



An
Bord
Pleanála

Inspector's Report ABP-320310-24.

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

Deerpark, Howth, Co. Dublin.

Local Authority

Fingal County Council.

Local Authority Reg. Ref.

FIN-C657-RZT-24-24

Appellant

Glenveagh Homes Ltd.

Inspector

Fergal Ó Bric

1.0 **Site Description**

The lands comprise a stated area of c. 1.13 hectares at Deerpark, Howth, Co. Dublin. The parcel id number is FL0000002723 and the local authority reference number is FIN-C657-RZT-24-24.

2.0 **Zoning**

- 2.1. The site is zoned RS – Residential Area in the Fingal Development Plan 2023-2029. This zoning Objective is to – Provide for residential development and protect and improve residential amenity.

3.0 **Planning History**

3.1. Site

ABP reference 310413-21-Planning permission was sought for the construction of 162 apartments to the west of the access to Howth Castle and along the Howth Road. This decision was subsequently quashed following on from a judicial review of the proposals.

4.0 **Submission to the Local Authority**

The appellants are Seeking exclusion form the RZLT map for the following reasons:

- Development on the lands cannot proceed as it is dependent upon the delivery of an upgrade to the wastewater infrastructure. The appellants specifically set out that an upgrade of the Howth Harbour pumping station would be required to accommodate a connection. Removal of surface water from the pumping station catchment would be required to accommodate the proposed connection.
- The upgrade works would need to be agreed with the local authority, approved by Uisce Eireann and funded by the developer.
- There are significant works required to enable a connection to services which are outside of the control of the appellants or the local authority to enable.

5.0 Determination by the Local Authority

The local authority determined to include the site on the final RZLT map on the basis that the site constitutes land satisfying the relevant criteria set out in in Section 653B of the Act.

The reasons set out by the Local Authority are as follows:

- 1) The land is included in a Development Plan or a local area plan and is zoned for residential development or zoned for a mixture of uses, that includes residential development.
- 2) The land is serviced, or it is reasonable to consider may have access to services. Serviced means having access to the necessary public infrastructure and facilities including road and footpath access, public lighting, foul sewer drainage, surface water drainage and water supply necessary for dwellings to be developed and for which there is service capacity available sufficient to enable housing to be developed.
- 3) The land is not affected in terms of its physical condition, by matters to a sufficient extent to preclude the provision of dwellings, including contamination or the presence or archaeological or historic remains.
- 4) The existing non-residential use of the lands that are the subject of the submission are not considered to benefit from the exclusions set out in the Finance Act 2021 or Section 653B(c).

6.0 The Appeal

Grounds of Appeal

- The appeal reiterates the contents of the submission to the local authority as it relates to the delivery of significant upgrades to the wastewater infrastructure in the locality.
- While there is availability of capacity in the wastewater treatment plant, however, this does not take into account the capacity available in the wastewater network.
- A connection to the wastewater network is only feasible subject to upgrades.

within the Howth Harbour pumping station.

- UE have confirmed that there are currently no plans to carry out these upgrade works.
- The RZLT Guidelines set out that where significant works, which are outside of the control of the applicant or the local authority to enable, are required to enable a connection to services, in these instances the lands should be considered out of scope.
- The lands, the subject of this appeal are not serviced or serviceable by wastewater drainage infrastructure.

7.0 **Assessment**

- 7.1. The comments raised in the appeal submission are noted. The lands identified for inclusion on the RZLT map are zoned R5-Residential Area in the current Fingal Development Plan 2023-2029. This zoning Objective is – Provide for residential development and protect and improve residential amenity. The local Authority determined that the lands are in scope and that they remain on the RZLT map. The local authority set out that the site is within a designated urban settlement 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. Section 4.1.1 iii) Services to be considered sets out that under Section 653B of the provisions, the definition of land in- scope for RZLT identifies lands which are connected to, or able to be connected to services as being in scope. The guidelines set out that in assessing whether land or landbanks are able to connect to services, account should be taken of where the infrastructure is located adjoining, intersecting, 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. Therefore, it is reasonable to consider that the land is serviced or have access to services
- 7.3. I note the site has direct access onto the Howth Road to its south. Fingal County Council in their RZLT assessment set out that the lands have access to roads and footpaths infrastructure as well as public streetlighting. in proximity to the lands to serve the site.

7.4. A submission was also received from Uisce Eireann who confirm that there is water supply and wastewater treatment capacity available within their networks to serve the lands. UE acknowledge that there are no capacity issues within the piped waters services in this area. This correspondence is dated April 2024. I acknowledge that the issue of surface water within the Howth harbour pumping station was raised by UE as set out in correspondence dated August 2023. I am satisfied that the most recent correspondence is the one that is most relevant in this instance. Therefore, I am satisfied that there is access to the piped water services in proximity to the site and that there is sufficient capacity available with the piped water services to cater for residential development within the subject lands.

7.5. The appeal grounds do not raise any other matters that would apply to the subject lands and warrant its removal from the map, with reference to 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 direct the local authority to include the site on the map.

9.0 Reasons and Considerations

The lands identified as FIN-C657-RZT-24-34 (Parcel ID numbers FL0000002723 located on residentially zoned lands identified within the current Fingal County Development Plan are considered in scope of Section 653B of the Taxes Consolidation Act 1997, as amended. The lands are located within an established urban area with services available as confirmed by Uisce Eireann, and no capacity or network issues have been identified by Uisce Eireann or other reasons have been identified that would prevent the development of these lands in principle for residential purposes in accordance with the residential zoning objective that applies to these lands.

10.0 Recommended Draft Board Order

Taxes Consolidation Act 1997 as amended.

Planning Authority: Fingal County Council

Local Authority Reference Number: FIN-C657-RZT-24-24

Appeal Glenveagh Homes Ltd. in accordance with section 653J of the Taxes

Consolidation Act 1997 as amended, against the inclusion of the land on the Residential Zoned Land Tax Map by Fingal County Council on the 27th day of June 2024 in respect of the site described below.

Lands at: Deerpark, Howth, Co. Fingal

Decision

The Board in accordance with section 653J of the Taxes Consolidation Act 1997 as amended, and based on the reasons and considerations set out below, hereby decided to:

Confirm the determination of the local authority and direct the Local Authority to retain the lands identified as Parcel ID numbers FL0000002723 and under Planning reference number FIN-C657-RZT-24-24 should remain on the final RZLT map.

Reasons and Considerations

In the assessment of this appeal, regard was had to the content of the Residential Zoned Land Tax – Guidelines for Planning Authorities (June 2022) which are considered to be a helpful complement to understanding the spirit and intent of the primary legislation. However, the recommendation is made within the clear parameters of the applicable legislation.

The lands identified as FIN-C657-RZT-24-32A (Parcel ID numbers FL0000002723 located on residentially zoned lands identified within the current Fingal County Development Plan are considered in scope of Section 653B of the Taxes Consolidation Act 1997. as amended. The lands are located within an established urban area with services available as confirmed by Uisce Eireann, and no capacity or network issues have been identified by Uisce Eireann or other reasons have been identified that would prevent the development of these lands in principle for residential purposes in accordance with the residential zoning objective that applies to these lands.

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.

Fergal Ó Bric
Planning Inspectorate

26th day of September 2024