



An
Bord
Pleanála

Inspector's Report

ABP-320455-24

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 Ratoath Road, Hollystown, Dublin 15

Local Authority

Fingal County Council

Planning Authority Reg. Ref.

FIN-C657-RZLT24-07

Appellant

MCPS Investments Homes Limited

Inspector

Sinéad O'Connor

1.0 Site Location and Description

The lands identified as lands at Ratoath Road, Hollystown, Dublin 15 (Parcel ID FL0000001404) are located on the east side of Kilbride Road on the east of Hollystown and to the south of Ballymacarney Road. The site is currently under grass. To the north the site adjoins the Chapelwood residential development and to the south are lands under grass. To the east are agricultural buildings and to the west is Hollystown Golf Club.

2.0 Zoning and Other Provisions

The relevant plan is the Fingal County Development Plan 2023-2029.

- The site is zoned RS-Residential, to provide for residential development and protect and improve residential amenity.
- Residential is listed as permitted in principle on zoned RS lands.
- The northeast corner of the site occurs within Airport Noise Zone B. Table 8.1 'Aircraft Noise Zones' requires expert noise assessments with future development to ensure that relevant guidelines are met.
- Mapped Objective 55 is located within the site. As per Appendix 8 of the Plan Mapped Objective 55 states the following: Facilitate the provision of a turning space for public buses.
- Mapped Objective 54 is located at the junction of Ballymacarney Road and Kilbride Road at the northwest corner of the site. Mapped Objective 54 states the following: Facilitate traffic calming and a pedestrian crossing on the Ratoath Road at Hollystown.
- Protected Structure Ref. 665 "Hollywoodrath House" is located circa 150 metres to the east of the site. This Protected Structure is described as "Late 18th or early 19th century seven-bay two-storey house plus gate lodge, gates & gate piers & outbuildings".

3.0 Planning History

PA. Ref. FW23A/0036, ABP Ref. ABP-318604-23: On 02 September 2024 the Board upheld the PA decision and refused planning permission for the construction of 96 no. dwellings at the site. The reason for refusal relates to the unsatisfactory design of Sustainable Urban Drainage Systems at the site. I note that this application was accompanied by a letter of consent to connect to a third party pumping station and a letter of consent allowing discharge to a foul gravity sewer. Uisce Eireann (UE) submissions on the application dated 23 February 2023 and 06 October 2023 had no objection to the development. The Report from the Water Services Department of the PA dated 12 October 2023 had no objection to the development.

PA Ref. RZLT004/22, ABP Ref. VY06F.316522: On the 14 June 2023 the Board decided to confirm the determination of the local authority and include the subject site in the RZLT map, on the basis that the site has access to services.

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 does not have access to the public foul sewer. The submission refers to a letter from Fingal County Council dated 25 April 2023, which states that there are no foul sewers in the locality. The submission also includes a Confirmation of Feasibility from UE dated 09 August 2022 that states that UE does not have any wastewater network in the area.

5.0 Determination by the Local Authority

The local authority determined that:

In pursuance of its functions under the above-mentioned Act, as Planning Authority, the County Council for the County Fingal decided to include the above land on the final map of the Residential Zoned Land Tax for the reasons outlined overleaf.

Reason:

It has been determined that the site in question fulfils the qualifying criteria set out in Part 22A of the Taxes Consolidation Act 1992 (as introduced by the Finance Act 2021) for inclusion on the RZLT map for the following reasons:

- 1) The land in question is included in a development plan or 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 development and for which there is services 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 for the exclusions set out in the Finance Act 2021 at Section 653B(c).

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are summarised as follows:

- The site does not have access to a public foul water sewer.
- The appeal statement includes a letter from Fingal County Council dated 25 April 2023, which states that there are no sewers in charge of the County Council on Ratoath Road or Gallanstown Road in the vicinity of the subject site.
- The appeal statement includes a Confirmation of Feasibility from UE dated 09 August 2022, which states that UE does not have any wastewater network in the area.
- The recent application at the site includes a letter of consent from a third party to facilitate a wastewater connection.

- The RZLT guidelines state that lands are out of scope for inclusion on the RZLT map where third party lands are required to connect to services.

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".

Under ABP Ref. VY06F.316522, the Board determined that the site meet the requirements for inclusion on the RZLT Map under Section 653B(b) on the basis of submission from UE. I do not consider that the context of the site has changed significantly since this previous determination was made.

The site is zoned RS-Residential under the Development Plan and, therefore, meets the requirements for inclusion on the RZLT map under Section 653B(a)(i) of the Act.

The Grounds of Appeal relate solely to Section 653B (b) of the Act, and state that the site cannot be connected to a public foul sewer with reference to correspondence from the LA and UE.

The submission to the LA from the Water Services Planning Section dated 24 April 2024 confirms that there is a pumped wastewater sewer directly outside the site, which serves several residential areas in the locality. It is further stated that a gravity sewer has recently been installed to the west of the site, which replaces this existing sewer. The UE submitted to the LA dated 29 April 2024 states that there is a foul water sewer

located on the public road, proximate to the subject site. While I note that the recent planning application was accompanied by a letter of consent to connect to water services, the UE submission to the LA confirms that services are available proximate to the site at the public road. In this way, no third-party consent would be required to connect to this waste water network.

The UE submission further states that there is sufficient capacity in the network. In light of the foregoing, it is considered reasonable that the subject site can connect to existing foul water infrastructure and that there is sufficient capacity to serve development. For reference, I note that the submissions from the Water Services Planning Section and UE to the LA both state that the site can connect to the existing potable water network. The UE submission confirms that there is capacity in the system to serve the site.

Drawing from the foregoing, I consider that the site meets the criteria under Section 653B(b) of the Act and, therefore, the grounds of appeal should be dismissed.

I note that under the Development Plan the site is partially within Aircraft Noise Zone B and contains an objective to provide a public bus turning area. Based on the recent planning history of the site, I do not consider that these objectives preclude the provision of dwellings at the site. 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 Ratoath Road, Hollystown, Dublin 15 (Parcel ID FL0000001404) meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended. The grounds of appeal have not raised other matters under section 653B of the Taxes Consolidation Act 1997, as amended and there are no matters arising that warrant exclusion of the subject lands from the final map. I recommend that the determination of the local authority be confirmed, and the lands retained on 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 Ratoath Road, Hollystown, Dublin 15 (Parcel ID FL0000001404) are located on lands zoned RS-Residential and are, therefore, considered in scope of section 653B(a). The lands immediately adjoin the public road network on 2-sides. Submissions from UE and the Water Services Division to the local authority confirm that the site can connect to existing foul water and potable water networks, which have capacity to serve future development. In this way, the site is considered in scope under Section 653B(b). No physical constraints 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-RZLT24-07

Appeal by MCPS Investments Homes Limited 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 day of June 2024 in respect of the site described below.

Lands at: lands at Ratoath Road, Hollystown, Dublin 15

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 confirm the determination of the local authority and direct the local authority to retain the lands identified as lands at Ratoath Road, Hollystown, Dublin 15 (Parcel ID FL0000001404) on the final 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 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 Ratoath Road, Hollystown, Dublin 15 (Parcel ID FL0000001404) are located on lands zoned RS-Residential and are, therefore, considered in scope of section 653B(a). The lands immediately adjoin the public road network on 2-sides. Submissions from UE and the Water Services Division to the local authority confirm that the site can connect to existing foul water and potable water networks, which have capacity to serve future development. In this way, the site is considered in scope under Section 653B(b). No physical constraints 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 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: 11 September 2024

