



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316665-23

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<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>	Skerries Road, Rush, Co. Dublin
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	RZLT132/22
<b>Appellant(s)</b>	Gerry & Michael Leonard
<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 west of Skerries Road, south of Golden Ridge Avenue. To the north, west and south there is the Golden Ridge residential estates. To the east and on the opposite side of Skerries Road there are agricultural fields.

## **2.0 Zoning and other provisions**

- 2.1. The site is zoned RS – Residential and is 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.

## **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 there is an existing residential property with lands located to the rear and side. It is contested that the dwelling and its attending curtilage have been incorrectly identified as within scope for RZLT. The northern portion of the site is occupied by a residential dwelling which is liable to pay Local Property Tax.
- 4.2. It is intended that the landowner register the property within the eastern portion of the site with the Revenue Commission and as such will not be liable to the RZLT. Due to the fact that the entirety of the site is associated with the existing dwelling on site and as such is not liable to the RZLT, should the council be minded to include the lands to the rear and south of the site in the next iteration of the RZLT map, a justification for its exclusion based on the lands existing established use and their contribution to the families business is raised. The lands are highly productive and integral to the agricultural business.
- 4.3. The Fingal County Development Plan recognises the significant tradition of market gardening, specifically Objective RUSH 1. Note the governments Our Rural Future Rural Development Policy 2021-2025. The application of the RZLT designation to

these lands poses a significant threat to the local agricultural economy and the survival of long-standing farming enterprise.

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

5.1. The local authority stated that with regard to the private dwelling and associated land, Section 1.1 of the Tax and Duty Manual – Guidance on Residential Zoned Land Tax Part 22A-01-01 (in conjunction with part 22A of the Taxes Consolidation Act 1997 states at section 1.1 that:

‘an owner of a residential property that is included on a residential zoned land tax map will be required to register for RZLT if their garden and yards are greater than 0.4047ha, but no RZLT is payable.’

5.2. Also, the RZLT Guidelines indicate under section 3.1.1 Criteria for Inclusion within the Scope of the Tax measure that ‘while residential properties, the associated curtilage of which exceeds 0.4047ha are also not liable for the tax... owners of such properties must register for the RZLT and provide certain information to the Revenue Commissioners. This does not require any action on the part of the Planning Authority.’

5.3. Land for agricultural or horticultural purposes are not considered to be exempt from scope as they are not subject to rates.

5.4. 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**

- There is an existing residential property located on the lands associated with the site, which is within the ownership of the landowner subject to this appeal, and is already liable for the Local Property Tax payment.
- The lands are integral to the operation and success of G&M Leonard which supply’s locally grown produce to the Rush and North Dublin area.

- The Fingal Development Plan 2023-2029 includes objectives that support the significant tradition of market gardening in Rush, Objective CS058, Policies EEP28, EEP29, EEO78 & EEP30. Inclusion of the lands on the RZLT maps would be catastrophic for the business and would inevitably diminish the economic viability of the same, in turn resulting in the curtailment of the market gardening tradition for Rush.
- Reference to government publication Our Future Rural Development Policy 2021-2025, which highlights the importance of our agricultural sector to local economies and identifies the lack of profitability as being a significant threat to the sector.
- The legislation provides for instances whereby land may be excluded: 'Land which is zoned for residential uses but is used by a business to provide services to residents of adjacent areas such as a corner shop' and 'land that is zoned for a mixture of residential and other uses where it is reasonable to consider the land integral to the operation of a business carried out on or beside it.' The site ensures continued supply of local, high quality produce, made available to the local community and businesses within Rush and beyond. This supply is comparable to the service that would be operated by a shop.
- The site is not vacant or idle and is in active agricultural use and this was stated by the Finance Minister to provide a reasonable basis for removal of a site from the final RZLT maps.

## 7.0 Assessment

- 7.1. The appeal grounds suggest that the site is part of the curtilage to a dwelling where local property tax is paid. If the site is situated in the curtilage of a residential property, the RZLT Guidance states on page 6 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). While **residential properties, the associated***

***curtilage of which exceeds 0.4047 ha are also not liable for the tax (see section 653O(2) of the legislation), owners of such properties must register for the RZLT and provide certain information to the Revenue Commissioners. This does not require any action on the part of the Planning Authority.*** (emphasis added).

- 7.2. If the appeal site forms part of the curtilage of a residential property, it is not considered a 'site' for the purposes of the RZLT, however this does not mean that the lands are removed from the map and no action is required of the Planning Authority. The landowner (appellant) must register for the RZLT and provide information to the Revenue Commission, to demonstrate that the tax will not be payable.
- 7.3. The Taxes Consolidation Act 1997 as amended by the Finance Act 2021, includes in section 653B the criteria for inclusion in the map. This states that it is applicable to lands zoned '(a) (i) solely or primarily for residential use, or (ii) for a mixture of uses, including residential use' but not land '(c) (ii) that is referred to in paragraph (a)(ii) unless it is reasonable to consider that the land is vacant or idle.' The land is zoned primarily for residential use, and not for mixed use, and therefore the exemption under part (c)(ii) does not apply.
- 7.4. 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.
- 7.5. With respect to pedestrian footpaths, the site fronts onto Skerries Road and adjoins residential estates where pedestrian infrastructure is available and the footpath network can be easily connected into. Services can be connected via publicly owned lands following the road network, such connections would be reasonably included as part of any development proposition for the site.

## 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 (zoned RS - Residential) 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 June 2023