



An
Bord
Pleanála

Inspector's Report ABP-316433-23

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 Map
Location	Lands at Shackleton, Oldtown, Celbridge, Co. Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	KCC-C108-17
Appellant(s)	Glenveagh Homes Limited
Inspector	John Duffy

1.0 Site Location and Description

- 1.1. The subject lands, previously in agricultural use are located on the western edge of Celbridge town within the townland of Ballymakealy Upper. The site addresses the R403 Shackleton Road on its eastern side, while a large residential development is nearing completion on adjoining lands to the north. Agricultural lands bound the site to the west and south. A 110 KV overhead power line traverses a portion of the site on its southern and western sides.
- 1.2. The subject lands comprise Land Parcel ID KELA00000194 on the draft RZLT map.

2.0 Zoning and Other Provisions

- 2.1. The Celbridge Local Area Plan 2017-2023 was adopted on 17th 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 28th 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. Oldtown is identified as a Key Development Area (KDA 3) 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 12.2 of the LAP sets out the Design Concept for the area.

3.0 Planning History

- Subject site:TA09.312958 is a current SHD application for 152 residential units (120 no. houses, 32 no. apartments), creche and associated site works. No decision has been made on this application to date.
- Adjoining site to the north: TA09.303295 relates to a SHD application for 251 residential units (167 houses and 84 apartments), creche and associated site works which was granted permission in 2019.

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 on the basis that development is constrained by wastewater capacity issues. Furthermore, overhead powerlines traverse the site. As such, the lands do not satisfy section 653B of the legislation.

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. There is both a watermain and a sewer in close proximity to the site. Available GIS data indicates the accessible sewer is 170m away via the Clane Road adjoining the land parcel. Uisce Éireann notes that significant upgrades are required which are currently under development. Water Services Section of the Council confirm that the infrastructure is currently being upgraded. 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 issue of overhead lines traversing the site can be considered through the development management process.

6.0 The Appeal

6.1. Grounds of Appeal

The following points were made in support of the appeal:

- The lands are constrained by wastewater capacity issues which is an impediment to the future development of this land.
- On 1st January 2022 there was (and there continues to be) no wastewater infrastructure to serve the site and therefore it is out of scope and should be removed from the draft map. Irish Water state they have no plans to extend the network in the area.
- 110KV power lines traverse the site. A development clearance of 23m either side of the power line is required. The lands should be excluded from the map in accordance with section 653B (c) (iii) (III). Reference is made to other Local Planning Authorities excluding lands on this basis and correspondence in this regard is included in the appeal submission.

6.2. Planning Authority Response

- No response on file

7.0 Assessment

- 7.1. The comments raised in the appeal are noted, as is the report of the Planning Authority which was received by An Bord Pleanála. 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.
- 7.2. The site is located on lands that form part of the Celbridge Local Area Plan and it is therefore to be expected that the site is suitable for development of residential units in accordance with the residential zoning that applies to the site.
- 7.3. Uisce Éireann, requested by the Local Planning Authority, provided a site-specific report dated 26th January 2023 which, in relation to wastewater services, stated the following:
- 7.4. 'UÉ wish to confirm that a sewer exists on the public road in close proximity to the site. Available GIS data indicates that the sewer is accessible (170m distance away) via the road (Clane Road) adjoining the land parcel. Limited capacity exists in the current network, and it may be noted that, significant upgrades are required which

are currently under development to cater for the entire development site, requiring a PS and rising main.'

- 7.5. Uisce Éireann's Wastewater Treatment Capacity Register indicates that the Wastewater Treatment Plant at Leixlip which also serves Celbridge is stated to have spare capacity available.
- 7.6. I note that the Water Services Section of the Local Authority has confirmed that the wastewater infrastructure is currently being upgraded. As such, I am of the opinion that the land satisfies criterion 653B (b) and that it is serviced or has access to services necessary for dwellings to be developed and with sufficient service capacity available for such development.
- 7.7. In terms of the 110KV overhead lines, one of which traverses a portion of the site on its southern and western sides and the second which runs north of the site, these power lines could potentially be undergrounded or relocated / re-routed; such works would generally be undertaken by a developer under the supervision of the relevant utility provider, or by the utility provider itself. I do not consider that the overhead lines meet the criterion for exclusion as referred to in section 653B (c)(iii) (III) of the legislation, and therefore the appeal on this ground should be dismissed.
- 7.8. 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.

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 lands be removed from the map on the basis that the lands do not satisfy section 653B (b) of the Taxes Consolidation Act 1997 as amended, on the basis that no wastewater infrastructure serves the site and that overhead powerlines traverse the site.
- 9.2. The site is within an area zoned for residential use that is serviced or has access to services necessary for dwellings to be developed and with sufficient service capacity

available for such development. The site does satisfy the criteria 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 profession 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.

John Duffy
Planning Inspector

7th September 2023