



An
Bord
Pleanála

Inspector's Report

ABP-316789-23

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 Map

Location

Lands at Heathfield, Carriganarra, Carrigrohane, Ballincollig, Co. Cork

Local Authority

Cork City Council

Local Authority Reg. Ref.

CRK-RZLT-14

Appellant(s)

MOS Homes Ltd.

Inspector

Frank O'Donnell

1.0 Site Location and Description

- 1.1. The site which is subject to this appeal is located at Heathfield residential development on the western side of the N22 National Secondary road, c. 1.25 km to the southeast of the centre of Ballincollig. The site which is the subject of this appeal is stated to reflect the route of the distributor road originally permitted by Cork County Council planning reference 15/6813 and a creche permitted by Cork City Council planning reference 19/38923.
- 1.2. The Local Authority Determination in respect of CRK-RZLT-14 relates to Land Parcel ID (s) CCLA00071800 and CCLA00071801 and CCLA00074449.
- 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. 316796-23: MOS Homes Limited. Lands located c. 220 metres to the east of the subject site.

2.0 Zoning and other provisions

- 2.1. The lands which are subject to this appeal are zoned '*ZO 1 Sustainable Residential Neighbourhoods. Zoning Objective 1: To protect and provide for residential uses and amenities, local services and community, institutional, educational and civic uses.*'
- 2.2. The lands are categorised as Tier 1 lands in the Growth Strategy Map 2022 to 2028 (Figure 2.21) of the Cork City Development Plan, 2022 to 2028. Tier 1 sites are zoned lands that are currently serviced by physical infrastructure.
- 2.3. The majority of the overall site which is the subject of the Local Authority determination is indicated as a Greenfield site and within the overall Sub City Area, see Figure 2.22 of the Plan.
- 2.4. The lands are located within the Outer Urban Suburbs of Cork City.
- 2.5. The lands are located within the South Ballincollig (Maglin) Expansion Area.

3.0 Planning History

3.1. Relevant Planning History

- 3.2. 2341785: MOS Homes Limited. Permission for the construction of a single storey creche. The proposed development is a change of plan from the creche facility previously permitted by Cork City Council Planning Reference 19/38923. Permission was GRANTED on 22/06/2023 subject to 18 no. conditions.
- 3.3. 2039452: MOS Homes Limited. Permission for the construction of 31 no. dwelling houses and all ancillary site development works, including a noise attenuation screen at Heathfield, Carriganarra, Carrigrohane, Ballincollig, Cork. Application was WITHDRAWN on 28/09/2020.
- 3.4. 1938923: MOS Homes Limited. Permission for the construction of 80 no. dwelling houses, a single storey 80 no. child crèche and all ancillary site works at Heathfield, Carriganarra, Carrigrohane, Ballincollig, Cork. The proposed development is a change of plan from that originally permitted under Cork County Council Planning Reference 15/6813 (as amended by Cork County Council Planning References 19/4188 & 19/5258) and Cork County Council Planning Reference 17/4270 and will result in the construction of an additional 23 no. residential units. Permission was GRANTED on 04/08/2020 subject to 28 no. conditions.
- 3.5. 1938895: MOS Homes Limited. Permission for the construction of 20 no. dwelling houses at Heathfield, Carriganarra, Carrigrohane, Ballincollig, Cork. Permission was GRANTED on 07/09/2020 subject to 20 no. conditions.
- 3.6. 195257: MOS Homes Ltd. Permission for the construction of 88 no. dwelling houses consisting of 6 no. 4 bedroom detached dwelling houses, 42 no. 4 bedroom semi-detached dwelling houses, 36 no. 3 bedroom semi-detached dwelling houses, 2 no. 3 bedroom townhouses and 2 no. 2 bedroom townhouses and all ancillary site works. The proposed development is a change of plan and change of house type from that permitted under Cork County Council Planning Reference 17/4270 as amended by 18/7345. Access to the proposed development will be provided via the junction from the Killumney Road and internal road network which was permitted by Cork County Council Planning References 15/6813 & 17/4270. Permission was GRANTED on 23/08/2019.

