



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316363-23

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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 Map
<b>Location</b>	Lands at Garranedarragh, Bishopstown, Co. Cork
<b>Local Authority</b>	Cork City Council
<b>Local Authority Reg. Ref.</b>	CRK-RZLT-58
<b>Appellant(s)</b>	O'Mahoney Developments
<b>Inspector</b>	Frank O'Donnell

## 1.0 Site Location and Description

- 1.1. The subject appeal site is located on the southern side of the South Ring Road (N40 National Secondary Road) in Bishopstown, Cork. The appeal site has an irregular shape and includes some frontage onto the N71 National Secondary Road to the west. The lands are predominantly greenfield. There are some established commercial uses to the northwest and northeast and established residential development to the immediate east.
- 1.2. The Local Authority Determination relates to Land Parcel ID CCLA00062497 which has an estimated site area of c.2.67 hectares. The Appeal site area is estimated to measure in the region of c. 9 hectares and is indicated to relate to a total of 16 no. Land Parcel ID (s).
- 1.3. It should be noted that there is 1 no. other concurrent RZLT Appeal on the adjacent lands to the north for which a decision is pending, as follows:
  - Appeal Ref. No. 316801-23. Better Value Unlimited Company. Land to the immediate north.

## 2.0 Zoning and other provisions

- 2.1. The site/ lands which are the subject of the appeal submission are predominantly zoned *'ZO 02 New Residential Neighbourhoods. Zoning Objective 2: To provide for new residential development in tandem with the provision of the necessary social and physical infrastructure.'*
- 2.2. The balance of the lands which are the subject of the appeal submission are zoned:
  - *'ZO 1 Sustainable Residential Neighbourhoods. Zoning Objective 1: To protect and provide for residential uses and amenities, local services and community, institutional, educational and civic uses.'*
  - *'ZO 20 City Hinterland. Zoning Objective 20: To protect and improve rural amenity and provide for the development of agriculture.'*
- 2.3. The part of the appeal submission site zoned 'ZO 02 New Residential Neighbourhoods' is categorised as Tier 2 lands in the Growth Strategy Map 2022 to 2028 (Figure 2.21) of the Cork City Development Plan, 2022 to 2028. Tier 2 sites are

lands which are considered serviceable by physical infrastructure within the life of the plan. The majority of the overall site which is the subject of the Local Authority determination is indicated as a site within an Existing Built-Up Area and within the overall Sub City Area, see Figure 2.22 of the Plan.

- 2.4. The lands are located within the Outer Urban Suburbs of Cork City.
- 2.5. Chapter 12 of the Plan relates to Land Use Zoning Objectives. In relation to ZO2: New Residential Neighbourhoods, the following is stated under ZO 2.1:

*'ZO 2.1 Lands in this zone are designated as Tier 1 or Tier 2 zoned lands in the Core Strategy. Any development proposals must satisfy the requirements for developing on Tier 1 or Tier 2 lands set out in Chapter 2 Core Strategy.'*

- 2.6. In relation to ZO1: Sustainable Residential Neighbourhoods, the following is stated under ZO 1.3 *'Primary uses in this zone include residential uses, crèches, schools, home-based economic activity, open space and places of public worship.'*

- 2.7. ZO20: City Hinterland zoning, the following planning guidance is provided in Chapter 12:

*'ZO 20.1: The primary objective of this zone is to preserve the character of the City Hinterland generally for use as agriculture, rural amenity, open space, recreational uses, green and blue infrastructure and to protect and enhance biodiversity. Rural-related business activities which have a demonstrated need for a rural location are also permissible. Any development associated with such uses should not compromise the specific function and character of the City Hinterland in the particular area.'*

*ZO 20.2: Other uses open for consideration in this zone include renewable energy development (wind turbines, solar farms), tourism uses and facilities, garden centres and nurseries, cemeteries and community and cultural uses, market gardening and food production ancillary to agricultural uses.'*

*ZO 20.3: The City Hinterland helps to maintain a clear distinction between urban areas and the countryside and avoid the harmful impacts of urban sprawl.'*

*ZO 20.4: Single housing in the City Hinterland will be facilitated only where the objectives and requirements on rural housing set out in Chapter 3 Delivering Homes and Communities are met. Housing must be based on exceptional rural*

*housing need and on the core considerations of demonstrable economic or social need to live in a rural area. Other considerations including siting and design criteria are also relevant.'*

### 3.0 Planning History

#### 3.1. Planning History

#### 3.2. ABP-304707-19: Jim Luby and Tom Rogers.

- Case Type: Strategic Housing Development – Consultation
- Description: Demolition of existing dwelling and outbuilding, construction of 227 no. residential units (115 no. houses, 112 no. apartments), creche and associated site works.
- Decision: Requires further consideration/amendment.
- Date: Issued on 27/08/2019.

