



An
Bord
Pleanála

Inspector's Report

ABP-316269-23

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	Park Road, Rush, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	RZLT019-22
Appellant(s)	Patrick Leonard
Inspector	Rachel Gleave O'Connor

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1.0 Site Location and Description

1.1. The site is located to the south west of Park Road. To the south east of the site are residential properties and the residential estate Kenure Lawns. Woodland Park and Kenure Park are also situated further to the south east of the site. The site immediately adjoins agricultural fields and bounds Park Road. The site itself is an agricultural field.

2.0 Zoning and other provisions

2.1. The site is zoned RA – Residential Area and within the defined Development Boundary for Rush under the Fingal County Development Plan 2023-2029.

3.0 Planning History

3.1. Includes appeal site in part (Site no.2), and a wider extent following Park Road and Brook Road: F15A/0294 – Permission GRANTED on 1st February 2016 for Infrastructural site development works including roads, footpaths, cycleways, drains, sewers, watermains, surface water attenuation areas, below ground pumping station (with 2 no. above ground control kiosks) and rising main discharging to the Channel Road sewer system, below and above ground utilities, landscaping works, boundary treatment and all ancillary infrastructure and site development works to facilitate future housing on the subject lands. The development also includes demolition of existing glasshouses and existing cottage (in ruins - at north section of Park Road), widening of approx. 356m. of Park Road (south from St. Maurs GAA Club), a new sewer along widened roadway and for a further 110m. on Park Road, new vehicular and pedestrian access off Park Road and the section of the North/South Urban Road to be constructed under this proposed development, construction of new junction on Brook Lane (at its intersection with the proposed North/South Urban Road), decommissioning and removal of existing temporary wastewater treatment plant (on land to the east of Sea Brook housing development) and existing pumping station (near entrance to Brookford housing development) and connecting its existing sewers to the proposed foul sewer system and all other site development works. All on lands within and adjoining KENURE (Rush) Local Area Plan lands in accordance

with agreed Phase 1A conceptual framework/Master Plan. The total site area of the application is 8.53ha comprising of: (A) Site No. 1 - 6.038ha plot of land bounded by Sea Brook housing development to the west, Brook Lane and Brookford housing development to the south and agricultural fields/Woodland Park to the north and east; (B) Site No. 2 - 0.766ha plot of land bounded by Park Road to the east and agricultural fields to the north, south and west; (C) Site No. 3 - 1.005ha plot of land bounded by Park Road to the west, Kenure Lawns to the south and agricultural fields to the north and east; (D) Link road between Brook Lane and Park Road - 0.271ha plot of land bounded by Park Road to the south, Brook Lane to the north, Brookford Park housing development to the west and private houses to the east; (E) - 356m of Park Road south from St. Maurs GAA Club, Rush, Co. Dublin.

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 the lands were zoned in the Development Plan 2005-2011 in return for a bypass going through the field. This has not materialised. The lands have been subject to a CPO for road widening. The bypass is gone from the new plan. As half of the property was zoned retail and half housing, along with no services on the road, it is hoped that with the new road and new services that the land will be more attractive in future. The field is in use for vegetable growing. Not able to pay the RZLT. Not requesting the land be de-zoned, wish to have more time to sell it.

5.0 Determination by the Local Authority

5.1. The local authority stated that land for agricultural or horticultural purposes are not considered to be exempt from scope as they are not subject to rates.

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

- The site was zoned in the 2005-2011 Development Plan in return for a bypass going through the field. This has not materialised. The land was zoned half for residential and half for commercial which made it unattractive to buy.
- Issued a CPO in 2018 with possession taken in February 2020 for road widening. This over-ran till July 2021. Drain pipe works were not completed properly and were finished in March 2022.
- There was no services before the road widening, but now that services are in front of the field it should help make the land more attractive to sell.
- Waiting to be paid for the CPO.
- Lands currently used for growing vegetables.
- Request an exemption for a period of time as no way of paying.
- Will have to dezone the land.

7.0 Local Authority Response

7.1. It is noted that an indicative road proposal extending along the western boundary of the lands was set out in the Fingal Development Plan 2017-2023. This road proposal is not contained within the recently adopted Fingal Development Plan 2023-2029 and associated sheets which came into effect on the 5th April 2023. No further comments to make.

8.0 Further Responses

8.1. The appellant provided a further response on 30th May 2023, stating that possession of the field was returned to the landowner in 2023 following a CPO for road widening, and therefore it is not 'Lands zoned and serviced after 1st January 2022', therefore tax not chargeable. Email correspondence with Fingal County Council Engineer included to support this.

9.0 **Assessment**

- 9.1. The RZLT Guidelines confirm that use of land for agricultural or horticultural purposes are not considered to be exempted from scope as they are not subject to rates.
- 9.2. The zoning provisions under former development plans for the area are not of relevance to considerations as to the inclusion of the lands in the RZLT maps. The history of the site with respect to CPO and delays to upgrades, also does not impact the assessment for liability for the RZLT for this site. The site is not required for transport infrastructure and the CPO related to an area that overlapped slightly with a new road junction. This would not effect the ability of the site to be developed for residential use.
- 9.3. The appeal grounds do not raise any exclusions 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. The fact that the lands are in active and established agricultural use does not qualify for omitting the lands from the map under section 653B, nor does the question of viability as a consequence of the application of the RZLT to the lands.
- 9.4. The lands are zoned for residential development and serviced by the recently upgraded section to Park Road immediately abutting the site, which includes sections of footpath which connect into the wider footpath network in the area.

10.0 **Recommendation**

- 10.1. I recommend that the Board confirm the determination of the local authority and direct the local authority to include the site on the map.

11.0 **Reasons and Considerations**

- 11.1. 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 is considered in scope for the purposes of the RZLT map.

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

23rd June 2023