



An
Bord
Pleanála

Inspector's Report

ABP-316743-23

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	South Shore Road, Rush, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	RZLT131/22
Appellant(s)	The Flynn Family
Inspector	Rachel Gleave O'Connor

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1.0 Site Location and Description

- 1.1. The site is located to the south of Sundrive Road and north of South Shore Road. To the north and south of the site there are agricultural lands, and to the east and west there are residential dwellings. The site itself is a vacant greenfield area.

2.0 Zoning and other provisions

- 2.1. The site is zoned RS – Residential and within the defined Development Boundary for Rush under the Fingal County Development Plan 2023-2029.

3.0 Planning History

- 3.1. F23A/0062 – On the 17th April 2023 the Planning Authority determined to REFUSE planning permission for the demolition of one existing dilapidated dwelling and the construction of 6no new two-storey dwellings, new access road, new boundary walls, new vehicular entrances, soakaways, foul sewerage connections, and all associated site works, on lands located between South Shore Road and Sundrive Road,, Rush, Co. Dublin. A First Party Appeal was submitted to An Bord Pleanála on 15th May 2023 and is awaiting determination.

- 3.2. The application was refused for the following three reasons:

1. Having regard to the character and appearance of the area, the proposal by virtue of its design, massing, layout and relationship with the established built character of the area, would appear as a cramped form of development and an overdevelopment of the site. Taking account of the topography and site layout arrangements of the proposal, if permitted would seriously injure the residential amenities of properties in the vicinity by reason of overlooking, overbearing and noise nuisance. The proposed development is therefore considered to be inconsistent with the pertaining pattern of development in the area and would be contrary to Sections 14.5, 14.6.2 , and Table 14.4 of the Fingal Development Plan 2023 -2029 in relation to infill development and the mix of dwellings and the zoning objective of the site which seeks to 'Provide for residential development and protect and improve residential amenity'. The

proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The subject site is located within a 'Highly Sensitive Landscape' in the Fingal Development Plan 2023 -2029. The proposed development, by reason of its design, form, massing and layout, would be seriously injurious to the visual amenities of the area, would be visually incongruous and obtrusive viewed from both South Shore Road and Sundrive Road and would be out of character with the existing pattern of development. The proposed development would materially contravene Objective GINHO59 in relation to Development and Sensitive Areas of the Fingal Development Plan 2023 - 2029 which seeks to 'Ensure that new development does not impinge in any significant way on the character, integrity and distinctiveness of highly sensitive areas and does not detract from the scenic value of the area'. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
 3. The proposed development contravenes materially Objective DMSO5 of the Fingal Development Plan 2023 -2029 which requires the submission of a Design Statement for all medium to large scale planning applications in excess of 5 residential units and Objective DMSO20 of the Fingal Development Plan 2023 - 2029 which requires that all planning applications for residential development shall be accompanied by a Schedule of Accommodation to demonstrate compliance with housing standards. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
- 3.3. F22A/0009 – On the 13th February 2023, an application was WITHDRAWN for the demolition of one existing delapidated dwelling and the construction of 3 no new two storey house, with new boundary walls, new vehicular entrances, soakaways, foul sewerage connections, and all associated site works.
 - 3.4. F21A/0323 – On the 14th December 2021, an application was WITHDRAWN for the construction of 2no new two storey houses with new boundary walls, new vehicular entrances, soakaways, foul sewerage connection and all associated site works.

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 stated that the land can be connected to services including road infrastructure, public lighting, water supply and surface water. It is noted that there is currently no public footpath infrastructure serving this section of South Shore Road and subsequently that significant sections of new footpaths are required, extending across third party lands to the east and west to provide for future pedestrian permeability. Until such time as the provision of such footpaths have been agreed, it is considered premature to include the lands on the draft RZLT map at this stage.
- 4.2. Notwithstanding the above, attempts are being made to bring the site forward for residential development, and this submission is made without prejudice to planning cases.

5.0 Determination by the Local Authority

- 5.1. It is considered that the land in question is included in a development plan or local area plan and is zoned for residential development or zoned for a mixture of uses, that includes residential development. The land is serviced, or it is reasonable to consider may have access to services. Previous applications on the site that have been withdrawn are noted, as is the current application F23A/0062.
- 5.2. 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 landowner is actively engaging with the planning process. There are constraints that need to be resolved.
- The site is not fully serviced, there is no footpath network serving the site along Sundrive Road or South Shore Road.

- There is a lack of foul sewer connection between the site and the site's road frontage to Sundrive Road.
- Site is not served by a vehicular entrance. Only possible to achieve sightlines required from Sundrive Road, leading to delays.
- In the assessment of application F23A/0062 by the Planning Authority, the Transport Department raised significant issues in relation to proposed footpaths and traffic calming measures. Whilst these issues are not considered to be insurmountable, they do represent planning constraints which take time, effort and significant cost to overcome. The legislation is not cognisant of this.

7.0 Assessment

7.1. The site is situated adjacent to existing residential dwellings, and the appellant acknowledges that connection to services, including road infrastructure, public lighting, water supply and surface water is feasible. While the appellant suggests that there is not existing connection to the foul sewer network, it is implied that this lies along Sundrive Road, and therefore connection can be reasonably achieved via publicly controlled land as part of a development proposition for the site.

7.2. With respect to pedestrian footpaths, the local authority does not address this point directly. The site does not appear to benefit from existing public footpaths to either Sundrive Road or South Shore Road, and while the development of the lands might reasonably be expected to include an extent of footpath infrastructure, to connect to the nearest existing footpaths to this appeal site, would require the creation of significant new sections. The site is situated adjacent to one-off housing which does not have a pedestrian network in place. Such upgrades would interface with third party controlled lands.

7.3. Page 25 of the RZLT Guidelines state that with respect to footpath access:

“for lands to be considered in scope, there should be an ease of connection to an existing footpath network to facilitate active travel modes from the outset. Provision of significant sections of new footpath across other landholdings, where the land is not in the control of the landowner or local authority should be discounted when considering lands to be in-scope.”

7.4. It is likely that to connect into the existing pedestrian infrastructure network, new footpaths would be required on third party lands outside of the ownership of either the appellant or public authority. As such, the site cannot be considered in-scope.

8.0 Recommendation

8.1. I recommend that the board set aside the determination of the local authority and allow the appeal.

9.0 Reasons and Considerations

9.1. The land is not connected to the existing footpath network in Rush and would require the provision of significant sections of new footpath across other landholdings where land is not in the control of the landowner or local authority. The land, therefore, does not satisfy the criteria cited in section 653B(b) of the Taxes Consolidation Act 1997, as amended.

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 June 2023