#### 3.3. 156208: Jim Luby & Tom Rogers (Joint Receivers of Certain Assets of John & Elaine Barry) c/o Hallmark Buildi. EXTENSION OF DURATION. An Extension of duration of permission granted under planning ref: 09/6395. EOD Granted on 23/11/2015. The Expiry date of this EOD is indicated on the Notification of Decision dated 23/11/2015 to be 16/02/2021.

#### 3.4. 096395 (Appeal Ref. No. PL 04.236385): Castlelands Construction Company. Permission for the Demolition of existing house, construction of 256 no. residential units, realignment of roadway, creche, car parking and all associated works. Permission was GRANTED on 17/02/2011 subject to 31 no. conditions.

#### 3.5. The following conditions of planning reg. ref. no. 096395 (Appeal Ref. No. PL 04.236385) are considered to be of relevance to the subject appeal:

- ‘3. *The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development. In default of agreement regarding phasing, the matter shall be referred to An Bord Pleanála for determination.*

*Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.*

4. *The N71 Chetwynd Viaduct Dual Carriageway Scheme Phase 1, including the Garranedarragh Roundabout, shall be completed to the satisfaction of the planning authority prior to the occupation of any dwellings in the proposed development.*

*Reason: To ensure that the necessary road infrastructure is in place to facilitate the development.*

5. *The costs of designing, supervising and building the Garranedarragh Roundabout and associated road elements of the N71 Chetwynd Viaduct Dual Carriageway Scheme Phase 1 shall be paid by the developer. The full scope of the works shall be agreed in writing with the planning authority prior to any construction commencing. Before any development commences provision to this effect shall be embodied in an agreement between the developer and the planning authority pursuant to Section 47 of the Planning and Development Act 2000.*

*Reason: In the interest of clarity and to ensure that the necessary road infrastructure is in place to facilitate the development.*

6. *No vehicular access shall be permitted onto the N25 South Ring Road at any time.*

*Reason: In the interest of traffic safety.'*

- 3.6. 094101: Castlelands Construction Company. Permission for 300 no. residential units. The Application was WITHDRAWN on 13/03/2009.
- 3.7. 0810258: Castlelands Construction Company. INCOMPLETE APPLICATION.
- 3.8. 0712723: Castlelands Construction Ltd. Construction of four storey office building with 3 levels of underground car parking and associated site works and services. The Application was WITHDRAWN on 31/01/2008.
- 3.9. 076938: Castlelands Construction Limited. Demolition of existing property and outbuildings and construction of residential development of 245 no. residential units comprising of 150 no. apartments and 95 no. dwellinghouses, realignment of permitted roadway, access from permitted roundabout, construction of creche, pedestrian links,

provision for 328 no. car parking spaces (including basement), on site attenuation and all site development and landscaping works and services. Permission was REFUSED on 29/11/2007. No further details available on the online iPlan Planning Register.

3.10. 053477 (Appeal Ref. No. PL04.213513): Rosridge Properties Ltd. Permission for an access roadway serving zoned residential lands. Permission was GRANTED on 19/08/2005. An Appeal to An Bord Pleanála was WITHDRAWN on 15/11/2005.

3.11. 05217: Rosridge Properties Ltd. Permission for the construction of access roadway serving zoned residential lands. Application was WITHDRAWN on 13/05/2005.

