



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316620-23

---

<b>Type of Appeal</b>	Appeal under section 653J(1) of the Taxes Consolidation Act 1997, as amended, against the inclusion of land on the Residential Zoned Land Tax
<b>Location</b>	Bawn Road, Rush, Co. Dublin
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	RZLT120/22
<b>Appellant(s)</b>	Mary Buckley
<b>Inspector</b>	Rachel Gleave O'Connor

## **Contents**

1.0 Site Location and Description .....	3
2.0 Zoning and other provisions .....	3
3.0 Planning History.....	3
4.0 Submission to the Local Authority.....	3
5.0 Determination by the Local Authority .....	4
6.0 The Appeal .....	4
7.0 Assessment.....	4
8.0 Recommendation.....	5
9.0 Reasons and Considerations.....	6

## **1.0 Site Location and Description**

- 1.1. The site is located to the north of Bawn Road as it runs east – west, and to the rear of a property fronting Bawn Road as it runs north – south. The site itself is vacant and overgrown.

## **2.0 Zoning and other provisions**

- 2.1. The site is zoned RS – Residential and within the defined Development Boundary for Rush under the Fingal County Development Plan 2023-2029. There is also a specific objective for a Framework Plan covering part of the site and the wider area, as well as specific objectives in relation to the GDA Cycle Network Path and Preserve Views to the south of the site.

## **3.0 Planning History**

- 3.1. No records of any relevant planning history.
- 3.2. F10A/0221 – Planning permission GRANTED & GRANT RETENTION for the retention and completion of a partly constructed single storey dwelling house, the installation of a domestic waste water treatment system and percolation area and all associated site works on 19<sup>th</sup> July 2010. NOTE: The site area for the application comprised the appeal site and the residential plot to its east. The appeal site was included in the curtilage of the proposed house/for retention. The house under the application has been constructed as approved on the residential plot to the east of the appeal site. The appeal site is to its rear and a boundary is situated between the appeal site and the rear curtilage to the house.

## **4.0 Submission to the Local Authority**

- 4.1. The appellant made a submission to the Local Authority seeking to have its land removed from the draft map. The submission stated that the land is not served with sewage, water or drainage.

## **5.0 Determination by the Local Authority**

- 5.1. The local authority consulted with Uisce Éireann, who confirmed that the site is not currently serviced for water. The nearest watermain is approximately 65m to the east. With respect to wastewater, the site is not currently serviced but is serviceable from the foul sewer in the lane immediately to the south of the site. The water services report for the local authority states that there are services in the vicinity and it is reasonable to expect such works to be included as part of any future planning application.
- 5.2. The local authority determined that the site was in scope and should remain on the map.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- The property is not connected to mains sewage. While the main sewage pipe for Rush is in close proximity, this is the pressurised section of the pipe travelling from one pump house to another and any sewage connection would have to be pumped from the outlined site to the system on Bawn Road.
- ...the site is surrounded on one side by private property without public road access and while the public Bawn Road which has services but is a considerable distance from the site outlined also has a privately owned site between both the outlined site and the mains connections further up Bawn road.
- The lack of services and potential of services would be a severe negative in any plans to develop the site and would make any potential project largely cost prohibitive.

## **7.0 Assessment**

- 7.1. The appeal site previously formed part of the curtilage to a house approved/for retention under application F10A/0221. However, the appellant does not state that the appeal site remains part of the curtilage of that property which is now

constructed, and aerial images of the site indicate a boundary marking the demise of the house as distinct from the appeal site. As such, this assessment is on the basis of the site being self contained, and not forming part of the curtilage to the house to the east.

- 7.2. The appellant states that the site is not serviced and privately owned land lies between the site and services. However, Uisce Éireann have confirmed that the site could connect to services which are reasonably proximate, and these connections could be via the publicly controlled Bawn Road.
- 7.3. While the appellant does not raise the matter of connections to pedestrian infrastructure, it is apparent to me that there are no footpaths on Bawn Road proximate to the site. To connect to existing footpaths on Bawn Road further to the north, would require upgrades over a relatively significant distance given the size of the site, and overlapping lands in third party ownership. The provision of upgrades to roads, footpaths and provision of public lighting is all within the normal proposition that would be attached to a development proposals, however the RZLT guidelines state on page 25 that:
- ‘Provision of significant sections of new footpath across other landholdings, where the land is not in the control of the landowner or local authority should be discounted when considering lands to be in-scope.’*
- 7.4. It is likely that to create new footpath infrastructure, works would be required on third party lands outside of the ownership of either the appellant or public authority.
- 7.5. As a result, in my opinion, due to the extent of new footpath infrastructure required and the uncertainty of whether this would require works in third party lands, the site should not be considered in-scope.

## 8.0 Recommendation

- 8.1. I recommend that the board set aside the determination of the local authority and allow the appeal.

## 9.0 Reasons and Considerations

- 9.1. The land is not connected to the existing footpath network in Rush and would require the provision of significant sections of new footpath across other landholdings where land is not in the control of the landowner or local authority. The land, therefore, does not satisfy the criteria cited in section 653B(b) of the Taxes Consolidation Act 1997, as amended.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

---

Rachel Gleave O'Connor  
Senior Planning Inspector

23<sup>rd</sup> June 2023