



An
Bord
Pleanála

Inspector's Report ABP-316394-23

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	Dublin Road, Leggettsrath West, Kilkenny, Co. Kilkenny
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	KK-C205-27
Appellant(s)	Alexander J. Wilsdon
Inspector	Paul O'Brien

1.0 Site Location and Description

- 1.1. The appeal refers to a site located to the north east of the Dublin Road, on the eastern side of Kilkenny City Centre. The land is in agricultural use and is under grass. To the north east of the site is the Dublin to Kilkenny railway line.
- 1.2. To the east is Shandon Park, an established residential development, and to the west is a yard/ depot occupied by a utility provider.

2.0 Zoning and Other Provisions

- 2.1. The subject site is located within the Kilkenny City Development Plan Boundary, which is part of the Kilkenny City and County Development Plan 2021 - 2017. The site is split almost halfway between two zonings, that to the west is zoned 'General Business' and that to the east is zoned 'Existing Residential'. Dwellings are included within both of the zonings.
- 2.2. The subject site is not in or adjacent to an Architectural Conservation Area (ACA) and there are no protected structures and/ or National Monuments on or adjacent to the subject site.

3.0 Planning History

- 3.1. There are no recent, relevant, valid applications on this site.

4.0 Submission to the Local Authority

- 4.1. The appellant made a submission to the Local Authority seeking to have their lands removed from the draft map. The land is not vacant/ idle as it is in agricultural use and forms an important part of a farming business. The land is leased, and it is considered that it cannot be developed for housing due to legal and financial reasons. Request that the zoning be removed from the development plan maps.

5.0 Determination by the Local Authority

- 5.1. The Local Authority determined that part of the site was in scope. The section zoned for 'General Business' use was to be removed from the maps. The remainder of the

site zoned for existing residential does not fall under any of the listed exemptions. Issues relating to legal impediments can be taken up with the Revenue Commissioners at a later stage of this process. The lands zoned existing residential are determined to remain on the RZLT maps.

6.0 The Appeal

6.1. Grounds of Appeal

The following points were made in support of the appeal:

- The mixed-use nature of the lands does not satisfy the criteria for inclusion on the RZLT maps.
- The lands are not vacant as a trade, in the form of farming, is in operation on these lands.
- Request that the lands be rezoned for a non-residential use.

6.2. Planning Authority Response

- No further comment.

7.0 Assessment

7.1. The comments raised in the appeal are noted. The Planning Authority have determined that the lands zoned 'General Business' be excluded from the maps and the remaining lands, zoned 'Existing Residential' were determined to be retained on the maps. The issue of zoning/ change of zoning is not a consideration for this process.

7.2. I note that comments made in reference to the use of these lands, however there are no exemptions from inclusion on the RZLT maps on the basis of the land been used for agricultural purposes.

7.3. I therefore consider that the site should remain for inclusion on the Residential Land Tax Maps as the site is suitably zoned for residential development and there is no reason as to why development cannot take place here.

8.0 Recommendation

- 8.1. I recommend that the board confirm the determination of the Local Authority and that the indicated site be retained on the map.

9.0 Reasons and Considerations

- 9.1. The appellant requested that their site, zoned 'Existing Residential' be removed from the map due to the fact that the site is in agricultural use. There are no exemptions from inclusion on the map on the basis of agricultural use of lands and the site therefore satisfies 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

26th June 2023