



An
Coimisiún
Pleanála

Inspector's Report

ACP-323329-25

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 Fosterstown, Pinnock Hill, Forest Road, Swords, County Dublin.

Local Authority

Fingal County Council

Planning Authority Reg. Ref.

FIN-C790-RZD-26-16

Appellant

MKN Properties Ltd.

Inspector

Fergal Ó Bric

1.0 Site Location and Description

The lands identified as FIN-C790-RZD-26-16 are located at Fosterstown, Pinnock Hill, Forest Road, Swords, County Dublin (Parcel ID numbers FL0000002137-part of and FL0000002469 part of) are located to the southwest of Swords town centre. The lands, have frontage onto Forest Road to the west and the R132/Pinnock Hill Roundabout to the east. The lands are currently under grass. To the north, south and east the lands adjoin lands that are under grass. To the west and southwest the site adjoins established residential developments.

2.0 Zoning and Other Provisions

The Fingal County Development Plan 2023-2029 is the relevant planning policy document.

The majority of the lands are zoned RA-Residential Area, where the objective is 'To provide for new residential communities subject to the provision of the necessary social and physical infrastructure. The northern part of the subject lands are zoned MC-Major Town centre where the objective is to 'Protect, provide for and/or improve major town centre facilities'.

Residential is listed as permitted in principle on zoned RA lands.

Parts of the site are zoned OS-Open Space. These areas are not included in the Fingal County Council RZLT map.

As per Sheet No. 8 of the Development Plan, there is a Road Proposal and (GDA) Cycle Network Plan route within the northern portion of the site.

Table 6.3 'Transportation Schemes' of the Plan lists the Fosterstown Link Road. Objective CM041 seeks to implement the transportation schemes set out within Table 6.3.

Mapped objective 38 states; 'provide for well-designed housing at a density of 110-115 dwellings per hectare, which is in keeping with the masterplan and the enhancement of the character of the Key Town of Swords'.

The site contains a mapped objective to provide for a school site.

The site occurs in MP8.C Masterplan Area. Under Table 2.17 'Operational Masterplans' MP8.C comprises part of the Swords Masterplans.

The lands are also located within Dublin Airport Noise Zone C. Table 8.1 'Aircraft Noise Zones' notes that a noise assessment must be provided with new development to demonstrate that noise guidelines are met.

The lands are located within Part C: Fosterstown of the Swords Masterplans published May 2019.

Under the masterplan, the site will accommodate a school site and open space, and residential development.

Vehicular access to the masterplan area is via the Fosterstown link road from Pinnock Hill Roundabout to Forest Road.

The site is designated for Phase 1 development.

3.0 Planning History

Planning reference RZLT053/22, ABP reference 316661-23: On the 8th day of August 2023 the Board confirmed the determination of the Local Authority and include the lands within the final RZLT map for 2024.

Planning reference FIN-C657-RZLT-24-08, ABP reference 320447-24, On the 23rd day of October 2024, the Board confirmed the determination of the Local Authority to include the lands within the final RZLT map for 2025.

SHD reference ABP-308366-20: On the 03 February 2021 planning permission was granted to MKN Developments Ltd for the development of 278 no. units and works including the development of the Fosterstown link road. This decision was the subject of judicial review proceedings and has been remitted to the Coimisiún under reference number 320806 for consideration.

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 RZLT map for the following reasons:

