



An
Bord
Pleanála

Inspector's Report ABP-316548-23.

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 Blackrath, Athgarvan, Co. Kildare
Local Authority	Kildare County Council
Local Authority Reg. Ref.	KCC-C108-31
Appellant	Robert Doyle
Inspector	Emma Nevin

1.0 Site Description

- 1.1. The site, with an area of 7.24ha, is located in the townland of Blackrath, to the western edge to Athgarvan village. The site is an irregular shape and comprises several fields. Mountain View Housing estate, which comprises terraced and semi-detached dwellings, adjoins the site to the west.

2.0 Zoning

- 2.1. The site is zoned 'new residential' of Zoning Map V2-2.2A of Volume 2 of the Kildare County Development Plan, 2023 – 2029, under objective C, with a stated objective "*To provide for new residential development*".

3.0 Planning History

- 3.1. Ref: 19118: Conditional planning permission was granted by Kildare County Council on the 12th February 2020 for a development consisting of a new vehicular and pedestrian entrance connecting into a permitted new vehicular and pedestrian entrance onto the L-2032 Curragh Road (granted as part of approved Part 8 housing scheme ref; no. P8 2018-010); and 18 no. new houses, a new pedestrian connection to the west of the site to provide an access and linkage point to and from the adjacent approved Part 8 housing scheme (ref. no.; P8 2018-010); and all associated site development works within the overall masterplan site area.
- 3.2. Ref: 19117: Conditional planning permission was granted by Kildare County Council on the 12th February 2020 for a development consisting of a new vehicular and pedestrian entrance connecting into a permitted new vehicular and pedestrian entrance onto the L-2032 Curragh Road (granted as part of approved Part 8 housing scheme ref no. P8 2018-010); 95 no. new houses, proposed foul holding tank and pumping station for the development; and all associated site development works to include roads, paths, car parking, service connections, boundary treatments, landscaping etc. within the overall masterplan site area.

4.0 Submission to the Local Authority

- 4.1. The appellant submits that planning permission was granted on the subject site in April 2020 under PL. Ref. 19/117 and 19/118.
- 4.2. Kildare County Council received planning permission for a part development of 18 no. houses on adjoining lands which will facilitate shared access and discussions with Kildare County Council regarding this development are at an advanced stage.
- 4.3. As such the appellant requests that the lands are removed from the Draft RZLT Map.

5.0 Determination by the Local Authority

- 5.1. It was determined that the subject site fulfils the qualifying criteria set out in the Taxes Consolidation Act, 1997, as amended and the Section 28 Ministerial Guidelines “Residential Zoned Land Tax – Guidelines for Planning Authorities’ for inclusion on the RZLT Map.
- 5.2. The subject land is included in volume two of the Kildare County Development Plan 2023 - 2029 and is zoned for residential development.
- 5.3. The land is serviced, or it is reasonable to consider may have access to services.
- 5.4. The local authority has confirmed that construction is due to commence in respect of residential development and access Rd. on the adjacent Kildare County Council lands on the 20th of March 2023. Kildare County Council is finalising temporary access arrangements through Kildare County Council lands to allow development to commence on the lands, the subject of this submission.

6.0 The Appeal

6.1. Grounds of Appeal

- The appellant states that although the lands are zoned for development, the lands are not capable of being developed for housing or any other purposes as the said lands are landlocked.
- Although the lands that the benefits of planning permissions for development, the development of the land is completely dependent on access to services

including an access roadway which there is no current agreement. The landowner is dependent on the completion of an agreement with the Kildare County Council in respect of the development of the adjoining land, which will enable services to be provided for the subject site. Negotiations have been proceeding with Kildare County Council for some time, however, the final agreement was not possible because the development of the adjoining land, by the Council, was dependent on the completion of a tendering process and the appointment of a contractor for the development of such lands.

- Currently negotiations are ongoing with Kildare County Council with the attention of reaching an agreement for the provision of an access road to service the lands and the connection of services to the subject lands which are all outside of the control of the landowner at this time.

7.0 Assessment

- 7.1. To satisfy the criteria as identified in section 653B of the Taxes Consolidation Act 1997, as amended, land must be zoned residential use or for mixed uses including residential. The site is zoned new residential in the Kildare County Development Plan, 2023 – 2029.
- 7.2. I do not consider that the subject lands are landlocked as raised by the appellant, the site adjoins the L2032, 'Curragh Road', and there is also an adjoining roadway and entrance onto the L2032, via the adjoining 'Mountain View' residential development, to the west of the site. It is also noted that access was permitted from the subject site via a *"new vehicular and pedestrian entrance connecting into a permitted new vehicular and pedestrian entrance onto the L-2032 Curragh Road (granted as part of approved Part 8 housing scheme ref; no. P8 2018-010)"* under both permitted planning permissions PL. Ref. 19/117 and PL. Ref. 19/118.
- 7.3. The appellant states that they are dependent on the completion of an agreement with Kildare County Council in respect of the delivery of the adjoining site, in terms of access to services, however the local authority in their response have stated that *"it has been confirmed by the architects department of Kildare County Council that the contract for construction of the 18 no. social housing units including the access road that would provide access for development of the adjacent lands has been awarded*

a construction is due to commence on the 20th of March 2023. Furthermore, Kildare County Council is finalizing temporary access arrangements with the adjacent landowner to allow them to commence their own development through Kildare County Council lands". Therefore, it is reasonable to consider that the subjects lands may have access, or be connected, to public infrastructure and facilities, including roads and services necessary for dwellings to be developed on site as per as per section 653B (b) of the Taxes Consolidation Act 1997, as amended.

7.4. Regard is also had to 'Section 4.1.1 Considerations' subsection '(iii) Services to be considered', of the Residential Zoned Land Tax - Guidelines for Planning Authorities, June 2022 , which states *"Where provision has been made, but not yet constructed for road and pathway access through Local Authority consenting processes, then lands can be considered in-scope, where the process of tendering for construction of the permitted road or pathways has commenced"*.

7.5. As such, I consider that the site can be suitably serviced to allow for residential dwellings.

8.0 Recommendation

8.1. I recommend that the board confirm the determination of the local authority and direct the local authority to retain the lands identified as KCC-C108-31 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 Residential Zoned Land Tax - Guidelines for Planning Authorities, June 2022, the lands as identified KCC-C108-31 are considered in scope of section 653B 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.

Emma Nevin
Planning Inspector

25th August 2023