



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316769-23

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<b>Type of Appeal</b>	Appeal under section 653J(1) of the Taxes Consolidation Act 1997, as amended, against the inclusion of land on the Residential Zoned Land Tax Map
<b>Location</b>	Lands at Sallybrook, Glanmire, Co. Cork
<b>Local Authority</b>	Cork City Council
<b>Local Authority Reg. Ref.</b>	CRK-RZLT-45
<b>Appellant(s)</b>	Evelyn & Michael Kearney
<b>Inspector</b>	Frank O'Donnell

## 1.0 Site Location and Description

- 1.1. The subject site is located on northern side of Glanmire to the immediate north of the established Glenn Richmond residential development.
- 1.2. Land Parcel (s) CCLA00025592 & CCLA00025658, which are the subject of the Local Authority Determination, have an estimated site area of c. 14.24 hectares.
- 1.3. It should be noted that there are 1 no. other concurrent RZLT Appeal in the general locality of the subject site, as follows:
  - Appeal Ref. No. 316766-23: Evelyn & Michael Kearney. Lands located c. 305 metres to the south of the subject site.

## 2.0 Zoning and other provisions

- 2.1. The lands which are the subject of this appeal are zoned *'ZO 02 New Residential Neighbourhoods. Zoning Objective 2: To provide for new residential development in tandem with the provision of the necessary social and physical infrastructure.'* The lands to the immediate south are zoned ZO 01 Sustainable Residential Neighbourhood.
- 2.2. The subject lands are categorised as Tier 2 lands in the Growth Strategy Map 2022 to 2028 (Figure 2.21) of the Cork City Development Plan, 2022 to 2028. Tier 2 sites are lands which are considered serviceable by physical infrastructure within the life of the plan. The subject site is indicated to be within the existing built-up footprint as opposed to within a Greenfield area, see Figure 2.22.
- 2.3. Chapter 12 of the Plan relates to Land Use Zoning Objectives. In relation to ZO2: New Residential Neighbourhoods, the following is stated under ZO 2.1:

*'ZO 2.1 Lands in this zone are designated as Tier 1 or Tier 2 zoned lands in the Core Strategy. Any development proposals must satisfy the requirements for developing on Tier 1 or Tier 2 lands set out in Chapter 2 Core Strategy.'*
- 2.4. Cork Metropolitan Strategic Area Plan
  - Cork MASP Policy Objective 9
    - Strategic Road Network Improvements

- *‘To seek delivery of the following subject to the outcomes of required appropriate project appraisal, planning and environmental assessment processes including SEA/AA as appropriate. The upgrade of public transport networks must be the priority for strategic road network improvements under this objective. Sustainable proposals that facilitate the implementation of public transport networks on the strategic road network will be supported.*

....

*g) Dunkettle Interchange.’*

### **3.0 Planning History**

#### **3.1. Planning History**

3.2. There is no recent planning history relating to the subject lands.

#### **3.3. Relevant Planning History on adjacent lands to the south**

3.4. 2241314: 1 Ballea Land Limited. Permission for development which will consist of the construction of 2 no. 3-bed 2-storey semi-detached dwelling houses (House Nos. 2A and 2B) and all ancillary site development works. Permission was REFUSED on 28/09/2022 for the following reason:

- 1. The proposed development would materially contravene the provisions of the Cork City Development Plan 2022 - 2028, specifically Objective 6.18 (b) with regard to development on an open space which forms part of an executed planning permission. This site has been formally laid out as an area of public open space as set out in the plans attached to the parent permission and, if removed, the development would limit pedestrian permeability and seriously injure the residential amenities of the area and be contrary to the proper planning and sustainable development of the area.*

3.5. 2039624: 1 Ballea Land Limited. Permission for the diversion underground of a c.378m section of the existing ESB Kilbarry-Riverstown 38kV overhead lines that traverses the site and the erection of 1no. new 14m ESB Type 'E' 3 Pole Timber structure. Permission was GRANTED on 19/04/2021 subject to 17 no. conditions.

- 3.6. 1938995 (ABP Appeal Ref. No. PL28.306928): 1 Ballea Land Limited. Permission for development which will consist of the construction of 37 no. dwelling houses and all ancillary site development work. Permission was GRANTED on 25/08/2020 subject to 8 no. conditions. An Appeal to An Bord Pleanála was withdrawn on 21/08/2020.
- 3.7. 1938937: 1 Ballea Land Ltd. Permission for the development which will consist of the construction of 40no dwelling houses. Permission was GRANTED on 23/03/2020 subject to 6 no. conditions.
- 3.8. 16/05554 (ABP Appeal Ref. No. PL 04.248234): Bluescape Ltd. Permission for 89 houses, and ancillary site development works. Permission was GRANTED on 09/10/2017 subject to 20 no. conditions.

#### **4.0 Submission to the Local Authority**

- 4.1. The Appellant made a submission to the Local Authority seeking to have his land removed from the draft map.
- 4.2. The Appellant details the background to the current zoning, the development plan process and relevant submissions made and received and the relationship with and agreements made with the adjoining landowners.
- 4.3. The future development of these lands will require the landowner to make access and connections over third party lands. The lands do not yet comply with the criteria set out in Section 653B of the Taxes Consolidation Act 1997, as they are not lands which it is reasonable to consider may have access and be connected to services. Therefore, the lands should be excluded from the RZLT Map.
- 4.4. The Appellant is having difficulty in obtaining a legal agreement with the adjacent third party for access to services across the third-party lands. The landowner is committed to resolving this issue and discussion in relation to the requisite legal agreements with LIONCOR are in train and once in place the landowners are committed to developing the lands in the lifetime of the permission.
- 4.5. The Appellants consider that it is not reasonable to assume the lands have access or can be connected to services due to the requirement for third party consent. The Appellant submits that therefore, the lands have to satisfy the criteria of Section 653B b) of the Taxes Consolidation Act, 1997.

