



An
Bord
Pleanála

Inspector's Report ABP-316319-23

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	Kellystown, Clonsilla, Dublin 15.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	RZLT025/22
Appellant(s)	Kevin Molloy
Inspector	Paul O'Brien

1.0 Site Location and Description

1.1. The subject site is located in Kellystown, Clonsilla, Dublin 15, approximately 2 km to the south west of Blanchardstown town centre. The irregular shaped site, with a stated area of 16.8 hectares, is to the south of the Dublin to Sligo railway line/ and the Royal Canal and is located to the west of the Porterstown Road, though does not directly adjoin this road. The site does not have any direct road frontage and is under grass in agricultural use.

2.0 Zoning and Other Provisions

2.1. The site is within the 'Development Boundary' of Blanchardstown. The subject site is zoned RA – to 'Provide for new residential communities subject to the provision of the necessary social and physical infrastructure'.

2.2. The site is subject to a Local Area Plan, an indicative road network is provided on the development plan maps and two proposed schools are indicated on the subject site lands.

2.3. The Kellystown Local Area Plan was adopted in January 2021 and provides an indicative layout of the site. The subject site is located partially within Development Areas 1, 2 and 3. The lands are primarily for residential development, though the central section is proposed for a mix of Commercial, Mixed Use and educational uses. The 'Phasing of Development's is set out in Chapter 12 of the Local Area Plan.

2.4. There are no protected structures, national monuments or any other similar item indicated on the development plan maps.

3.0 Planning History

3.1. None.

4.0 Submission to the Local Authority

4.1. The appellant made a submission to the Local Authority seeking to have its lands removed from the draft map on the basis that the land was not suitably serviced in

terms of roads, and public water supply. Significant upgrades would be required to existing infrastructure to enable the site to be developed. There is a need for approximately 700 m of the Kellystown Road to be built through the applicant's lands. The land is subject to phasing in the local area plan, and third-party lands would be developed in advance of the subject lands.

5.0 Determination by the Local Authority

5.1. The Local Authority determined that the site was in scope and should remain on the map. The land is serviced/ it is considered reasonable that the site can be fully serviced. The land is not constrained by its physical condition that would preclude the development of housing, the site is not contaminated and there is no known archaeological/ historic remains here. The existing use of the site does not allow for its exclusion as set out in Section 653B(c) of the Finance Act 2021.

6.0 The Appeal

6.1. Grounds of Appeal

- The site does not have access to public road and public water services.
- Existing services will require significant upgrades to make them suitable for residential development in the future.
- The development of the site is dependent on the provision of the Kellystown Road, approximately 700 m of which crosses through the applicant's lands.
- The Kellystown Local Area Plan provides for a phased development of the plan lands and the subject lands are not proposed for development within the first phase.
- Other phasing issues include the relocation of a football club, provision of services and the development of a wetland as part of the SuDS management strategy.

The site should therefore be omitted from the map under Section 653(b)(c) for these listed reasons.

7.0 Assessment

- 7.1. The site can be serviced by road and water services, Uisce Éireann have confirmed that new infrastructure will be required to serve the site and there is capacity in the network for some development, but phasing may be required. Whilst these infrastructure elements may not be in place at present, these would be expected to be provided in conjunction with the development of a site, generally developer led.
- 7.2. Similarly, the development of a road network to serve a development would only take place if there was certainty that actual on-site construction was to take place. The provision of an internal road network with connection to the public road network would be developer led.
- 7.3. I note the issue of phasing, development of the Kellystown Road and the fact that the site does not have suitable direct road access. The section of land between the appellants site and the public road appears to be in third party ownership and therefore the appellant may not a right of access over these lands at present. The phased nature of the development of the lands in Kellystown is such that, the development of lands that are located in phase 2 and 3, cannot commence until works within Phase 1 are complete. There are no details as to when the Kellystown Road and the provision of services within Phase 1 are due to commence.
- 7.4. I therefore consider that the site should be omitted from the map as necessary infrastructure to be provided in line with the phased development of these lands is not proposed at this time. The appellant has no certainty that they could develop these lands without the provision of infrastructure which is to be provided by third parties. Access to the site is also restricted as the infrastructure including access to the appellants lands will be over third-party lands.

8.0 Recommendation

- 8.1. I recommend that the board set aside the determination of the Local Authority and allow the appeal.

9.0 Reasons and Considerations

9.1. The development of these lands is dependent on the provision of infrastructure including a length of road and a connection to the public road network, that is over lands not in the appellants control and for which there is no timeframe for the development of this necessary infrastructure. Therefore, the site does not satisfy the criterion for inclusion on the map set out in section 653B(c) of the Taxes Consolidation Act 1997, as amended.

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.

Paul O'Brien
Planning Inspector

30th May 2023