



An
Bord
Pleanála

Inspector's Report ABP-320334-24.

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

Corballis East, Donabate, Co. Dublin.

Local Authority

Fingal County Council.

Local Authority Reg. Ref.

FIN-C657-RZT-24-32A

Appellant

Glenveagh Homes Ltd.

Inspector

Fergal Ó Bric

1.0 Site Description

- 1.1. The lands comprise a stated area of c. 6.57 hectares at Corballis East, Donabate, Co. Dublin. The lands are split into two parcels, one each side of the Donabate Distributor Road. The parcel id numbers are FL0000002057 (part of) and FL0000002309 (part of).

2.0 Zoning

- 2.1. The site is zoned RA – Residential Area in the Fingal Development Plan 2023-2029. This zoning Objective – *Provide for new residential communities subject to the provision of the necessary social and physical infrastructure.*
- 2.2. Zoning Objective Vision- *Ensure the provision of high quality new residential environments with good layout and design, with adequate public transport and cycle links and within walking distance of community facilities. Provide an appropriate mix of house sizes, types and tenures in order to meet household needs and to promote balanced communities.*
- 2.3. Donabate LAP 2016 (Extended until March 2026).

Section 9.0 relates to Phasing and Implementation

Section 9.1.2 Corballis East (300 Units)

The Corballis LAP lands east of the railway line (Corballis East – c. 300 dwellings) will be developed with access directly from DDR and internal link roads in Phase 2. Prior to the occupation of any residential units in Phase 2 of the Corballis East lands, landscape screening in the form of a Strategic Landscape Mitigation Area shall be in place in the area south of ‘The Strand’ estate to better integrate the new development lands into the existing ridgeline of the Corballis hillside area. Detailed Visual Impact Assessments and Landscape Character Analysis will be required as part of any application for development on these lands.

Section 9.1.3 .1.3 Phase 3 – Corballis East and Ballymastone

The final phase of development will be predicated on the completion and operation of the DDR infrastructure and the geographical growth of the settlement. Safeguards are also required to ensure that Corballis East does not develop in geographic isolation from the rest of the LAP residential lands. It is envisaged that Phase 2 and

3 will run consecutively, with a relatively short timeframe between these phases of construction. Fingal is committed to construction of the DDR within the short term, with funding set aside in the Council's capital programme.

Corballis East (1,000 Units) Development at Corballis East (1,000 units) will be dependent on the delivery of enabling road and open space infrastructure, and access to retail, community and educational facilities.

A small neighbourhood centre with a landscaped civic space and provision of a school site (minimum 16 classroom primary school) will be required prior to the commencement of house no. 301 within Corballis East (Phase 3).

The Corballis Nature Park shall be developed and provided as a public facility in tandem with pedestrian and cycle access providing a strategic link to the proposed Broadmeadow Way across the Estuary, linking Donabate to Malahide.

3.0 Planning History

3.1. Site

- 3.2. PA reference number RZLT035/22, parcel ID numbers FL0000002057 (part of) and FL0000002309 (part of), in 2023, Fingal County Council determined that the lands should be included within the RZLT map. In 2023, under Board reference 316622-23- the Board confirmed the determination of the Planning Authority.

FCC Reg. Ref. F24A/0527 -Permission sought by Glenveagh Home Limited for partial amendments to planning permission F22A/0527

FCC Reg. Ref. F22A/0527 -Permission granted to Glenveagh Home Limited for the development of 96 residential units and a crèche facility. A 7 No. year permission for development at this 3.50 Ha landholding at Corballis East, Donabate, Co. Dublin, on lands directly accessing the Donabate Distributor Road. Condition number 5 states that the dwellings shall only be sold or occupied when the phasing provisions of the

Donabate LAP are delivered. These include (among others) a neighbourhood centre, a nature park and the provision of a sixteen classroom primary school.

The development, which will have a total Gross Floor Area of 10,891sq m, will consist of: the construction of 96 No. residential units including 61 No. two storey houses (6 No. 2 bed units and 55 No. 3 bed units ranging in size from 78 sq. m to 117 sq. m) and 7 No. three storey 4 bed houses.

The development will also comprise of the following on the western site: a vehicular access from the Donabate Distributor Road; internal roads, footpaths and a shared pedestrian and cyclist link; pedestrian connections to the Donabate Distributor Road; pedestrian and vehicular connections to the adjoining site to the west (subject to a live Planning Application for a mixed-use development as per An Bord Pleanála Case Reference TA06F.311059)

Adjacent

ABP Reg. Ref. TA06F.311059 – Permission granted to Aledo Donabate Limited on 10th November 2022 for 1,365 no. units (346 no. houses, 1,019 no. apartments), creche and associated site works @ Corballis East, Donabate, Co. Dublin. (www.corballiseastshd.ie).

4.0 Submission to the Local Authority

- Seeks exclusion from the RZLT for the following reasons:
 - Development on the lands cannot proceed as it is dependent upon the delivery of critical infrastructure on adjoining lands in the ownership of a third party as per the phasing strategy set out within the current Donabate LAP, 2016 as extended. These key infrastructural works have not commenced and consequently precludes the commencement of development on the subject lands.
 - Part of the land comprises Irish Water wastewater pumping station.
 - The Finance (Number 2) Act 2023 excludes lands which are the subject to phasing objectives within a land use plan from the RZLT map.
 - The development of the lands would not conform with the objectives of the Donabate LAP, as extended.