- The subject lands do not have access to public roads, footpaths and lighting which are necessary for dwellings to be developed.
- The Coimisiún refused planning permission for an SHD under reference number 313331-22 as the proposals would have been premature pending the delivery of the Fosterstown link road and which would facilitate an appropriate access route to the site.
- The Fosterstown link road is dependent on the Pinnock Hill roundabout upgrade.
- The design of the Swords Bus Connects project does not provide for a link from Pinnock Hill to any future Fosterstown link road, thus effectively sterilising the subject lands.
- Under the provisions of the Swords Masterplan, Part C Fosterstown, May 2019, the lands may only be developed once 'essential infrastructure' is provided. This infrastructure includes the Swords Bus Connects project, upgrade of the Pinnock Hill roundabout, the Fosterstown link road, upgrade of Forest Road, realignment of Dublin Road and provision of school site.
- The development of the subject lands is constrained pending the delivery of these components of critical infrastructure. The delivery of these infrastructural items is outside of the control of the landowners, would require consent from third party landowners and separate planning consents.
- Only 25% of the subject land can be development pre the development of the Metro link, not scheduled for completion until 2036.
- An Coimisiún Pleanála confirmed the non-application of the RZLT to adjacent lands under 320545-24 which are subject to the same infrastructural constraints as the subject lands.
- In 2019, there was some capacity remaining within the piped water services,
- However, subsequently, correspondence from Uisce Eireann confirms that extensive works are required to the wastewater network to serve the site.
- Such upgrades are to be completed by a third party, Uisce Eireann and require separate consents.
- It is requested that the school site is excluded under Section 653B(iii)(I) as the sale of the lands (0.626ha) to the Department of Education has been completed in 2024.

- The lands for the Forest Road widening and Fosterstown Link Road should be excluded under Section 653B(iii)(II).

5.0 Determination by the Local Authority

The local authority determined that the subject lands be included on the final map of the Residential Zoned Land Tax for the reasons outlined below.

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.

6.0 The Appeal

6.1 Grounds of Appeal

The grounds of appeal are summarised as follows:

- The subject lands do not have access to public roads, footpaths and lighting which are necessary for dwellings to be developed.
- The Coimisiún refused planning permission for an SHD under reference number 313331-22 as the proposals would have been premature pending the delivery of the Fosterstown link road and which would facilitate an appropriate access route to the site.
- The Fosterstown link road is dependent on the Pinnock Hill roundabout upgrade.
- The design of the Swords Bus Connects project does not provide for a link from Pinnock Hill to any future Fosterstown link road, thus effectively sterilising the subject lands.
- Under the provisions of the Swords Masterplan, Part C Fosterstown, May 2019, the lands may only be developed once 'essential infrastructure' is provided. This infrastructure includes the Swords Bus Connects project, upgrade of the Pinnock Hill roundabout, the Fosterstown link road, upgrade of Forest Road, realignment of Dublin Road and provision of school site.
- The development of the subject lands is constrained pending the delivery of these components of critical infrastructure. The delivery of these infrastructural items is outside of the control of the landowners, would require consent from third party landowners and separate planning consents.
- In June 2025a planning decision by Fingal County Council on an LRD Development, reference number LRD0018/S3E which set out that substantial elements of the development could not be commenced prior to the delivery of certain critical infrastructure where the CE report stated that only phase 1 can be built in advance of Metrolink opening, comprising approximately 320-350 residential units.
- At the present time it is not envisaged that any of the 25% of the subject lands are capable of being developed due to the absence of roads infrastructure in the area.
- can be development pre the development of the Metro link, not scheduled for completion until 2036.

- An Coimisiún Pleanála confirmed the non-application of the RZLT to adjacent lands under 320545-24 which are subject to the same infrastructural constraints as the subject lands.
- In 2019, there was some capacity remaining within the piped water services,
- However, subsequently, correspondence from Uisce Eireann confirms that extensive works are required to the wastewater network to serve the site.
- Such upgrades are to be completed by a third party, Uisce Eireann and require separate consents.
- It is requested that the school site is excluded under Section 653B(iii)(I) as the sale of the lands (0.626ha) to the Department of Education has been completed in 2024.
- The lands for the Forest Road widening and Fosterstown Link Road should be excluded from the RZLT map under the provisions of Section 653B(iii)(II) of the Taxes Consolidation act 1997, as amended.

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"*.

Section 653B of the Taxes Consolidation Act 1997, as amended sets out the criteria for inclusion on the RZLT map, and states that the first consideration for inclusion on the map is land which in subsection (a) 'is included in a development plan' or 'local

area plan' zoned (i) solely or primarily for residential use, (ii) or for a mixture of uses including residential. The appeal lands are zoned RA-residential and MC-Major town centre within the current Fingal development plan 2023-2029 and, therefore, are within scope of section 653B(a) of the Act.

