



An
Bord
Pleanála

Inspector's Report

ABP-316744-23

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| 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 | Janeville, Carrigaline Middle & Shannonpack, Carrigaline, Co. Cork |
| Planning Authority | Cork County Council |
| Planning Authority Reg. Ref. | DRZLT473297496 |
| Appellant(s) | Astra Construction Services Limited |
| Inspector | Rachel Gleave O'Connor |

1.0 Site Location and Description

- 1.1. The subject site is situated to the north of Maple Avenue and east of newly constructed residential estates at The Lawn, rose Lawn and Janeville which from submitted documents appear to be in the same ownership as the subject site.

2.0 Zoning and other provisions

- 2.1. The site is zoned 'Residential' Parcels 'CL-R-12', 'CL-R-13' and 'CL-R-01' under the Cork County Development Plan 2022-2028.

- 2.2. Objective CL-R-01:

Shannon Park UEA Phase 3: Medium A density residential development to include a mix of house types. Permeability needs to be achieved within the layout to ensure connectivity with existing and proposed residential areas and include the construction of the Greenway (CL-U-02) and east - west link street (CL-U-01). The Rock Road (CL-U-12) will need to be upgraded in accordance with the specifications of the DMURS Guidance document and to the satisfaction of Roads Section in Cork County Council.

- 2.3. Objective CL-R-12:

Shannon Park UEA Phase 2: Medium A density residential development to include a mix of house types. Permeability needs to be achieved within the layout to ensure connectivity with existing and proposed residential areas. The layout should also include the provision of appropriate boundary treatment and landscaping buffer of native tree species along the northern boundary of the site to protect residential amenities of adjoining property and maintain visual separation from the M28.

- 2.4. Objective CL-R-13:

Shannon Park UEA Phase 3: Medium A density residential development to include a mix of house types. Permeability needs to be achieved within the layout to ensure connectivity with existing and proposed residential areas and include the construction of the Greenway (CL-U-02) and east - west link street (CL-U-01). The Rock Road (CL-U-12) will need to be upgraded in accordance with the specifications of the DMURS Guidance document and to the satisfaction of Roads Section in Cork

County Council. The layout should also include the provision of appropriate boundary treatment and landscaping buffer of native tree species along the northern boundary of the site to protect residential amenities of adjoining property and maintain visual separation from the M28.

3.0 Planning History

- 3.1. Planning history relates to the subject site as part of a wider landholding.
- 3.2. Reg. Ref. 22/4809: Permission GRANTED for 98 residential units on 23rd August 2022, and FOR EXTENSION OF DURATION of original ref. 16/04289.
- 3.3. Reg. Ref. 21/05556: Permission GRANTED for 98 residential units on 1st September 2021.
- 3.4. Reg. Ref. 21/5932: Permission GRANTED for 98 residential units on 11th October 2021.
- 3.5. Reg. Ref. 16/04289: Permission GRANTED for 297 residential units and neighbourhood centre, public transport interchange and ancillary site works. (Amendment applications 21/05936; 21/05556; 20/4650; 20/5451).

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. It stated that:
 - The landowner is currently delivering the Janeville residential development at SUEA (Shannonpark Urban Expansion Area).
 - Currently have permission for 703 units, 2 creches and a neighbourhood centre at Janeville.
 - The completed western and southern areas of Janeville are not identified within the draft RZLT mapping, however, the undeveloped northern and eastern areas of the SUEA are included. The delivery of the SUEA is predicated in response to infrastructure constraints at the lands, and in particular the requirements of EZB Networks, to accommodate the

maintenance of existing 110 kV overhead lines and corresponding wayleaves which transverse the lands.

- Areas occupied by spine road, pedestrian / cyclist amenity path and creche.
- Objectives require delivery of routes through the site.

5.0 Determination by the Local Authority

5.1. The local authority provided an evaluation of the site with reference to the RZLT Guidelines, confirming the following:

- Discounting of lands under overhead lines: Liability/exemptions are a matter for landowner submission to Revenue. Creche site considered to be in scope until site has been developed.

6.0 The Appeal

6.1. Grounds of Appeal

- Grounds of Appeal restate the submission to the Local Authority as summarised in section 4 above.

7.0 Local Authority Response

- Reference to pages 7 and 10 of the RZLT Guidelines in relation to connection to public infrastructure, and objectives to provide facilities.
- Permission was granted on 28th September 2023 [sic] under ref.22/4809 for 98 dwellings, a creche and extension of the Janeville spine road.
- It is acknowledged that the CDP Objective for the subject site sets out the requirement for construction of the east west link street across the site under objective CL-U-01. Until development of the site occurs, all of the zoned lands under the objective remains in scope for the purposes of the RZLT.
- The site meets criteria for inclusion on the RZLT map.

8.0 Assessment

- 8.1. The subject site is connected to a wider landholding that ensures connections to public roads and other relevant infrastructure.
- 8.2. The grounds of appeal refer to planning approvals across the site. The subject site as part of the wider landholding benefits from a number of planning permissions as summarised in section 3 above. Construction of parts of the wider landholding has already commenced. It is not clear whether permissions relating to the subject site itself have commenced.

- 8.3. Page 47 of the RZLT Guidelines states:

“ii) Deferral for commencement of development

Deferral of the tax is available in circumstances where a residential led development on the scoped residential or mixed use zoned land is commenced. The tax is only deferred so long as the permitted development is completed within the duration of the planning permission. The period of duration of the planning permission is taken from the first commencement notice lodged on the land for development, notwithstanding that amending permissions and subsequent commencement notices may be lodged for the same land or area of land.” (Page 47).

- 8.4. Page 46 of the Guidelines make it clear that deferral is a matter between the landowner and Revenue.

“Deferral of the tax is only available so long as the development is underway and completed within the duration of the planning permission. Records of commencement notices and certificates of compliance on completion of development must be made available via the BCMS system. This system will be utilised by landowners to provide evidence as part of self-assessment and annual tax returns regarding commencement and completion of development.” (Page 46).

- 8.5. Whether the subject site is eligible for a deferral of the RZLT does not impact consideration of whether the site is in-scope for the purposes of the map. The site meets the criteria for inclusion for the RZLT map, being zoned residential and serviced, or with ease of connection to infrastructure and networks. Revenue is the appropriate body to engage with in relation to deferral of payment of the RZLT.

- 8.6. Plan defined developer-led infrastructure necessary to develop lands, is beneficial to a developer, and distinct from the public infrastructure described in the RZLT criteria. Developer-led infrastructure is confined to a site extent and will unlock the development potential of lands, and is part of the normal parameters under which multi-unit residential development is delivered.
- 8.7. I concur with the Local Authority that prior to construction, areas such as roads, creche and cycleways etc. remain in scope.
- 8.8. Constraints such as existing overhead lines do not preclude development of the site. It is within the normal parameters of development propositions to include the rerouting of such cables underground and would not amount to a physical barrier to the development of the lands.
- 8.9. As such, the site is in-scope for inclusion on the RZLT map.

9.0 Recommendation

- 9.1. I recommend that the Board confirm the determination of the local authority and direct the local authority to include the site on the map.

10.0 Reasons and Considerations

- 10.1. 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 the Guidelines for Planning Authorities on the Residential Zoned Land Tax, the site should remain on the RZLT map. Deferral of the tax is available where a residential led development is commenced. Records of commencement notices will be required to demonstrate this as part of evidence for self-assessment and for annual tax returns. Deferrals of payment of the tax is a matter between the landowner and Revenue and does not affect the consideration of whether a site is considered to be 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

06 September 2023