



An
Bord
Pleanála

Inspector's Report

ABP-316437-23

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	Passage West, Glenbrook and Monkstown, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	DRZLT473430379
Appellant(s)	O'Brien O'Flynn Construction Unlimited
Inspector	Rachel Gleave O'Connor

1.0 Site Location and Description

- 1.1. The site is located to the west of residential estates at The Brambles and Maple Woods, south of The Park, The Avenue and The Court. To the west and south of the site there are agricultural / greenfield lands.

2.0 Zoning and other provisions

- 2.1. The site is zoned 'Residential' Parcel 'PW-R-02' Passage West under the Cork County Development Plan 2022-2028.

3.0 Planning History

- 3.1. Reg. Ref. 16/7217 – Planning Permission GRANTED for construction of 244 no. dwellinghouses, 4 no. residential serviced sites and all associated ancillary development works including a roundabout onto the Rochestown Road (R610) at the entrance to the site, footpaths, foul and storm water drainage (including the provision of surface water attenuation and water storage tanks), landscaping and amenity areas (including a viewing area on the southern portion of the site). Decision 04/12/2017.
- 3.2. Reg. Ref. 224692 – Extension of Duration GRANTED - Construction of 244 no. dwellinghouses, 4 no. residential serviced sites and all associated ancillary development works including a roundabout onto the Rochestown Road (R610) at the entrance to the site, footpaths, foul and storm water drainage (including the provision of surface water attenuation and water storage tanks), landscaping and amenity areas (including a viewing area on the southern portion of the site). Extension of Duration to Permission granted under Planning Ref. No. (16/7217). Decision 23/05/2022.

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:

- The lands do not have access to all the public infrastructure necessary for the dwellings to be developed.
- A significant amount of the infrastructure necessary for dwellings to be developed is being provided privately by the developer i.e. water supply and foul drainage.
- Responsibility for the delivery of the public infrastructure necessary for the lands to be developed is spread across a number of entities including Irish Water and is outside the landowner control.
- Irish Water have confirmed that the feasibility of the development is 'contingent on the reservoir being operational before a final connection can be made.' The landowner has to bridge the gap between the public infrastructure (water supply) available to the site and the infrastructure necessary for dwellings to be developed.
- With reference to wastewater, permission was applied for the decommission of an existing temporary wastewater treatment plant and construction of a two storey creche (ref.20/6135) to provide further amenity to current and proposed residents. Due to works in relation to the Cork Lower Harbour Drainage scheme, the applicant was unable to proceed with decommissioning and was held up until completion of the scheme at the end of 2021.
- Significant special development contributions were levied on the Harbour Heights development to provide the necessary public infrastructure for the lands to be developed. The responsibility for this infrastructure is outside the landowner control and with statutory entities.

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:

- Uisce Éireann confirms that water supply and sewer are available within close proximity of the site.

- Uisce Éireann confirm that with respect to water networks: a water main exists on the road within the extent of the site. Watermains are accessible in the roads within Harbour Heights development, which appears from the submission to be owned by the same landowner.
- Uisce Éireann confirm that with respect to wastewater, a sewer exists on the public road in close proximity to the site. Sewers are accessible in the roads within Harbour Heights development, which from the submission appear to be in the same ownership.

6.0 The Appeal

6.1. Grounds of Appeal

- The lands do not have access to all the public infrastructure necessary for the dwellings to be developed.
- The decision taken by CCC did not provide a satisfactory infrastructural assessment of the subject site in accordance with the RZLT guidelines.
- A significant amount of the infrastructure necessary for the residential development to be constructed is proposed to be provided by the developer, including water supply and foul drainage.
- Irish Water have confirmed that the feasibility of the development is 'contingent on the reservoir being operational before a final connection can be made.' The landowner has to bridge the gap between the public infrastructure (water supply) available to the site and the infrastructure necessary for dwellings to be developed.
- The responsibility to deliver the necessary infrastructure for the subject site to be developed is dependent upon Uisce Éireann and Cork County Council. There is no timeframe for the proposal and delivery is outside the landowner control.
- With reference to wastewater, permission was applied for the decommission of an existing temporary wastewater treatment plant and construction of a two storey creche (ref.20/6135) to provide further amenity to current and proposed

residents. Due to works in relation to the Cork Lower Harbour Drainage scheme, the applicant was unable to proceed with decommissioning and was held up until completion of the scheme at the end of 2021.

- Significant special development contributions were levied on the Harbour Heights development to provide the necessary public infrastructure for the lands to be developed. The responsibility for this infrastructure is outside the landowner control and with statutory entities.

7.0 Local Authority Response

- Cork County Council has had full regard to infrastructure capacities.
- UÉ confirmed connections proximate to the site.
- The Cork Lower Harbour Drainage Scheme is complete.
- The site meets criteria for inclusion on the RZLT map.

8.0 Assessment

8.1. Uisce Éireann have confirmed that connection to both water mains and wastewater can be facilitated via the public road and within land in the same ownership as the subject site. I note the appellant's reference to the need for reservoir upgrades and delays to works due to the Cork Lower Harbour Drainage scheme, however UÉ do not note any constraints in relation to the subject site and these matters. UÉ confirm the subject site has access to infrastructure connection. The site has frontage to The Park and can connect into the existing road and pedestrian infrastructure networks.

8.2. The subject site benefits from a planning permission granted in 2017 and extended in 2022.

8.3. Page 47 of the RZLT Guidelines states:

“ii) Deferral for commencement of development

Deferral of the tax is available in circumstances where a residential led development on the scoped residential or mixed use zoned land is commenced. The tax is only deferred so long as the permitted development is completed within the duration of the planning permission. The period of duration of the planning permission is taken

from the first commencement notice lodged on the land for development, notwithstanding that amending permissions and subsequent commencement notices may be lodged for the same land or area of land.” (Page 47).

- 8.4. Page 46 of the Guidelines make it clear that deferral is a matter between the landowner and Revenue.

“Deferral of the tax is only available so long as the development is underway and completed within the duration of the planning permission. Records of commencement notices and certificates of compliance on completion of development must be made available via the BCMS system. This system will be utilised by landowners to provide evidence as part of self-assessment and annual tax returns regarding commencement and completion of development.” (Page 46).

- 8.5. Whether the subject site is eligible for a deferral of the RZLT does not impact consideration of whether the site is in-scope for the purposes of the map. The site meets the criteria for inclusion for the RZLT map, being zoned residential and serviced, or with ease of connection to infrastructure and networks. Revenue is the appropriate body to engage with in relation to deferral of payment of the RZLT.

- 8.6. As such, the site is in-scope for inclusion on the RZLT map.

9.0 Recommendation

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

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 the advice in the Guidelines for Planning Authorities on the Residential Zoned Land Tax, the site should remain on the RZLT map. It is noted that planning permission was granted on the site for residential development in 2017 (ref.16/7217) and extended in 2022. Deferral of the tax is available where a residential led development is commenced. Records of commencement notices will be required to demonstrate this as part of evidence for self-assessment and for

annual tax returns. Deferrals of payment of the tax is a matter between the landowner and Revenue and does not affect the consideration of whether a site is considered to be in-scope for the purposes of the RZLT map.

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.

Rachel Gleave O'Connor
Senior Planning Inspector

31 August 2023