



An
Bord
Pleanála

Inspector's Report ABP-316469-23.

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	Cooltederry, Portarlington, Co. Laois
Local Authority	Laois County Council.
Local Authority Reg. Ref.	LS-C46-RZLT-5
Appellant	Kingscroft Developments Limited
Inspector	Irené McCormack

1.0 **Site Description**

1.1. The site comprises lands at Cooltederry between the Ballymorris and Portlaoise Roads, Portarlinton, Co. Laois.

2.0 **Zoning**

2.1. The Laois County Development Plan 2021-2027 was adopted on 25th January 2022 and came into effect 8th March 2022.

2.2. The site is zoned R2 Zoning Objective - *To provide for new residential development, residential services and community facilities* in the Laois County Development Plan 2021-2027 and the Portarlinton Joint Local Area Plan 2018 – 2024.

3.0 **Planning History**

Recent

LCC Reg. Ref. 18/422 - Permission granted on 8th March 2019 for 62 no. dwellings.

4.0 **Submission to the Local Authority**

4.1. The appellant states that the lands are not vacant or idle, being subject to valid permission under PP18/422.

5.0 **Determination by the Local Authority**

5.1. The local authority determined that under the provisions of Section 653O (5) of the Taxes Consolidation Act 1997, the lands remain a relevant site for the purposes of administration of the tax until such times as a certification of compliance on completion of the development is lodged with the Planning Authority.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- The lands are under active development on a phased basis, with relevant Commencement Notice submitted to Laois County Council.
- The land is not considered to be 'vacant or idle'.

7.0 **Assessment**

7.1. Section 653A of the TCA 1997 sets out relevant interpretations for the implementation of the tax. A key element of these interpretations relate to lands which fall into and out of scope for the purpose of undertaking the mapping to accompany the taxation

measure. To satisfy the criteria as identified in section 653B, land must be zoned residential use or for mixed uses including residential within a Development Plan, Strategic Development Zone Planning Scheme or a Local Area Plan. This can include lands which are identified solely or primarily for residential purposes within a zoning matrix and mixed-use zonings where residential developments are permitted in principle. The lands must be serviced or have access to servicing by water, wastewater, road, footpath and public lighting; and not be affected by contamination or significant archaeological remains which would preclude development taking place.

7.2. The subject lands are zoned for residential development and serviceable, the appellant does not dispute this but argues that the lands are not 'vacant or idle' as the lands are currently under active residential development.

7.3. Section 4.1.1 vi) *Exclusions* of the guidelines state as identified in Section 3.1.2, there are a number of reasons why zoned and serviced land could be excluded from the map. This includes land in need of specific remediation for contamination, land which has significant known archaeological remains, land on the derelict site register, land required for infrastructure identified in section 653B(c)(iii)(I) – (VII), and exclusions for existing uses on land. Sections 653B(c)(i) and (c)(ii) respectively identify where certain uses may be excluded from the tax measure including reference to 'vacant or idle' land.

7.4. With respect to vacant or idle lands the guidelines state that land, which is located within mixed use zones, which permit a variety of uses including residential should only be considered to be in scope for the tax where they are vacant or idle. Setting out the text in the legislation 'vacant or idle land' means land which, having regard only to development (within the meaning of the Act of 2000) which is not unauthorised development (within the meaning of the Act of 2000), is not required for, or integral to, the operation of a trade or profession being carried out on, or adjacent to, the land;' the first step is to determine if the development on the land is required for or integral to a trade or profession being carried out on the land or adjacent to the land. The second step is to determine if the development is unauthorised. If the development on the land complies with the first step and is not unauthorised, then it is not in scope and should not be included within the maps. Conversely, if development on the land complies with the first step but is unauthorised development, then it is in scope and

should be included on the maps. The lands must comply with all steps to be excluded from the maps.

- 7.5. Regarding the subject lands the fact that the site is part of the phased development of lands is not considered to meet the criteria for exclusion as set out. This is reinforced in Section 3.2.3 *Consideration of Submissions on Inclusion on Maps* of the guidelines which states 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*”. Accordingly, the lands are considered ‘in-scope’.
- 7.6. The fact that the lands are under construction does not qualify for omitting the lands from the map under section 653B.
- 7.7. I note section 8.2 *Deferrals* of the guidelines state that deferrals on payment of the tax are available where a commencement notice is submitted, and substantial development begins (section 653AH). Deferral of the tax is only available so long as the development is underway and completed within the duration of the planning permission. The Board has no role in relation to the payment of the tax. The administration of the taxation measure is to be undertaken by the Revenue Commissioners.
- 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 direct the local authority to include the site on the map.

9.0 Reasons and Considerations

- 9.1. Having regard to the determination by the local 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 3.1.2 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.

Irené McCormack
Senior Planning Inspector
11th September 2023