



An
Bord
Pleanála

Inspector's Report ABP-316317-23.

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

Lands at High Road, Dingle, Co. Kerry.

Local Authority

Kerry County Council.

Local Authority Reg. Ref.

KE-C6-RZLT-25

Appellant

John Moore.

Inspector

Dáire McDevitt

1.0 Site Description

The appeal lands identified as KE-C6-RZLT-25 with a stated area of c.0.5 hectares are located south of High Street in Dingle, Co. Kerry.

There are concurrent RZLTs appeals by Eileen Moriarty (ABP 316918-23) for lands at Goat Street, Farranakilla , ABP 316830-23 by Johnathan Moriarty for lands at Farranakilla and Joan Murphy (ABP 316839-23) for lands at The Wood. All of which also form part of a larger tract of land identified as a Masterplan site Corca Dhuibhne. Local Area Plan 2021-2027.

2.0 Zoning

Corca Dhuibhne. Local Area Plan 2021-2027 includes Dingle/Daingean Ui Chuis.

Dingle is a regional town in the Kerry settlement Hierarchy. The lands are zoned R1 New Residential and along the road frontage G3 Landscape Protection. Residential is not a permitted use on lands zoned GRC (Green/Recreation/Conservation).

The lands form part of a large tract of land identified as a Masterplan site on the land Use zoning map.

Objective UD-08 *'prepare an overall Masterplan for the site [see zoning map] and adjacent area in order to ensure a coordinated and sustainable development of the area. The masterplan will be prepared prior to the consideration of development proposals.'*

3.0 Planning History

None stated.

4.0 Submission to the Local Authority

The appellants made a submission to the Local Authority seeking to have their lands removed from the draft map on the basis they are in dispute with KCC with regard to zoning and planning for this property and have been informed that it cannot be

developed until a masterplan is put in place by the local authority. It is also submitted that the section of property that is zoned residential is not a practical size to develop housing due to the size of the green belt imposed.

5.0 Determination by the Local Authority

The local authority determined that the site fulfils the qualifying criteria to be included in the Final Map for the Residential Zoned Land Tax or the following reason:

1) The land in question is included in a local area plan and is zoned for residential development, 2) the land is serviced, or is reasonable to consider may have access to services and 3) the land is not affected in terms of physical condition, by matters to a sufficient extent to preclude the provision of dwellings, including contamination or the presence of archaeological or historic remains.

6.0 The Appeal

6.1 Grounds of Appeal

The grounds of appeal are summarised as follows:

- The appellant is keen to develop that lands as soon as possible to build a family home.
- It is submitted that the land has recently been zoned residential but KCC has ruled that the land cannot be developed until such a time as a Masterplan has been put in place for the lands in the immediate area.
- KCC have indicated that there are no plans at this point to develop a Masterplan for the lands in question.
- The appellant submits that therefore the development of the lands is outside his control and should not be liable to pay RZLT.

7.0 Local Authority Submission

- All of the planning issues are dealt within the planner's report.

- The content of the appeal does not raise any additional points that have not already been addressed by the planning authority in its report on the submission.

8.0 Assessment

The grounds of appeal have raised issues that are not within the remit of section 653B. Under section 653J 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. The Residential Zoned Land Tax- Guidelines for Planning Authorities June 2022 which clearly sets out in section 3.3.2 the restrictions to considering criteria for inclusion. This states 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 in the map, and states that the first consideration for inclusion in the map 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 bulk of the appeal lands are zoned residential and therefore within scope of section 653B(a). The portion of the appeal lands located along the road frontage with High Street are the subject of 'green zoning' which appear to be G3 Landscape Protection. Residential development is not a permitted use on lands zoned GRC (Green/Recreation/Conservation). As such this portion of the land does not fall within the scope of section 653B(a) and should be excluded from the map.

The appellant requested that his site be removed from the map due to the absence of a Masterplan as is stated is required by Kerry County Council under objective UD-08 before the lands in question can be developed. The lands are zoned R1 New/Proposed Residential under the current Corca Dhuibhne Local Area Plan 2021-2027 as such comply with section 353B(a)(i). The requirement for a masterplan to be prepared is not included in the criteria for exclusion as set out under section 353B, as such I consider that the land complies with the criteria set out in section 353B of the Taxes Consolidation Act 1997 and this ground of appeal dismissed.

Having regard to the foregoing I consider that the lands zoned residential identified as KE-C6-RZLT-25 meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, and that there are no matters arising that warrant exclusion from the map.

9.0 Conclusion & Recommendation

The portion lands identified as KE-C6-RZLT-25 located along the road frontage with High Street are the subject of 'green zoning' under which residential development is not a permitted use on lands zoned GRC (Green/Recreation/Conservation). As such this portion of the land does not fall within the scope of section 653B(a) and should be excluded from the map. I recommend that the board cancel the determination of the local authority relating to this portion of the lands and direct the local authority to remove this portion of the lands identified as KE-C6-RZLT-25 from the map.

The remainder of the lands 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. The lands are accessible and there is no reason why they cannot be developed in principle in accordance with the residential zoning objective that applies to these lands. This portion of the lands identified as KE-C6-RZLT-25 meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, and that there are no matters arising that warrant exclusion from the map. And I recommend that the board confirm the determination of the local authority relating to the remainder of the lands direct the local authority to retain the lands identified as KE-C6-RZLT-25 on the map.

10.0 Reasons and Considerations

The portion lands identified as KE-C6-RZLT-25 located along the road frontage with High Street are the subject of 'green zoning' under which residential development is not a permitted use such this portion of the land does not fall within the scope of section 653B(a) and should be excluded from the map.

The remainder of the lands identified as KE-C6-RZLT-25 meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, and that there are no matters arising that warrant exclusion from the map.

I confirm that the report represents my professional planning assessment, judgment and opinion on the matter assigned to me and that no person has influenced or tried to influence, directly or indirectly, the exercise of my professional judgment in an improper or inappropriate way.

Dáire McDevitt
Senior Planning Inspector
11th July 2023