



An
Coimisiún
Pleanála

Inspector's Report ACP-323219-25

Development

Inclusion of the land on the residential zoned land tax final map on lands at Sundrive Road, Rush, County Dublin.

Location

Lands at Sundrive Road, Rush, County Dublin.

Planning Authority

Fingal County Council

Local Authority Reg. Ref.

FIN-C790-RZD26-33

Appellant

Elizabeth and Paul Thorne

Inspector

Frank O'Donnell

1.0 Site Location and Description

- 1.1. The lands identified as FIN-C790-RZD26-33 (Land Parcel FL FL0000002836) are located on Sundrive Road, c. 846 metres walking distance from the Upper Main Street, Rush. The site comprises a grass field and is surrounded on all sides by established residential development. The parcel of land has a site area of c. 0.19 hectares.

2.0 Zoning and Other Provisions

- 2.1. The site which is the subject of this Appeal is zoned 'RS Residential' in the Fingal Development Plan, 2023 to 2029. The Zoning Objective is to *"Provide for residential development and protect and improve residential quality."* The Zoning Objective Vision is stated to be to *'Ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity.'*
- 2.2. Fingal Development Plan, 2023 to 2029 comprises a main Written Statement, a total of 12 no. Appendices, accompanying Reports, Supplementary Information and Maps and Sheets.
- 2.3. Chapter 2 of the Written Statement relates to Planning for Growth, Core Strategy, Settlement Strategy. Rush is identified as a Self-Sustaining Town in the Core Area where, as per Table 2.14 (Core Strategy – 2023 to 2029 Fingal Development Plan), there is a projected housing demand for 500 units and a total of 53 hectares of available zoned residential land (including the subject RZLT Appeal site) which would provide an estimated potential yield of 1,600 units.
- 2.4. Policy CSP34 (Consolidate Growth of Self-Sustaining Towns) of Chapter 2 is of relevance to Rush and states:
 - *Policy CSP34 (Consolidate Growth of Self-Sustaining Towns)*
Consolidate the growth of Self-Sustaining towns including Malahide, Balbriggan, Lusk, Portmarnock, Rush and Skerries as set out in the Settlement Strategy for RSES and by encouraging infill development and compact growth rather than greenfield development and by intensification at appropriately identified locations.

- 2.5. Chapter 13 of the Plan relates to Land Use Zoning.
- 2.6. Chapter 14 of the Plan relates to Development Management Standards.

3.0 Planning History

3.1. On the subject Appeal Site:

- **92A/1166:** Permission for a dwelling. Application WITHDRAWN.
- **92A/1965:** Permission for a house with septic tank. Permission GRANTED subject to 7 no. conditions.
- **F06A/1807:** Permission for construction of new storey and a half bungalow, garage and associated site works. Permission GRANTED subject to 11 no. conditions.
- **F06A/1807/E1:** Extension of Duration. EOD GRANTED on 25th July 2011.

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:

- There has never been a house on this land. The lands have always been agricultural. The reason for this is that there are no facilities such as water, sewerage or electricity.
- The lands are not in the scope of the RZLT charge parameters and the Appellant/ Landowners requested the Local Authority to change the status of the land back so as it is exempt from the RZLT charge.
- The Appellants/ Landowners intend to grow vegetables on the site when they retire.
- The Appellants/ Landowners requested the Local Authority, for privacy reasons, not to publish their name and address.
- The Appellant refers to other separate personal issues which are further elaborated upon in a supporting email from a Local Senator.

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 in question fulfils the qualifying criteria set out in Part 22A of the Taxes and Consolidation Act, 1997 as introduced by the Finance Act 2021 (as amended) and the Section 28 Ministerial guidelines 'Residential Zoned Land Tax – Guidelines for Planning Authorities' June 2022, for inclusion on the RZLT Maps, 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 lands 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 at Section 653B.

6.0 The Appeal

6.1. Grounds of Appeal

The Grounds of Appeal are summarised as follows:

- Under Section 653E (5) of the Finance Act 2021, the Appellant is appealing the Determination of the Local Authority made under Section 653 (j) of same Act.

- No access to public footpaths.
- The foul sewer drainage is some distance from the site.

6.2. Response of Local Authority

- 6.2.1. A Response dated 19th August 2025 was received from the Local Authority. The Local Authority state the appeal submission has been considered and examined, including the planning history of the lands, that they have no further comment to make and that the Commission is requested to uphold the determination of the Local Authority.

6.3. Prescribed Bodies

- 6.3.1. The subject Appeal was referred by An Coimisiún Pleanála to Uisce Éireann for comment however no response was received at the time of writing this report.

