



An  
Bord  
Pleanála

## Inspector's Report ABP-316432-23.

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**Type of Appeal**

Appeal under section 653J(1) of the Taxes Consolidation Act 1997, as amended, against the inclusion of land on the Residential Zoned Land Tax

**Location**

Flemington, Balbriggan, Co. Dublin.

**Local Authority**

Fingal County Council.

**Local Authority Reg. Ref.**

RZLT 101/225

**Appellant**

Orchid Homes Ltd & Geraldine Sweetman.

**Inspector**

Dáire McDevitt

## 1.0 Site Description

- 1.1. The site comprises c.17.5 hectares of land located off Flemington Lane. The site fronts onto the R132 and has vehicular access off Flemington lane and the R123. To the south are residential estates, with single one-off houses to the east and west.

## 2.0 Zoning

- 2.1. The parcels of land which are the subject of this appeal are zoned for RA- Residential Area by the Fingal County Development Plan 2017-2023 with a stated objective ‘ to provide for new residential communities subject to the provision of the necessary social and physical infrastructure’.Residential development is permitted in principle.

- 2.2. The parcels of land are located as lands identified as MP4A Flemington Lane Masterplan. An indicative cycle/pedestrian route is also shown along Flemington Lane

Policy Objective PM14 commits the planning authority to ‘Prepare Masterplans for areas designated on Development Plan maps in co-operation with relevant stakeholders, and actively secure the implementation of these plans and the achievement of the specific objectives indicated’.

Chapter 4 of the Plan deals with urban Fingal. It states, on page 91, that ‘objectives are provided detailing locations where....and Masterplans are required in a number of urban areas.... In accordance with Objective....PM14 (Chapter 3, Placemaking), the...Masterplans for these lands shall be prepared and agreed by the Planning Authority prior to the submission of any planning application’.

Objective BALBRIGGAN 16 of the Plan refers to the preparation of a number of Masterplans during the lifetime of the Plan for Balbriggan, including ‘Flemington Lane Masterplan...MP 4.A’. The elements to be included in the Flemington Lane Masterplan are:

- Provide for architecturally designed buildings with high quality finishes.
- Prior to any proposed design or layout of development on these lands a detailed archaeological study shall be carried out.

- Allow low density housing only.
- Provide for significant traffic calming and re-alignment of Flemington Lane

2.3. There are no protected structures, national monuments or any other similar item indicated on the development plan maps.

### **3.0 Planning History**

Permission has been refused under Reg. Ref. F18A/0133 (ABP Ref. 301845-18) and Reg. Ref. F18A/0137 (ABP Ref. 301843-18) for residential developments for a number of reasons which included inter alia the absence of a Masterplan been prepared and so the applications would prejudice the future development of adjoining lands and contravene materially policy objective PM14 of the current County Development Plan.

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

4.1 The appellant made a submission to the Local Authority seeking to have its lands removed from the draft map on the basis that the parcels of land are located as lands identified as MP4A Flemington Lane Masterplan under the current Fingal County Development Plan. And as no LAP/Masterplan has been prepared to date for these lands residential development is not permitted, therefore do not fall within the scope.

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

5.1. The local authority determined that the site was in scope and should remain on the map. As the site is included in the Development Plan or Local Area Plan and is zoned residential or zoned for a mixture of uses that includes residential development. The land is serviced, or is reasonable to consider may have access to services.

## **6.0 The Appeal**

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

- The parcels of land are located as lands identified as MP4A Flemington Lane Masterplan under the current Fingal County Development Plan. No Masterplan has been prepared to date for these lands as such it is argued that the lands do not fall within the scope as no LAP or Masterplan has been published to date.
- Permission has been refused under Reg. Ref. F18A/0133 (ABP Ref. 301845-18) and Reg. Ref. F18A/0137 (ABP Ref. 301843-18) for residential developments on the grounds of no Masterplan been prepared and so the applications would prejudice the future development of adjoining lands.
- Section 19.2 of the Planning and Development Act requires that LAPs shall be consistent with the objective of the Development Plan, its written statement and plans. The appellant has argued that in the absence of such a plan the lands any residential development would be a material contravention of the current County Development Plan.
- In the absence of an LAP the necessary infrastructure and infrastructural assessment to guide future development of lands are also absent as is archaeological test trenching as such the lands do not comply with the requirements set out in sections 653B(c) of the Taxes and Consolidation Act 1997 as amended (as introduced by the Finance Act 2021).

## **7.0 Assessment**

The appellant requested that their site be removed from the map due to the absence of a Masterplan as required by the current Fingal County Development Plan 2017-2023. The lands are zoned RA-Residential Area under the current County Development Plan as such comply with section 653B(i). The plan also identified the lands as 'MP4A Flemington Lane Masterplan' which require the preparation of a Masterplan. The requirement for a masterplan to be prepared is not included in the criteria for exclusion as set out under section 653B, as such I consider that the land

complies with the criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended (as introduced by the Finance Act 2021) and this ground of appeal dismissed.

The appellant also requested that their site be removed from the map due to the absence physical infrastructure and infrastructure assessments for said lands.

There is no correspondence on file from Uisce Éireann. Whilst infrastructure elements may not be in place at present, these would be expected to be provided in conjunction with the development of a site, generally developer led.

The development of a road network to serve a development would only take place if there was certainty that actual on-site construction was to take place. Reference to the requirement for an LAP in the 2023 Fingal Developemtn Plan is noted, however the current plan that is in effect and relevant to the site is the Fingal County Development Plan 2017-2023 which does not include such an objective. The provision of an internal road network with connection to the public road network would be developer led. I therefore consider that this ground of appeal should be dismissed.

### **7.1. Conclusion**

I therefore consider that the site should be retained on the RZLT Map as it does not meets the criteria set out under section 653B(c) of the Taxes and Consolidation Act 1997 as amended (as introduced by the Finance Act 2021) for its exclusion.

## **8.0 Recommendation**

- 8.1. I recommend that the board confirm the determination of the Local Authority and dismiss the appeal.

## **9.0 Reasons and Considerations**

The land is zoned residential. The requirement for a masterplan to be prepared is not included in the criteria for exclusion as set out under section 653B and the requirement for road infrastructure is not Masterplan dependent, as such I consider that the land complies with the criteria set out in section 653B of the Taxes

Consolidation Act 1997, as amended (as introduced by the Finance Act 2021) and this ground of appeal dismissed.

*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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Dáire McDevitt  
Senior Planning Inspector

25<sup>th</sup> May 2023