



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316635-23

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<b>Development</b>	Inclusion of land on Residential Zoned Land Tax draft map
<b>Location</b>	Kenure Park, Rush, Co. Dublin
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	RZLT082/22
<b>Appellant(s)</b>	Camillus Archer
<b>Inspector</b>	Rachel Gleave O'Connor

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## 1.0 Site Location and Description

- 1.1. The site is located to the north west, and accessed from, Park Road. It also extends to Palmer Road to the north. It is situated to the north east of residential estates at Kenure Lawns and Kenure Park. The site immediately abuts agricultural lands to the north, south, east and west. The site is formed of agricultural fields and occupied by glasshouses.

## 2.0 Zoning and other provisions

- 2.1. The site is zoned RA – Residential Area and within the defined Development Boundary for Rush under the Fingal County Development Plan 2023-2029.

## 3.0 Planning History

- 3.1. No records of any relevant planning history.
- 3.2. Wider Area – Upgrades to Park Road:
- 3.3. F15A/0294 – Permission GRANTED on 1<sup>st</sup> February 2016 for Infrastructural site development works including roads, footpaths, cycleways, drains, sewers, watermains, surface water attenuation areas, below ground pumping station (with 2 no. above ground control kiosks) and rising main discharging to the Channel Road sewer system, below and above ground utilities, landscaping works, boundary treatment and all ancillary infrastructure and site development works to facilitate future housing on the subject lands. The development also includes demolition of existing glasshouses and existing cottage (in ruins - at north section of Park Road), widening of approx. 356m. of Park Road (south from St. Maurs GAA Club), a new sewer along widened roadway and for a further 110m. on Park Road, new vehicular and pedestrian access off Park Road and the section of the North/South Urban Road to be constructed under this proposed development, construction of new junction on Brook Lane (at its intersection with the proposed North/South Urban Road), decommissioning and removal of existing temporary wastewater treatment plant (on land to the east of Sea Brook housing development) and existing pumping station (near entrance to Brookford housing development) and connecting its existing sewers to the proposed foul sewer system and all other site development works. All

on lands within and adjoining KENURE (Rush) Local Area Plan lands in accordance with agreed Phase 1A conceptual framework/Master Plan. The total site area of the application is 8.53ha comprising of: (A) Site No. 1 - 6.038ha plot of land bounded by Sea Brook housing development to the west, Brook Lane and Brookford housing development to the south and agricultural fields/Woodland Park to the north and east; (B) Site No. 2 - 0.766ha plot of land bounded by Park Road to the east and agricultural fields to the north, south and west; (C) Site No. 3 - 1.005ha plot of land bounded by Park Road to the west, Kenure Lawns to the south and agricultural fields to the north and east; (D) Link road between Brook Lane and Park Road - 0.271ha plot of land bounded by Park Road to the south, Brook Lane to the north, Brookford Park housing development to the west and private houses to the east; (E) - 356m of Park Road south from St. Maurs GAA Club, Rush, Co. Dublin.

#### **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 site has been used for flower growing for over 30 years and for vegetable growing before that. The business supplies various businesses in the surrounding area. There is also an engineering workshop on the site. The local area plan proposes a road that will slice the nursery in two and leave it impossible for the nursery to continue to operate. The developers that operate in the area could not pay the kind of money it would take to relocate the business along with compensation. FCC can compulsory purchase and pay the market value for it in order to complete the plan they put in place.

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

- 5.1. The submission refers to an Engineering Workshop on the site, the planning status of which is unclear. It is understood that commercial rates are not being paid in connection with the Workshop.
- 5.2. The local authority stated that land for agricultural or horticultural purposes are not considered to be exempt from scope as they are not subject to rates.
- 5.3. 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

- Running a flower production nursery on the lands for over 30 years and growing lettuce, tomatoes and cucumbers for 20 years before that. The nursery consists of two acres of glasshouses, heating and automatic water systems, and a boiler and boiler house. There is also an engineering workshop on the premises. The land is zoned for residential and rates are not paid, these issues are not the responsibility of the landowner.
- Unreasonable that the business which supplies the country with plants will face this regressive tax because we don't pay commercial rates. This diminished my constitutional right to landownership. We pay taxes and VAT.

## 7.0 Assessment

- 7.1. 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. The fact that the lands are in active and established agricultural use does not qualify for omitting the lands from the map under section 653B, nor does the question of viability as a consequence of the application of the RZLT to the lands.
- 7.2. While the appeal grounds do not raise the matter of footpaths, I note that there are existing footpath infrastructure to the south of the site on Park Road, which links into the wider pedestrian infrastructure network at Hyde Court, Kenure Lawns and other residential estates along Park Road. Connection to services can also be achieved following the publicly owned road network.
- 7.3. As a result, I am of the view that the site can be serviced, and there is ease of connection to existing pedestrian infrastructure across landowner and local authority controlled lands.

## 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 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.

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Rachel Gleave O'Connor  
Senior Planning Inspector

23<sup>rd</sup> June 2023