



An
Bord
Pleanála

Inspector's Report ABP-320371-24

Type of Appeal

Appeal under section 653BJ(1) of the Taxes Consolidation Act 1997, as amended, against the inclusion of land on the Residential Zoned Land Tax Map.

Location

Lands at Centre Park House, Monahan Road.

Local Authority

Cork City Council

Planning Authority Reg. Ref.

CRK-C272-RZLT2-3

Appellant(s)

Montip Horizon Ltd.

Inspector

Sinéad O'Connor

1.0 Site Location and Description

The lands identified as lands at Centre Park House, Monahan Road. (Parcel ID CCLA00018873) are located within an industrial area to the east of Cork City Centre. The site is irregular in shape and is currently under hardstanding. To the immediate north of the site is a storage area associated with Centre Park House. To the east, is a recycle centre and to the west is a commercial yard. To the south is a zoned area of open space and Monahan Road.

2.0 Zoning and Other Provisions

The relevant plan is the Cork City Development Plan 2022-2028.

- The site is zoned ZO 02 - New Residential Neighbourhoods: To provide for new residential development in tandem with the provision of the necessary social and physical infrastructure.
- The site forms part of the City Docks area, which are designated as a Strategic Consolidation and Regeneration Area. Section 10.25 states that the City Docks has the capacity to accommodate 9,000 - 10,000 homes in addition to non-residential and educational floor space.
- There is a mapped Seveso site circa 350 metres to the northwest of the site. Section 9.36 of the Plan identifies this area as a Lower Tier establishment located at Goulding Chemicals Ltd.
- It is stated in Section 9.37 that *“Seveso III sites represent a significant constraint to realising the full development potential of the city, particularly with respect to Docklands and Tivoli. Their relocation to suitable locations outside the city is desirable”*.
- Objective 9.21 (b) states: Relocation of Seveso III Sites: Cork City Council will actively seek the relocation of Seveso III facilities / activities to suitable alternative sites outside the City.

3.0 Planning History

PA Ref. 0833458 relates to lands including the subject site: On the 24 September 2009, permission was granted for the retention of the use of lands and 2 no associated temporary buildings for car sales. Condition 2 limited the duration of this permission to 2 years.

PA Ref. 1034564 relates to lands including the subject site: On 23 November 2010 permission was granted for the use of lands for car sales, two no. associated temporary buildings, an associated private car wash and all associated site work. Condition 2 limited this permission to a 2-yr duration.

4.0 Submission to the Local Authority

The appellants made a submission to the local authority seeking to have their land removed from the final map on the basis that the site is in use as part of Centre Park House and is subject to commercial rates.

5.0 Determination by the Local Authority

The local authority determined that:

Having evaluated the submission, it is considered that the land does constitute land satisfying the criteria as per Section 653E(1)(a)(ii)(I) of the Taxes Consolidation Act, 1997 as amended, therefore it is recommended that the land(s) at Centre Park House, Monahan Road should be included on the final map 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 zone (i) solely or primarily for residential use, or (ii) for a mixture of uses, including residential use.
- These lands satisfy section 653B(b) of the Act, in that it is reasonable to consider that the land may have access, or be connected, to public infrastructure and facilities, including roads and footpaths, public lighting, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed and with sufficient capacity available for such development.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are summarised as follows:

- The site is not vacant or idle as it is in use as a car park ancillary to the operation of Centre Park House (previously Dunlop House), as per the lease details submitted with the appeal.
- The site is subject to commercial rates under rate no. 712830410022.

7.0 Assessment

The grounds of appeal have been fully considered. Under section 653J of the Taxes Consolidation Act 1997 as amended, the Board's role in the current appeal is to review the determination of the local authority under section 653E which is based on the application of the relevant criteria set out in section 653B of the Act for inclusion on the RZLT map. This position is consistent with the Residential Zoned Land Tax-Guidelines for Planning Authorities June 2022 which clearly sets out in section 3.3.2 that:

“in considering appeals, An Bord Pleanála is restricted to considering the grounds of appeal, the determination of the local authority on the submission made during public display period, and any additional information on the servicing or use of the land which the Board may seek from the landowner, Local Authority or stakeholders identified in article 28 of the 2001 regulations. In assessing any appeal, the Board is restricted to considering whether the lands meet the qualifying criteria set out in section 653B only”.

The site is zoned ZO 02 - New Residential Neighbourhoods and, therefore, meets the criteria under Section 653B(a) of the Act.

The site is zoned for residential use and is, therefore, subject to Section 653B(i) of the Act in respect of existing uses. As per appeal statement, the subject site is in use as a car park ancillary to the commercial uses in Centre Park House. Page 11 of the RZLT guidelines states: *“With reference to land that is included in a development plan or local area plan and is zoned solely or primarily for residential use such as ‘Residential’ or ‘New Residential’, existing uses to be excluded from the scope of*

mapping for the tax measure must provide a service to the existing or future residential community, must be an authorised use, must be considered a premises in use by a trade or profession and must be liable to commercial rates". While I note that the existing car park is subject to rates, I do not consider that the site provides a service to residents of adjacent residential areas. With reference to the planning history of the site, I note that the existing use of the site as a car park may not have the benefit of planning permission. The appeal statement does not provide any information in respect of the authorised use of the site. The most recent planning permission at the site, PA Ref. 1034564, expired in circa 2012. Drawing from the foregoing, I consider that the site does not meet the criteria for exclusion from the RZLT map under Section 653B(i).

