



An
Bord
Pleanála

Inspector's Report ABP-316666-23.

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	Auburn, Streamstown, Malahide, Co. Dublin.
Local Authority	Fingal County Council.
Local Authority Reg. Ref.	RZLT 093/22
Appellant	Kinwest Ltd.
Inspector	Irené McCormack

1.0 Site Description

1.1. The site comprises c. 1.7ha. of lands at Auburn, Streamstown, 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 Streamstown. Objective MALAHIDE 11 - Prepare and/or implement the following Masterplans during the lifetime of this Plan:

- Streamstown Masterplan (see Map Sheet 9, MP 9.A)

3.0 Planning History

3.1. This site is linked to RZLT ABP ref. – 316662-23 and RZLT ABP ref. – 316658-23 – Lands at Auburn, Streamstown.

3.2. Site

ABP Reg. Ref. TA06F.313360 -Permission sought by Kinwest Limited for the preservation of Auburn House (a Protected Structure) and stables as 1 no. residential dwelling, conversion of stables to provide storage space for Auburn House, construction of 368 no. residential units (87 no. houses, 281 no. apartments), creche and associated site works. (www.auburnshd2.ie).

ABP 316444-23 / FCC Reg. Ref. F22A/0579 - Permission granted by FCC on 29th March 2023 to Kinwest Limited for the preservation of Auburn House (a Protected

Structure) and stables as 1 no. residential dwelling, conversion of stables to provide storage space for Auburn House, construction 69 no. residential units comprising 35 no. houses comprising detached, semi-detached and terraced type houses, all with associated surface level car parking, and 1 no. four storey apartment block (Block 1) consisting of 34 no. units (comprising 10 no. 1-bedroom units, 20 no. 2- bedroom units and 4 no. 3- bedroom units)

ABP 316498-23 / FCC Reg. Ref. F22A/0580 - Permission granted by FCC on 29th March 2023 to Kinwest Limited for the preservation and protection of the existing Protected Structure of Auburn and its stables as 1 no. residential dwelling; the conversion of the existing stables of Auburn House to provide for storage space for the main Auburn House and the construction of 98 no. residential units (53 no. houses, 37 no. apartments and 8 no. duplex apartments).

ABP 316504-23 / FCC Reg. Ref. F22A/0581 - Permission granted by FCC on 29th March 2023 to Kinwest Limited for the preservation and protection of the existing Protected Structure of Auburn House and its stables as 1 no. residential dwelling; the conversion of the existing stables of Auburn House to provide for storage space for the main Auburn House and the construction of 92 no. residential units (45 no. houses, 34 no. apartments and 13 no. duplex apartments).

4.0 **Submission to the Local Authority**

- Planning history noted.
- Reference made to CDP 2023-2029 and policies relating to protection of mature trees on site.
- There is no IW sewer at Streamstown Lane or Malahide Road. There is no gravity sewer within the Malahide Road in front of the lands. It would be necessary to pump wastewater from the site requiring significant works which require third party access or CPO or planning permission. The closest gravity sewer is located in the Swords Road, approximately 670m north of the proposed access onto the Malahide Road. There is not capacity in the adjacent pumping stations to facilitate residential development of these lands.

- IW response to pre-connection enquiry re. development on these lands included outlining that development is only feasible subject to a new Kinsealy Pumping Station (Castleway Pumping Station). An interim solution also set out.
- The works required in relation to wastewater management and infrastructure can be considered materially significant and require third party lands.
- 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.

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. Uisce Eireann were consulted by the local authority and reported that the lands are currently serviced for water provision. In terms of wastewater UE have indicated that the site is not serviced. To connect to the network the developer would have to construct a pump station on the landowner's site and a 2.4km rising main. If the landowner wants UE to deliver certain downstream upgrades the developer's needs would be reduced to a pump station and 1.6km of rising main.
- 5.3. Internal Water Services report noted UE submission and confirmed that there are services in the vicinity, and it is reasonable to expect such works to be included as part of any future planning application.
- 5.4. Planning history noted.

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 zoned RA in the Fingal Development Plan 2023-2029 and the lands 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 LA assessment was carried out pursuant to the Fingal Development Plan 2017-2023. Subsequent to the determination by the LA in on 30th March 2023 the new Fingal Development Plan 2023-2029 came into effect on 5th April 2023. Notwithstanding, the adoption of the Fingal Development Plan 2023-2029 this assessment is based on the development plan in place at the time of the LA assessment, the Fingal Development Plan 2017-2023 as the appeal relates to this determination. Concerns raised regarding zoning/policy provisions set out in the Fingal Development Plan 20123-2029 as they relate to this site cannot be considered.
- 7.2. 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”*.
- 7.3. 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.*
- 7.4. 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 the

site is not serviced by wastewater and specifies the requirements to connection. The applicant considers these works to be “materially significant.”

7.5. Regarding the upgrade works required to the wastewater infrastructure network in order to facilitate development, I note the Water Services department report having regard to the UE report states that there are services in the vicinity, and it is reasonable to expect such works to be included as part of any future planning application. I would agree and I further consider that the capacity to service the site is reflected in the planning applications submitted by Kinwest Ltd on the site and therefore not “materially significant” as argued by the applicant. On this basis, it is reasonable to consider that the lands to be ‘connected’ or ‘able to connect’ to the existing wastewater network.

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 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.

Irené McCormack
Senior Planning Inspector

18th July 2023

