



An
Bord
Pleanála

Inspector's Report ABP-316479-23.

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

Clonroosk Abbey, Off Western Orbital Road, Portlaoise, Co. Laois

Local Authority

Laois County Council.

Local Authority Reg. Ref.

LS-C46-RZLT-4

Appellant

Kingscroft Developments Ltd.

Inspector

Irené McCormack

1.0 Site Description

- 1.1. The site comprises 2.47ha. of lands at Clonroosk Abbey, Off Western Orbital Road, Portlaoise, 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 land is zoned Residential 1 - Existing Residential in the Laois County Development Plan 2021-2027 and the Portlaoise LAP 2018-2024.
- 2.3. Zoning Objective - *To protect and enhance the amenity of developed residential communities.*

3.0 Planning History

3.1. Site

LCC Reg. Ref. 23/81 – Permission granted on 2nd May 2023 for the extension of duration of permission 17/222 at Clonroosk Abbey, Clonroosk Link Road, Portlaoise, Co. Laois.

LCC Reg. Ref. 19/660 – Permission granted to Kingscroft Developments Limited on 28th January 2020 for the construction of 12 no. 2-storey semi-detached dwellings (site of previously permitted development under Laois County Council Plan. Reg. Ref. No. 08/1435 which has expired) in the townland of Clonroosk at Clonroosk Abbey, Clonroosk Link Road, Portlaoise, Co. Laois. Vehicular and pedestrian access to each dwelling will be via individual entrances from the Clonroosk Abbey internal road and footpath network currently being completed under Permitted Development Laois County Council Plan Reg Ref. No 17/222 at Clonroosk Abbey, Clonroosk Link Road, Portlaoise, Co. Laois.

LCC Reg. Ref. 17/222 – Permission granted on 31st January 2018 to Kingscroft Developments Limited for the construction of a residential development comprising 66 no. semi-detached houses of 2 storey equivalent in height (totaling 7,990 sq. m Gross Floor Area), all at this site of approximately 2.7 hectares at Clonroosk Abbey, Clonroosk Link Road, Portlaoise, Co. Laois.

4.0 Submission to the Local Authority

4.1. The appellant made a submission to the Local Authority seeking to have the lands excluded because they are not idle, being the subject of valid planning permission for residential development which the applicant is proceeding with.

5.0 Determination by the Local Authority

5.1. The local authority determined that the lands are not exempt for the tax having regard to the exemption criteria set out in Part 22A, Chapter 2, Finance Act 2021.

6.0 The Appeal

6.1. Grounds of Appeal

- The appellant made a submission to the Local Authority seeking to have the lands excluded because:
 - The landholding is subject of a 'live' grant of planning permission for residential development; and,
 - The landholding in question is thus not considered to be 'vacant or idle', is the subject of on-going development works with relevant Commencement Notices lodged. Work on all dwellings will be completed December 2023 with ancillary works such as roads and landscaping to be completed thereafter.

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 an active construction site is not considered to meet the criteria for exclusion as set out, the construction site is temporary and ancillary to planning permission granted. Therefore, I am not satisfied that the temporary construction activity on site associated with a live planning

permission complies with step 1. 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 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.

Irené McCormack
Senior Planning Inspector

11th August 2023