



An
Bord
Pleanála

Inspector's Report ABP-316661-23

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

Fosterstown, Pinnock Hill, Forest Road, Swords, Co. Dublin.

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

RZLT053/22

Appellant(s)

MKN Properties Limited

Inspector

Colin McBride

1.0 Site Location and Description

- 1.1. The subject site is located to the south of Swords town centre and is located on the eastern side of Forest Road. The site has an area of 6.3 hectares. The site does have road frontage along Forest Road and is under grass in agricultural use consisting of three field areas.

2.0 Zoning and Other Provisions

- 2.1. Zoned RA-Residential Area with a stated objective to 'provide for new residential communities subject to the provision of the necessary social and physical infrastructure' at the time of determination (2017-2023 Development Plan)
- 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. TA06F.308366: Permission granted for 278 no. apartments, childcare facility and associated site works on a site of 2.74 hectares that is northern portion of the lands in question. Granted 03/02/21.

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 land was not suitably serviced in terms of roads and waste water infrastructure. Significant upgrades would be required to existing infrastructure to enable the site to be developed including widening of Forest Road and provision of Fosterstown Link Road. Swords Masterplan requires special infrastructure upgrades prior to allowing for development. Significant upgrade works are required to be carried out by Irish Water. It is stated that that the landowner has sought consent for development on the land and despite a grant for an SHD development on part of the lands such is subject to judicial review and statutory consent for development has yet to materialise.

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. The land is serviced/ it is considered reasonable that the site can be fully serviced. The land is not constrained by its physical condition that would preclude the development of housing, the site is not contaminated and there is no known archaeological/ historic remains here. The existing use of the site does not allow for its exclusion as set out in Section 653B(c) of the Finance Act 2021.

6.0 The Appeal

6.1. Grounds of Appeal

- The site was predominantly zoned RA under previous development Plan with 7,3000sqm of the lands rezoned to Open Space (subject to judicial review). The lands are subject to the requirement of delivery of certain infrastructure, a school site, Fosterstown Link Road and cycle route and Forest Road widening scheme.
- Existing services will require significant upgrades to make them suitable for residential development in the future including provision and upgrade of roads (Fosterstown Link Road, widening of Forest Road upgrade of Pinnock Hill Roundabout).
- The Sword Masterplan Part C, Fosterstown restricts the phasing of development based on provision of infrastructure, Bus Connects, Fostertown Link Road, widening of Forest Road upgrade of Pinnock Hill Roundabout and the quantum of development prior to introduction of Metorlink (25%).
- Deficiencies in wastewater services with significant upgrades required with land in the Fosterstown Masterplan area to be carried out by a 3rd party and requiring separate consents. The land should be omitted on the basis of requiring planning consents and/or access to 3rd party lands.
- The appellants argue the designation of the lands for a school site, transport facilities and infrastructure and a statutory designation in terms of the recent dezoning of the a portion of the lands to open space.

The site should therefore be omitted from the map under Section 653(b)(c) for these listed reasons.

7.0 Planning Authority Response

7.1 Response by Fingal County Council.

- The Board is advised that the relevant plan for the Draft RZLT Map is the Fingal Development Plan 2017-2023. The PA request the Board uphold their determination.

8.0 Assessment

8.1. The site has is zoned Residential Area at the time of determination (Fingal Development Plan 2017-2023) and such zoning permits in principle residential development meeting the criteria under Section 635B(a).

8.2 The appellant argue that the development of the site is subject to a number of upgrades to road infrastructure including provision of Fosterstown Link Road, widening of Forest Road and upgrade of Pinnock Hill Roundabout). The site has reasonable access to road infrastructure with considerable road frontage along the Forest Road, which has footpaths and public lighting and links into the existing road network in the wider area. Permission has been granted on part of the lands (ABP-308366-20) for 274 residential units with access off Forest Road.

8.3 Uisce Éireann have confirmed that the site serviceable with watermains in close proximity and in the case of wastewater the area has sewers with some capacity with development requiring a network extension and upgrading of a section sewer in the R132. Based on this information the site has the ability to connect to such services with no indication of capacity issues and under the RZLT Guidelines for Planning Authorities June 2022 (section 3.1) the need for a network upgrade is not considered to exclude lands.

- 8.4 In relation to phasing restrictions and infrastructure requirements of the Swords Masterplan 2019, Fosterstown Part C. This is a non-statutory masterplan and does not preclude development of the site. As noted earlier permission has been granted for a residential development on a portion of the site (ABP-308366-20). The school objective indicated on the zoning map associated with the 2027-2023 Development Plan is indicative and does not identify a specific location and relates to a larger portion of land zoned RA including the subject site.
- 8.5 In regards to the change in zoning of parts of the site from RA-residential Area to OS-Open Space under the Fingal Development Plan 2023-2029, the entire site was zoned RA under the 2017-2022 Development Plan in force at the time of determination and Section 635K(d)(i) of the Act allows for taking into account inclusion of sites in a supplemental map in the case of changes of zoning of land as a result of a review of the development plan concerned carried out under section 11 of the Act 2000.
- 8.6 The site is not affected, in terms of physical condition, by matters to a sufficient extent to preclude the provision of dwellings, including contamination or presence of known archaeological or history remains. There are no protected structure or recorded monument on site.

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 RA-Residential Area solely or primarily for residential use 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).

Connection to the water, foul drainage and surface water infrastructure has been determined to be feasible with no capacity issues. There are existing roads and footpaths in the area that can be connected to the subject site.

The site is not constrained by any contamination or presence of known archaeological or history remains. The site satisfies 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 professional 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

19th June 2023