspondence from Uisce Éireann on the RZLT case itself, it is uncertain whether network connection is possible to public infrastructure.

8.3. The appeal grounds also raise the matter of a lack of footpaths and public lighting, which the Local Authority has not addressed. Page 25 of the RZLT Guidelines state that with respect to footpath access:

*“for lands to be considered in scope, there should be an ease of connection to an existing footpath network to facilitate active travel modes from the outset. Provision of significant sections of new footpath across other landholdings, where the land is not in the control of the landowner or local authority should be discounted when considering lands to be in-scope.”*

8.4. The subject site extends to the L2474, where there are no footpaths at present. Public lighting could be provided by a developer via the public road, however the provision of a footpath from the subject site to the wider pedestrian network would pass over third party lands, and as such, the site is not in scope for inclusion in the RZLT map.

## 9.0 Recommendation

9.1. I recommend that the board set aside the determination of the local authority and allow the appeal.

## 10.0 Reasons and Considerations

10.1. Having regard to the determination by the local authority, the submitted grounds of appeal, the provisions of the section 653B of the Taxes Consolidation Act 1997, as amended, and Section 4.1.1 (iii) of the RZLT Guidelines, availability of wastewater and water connections to serve the site has not been demonstrated. In addition, the site is not served by existing pedestrian infrastructure and would require upgrades to connect to existing provision, which would likely require works on lands in third party ownership, and as such cannot be considered in-scope for the RZLT.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Rachel Gleave O'Connor  
Senior Planning Inspector

06 September 2023