



An
Bord
Pleanála

Inspector's Report ABP-316920-23

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

Garristown, Co. Dublin

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

RZLT147/22

Appellant(s)

Oliver Conlon

Inspector

Rachel Gleave O'Connor

1.0 Site Location and Description

- 1.1. The site is located to the east of the R130, south east of St. Mary's National School. To the south, west and north of the site are agricultural fields. To the west and on the opposite side of the R130 there is a modern residential development 'The Green'.

2.0 Zoning and other provisions

- 2.1. The site is zoned RV – Rural Village in the Interim Publication Sheet no.2 for Fingal North under the Fingal County Development Plan 2023-2029. The site is also subject to a wider land parcel Specific Objective for Masterplan 'MP 2.B'. The site was previously zoned RV – Rural Village under the Fingal County Development Plan 2017-2023 which was the plan in force at the time the Local Authority determined that the site was in scope for the RZLT Maps.
- 2.2. Residential is permitted in principle under the RV zoning for the site.

3.0 Planning History

- 3.1. Reg. Ref. F22A/0413 – Planning permission REFUSED on 4th October 2022 for the (i) construction of a residential development comprising 80 no. two-storey houses (20 no. two-bedroom, 47 no. three-bedroom), and 13 no. four bedroom), each house is to be served by on-curtilage vehicular parking and private amenity space in the form of a rear garden; (ii) provision of 1 no. new vehicular entrance to the site via the unnamed local secondary road (L5040) to the north of the site; (iii) all ancillary site and infrastructural works, inclusive of ESB substation, foul/ surface water drainage, attenuation areas, visitor parking (4 no. spaces), removal of existing vehicular entrances, boundary treatment, landscaping, public open space areas including playground, access roads and pedestrian paths, necessary to facilitate the proposed development. The application is accompanied by a Natura Impact Statement.
- 3.2. Permission refused for 2 reasons, firstly in relation to being contrary to the settlement hierarchy set out in the RSES and the Development Plan 2017-2023 which states villages should not expand rapidly putting strain on services; and secondly with respect to the density, layout and design of the proposed development.

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. The submission states that it requests a variation of the development plan and for the making of LAPs for Rowlestown and Garristown with policies removing the constraints on residential development in or near villages because these constraints are contradictory to other policies in the development plan and to national housing policy. It is good planning policy to consolidate rural village and direct future housing to villages rather than littering the countryside with once off houses. Request clarity with respect to permissible density.
- 4.2. Zoning for residential implies the acceptability of residential use and that the infrastructure is or will be suitable for housing. Development contributions are required to ensure a contribution towards necessary infrastructure.
- 4.3. Willing to develop the lands. It is unconstitutional to subject the landowner to a tax for not doing something which he is being prevented from doing by policies in the development plan, and for reasons which could be addressed by the planning authority.

5.0 Determination by the Local Authority

- 5.1. Reg. Ref. F22A/0413 relates to the subject lands and concerns a development for 80no. residential units and associated works which was refused permission by Fingal Co. Council on the 4th Oct 2022. No appeal was made to An Bord Pleanála. The reasons for refusal did not relate to deficiencies in the water supply or wastewater networks.
- 5.2. 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

- A recent planning application was refused by Fingal CC and refused on Appeal to An Bord Pleanála.

- The land is zoned RV (Rural Village), not residential, this means that only a lower density of residential can be developed on the lands.

(INSPECTOR NOTE: There is no record of an appeal to An Bord Pleanála relating to the subject site.)

7.0 Assessment

- 7.1. The appeal grounds refer to the failure to achieve planning permission on the site, with reference to application Reg. Ref. F22A/0413 to FCC which was refused on two grounds. In my view, both of these grounds could be overcome in a revised scheme and would not inhibit development of the site. While under the current Development Plan 2023-2029 there is now a specific objective relating to a masterplan, this is not a statutory designation and is not included in the criteria for exclusion as set out under section 653B of the Act.
- 7.2. The land is zoned RV which permits residential development in principle, and as such is in-scope for purposes of the RZLT. The question of achievable density set out in the grounds of the appeal is not a relevant criterion under the exemptions set out in the Act.
- 7.3. There is existing footpath infrastructure opposite the site on the R130, and this connects into the wider pedestrian infrastructure network for the area. It would be anticipated a part of any normal development proposition for a site that it include connections to necessary infrastructure, and this can be achieved via publicly owned land, namely the road network.

8.0 Recommendation

- 8.1. I recommend that the Board confirm the determination of the local authority and direct the local authority to include the site on the map.

9.0 Reasons and Considerations

- 9.1. 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 section 3.1.2 of the Guidelines for Planning Authorities

on the Residential Zoned Land Tax, the site is considered in scope for the purposes of 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

07 July 2023