



An  
Bord  
Pleanála

## Inspector's Report ABP-316527-23.

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<b>Type of Appeal</b>	Appeal under section 653J(1) of the Taxes Consolidation Act 1997, as amended, against the inclusion of land on the Residential Zoned Land Tax
<b>Location</b>	Flemington, Balbriggan, Co. Dublin.
<b>Local Authority</b>	Fingal County Council.
<b>Local Authority Reg. Ref.</b>	RZLT 001/22
<b>Appellant</b>	John Smith.
<b>Inspector</b>	Dáire McDevitt

## 1.0 Site Description

- 1.1. The site comprises c.2.6 hectares of land located off Flemington Lane. The site fronts onto Flemington lane with single houses and residential estates on the opposite side of Flemington Lane in Balbriggan, Co. Dublin

## 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 refused under Reg. Ref. F18A/0137 (ABP Ref. 301843-18) for residential development (75 houses) 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.

Request for approval for modulars homes submitted to FCC, undecided to date.

### **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 parcel of land is 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 plot of land is integral to the operation of a farming trade that is located on the adjoining property and cannot be classified as 'vacant and idle'
- Efforts to build houses on these lands since 1998 have been unsuccessful due to the absence of a masterplan for a larger tract of land of c.17.2 hectares which includes the appeal site, as required for the lands identified as MP4 Flemington Lane Masterplan.
- A draft Masterplan was prepared by landowners and submitted to FCC in July 2017. The 2017-2023 Development Plan changed the procedures and required that Masterplans be prepared by FCC.
- History of planning permission being refused (2018) for residential development on the grounds of no masterplan in place. At appeal stage FCC stated that a Masterplan would be prepared in 2019.
- The parcels of land are located as lands identified as MP4A Flemington Lane Masterplan (c.17.2 hectare block) 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/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.

### **6.2 Planning Authority response to the Appeal**

The Planning Authority notes that the use of the land for agricultural purposes was raised in the grounds of appeal. Reference is made to section 3.12 Exclusion from the Map contained in the Residential Zoned Land Tax-Guidelines for Planning Authorities June 2022 which states that the use of land for agricultural or horticultural purpose is not considered to be exempted from scope as they are not subject to

rates. And request that An Brod Pleanála uphold the determination made by the planning authority.

## **7.0 Assessment**

The appellant requested that his 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 has also submitted that the lands in an integral part of the farming trade located next door. As noted in the 2022 Guidelines the use of land for agricultural or horticultural purposes are not considered to be exempted from scope as they are not subject to rates. Based on the information available I have no evidence that this is the case. I am satisfied that the lands do not meet the criteria for exclusion set out in section 653B(c)(i) and therefore the appeal on these grounds should be dismissed.

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.

Reference to the requirement for an LAP in the 2023 Fingal Development 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 the site should be retained on the RZLT map.

## 7.1. Conclusion

I therefore consider that the site should be retained on the RZLT Map as it does not meet 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 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