



An
Bord
Pleanála

Inspector's Report ABP-316733-23.

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 Map

Location

Lands at Tomard, Geraldine Road, Athy, Co. Kildare

Local Authority

Kildare County Council.

Local Authority Reg. Ref.

KCC-C108-34

Appellant

Sidbury Limited

Inspector

Emma Nevin

1.0 Site Description

- 1.1. The site, with an area of 4.23ha, is located in the townland of Tomard, Athy. The site is bound by existing residential development to the north and south, by the Athy-Monasterevin Railway line to the east and estate roads to the west. There is an old mill building on site.

2.0 Zoning and Other Objectives

- 2.1. The site is zoned 'new residential' in the Athy Local Area Plan 2021 - 2027 under objective C, 'New Residential', with a stated objective "To provide for new residential development".
- 2.2. Two structures on site are listed in the National Inventory of Architectural Heritage (NIAH) as follows: Miller's House (Reg. No. 11503012); and Corn Mill (Reg. No. 1153011), which are categorised as having Regional Architectural Interest in the NIAH.

3.0 Planning History

- 3.1. Ref: 191060: An extension of duration of permission was refused by Kildare County Council on the 14th September 2019 for the development permitted under Ref: 08300023.

The reason for refusal stated that as no development had commenced on foot of planning permission 08300023 (extended by 14804), and as substantial works had not been carried out the planning authority is precluded from granting an extension of the appropriate period.

- 3.2. Ref: 14804: An extension of duration of permission was granted by Kildare County Council (for a period up to and including 10/01/2020) on 5th January 2015 for the development permitted under Ref: 08300023.
- 3.3. Ref: 08300023: Conditional planning permission granted by Kildare County Council on 12th January 2010, for a housing development to include the erection of 55 residential units comprising terraced houses and apartments in two – three storey

blocks (A-E). A new access road, bin storage areas, bicycle parking, car parking and all associated site development works.

Ref: 05300081: Planning permission was granted by Kildare County Council on the 12th April 2006 for a development consisting of 50 No. two bed. independent living dwellings and assoc. social centre.

4.0 Submission to the Local Authority

- 4.1. The appellant submits that the lands do not meet the qualifying criteria as set out in Section 653B of the Taxes Consolidation Act, 1997, as amended as the lands have an area of land where residential units cannot be developed because of the exclusion zone along the railway for future expansion.
- 4.2. There is a derelict old mill building on one area of the site which is included as a building of regional importance in the County Development Plan.
- 4.3. As such, the appellant requests that the lands are removed from the Draft RZLT Map.

5.0 Determination by the Local Authority

- 5.1. It was determined that the subject site fulfils the qualifying criteria set out in the Taxes Consolidation Act, 1997, as amended and the Section 28 Ministerial Guidelines “Residential Zoned Land Tax – Guidelines for Planning Authorities’ for inclusion on the RZLT Map.
- 5.2. The subject lands are included in the Athy Local Area Plan 2021 – 2027 and are zoned for “residential development”.
- 5.3. The land is serviced, or it is reasonable to consider may have access to services.
- 5.4. It has been determined that the presence of structures on part of the land that are listed in the national inventory of architectural heritage and the proximity of the railway line are not sufficient to scope the site out of the final or RZLT map. This can only be determined through consideration within the development management process which may determine the level of development for housing or other uses within the zoning matrix appropriate for the subject site following consultation with the relevant statutory bodies through the statutory referral process.

- 5.5. The separation distances between the railway line and any proposed residential development on the subject lands can only be determined through the development management process, if, and when a planning application is submitted to the Planning Authority and following consultation with the relevant statutory bodies.

6.0 The Appeal

6.1. Grounds of Appeal

- The appellant states that the lands have an area of land where residential units cannot be developed because of the exclusion zone along the railway for future expansion.
- There is a derelict old mill building on one area of the site, which is included as a building of regional importance in the County Development Plan.
- As such, the appellant requests that the lands be removed from the Draft Map and any supplemental map and the Final Map until such time as it can be determined what area of the land are affected by the issues outlined.

7.0 Assessment

- 7.1. To satisfy the criteria as identified in section 653B of the Taxes Consolidation Act 1997, as amended, land must be zoned residential use or for mixed uses including residential. The site is zoned new residential in the Athy Local Area Plan 2021 – 2027.
- 7.2. The appellants submission includes a map with a portion of land highlighted as an exclusion zone for the future expansion of the railway. No such exclusion area has been identified on the Athy Local Area Plan 2021 – 2027 maps. While an area of exclusion may be required for the future railway expansion, the impact of development on infrastructure may be best addressed through the development management process, and consultation with any relevant statutory bodies. As such, it is not considered that land is required for or is integral to the expansion of the adjoining railway, to such an extent that would preclude the provision of dwellings on

the site, as per section 653B (c)(iii)(II) of the Taxes Consolidation Act 1997, as amended.

- 7.3. With respect to the heritage matters identified by the appellant. I consider that the NIAH designations on the site would not prevent a proposal coming forward to develop the lands for residential dwellings. Additionally, the impact of any proposed residential development on the existing structures on site, which are listed in the NIAH, would be addressed through the development management process having regard to any relevant objectives for the subject site set out in the Development Plan and the Athy Local Area Plan, 2021 – 2027, and consultation with any relevant statutory bodies.
- 7.4. I also consider that the site can be suitably serviced to allow for residential development.

8.0 Recommendation

- 8.1. I recommend that the board confirm the determination of the local authority and direct the local authority to retain the lands identified as KCC-C108-34 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. The lands as identified KCC-C108-34 are considered in scope of section 653B 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.

Emma Nevin
Planning Inspector

25th August 2023