3.12. 041753 (Appeal Ref. No. PL04.207824): Rosridge Properties Ltd. Permission for an access roadway to zoned residential area and proposed medical facilities development. Permission was Refused on 15/11/2004 for the following reasons:

*1. Having regard to the location of the site of the proposed development within the green belt of Cork City and environs and within an area indicated as A1-Agriculture in the current development plan for the area, it is considered that the proposed development, by reason of its scale, nature and visual impact would materially contravene the provisions of the development plan and would, therefore, be contrary to the property planning and sustainable development of the area.*

*2. Having regard to the topography of the site, the elevated position of the proposed development and its scale, nature and proximity to adjoining residential property, it is considered that the proposed development would seriously injure the residential amenities of property in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.*

3.13. 034813 (Appeal Ref. No. PL04.205817): Rosridge Properties Limited. Permission for Demolition of house and construction of 83 houses, 20 duplex units, 197 no. apartments with underground parking and associated works. Permission was REFUSED on 26/05/2004 for the following reasons:

*1. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic movements generated by the development on and off the National Primary*

*Road N25 at the entrance. The proposed development would interfere with the safety and free flow of traffic and would contravene national policy and the objectives of the Planning Authority to preserve the level of service and the carrying capacity of and public investment in a National Primary Road.*

- 2. The site is located within an area subject to a compulsory purchase order in connection with the Bandon Road and Sarsfield Road Interchange Scheme approved by An Bord Pleanála on the 4<sup>th</sup> day of May, 2004 under Compulsory Purchase Order reference number CH2100. The proposed use of the existing access to serve the proposed development would conflict with the terms of this order by reason of the alterations to the access lane and relocation of the existing entrance westwards to a location suitable for the servicing of one dwelling only that have been approved. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*
- 3. The proposed intensive and large-scale residential development, which would have direct access to the National Primary Road, dual carriageway (N25) does not make any provision for cyclist and pedestrian travel to and from the site and it is considered that the proposed development would, therefore, endanger the safety of persons occupying the development and would endanger public safety by reason of traffic hazard.*
- 4. It is considered that the proposed development would constitute an intensive and large-scale substandard form of development by reason of unacceptable layout and design and inadequate proposals for foul and surface water sewerage, water supply, open space, childcare facilities and social housing. The proposed development would, therefore, seriously injure the amenities of the area and of occupants of the proposed development, and would be contrary to the proper planning and sustainable development of the area.*

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

- 4.1. The Appellant made a submission to the Local Authority seeking to have the land removed from the draft map.

- 4.2. The submission is indicated to relate to the following Land Parcel ID (s)
- 4.3. Public Infrastructure and facilities are currently not in place.
- 4.4. Upgrades to the surrounding road network are primarily the responsibility of TII and Cork City Council to deliver and are outside of the control of the Appellant.
- 4.5. Upgrades to the Wastewater network are required to serve the lands.

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

5.1. Having evaluated the submission, it is considered that the land DOES constitute land satisfying the criteria as per Section 653E (1) (a) (ii) (I) of the Taxes Consolidation Act, 1997 as amended, therefore it is recommended that the land(s) at Garranedarragh, Bishopstown, Cork should be INCLUDED in the final map for the following reasons:

5.2. Reason(s)

5.3. The land is included in the Cork City Development Plan 2022 – 2028, in accordance with Section 10 (2) of the Act of 2000 and is further zoned (i) solely or primarily for residential use, or (ii) for a mixture of uses, including residential use.

5.4. These lands satisfy section 653B (b) of the Act, in that it is reasonable to consider that the land may have access, or be connected, to public infrastructure and facilities, including roads and footpaths, public lighting, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed and with sufficient service capacity available for such development.

5.5. The Local Authority determined that the site was in scope and should remain on the map.

5.6. It is noted that the Local Authority Determination, CRK-RZLT-58, dated 31/03/2023, is based on Land Parcel ID CCLA00062497.

## 6.0 **The Appeal**

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

The Grounds of Appeal are summarised as follows:



- The Local Authority decision did not provide a satisfactory infrastructural assessment of the lands.
- Inadequacies in the Local Authority Assessment and Decision.

