



An
Bord
Pleanála

Inspector's Report ABP-316633-23.

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 Business Park, Swords, Co. Dublin

Local Authority

Fingal County Council.

Local Authority Reg. Ref.

RZLT122/22

Appellant

Industrial Development Authority (IDA)

Inspector

Colin McBride

1.0 Site Description

- 1.1. The site, which has an area of 0.8 hectares, is located to the north east of sword town centre within Swords Business Park. The site is located on the eastern side of the business park with the M1 running along its eastern side. The site is an undeveloped site.

2.0 Zoning and other provisions

- 2.1. 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' 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. None cited.

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 is located within an existing business park and is owned by the IDA, semi-state body with a statutory role that does not permit them to develop land for residential purposes or sell the land. The IDA are not due to pay tax in this instance and are non-tax paying semi-state agency. The function of the IDA under the Industrial Development Act 1986 was outlined. In term of road access the roads within the business park are no taken in charge and it would be difficult to use for activities other than industry and commercial.

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 appellant refers to the Industrial Development Act 1986 and S.I No. 81/2010 outlining uses for which lands owned by the IDA can be developed for and that such cannot be developed for residential use or sold for such purposes. With no provision for carrying out residential development on said lands.
- The appellant refers to precedent (RZLT123/22) in relation to An Post on other land within the same business park excluded from the RZLT map on the basis that the land was required for government infrastructure. The appellant quotes the determination and the use of the term other uses and states that in this case that industrial development and the responsibility of to provide employment and FDI would merit exclusion from the RZLT map.

7.0 Planning Authority Response

7.1 Response by Fingal County Council.

- The PA note that the land is zoned for mixed uses including residential, is service/has reasonable access to services and fulfils the qualifying criteria for inclusion. Section 3.2.3 of the RZLT Guidelines outlines matters not to be taken into consideration. The case quoted by the appellants (RZLT123/22) is not

directly comparable and that the site accommodates an operational postal development unit and is not comparable to undeveloped lands.

8.0 Assessment

- 8.1. The site has is zoned Metrolink Economic Corridor at the time of determined (Fingal Development Plan 2017-2023) and such zoning permits in principle residential development meeting the criteria under Section 635B(a).
- 8.2 The appellant refers to the Industrial Development Act 1986 and S.I No. 81/2010 outlining uses for which lands owned by the IDA can be developed for and that such cannot be developed for residential use or sold for such purposes and there is no provision for carrying out residential development on said lands. In this regard the criteria under 635B do not provide for consideration of such as a factor for assessing lands for the purposes of RZLT. I would also refer to Section 3.2.3 of the RZLT Guidelines for Planning Authorities on Consideration of Submissions on Inclusion on Map, which states that “submissions should be restricted to setting out and providing information establishing to the satisfaction of the local authority, why the land does or does not meet the qualifying criteria set out in section 653B of the Act. Matters which are unrelated to the criteria identified in section 653B such as planning permission, commencement on land in-scope, finance, or personal circumstances are not matters to be taken into account during consideration of submissions. Furthermore the size of the landholding, ownership of the land by private, public or semi-state bodies, lack of knowledge of ownership or transfer of ownership should not be considered”. The status and remit of the appellants in this case is not a criteria for exclusion under Section 635B.
- 8.3 In regards to the precedent case concerning an existing An Post facility in a different part of the same business park, such was exclude on the basis of the Section 653B(c)(iii)(l), government infrastructure and facilities. The appellant has referred to the PA determination and use of the term ‘other uses’ in referring to this Section. I would note that the term other uses does not appear in Section 653(c)(iii)(i) with

clearly specified categories from I through to VII outlining uses which may be required or are provided on either residential or mixed use lands which permit housing and are to be excluded from maps to accompany the Residential Zoned Land Tax. I am satisfied that the uses specified under section 653(c)(iii)(i) do not apply in this case.

- 8.4 Uisce Eireann have confirm that the site is currently service for water supply and is serviceable for wastewater with a sewer extension to connect to services within the Seatown Road.

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 ME-Metro Economic Corridor for mixed use development including 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 as required under section 653B (c)(ii).

The status and remit of the appellants is not included in the criteria for exclusion as set out under section 353B of the Taxes Consolidation Act 1997, as amended. The land should, therefore, be retained on the map in accordance with section 653B(a) of the said Act.

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.

Colin McBride
Planning Inspector

21st June 2023