7.0 Assessment

- 7.1. The Grounds of Appeal have been fully considered. Under Section 653J of the Taxes Consolidation Act 1997 as amended, the Commission'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”.

- 7.2. Section 653B of the Taxes Consolidation Act, 1997, as amended, sets out the criteria for inclusion on the map, and states that the first consideration for inclusion is land which in subsection (a) ‘is included in a development plan’ or ‘local area plan’ zoned solely or primarily for residential use, or for a mixture of uses including

residential. The subject lands are zoned RS Residential in the current Fingal Development Plan, 2023 to 2029 and are considered within scope of section 653B(a)(i).

- 7.3. The Appellant considers the site should be excluded from the RZLT Maps on the basis that it does not have access to public footpaths. As per Section 653B b) for the purposes of falling within the scope of the RZLT, the criteria is whether it 'is reasonable to consider'. The Local Authority determined the lands to be in scope as it is reasonable to consider the lands may have access to services, including footpath access. In this regard, I note a total of 6 no. dwellings have been constructed since 2022 on the adjacent site to the immediate east, the northern boundary for which is also along Sundrive Road. As per the approved site layout plan attached to planning reg. ref. no. F18A/0644 on the said adjacent lands, there is a new 1.5 metre wide footpath shown along the northern site boundary of the said adjacent site and within the defined redline boundary. I further note condition no. 4 of this said permission stipulates that *'the site plan and boundary treatment of the development hereby permitted shall accord with Drawing no. POS Rev A received by the Planning Authority as additional information on 17th April 2019*. As this site is located to the immediate east of the subject appeal site, I am satisfied that it is reasonable to consider the subject lands may have access, or be connected, to this said footpath.
- 7.4. The Appellant considers the sewerage infrastructure to be located some distance from the subject appeal site. Again, as per Section 653B b) for the purposes of falling within scope of the RZLT, the criteria is whether it 'is reasonable to consider'. The Local Authority determined the lands to be in scope as it is reasonable to consider the lands have access to services, including foul sewer drainage. In this regard, I note, as per the above referenced permission, planning reg. ref. no. F18A/0644, the adjacent Developer has obtained permission to connect to the existing foul sewer located in the public road to the east of that said site, i.e. in the southeast corner of same. In my opinion, the existing foul sewer network is within a reasonable distance of the subject appeal site. I note this subject RZLT Appeal was referred to Uisce Éireann for comment and that no response was received within the stipulated timeframe (22nd August 2025). I further note, as per the Uisce Éireann capacity Register (August 2025) that the Portrane/Donabate WWTP (DO114) which serves

the settlement of Rush is indicated to have a Green Status which is an indication of available capacity in said WWTP.

- 7.5. Having regard to the foregoing, I am satisfied that it is reasonable to consider the subject lands may have access, or be connected, to the existing foul sewer network.
- 7.6. Section 653B b) relates to access, the availability of services for dwellings to be developed and the capacity of such services. The subject RZLT appeal site satisfies these requirements and therefore, in my opinion, it is reasonable to conclude that the site remains in scope on this basis.
- 7.7. 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. Having regard to the foregoing, I consider that the lands identified as FIN-C790-RZD26-33 (Land Parcel FL FL0000002836) 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.
- 8.2. I recommend the Commission 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. 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 legislation.
- 9.2. The lands identified as FIN-C790-RZD26-33 (Land Parcel ID FL0000002836) are located on lands zoned RS-Residential identified within the current Fingal County Development Plan 2023 to 2029, are considered in scope of Section 653B of the

Taxes Consolidation Act 1997, as amended. The subject 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 RS-Residential zoning objective that applies to these lands.

10.0 Recommended Draft Commission Order

Taxes Consolidation Act 1997, as amended.

Local Authority: Fingal County Council

Local Authority Reference Number: FIN-C790-RZD26-33.

Appeal: Elizabeth and Paul Thorne in accordance with Section 653J of the Taxes Consolidation Act 1997 as amended, against the inclusion of the land on the final Residential Zoned Land Tax Map by Fingal County Council on the 25th day of June 2025 in respect of the site described below.

Lands at: Sundrive Road, Rush, Co Dublin

Decision

The Commission 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 Commission confirms the determination of the Local Authority and direct the Local Authority to retain the lands identified as Local Authority reference number FIN-C790-RZD26-33 and Parcel ID number FL0000002836 on the 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 legislation.

The lands identified as FIN-C790-RZD26-33 (Land Parcel ID FL0000002836) are located on lands zoned RS-Residential identified within the current Fingal County Development Plan 2023 to 2029, are considered in scope of Section 653B of the Taxes Consolidation Act 1997, as amended. The subject 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 RS-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.

Frank O'Donnell
Planning Inspector

23rd October 2025