



An
Bord
Pleanála

Inspector's Report ABP-316690-23

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	Friars Hill, Thomastown, Co. Kilkenny
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	KK-C205-20
Appellant(s)	Eric Wardrop
Inspector	Paul O'Brien

1.0 Site Location and Description

- 1.1. The appeal refers to two separate sites located to the south of Thomastown, Co. Kilkenny.
- 1.2. The southern most site (Parcel 1) is located to the south east of the R448 road and is adjacent to the access road/ junction to the Friars Hill Mews residential development. The site forms only a small section of a larger field, is in agricultural use and is under grass.
- 1.3. The second site (Parcel 2) is located to the north east of the Friars Hill Mews development and is an irregular shaped site. The site is not developed at present.

2.0 Zoning and Other Provisions

- 2.1. Both sites are located within the Thomastown 'Plan Boundary' lands. The lands to the north of the Friars Hill Mews development are zoned 'Existing Residential' and allow for the development of housing.
- 2.2. The lands to the south are partially zoned 'Existing Residential' but more than half of this site is zoned for 'Agriculture'. The objective for this zoning is 'To conserve and protect agricultural land from interference from non-agricultural uses. To prevent premature development of agricultural land adjacent to development areas'. In the 'Open for Consideration' section it includes 'dwelling houses in certain limited cases'.
- 2.3. The sites are not in or adjacent to an Architectural Conservation Area (ACA) and there are no protected structures and/ or National Monuments on or adjacent to the sites.

3.0 Planning History

- 3.1. There are no recent, relevant, valid applications on these sites.

4.0 Submission to the Local Authority

- 4.1. The appellant made a submission to the Local Authority seeking to have their lands removed from the draft map.

- 4.2. In relation to Parcel 1 (southern lands), access is only available from Friars Hill and in providing this, there would be insufficient room to develop the site. Access to these lands would be over landscaped open space that is not within the control of the applicant. Outside of this process, but as a point of information, the landowner has requested that the area of zoned land here be extended to enable the development of these lands.
- 4.3. These lands can be accessed from Friars Hill, however there is a legal issue over right of way and the taking in charge process for the Friars Hill Mew development. The site is therefore considered to be landlocked and cannot be developed.

5.0 Determination by the Local Authority

- 5.1. The Local Authority determined that part of the site was in scope. The site is zoned for residential development, and they have access to necessary public services.

6.0 The Appeal

6.1. Grounds of Appeal

The following points were made in support of the appeal:

- The need for an access to Parcel 1 would prevent the development of this site for residential uses. Request that the lands be removed from the map as they cannot be suitably developed for residential use.
- The Council consider that the sites can be serviced, however no evidence that they can be served has been provided.
- Parcel 2 is landlocked and cannot be developed. A section of land that should have been excluded from the taking in charge process is the primary issue.

6.2. Planning Authority Response

- No further comment.

7.0 Assessment

- 7.1. The comments raised in the appeal are noted. The sites are suitably zoned for residential development and the Planning Authority have reported that all necessary services are available. The appellant has queried the availability of services, however noting the location of the site within the 'Plan Boundary' of Thomastown and the existing service provision in the area, there is no indication that the sites cannot be adequately serviced.
- 7.2. In relation to land Parcel 2, the Planning Authority consider that the site can be accessed and that there is no restriction on this. The Friars Hill development has been taken in charge, though the legal transfer of the land has not been completed, there is no indication that this restricts the development of the lands.
- 7.3. How or otherwise a site is to be developed, is not a matter for this process. Parcel 1 is zoned for residential development, and the location of an access is not an issue for consideration, other than to state that access can be provided.
- 7.4. I therefore consider that the sites, should remain for inclusion on the Residential Land Tax Maps as the sites are suitably zoned for residential development and there is no reason as to why development cannot take place here.

8.0 Recommendation

- 8.1. I recommend that the board confirm the determination of the Local Authority and that the indicated sites be retained on the map.

9.0 Reasons and Considerations

- 9.1. The appellant requested that their sites be removed from the map due to the fact that access to the sites were restricted and that services may not be available.
- 9.2. The site is within 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. Access is possible to both sides, which would allow for the development of these lands for residential purposes. The sites 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.

Paul O'Brien
Planning Inspector

16th June 2023