



An
Bord
Pleanála

Inspector's Report

ABP-316349-23

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	Palmer Road, Rush, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	RZLT100/22
Appellant(s)	Veronica Langan
Inspector	Rachel Gleave O'Connor

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1.0 Site Location and Description

- 1.1. The site is located to the north of Palmer Road and is in agricultural use. Lands to the north, south, east and west are also in agricultural use. St. Catherine's National School is to the north east and there are existing residential estates further to the east.

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.

3.0 Planning History

- 3.1. No records of any relevant planning history. Records relate to agricultural matters.

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 there are no access to footpaths and road, public lighting, foul sewer drainage, surface water drainage and mains water supply.

5.0 Determination by the Local Authority

- 5.1. The local authority consulted with Uisce Éireann, who confirmed that with respect to Water Networks, the site is not serviced, the nearest watermain is circa 300m east along Palmer Road. With respect to wastewater, the site is not serviced. The nearest sewer is circa 300m east along Palmer Road. A report from Water Services at the local authority, states that the lands are located in the vicinity of services, while upgrades may be required, it is reasonable to expect such works to be included as part of any future planning application.
- 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 does not have certification from Irish Water and the other relevant stakeholders that the land in question is not in scope with Section 653B of Part 22A of the Taxes Consolidation Act 1997 and the Residential Zoned Land Tax – Guidelines for Planning Authorities June 2022.
- Any land which is considered to fall in scope by way of a new zoning or servicing after 1 January 2022, either for the draft, supplemental or any subsequent map must have a date attributed on the map indicating when the land first satisfied the relevant criteria, and such lands will fall into scope 3 years after satisfying the relevant criteria in order to provide time for the landowner to activate the lands for housing (section 653Q(1)(b)).
- The capacity register for Irish Water published March 2022 available on its website which is after the 1 January 2022 cut off point of the Guidelines for Fingal outlines the general area of Rush is defined as an indication of capacity available but not sufficient to support 2031 population targets and improvement to the level of service will be required. The subject site does not have a date attributed to it on the map indicating when the land first satisfied the relevant criteria to fall into scope land for the purposes for inclusion on the map. The land in question was not included as serviced either before or after any cut-off dates as published by the guidelines.
- No evidence FCC has received confirmation from Irish Water and other relevant stakeholders of a certified date that there is service capacity available sufficient to enable housing to be developed for the land in question enabling it to be included on the map.

7.0 Planning Authority Response

- 7.1. The Planning Authority notes under Section 3.2 Local Authority Responsibilities – Date for Lands in Scope, as set out in the Residential Zoned Land Tax – Guidelines for Planning Authorities June 2022, that ‘lands considered to be in scope on or prior

to 1 January 2022 do not need to have a date indicated on the map as to when the land fell into scope, and such lands will be liable for the tax.'

8.0 Assessment

- 8.1. The appeal grounds refer to the date that the lands were considered to be in scope for the tax, and I note the Planning Authority's response in this regard. I am satisfied that no exemption for the RZLT would apply to the site with regard to this matter.
- 8.2. Services such as drainage, water and wastewater can be connected to, as confirmed by Uisce Éireann and the Water Services section of the local authority. Upgrade and connection works could take place across local authority lands (roads) and would be within the normal parameters of a development proposition.
- 8.3. With respect to pedestrian footpaths, the site does not appear to benefit from existing public footpaths to Palmer Road, and while the development of the lands might reasonably be expected to include an extent of footpath infrastructure, to connect to the nearest existing footpaths to this appeal site, would require the creation of significant new sections. The site is situated adjacent to agricultural lands and the nearest existing residential estates are separated to the site by c.200m on Palmer Road, with interfaces to lands that may be in third party ownership in-between.
- 8.4. Page 25 of the RZLT Guidelines state that with respect to footpath access:
"for lands to be considered in scope, there should be an ease of connection to an existing footpath network to facilitate active travel modes from the outset. Provision of significant sections of new footpath across other landholdings, where the land is not in the control of the landowner or local authority should be discounted when considering lands to be in-scope."
- 8.5. It is likely that to create new footpath infrastructure, works would be required on third party lands outside of the ownership of either the appellant or public authority.
- 8.6. As a result, in my opinion, due to the extent of new footpath infrastructure required and the uncertainty of whether this would require works in third party lands, the site should not be considered in-scope.

9.0 Recommendation

- 9.1. I recommend that the board set aside the determination of the local authority and allow the appeal.

10.0 Reasons and Considerations

- 10.1. The land is not connected to the existing footpath network in Rush and would require the provision of significant sections of new footpath across other landholdings where land is not in the control of the landowner or local authority. The land, therefore, does not satisfy the criteria cited in section 653B(b) of the Taxes Consolidation Act 1997, as amended.

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