



An
Bord
Pleanála

Inspector's Report

ABP-316768-23

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	Gortnahomna More, Castlemartyr, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	DRZLT473262262
Appellant(s)	Solas Partnership.
Inspector	Rachel Gleave O'Connor

1.0 Site Location and Description

- 1.1. The site is located to the south, and separated to, the N25. The site bounds the rear of residential properties in Cuir Na Greine and Joseph Morrissey to the north, and Castlemanor Crescent to the west. To the east and south lands are agricultural/greenfield in nature.

2.0 Zoning and other provisions

- 2.1. The site is zoned 'Residential' under the Cork County Development Plan 2022-2028, with Objectives CM-R-01 and CM-RAP-02 under the Plan as described below.

- 2.2. Objective CM-R-01 is described as follows:

“Medium B density residential development. To include connectivity with adjoining development to the north and west. The site contains mature hedgerows and scattered trees which are of important local biodiversity value.”

- 2.3. Objective CM-RAP-02 is described as follows:

“Medium B density residential development. To include connectivity with adjoining development to the north and west. The site contains mature hedgerows and scattered trees which are of important local biodiversity value.”

3.0 Planning History

- 3.1. Planning history relates to a wider site area, part of which includes the subject site. Reg. Ref. 17/4624 / ABP-301316-18 – Planning Permission REFUSED on 15th August 2018 by An Bord Pleanála for 209 residential units, for two reasons as set out below:

1. The proposed development would be premature by reason of the existing wastewater constraints and the Board is not satisfied that there is certainty around the period within which the constraints involved may reasonably be expected to cease. It is considered that the proposed development, at a location where there is limited capacity for development and having regard to these deficiencies and given that the existing wastewater treatment plant to which the proposed development would connect is currently in breach of the

Emission Limit Values at the primary discharge point as noted by the Environmental Protection Agency, would be contrary to the proper planning and sustainable development of the area.

2. On the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement, the Board cannot be satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on Ballymacoda (Clonpriest and Pillmore) Special Area of Conservation (Site Code 000077), in view of the site's Conservation Objectives. In such circumstances, the Board is precluded from granting permission.
3. Having regard to the information available, including the Flood Risk Assessment report submitted, the Board considers that there is a lack of clarity regarding the flood risk at the northern end of the site. In particular, the Board is not satisfied with the basis for the designation of part of the site as being within Flood Zone A and whether this information is compiled from the most up to date studies. The Board, therefore, is not satisfied that the layout of the northern end of the site, which is heavily dominated by open space in response to the Flood Zone A, is appropriate.

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 has been proactive in efforts to bring forward development on the site. Under CCC ref.17/4624 and ABP ref. 301316-18 permission was sought for 209 dwellings and refused, due to constraints with wastewater infrastructure.
- Development of the lands is contingent on the delivery of upgrades to Castlemartyr Wastewater Treatment Plant. Reference to section 3.6.22 (Vol.4) of the Development Plan in relation to the Castlemartyr Water Investment Plan for an upgrade of the wastewater treatment facilities.

- Planning application submitted to CCC for WWTP infrastructure on 26th October 2022 ref.22/6416. Once planning permission is secured, works should be complete within a 18 month period.

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:

- Uisce Éireann confirms that water main and sewer exists in close proximity to the site.
- Response from Uisce Éireann:
 - Confirm that a water main exists on the public road, N25, in close proximity to the site. Available GIS data indicates that the watermain is accessible 150m away via third party lands adjoining the site. Capital upgrades may be required downstream to cater for the entire development of the site.
 - Confirm that a sewer exists on the public road, N25, in close proximity to the site. Available GIS data indicates that the sewer is accessible 160m away via third party lands adjoining the site. Capital upgrades may be required downstream to cater for the entire development of the site.

