



An
Bord
Pleanála

Inspector's Report ABP-316648-23.

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	Kinsealy Lane, Malahide, Co. Dublin.
Local Authority	Fingal County Council.
Local Authority Reg. Ref.	RZLT 144/22
Appellant	Maria Murphy
Inspector	Irené McCormack

1.0 Site Description

- 1.1. The site comprises c. 0.1ha. of lands on Kinsealy Lane, Malahide, Co. Dublin. The site contains two land parcels.

2.0 Zoning

- 2.1. The site is zoned RS – Residential in the Fingal Development Plan 2017-2023. This zoning Objective – *Provide for residential development and protect and improve residential amenity.*
- 2.2. Zoning Objective Vision- *Ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity.*

Note: Fingal Development Plan 2023-2029 was adopted by the Elected Members of Clare County Council at a Special Planning Meeting on the 22nd of February 2023. The Plan came into effect 6 weeks from the date of adoption, on 5th April 2023

3.0 Planning History

3.1. Site

FCC Reg. Ref F20A/0526 – Permission granted on 22nd January 2020 for A single storey vegetable chill shed of 65 square metres area and maximum height of 4.75 metres on a site of 980 square metres on the existing farmyard @ Murphy Farm, Kinsealy Lane, Malahide, Co. Dublin.

FCC Reg. Ref. F02A/193 - Permission granted in April 2002 to demolish existing outhouses, extend existing main agricultural barn to side, with lean to barn extension to rear of existing and proposed re-roof existing and extend roof onto existing and proposed main barn in a lean to style to provide additional infill barn, also to erect a detached single garage @ Murphy Farm, Kinsealy Lane, Malahide, Co. Dublin.

4.0 Submission to the Local Authority

- The lands in question are in use as part of the appellants garden and in agricultural use.

5.0 Determination by the Local Authority

- 5.1. The local authority determined the site to be in scope and should remain on the map. The local authority consideration stated that land is zoned and serviced.

5.2. PA note recent planning history and that commercial rates do not appear to be payable on the premises.

5.3. Section 3.1.1 Criteria for Inclusion within the Scope of the Tax Measures, use of land for agriculture or horticultural purposes are not considered to be exempt from scope.

6.0 The Appeal

6.1. Grounds of Appeal

- The appellants family home is located on one of the land parcels.
- The remaining lands are being farmed by family members. The lands contain various sheds and machinery.
- Road access is narrow.
- The current land use and physical condition does not allow for residential development.

7.0 Assessment

7.1. In relation to the current residential use the lands are in scope by virtue of Section 653B of Part 22A of the Taxes Consolidation Act 1997. However, Section 653O of the Act sets out that while the lands may be in scope for the tax, provided they are associated with the existing residence they are not liable for the RZLT. This is a matter for the Revenue Commission

7.2. Similarly, 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.

7.3. 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. The site is part of an established urban area with services available and no capacity or other reasons have been identified that would prevent the development of these lands for residential purposes. The site does satisfy the criterion for inclusion on the map set out in section 653B(c) 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.

Irené McCormack
Senior Planning Inspector

18th July 2023