



An
Bord
Pleanála

Inspector's Report ABP-316773-23

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| 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 | Kellystown, Clonsilla, Dublin 15. |
| Planning Authority | Fingal County Council |
| Planning Authority Reg. Ref. | RZLT037/22 |
| Appellant(s) | Lynam Family |
| Inspector | Paul O'Brien |

1.0 Site Location and Description

1.1. The subject site is located in Kellystown, Clonsilla, Dublin 15, approximately 2 km to the south west of Blanchardstown town centre. This irregular shaped site, with an area of approximately 2.3 hectares, is located on lands to the west of the old Porterstown Road, Porterstown. The site is currently under grass and is in agricultural use.

2.0 Zoning and Other Provisions

2.1. The site is within the 'Development Boundary' of Blanchardstown. The subject site is zoned RA – to 'Provide for new residential communities subject to the provision of the necessary social and physical infrastructure'. The site is subject to a Local Area Plan, an indicative road network is provided on the development plan maps.

2.2. The Kellystown Local Area Plan was adopted in January 2021 and provides an indicative layout of the site. The subject site is located partially within Development Areas 1, 2 and 3. The lands are primarily for residential development, though the central section is proposed for a mix of Commercial, Mixed Use and educational uses. The 'Phasing of Development's is set out in Chapter 12 of the Local Area Plan.

2.3. There are no protected structures, national monuments or any other similar item indicated on the development plan maps.

3.0 Planning History

3.1. ABP-312318-21 refers to a March 2023 decision to grant permission for a SHD development of 349 residential units and all associated site works and facilities. The subject site was entirely within these lands, which extended to adjoining lands not in the applicant's control.

4.0 Submission to the Local Authority

4.1. The appellant made a submission to the Local Authority seeking to have its lands removed from the draft map on the basis that:

- The development of this site is to be in accordance with the requirement of the Kellystown Local Area Plan.
- A significant amount of infrastructural works will be required before these lands can be developed. The development of infrastructure may be on/ under third party lands.

5.0 **Determination by the Local Authority**

5.1. The Local Authority determined that the site was in scope and should remain on the map. The land is serviced/ it is considered reasonable that the site can be fully serviced. The land is not constrained by its physical condition that would preclude the development of housing, the site is not contaminated and there is no known archaeological/ historic remains here. The existing use of the site does not allow for its exclusion as set out in Section 653B(c) of the Finance Act 2021.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- The housing market is not stable at present and there is a lack of certainty with regard to the development of houses.
- This tax does not incentivise the construction of housing.
- In accordance with the Kellystown Local Area Plan, significant new and upgraded infrastructure is required to enable development in this area.
- The site does not have access to public services.
- The development of necessary infrastructure may be on/ under lands that are in third party control.

The site should therefore be omitted from the map under Section 653(b)(c) for these listed reasons.

6.2. **Planning Authority Observation**

The Planning Authority request that their determination be upheld.

7.0 Assessment

- 7.1. The site can be serviced by road and water services, no restrictions on services have been identified by the Planning Authority. Whilst these infrastructure elements may not be in place at present, these would be expected to be provided in conjunction with the development of a site, generally developer led. The Senior Engineer of the Planning & Strategic Infrastructure Department has reported that the development of these lands is not dependent on the upgrade of the Kellystown Road.
- 7.2. The site is located on lands that form part of the Kellystown Local Area Plan and it is therefore to be expected that the site is suitable for development of residential units in accordance with the RA zoning that applies to the site.
- 7.3. Concerns regarding volatility in the construction sector are noted, but they are not a reason for the exclusion of these lands from the RZLT maps as prepared.
- 7.4. I therefore consider that the site should remain on the map in accordance with the recommendation of the Planning Authority.

8.0 Recommendation

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

9.0 Reasons and Considerations

- 9.1. The appellant requested that their site be removed from the map due to volatility in the construction sector and also due to the need for infrastructure works in the area. The site is zoned for residential development and a local area plan in the form of the Kellystown LAP has been prepared to provide for the proper planning of the area.
- 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. The lands do 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

8th June 2023