



An
Bord
Pleanála

Inspector's Report ABP-317909-23

Type of Appeal

Appeal under section 653J(2) of the Taxes Consolidation Act 1997, as amended, against the inclusion of land on the Residential Zoned Land Tax Map

Location

Lands at Ballincroig, Dublin Pike, Cork

Planning Authority

Cork City Council

Planning Authority Reg. Ref.

CRK-C245-RZLT-04

Appellant(s)

O'Leary O'Sullivan Developments Limited

Inspector

John Duffy

1.0 Site Location and Description

- 1.1. The subject site is located between the Dublin Pike (L2980) and the Ballyhooly Road (R614), approximately 3.5 km from Cork city and 2 km northwest of the suburb of Ballyvolane. The site is located to the east of the Coppenger Fields, a relatively new residential estate which is accessed from the L2980. The subject site is currently under grass. Adjoining lands to the north, south and west are in agricultural use.

2.0 Zoning and Other Provisions

- 2.1. The subject lands are included within the Settlement Boundary of the Cork City Development Plan 2022 – 2028. The subject site is zoned Z01 – ‘Sustainable Residential Neighbourhoods’ which seeks ‘To protect and provide for residential uses and amenities, local services and community, institutional, educational and civic uses.’

3.0 Planning History

Subject site

ABP Ref. PL28.311730 / PA Ref. 2140038: Permission granted for 96 no. residential units, 1 no. crèche, associated car parking, landscaping and all associated site works.

Coppenger Fields (west of the subject site)

PA. Ref. 17/6781: Planning permission granted by the Local Authority in June 2018 for 74 No. dwellings with one new access from the L2980 (Dublin Pike) and one new access from the Ballincollie Road

PA. Ref. 19/38655: Planning permission granted by the Local Authority in February 2020 for modifications to the parent permission (Reg. Ref. 17/6781) to include a change in house type and one additional dwelling.

Adjoining lands

ABP-316748-23: Appeal against inclusion of lands on the draft RZLT map. No decision at time of writing.

4.0 Submission to the Local Authority

- 4.1. The appellant made a submission to the Local Authority seeking to have the subject land removed from the draft map on the basis that the site does not have a live Irish Water connection and that upgrades to the wastewater network are required as it is overloaded. As such the lands do not meet the definition of being serviceable on 1st January 2022 or 1st October 2022 and should be excluded from the map.

5.0 Determination by the Local Authority

- 5.1. The Local Authority determined that the site is in scope on the basis that it meets the criteria for inclusion on the RZLT map as set out in section 653B of the Taxes Consolidation Act 1997.

6.0 The Appeal

6.1. Grounds of Appeal

The following points are made in support of the appeal:

- Permission was granted on the lands less than 7 months ago after a 2 year planning process which was outside of the landowner's control.
- The existing local foul sewer network does not have capacity to serve the permitted development.
- The site does not have a live Uisce Éireann (UÉ) connection and therefore the site does not meet the definition of being serviceable. Condition 7 of the recently granted appeal relates to the requirement to enter into water and / or wastewater connection agreements.
- The nearest foul sewer is located c 150m from the site and UÉ has indicated upgrades are required and that the network is overloaded. Work on enhancing capacity will not be completed until the end of 2023 at the earliest. Therefore, the lands do not fulfil all the requirements of section 653B (b) of the legislation.

6.2. Planning Authority Response

- No response on file

7.0 Assessment

7.1. The comments raised in the appeal are noted. The site identified for inclusion on the RZLT map is zoned for residential use and the Local Planning Authority determined that the site remain on the RZLT map.

7.2. Uisce Éireann provided a site-specific report to the Local Planning Authority, dated 20th June 2023, which indicated the following:

Water Networks: UÉ confirm that a trunk water main exists on the public road in close proximity to the site which will provide limited capacity. Upgrades are required which are currently under development to cater for the entire development site, requiring a new water connection from a trunk main on Dublin Hill.

Wastewater Networks: UÉ confirm that a sewer main exists on the public road in close proximity to the site. Upgrade works which are currently under development are required to cater for the entire development site, requiring a pumping station and rising main to be developed downstream.

7.3. I note section 4.1.1(iii) of the RZLT Guidelines, which state the following:

In assessing whether land or landbanks are able to connect to services, Planning Authorities should take into account the following:- In the first instance, where the infrastructure is located adjoining, intersection, at a boundary or corner of a landbank, in a nearby public road, or is connected to an existing development adjoining the landbank, the lands should be considered to be 'connected' or 'able to connect' and therefore are in scope.

7.4. Having regard to the available information provided by UÉ, it is clear that water and wastewater infrastructure are located in close proximity to the site. The lands are suitably zoned and water/foul drainage services can be provided subject to upgrades.

7.5. It is therefore my opinion that services are available, and these lands should therefore remain on the map. 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.

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 lands be removed from the supplemental map on the basis that the existing foul sewer network is overloaded and does not have the capacity to serve the permitted development; therefore, the lands do not fulfil all the requirements of section 653B (b) of the legislation.

9.2. 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 4.1.1 of the Guidelines for Planning Authorities on the Residential Zoned Land Tax, the site (zoned for residential use) is considered in scope for the purposes of the RZLT map.

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

17th October 2023