



An
Bord
Pleanála

Inspector's Report ABP-316471-23.

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	Lands at Holybanks, Swords, Co. Dublin
Local Authority	Fingal County Council.
Local Authority Reg. Ref.	RZLT034/22
Appellant	Cairn Homes Properties Ltd
Inspector	Colin McBride

1.0 Site Description

- 1.1. The site lies approximately 1.2km to the north of Swords town centre and 1.4km to the west of the M1 motorway and on the northern side of Glen Ellen Road. It comprises 12.8 hectares of lands under grass.

2.0 Zoning and other provisions

- 2.1. Zoned ME-Metro Economic Corridor with a stated objective to 'Facilitate opportunities for high density mixed use employment generating activity and commercial development, and support the provision of an appropriate quantum of residential development within the Metro Economic Corridor' at the time of determination (Fingal Development Plan 2017-2023)
- 2.2. There are no protected structures, national monuments or any other similar item indicated on the development plan maps.

3.0 Planning History

- 3.1. ABP-313337-22: Permission sought for 7 year permission for the construction of 621 no. residential units (118 no. houses, 503 no. apartments), crèche and associated site works on a site of 14ha incorporating the site in question. Pending decision.

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 development of the subject lands require significant upgrades and improvement to the public road, the site does not have access to wastewater without upgrades to the public network, is dependent on a grant of permission for storage tank subject to a separate consent process and on the basis that an archaeological assessment associated with an SHD application concludes that isolated archaeological remains may yet exist and ground works associated with development of the site may have a direct impact.

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. This is on the basis that the site is zoned for residential or mixed use development that include residential, is serviced or has reasonable access to necessary public infrastructure including roads and access, and drainage infrastructure, is not affected by contamination or archaeological remains, is lands that are vacant and idle and do not benefit from the exclusions set out in the Finance Act 2021 at Section 635(c).

6.0 The Appeal

6.1. Grounds of Appeal

- The lands are subject of the current SHD application that has yet to be determined (TA06F.313337). To facilitate development requires significant road improvements to the public roads with the junctions of Balheary Road/Glen Ellen and the R132/R125 operating above capacity and requiring upgrading works by FCC that are to commence with the next two years. An interim upgrade with FCC was agreed until such time of implementation of such.
- The development of the land will require significant upgrades and improvements to the public road (junctions of Balheary Road/Glen Ellen and the R132/R125 and widening of Balheary Road) with substantial outlay for the landowners and such should be factored in the RZLT mapping with non-inclusion of the lands until after a grant of permission has been secured.
- Development of the site is dependent on a grant of permission for storage tank to manage excessive rain fall in the sewer network downstream of site subject to a separate consent process.
- The Archaeological Impact Assessment associated with the SHD application concludes that isolated archaeological remains may yet exist beneath ground

level with ground works associated with development if permitted possibly having a direct impact. The site should not be included until a final grant of permission is secured and conclusion of further archaeological excavations.

7.0 Planning Authority Response

7.1 Response by Fingal County Council.

- The response notes that lands considered to be in scope on or prior to 1 January 2022 do not need to have a date indicated on the map as to when the land fell into scope, and such lands will be liable for the tax measure in February 2024. The PA request the Board uphold their determination.

8.0 Assessment

8.1. The site has is zoned Metrolink Economic Corridor at the time of determination (Fingal Development Plan 2017-2023) and such zoning permits in principle residential development meeting the criteria under Section 635B(a).

8.2. The appellant argue that the development of the site is subject to a number of upgrades to the public road including the junctions of Balheary Road/Glen Ellen and the R132/R125, the widening of Balheary Road by FCC and are to be carried out in the next two years. The appellant argues that the development of the site is subject to considerable outlay by the landowners to facilitate such development and should be not included on the RZLT map until permission is granted. The site has reasonable access to road infrastructure with considerable road frontage along the Glen Ellen Road, which has footpaths and public lighting and links into the existing road network in the wider area. In relation to upgrades in the local network the site is part of larger site subject to a current application for residential development that. In relation to road infrastructure I am satisfied that the lands have reasonable access to roads infrastructure to facilitate development of the site and the site is part of a larger site subject to a current SHD application (ABP-313337-22) that includes an interim upgrade proposal agreed with FCC to deal with capacity issue in the local network as stated by the appellants in their appeal.

- 8.3. In relation to drainage infrastructure the development of the site according to the appellant is dependent on the provision of storage tank that is subject to a separate consent process. The appellant submitted the Uisce Eireann pre-connection response associated with the SHD application incorporating the site in their submission to FCC. Such indicates that the water connection is feasible without upgrades and wastewater connection is feasible subject to upgrades within the scope of Uisce Eireann to carry out with provision of a development contribution required towards such upgrades. I am satisfied that the site has reasonable access to foul sewer drainage, surface water drainage and water supply with sufficient capacity available and under the RZLT Guidelines for Planning Authorities June 2022 (section 3.1) the need for a network upgrade is not considered to exclude lands.
- 8.4. The site is not affected, in terms of physical condition, by matters to a sufficient extent to preclude the provision of dwellings, including contamination or presence of known archaeological or history remains. There are no protected structure or recorded monuments on site. The appellant contention that the Archaeological Impact Assessment associated with the SHD application including the site indicates that isolated archaeological remains may yet exist beneath ground level with ground works would not merit its exclusion from the RZLT map.

9.0 Recommendation

- 9.1. I recommend that the board confirm the determination of the local authority and that the indicated site be retained on the map

10.0 Reasons and Considerations

The location of the site on lands zoned ME Metro Economic Corridor for a mixture of uses, including for residential falls within the scope of the criteria under 653B of the

Taxes Consolidation Act 1997, as amended. The site falls within the scope of vacant or idle required for mixed use land uses as required under section 653B (c)(ii).

Connection to the water, foul drainage and surface water infrastructure has been determined to be feasible with no capacity issues. There are existing roads and footpaths in the area that can be connected to the subject site.

The site is not constrained by any contamination or presence of known archaeological or history remains. The site satisfies 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.

Colin McBride
Planning Inspector

19th June 2023