



An  
Bord  
Pleanála

## Inspector's Report ABP-316428-23.

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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>                  | Village Road and Skerries Road,<br>Lusk, Co. Dublin.  |
| <b>Local Authority</b>           | Fingal County Council.  |
| <b>Local Authority Reg. Ref.</b> | RZLT 046/22   |
| <b>Appellant</b>                 | Eileen Sweetman   |
| <b>Inspector</b>                 | Irené McCormack   |

## 1.0 Site Description

1.1. The site comprises c. 0.4ha. of lands at Village Road and Skerries Road, Lusk, Co. Dublin.

## 2.0 Zoning

2.1. The site is zoned RS – Residential in the Fingal Development Plan 2017-2023. RS zoning Objective – *Provide for residential development and protect and improve residential amenity.* The lands are bound to the west and south by lands zoned TC – Town and District Centre

2.2. The Objective Vision - *Ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity.*

Note: Fingal Development Plan 2023-2029 was adopted by the Elected Members of Clare County Council at a Special Planning Meeting on the 22<sup>nd</sup> of February 2023. The Plan came into effect 6 weeks from the date of adoption, on 5<sup>th</sup> April 2023.

## 3.0 Planning History

None

## 4.0 Submission to the Local Authority

- The site cannot be connected to enabling infrastructure including roads, footpaths, public lighting, surface water, wastewater and water supply.
- The site is landlocked. Cobbler's lane has not been taken in charge and the land cannot connect other services, it is also suggested that the interface between the lands and Cobbler's Lane is restricted and would impede development.
- Access the site from Village Road and Skerries Road would impact existing commercial operation and 3 no. residential properties and considered inappropriate.
- It is noted that there is no planning history on the lands although it is noted that the lands are in use as part of a commercial car repair premises.
- The submission requested the land be excluded from the RZLT.

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

- 5.1. The local authority determined the site to be in scope and should remain on the map. The local authority consideration stated that land is zoned and serviced.
- 5.2. There is not planning history on the RS zoned lands.
- 5.3. The issues of access can be addressed as part of any future application.

## **6.0 The Appeal**

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

- Referring to the original submission to the PA it is set out that the site is landlocked.
- There is an established commercial use on the site, Westbrook Autos Lusk relating to vehicular repair and scrap. While the commercial use traverses a wider site that the RZLT lands the RZLT identified lands is primarily occupied by open-air car storage and 1 no. workshop. This is a long-standing use on the site and provides day to day services for residents in the immediate area and represents a valuable asset for the wider town.
- It is noted that the existing commercial and residential units on site are authorised, and that layout does not lend itself to redevelopment without significant impact to these structures.

## **7.0 Assessment**

- 7.1. The appellant contends that the lands are landlocked not accessible and, not serviceable and should therefore not be included on the RZLT Map.
- 7.2. I note the confirmation email attached to the submission from LA stating that Cobbler's Lane is not taken in charge. I also note that the RZLT lands form part of a wider site with the lands to the west zoned TC. The site is currently accessed via these TC lands from the Skerries Road (Main Street) and therefore accessible and connection can be provided to the necessary services and infrastructure from the Skerries Road. Whilst access from Cobbler's Lane maybe present a challenge in terms of lane not being currently in charge, the existing layout does not render access to the lands impossible subject to appropriate design, services and footpath connotation are available immediate to the site at Cobbler's Lane. Therefore, it is

reasonable to consider the lands to be *'connected' or 'able to connect'* to the existing services and infrastructure.

- 7.3. Regarding the established use on the lands, the appellant states that the use is associated with the commercial garage operating on the TC zoned lands and that this use is authorised. The guidelines states that 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:

*Operating Uses on Residential Zoned Lands - With reference to land that is included in a development plan or local area plan and is zoned solely or primarily for residential use such as 'Residential' or 'New Residential', existing uses to be excluded from the scope of mapping for the tax measure must provide a service to the existing or future residential community, must be an authorised use, must be considered a premises in use by a trade or profession and must be liable to commercial rates. Local Authorities should seek input from their Rates Offices in this regard.*

- 7.4. The guidelines further state that *for clarity, existing uses such as shops, cafes and similar commercial uses which would be utilised by a residential community on a day-to-day basis and support the sustainable development of the community are considered to be exempted from scope*".

- 7.5. In the first instance, I agree the use as a car repair garage serves the local residents and the wider community, however, the RS zoned lands the subject of the RZLT are used primarily for the storage of cars. Of relevance, I note there is no planning history on the site as per the FCC online planning enquiry and the appellant also states that there is no planning history in their submission. The PA in their assessment state that there is no planning history on the RS zoned lands. Therefore, I cannot be satisfied as to the planning status of the lands. In addition, no evidence has been submitted that the lands the subject of the RZLT are the subject of commercial rates associated with any other commercial activity on the site.

- 7.6. In the absence of evidence regarding the authorised use of the RZLT lands and that the lands are liable to the payment of rates, the Board cannot be satisfied having regard to *Appendix 4. - Assessment checklist for land in scope- residential* of the guidelines that the subject lands warrant removal from the map.

7.7. The appeal grounds do not raise any exclusions that would apply to the subject lands and warrant its removal from the map, with reference to the Taxes Consolidation Act 1997 as amended and the RZLT Guidelines

## 8.0 Recommendation

8.1. I recommend that the Board confirm the determination of the local authority and direct the local authority to include the site on the map.

## 9.0 Reasons and Considerations

9.1. The site is part of an established urban area with services available and no capacity or other reasons have been identified that would prevent the development of these lands for residential purposes. The site does satisfy the criterion for inclusion on the map set out in section 653B(c) of the Taxes Consolidation Act 1997, as amended.

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

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Irené McCormack  
Senior Planning Inspector

11<sup>th</sup> August 2023