



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316878-23

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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 Lehenaghmore, Co. Cork   |
| <b>Local Authority</b>           | Cork City Council   |
| <b>Local Authority Reg. Ref.</b> | CRK-C221-RZLT-65  |
| <b>Appellant(s)</b>              | OBR (Lehenaghmore) Developments Ltd.  |
| <b>Inspector</b>                 | Frank O'Donnell   |

## 1.0 Site Location and Description

- 1.1. The subject appeal site is located in the townland of Lehenaghmore on the eastern side of the Togher Road. The site is located to the immediate south of established residential development at Lehenaghmore Park. The site has frontage onto public roads to the southwest and west.
- 1.2. The appeal site relates to Land Parcel ID CCLA00054186 and is estimated to have a site area of 1.63 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. 316873-23: OBR (Togher) Developments Ltd. Lands located to the immediate east on the opposite side/ east of the public road.

## 2.0 Zoning and other provisions

- 2.1. The site which is 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.*'
- 2.2. The 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.'*

### **3.0 Planning History**

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

3.2. Part 8: Lehenaghmore Road Improvement Scheme.

3.3. Part 8 (Housing): Proposal for the construction of 45 no. residential units on site. No decision details are provided on the iPlan planning register/ planning map.

3.4. An Bord Pleanála Case Ref. No. JD28.314291.

- Description: Construction of a residential development of 45 no. houses, designed to consider the existing urban architecture.
- Case Type: LA Non Road Dev – EIS Direction. Decision.
- Decision: EIAR not required.
- Date signed: 02/06/2023.

### **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 development of these lands is contingent upon the completion of the Part 8 Lehenaghmore Road Improvement Scheme.

4.3. Cork City Council have a responsibility for the delivery of the infrastructure necessary for the lands to be developed. The development of these lands is therefore outside of the Appellants' control.

4.4. While measures are being put in place to provide the Lehenaghmore Road Improvement Scheme, there is no definitive timeframe available for the delivery of this infrastructure.

### **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 Lehenaghmore 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:

- The Council's decision did not provide a satisfactory infrastructural assessment of the appellants lands as required under Sections 3.1.1 and 4.1.1 of the Residential Zoned Land Tax – Guidelines for Planning Authorities (June 2022).
- Cork City council have the responsibility for a Part 8 (housing) application and the delivery of the public infrastructure (Lehenaghmore Road Improvement Scheme). Both of these processes are outside of the Appellants' control. The Appellant should not be penalised by being subject to the RZLT due to delays that are outside of their control.
- No definitive timeframe for the delivery of necessary infrastructure.

## 7.0 Assessment

7.1. The comments raised in the appeal are noted. The Local Authority has submitted a copy of the Determination. There is no Local Authority Report/ Assessment on file.

- 7.2. 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.
- 7.3. The site is the subject of a Part 8 (Housing) application for a total of 45 no. dwelling units. The Part 8 proposal was in turn the subject of an EIAR Determination from An Bord Pleanála, see case ref. no. JD28.314291. As part of the Part 8 planning application submissions were invited from relevant prescribed bodies, including Irish Water.
- 7.4. As per the Irish Water Pre-Connection Enquiry Letter attached to the said Part 8 Application documentation, dated 8/01/2021, a water connection is stated to be feasible without infrastructure upgrade by Irish Water. It is stated that a connection can be made to the water main on the Togher Road approximately 20m to the North of the site. The extension of the existing network will be carried out by Irish Water at the time of connection and the cost associated with this will be included in the connection offer. No water capacity issues are raised by Irish Water.
- 7.5. In the same Pre-Connection Enquiry Letter a Wastewater connection is similarly stated to be feasible without infrastructure upgrade by Irish Water. It is further stated that a connection can be made to the sewer on the Togher road. No wastewater capacity issues are raised by Irish Water.
- 7.6. Having regard to the provisions of Section 653B b) of the Act, I am satisfied that it is reasonable to consider that the lands 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,

## 8.0 Conclusion

- 8.1. The site is within an established urban area with services available and no capacity or other reasons have been identified that would prevent the development of these lands for residential purposes. The site does satisfy the criterion for inclusion on the map set out in section 653B(c) of the Taxes Consolidation Act 1997, as amended.

## 9.0 Recommendation

- 9.1. I recommend that the Board confirm the determination of the Local Authority and that the indicated site be retained on the map.

## 10.0 Reasons and Considerations

- 10.1. The lands identified as CRK-C221-RZLT-65 (RZLT Map Land Parcel ID: CCLA00054186), meet the qualifying criteria set out in Section 653B of the Taxes Consolidation Act 1997, as amended, and that there are no matters arising that warrant exclusion from the map.
- 10.2. Having regard to the provisions of Section 653B b), it reasonable to conclude that the site 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.
- 10.3. The Grounds of Appeal do not support a different conclusion in relation to this matter.
- 10.4. *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

21st September 2023