



An  
Bord  
Pleanála

## Inspector's Report ABP-316413-23

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**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 Map

**Location**

Lands west of the Maynooth Road (R405) and north of the Kilwoghan Stream, Crodaun, Celbridge, Co. Kildare

**Planning Authority**

Kildare County Council

**Planning Authority Reg. Ref.**

KCC-C108-19

**Appellant(s)**

Crodaun Development Company Limited

**Inspector**

John Duffy

## 1.0 Site Location and Description

- 1.1. The site is on the northern outskirts of Celbridge, Co. Kildare, on the eastern side of the Maynooth Road (R405). The lands consist of fields under pasture bounded by hedgerows. The northern part of the site adjoins a roundabout at the junction of the Maynooth Road and the R449 which leads to junction No. 6 on the M4 motorway. Kilwogan Stream runs along the site's southern boundary. The M4 Business Park and the Salesians secondary school are located to the north of the lands. The Castle Village and Crodaun Forest Park housing estates are located to the south and east of the lands respectively.
- 1.2. The subject lands comprise Land Parcel ID KELA00000202 on the draft RZLT map.

## 2.0 Zoning and Other Provisions

- 2.1. The Celbridge Local Area Plan 2017-2023 was adopted on 17<sup>th</sup> August 2017 for a six-year period. As such, while the LAP has now expired, it was in place when the Local Authority made its decision to include the subject site on the draft RZLT map on 28<sup>th</sup> March 2023.
- 2.2. The lands are zoned C – 'New Residential' with the objective 'To provide for new residential development' in the Celbridge Local Area Plan 2017-2023.
- 2.3. Section 13.5.1 of the LAP identifies 5 Key Development Areas (KDAs). Each KDA is split into phases of development.
- 2.4. Crodaun is identified as a Key Development Area (KDA 4) in the Celbridge LAP and is subject to a Design Brief which sets out the broad parameters for the future development of the area. Figure 12.3 of the LAP sets out the Design Concept for the area.

## 3.0 Planning History

- Subject site:TA09.307100 relates to a SHD application for 467 residential units, childcare facility and associated site works. Judicial Review proceedings were taken in respect of the decision made by An Bord Pleanála. The High Court

issued Terms of Settlement in November 2022 which is appended to the appeal submission.

Site east of Maynooth Road: TA09.306504 relates to a SHD application for demolition of existing structure, construction of 372 no. residential units (218 houses and 154 apartments), childcare facility and associated site works, which was granted permission in 2020.

#### **4.0 Submission to the Local Authority**

4.1. The appellant made a submission to the Local Authority seeking to have the subject land removed from the draft map given that the third-party judicial review proceedings taken in relation to the SHD application on the subject lands, which the landowner had no control over, led to the development of the lands being kept in abeyance for a period of more than 2 years. As such, the penalisation of the landowner by imposition of the tax would be unfair.

#### **5.0 Determination by the Local Authority**

5.1. The Local Authority determined that the site is in scope. The site is zoned for residential development in accordance with the Celbridge LAP 2017 – 2023. It is reasonable to consider the lands are serviced or have access to services necessary for dwellings to be developed and for which there is service capacity available. The issues in relation to delays / difficulties due to legal proceedings do not fall within the exemptions as set out in section 653B (c) of the legislation.

#### **6.0 The Appeal**

##### **6.1. Grounds of Appeal**

The following points were made in support of the appeal:

- Application of RZLT to the lands in the period between securing planning permission and housing delivery would compromise the financial viability of the site and as such the proposed scheme would be untenable.

- Permission granted under the SHD application (ABP Ref.TA09.307100) is effectively annulled following the outcome of the judicial review process. The development of the site has been in abeyance for more than 2 years due to the legal proceedings, which the landowner had no control over.
- The Settlement Agreement from the High Court was signed less than 6 weeks before the submission deadline in respect of the draft RZLT map.
- The landowner will have to incur additional costs engaging a full design team to develop a revised plan on the site which must consider issues arising from the Settlement Agreement and other design constraints. This will compromise the landowner's ability to provide for the efficient development of the lands.
- Imposing the tax on the landowner would be unfair.

## 7.0 Planning Authority Response

- No response on file

## 8.0 Assessment

- 8.1. The comments raised in the appeal are noted, as is the report of the Planning Authority which was received by An Bord Pleanála.
- 8.2. The site identified for inclusion on the RZLT map is zoned for residential use and the Local Planning Authority determined that the site remain on the RZLT map.
- 8.3. Section 3.2.3 of the RZLT Guidelines state that "*Matters which are unrelated to the criteria identified in section 653B such as **planning permission**, commencement on land in-scope, **finance**, or **personal circumstances** are not matters to be taken into account during consideration of submissions.*" (My emphasis). As such, the site is in scope for the RZLT.
- 8.4. In terms of the delay in the development on the land which was the subject of judicial review proceedings which have been decided by the High Court, this issue is not included in the criteria for exclusion as set out under section 653B, therefore this ground of appeal should be dismissed.

8.5. The appeal grounds do not raise any exclusions that would apply to the subject lands and warrant its removal from the map, with reference to the Taxes Consolidation Act 1997 as amended and the RZLT Guidelines.

## 9.0 Recommendation

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

## 10.0 Reasons and Considerations

10.1. Having regard to the determination by the Local Planning 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 3.2.3 of the Guidelines for Planning Authorities on the Residential Zoned Land Tax, the site is considered in scope for the purposes of the RZLT map.

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.

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John Duffy  
Planning Inspector

7<sup>th</sup> September 2023