- The required construction of social infrastructure, on third party lands to facilitate land under the control of the land owner result in the lands being considered out of scope.

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 phasing.
- The lands in the ownership of the appellant are dependent upon the delivery of enabling road and open space infrastructure as well as retail, educational

and community facilities on adjoining lands in the ownership of a third party, as per Phasing Strategy of the Donabate LAP 2016 (as extended). The key phasing provisions have not been delivered to date

- The delivery of an occupiable residential development on the subject lands is dependent of infrastructure as set out within planning condition number 5 under planning reference F22A/0527. This planning condition states that the dwellings shall only be sold or occupied when the phasing provisions of the Donabate LAP are delivered. These include (among others) the provision of a neighbourhood centre, a sixteen-classroom primary school and a nature park. These infrastructural works have not been delivered or even commenced to date. This would result in the lands being considered out of scope.
- The Finance (no, 2) Act 2023 excludes lands which are subject to phasing objectives within a land use plan from the RZLT map. The development of the subject lands would not conform with the objectives of the Donabate Local Area Plan 2016 (as extended).
- Having regard to the dependency of the residential development of the lands upon the delivery of social, commercial and recreational infrastructure on adjoining lands in third party ownership which has not been delivered to date the lands are considered “Out of Scope”.

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 RA-Residential Area in the current Fingal Development Plan 2023-2029. This zoning Objective is – *To provide for new residential communities subject to the provision of the necessary social and physical infrastructure.* The local Authority determined that the lands are in scope and that they remain on the RZLT map. 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. The grounds of appeal are based on the *Phasing* arrangements as set out in the current Donabate Local Area Plan 2016 (extended) and the dependency of the residential development of the lands upon the delivery of infrastructure on adjoining lands in third party ownership. The lands the subject of the RZLT relate to Phase 3

lands as set out in the Donabate LAP. Section 9.1.3 of the Donabate Local Area Plan 2016 (extended) states that *“It is envisaged that Phase 2 and 3 will run consecutively, with a relatively short timeframe between these phases of construction...”*.

- 7.3. Of relevance and nothing the grant of planning permission under Board reference number TA06F.311059 for the development of 1,365 residential units, as part of a mixed-use development to include five seven ground floor commercial units and a nature park. The guidelines state Section 4.1.1 Considerations ii) Review of land with planning permission *“Where development for housing or housing and a mix of other uses has been permitted on land which falls into the scope of the tax as set out within the legislation, then default presumption should be given to considering all such lands with permissions to be within scope...”*
- 7.4. 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 lands are ‘able to connect’ to the permitted services and in so far as the LAP states that Phase 2 and 3 will run consecutively, with a relatively short timeframe between these phases of construction.
- 7.5. The Finance (no, 2) Act 2023 excludes lands which are subject to phasing objectives within a land use plan from the RZLT map. The development of the subject lands is clearly subject to phasing arrangement as set out within the current Donabate Local Area Plan 2016 (as extended). This phasing arrangement was also set out under condition number 5 of planning reference F22A/0527. This condition states that the dwellings shall only be sold or occupied when the phasing provisions of the Donabate LAP are delivered. The specific infrastructure which are required to be put in place (as per Section 9.1.3 of the LAP) prior to sale/occupation include (among others: provision of a neighbourhood centre, a sixteen-classroom primary school and a nature park. I note that many of these infrastructural works have been permitted by the Board under board reference 311059, specifically the commercial units which

would be akin to a neighbourhood centre and the nature park. I am satisfied that the Department of Education and Science will manage proposals for the development of schools as the school going population grows in tandem with house construction. The provision of educational, social or commercial infrastructure are not matters for consideration under Section 653B to the Taxes Consolidation Act 1997, as amended.

- 7.6. I note the provisions of the Finance (No. 2) Act 2023 referenced by the appellants, however, I am satisfied that with the existing distributor road in place, and with the construction of the permitted residential and mixed-use residential and neighbourhood centre development and nature park permitted under 311059, that the subject land should be considered within scope of the Taxes Consolidation Act 1997, as amended.
- 7.7. I note the comments received from the Transportation Section within Fingal County Council who confirmed that there is adequate roads capacity (and specifically the Donabate Distributor Road) in proximity to the lands to service the site.
- 7.8. 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 also acknowledge that there is no sewer in close proximity to the lands. However, UE specifically reference the existence of a pumping station on the appellant lands and that a rising main runs along the new ring road that pumps sewerage north to the Ballalease pumping station. I note the appellants did not raise the issue of capacity within the piped water services as part of their appeal submission. Therefore, it is reasonable to consider that the lands are 'able to connect' to the piped water services in proximity to the lands.
- 7.9. 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 and the RZLT Guidelines

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. The lands identified as FIN-C657-RZT-24-32A (Parcel ID numbers FL0000002057 (part of) and FL0000002309 (part of)) 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 provision of social, recreational or educational infrastructure are not matters for consideration under Section 653B of the Taxes Consolidation Act 1997, as amended. The lands are located 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 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-24-32A

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: Corballis East, Donabate, 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:

The Board confirms the determination of the local authority and direct the Local Authority to retain the lands identified as Parcel ID numbers FL0000002057 (part of) and FL0000002309 (part of). And under Planning reference number FIN-C657-RZT-24-32A 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 FL0000002057 (part of) and FL0000002309 (part of)) 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 provision of social, recreational or educational infrastructure are not matters for consideration under Section 653B of the Taxes Consolidation Act 1997, as amended. The lands are located 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 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

3rd day of October 2024