



An
Bord
Pleanála

Inspector's Report ABP-316501-23

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 Brightwater and Drakes Point, Crosshaven, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	DRZLT473681783
Appellant(s)	O'Flynn Group
Inspector	John Duffy

1.0 Site Location and Description

- 1.1. Crosshaven and the adjoining Bays of Fountainstown, Church bay, Fennell's Bay and Myrtleville are situated at the mouth of Cork Harbour and are located 20km south of Cork City Centre and 5km east of Carrigaline.
- 1.2. The lands, the subject of this appeal, comprise 3 land parcels, Land Parcel IDs EX-RES-119110, EX-RES-11191 and EX-RES-11569 indicated on the RZLT Map, which relate to lands within the adjoining residential developments of Drakes Point and Brightwater, situated to the south of Crosshaven village centre.

2.0 Zoning and Other Provisions

- 2.1. With effect from 6th June 2022 the Cork County Development Plan 2022 – 2028 replaced the 8 Municipal District Local Area Plans adopted in 2017, including the Carrigaline Municipal District LAP. Chapter 1 of Volume 4 of the Development Plan includes the key village of Crosshaven.
- 2.2. All the aforementioned Land Parcels, the subject lands of this appeal are zoned 'Existing Residential/Mixed Residential and Other Uses' in the Cork County Development Plan 2022 – 2028.

3.0 Planning History

The appeal submission provides an overview of the planning history on these residential lands over the past two decades.

4.0 Submission to the Local Authority

The appellant made a submission to the Local Authority seeking to have a total of 5 sites removed from the draft map in Crosshaven, Co. Cork. In terms of the 3 land parcels which are the subject of this appeal, the submission noted the following:

- Open space forms part of the residential development which has been implemented in accordance with the planning permissions pertaining to these residential lands.
- The residential developments are fully built out.

- Mapping does not reflect the present status of the lands.
- Areas of open space are deemed to be exempt from RZLT.

5.0 Determination by the Local Authority

- 5.1. The Local Authority determined that the subject lands meet the criteria for inclusion on the RZLT map as set out in section 653B of the Taxes Consolidation Act 1997.

6.0 The Appeal

6.1. Grounds of Appeal

The appeal relates to Land Parcel IDs EX-RES-119110, EX-RES-11191 and EX-RES-11569 only. The following points were made in support of the appeal:

- The subject lands include open spaces and paths associated with the completed residential development and these do not fall within the RZLT criteria.
- The Local Authority did not properly consider the provisions of section 653B in preparing the draft map and its determination. In this context the appeal makes specific reference to section 653B (c) (iii) (I), (II) and (VII) of the legislation.
- Other Local Authorities have omitted roads and open spaces in completed residential developments.

7.0 Planning Authority Response

- The Local Authority acknowledges that active open space associated with an existing residential development can be omitted from the final RZLT map. Existing residential properties are required to remain on the map.

8.0 Assessment

- 8.1. The comments raised in the appeal are noted, as is the report of the Local Authority. The sites identified for inclusion on the RZLT map are zoned for residential use and the Local Authority determined that the sites remain on the RZLT map.

- 8.2. The appeal grounds note that the lands, the subject of this appeal (i.e. Land Parcel IDs EX-RES-119110, EX-RES-11191 and EX-RES-11569) contain dwellings, open spaces and pathways/roads within the completed residential development.
- 8.3. Section 3.1.2 of the RZLT Guidelines relates to exclusions from the RZLT map. These exclusions are clearly set out in section 653B (c)(iii)(I) – (VII) of the Taxes Consolidation Act 1997, as amended and include (I) social, community or governmental infrastructure and facilities,(II) transport facilities and infrastructure, and (VII) recreational infrastructure, including sports facilities and playgrounds.
- 8.4. I concur with the appellant that the subject lands include areas of public open spaces and/or public pathways/roads which are within the parameters of section 653B(c)(iii) (II) and (VII) and that such areas should be excluded from the RZLT map.
- 8.5. I note the response of the Local Planning Authority to the appeal which acknowledges that active open space associated with an existing residential development can be omitted from the final RZLT map.
- 8.6. I concur with the Local Authority's view that existing residential properties within the subject lands are required to remain on the RZLT map. If the appeal sites are situated in the curtilage of a residential property, the RZLT Guidance states on page 8 that:
- Land which is zoned residential and contains existing residential development such as estates or individual houses are also considered 'in scope' from a zoning perspective and therefore must be included on the maps, however owners of residential properties within these areas will not be liable for the tax (See section 653O(1)(a) of the legislation).*

9.0 Recommendation

- 9.1. I recommend that the board set aside the determination of the Local Authority in respect of the three land parcels which are the subject of this appeal and that the RZLT map relating to these lands be amended to exclude public open spaces and public footpaths and roads from the RZLT map.

10.0 Reasons and Considerations

- 10.1. 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 appeal sites (zoned for residential use) are to be amended to exclude public open spaces, public footpaths and roads from 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.

John Duffy
Planning Inspector

18th September 2023