



An
Bord
Pleanála

Inspector's Report

ABP-316251-23

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	Kilbush Lane, Rush, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	RZLT099/22
Appellant(s)	Gary Jones.
Inspector	Rachel Gleave O'Connor

Contents

1.0 Site Location and Description	3
2.0 Zoning and other provisions	3
3.0 Planning History.....	3
4.0 Submission to the Local Authority.....	3
5.0 Determination by the Local Authority	4
6.0 The Appeal	4
7.0 Assessment.....	4
8.0 Recommendation.....	5
9.0 Reasons and Considerations.....	5

1.0 Site Location and Description

1.1. The site is located on Kilbush Lane and relates to the property Fort Granite. Another residential property fronting Kilbush Lane is also related to the land parcel. The site is situated adjacent to residential houses in a residential street. The site appears to the rear and side of the property and is formed of approximately 4,900sqm of vacant land.

2.0 Zoning and other provisions

2.1. The site is zoned RS – Residential and within the defined Development Boundary for Rush under the Fingal County Development Plan 2023-2029. To the rear and attached to the site there are lands zoned HA – High Amenity.

3.0 Planning History

3.1. Planning permission relates to the site at the rear of Fort Granite.

3.2. F04A/1782 – Outline Planning Permission Granted on 27th July 2005 for 4 no. 4 bed 2 storey pitched roof detached houses with new boundary walls/fences, entrance gates and driveways and new vehicular access road off Kilbush Lane and associated site drainage work to side and rear of existing house.

3.3. F06A/0642 – Planning Permission Granted on 6th July 2006 for 1 no. new 4 bed, 2 storey detached pitched roof house, entrance gates and driveway, boundary walls/fences, new access road off Kilbush lane, associated site works and drainage works on site no. 1 of outline permission Reg. Ref. no. F04A/1782.

3.4. F06A/0642/E1 – Extension of Duration Granted 8th December 2010.

4.0 Submission to the Local Authority

4.1. The appellant made a submission to the Local Authority seeking to have its land removed from the draft map. The submission stated that local property tax is paid on the site for two properties. The land extends out to the back of the house and although part of the property is zoned as residential, it is intended that in future, the owners sons will build houses there to live in. The property is currently used to keep

horses on and is not vacant. The property has been in the family for over 200 years and inheritance tax was paid and there are 2 mortgages on the property.

5.0 Determination by the Local Authority

- 5.1. The local authority stated that the matters raised in the submission are unrelated to the criteria identified in section 653B (Finance Act 2021).
- 5.2. The local authority determined that the site was in scope and should remain on the map.

6.0 The Appeal

6.1. Grounds of Appeal

- Local property tax is paid on the site for two properties.
- The land extends out to the back of the house and although part of the property is zoned as residential, it is intended that in future, the owners sons will build houses there to live in.
- The property is currently used to keep horses on and is not vacant.
- The property has been in the family for over 200 years and inheritance tax was paid and there are 2 mortgages on the property.
- The Councils site area evaluation states the site is 0.8 hectares, but this includes two houses and green belt zoned area, when the only available building lands is 0.49 hectares.
- Liability for the RZLT would amount to triple taxation and put a financial strain on the family.

7.0 Assessment

- 7.1. The site is situated in the curtilage of a residential property. The residential property is liable for local property tax. The appellant confirms that the site extends to 0.49 hectares. The RZLT Guidance states on page 6 that:

*Land which is zoned residential and contains existing residential development such as estates or individual houses are also considered 'in scope' from a zoning perspective and therefore must be included on the maps, however owners of residential properties within these areas will not be liable for the tax (See section 6530(1)(a) of the legislation). While **residential properties, the associated curtilage of which exceeds 0.4047 ha are also not liable for the tax** (see section 6530(2) of the legislation), **owners of such properties must register for the RZLT and provide certain information to the Revenue Commissioners.** This does not require any action on the part of the Planning Authority. (emphasis added).*

- 7.2. As the appeal site forms part of the curtilage of a residential property, it is not considered a 'site' for the purposes of the RZLT, however this does not mean that the lands are removed from the map and no action is required of the Planning Authority. The landowner (appellant) must register for the RZLT and provide information to the Revenue Commission, to demonstrate that the tax will not be payable.

8.0 Recommendation

- 8.1. I recommend that the Board 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. Having regard to the determination by the local authority, the submitted grounds of appeal, the provisions of the section 653B of the Taxes Consolidation Act 1997, as amended, and the advice in section 3.1.2 of the Guidelines for Planning Authorities on the Residential Zoned Land Tax, the site should remain on the RZLT map. The site exceeds 0.4047ha (at 0.49ha) and forms the curtilage to a property (Fort Granite). The landowner (appellant) must register for the RZLT and provide information to the Revenue Commission, to demonstrate that the tax will not be payable under section 6530(2) of the Taxation Consolidation Act 1997, as amended by the Finance Act 2021.

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.

Rachel Gleave O'Connor
Senior Planning Inspector

09 June 2023