



An
Bord
Pleanála

Inspector's Report ABP-316636-23.

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	Black Road, Malahide, Co. Dublin.
Local Authority	Fingal County Council.
Local Authority Reg. Ref.	RZLT 108/22
Appellant	Birchwell Developments Ltd.
Inspector	Irené McCormack

1.0 Site Description

1.1. The site comprises c. 8.3ha. of lands on Black Road, Malahide, 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.*

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.

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. The lands are located within the Malahide-Portmarnock Area as defined by the County Strategy/Index. The site is located in Broomfield. Objective MALAHIDE 11 - Prepare and/or implement the following Masterplans during the lifetime of this Plan: • Broomfield Masterplan (see Map Sheet 9, MP 9.B).

3.0 Planning History

3.1. This site is linked to RZLT ABP ref. – 316641-23 – Lands at Kinsealy Lane to the south of these lands.

3.2. Site

ABP Reg. Ref. TA06F.313361 -Permission sought for the demolition of buildings, construction of 415 no. residential units (252 no houses, 163 no. apartments) creche and associated site works. (www.broomfieldshd.ie)

4.0 **Submission to the Local Authority**

- The submission requested the land be excluded from the RZLT as the land is currently constrained due to the lack of capacity in the existing foul sewer network and heavily reliant upon the delivery of significant infrastructure works.
- Details of Irish Water's report to pre-connection enquiry made on foot on SHD application (TA06F.313361) included. Feasibility is noted subject to conditions.
- Noted that planning permission has been granted to a third party for the Castleway pumping station as part of planning re. ref. F21A/0451.
- The works required in relation to wastewater management and infrastructure can be considered materially significant and require third party lands.

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 Connolly wastewater treatment plant is currently over capacity with upgrades required. It is set out that there is an agreed pathway with Irish Water for development.
- 5.3. Uisce Eireann were consulted by the local authority and reported that the lands are currently serviced for water provision. Subject to scale of development proposed service upgrades maybe required. The closest sewer is in the road immediately north-west of the lands. Subject to the scale of development proposed, on-site storage and network upgrades will be required downstream.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- The appeal reiterates the contents of the submission to the PA as set out above.
- Conclusion- The lands are not immediately serviced by wastewater facilities and to provide residential development on these lands materially significant works are required in relation to wastewater management and infrastructure.

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 wastewater, the LA in their assessment indicate that the site is serviced. I note the submission from Uisce Eireann reported that wastewater is located to the immediate north of the site. I note also that that lands adjoin earlier phases of residential development to the west, Ashwood Hall and Brookfield which the applicant state in their submission are mostly occupied/completed and therefore serviced. Planning application ABP Reg. Ref. TA06F.313361 (awaiting decision) indicates that the proposed development will connect to the existing foul sewer which also serves these developments and not via third party lands. All of these lands are identified within the applicant’s landholding as outlined in blue.

- 7.4. Regarding the upgrade works required to the wastewater infrastructure network, I note the Water Services department report which stated that while Connolly wastewater treatment pumping station is currently over capacity with upgrades required but there is an agreed pathway with Irish Water for development. In addition, the UE capacity register indicates Malahide WWTP as 'Green' meaning there is spare capacity, the register all indicates project works planned or underway to increase capacity and/ or improve treatment performance. On this basis, it is reasonable to consider that the lands to be '*connected*' or '*able to connect*' to the existing wastewater network.
- 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