



An
Bord
Pleanála

Inspector's Report

ABP-316356-23

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	Castle Heights, Carrigaline, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	DRZLT473651915
Appellant(s)	Jim Luby and Tom Rogers
Inspector	Rachel Gleave O'Connor

1.0 Site Location and Description

1.1. The site is located to the north of Castle Heights, north west of Fuchsia Avenue and north east of Fern Dale. The area to the east, west and north is characterised by residential estates with areas to the south formed of agricultural / greenfield lands.

2.0 Zoning and other provisions

2.1. The site is zoned 'Existing Residential / Mixed Residential and Other Uses' under the Cork County Development Plan 2022-2028. Residential is identified as an appropriate use under the zoning Objective in the Development Plan.

3.0 Planning History

3.1. Reg. Ref. 17/04176 – Planning Permission GRANTED for 214 no. dwelling houses. 14th August 2017.

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. It stated that:

- The majority of the permitted residential development known as Castle Heights is substantially complete (site plan and photos attached to submission). Only 24 dwellings are yet to be completed, scheduled for completion Sep 2023. The Council have correctly omitted the completed and sold units on the southern end of the site.
- The developer has paid for significant necessary public infrastructure as part of the planning permission. It would be unreasonable for the developer to now be liable for RZLT.
- A significant portion of parcel ID 'EX-RES-1018' relates to lands which are not liable for RZLT, which include spine road, open space / amenity areas, creche and long riparian strip. These areas should not be included for RZLT.

5.0 Determination by the Local Authority

5.1. The local authority provided an evaluation of the site with reference to the RZLT Guidelines, confirming the following:

- Housing estate currently under construction. Until site construction is complete, liability/exemptions are a matter for landowner submission to Revenue. On completion of site construction, future RZLT Maps will exclude public open space and roads.

6.0 The Appeal

6.1. Grounds of Appeal

- The decision taken by Cork County Council did not provide a satisfactory infrastructural assessment of the lands as required under Sections 3.1.1 and 4.1.1 of the Residential Zoned Land Tax Guidelines.
- The majority of the Castle Heights residential development is substantially complete and should be removed from the RZLT maps.
- The developer has paid for significant necessary public infrastructure as part of the planning permission. It would be unreasonable for the developer to now be liable for RZLT.
- A significant portion of parcel ID 'EX-RES-1018' relates to lands which are not liable for RZLT, which include spine road, open space / amenity areas, creche and long riparian strip. These areas should not be included for RZLT.

7.0 Local Authority Response

- Cork County Council had full regard to infrastructural capacities.
- Exemptions/reductions in tax liability arising from RZLT are a matter for landowners and Revenue.
- The site remains in scope until developed.

8.0 Assessment

8.1. The subject site is in the process of being built out for residential use, in accordance with planning permission granted in 2017 and scheduled for completion in September this year.

8.2. Page 47 of the RZLT Guidelines states:

“ii) Deferral for commencement of development

Deferral of the tax is available in circumstances where a residential led development on the scoped residential or mixed use zoned land is commenced. The tax is only deferred so long as the permitted development is completed within the duration of the planning permission. The period of duration of the planning permission is taken from the first commencement notice lodged on the land for development, notwithstanding that amending permissions and subsequent commencement notices may be lodged for the same land or area of land.” (Page 47).

8.3. Page 46 of the Guidelines make it clear that deferral is a matter between the landowner and Revenue.

“Deferral of the tax is only available so long as the development is underway and completed within the duration of the planning permission. Records of commencement notices and certificates of compliance on completion of development must be made available via the BCMS system. This system will be utilised by landowners to provide evidence as part of self-assessment and annual tax returns regarding commencement and completion of development.” (Page 46).

8.4. Whether the subject site is eligible for a deferral of the RZLT does not impact consideration of whether the site is in-scope for the purposes of the map. The site meets the criteria for inclusion for the RZLT map, being zoned residential and serviced, or with ease of connection to infrastructure and networks. Revenue is the appropriate body to engage with in relation to deferral of payment of the RZLT.

8.5. As such, the site is in-scope for inclusion on the RZLT map.

9.0 Recommendation

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

10.0 Reasons and Considerations

- 10.1. 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 the Guidelines for Planning Authorities on the Residential Zoned Land Tax, the site should remain on the RZLT map. Deferral of the tax is available where a residential led development is commenced. Records of commencement notices will be required to demonstrate this as part of evidence for self-assessment and for annual tax returns. Deferrals of payment of the tax is a matter between the landowner and Revenue and does not affect the consideration of whether a site is considered to be 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

31 August 2023