



An
Bord
Pleanála

Inspector's Report ABP-316456-23

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 Mariavilla (Phase 4), Moyglare Road, Maynooth, Co. Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	KCC-C108-9
Appellant(s)	Cairn Homes Properties Limited
Inspector	John Duffy

1.0 Site Location and Description

1.1. The subject site located on the eastern side of the Moyglare Road, north of Maynooth town centre. It is bounded to the north by Mariavilla Way leading to Lyreen Avenue which links the Moyglare Road with the Dunboyne Road through the wider Mariavilla residential development, that is at an advanced stage of construction. The lands are bounded by the Crewhill stream to the north, it joins the Lyreen River which itself flows at the eastern boundary of the site. The Divine Word Missionaries school complex is located to the south and west of the site. Maynooth University Campus is located adjacent the subject site on the western side of the Moyglare Road.

2.0 Zoning and Other Provisions

2.1. The lands were zoned C – ‘New Residential’ in the Maynooth Local Area Plan 2013-2019 with an objective ‘To provide for new residential areas. This zoning provides for new residential development areas and for associated local shopping and other services incidental to new residential development.’

2.2. The lands are not located within an Architectural Conservation Area.

2.3. The lands are not affected by issues to a sufficient extent which would preclude the provision of development, including contamination or the presence of known archaeological or historic remains.

2.4. There are several protected structures in the vicinity of the site including Maria Villa (RPS No. B05-09), St. Mary’s Catholic Church (B05-58) and Maynooth Parochial House (RPS No. B05-63).

2.5. The Maynooth Local Area Plan expired in 2019 and was not incorporated into the Kildare County Development Plan 2023 – 2029. In this context the following Objectives of the Development Plan are noted:

CSO 9 - Review and prepare on an ongoing basis a portfolio of Local Area Plans (LAPs) for the mandatory LAP settlements (and environs, where appropriate) of Naas, Maynooth, Newbridge, Leixlip, Kildare, Athy, Celbridge, Kilcock, Monasterevin, Sallins, Clane and Kilcullen in accordance with the objectives of the County Development Plan and all relevant Section 28 Ministerial Guidelines.

CSO 10 - Prepare a Joint Local Area Plan for Maynooth and Environs in conjunction with Meath County Council.

3.0 Planning History

- ABP Ref. TA09.314337 refers to a SHD application on the subject site for permission for 158 no. apartments, 260 no. student bedspace accommodation, creche and associated site works. A decision has not issued on this application to date.
- ABP Ref. TA09.301230 refers to a SHD application on the wider lands incorporating the subject site for a mixed use development of 462 no. dwellings including the refurbishment of Gate Lodge (a Protected Structure), 483 no. student accommodation bedspaces, creche, cafe, gym and retail unit, provision of a new 800m link street, new access junctions and all associated site works at Mariaville, Moyglare Road and Dunboyne Road, Maynooth, Co. Kildare. This application was granted permission in 2018. The duration of this permission was extended by 5 years in February 2023 (PA Refs. 22/1469 and 18/301230 refer).
- ABP Ref. TR09.303356 permitted a non-material alteration to the above SHD development relating to Condition no. 3(g) of the permission relating to rear garden boundary treatment.
- ABP Ref. TR09.304991 permitted non-material alterations to the above SHD development relating to, inter alia, taking in charge arrangements and car parking.

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 on the basis that they did not have access to public infrastructure in terms of wastewater treatment capacity on 1st January 2022. The appellant also noted that the lands north of the Lyreen River comprise a portion of public open space / recreational infrastructure being delivered as part of the SHD

application (TA09.301230 refers) on the wider site and noted this area should be excluded from the RZLT map in accordance with 653B of the Finance Act 2021.

5.0 Determination by the Local Authority

5.1. The Local Authority made a split decision, removing the portion of site required as public open space from the map (section 653B(c)(iii)(VII) refers) but keeping the remaining land on the map given it is zoned for residential development in the Maynooth Local Area Plan 2013-2019. The Local Authority concluded it is reasonable to consider that the land is serviced, or it is reasonable to consider may have access to water and wastewater infrastructure services.

6.0 The Appeal

6.1. Grounds of Appeal

The following points were made in support of the appeal:

- The lands did not have access to public infrastructure in terms of wastewater treatment capacity on 1st January 2022. Reference is made to the Uisce Éireann submission relating to the SHD application on the subject site (TA09.314337 refers) which noted that although the lands are connected to public infrastructure there is a timing issue in respect of delivery capacity arising from the necessary upgrade options, which the appellant submits constrains development.
- Lands north of the Lyreen River comprise a portion of public open space / recreational infrastructure being delivered as part of the SHD application (TA09.301230 refers) on the wider site. This area should be excluded from the RZLT map in accordance with 653B (c)(iii)(VII) of the Taxes Consolidation Act 1997, as amended.

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.
- 7.2. The zoning of these lands was under the Maynooth Local Area Plan 2013 - 2019, and this plan has now expired. The Planning Authority has commenced the process of preparation of a new plan, however the current plan has expired.
- 7.3. The subject lands are therefore not zoned, and the lands cannot be considered to be suitable for inclusion on the RZLT maps.

8.0 Recommendation

- 8.1. I recommend that the board set aside the determination of the Local Authority and that the indicated site be removed from the map.

9.0 Reasons and Considerations

- 9.1. The appellant requested that their site be removed from the map on the basis that it did not have access to public infrastructure in terms of wastewater treatment capacity on 1st January 2022 and also given that a portion of the site comprises public open space / recreational infrastructure being delivered as part of the SHD application (ABP-301230 refers).
- 9.2. The zoning of these lands was under the Maynooth Local Area Plan 2013-2019, and this plan has expired. The lands are therefore not zoned and should not be included on the relevant RZLT maps.

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

28th August 2023