



An
Bord
Pleanála

Inspector's Report

ABP-316508-23

Development	Inclusion of the land on the Residential Zoned Land Tax draft map.
Location	Lands at Monfieldstown, Rochestown, Cork.
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	CRK-RZLT-76
Appellant(s)	Diamond Developments LTD.
Inspector	Rachel Gleave O'Connor

1.0 Site Location and Description

1.1. The site is located to the north east of, and bounds, the N28, north west of St. Patrick's Catholic Church in Rochestown. To the south west of the site and on the other side of the N28 is the Wainsfort residential estate. To the south east there is Woodbrook road. The site is accessed via private roads to the rear of the church car park. There are a number of buildings and outbuildings occupying the site.

2.0 Zoning and other provisions

2.1. The site is zoned 'ZO 01 Sustainable Residential Neighbourhoods' under the Cork City Development Plan 2022-2028. The outline for the 'M8 Cork to Ringaskiddy' also traverses the south west of the site.

3.0 Planning History

3.1. No recent relevant planning history.

3.2. Historical file record - Reg. Ref. 044481 / ABP Reg. Ref. not stated – Planning Permission REFUSED on 17/11/2005 on third party Appeal to An Bord Pleanála for demolition of galvanised building and construction of 106 no. apartments in one structure varying in height from 3 to 5 storeys, car parking (surface and underground) and all ancillary site works including acoustic absorption barrier along South Western boundary. No files available to view, no further records available.

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 site when acquired had planning for 25 units. The zoning was subsequently changed to high density and Cork County Council granted planning for 84 apartments in 2005. This was appealed by third party and the Bord refused the planning.
- Early 2006 received advice from the NRA that they would require a 10m strip to assist the realignment of the N28 for future development Ringaskiddy,

Deep Water Berth. The NRA subsequently drew a line on the map across the entrance to the site and sterilised the site. No planning or development could take place until the way was cleared for the construction of the M28 Motorway.

- A notice to treat was served on the landowner on 26th March 2021. Negotiations are ongoing. A roadway is to be provided by the council to facilitate development but no start date or commitment to complete has been confirmed.

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:

- The land is included in the Cork City Development Plan 2022-2028, in accordance with Section 10(2)(a) of the Act of 2000 and is further zoned (i) solely or primarily for residential use, or (ii) for a mixture of uses, including residential use.
- These lands satisfy section 653B(b) of Act, in that it is reasonable to consider that the land may have access, or be connected, to public infrastructure and facilities, including roads and footpaths, public lighting, foul sewer drainage, surface water drainage, water supply, necessary for dwellings to be developed and with sufficient service capacity available for such development.

6.0 The Appeal

6.1. Grounds of Appeal

- The appeal grounds restate the submission summarised in section 4 above.

7.0 Assessment

7.1. The subject site currently appears to have access the public road network infrastructure via the existing entrance to the site. The site access is situated to the rear of the church car park via a road which appears to be a public road.

- 7.2. The appeal grounds raise the designation of a motorway upgrade 'M8 Cork to Ringaskiddy' traversing the southwestern bounds of the site adjacent to the N28 and overlapping the existing entrance to the site. Section 653B(c)(iii)(II) states that lands required for transport facilities and infrastructure, are to be excluded from the maps. As such, the part of the site overlapped by the 'M8 Cork to Ringaskiddy' outline under the zoning map should be removed from the RZLT map. However, I agree with the appellant, this designation presents additional access complications for the subject site.
- 7.3. With the removal of the M8 designated land from the RZLT map, and in the absence of any alternative access provision, access to the site would have to traverse third party owned land to the east to connect to the public road network. Connection to utilities and the pedestrian network would be similarly compromised.
- 7.4. Page 24 of the RZLT Guidelines states in relation to road access:
"In considering road access, the Planning Authority must take into account the ease of access to existing road infrastructure by the identified lands. Construction of significant sections of new road access across other landholdings, should be discounted with the exception of Local Authority owned lands, where use and access are a matter for the authority."
- 7.5. Similarly, page 25 of the RZLT Guidelines state that with respect to footpath access:
"for lands to be considered in scope, there should be an ease of connection to an existing footpath network to facilitate active travel modes from the outset. Provision of significant sections of new footpath across other landholdings, where the land is not in the control of the landowner or local authority should be discounted when considering lands to be in-scope."
- 7.6. Page 26 of the Guidelines restates the consideration of whether works are required on third party controlled lands in relation to water / wastewater networks.
- 7.7. As such, the site is not in scope for inclusion in the RZLT map, as with the removal of lands required for transport infrastructure, works would have to traverse third party owned land to connect to required services.

8.0 Recommendation

- 8.1. I recommend that the board set aside the determination of the local authority and allow the appeal.

9.0 Reasons and Considerations

- 9.1. 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 RZLT Guidelines; a transport infrastructure upgrade designation traverses the southwestern bounds of the site as it abuts the N8, specifically the 'M8 Cork to Ringaskiddy', as such this portion of the site should be excluded from the RZLT map under Section 653B(c)(iii)(II). In addition, and with the removal of this portion of the site, there is no alternative existing access connecting the site to the public road and pedestrian network, which would also facilitate connection to utilities. Upgrades to connect to existing provision, would likely require works on lands in third party ownership, and as such cannot be considered in-scope for the RZLT.

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

12 September 2023