



An  
Bord  
Pleanála

## Inspector's Report ABP-316617-23.

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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

The Coast, Baldoyle, Stapolin, Co. Dublin.

### Local Authority

Fingal County Council.

### Local Authority Reg. Ref.

RZLT 075/22

### Appellant

Richmond Homes

### Inspector

Irené McCormack

## 1.0 Site Description

- 1.1. The site comprises c. 15ha. of lands at The Coast, Baldoyle, Stapolin, Co. Dublin.

## 2.0 Zoning

- 2.1. The site is zoned RA – Residential Area in the Fingal Development Plan 2017-2023. This zoning Objective – *Provide for new residential communities subject to the provision of the necessary social and physical infrastructure.*
- 2.2. Zoning Objective Vision- *Ensure the provision of high quality new residential environments with good layout and design, with adequate public transport and cycle links and within walking distance of community facilities. Provide an appropriate mix of house sizes, types and tenures in order to meet household needs and to promote balanced communities.*
- 2.3. Objective BALDOYLE 3 Prepare and/or implement a Local Area Plan for lands at Baldoyle / Stapolin to provide for the strategic development of the area as a planned sustainable mixed use residential development subject to the delivery of the necessary infrastructure.

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

- 2.4. The site is located in the Baldoyle-Stapolin Local Area Plan 2013 (extended to May 2023)
- 2.5. The LAP identified three growth areas to facilitate the orderly progression of development:
- The first phases of residential development within Growth Area 1 will ensure that linkages are created towards the village centre and the train station in an east-west and north-south direction from existing development at Red Arches and Myrtle.
  - The second phases of development within Growth Area 2 will occur along the northeastern boundary of the plan lands, linking to the existing development at the east of the lands, through the open space at The Haggard and Stapolin Avenue, to the village centre along Ireland's Eye Avenue.

- The third phases of development within Growth Area 3 will provide, in the first instance, for the completion of the village centre through delivery of the northern half of the local centre site. Following, or in tandem with this, the remainder of the residential units will be built out thus completing the site. It will be possible to allow for the parallel development of Growth Areas 2 and 3 provided that the local centre is completed and that residential development in Growth Area 3 progresses from the village centre and Ireland's Eye Avenue northwards.
- Section 6 of the LAP relates to Sequencing and Phasing

### 3.0 Planning History

#### Site

**ABP-311016-21** – Permission granted on 23<sup>rd</sup> November 2021 for 1221 no. apartments, creche and associated site works at GA03 Lands at Baldoyle and Stapolin (adjacent lands formerly known as the Coast), Baldoyle, Dublin 13. ([www.shoreline2shd.ie](http://www.shoreline2shd.ie)) (Site 3)

**ABP-310418-21** -Permission granted on 22<sup>nd</sup> September 2021 for alterations of previously permitted Fingal County Council Register Reference number F16A/0412 (An Bord Pleanála Reference Number PL06F.248970) as amended by F20A/0258 and F221A0046) for 882 no. residential units (135 no. houses and 747 no. apartments), creche and associated site works on Lands formerly known as the Coast, Baldoyle, Dublin 13. ([www.shoreline1shd.ie](http://www.shoreline1shd.ie)) (Site 2)

**ABP 248970 / FCC 16A/0412** – Permission granted on 23<sup>rd</sup> November 2017 for Construction of 379 apartments, 171 houses, village centre of ca. 1,585sq.m. of commercial floor space, creche and wetland area. An Environmental Impact Statement was lodged with the application at The Coast, Baldoyle, Dublin 13 (Site 1 – Currently under construction)

### 4.0 Submission to the Local Authority

- The submission relates to two sections of lands referenced site 2 and site 3. These lands are also referred to as the remaining GA1 (GA2) and GA3 lands.

- The appeal is centred around:
  1. LAP infrastructure requirements and phasing – sites 2 and 3 should be omitted from the RZLT as a phasing plan for future phases covering necessary infrastructure to be delivered must be agreed with FCC, the necessary infrastructure then needs to be delivered as part of each phase as per section 6 of the LAP.
  2. Deficient of public infrastructure and facilities serving the lands – A significant upgrade to the water network is required to service site 3.
  3. Road Infrastructure - The GA3 lands are not serviced by roads at present. The GA3 lands will only become available for development at such time as when the GA1 lands are built. However, the GA1 SHD provides an extension to Longfield Road and a link to the train station that GA3 can rely on.