- 3.7. 187383 (Appeal Ref. No. ABP-304014-19): MOS Homes Ltd. Construction of 61 no. dwelling houses and all ancillary site works including a noise attenuation screen. Permission was Refused on 19/07/2019 for the following Reason and Consideration:
- 3.8. Having regard to Section 2.9 of the Spatial Planning and National Roads Guidelines for Planning Authorities, issued by the Department of the Environment, Community and Local Government in January, 2012, and to Objective TM 3-1 of the Cork County Development Plan 2014 - 2020, the Board considered that, as the site lies within the Route Protection Corridor of the Cork Northern Ring Road (N22/N20/M8) which is a Project Critical to the Delivery of Planned Development, the proposal would be premature in advance of the finalisation of the design of the proposed upgraded junction between the N22 and the L-2216 within this Corridor. Accordingly, to grant permission for this proposal would risk compromising the future design of this junction, would fail to preserve the Route Protection Corridor, would materially contravene Objective TM 3-1 of the development plan and would be contrary to the above-mentioned Guidelines. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
- 3.9. 187345: MOS Homes Ltd. Permission for Alterations to the layout of a residential development known as Heathfield, which was permitted by Cork County Council Planning. Reg. No. 17/4270. Permission was GRANTED on 20/03/2019.
- 3.10. 174270 (Appeal Ref. No. PL04.300977): MOSH Group Limited. Permission for a Residential development of 238 no. residential units, single storey crèche with a gross floor area of 347 sq.m and all ancillary site development works. Permission was GRANTED on 25/01/2018. APPEAL WITHDRAWN on 25/05/2018.
- 3.11. 167268: MOSH Group Limited. INCOMPLETE APPLICATION.
- 3.12. 156813 (Appeal Ref. No. PL 04.246938): MOSH Group Ltd. Permission for 59 No. dwellings, new access road and roundabout and ancillary site development works. Permission was GRANTED on 19/10/2016. APPEAL WITHDRAWN on 30/09/2016.
- 3.13. 146693: Murnane & O'Shea Ltd. EXTENTION OF DURATION. Alterations to mixed use residential, community facilities and commercial development permitted under Planning Reg. No. 08/7047. WITHDRAWN on 02/02/2015.

- 3.14. 104341: Murnane & O'Shea Ltd. Permission for Alterations to mixed use residential, community facilities and commercial development permitted under Planning Reg. No. 08/7047. Permission was GRANTED on 24/06/2010.
- 3.15. 087047: Murnane & O'Shea Ltd. Mixed use community facility, commercial and residential development comprising of 429 no. dwelling units. Permission was GRANTED on 21/05/200.

4.0 Submission to the Local Authority

- 4.1. The Appellant made a submission to the Local Authority seeking to have the land removed from the draft map.
- 4.2. Issues raised include the permitted creche and the distributor road.

5.0 Determination by the Local Authority

- 5.1. The Local Authority Evaluation Report dated 31/03/2023 relates to Land Parcel ID (s): CCLA00071800, CCLA00071801 & CCLA00074449.
- 5.2. 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 Heathfield, Carriganarra, Carrigrohane, Ballincollig, Cork, should be INCLUDED in the final map for the following reasons:
 - 5.3. Reason(s)
 - 5.4. 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.
 - 5.5. 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.

6.0 The Appeal

6.1. Grounds of Appeal

The Grounds of Appeal are summarised as follows:

- The subject lands constitute 'non-residential' uses in the form of a creche and the delivery of the first section on the MUEA distributor road, the lands should be omitted from the RZLT Map in accordance with Section 653B of the Taxes Consolidation Act 1997.
- '*Transport facilities and infrastructure*' and '*social, community provision of education or healthcare*' facilities should be considered out of scope of the RZLT.
- As the permitted uses of the subject lands relate to road infrastructure and a childcare facility, they do not yet comply with the criteria set out in Section 653B of the Taxes Consolidation Act 1997 or the 2022 Guidelines and should be excluded from the RZLT Map.

