



An
Bord
Pleanála

Inspector's Report

ABP-316673-23

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	"Martins", Kenure Park, Rush, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	RZLT014/22
Appellant(s)	P+N Butterly Ltd
Inspector	Rachel Gleave O'Connor

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1.0 Site Location and Description

- 1.1. The site is located adjacent to modern housing estates at Knightsgate Green to the west and Kenure Gate to the east and south east. The site is also bounded by Park Road to the north east. The site itself is formed of an agricultural field.

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.

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 lands are not connected to services and so should be excluded from the map. The submission stated that the lands are used as a 4th generation family run farm. There is a small, outdoor, Bord Bia accredited fruit and vegetable shop on the Main Street of Rush serving the town and people from the wider Fingal area. Currently pay commercial rates on the yard on which this stall is located. The lands at Kenure Park are subject to the RZLT however this land is directly involved in the production of the vegetable crops that are sold both locally and at the shop on Rush Main Street. These lands are not lying idle, they are essential to the small business. It is not financially viable to pay the tax and would led to a cease of trading. Have a record of supporting a number of local community groups and sporting organisations.

5.0 Determination by the Local Authority

- 5.1. The local authority consulted with Uisce Éireann, who confirmed that with respect to water supply, the site is in close proximity (<20m) in Kenure Park to the east of the

northern part of the site, and with respect to wastewater, possible to connect to Brook Lane south of the site 300mm dia. sewer in close proximity (<15m).

- 5.2. 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.
- 5.3. 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.
- 5.4. 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

- The site has not been tested for services, but it is assumed that there are services available to the site.
- The lands have been in the ownership of the appellant family for 30+ years. The Butterly family's main business is farming primarily growing fruit and vegetables for sale in their local shop and for wholesale supply to some of the largest national grocery retailers.
- Not intended to develop the lands.
- There is sufficient activity in the construction sector locality to meet the housing needs of the area and its environs.

7.0 Assessment

- 7.1. The RZLT Guidelines confirm that use of land for agricultural or horticultural purposes are not considered to be exempted from scope as they are not subject to rates.
- 7.2. With respect to services, the site is immediately adjacent to existing road and pedestrian infrastructure at Knightsgate Green and Kenure Gate, both of which have roads that run right to the boundary with the appeal site, facilitating future connection with any future development upon the appeal site. The site also bounds a stretch of

Park Road and works to facilitate residential use would form part of a reasonable proposition for development of the site. The potential for connection to water and wastewater services has also been established by Uisce Éireann.

- 7.3. 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.
- 7.4. As a result of the foregoing, the lands are in scope for the purposes of the RZLT map.

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.

Rachel Gleave O'Connor
Senior Planning Inspector

23rd June 2023