## **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 Water Services report noted that the lands were serviced by water and wastewater in close proximity.
- 5.3. Uisce Eireann were consulted by the local authority and reported that the two sites are in close proximity to watermains. Connection from the site to the network would be carried out by the developer and not funded by UE. Wastewater also located in close proximity.
- 5.4. The LA state that the legislation does not provide for the exclusion of lands on the basis of phasing unless the phasing is related to the provision of an identified piece of infrastructure. The phasing is part of land management policy.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- GA1 Lands (Site 2)
  - zoning noted both FDP 2017-2023 (applicants 2016-2022 dates incorrect) and 2023-2029. Referencing an accompanying Infrastructure Provision report it is stated that infrastructure necessary for the delivery of dwellings is not available

in relation to (a) foul drainage service infrastructure (b) Storm water connection to a public water course. The site contains a private residence, and this is not liable for the tax. It is also contended that the land should not be 'in scope' due to the lack of services/capacity to cater for the redevelopment of these land in any event.

- On the basis of LAP phasing requirements to be achieved and the infrastructure awaiting delivery, site 2 cannot be considered for RZLT map designation.
- GA3 Lands (Site 3)
  - These lands are not yet serviced for residential delivery.
  - In line with proper planning and development, GA 3 (site 3) cannot commence until completion of key elements of GA1.

Conclusion – Site 2 and Site 2 should be excluded from the RZLT as it would apply a financial burden to the lands that are not serviced by public infrastructure and that are subject to LAP phasing restrictions which prohibit the delivery of residential development.

## 7.0 **Assessment**

- 7.1. The legislation clearly sets out that land in scope will be zoned for residential development or a mixture of uses including residential; be serviced or have access to servicing by water, wastewater, road, footpath and public lighting; and not be affected by contamination or significant archaeological remains which would preclude development taking place. Section 4.1.1 iii) Services to be considered of the guidelines state that *"in assessing whether land or landbanks are able to connect to services, Planning Authorities should take into account the following:- In the first instance, where the infrastructure is located adjoining, intersecting, at a boundary or corner of a landbank, in a nearby public road, or is connected to an existing development adjoining the landbank, the lands should be considered to be 'connected' or 'able to connect' and therefore are in-scope"*.
- 7.2. The guidelines states that where the infrastructure does not meet the threshold above, the following needs to be considered:

- *Where no planning permission is in place, are the works to connect the landbank to the services on public land under the control of the local authority or land which will be available to the landowner/developer, in which case the land may be in-scope?*
- *Do the connections to services involve minor works, in which case the land may be in-scope?*
- *Do the connections to services require access to 3rd party lands or 3rd party development to take place, in which case the land may be out of scope.*

7.3. Regarding concerns raised about connection to service infrastructure- water and wastewater, the LA in their assessment indicate that the site is serviced. I note the submission from Uisce Eireann reported that the sites are in close proximity to the water and wastewater network and raise no concerns regarding capacity or connection. This capacity to service the site is reinforced in the planning history as set out in section 3 above. On this basis, it is reasonable to consider that the lands to be ‘connected’ or ‘able to connect’ to the existing wastewater network.

7.4. Regarding *Sequencing and Phasing* as set out in the Baldoyle-Stapolin Local Area Plan 2013 (extended). Section 3.1.2 *Exclusions from the Map* of the guidelines clarify the exclusions of particular lands as set out in the legislation. I agree with the LA that the legislation does not provide for the exclusion of lands on the basis of phasing unless the phasing is related to the provision of an identified piece of infrastructure and where zoned for such use. This is not the case here. I do not consider the sequential development of the lands precludes the residential development of the lands the subject of this appeal.

7.5. The GA3 lands are not serviced by roads at present. The appellant states that the GA3 lands will only become available for development at such time as when the GA1 lands are built. In this regard the guidelines state *“in certain instances, phasing of particular settlements via an SDZ, LAP or non-statutory land use plan may require significant road or public transport infrastructure to be in place prior to development. Where such plans allow for a certain quantum of residential development prior to such projects being permitted or constructed, all of the land which may be able to access the infrastructure, or if specifically identified in the plan, the relevant phased area of land, should be considered in scope”*. The GA1 lands are not the subject of this appeal, and the appellant has indicated that work has commenced on these lands

therefore having regard to the above section of the guidelines, it is reasonable to assume that the GA3 lands be considered to be '*connected*' or '*able to connect*' and therefore are in-scope.

- 7.6. 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.

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Irené McCormack  
Senior Planning Inspector

18<sup>th</sup> July 2023