



An
Bord
Pleanála

Inspector's Report ABP-316919-23.

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	Lispottle, Rowlestown, Swords, Co. Dublin.
Local Authority	Fingal County Council.
Local Authority Reg. Ref.	RZLT 092/22
Appellant	Oliver Conlon
Inspector	Irené McCormack

1.0 Site Description

1.1. The site comprises c. 14.0ha. of lands at Lispopple, Rowlestown, Co. Dublin.

2.0 Zoning

2.1. The site is zoned RV -Rural Village – in the Fingal Development Plan 2017-2023. This zoning Objective – Protect and promote the character of the Rural Village and promote a vibrant community in accordance with an approved Local Area Plan, and the availability of physical and community infrastructure.

2.2. Zone generalised zoning type description- City/Town/Village centre or central area (M2). This sub-category is intended for those zones which cover central parts of cities, towns or villages. In virtually all cases a mix of uses is encouraged in these zones.

Note: Fingal Development Plan 2023-2029 was adopted by the Elected Members of Clare County Council at a Special Planning Meeting on the 22nd of February 2023. The Plan came into effect 6 weeks from the date of adoption, on 5th April 2023

3.0 Planning History

3.1. Site

ABP PL06F.309135 / FCC F19A/0505 – Permission refused for 73 No. houses and attendant site works. NIS lodged at further information stage @ lands East of Rowlestown, & situated between, Iostaín Bhaile an Rólaigh & the Broadmeadow River, Lispopple, Co Dublin

One reason for refusal – Contrary to the spatial hierarchy of the RSES and CDP.

4.0 Submission to the Local Authority

- Relates to request to vary the development plan.
- Constraints which prevent rural housing should be addressed.
- Reference made to ABP decision.
- Zoned lands should be serviced by the LA.
- Unfair to subject the lands to RZLT when they cannot be developed due to development plan policies.

5.0 Determination by the Local Authority

- 5.1. The local authority determined the site to be in scope and should remain on the map. The local authority consideration stated that land is zoned and serviced, or it is reasonable to consider may have access to services.
- 5.2. The decision form ABP and the PA did not relate to deficiencies in water/wastewater services.

6.0 The Appeal

6.1. Grounds of Appeal

- The appeal refers to policies in the FCC development plan 2023-2029
- The appeal sets out that the parcel ID for the site is FL0000002533 and is 0.48ha. and not 14.0ha. The larger site in the appellant's landholding (the subject of the planning history above) is not referenced in the correspondence and the appellant has not been notified that this is subject to RZLT.
- It is also stated that the site contains an Eircode and is exempt from the RZLT.

7.0 Local Authority Response

- 7.1. The PA sought further information on 19th January 2023 requesting the identification of the extent of relevant lands.
- 7.2. Land registry details submitted relate to folio DN180408F and folio DN19600 (relating to lands at Lispopple) and a further folio DN61223F. As such the lands at Lispopple and Garristown as contained within the land parcels were assessed and a determination made by the LA to retain the lands in scope for the purposes of the RZLT.
- 7.3. The determination by the PA was based on the rural village 'RV' zoned lands in folio DN180408F (parcel ID No. FL0000002176) and folio DN19600 (parcel ID No. FL00000002533)

8.0 Assessment

- 8.1. The LA assessment was carried out pursuant to the Fingal Development Plan 2017-2023. Subsequent to the determination by the LA in on 30th March 2023 the new Fingal Development Plan 2023-2029 came into effect on 5th April 2023.

Notwithstanding, the adoption of the Fingal Development Plan 2023-2029 this assessment is based on the development plan in place at the time of the LA assessment, the Fingal Development Plan 2017-2023 as the appeal relates to this determination.

- 8.2. Regarding reference made to residential use, I note section 3.1.1 Criteria for Inclusion within the Scope of the Tax Measure in the guidelines states that “*Residential Properties Land which is zoned residential and contains existing residential development such as estates or individual houses are also considered ‘in scope’ from a zoning perspective and therefore must be included on the maps...*”
- 8.3. Regarding the identification of lands, section 3.2.3 Consideration of Submissions on Inclusion on Maps of the guidelines state “*matters which are unrelated to the criteria identified in section 653B such as planning permission, commencement on land in-scope, finance, or personal circumstances are not matters to be taken into account during consideration of submissions. Furthermore the size of the landholding, ownership of the land by private, public or semi-state bodies, lack of knowledge of ownership or transfer of ownership should not be considered*”.
- 8.4. This is reinforced in section 4.1.1 Considerations vii) Matters which do not need to be considered clearly states that “*issues relating to land ownership or the market value of the land are not required to form part of consideration in undertaking the draft, supplemental or final map review as these matters are dealt with by the Revenue Commissioners once the maps have been finalised*”.
- 8.5. The legislation clearly sets out that land in scope will be zoned for residential development or a mixture of uses including residential; be serviced or have access to servicing by water, wastewater, road, footpath and public lighting; and not be affected by contamination or significant archaeological remains which would preclude development taking place. There is no requirement to determine land ownership prior to publication or to determine land value.
- 8.6. The appeal grounds do not raise any exclusions that would apply to the subject lands and warrant its removal from the map, with reference to the Taxes Consolidation Act 1997 as amended and the RZLT Guidelines

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. The site is part of 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.

I confirm that the report represents my profession planning assessment, judgment and opinion on the matter assigned to me and that no person has influenced or tried to influence, directly or indirectly, the exercise of my professional judgment in an improper or inappropriate way.

Irené McCormack
Senior Planning Inspector

11th August 2023