



An
Bord
Pleanála

Inspector's Report ABP-316436-23

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 Ballyoulster, Celbridge, Co. Kildare

Planning Authority

Kildare County Council

Planning Authority Reg. Ref.

KCC-C108-16

Appellant(s)

Kieran Curtain (Receiver)

Inspector

John Duffy

1.0 Site Location and Description

- 1.1. The subject lands which are in agricultural use, are located to the south-east of Celbridge town on the south side of the Dublin Road. They are bound by the Ballyoulster Park housing estate to the north, agricultural lands to the south, the Loughlinstown Road to the east, undeveloped adjoining lands in the control of the appellant to the west and the Primrose Gate / Willow residential area to the south-west.
- 1.2. The subject lands form part of Land Parcel ID KELA00000192 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. Section 13.5 notes that design proposals in KDAs will be subject to a phasing schedule to ensure that infrastructure, facilities and amenities are provided together with new residential development. The LAP notes that the ‘proposed phasing schedule is based on the premise that the number of dwelling units that may be permitted in each phase of development is dependent on the provision of a pre-determined level of completed infrastructure, facilities and amenities to serve each phase. To provide flexibility, the proposed phasing schedule is sequential (linked to housing output) rather than time specific.’
- 2.5. Ballyoulster is identified as a Key Development Area (KDA 2) 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 12.1 of the LAP sets out the Design Concept for the area.

2.6. In terms of the Ballyoulster KDA a number of types of infrastructure are required, including a Town Centre pedestrian / cycle link described as a new pedestrian and cycle link from Celbridge Main Street and Dublin Road including pedestrian and cycle bridge crossing of the River Liffey or improved pedestrian and cycle facilities on the existing Liffey Bridge.’ The LAP notes that this is ‘To be completed prior to the occupation of dwelling units 351 in this KDA.’

2.7. Sections 8.1 and 8.3 of the LAP relate to walking and cycling and roads/street network respectively, and include several objectives including:

MTO1.6: To facilitate a new pedestrian/cycling bridge across the Liffey linking to Celbridge Town Centre, in conjunction with any new development at Donaghcumper and new residential areas to the south.

MTO1.9: To upgrade existing pedestrian and cycle facilities across the River Liffey.

MTO 3.14(b): Improve the existing Liffey Bridge to better accommodate pedestrians and cyclists.

3.0 Planning History

- There is no recent relevant planning history relating to the subject lands.
- Adjoining lands to the west :TA09.313825 is a current SHD application for a 7 year permission for 344 no. residential units (130 no. houses, 214 no. apartments), creche and associated site works on adjoining lands to the west of the subject lands. No decision has been made on this application to date.

4.0 Submission to the Local Authority

4.1. The appellant made a submission to the Local Authority seeking to have the subject lands (described as Phase 2 and Phase 3 lands) removed from the draft map on the basis that public infrastructure, specifically the town centre pedestrian / cycle link as required by the Celbridge LAP is not in place, and therefore the lands do not satisfy section 653B (b) 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. 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 RZLT legislation does not provide exclusions for land on the basis of a phasing schedule set out in the Development Plan or Local Area Plan unless it is related to provision of specific infrastructure without which the land would not meet the criteria set out in 653B. The provision of infrastructure such as the pedestrian/cycle link is not necessary for dwellings to be developed on the subject lands.

6.0 The Appeal

6.1. Grounds of Appeal

The following points were made in support of the appeal:

- Phasing requirements of the Celbridge LAP requires provision of a pedestrian / cycle link to be completed prior to occupation of 'dwellings unit 351'. The lands do not satisfy section 653B (b) given that this piece of public infrastructure required by the LAP is not in place.
- The Phase 1 SHD application relating to the adjoining lands comprises 344 units. Phases 2 and 3 on the subject lands will exceed the 351 unit threshold as referred to in the LAP.
- While a Part 8 application for provision of a shared pedestrian and cycle bridge over the River Liffey has been agreed, the timescale for delivery of this infrastructure is not confirmed.
- Request that Phases 2 and 3 lands are removed from the draft map until such time as the issue concerning the link is resolved and timescales for its delivery are confirmed.

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. Phasing requirements of the Celbridge LAP require provision of a pedestrian / cycle link to be completed prior to occupation of 'dwellings unit 351.' I note that no decision has yet issued in respect of the SHD application on Phase 1 lands for development of 344 residential units. As such, no residential development has yet been permitted on Phase 1 lands and there is no obvious service constraint to development of the subject lands.
- 7.4. The legislation does not provide any exclusions for land on the basis of a phasing schedule set out in a development plan or local area plan unless the phasing is related to the provision of an identified piece of infrastructure without which the land would not meet the criteria set out in S.653B of the TCA 1997. Assuming the land meets the criteria in section 653B and the phasing is being utilised as a land management policy, it is considered to fall within scope. Page 9 of the RZLT Guidelines refers and states the following:

'In certain instances, phasing of particular settlements via an SDZ, LAP or non-statutory land use plan may require significant road or public transport infrastructure to be in place prior to development. Where such plans allow for a certain quantum of residential development prior to such projects being permitted or constructed, all of the land which may be able to access the infrastructure, or if specifically identified in the plan, the relevant phased area of land, should be considered in scope. Where development takes place and capacity no longer remains, then the annual review of the map should reflect this and lands may be removed from scope.'
- 7.5. Having regard to the RZLT Guidelines, I consider that the subject land is in scope and should remain on the draft RZLT map.

- 7.6. I am of the view that the subject 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.

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, given that provision of the pedestrian / cycle link required by the Celbridge LAP 2017-2023 has not been delivered.
- 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 (b) and (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