



An
Bord
Pleanála

Inspector's Report ABP-316585-23.

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	Fosterstown, Swords, Co. Dublin
Local Authority	Fingal County Council.
Local Authority Reg. Ref.	RZLT071/22
Appellant	Niall O'Connor & Geraldine Kirwan (Cremona Trust)
Inspector	Colin McBride

1.0 Site Description

- 1.1. The lands comprise two parcels of land located to the south of Swords town centre and to the north west of Airside Retail Park west of the Pinnock Hill roundabout. Plot A is 1.3ha and Plot B 0.9ha. This file should be read in conjunction with ref no. ABP-316582-23. The site comprises agricultural lands.

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' and MC-Major Town with a stated objective to 'protect, provide for and/ or improve major town centre facilities 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-308366-20: Permission 278 no. apartments, childcare facility and associated site works on a site to the west of Plot A and south of Plot B.

4.0 Submission to the Local Authority

- 4.1. The appellants made a submission to the Local Authority seeking to have its lands removed from the draft map on the basis that the lands are subject to provisions of the Swords Masterplan Part C: Fosterstown and restricted by phasing to development post Metro. The land also require access to the Fosterstown Link road to connect to Pinnock Hill roundabout and the alignment of such is in third party ownership.

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 Swords Masterplan Part C: Fosterstown and are restricted in terms of phasing including provision infrastructure including the Fosterstown Link road and such is on third party lands and its delivery is outside of the applicants control. The operational masterplan and current development plan (2023-2029) require significant infrastructure to be put in place and restrict the phasing of development on these lands to post development of the Metrolink.

7.0 Planning Authority Response

7.1 Response by Fingal County Council.

- The PA have no further comment to make and request that the Board uphold their determination.

8.0 Assessment

8.1. The zoning of the lands is split between RA-Residential Area and MC-Major Town centre 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 that the site is subject of Swords Masterplan Part C: Fosterstown and is restricted in terms of phasing including provision infrastructure including the provision of Fosterstown Link road and such is on third party lands and its delivery is outside of the applicants control. The operational masterplan and current development plan (2023-2029) require significant infrastructure to put in place and restrict the phasing of development on these lands to post development of the Metrolink.
- 8.3 In relation to access to road infrastructure the lands in question have road frontage with Plot A having some frontage along the R132 and Plot B frontage along Forest Road. The site has reasonable access to road infrastructure with considerable both having road frontage along the Forest Road and the R132, with existing footpaths and public lighting and links into the existing road network in the wider area.
- 8.4 The grounds of appeal does not dispute the fact that the site has access to drainage infrastructure in the area (not raised in the grounds of appeal).
- 8.5 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. As noted in the planning history section permission has been granted for a residential development on adjoining land within the confines of the masterplan area (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 solely or primarily for residential and MC-Major Town Centre for a mixture of uses, including 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 professional 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