



An  
Bord  
Pleanála

## Inspector's Report ABP-316597-23.

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### 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 Barrysparks, Swords, Co. Dublin

### Local Authority

Fingal County Council.

### Local Authority Reg. Ref.

RZLT079/22

### Appellant

Bovale Developments UC

### Inspector

Colin McBride

## **1.0 Site Description**

- 1.1. The site lies to the south east of Swords Town centre and to the south east of the R132 adjacent the roundabout junction of the R132 and Drynam Road. The site has road frontage along the R132 (north eastern boundary) and some road frontage along Drynam Road (north western boundary). It comprises 8.9 hectares of lands in agricultural use.

## **2.0 Zoning and other provisions**

- 2.1. The site is 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'.
- 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. NA29N.314724: Current Railway Order Application for Metrolink - Estuary to Charlemont via Dublin Airport on the north western section of the site.  
Pending decision.  
  
Adjoining site to the south...
- 3.2. F22A/0415: Permission granted for a healthcare facility on lands to the south, includes provision of a service road over the site to facilitate access to Drynam Road.

## **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 only a small portion of the site will be considered for residential once development has been realised, the site does not have connection to services and there is no agreement between TII, the Council and

applicant in respect of delivering the residential component in the context of delivering a fully functioning metro stop on site and such is on hold until TII/Irish water resolve interaction between mapping water pipes and running of the proposed metro line.

## **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 covered by the Swords Masterplan with the lands in question to predominantly commercial in nature and residential coming in a later phase and subject to provision of strategic infrastructure including Metrolink station, Bus Connects, road infrastructure and drainage infrastructure, provision of education needs assessment. Agreement regarding the residential development of the site is on hold pending TII/Irish Water interaction in regards to drainage infrastructure and metro line. It is not reasonable to determine that the lands have access to public infrastructure and facilities.
- The site cannot be considered vacant or idle as they required for or integral to, the operation of a trade or profession being carried out on, or adjacent to, the land. This is in case of the fact the lands are held by the owners in its land/dealing/development trade, the trading activity of landowner at this location includes preparatory/investigation/application works been carried out by TII, FCC and Pat O’Gorman Associate Engineers for the purposes of development of lands under the Swords Masterplan/Fingal County

Development Plan 2023-2029. The lands are adjacent a site on which permission was granted for healthcare facility to the VHI and the landowners are contracted to bring a road to such to serve the permitted development with the lands in question integral to the operation of a trade on adjacent lands.

## **7.0 Planning Authority Response**

### **7.1 Response by Fingal County Council.**

- It is considered that lands in question are zoned for development including residential, have reasonable access to roads and services. 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 appellants argue that the lands are covered by the Swords masterplan with the lands in question to predominantly commercial in nature and residential coming in a later phase and subject to provision of strategic infrastructure including Metrolink station, Bus Connects, road infrastructure and drainage infrastructure, provision of education needs assessment. Agreement regarding the residential development of the site is on hold pending TII/Irish Water interaction in regards to drainage infrastructure and metro line. The appellants argue that it is not reasonable to determine that the lands have access to public infrastructure and facilities. The application site has road frontage along Drynam Road and there is a permission granted for a service road through the site facilitating access from Drynam Road, to the permitted healthcare facility to the south of the site (F22A/0415). It is reasonable to conclude that this would be integrated into any future development of the site. I would consider that the site has reasonable access to roads infrastructure the form

of Drynam Road, which has footpaths and lighting. In regards to the zoning and Swords Masterplan, such provide for a framework for development of the site, however such is not a statutory plan.

- 8.3 Uisce Éireann have confirmed that the site is not currently serviced for water supply with a network extension required, in regards to wastewater a network extension and downstream sewer upgrade is likely to be required. 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 regards to the appellants' argument regarding the status of the site as vacant and idle, the holding of land by a development company for the purposes of development would not qualify as an exclusion from this provision. In regards to the obligation to provide a road through the site to facilitate a permitted development on lands to the south, I would consider that such would not preclude development and in likelihood would be incorporated into the development of the site and itself facilitate access to a future residential development. This does not merit exclusion, however if the Board disagrees this portion of the site could be excluded. In relation to use of the land for exploratory/preparatory works in relation to Metrolink, part of the site is subject to a Railway Order application for the Metrolink, which can be used to determine the level of land affected. As noted above part of the site is subject to a Railway Order application for Metrolink with it being an Objective (DMS20) of the development Plan (2017-2023 in force at the time of determination) to ensure that the indicative route for new Metro North and its stops are kept free from development. I would consider that the area subject to the Railway Order Application should be excluded on this basis and under Section 635(c)(iii)(II).

## 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 apart from the lands subject to the Railway Order Application under ref no. NA29N.314724.

## 10.0 Reasons and Considerations

- 10.1. 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) apart from the area of land subject to the Railway Order Application under ref no. NA29N.314724, which falls under the class of vacant or idle under Section 653B(c)(iii)(I).

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.

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Colin McBride  
Planning Inspector

19<sup>th</sup> June 2023