Under Section 653B (c) (ii) the question to be considered is it reasonable to consider that the mixed-use zoned land part of the subject lands is vacant or idle. Having regard to the definition of 'vacant or idle' as specifically set out within the legislation that being 'land that, having regard only to authorised development under the Planning and Development Act 2000, is not required for, or integral to, the operation of a trade or profession being carried out on, or adjacent to, the land'. Therefore, as per this specific definition, the subject lands are considered to be vacant and idle.

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"*.

The subject lands were the subject of previous RZLT determinations under ABP-316661-23. Under ABP-320447-24, and on both occasions the Coimisiún decided to confirm the determination of the local authority to retain the site on the RZLT map. The context and character of the site have not significantly changed since these previous determinations.

The appellant states that the site cannot connect to the public road network and therefore, without essential road works/upgrades, there is insufficient capacity within the existing road network to serve the subject lands. 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.

The subject site immediately adjoins Forest Road along the full extent of its western boundary. Forest Road is under the control of the Local Authority, and, therefore, no third-party consents or lands would be required to connect the subject site to this road. Forest Road has both public footpaths and public lighting at this location. On this basis, it is reasonable to consider that the site can connect to the local public road network. In respect of road projects, I note that the Development Plan does not contain any objective to widen Forest Road or to preclude development until such works are undertaken. The provision of the Fosterstown Link Road is included as an objective of the Development Plan. I note that the Fosterstown Link Road is located primarily on lands within the control of the appellant and that the recent SHD application at the site included the provision Fosterstown Link Road. The lands of the Pinnock Hill Roundabout are under the control of the Local Authority. Therefore, I am satisfied that third party consents would not be required to undertake the construction of the Fosterstown Link Road to provide access to the subject lands. On this basis, I consider that the site meets the criteria for inclusion on the RZLT map under Section 653B(b).

I note that the NTA made a submission to the Local Authority where they acknowledged that the Swords Bus Connects project was permitted by An Coimisiún Pleanála in June 2024 which will deliver a high-quality public transport service linking Sword to the city centre. As part of these proposals the existing roundabout at Pinnock Hill, east of the subject lands will be modified to a fully signalised junction with pedestrian and cyclist facilities. The Transportation Section within Fingal County Council in their submission stated, 'The proposed fully signalised junction has been designed to integrate with the objectives of the Fosterstown Framework Plan which recognises the requirement for the provision of the Fosterstown link road'. I also note that the Metro link connecting Dublin Airport to the City Centre via Swords has recently been permitted by An Coimisiún Pleanála.

The appellants state that there are deficiencies in the wastewater network and that significant works are required to serve the subject lands.

The correspondence from UE dated April 2025 confirms that ‘the site that is subject of this appeal is serviceable’. a connection to the wastewater network for 278 no. units can be achieved and that further development at the site would require upgrade works. The UE maps and correspondence included in the appeal statement states that there is existing water and wastewater sewer networks on the immediate vicinity of the subject lands. I note that works to upgrade this network would occur on lands under the control of the LA and, therefore, no third-party lands would be required.

I note that page 8 of the RZLT guidelines states the following in respect of network upgrades “*A need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist*”. In this regard, I have consulted (on the 14th day of November 2025) the Uisce Éireann (UE) capacity register [Fingal | Wastewater Treatment Capacity Register | Uisce Éireann \(formerly Irish Water\)](#) published in August 2025, it is green for water supply indicating that there is water capacity available and that there is also capacity available in the public foul network supply, albeit there is a level of service (LoS) improvement required for water supply. Fingal County Council determined that the lands are in scope. indicates that there is capacity available at the Swords WWTP. On this basis, I consider that the lands meet the criteria under Section 653B(b).

The Grounds of Appeal state that the site cannot be development prior to the provision of essential infrastructure, as per the Swords Masterplans, Part C- Fosterstown, May 2019

The Swords Masterplans are non-statutory plans, and I consider it relevant that the phasing provisions in the masterplan are not included in the written text or mapped objectives of the current Fingal Development Plan 2023-2029.

The appellants are also seeking the exclusions of lands from the RZLT under the exemptions set out within Section 653B(iii), specifically in respect of those areas required for road upgrades and a school.