The subject site, as per the RZLT map and OS map submitted with the appeal, does not have road frontage onto Monahan Road or any other road. The map submitted with the lease for the landholding indicates that there is a right of way associated with the site, however, it is unclear from this map where the right of way is located. From a previous planning application at the site, PA Ref. 0833458, the site is accessed via a right of way across the internal road to the west of the site that leads to an existing entrance onto Monahan Road. This previous application is accompanied by a letter of consent in respect of the application site, which appears larger than the current subject site. Page 24 of the RZLT guidelines states that where Third Party lands are required to access services, the lands in question may be out of scope. With reference to the information available, I consider that the site is landlocked and the routes to the road are under Third Party Control. In the absence of a connection to the public road, it is reasonable to consider that the site is not able to connect to water infrastructure, footpaths or public lighting. Drawing from the foregoing, I consider that the site does not meet the criteria under Section 653B(b) of the Act.

For reference, the Uisce Éireann (UE) Wastewater Treatment Capacity Register published June 2023 (accessed 23 September 2024) indicates that there is spare capacity available at the Carrigrennan WWTP. The UE 10-Year Water Supply Capacity Register Published June 2023 (accessed 23 September 2024) indicates that there is capacity available at the Cork City Water Resource Zone however, Level of Service (LoS) improvements are required to meet 2032 population targets. Page 8 of

the RZLT Guidelines sets out that a need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist.

The site is located circa 350 metres southeast of a Lower Tier Seveso (III) site. I note that the removal of Seveso designated sites forms part of Tranche 1-2 of the City Docks Infrastructure and Delivery Programme, as per Table 10.14 of the Plan. Under the Plan, the site forms part of a Strategic Consolidation and Regeneration Area earmarked for significant residential development. On this basis, I do not consider that the proximity of the site to the Seveso site precludes the provision of dwellings. There are no other physical conditions at the site that would preclude the provision of dwellings, therefore, the site meets the criteria for inclusion of the RZLT map under Section 653B(c) of the Act.

8.0 Recommendation

Having regard to the foregoing I consider that the lands identified as lands at Centre Park House, Monahan Road. (Parcel ID CCLA00018873) do not meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended for the following reasons.

The subject site is landlocked and, with reference to the information available, requires Third Party lands to connect to public infrastructure and facilities, including roads, footpaths, public lighting, and water infrastructure. The site, therefore, does not meet the criteria under Section 653B(b) of the Act.

I recommend that the determination of the local authority be set aside, and the lands excluded from the RZLT map.

9.0 REASONS AND CONSIDERATIONS

In the assessment of this appeal, regard was had to the content of the Residential Zoned Land Tax- Guidelines for Planning Authority 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 lands at Centre Park House, Monahan Road. (Parcel ID CCLA00018873) are located on lands zoned ZO 02 - New Residential Neighbourhoods and, therefore, meet the criteria under Section 653B(a) of the Act. Notwithstanding that the site is subject to commercial rates, the site does not meet the criteria for exclusion under Section 653B(i) on the basis that the existing car park does not provide services to residents in adjacent residential areas, and it is unclear from the documentation submitted that the current use of the site has the benefit of planning permission. As per the documentation available, the site is landlocked and would require Third-Party lands to connect to public infrastructure and facilities. The site, therefore, does not meet the criteria under Section 653B(b). The site is located circa 350 metres from a Lower Tier Seveso (III) site. On the basis that the Development Plan seeks the provision of residential development on the site and the relocation of Seveso Sites from the city centre, it is reasonable to consider that the site is not precluded from the provision of dwellings. There are no other physical conditions at the site that would preclude the provision of dwellings, therefore, the site meets the criteria under Section 653(c).

10.0 Recommended Draft Board Order

Taxes Consolidation Act 1997 as amended

Planning Authority: Cork City Council

Local Authority Reference Number: CRK-C272-RZLT2-3

Appeal by Montip Horizon 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 Cork City Council on the 27 day of June 2024 in respect of the site described below.

Lands at: Centre Park House, Monahan Road.

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 set aside the determination of the local authority and allow the appeal in relation to the lands identified as lands at Centre Park House, Monahan Road. (Parcel ID CCLA00018873)

Reasons and Considerations

The lands identified as lands at Centre Park House, Monahan Road. (Parcel ID CCLA00018873) are located on lands zoned ZO 02 - New Residential Neighbourhoods and, therefore, meet the criteria under Section 653B(a) of the Act. Notwithstanding that the site is subject to commercial rates, the site does not meet the criteria for exclusion under Section 653B(i) on the basis that the existing car park does not provide services to residents in adjacent residential areas, and it is unclear from the documentation submitted that the current use of the site has the benefit of planning permission. As per the documentation available, the site is landlocked and would require Third-Party lands to connect to public infrastructure and facilities. The site, therefore, does not meet the criteria under Section 653B(b). The site is located circa 350 metres from a Lower Tier Seveso (III) site. On the basis that the Development Plan seeks the provision of residential development on the site and the relocation of Seveso Sites from the city centre, it is reasonable to consider that the site is not precluded from the provision of dwellings. There are no other physical conditions at the site that would preclude the provision of dwellings, therefore, the site meets the criteria under Section 653(c).

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.

Sinéad O'Connor

Planning Inspector

Date: 01 October 2024