6.0 The Appeal

6.1. Grounds of Appeal

- The landowner has been proactive in efforts to bring forward development on the site. Under CCC ref.17/4624 and ABP ref. 301316-18 permission was sought for 209 dwellings and refused, due to constraints with wastewater infrastructure.
- Development of the lands is contingent on the delivery of upgrades to Castlemartyr Wastewater Treatment Plant. Reference to section 3.6.22

(Vol.4) of the Development Plan in relation to the Castlemartyr Water Investment Plan for an upgrade of the wastewater treatment facilities.

- Planning application submitted to CCC for WWTP infrastructure on 26th October 2022 ref.22/6416. Once planning permission is secured, works should be complete within a 18 month period.
- Pages 24 and 27 of the RZLT Guidelines confirm that for lands to be considered in scope for RZLT, the lands must be both zoned and serviceable one month prior to publication of the RZLT maps, being 1st Oct 2022.
- The Planning Authority's determination is silent on the previous reason for refusal for residential development of the site.
- Until such time as the relevant wastewater upgrades are completed and fully operational, the subject lands do not have access to adequate wastewater infrastructure, and residential development at the lands in the short-term is not deliverable.

7.0 Local Authority Response

- CCC had full regard to the infrastructural capacities relating to submissions received.
- Uisce Éireann confirmed proximity to water main and sewer via the N25.
- CCC acknowledge the refusal on the site ref. 17/4624 based on the capacity of the WWTP, however, the RZLT site was referred to Uisce Éireann as part of the assessment process and no issue relating to services to the subject site were raised.
- For clarification, the application site under ref.17/4624 included the RZLT site, as well as the existing residential site to the north and the agricultural zoning to the south of the site.
- It is understood that both the RZLT site parcel and the adjoining site to the north are both under the same ownership.
- The site meets the criteria for inclusion with the RZLT map.

8.0 Assessment

8.1. The grounds of appeal assert that the site is not serviced with respect to wastewater. The Local Authority contend that Uisce Éireann have confirmed availability of water and wastewater services proximate to the site and via the public road. Uisce Éireann's response to the RZLT determination indicates availability of water and wastewater infrastructure proximate to the site and no capacity constraints are raised. The Uisce Éireann capacity register states that Castlemartyr WWTP has an 'Amber' classification, indicating 'potential spare capacity, applications to be considered on an individual basis considering their specific load requirements.' As such, there is capacity indicated at the WWTP. On the basis of this and the response from Uisce Éireann, it is reasonable to consider that the site may have access to be connected to wastewater infrastructure is available.

8.2. I note the appellants reference to section 3.6.22 of the Development Plan which states in relation to Castlemartyr that:

"The waste water treatment plant serving the village has limited but sufficient capacity to accommodate growth. The Waste Water Treatment Plant is currently not compliant with Waste Water Discharge Licence Emission Limit Values. Castlemartyr is on the Irish Water Investment Plan for an upgrade of the Wastewater Treatment facilities in the village in order to protect the environment and quality of receiving waters and to facilitate growth. This project is due for completion in 2023/24."

8.3. This confirms that there is capacity to support growth of the town, albeit limited. The section also notes concerns regarding emission limit values and the need to protect the environment. The upgrades required are to improve impact upon receiving waters. Regardless of the upgrades required from an environmental perspective, the Castlemartyr WWTP has capacity (albeit limited), which is the focus of the RZLT criteria.

8.4. While I note the previous planning refusal on the site in 2018, that refusal relates to 'existing wastewater constraints' with specific reference to the emission limit values. The reference to capacity in reason for refusal no.1 of ref. ABP-301316-18 relates to an acknowledgement of the limited overall extent of capacity to serve developments in Castlemartyr, as indicated by the 'Amber' classification (explained in this section

above). The reason for refusal is tied in with environmental protection and not lack of capacity per se.

8.5. Uisce Éireann have confirmed the availability of public infrastructure to service the site, the necessary connections to the N25 can be undertaken via lands to the north in the same ownership as the subject site, as confirmed by the Local Authority and in maps submitted for the appeal. Pedestrian footpaths exist on the N25, and connections to other necessary infrastructure can also be facilitated via this public road.

8.6. As such, I am satisfied that the subject 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.

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