

An
Bord
Pleanála

Board Direction
BD-014151-23
ABP-316883-23

The submissions on this file and the Inspector's report were considered at a Board meeting held on 12/10/2023.

The Board, having considered the provisions of s.653B of the Tax Consolidation Act 1997 as amended, the 'Residential Zoned Land Tax – Guidelines for Planning Authorities' (DoHLGH June 2022), the local authority determination, the grounds of appeal, the file documentation and the inspector's report and recommendation, decided to confirm the determination of the local authority in respect of lands identified as land parcels ID CCLA00037729, CCLA00037836, CCLA00037835 and CCLA00037695 for the reasons and considerations hereunder.

Reasons and considerations

The Appeal submission refers to Land Parcels ID CCLA00037729, CCLA00037836, CCLA00037835 and CCLA00037695.

The grounds of appeal stated that the land parcels form part of a completed residential development *i.e.* Ballinglanna and include open space/ amenity lands/ footpaths and grass verges serving that development. The appeal submission refers to permission granted under the SHD process in March 2018 under ABP ref: 300543 and states that construction is at an advanced stage on site and is ongoing based on the phasing agreement in place with Cork City Council.

The appeal submission requested that the portions of these lands which provide open space and footpaths associated with the completed phases of development

permitted under ABP 300543 should be omitted from the RZLT maps on the basis that these land parcels provide social, recreational and transport infrastructure for the permitted development and therefore should be excluded from the RZLT map under exclusion criterion set out in section 653B (iii) (I), 653B (iii) (II) and 653B (iii) (VII).


Regarding the appeal submission, the Board considered that the lands which are the subject of the appeal do not come under the exclusion criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended. The Board noted section 8.2 *Deferrals* of the Residential Zoned Land Tax – Guidelines for Planning Authorities' (DoHLGH June 2022), which state that deferrals on payment of the tax are available where a commencement notice is submitted, and substantial development begins (section 653AH of the Taxes Consolidation Act, 1997 as amended). The Board has no role in relation to determinations relating to section 653AH.

In not accepting the recommendation of the Inspector to set aside the determination of the local authority, the Board noted that the Inspector's report referenced that there is a restriction on the number of dwelling units which can be constructed prior to completion of the Dunkettle Interchange upgrade works, as per condition no. 4 of the consented Strategic Housing Development (SHD), reg. ref. no. ABP-300543-18.

In relation to restrictions on development imposed by planning permission ABP 300543-18, the Board noted that the local authority had already determined that those land parcel IDs (CCLA00037828, CCLA00037824, CCLA00037837, CCLA00037838 and part of CCLA00037859) that are conditioned under authorised planning permission ABP 300543-18, met the criteria for exclusion under section 653B of the Taxes Consolidation Act 1997 as amended and had excluded these from the RZLT map. The Board did not therefore agree that the matter of insufficient road service capacity applied with respect to any remaining lands which are subject to planning permission ABP 300543-18 and which form part of Cork City Council RZLT Reference CRK-RZLT-50.3.

The appeal grounds do not raise any exclusions that would warrant removal from the RZLT map the lands which are subject of this appeal (Land Parcel ID CCLA00037729; CCLA00037836; CCLA00037835 and CCLA00037695), with reference to the Taxes Consolidation Act 1997, as amended, and the RZLT Guidelines. The lands which are the subject of this appeal (Land Parcel ID CCLA00037729; CCLA00037836; CCLA00037835 and CCLA00037695: which form part of Cork City Council RZLT Reference CRK-RZLT-50.3) meet the qualifying criteria for inclusion in the RZLT map set out in section 653B of the Taxes Consolidation Act 1997, as amended.

Board Member



Mary Cregg

Date: 01/11/2023