



An
Bord
Pleanála

Inspector's Report

ABP-316698-23

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	Whitestown Road, Rush, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	RZLT102/22
Appellant(s)	David Flynn
Inspector	Rachel Gleave O'Connor

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1.0 Site Location and Description

- 1.1. The site is located to the north of Whitestown Road. It bounds the rear of residential properties to the north, that front Old Road, while on the opposite side of Whitestown Road to the south there are agricultural lands.

2.0 Zoning and other provisions

- 2.1. The site is zoned RS – Residential and within the defined Development Boundary for Rush under the Fingal County Development Plan 2023-2029. There is also a specific objective for a Road Proposal along Whitestown Road bounding the site.

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 the land is not fully serviced. Mains sewage network is over 500m by road to the nearest connection point and no water mains adjacent to the site. The site is not idle and is actively used as part of a commercial vegetable growing business.

5.0 Determination by the Local Authority

- 5.1. The local authority consulted with Uisce Éireann, who confirmed that the site is not currently serviced for water. The nearest watermain is approximately 230m to the east or west of the site. With respect to wastewater, the site is not currently serviced. The nearest sewer is circa.230m 90m east along Whitestown road. 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.
- 5.2. 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 are known wastewater capacity issues pertaining to the submission lands at Whitestown Road, and upgrade works would be required to facilitate a connection between the subject lands and the existing wastewater network located further east along Whitestown Road. There are also no watermains located adjacent to the subject site.
- The lands are integral to the operation and success of Forane Nurseries 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 subject site is located directly opposite the landowners business premises, and the landholding to the south of the subject site, of which the subject site forms apart, is subject to a mix of land use zonings.

- 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 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. While the lands to the south (of which this site forms part of the same landholding) are zoned mixed use, the portion of the site subject to this appeal is zoned primarily for residential use. 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 wastewater and water connections, Uisce Éireann confirm that connection points are located circa. 230m and 90m away from the site. Connection can be achieved following public road routes and therefore via lands in local authority control. The extent of works required to achieve connection would be part of any normal development proposition for a site, and therefore can reasonably be achieved. With respect to capacity, Uisce Éireann's online capacity registers so capacity is available in Rush.
- 7.3. With respect to pedestrian infrastructure, Whitestown Road in front of the site has footpaths.
- 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.

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