The current Fingal Development Plan 2023-2029 includes mapped objectives for the provision of Fosterstown Link Road and cycle route, and a school at the subject site. Page 10 of the RZLT guidelines states that following: “*Where the land is zoned for residential development and specific objectives apply to provide such facilities but*

the extent of land required for such a use is not identified, the land will fall into scope until such time as it is developed and the relevant land will then fall out of scope". I note that the Development Plan does not specify the extent of the Fosterstown Link Road, Fosterstown cycle route or the future school and ancillary playing pitches at the subject site. In this way, it is not possible at this stage to determine the extent or precise location of these areas within the site. I note that the widening of Forest Road is not a specific or mapped objective of the Development Plan.

In relation to the provision of a school site, the appellants state that the school site has been disposed of to the Department of Education. However, I am not aware of any planning permission been forthcoming for the development of a school within the subject lands. The designation of a site for a school is not a reason to preclude the lands from being made available for residential development. On this basis, I do not consider that these areas meet the criteria for exclusion from the RZLT map under Section 653B(iii).

I note that under the Development Plan the site is within Aircraft Noise Zone C. With reference to Table 8.1 of the Plan, I do not consider that this objective precludes the provision of dwellings at the site. There are no other physical conditions at the site that would preclude the provision of dwellings and, therefore, the site meets the criteria for inclusion of the RZLT map under Section 653B(c) of the Act.

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

Having regard to the foregoing, I consider that the lands identified as FIN-C790-RZD-26-16 at Fosterstown, Pinnock Hill, Forest Road, Swords, County Dublin (Parcel ID numbers FL0000002137-part of) and FL0000002469 part of) 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 is confirmed, and the lands be 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 FIN-C790-RZD-26-16 at Fosterstown, Pinnock Hill, Forest Road, Swords, County Dublin (Parcel ID numbers FL0000002137-part of) and FL0000002469 part of) are zoned RA-Residential Area and MC-Major Town Centre in the Development Plan and are, therefore, considered in scope of section 653B(a). Given the location of the site proximate to existing roads and water services infrastructure, it is considered reasonable that a connection to public infrastructure and facilities can be achieved. UE capacity registers indicate that there is capacity to serve the site. UE have confirmed in their written correspondence that 'the land, the subject of this appeal is serviceable'. 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 and Major town centre zoning objectives that apply to these lands. I note that the Residential Zoned Land Tax - Guidelines for Planning Authority, June 2022 (RZLT Guidelines) set out 'that a need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist'

10.0 Recommended Draft Commission Order

Taxes Consolidation Act 1997 as amended.

Planning Authority: Fingal County Council

Local Authority Reference Number: FIN-C790-RZLT-26-16

Appeal by MKN Properties 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 25th day of June 2025 in respect of the site described below.

Lands at: Lands at Fosterstown, Pinnock Hill, Forest Road, Swords, County Dublin.

Decision

The Coimisiún 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 Coimisiún confirm the determination of the local authority and direct the local authority to retain the lands identified as Lands at Fosterstown, Pinnock Hill, Forest Road, Swords, County Dublin (Parcel ID numbers FL0000002137 part-of and FL0000002469-part-of)) 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 FIN-C790-RZD-26-16 at Fosterstown, Pinnock Hill, Forest Road, Swords, County Dublin (Parcel ID numbers FL0000002137-part of) and FL0000002469 part of) are zoned RA-Residential Area and MC-Major Town Centre in the Development Plan and are, therefore, considered in scope of section 653B(a). Given the location of the site proximate to existing roads and water services infrastructure, it is considered reasonable that a connection to public infrastructure and facilities can be achieved. UE capacity registers indicate that there is capacity to serve the site. UE have confirmed in their written correspondence that 'the land, the subject of this appeal is serviceable' 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 and Major town centre zoning

objectives that apply to these lands. I note that the Residential Zoned Land Tax - Guidelines for Planning Authority, June 2022 (RZLT Guidelines) sets out 'that a need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist'

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.

Fergal Ó Bric.

Planning Inspectorate

14th day of November 2024