



An
Bord
Pleanála

Inspector's Report ABP-317069-23

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	To the rear of Goldcrop Premises, Centre Park Road, Cork.
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	CRK-RZLT-44
Appellant(s)	Tom McCarthy
Inspector	John Duffy

1.0 Site Location and Description

- 1.1. The subject site which is located between Centre Park Road and Monahan Road in the South Docklands of Cork City comprises an area of hardstanding situated to the front / south of a warehouse unit which appears to be vacant, accessed from Monahan Road. The adjacent lands mainly comprise a mix of commercial and industrial uses.
- 1.2. A Lower Tier Seveso site (Goulding Fertilisers / Goulding Chemicals Ltd.) is located west of the subject land.
- 1.3. The subject site comprises Land Parcel ID CCCA00018856 on the draft RZLT map.

2.0 Zoning and Other Provisions

- 2.1. The subject site is zoned Z04 – ‘Mixed Use Development’ in the Cork City Development Plan 2022 – 2028, which seeks to provide and promote a mix of residential and other uses to ensure the creation of a vibrant and sustainable urban area. ‘Residential’ use is a permissible within this zone.

3.0 Planning History

- 3.1. There are no recent, relevant, valid applications on this site.
- 3.2. West of subject site: Reg. Ref. 23/42106 refers to a recent grant of permission by Cork City Council for a Large-Scale Residential Development at Goulding Chemicals Ltd., Centre Park Road and Monahan Road for 1325 residential units in 10 no. buildings.

4.0 Submission to the Local Authority

- 4.1. The appellant made a submission to the Local Authority seeking to have their lands removed from the draft map on the basis that the site is integral to the operation of the warehouse business on and adjacent to the land. The land is also located within an identified Seveso site zone, which is to be relocated over the life of the Development Plan but there is no definite date for this to occur. The industrial use will come to an end over the lifetime of the Plan and development can commence.

5.0 Determination by the Local Authority

5.1. The Local Authority determined that the site was in scope for the following reasons:

- The land is included in the Cork City Development Plan 2022-2028, in accordance with Section 10(2)(a) 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.
- Pursuant to section 653B(c)(i) of the Act, the land is not in use as premises in which a trade or profession is being carried on that is liable to commercial rates.
- Pursuant to section 653B(c)(i) of the Act, the land is in use as premises in which a trade or profession is being carried on which is not authorised development (within the meaning of the Act of 2000).

6.0 The Appeal

6.1. Grounds of Appeal

The following documents are appended to the appeal submission:

- A copy of the South Docks LAP 2008 including a copy of an Adopted Amendment to this Plan.
- A Land-use Planning Advice Document prepared by the HSA for Cork City Council dated 2006.
- A copy of a planning decision in respect of a site known as the Marina Market (Reg. Ref. 22/40805 refers).

The following points are made in support of the appeal:

- The site is located adjacent to Goulding Chemicals Ltd. where hazardous substances are processed and stored.

- Reference is made to the HSA technical guidance which indicates residential zoning/development is inappropriate at the subject location which is identified as being located in Zone 1 on the 'risk' map, having regard to the neighbouring Seveso III site.
- A planning application for the nearby Marina Market (PA. Ref. 22/40805) was previously refused permission with reference made to its location proximate to Gouldings Chemicals Ltd.
- Reference made to the South Docks LAP 2008, specifically Sections 6.13 'Seveso Sites' and 3.3.5 'Seveso'.
- HSA was not consulted as part of the RZLT process contrary to Objective 9.21 of the Development Plan and therefore the Local Authority cannot conclude the site is capable of development for residential use.
- HSA advise that the consequence of a major accident would result in contamination of air and water. As such this would lead to contamination of the lands and section 653B (c) of the Act applies.
- Pursuant to section 653B (c) (iv) the presence of the Seveso III site constitutes a statutory designation which may preclude development.
- The decision to include the land on the map has been taken for reasons which are not applicable. Given that the land is zoned for a mixture of uses section 653B (c) (ii) applies and not section 653B (c) (i) as referred to in the Local Authority's decision.
- The land is not vacant or idle; and forms an integral part of the site. It is used for storage, deliveries, parking and access to the buildings on the site. Commercial rates are paid in respect of 5 buildings.

6.2. Planning Authority Response

- No response on file.

7.0 Assessment

7.1. The comments raised in the appeal submission are noted. The site identified for inclusion on the RZLT map is zoned for a mixture of uses, including for residential use and the Planning Authority determined that the site remain on the RZLT map. The site is within the South Docklands area of Cork city with services available and no capacity or other reasons have been identified that would prevent the development of these lands for residential purposes.

7.2. I agree with the appellant that the decision of the Local Authority incorrectly refers to section 653B (c) (i).

This provision relates to residential zoned land only and identifies certain existing uses which are specifically excluded from the tax measure under the legislation. Section 653B (c) (ii) relates to lands which are zoned for a mixture of uses including residential and as such this provision is applicable to the subject land.

Section 653B (c) (ii) sets out land that is referred to in paragraph (a) (ii), unless it is reasonable to consider that the land is vacant or idle. The relevant land in this instance includes an area of hardstanding. Page 12 of the Guidelines set out that 'vacant or idle land' means land which, having regard only to development (within the meaning of the Act of 2000), is not required for, or integral to, the operation of a trade or profession being carried out on, or adjacent to, the land. The Local Authority has provided a document/listing which indicates that the subject site has been vacant from 2019 onwards. The appellant contends that the site is not vacant or idle and that it is used for storage, deliveries, parking, and access to the buildings on the site. I note however that the appellant has submitted no evidence to support this contention. The purpose of this report is to assess compliance with section 653B criteria as set out in the Taxes Consolidation Act 1997 as amended. Based on the information on file the land is vacant/idle as per the definition of vacant/idle set out in the legislation. Therefore, I am of the view that the land should remain on the map.

7.3. I note the appellant's view that the subject lands cannot be activated for development until the Seveso III status of the nearby site is removed. My opinion however is that this matter can be addressed fully through the development management process if / when an application is made in respect of the lands. As such I recommend that the lands remain in scope.

- 7.4. Reference is made in the appeal that the consequence of a major accident at the nearby Seveso site would result in contamination as advised by the HSA and as such the site should be excluded from the map on the basis of 653B (c) of the legislation. I note that Section 653B (c) relates to the existing physical condition of the subject land, rather than its possible/potential condition at some point in the future. No evidence has been provided that the subject land is contaminated in any way and as such this ground of appeal should be dismissed.
- 7.5. I note that the subject land is not subject to any statutory designation that may preclude development. The land is zoned 'Mixed Use Development' in the Cork County Development Plan 2022-2028 and residential is a permissible use in that zone.

8.0 Recommendation

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

9.0 Reasons and Considerations

- 9.1. The appellant requested that their site be removed from the map for a number of reasons including that the land is proximate to a Seveso site and the land is not vacant or idle.
- 9.1. 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 criteria 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 professional 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.

John Duffy
Planning Inspector

18th September 2023

