



An
Bord
Pleanála

Inspector's Report

ABP-316358-23

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 Dromasmole, Tower, Blarney, Cork

Local Authority

Cork City Council.

Planning Authority Reg. Ref.

CRK-RZLT-38.

Appellant(s)

Brendan O'Connell.

Inspector

Daire McDevitt.

1.0 Site Location and Description

The lands identified as CRK-RZLT-38 (Parcel ID CCLA 00066063 and CCLA00066064) refer to lands on the southern site of the Bawnafinny Road in Dromasmole, Tower, Blarney, Cork.

2.0 Zoning and other provisions

The relevant plan is the Cork City Development Plan 2022-2028.

The lands are zoned ZO 01 Sustainable Residential Neighbourhood (Map 18).

3.0 Planning History

None noted.

4.0 Submission to the Local Authority

The appellants made a submission to the local authority seeking to have their land removed from the draft map, requesting that lands be excluded on the basis of lack of connectivity (cycle and pedestrian footpaths) to the lands. Not timeline for CCC to deliver infrastructure (CCC responsibility) as such addressing the deficiencies is beyond the control of the appellant. Without certainty on the delivery of infrastructure is it not reasonable to consider that the appellant has access to public infrastructure and facilities and water supply necessary for dwellings to be developed.

5.0 Determination by the Local Authority

The local authority determined that:

- The land is included in the Cork City Development Plan 2022-2028, in accordance with section 10(2)(a) of the Act and is further zoned (i) solely or primarily for residential use.

- These lands satisfy section 653(B) of the act, in that it is reasonable to consider that the land may have access, or be connected, to public infrastructure and facilities, including roads and footpaths, public lighting, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed and with sufficient service capacity for such development.
1. The lands have been assessed in a manner consistent to Appendix 4 & 5 of the Residential Zoned Land Tax – Guidelines for Planning Authorities (June 2022), as amended, and are duly considered to be in scope for the tax.

6.0 The Appeal

6.1. Grounds of Appeal

Grounds of appeal are summarised as follows:

- The lands are in agriculture use and are located c. 900m southeast of Tower village centre. The lands are forced to cross the roadway ‘Bawnafinny’ to access the footpath provided by the estate at Gleann Fia. Due to the lack of public infrastructure the pathway is curtailed short and therefore there is no pedestrian access over the River Shournagh at Tower bridge. And in order to travel to Tower village centre, residents of the area it is submitted have to walk and/or cycle an additional c.600m/1km along the L229 to gain access to a footpath.
- Contrary the justification provided by CCC it is not reasonable to consider the lands have access to public infrastructure nor have a definitive timeline for delivery of said necessary infrastructure including pedestrian connectivity to accompany the delivery of housing to align with the objective and zoning designation of the CCDP.

7.0 Assessment

The comments raised in the appeal are noted.

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 lands are zoned residential and are considered within scope of section 653B(a)(i).

The grounds of appeal noted the current use of the lands as agriculture. With regard to the use of the lands for agricultural purposes, the 2022 RZLT Guidelines set out that the use of land for agricultural or horticultural purposes are not considered to be exempted from scope as they are not subject to rates. Based on the information available I have no evidence that this is the case. I am satisfied that the lands do not meet the criteria for exclusion set out in section 653B(c)(i).

The grounds of appeal submit that contrary the justification provided by CCC it is not reasonable to consider the lands have access to public infrastructure nor have a definitive timeline for delivery of said necessary infrastructure including pedestrian connectivity to accompany the delivery of housing to align with the objective and zoning designation in the Cork City Development Plan.

I note that the site at present has no footpaths running along its road frontage with the Bawnafinny road. There are paths on the opposite side of the road connecting Gleann Fia housing development. For the purposes of falling within the scope of RZLT the criteria is whether it to 'is reasonable to consider'. The land at present is not connected to the existing footpath network in Tower, however it is in principle reasonable to consider that the provision of a footpath along the Bawnafinny road may be provided where land is in the control of the landowner or local authority. On this basis the land, therefore, does satisfy the criteria cited in section 653B(b) of the Taxes Consolidation Act 1997, as amended.

The provision of infrastructure to the subject lands are considered to be in the control of Cork City Council and Uisce Eireann. I consider it is reasonable to consider that the provision of access, footpaths, public lighting, surface water drainage, sewer and water connections may be provided where land is in the control of the landowner or local authority. On this basis the land, therefore, satisfies the criteria cited in section 653B(b) of the Taxes Consolidation Act 1997, as amended and the grounds of appeal should be dismissed.

Having regard to the foregoing I consider that the lands identified as CRK-RZLT-38 (Parcel ID CCLA00066063 and CCLA00066064) meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended. The grounds of appeal have not raised other matters under section 653B of the Taxes Consolidation Act 1997, as amended and there are no matters arising that warrant exclusion of this portion of the lands from the final map.

8.0 Conclusion & Recommendation

The lands identified as CRK-RZLT-38 (Parcel ID CCLA 00066063 and CCLA00066064) are located on lands where residential use is a permissible use in principle are considered in scope of section 653B(a). The lands are 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 in principle and there is no reason why they cannot be developed in principle in accordance with the residential zoning objective that applies to these lands.

The lands identified as CRK-RZLT-38 (Parcel ID CCLA 00066063 and CCLA00066064) 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 and direct the local authority to retain the lands identified as CRK-RZLT-38 (Parcel ID CCLA 00066063 and CCLA00066064) on the final map.

9.0 Reasons and Considerations

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 2022 Guidelines for Planning Authorities on the Residential Zoned Land Tax.

The lands identified as CRK-RZLT-38 (Parcel ID CCLA 00066063 and CCLA00066064) are located on lands zoned residential, are 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 in principle and there is no reason why they cannot be developed in principle in accordance with the residential zoning objective that applies to these lands. The lands identified as CRK-RZLT-38 (Parcel ID CCLA 00066063 and CCLA00066064) 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 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.

Dáire McDevitt

Senior Planning Inspector

5th September 2023