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Bord  
Pleanála

## Inspector's Report ABP-320389-24.

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### 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

Stephenstown, Balbriggan, Co. Dublin

### Local Authority

Fingal County Council.

### Local Authority Reg. Ref.

FIN-C657-RZT 24-26C

### Appellant

Dean Swift Property Holdings Limited  
Company

### Inspector

Fergal Ó Bric

## 1.0 Site Description

The appeal lands identified as FIN-C657-RZT 24-26C and Parcel ID number FL0000002178 (part of). The lands comprise a stated area of 2.3 hectares of land within the designated settlement boundary of Balbriggan, to the west of the town, north and north-west of an educational campus development.

There are two other concurrent RZLT appeals reference number 320395-24 and 320373-24 in the Dean Swift Property Holdings unlimited Company in relation to land parcels immediately adjoining the lands the subject of this appeal at Stephenstown, Balbriggan.

## 2.0 Planning Policy & Zoning

- 2.1. Balbriggan is identified as a 'Self Sustaining Town'. The site is zoned RA-Residential area in the current Fingal Development Plan 2023-2029 where the zoning objective is "To provide for new residential communities subject to the provision of the necessary social and physical infrastructure.
- 2.2. The 'vision' for 'RA – Residential Area' zoning is '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'. Use classes permitted in principle include 'residential', 'childcare facilities', and various 'retail' uses.

## 3.0 Planning History

### 3.1. Site

PA reference number FIN-C529-RZLT-66/RZLT065/22, in 2023, Fingal County Council determined that the lands should be included within the RZLT map. ABP reference 316544-23-, in 2023, the Board confirmed the determination of the Planning Authority and directed the local authority to retain the lands identified under local authority reference number FIN-C529-RZLT-66/RZLT065/22 on the RZLT map.

PA reference F13A/0398/– In January 2014, FCC granted permission for an access/distributor road serving the Ghlór na Mara secondary school and the Scoil Chormaic community national school. This road will provide access to 2 new vehicular/pedestrian and cyclist entrances to adjacent residential lands to the north and south of the road. The road will be 6 metres wide along with 3 vehicular/pedestrian/cyclist access points and all associated footpaths, verges, cycle tracks, street lighting, signage, pedestrian crossing points, road markings, traffic calming, landscaping, boundary treatments, drainage works and all other ancillary works necessary to facilitate the development. This road has since been constructed.

#### **4.0 Submission to the Local Authority**

The appellants raised the following issues:

- The appellants set out that the existing road network surrounding the subject lands is incapable of serving a proposed development at the site. Previous planning permission on adjacent lands have been permitted subject to the provision of the C-Road and improvements of junctions, thus demonstrating that the existing road network is not presently suitable to accommodate development. Accordingly, the lands may not connect to a functioning road network.
- The road infrastructure in the area would not be sufficient to accommodate additional traffic.

#### **5.0 Determination by the Local Authority**

The local authority determined that the site in question fulfils the criteria set out in Part 22A of the Taxes Consolidation Act 1997, as amended for inclusion on the RZLT map for the following reasons:

- 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 of 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 at Section 653B (c).

## **6.0 The Appeal**

### **6.1 Grounds of Appeal**

- The appeal acknowledges that the lands in question are zoned in the Fingal Development Plan for residential purposes and that the lands are serviced, or it is reasonable to consider may have access to services.
- However, development on the lands would lead to an intensification of the use of the road, this adding additional traffic to an already over capacity road network. The subject lands would be served from the R122, a key route in and out of Balbriggan town centre, Significant upgrade works to this road and its junctions with minor roads are required prior to the development of the subject lands. In this regard, it is considered that there are insufficient road services currently in place to support the residential development of the subject lands.
- In relation to piped services, the lands may be served by existing water infrastructure, however Uisce Eireann (UE) have previously noted capacity issues in the area. The lands are not served by adequate water infrastructure to facilitate larger development.
- The subject lands form an essential component of an agricultural business. While a residential use is permitted in principle on the subject lands, the current

Fingal Development Plan also recognises that there is a significant tradition of market gardening in and around the town and this further supports its preservation and retention.

