



An
Bord
Pleanála

Inspector's Report ABP-316602-23.

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	Swords, Pavilions, Co. Dublin.
Local Authority	Fingal County Council.
Local Authority Reg. Ref.	RZLT 127/22
Appellant	Hammerson Plc.
Inspector	Irené McCormack

1.0 Site Description

- 1.1. The site comprises c. 0.4ha. of lands at Pavilions Swords, Swords, Co. Dublin. The site relates to land parcel ref. FL0000002627.

2.0 Zoning

- 2.1. The site/s is zoned MC – Major Town Centre the Fingal Development Plan 2017-2023. This zoning Objective – *Protect, provide for and/ or improve major town centre facilities.*
- 2.2. Objective-Vision - *Consolidate the existing Major Towns in the County, (Blanchardstown, Swords and Balbriggan). The aim is to further develop these centres by densification of appropriate commercial and residential developments ensuring a mix of commercial, recreational, civic, cultural, leisure, residential uses, and urban streets, while delivering a quality urban environment which will enhance the quality of life of resident, visitor and workers alike. The zone will strengthen retail provision in accordance with the County Retail Strategy, emphasise urban conservation, ensure priority for public transport, pedestrians and cyclists while minimising the impact of private car-based traffic and enhance and develop the existing urban fabric.*
- 2.3. Zone Generalized Zoning Type Description - City/Town/Village centre or central area (M2). This sub-category is intended for those zones which cover central parts of cities, towns or villages. In virtually all cases a mix of uses is encouraged in these zone
- 2.4. The CDP established the function of MC zoned lands as - Main town centres of the County which offer a range of services and facilities to a large hinterland.

Note: Fingal Development Plan 2023-2029 was adopted by the Elected Members of Clare County Council at a Special Planning Meeting on the 22nd of February 2023. The Plan came into effect 6 weeks from the date of adoption, on 5th April 2023

3.0 Planning History

This site is linked to RZLT ABP ref. – 316604-23 and ABP ref. 316600-23– Lands at Pavilions Swords, Swords, Co. Dublin.

Site

ABP PL06F.232710 / F08A/1057 – Permission granted on 20th August 2029 for a 7-year permission for development at this site. The proposed development comprises the construction of Pavilions Phase 3, a mixed-use town centre development amounting to c.272,637 sq.m. total Gross Floor Area (GFA) and accommodated in buildings ranging in height from 3 to 10 storeys over three levels of enclosed basement car parking, with an associated network of open, sheltered and enclosed streets and spaces at the Pavilions Shopping Centre, Malahide Road And, No's 9, 10 & 11 Dublin Road, Swords, Co Dublin

4.0 Submission to the Local Authority

- The site is one of four parcels of land forming a single submission.
- The content of the submission reflects the ground of appeal as set out below.

5.0 Determination by the Local Authority

5.1. The local authority determined the site to be in scope and should remain on the map. The local authority consideration stated that land is zoned and serviced.

5.2. Internal reports noted:

Water Services Division - Report indicated the presence of services in the area and concludes, it is reasonable to expect that works be included as part of future planning applications.

Transportation Division – Works to the R132 do o impact the site.

5.3. External reports noted:

Uisce Eireann were consulted by the local authority and reported that sites to the western site of the land holding are serviced for both water and wastewater.

NTA – Land parcel FL0000002470 considers with lands required for Metrolink. Parcels FL0000002471, FL000002472, FL0000002627 are unaffected by Metrolink.

5.4. The LA state that the development potential of the subject Lands is acknowledged in the submission received and cannot be construed as comprising the garden or amenity of a residential property.

5.5. There is no extant planning permission.

5.6. Reference is made to section 3.2.3 of the guidelines.

6.0 The Appeal

6.1. Grounds of Appeal

- The legislative background set out.
- Land use zoning stated as per FDP 2023-2029. Premature pending Swords LAP
- It is argued that the Pavilion Shopping Centre can be identified as “trade or profession being carried out” and these lands are integrated with or adjacent to the complex and therefore not considered vacant or idle but form part of an overall portfolio of lands.
- Properties on the Dublin Road including the subject site are occupied by existing houses and should be exempt. Future development at the complex will likely include these lands for mixed use redevelopment. The lands are likely to be required to facilitate enhanced permeability and pedestrian and cycle connectivity via Pavilions.
- Mixed use areas within the overall land bank cannot be considered as vacant or idle as they are integral and ancillary to the adjacent commercial uses and accommodate seasonal events/spaces.
- Previous planning referenced and noted that this was not implemented. Landowner actively pursuing the feasibility of a new masterplan. Commercial uncertainties noted including CDP review, Swords LAP and infrastructure projects including approved R132 connectivity project and metro link and the requirement to integrate same with future development.
- Vehicular access to the Pavilion Swords via the Dublin Road currently does not exist. Significant works are required to provide transportation infrastructure to facilitate the development of lands and as these were not in place as of the 1st of January 2022 it is submitted that lands are not in scope.
- It is also set out that parcels FL0000002470 and FL0000002471 adjacent to R132 are not connected to surface water, mains water or foul drainage and significant work would be required to connect to the network.

7.0 Assessment

- 7.1. The LA assessment was carried out pursuant to the Fingal Development Plan 2017-2023. Subsequent to the determination by the LA in on 30th March 2023 the new Fingal Development Plan 2023-2029 came into effect on 5th April 2023. Notwithstanding, the adoption of the Fingal Development Plan 2023-2029 this assessment is based on the development plan in place at the time of the LA assessment, the Fingal Development Plan 2017-2023 as the appeal relates to this determination. Concerns raised regarding any pending the Swords LAP as they relate to this site cannot be considered.
- 7.2. Regarding reference made to residential use, I note section 3.1.1 Criteria for Inclusion within the Scope of the Tax Measure in the guidelines states that “Residential Properties Land which is zoned residential and contains existing residential development such as estates or individual houses are also considered ‘in scope’ from a zoning perspective and therefore must be included on the maps...”
- 7.3. The guidelines state that ‘vacant or idle land’ means land which, having regard only to development (within the meaning of the Act of 2000) which is not unauthorised development (within the meaning of the Act of 2000), is not required for, or integral to, the operation of a trade or profession being carried out on, or adjacent to, the land;’ The guidelines further state that the first step is to determine if the development on the land is required for or integral to a trade or profession being carried out on the land or adjacent to the land. The appellant contends that mixed use areas within the overall land bank including the subject lands cannot be considered as vacant or idle as they are integral and ancillary to the adjacent commercial uses and accommodate seasonal events/spaces. The appellant also contends that these lands are ancillary to residential uses. The lands cannot be both and as a consequence, it is reasonable to consider that the lands are not required for, or integral to, the operation of the complex. The land is therefore in scope.
- 7.4. Regarding the Metrolink the NTA have confirmed in their submission that FL0000002627 (lands subject of this RZLT) are unaffected by Metrolink. There is no identified significant constraint to connecting to services. No concerns were raised by the PA or UE in this regard. Regarding the proximity of services to the land parcel, it is reasonable to conclude that connection would be feasible.

7.5. The appeal grounds do not raise any exclusions that would apply to the subject lands and warrant its removal from the map, with reference to the Taxes Consolidation Act 1997 as amended and the RZLT Guidelines

8.0 Recommendation

8.1. I recommend that the Board confirm the determination of the local authority and direct the local authority to include the site on the map.

9.0 Reasons and Considerations

9.1. The site is part of an established urban area with services available and no capacity or other reasons have been identified that would prevent the development of these lands for residential purposes. The site does satisfy 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.

Irené McCormack
Senior Planning Inspector

18th July 2023