



An
Bord
Pleanála

Inspector's Report

ABP-316659-23

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	Lands at Paddocks, Donabate, Co. Dublin.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	RZLT070/22
Appellant(s)	Aljaco Ltd.
Inspector	Rachel Gleave O'Connor

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1.0 Site Location and Description

- 1.1. The subject site is formed of a development parcel with recently constructed houses and further construction works underway.

2.0 Zoning and other provisions

- 2.1. To the middle of the site it is zoned RS – Residential, to the eastern end of the site it is zoned TC – Town and District Centre, and to the western edge of the site it is zoned CI – Community Infrastructure, under the Fingal County Development Plan 2023-2029.

3.0 Planning History

- 3.1. F15A/0456 – On 5th August 2016 Final Planning Permission Granted for Residential development of 44 no. two storey detached and semi-detached dwellings (9 no. 4 bed dwellings and 35 no. 3 bed dwellings) with associated car parking, connection to and utilisation of existing internal Somerton access road, landscaping, boundary treatments and all associated works necessary to facilitate the development.
- 3.2. F17A/0183 – On 24th May 2017 Permission Refused on foot of planning permission Reg. Ref. F15A/0456 for 7 no. residential dwellings (1 no. detached, 2 storey, 5 bed dwelling and 6 no. semi-detached, 2 storey, 4 bed dwellings) with associated car parking, utilisation of access from Portrane Road granted under Reg. Ref. F15A/0456, landscaping, boundary treatments and all associated works necessary to facilitate the development.
- 3.3. F17A/0589 – On 6th June 2018 Appeal decision to Grant Permission and Refuse Permission made by An Bord Pleanála. Planning permission was sought on foot of grant of planning permission Reg. Ref. F15A/0456 for the construction of 20 no. residential dwellings as follows: 2 no. semi-detached, 2 storey, 4 bed dwellings, 16 no. semi-detached/terraced, 2 storey, 3 bed dwellings and 2 no. detached 2 storey, 3 bed dwellings all with associated car parking, connection to and utilisation of access from Portrane Road granted under Reg. Ref. F15A/0456, landscaping, boundary treatments, engineering proposals (including 1 no. foul water pumping station if required) and all associated works necessary to facilitate the development.

- 3.4. F18A/0302 – On 29th January 2019 Appeal decision to Grant Permission on foot of grant of planning permission Reg. Ref. F15A/0456, for 6 no. residential dwellings (1 no. detached, 2 storey, 5 bed dwelling; 1 no. detached 2 storey 4 bed dwelling; 2 no. semi-detached, 2 storey, 4 bed dwellings; and 2 no. semi-detached 2 storey, 3 bed dwelling) with associated car parking, utilisation of access from Portrane Road granted under Reg. Ref. F15A/0456, landscaping, boundary treatments and all associated work necessary to facilitate the development.
- 3.5. F19A/0311 – On 15th October 2019 Final Planning Permission to Grant Planning permission and retention permission at the granted residential development Reg. Ref. F15A/0456 and F18A/0302 (An Bord Pleanála Ref. ABP-302365-18) under construction. Retention permission and planning permission is sought for minor revisions to the siting/location and minor increase in height to Dwelling No. 5 currently under construction at The Paddocks. Permission is also sought for revisions to the side elevation of the dwelling and side extension to now provide for brick in lieu of the previously approved render finish and for a revised boundary treatment to the northern boundary of the dwelling to provide for a timber fence in lieu of the permitted block wall and increase in height of solid bar railing.
- 3.6. F19A/0310 – On 1st October 2019 Final Planning Permission Granted and Retention Permission at the granted residential development Reg. Ref. F15A/0456 and F18A/0302 (An Bord Pleanála Ref. ABP-302365-18) under construction. Planning permission is sought for 1 no. ESB substation with associated revisions to the permitted layout to accommodate same. Retention permission is sought for revisions to the boundary walls of permitted dwelling nos. 15, 16 & 17 and associated revisions to the gardens areas of these dwellings to accommodate the proposed ESB substation.
- 3.7. F15A/0456/E1 – On 10th September 2021 Grant Extension of Duration of Permission.

4.0 Submission to the Local Authority

- 4.1. The appellant made a submission to the Local Authority seeking to have its land removed from the draft map. The submission asserted that the lands should be removed from the scope noting the development under construction and

substantially complete as permitted under Reg. Refs. F19A/0310, F18A/0302 and F15A/0456. The submission states that to date, no.'s 1-44 of the houses have been completed and thus the site is substantially complete. It is noted that these dwellings will be registered for paying Local Property Tax and as such will not be liable to the RZLT, however there is a small parcel of land zoned for residential development that forms part of a wider parcel of land that was purchased recently from Fingal Council. The submission states that the majority of this land is zoned Community Infrastructure, however there is a small parcel of residential land that cannot be constructed until such time as the wider land parcel of CI zoned land is designed/developed as currently the lands are landlocked.

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.

6.0 The Appeal

6.1. Grounds of Appeal

- The proposed development is 'out of scope' based on the majority of lands being constructed or nearing completion in accordance with planning permission Reg. Ref. F19A/0310, F18A/0302 and F15A/0456.
- To date dwelling no's 1-44 have been completed and thus the site is substantially completed.
- With regard to the RZLT Guidelines, 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, however owners of residential properties within these areas will not be liable for the tax (section 653O(1)(a)). While residential properties, the associated curtilage of which exceeds 0.4047 ha are also not liable for the tax (section 653O(2)), owners of such properties must register for the RZLT and provide certain information to the Revenue Commissioners. In response to this, it is noted that the houses will be registered for paying

local property tax and as such will not be liable to the RZLT. However there is a small parcel of land zoned for residential development that forms part of a wider land parcel that was purchased recently from Fingal County Council. The majority of this land is zoned Community Infrastructure, however there is a small parcel of residential land that cannot be constructed until such time as the wider land parcel of CI zoned land is designed/developed. Currently the lands are landlocked in the scheme under construction is nearing completion in accordance with the granted permission and permission is not yet secured for the CI lands. Noting that the sider lands are nearing completion, and the majority of the lands to the west are zoned CI, it is submitted that the overall lands should be considered out of scope for the RZLT.

7.0 Assessment

7.1. The site is zoned for residential development under the current Fingal County Development Plan 2023. The appellant suggests the site is landlocked pending a scheme being designed / approved on the adjacent lands zoned for community use (the CI lands). However, the portion of the site adjacent to the CI lands is also adjacent to the access road for the recently constructed The Paddocks estate. As identified by the appellant, the completed houses (where property tax applies) and lands not zoned for residential will not be liable for the RZLT, however the remainder of the site zoned for residential development is serviceable and access is practical and within control of the landowner via The Paddocks road. While there is not yet a proposed scheme for the site or planning permission in place, that does not preclude inclusion within the scope for the RZLT. As such, the lands are in scope for the purposes of the RZLT map.

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. Having regard to the determination by the local authority, the submitted grounds of appeal, the provisions of the section 653B of the Taxes Consolidation Act 1997, as amended, and the advice in section 3.1.2 of the Guidelines for Planning Authorities on the Residential Zoned Land Tax, the site is considered in scope for the purposes of the RZLT map.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Rachel Gleave O'Connor
Senior Planning Inspector

23rd May 2023