## 7.0 Local Authority submission

The local authority made no comment in relation to this appeal.

## 8.0 Assessment

8.1 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 Fingal County Development Plan 2023-2029. 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.

8.2 The legislation clearly sets out that land in scope will be zoned for residential development or a mixture of uses including residential; be serviced or have access to servicing by water, wastewater, road, footpath and public lighting; and not be affected by contamination or significant archaeological remains which would preclude development taking place. Section 4.1.1 of the RZLT Guidelines set out the following:

iii) Services to be considered of the guidelines state that *“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, 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”*.

8.3 Section 4.1.1 ii) Review of land with planning permission of the guidelines states that *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....Significant works by the applicant to undertake the development which are a part of the plans and particulars lodged as a part of the permitted development should be given careful consideration in light of Section 4.1.1.(iii) of these Guidelines.*

8.4 The Planning Authority within their assessment have set out that the site is serviceable in terms of roads, footpaths, public lighting, water supply, wastewater and surface water infrastructure. Correspondence from UE on file states that there is access to watermains within ten metres of the of the subject lands and the wastewater network is located within 5-20 metres of the subject lands and that capacity is available within the piped networks. The appellants themselves acknowledge within their appeal submission that the site has access to services serviced or it is reasonable to consider may have access to services.

8.5 The appellants set out that in their opinion the R122 route has insufficient capacity to cater for development of the subject lands. Comments were received from the Transportation Planning Section within Fingal County Council who stated that the subject lands are served by a public road, cycle path and public lighting along part of its northern boundary. No road capacity issues were raised in the local authority report or within the referral responses it received. On this basis, it is reasonable to consider that there is capacity available in the local road network to cater for development.

8.6 The fact that the lands are stated to be in active agricultural use, as set out within the appeal submission to the Board, but not previously mentioned in the submission to the local authority, does not qualify for omitting the lands from the map under section 653B,

nor does the question of viability as a consequence of the application of the RZLT to the lands.

8.7 Based on the information available, I am satisfied that the lands do not meet the criteria for exclusion set out in section 653B.

8.8 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.

#### **9.0 Recommendation**

9.1. I recommend that the Board confirm the determination of the local authority and direct the local authority to include the site on the final RZLT map.

#### **10.0 Reasons and Considerations**

The lands identified as FIN-C657-RZT 24-26C (Parcel ID number FL0000002178 - 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 lands are stated to form part of an agricultural holding however, they are zoned for residential purposes. The lands are located within an established urban area with services available, and no piped services capacity or other reasons including access to roads infrastructure 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.

#### **11.0 Recommended Draft Board Order**

**Taxes Consolidation Act 1997 as amended.**

**Planning Authority:** Fingal County Council

**Local Authority Reference Number:** FIN-C657-RZT 24-26C

**Appeal** Dean Swift Property Holdings Ltd. Company 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 27<sup>th</sup> day of June 2024 in respect of the site described below.

**Lands at:** Stephenstown, Balbriggan, Co. Dublin

### **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 number FL0000002178 (part of). under FIN-C657-RZT 24-26C should be placed on the RZLT map.

### **Reasons and Considerations**

The lands identified as FIN-C657-RZT 24-26C (Parcel ID number FL0000002178 - part of) located on residentially zoned lands identified within the current Fingal County Development Plan are considered in scope of Section 653B(a) of the Taxes Consolidation Act 1997. as amended. The lands are stated to form part of an agricultural holding however, they are zoned for residential purposes. The lands are located within an established urban area with services available, and no piped services capacity or other reasons including access to roads infrastructure 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.



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Fergal Ó Bric  
Planning Inspectorate

2nd day of October 2024