## 5.0 Determination by the Local Authority

5.1. Having evaluated the submission, it is considered that the land DOES constitute land satisfying the criteria as per Section 653E (1) (a) (ii) (I) of the Taxes Consolidation Act, 1997 as amended, therefore it is recommended that the land(s) at Sallybrook, Glanmire, Cork should be INCLUDED in the final map for the following reasons:

5.2. Reason(s)

5.3. The land is included in the Cork City Development Plan 2022 – 2028, in accordance with Section 10 (2) of the Act of 2000 and is further zoned (i) solely or primarily for residential use, or (ii) for a mixture of uses, including residential use.

5.4. These lands satisfy section 653B (b) of the Act, in that it is reasonable to consider that the land may have access, or be connected, to public infrastructure and facilities, including roads and footpaths, public lighting, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed and with sufficient service capacity available for such development.

5.5. 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 Grounds of Appeal are summarised as follows:

- In the Cork City Capacity Study and the Draft City Development Plan, the subject lands were considered un-serviced Tier 3 lands or a Long -Term Strategic Growth Site.
- Delays in servicing the lands/ legal agreements/ outside of the control of the Appellant.
- At the cut-off dates for considering the lands to be in scope for the draft and supplemental maps of 1 October 2022 and 1 April 2023, access to the required services over 3<sup>rd</sup> party land which are in private ownership has yet to be obtained.

- Reference is made to Section 4.1 (iii) of the Residential Zoned Land Tax Guidelines for Planning Authorities, 2022, in respect of a lack of consent for access to services across other 3<sup>rd</sup> party lands.
- Consequent to this, the lands should be deemed to be out of scope.

## 7.0 Assessment

- 7.1. The comments raised in the appeal are noted.
- 7.2. The Appeal submission refers to Cork City Council RZLT Reference CRK-RZLT-45, Land Parcel ID (s) CCLA00025592 & CCLA00025658. The Appeal submission also includes an aerial view of a site outlined in red, see Figure 1. It is noted that the defined site outline does not include all of Land Parcel ID CCLA00025658.
- 7.3. The lands are zoned 'ZO 02 New Residential' and are categorised as Tier 2 lands in the Growth Strategy Map 2022 to 2028 (Figure 2.21) of the Cork City Development Plan, 2022 to 2028.
- 7.4. It is noted the Carrigrennan Wastewater Treatment Plant (Ref. D0033) has a Green Status on the current Uisce Eireann Wastewater Treatment Capacity Register. Green status is stated to mean 'spare capacity available.'
- 7.5. I am satisfied therefore that it is reasonable to consider that the lands may have access to foul sewer drainage.
- 7.6. Section 10.287 of the Cork City Development Plan, 2022 to 2028 relates to Water and Waste Water in Glanmire and states: *'There are no significant issues with network capability in Glanmire apart from local upgrades which will be needed for connections. Irish Water will work with relevant stakeholders to accommodate additional development.'*
- 7.7. The Glashaboy Water Treatment Plant serves Glanmire. This WTP is the subject of current upgrades which are due to be completed by mid-2025. With specific reference to this Water Treatment Plant and the associated upgrades, it is stated on the Uisce Eireann website that:

*'The Glashaboy Water Supply is included on the Environmental Protection Agency's (EPA) Remedial Action List (RAL), which identifies water supplies that*

*are in need of improvement. Currently, there is inadequate protection against microbiological failure.'*

- 7.8. As per recommendations contained in Section 3.1.1 of the Residential Zoned Land Tax Guidelines, 2022, I am satisfied that it is reasonable to consider, notwithstanding the need for a network upgrade, that the lands may have access to a water supply.
- 7.9. It is noted that the terms of Condition no. 4 a) of a nearby consented Strategic Housing Development (SHD), c. 2.4 km to the southeast, Ref. No. ABP-300543-18, places a restriction on the number of dwelling units to 400 units which can be constructed, prior to completion of the Dunkettle Interchange upgrade works.
- 7.10. It is further noted that in the initial submission to the Local Authority attached to a concurrent RZLT Appeal Ref. No. 316883-23, reference is made to this restriction whereby development on that said site cannot currently exceed 489 residential units until such time as the Dunkettle Interchange is completed. The said works are yet to be completed.
- 7.11. I am satisfied therefore that it is reasonable to consider that there is currently insufficient road service capacity available for residential development on the subject Tier 2 lands and that therefore the lands are not in scope as per the qualifying criteria set out in Section 653B b) of the Act.

## **8.0 Conclusion**

- 8.1. The site does not satisfy the criterion for inclusion on the map set out in Section 653B(b) of the Taxes Consolidation Act 1997, as amended.

## **9.0 Recommendation**

- 9.1. I recommend that the Board set aside the determination of the Local Authority and that the indicated site be removed from the map.

## 10.0 Reasons and Considerations

- 10.1. The lands identified as CRK-RZLT-45 (Land Parcel ID (s): CCLA00025592 & CCLA00025658), do not meet the qualifying criteria set out in Section 653B of the Taxes Consolidation Act 1997, as amended.
- 10.2. There is currently insufficient road service capacity for dwellings to be developed on the subject 'ZO 02 New Residential Neighbourhoods', Tier 2 lands.
- 10.3. *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.*

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Frank O'Donnell  
Planning Inspector

18<sup>th</sup> September 2023