



An
Bord
Pleanála

Inspector's Report ABP-316489-23.

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 Fosterstown North, Dublin Road, Swords, Co. Dublin
Local Authority	Fingal County Council.
Local Authority Reg. Ref.	RZLT077/22
Appellant	J. Murphy (Developments) Limited
Inspector	Colin McBride

1.0 Site Description

- 1.1. The site lies to the south of Swords Town centre and to the west of the R132 and Airside Retail Park. It comprises 3.85 hectares of lands in agricultural use.

2.0 Zoning and other provisions

- 2.1. Zoned RA-Residential Area with a stated objective to 'provide for new residential communities subject to the provision of the necessary social and physical infrastructure' at the time of determination (2017-2023 Development Plan)
- 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-313331-22: SHD application for 645 no. apartments, crèche and associated site works. 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 there are deficiencies in wastewater infrastructure with considerable upgrade required to facilitate development, the site is not considered to have reasonable access to road infrastructure and would be premature pending delivery of the Fosterstown Link Road, the majority of the site is in phase 3 of the Fosterstown Masterplan for development following completion of the Metrolink.

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, 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 site does not have reasonable access to roads infrastructure with the Fosterstown masterplan including a requirement for road access through third party lands and delivery of the Fosterstown Link Road.
- The phasing outlined in the Fosterstown Masterplan has only part of the site in Phase 1 and the reminder in Phase 3. The masterplan states that no more than 25% of the overall quantum of the development envisaged shall be constructed and occupied prior to operation of the Metrolink.
- There are significant deficiencies in terms of wastewater infrastructure to the site with details of the pre-connection enquiry relation to ABP-313331-22 with significant wastewater upgrades required to service the site and involve lands with the masterplan area and connecting to a point 750m north of the subject site. The level of works are materially significant and will be subject to future connection agreement/consent if an application is approved.
- The appellants refer to provision of Act specifying the date on which the land satisfied the relevant criteria where the date is after 1st January 2022. The lack of a date specified means that the lands were considered to meet the criteria prior to the 1st of January 2022. The appellant highlights that based on the Irish water correspondence dated February 2021 the lands do not have access to wastewater infrastructure and wastewater treatment capacity and still do not as of the 1st January 2022 and should be removed from the map.

7.0 Planning Authority Response

7.1 Response by Fingal County Council.

- The site is zoned RA-Residential Area and it is noted that there is an SHD application for 645 residential units on the subject lands. The PA request the Board uphold their determination.

8.0 Assessment

- 8.1. The site has is zoned RA-Residential Area 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 appellants argue the lands do not have reasonable access to roads infrastructure with the Fosterstown masterplan including a requirement for road access through third party lands and delivery of the Fosterstown Link Road. The site in question has significant road frontage along the R132/Dublin Road, which has existing footpaths and public lighting infrastructure. I would consider that the site has reasonable access to roads infrastructure.
- 8.3 Uisce Éireann have confirmed that the site is serviceable in terms water supply and in regards wastewater there is sewer along the R132/Dublin, however the scale of the development requires downstream sewer upgrades and a network extension. The appellant has submitted the pre-connection enquiry in relation ref no. ABP-313331-22 and outlines that upgrades are to be completed by Irish water under their statutory powers and does not require third party lands in separate ownership. Based on this information the site has the ability to connect to such services with no indication of capacity issues 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 In relation to phasing restrictions and infrastructure requirements of the Swords Masterplan 2019, Fosterstown Part C. This is a non-statutory masterplan and does not preclude development of the site. I would refer to the fact that permission has

been granted on a site to the north within the same masterplan lands (ABP-308366-20).

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

10.1. The location of the site on lands zoned RA-Residential Area for solely or primarily for residential use 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 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

21st June 2023