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-14, Land Parcel ID (s) Land Parcel ID (s) CCLA00071800 and CCLA00071801 and CCLA00074449. The Appeal submission also includes an aerial view of a site outlined in red, see Figure 1.
- 7.3. The lands are zoned ZO1 'Sustainable Residential Neighbourhoods' and are included within the South Ballincollig (Maglin) Expansion Area as defined by the Cork City Development Plan 2022 to 2028.
- 7.4. The lands are categorised Tier 1 lands in figure 2.21 of the CDP. As per Section 12.14, Tier 1 sites are zoned lands that are currently serviced by physical infrastructure.
- 7.5. As per the permitted site layout for planning reg. ref. no. 1938923, a Creche is shown in the northernmost area of the subject appeal site, see second figure in the appeal submission. Under planning reg. ref. no. 2341785 permission has subsequently been granted for design changes to the said creche in the same location.

- 7.6. In my opinion, it is reasonable to consider that this area of the appeal site is required for, or is integral to, occupation by a social, community facility for the provision of education/ healthcare. See Section 653B c iii) I) of the Act. This area of the appeal site should therefore be excluded from scope.
- 7.7. The remainder of the appeal site to the south is stated to relate to a consented road, the MUEA distributor road. This road, as it relates to the subject appeal site, was permitted under planning reg. ref. no. 156813, which is a permission of 5 years duration, see condition no. 3 of same which restricts the duration of the said permission to 5 years only. The duration of this said permission, reg. ref. no. 156813, has not been extended under any subsequent Extension of Duration application and has therefore now lapsed.
- 7.8. Under subsequent planning permissions, reg. ref. no. 174270 and 187345, the said road is shown to be partially included within the permitted red line boundaries of the respective permitted site layout plans.
- 7.9. Under subsequent planning permissions 1938895, 1938923 and 2341785, the said distributor road, as it relates to the appeal site, is excluded from within the respective permitted site layout plans.
- 7.10. Therefore, it is my opinion that there is no current onus upon the developer to deliver the said distributor road as it relates to the appeal site. Having regard to same I am satisfied that this part of the appeal site should remain in scope.

8.0 Conclusion

- 8.1. The area of the appeal site to which the consented creche site relates, as per planning reg. ref. no. 2341785, does not satisfy the criterion for inclusion on the map set out in Section 653B(c) (iii) (I) of the Taxes Consolidation Act 1997, as amended and should therefore be removed from scope and therefore removed from the map.
- 8.2. The balance of the lands which are the subject of this appeal satisfy the criterion for inclusion on the map set out in Section 653B of the Taxes Consolidation Act 1997, as amended and should therefore remain in scope and be retained on the map.

9.0 Recommendation

- 9.1. I recommend that the Board set aside the determination of the Local Authority as it relates to the consented creche site under planning reg. ref. no. 2341785 and that the indicated site be removed from the map.
- 9.2. I recommend that the Board confirm the determination of the Local Authority in relation to the remainder of the appeal site and that it be retained on the map.

10.0 Reasons and Considerations

- 10.1. The portion lands identified as CRK-RZLT-14 which relate to the consented creche site as planning reg. ref. no. 2341785 refers do not fall within the scope of Section 653B c) iii) I) of the Act and are therefore excluded from the map.
- 10.2. The remainder of the lands identified as CRK-RZLT-14 meet the qualifying criteria set out in Section 653B of the Taxes Consolidation Act 1997, as amended, and there are no matters arising that warrant exclusion from the map.
- 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.*

Frank O'Donnell

Planning Inspector

20th September 2023