## 7.0 Assessment

- 7.1. The comments raised in the appeal are noted. The Local Authority has submitted a copy of the Determination. There is no Local Authority Report/ Assessment on file.
- 7.2. The Appellants submission to the Local Authority, dated 21/12/2022, references Land Parcel ID (s) CLA00062537, CLA00062302, CLA00062297, CLA00062497, CLA00062500, CLA00062499, CLA00060377, CLA00060371, CLA00060375, CLA00060370, CLA00060718, CLA00062502, CLA00062503, CLA00062504, CLA00062505, CLA00062496.
- 7.3. It is noted that the Local Authority Determination (CRK-RZLT-58), dated 31/03/2023, relates to Land Parcel ID CCLA00062497 only.
- 7.4. As per the provisions of Section 653J 3) a) of the Act, the Appeal is curtailed to the Determination of the Local Authority, i.e., Land Parcel ID CCLA00062497.
- 7.5. Uisce Eireann, as per the Letter dated 24/01/2023 and in relation to Water Networks, confirm that a water main exists on the public road in close proximity to the site and that available GIS data indicates that the watermain is accessible 10m away into Eagle Valley estate. It is further stated that capital upgrades may be required for the entire network.
- 7.6. Having regard to the foregoing and to recommendations contained in Section 3.1.1 of the Residential Zoned Land Tax Guidelines, June 2022, I am satisfied that it is reasonable to conclude that currently and at the time of the relevant dates, the subject lands could/ can be suitably serviced in terms of Water Supply.
- 7.7. Uisce Eireann, as per the Letter dated 24/01/2023 and in relation to Wastewater Networks, confirm that a Pumping Station (PS) will be required within the confines of the site and that there is potential to connect to existing Eagle Valley PS with limited capacity and that capital upgrades may be required of the Eagle Valley PS and down stream network to cater for the entire development.

- 7.8. Having regard to the foregoing and to recommendations contained in Section 3.1.1 of the Residential Zoned Land Tax Guidelines, June 2022, I am satisfied that it is reasonable to conclude that currently and at the time of the relevant dates, the subject lands could/ can be suitably serviced in terms of Wastewater.
- 7.9. It is noted that an Extension of Duration (EOD) permission was Granted on the lands under EOD planning reg. ref. no. 156208, see Section 3.0 above, Planning History. The Expiry date of this said EOD is indicated on the Notification of Decision dated 23/11/2015 to be 16/02/2021. It is further noted that under planning reg. ref. no. 09/6395 (Appeal Ref. No. PL 04.236385), the duration of which was extended under EOD planning reg. ref. no. 156208, that access to the subject lands was permitted via the N71 roundabout.
- 7.10. Conditions no's. 3, 4, 5 and 6 of planning reg. ref. no. 09/6395 (Appeal Ref. No. PL 04.236385), which relate to phasing and traffic/ access issues, are quoted above in Section 3.5 of this Report. The N71 Chetwynd Viaduct Dual Carriageway Scheme Phase 1 has yet to be constructed.
- 7.11. The subject lands formed part of a proposed Strategic Housing Development (SHD) site presented as part of Pre-Application Consultation, as case ref. no. ABP-304707-19 refers.
- 7.12. Recommendations in relation to Road Access are provided in Section 4.1.1 iii) of the Residential Zoned Land Tax Guidelines, June 2022, wherein the following is stated:

- *'Road Access*

*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.'*

- 7.13. It is considered that, in order to provide an acceptable road access to serve a future residential development on the subject lands, it will be necessary for certain road improvement works to take place.
- 7.14. Having regard to the aforementioned permissions, planning reg. ref. no. 09/6395 (Appeal Ref. No. PL 04.236385) & EOD planning Reg. Ref. no. 156208, and all relevant conditions attached to same, I am satisfied that it is reasonable to conclude, as per the provisions of Section 653B of the Act, that currently and at the time of the relevant dates, the subject lands could not/ cannot be suitably accessed for the purposes of residential development.
- 7.15. On this basis therefore, it is my opinion that the lands should be removed from scope as they do not satisfy the criteria for inclusion in the map, in terms of access/ road service capacity, as per the provisions of Section 653B b) of the Act.

## 8.0 Conclusion

- 8.1. The site does not satisfy the criterion for inclusion on the map set out in Section 653B(b) of the Taxes Consolidation Act 1997, as amended.

## 9.0 Recommendation

- 9.1. I recommend that the Board set aside the determination of the Local Authority and that the indicated site be removed from the map.

## 10.0 Reasons and Considerations

- 10.1. The lands identified as CRK-RZLT-58 (Land Parcel ID (s): CCLA00062497), do not meet the qualifying criteria set out in Section 653B of the Taxes Consolidation Act 1997, as amended.
- 10.2. There is currently insufficient road service capacity for dwellings to be developed on the subject lands.
- 10.3. *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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Frank O'Donnell  
Planning Inspector

26<sup>th</sup> September 2023