



An
Bord
Pleanála

Inspector's Report ABP-316742-23

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 Dromin, Cloghroe, Cork

Local Authority

Cork City Council.

Planning Authority Reg. Ref.

CRK-RZLT-61.

Appellant(s)

Kevin McDonnell & Paul Coburn.

Inspector

Daire McDevitt.

1.0 Site Location and Description

The lands identified as CRK-RZLT-61 (ParcelIDCCLA00067184 and CCLA00067188) refer to lands at Dromin, Cloghroe, Cork.

2.0 Zoning and other provisions

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

The lands are zoned ZO 02 New Residential Neighbourhood (Map 18).

Identified as Tier 2 lands in Figure 2.21 'The Growth Strategy Map'.

Section 2.51 notes ' Tier 2 sites are zoned land that are considered serviceable by physical infrastructure within the life of this Plan'.

Section 12.14 'Tier 2 lands are serviceable zoned lands that are not currently fully serviced but have the potential to become fully serviced within the life of the Plan'.

3.0 Planning History

PA Ref 2140620 (ABP Ref. 315209-22) refers to a current appeal for inter alia 73 residential units, upgrade access, flood mitigation works, culverting of streams.

PA Ref 195413 (ABP Ref. 307785-20) refers to a 2020 decision to refuse permission for inter alia 73 units etc.

PA Ref 184947 (ABP Ref. 302594-18) refers to a 2019 decision to refuse for 73 residential units.

Adjoining lands:

ABP Ref. 312613-22 refers to an application for SHD. of 198 units. Split decision issued October 2022 (permission granted for 196 residential units and creche,

access, flood defence etc. Permission refused for retail food store, café building with apartments overhead.

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 lands are the subject of a planning application (21/40620) for 73 units and is the subject of a current appeal with An Bord Pleanála (315209-22) as such is not liable for RZLT.

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, or (ii) for a mixture of uses, including 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 and with sufficient service capacity for such development.

6.0 The Appeal

6.1. Grounds of Appeal

Grounds of appeal are summarised as follows:

- The lands are the subject of a planning application (21/40620) for 73 units and is the subject of a current appeal with An Bord Pleanála (315209-22).
- The lands are currently not serviced.

- Actively trying to develop the lands since 2015, number of applications. ABP deemed the application premature on 2 occasions pending flood relief works. Enabling works are proposed as part of a current appeal. As of now the site is not serviceable.
- No access to surface water drainage until the flood relief works are completed in the R579. Once this is done the lands will be in scope of RZLT.
- Lands are Tier 2.
- Flood relief works require access over third party lands.
- Surface water infrastructure requires works on land under the control of CCC.

7.0 Assessment

The comments raised in the appeal are noted.

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. While the lands are zoned ZO02 New Residential Neighbourhood under the Cork City Development Plan 2022-2028 the lands are identified as Tier 2 lands in Figure 2.21 'The Growth Strategy Map'. Section 2.51 states "Tier 2 sites are zoned land that are considered serviceable by physical infrastructure within the life of this Plan" and Section 12.14 states "Tier 2 lands are serviceable zoned lands that are not currently fully serviced but have the potential to become fully serviced within the life of the Plan". Therefore the Tier 2 lands were not available for development on the relevant dates or the date the local authority made its Determination and as such are not considered within scope of section 653B(a)(i).

Notwithstanding that I consider the lands out of scope, I have assessed the grounds of appeal below as follows:

The grounds of appeal submit that the lands have no access to surface water drainage until the flood relief works are completed in the R579. Once this is done it is submitted the lands will be in scope of RZLT.

The local authority does not address this point . There is no report/assessment on file. I note the planning history associated with the lands and a current appeal which has yet to be decided.

For the purposes of falling within the scope of RZLT the criteria is whether it to 'is reasonable to consider'. In this instance it is likely that to provide surface water drainage works would be required on third party lands which while outside of the ownership of the appellant it is submitted potentially in the ownership of the local authority. Based on the information on file it is my opinion that it is not reasonable to conclude that the land may have access to, or be connected to public infrastructure and on this basis the land does not satisfy the criteria cited in section 653B(b) of the Taxes Consolidation Act 1997, as amended. Notwithstanding, and as set out above, the lands are not in scope of Section 653B(a).

Having regard to the foregoing I consider that the lands identified as CRK-RZLT-61 (ParcelIDCCLA00067184 and CCLA00067188) do not meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended.

8.0 Conclusion & Recommendation

The lands identified as CRK-RZLT-61 (ParcelIDCCLA00067184 and CCLA00067188) are located on lands zoned ZO02 New Residential Neighbourhood and identified as Tier 2 lands in the Cork City Development Plan 2022-2028 and as such were not available for residential development on the relevant dates or on the date the local authority made its Determination. The land is not in-scope of section 653B(a) and therefore 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).

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-39 (Parcel ID CCLA 00064864 and CCLA00064875) 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-61 (ParcelIDCCLA00067184 and CCLA00067188) are located on lands zoned ZO02 New Residential Neighbourhood and identified as Tier 2 lands in the Cork City Development Plan 2022-2028 and as such was not available for residential development on the relevant dates or on the date the local authority made its Determination. The land does not comply with the criteria set out under section 653B(a) 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

8th September 2023