



An
Bord
Pleanála

Inspector's Report

ABP-316701-23

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	Lands at Ballincroig, Ballyvolane, Cork.
Local Authority	Cork City Council.
Planning Authority Reg. Ref.	CRK-RZLT-57.
Appellant(s)	Leo Seward & Ian Crockett.
Inspector	Daire McDevitt.

1.0 Site Location and Description

The lands identified as CRK-RZLT-57 (Land Parcel ID CCLA00025880) refers to lands at Ballincroig, Ballyvolane, Cork. The lands are located c.200m southwest of White's Cross and c.2km north east of Ballyvolane district centre.

2.0 Zoning and other provisions

The relevant plan is the Cork City Development Plan 2022-2028.

The lands are zoned ZO 01 Sustainable Residential Neighbourhood (Map 12).

Cork MASP

Policy Objective 9(i)

- Cork Northern Distributor Road delivering a multimodal orbital public transport route, accessing planned development lands, connecting to radial distributor roads and providing connectivity at its western end to join the existing N22.

Objective 9(q)

- North East Orbital Road (access for residential lands and public transport infrastructure Ballyvolane).

3.0 Planning History

None noted.

4.0 Submission to the Local Authority

The appellants made a submission to the local authority seeking to have their land removed from the draft map, requesting that lands be excluded on the basis that the site is not serviceable. Upgrade works are underway which are due to be completed Q2 2023 and until such time no connection to IW infrastructure is available.

5.0 Determination by the Local Authority

The local authority determined that:

- The land is included in the Cork City Development Plan 2022-2028, in accordance with section 10(2)(a) of the Act and is further zoned (i) solely or primarily for residential use.
- These lands satisfy section 653(B) of the act, in that it is reasonable to consider that the land may have access, or be connected, to public infrastructure and facilities, including roads and footpaths, public lighting, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed an with sufficient service capacity for such development.

6.0 The Appeal

6.1 Grounds of Appeal

Grounds of appeal are summarised as follows:

- The nearest foul water sewer is located on the Ballyhooly Road which is c.145m to the east of the site. The site does not have direct access to the adjacent L2980 therefore is accessed only via adjoining lands in the appellant's ownership to the east which are in agriculture use and to the south where permission for 98 houses was granted (PA Ref. 2140038 ABP ref. 311730).
- Reference to CoF letter from IW ref.CDS20007619) which sets out that the local wastewater infrastructure currently lacks sufficient capacity to cater for residential development at this location. IW have funding to enhance the capacity to provide for additional 700 homes but works have yet to commence.
- From a planning perspective it is likely that the lands will be serviceable during the lifetime of the Plan any currently have no live IW connection and therefore should be excluded from the RZLT.
- No capacity in the existing wastewater infrastructure on the 1st January 2022 or the 1st October 2022 therefore lands are out of scope.

- The appellants have outlined that they have no issue with RZLT and once site is serviceable are open to it being included in future editions of the RZLT map.

7.0 Assessment

The comments raised in the appeal are noted. The local authority outlined in its assessment why it has determined that the site is in scope for inclusion on the RZLT maps.

Section 653B of the Taxes Consolidation Act 1997 as amended, sets out the criteria for inclusion in the map, and states that the first consideration for inclusion in the map is land which in subsection (a) 'is included in a development plan' or 'local area plan' zoned solely or primarily for residential use, or for a mixture of uses including residential. The lands are zoned residential and considered within scope of section 653B(a)(i).

The provision of infrastructure to the subject lands are considered to be in the control of Cork City Council or Uisce Eireann and the local authority determined that that the subject lands are in scope and therefore retained within the RZLT Final Map. There is no correspondence on file from UE relating to the RZLT. The appellant has submitted a copy of a pre-connection enquiry dated 18 January 2021 relating to the adjoining lands to the south. This sets out that the water network on the Ballyhooly road was overloaded and required upgrade.

The appellants have submitted that there was no capacity in the existing wastewater infrastructure on the 1st January 2022 or the 1st October 2022 therefore lands are out of scope. Based on the information available I have no evidence that this was not the case and therefore the lands should be excluded.

For the purposes of falling within the scope of RZLT the criteria is whether it to 'is reasonable to consider'. In my opinion it is reasonable to consider that the provision of access, footpaths, public lighting, surface water drainage may be provided where land is in the control of the landowner or local authority. However based on the information available I have no evidence that there was capacity in the existing wastewater infrastructure on the 1st January 2022 or the 1st October 2022 to cater for additional development and therefore lands are out of scope and the grounds of appeal relating to this matter upheld. Whether there is capacity now is not the issue as The assessment relates to the relevant dates and the date the local authority made its Determination.

Having regard to the forgoing the lands identified as CRK-RZLT-57 (Land Parcel ID CCLA00025880) should be omitted from the final RZLT map as it does not meet the criteria for inclusion under section 653B of the Taxes and Consolidation Act 1997 as amended (as introduced by the Finance Act 2021).

8.0 Conclusion & Recommendation

The lands identified as CRK-RZLT-57 (Land Parcel ID CCLA00025880) are located on lands that are not considered to have access, or be able to connect to public services and that there was no capacity in the existing wastewater infrastructure on the 1st January 2022 or the 1st October 2022.

The land identified as CRK-RZLT-57 (Land Parcel ID CCLA00025880) does not comply with the criteria set out under section 653B(b) and therefore should be omitted from the RZLT map as it does not meet the criteria for inclusion under section 653B of the Taxes and Consolidation Act 1997 as amended (as introduced by the Finance Act 2021).

I recommend that the board set aside the determination of the local authority and direct the local authority to remove the lands identified as CRK-RZLT-57 (Land Parcel ID CCLA00025880) from the final map.

9.0 Reasons and Considerations

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 2022 Guidelines for Planning Authorities on the Residential Zoned Land Tax.

The land identified as CRK-RZLT-57 (Land Parcel ID CCLA00025880) does not comply with the criteria set out under section 653B(b) and therefore should be omitted from the RZLT map as it does not meet the criteria for inclusion under section 653B of the Taxes and Consolidation Act 1997 as amended (as introduced by the Finance Act 2021).

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.

Dáire McDevitt

Senior Planning Inspector

7th September 2023