



An
Bord
Pleanála

Inspector's Report ABP-316775-23.

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	Gorteenooonaa, Monastereevin, Co. Kildare
Local Authority	Kildare County Council.
Local Authority Reg. Ref.	KCC-C108-56
Appellant	Seamus Doherty
Inspector	Emma Nevin

1.0 Site Description

- 1.1. The subject site, with an area of 1.31ha, is located in the townland of Gorteenooona, to the south of Monasterevin. The site is a green field site and forms parts of a larger land holding in the appellants ownership.

2.0 Zoning

- 2.1. The site is zoned 'new residential' in the Monasterevin Local Area Plan 2016-2022 under objective C2, with a stated objective "To provide for new low density residential serviced sites".
- 2.2. The plan further states that "*This zoning shall provide for new residential serviced sites only at a maximum density of 10 – 15 units per hectare. Serviced residential sites should be provided to people wishing to build their own house to their own design and layout. Full planning permission should be sought by the developer/landowner for the site layout and development works and outline permission for each individual house. Each individual applicant should then submit individual design proposals and apply for full planning permission/approval consequent to outline permission on a serviced site*".
- 2.3. This local area plan expired in 2022 and was not incorporated into the Kildare County Development Plan 2023 - 2029. Chapter 2, Core Strategy & Settlement Strategy, of the Development Plan states it is an objective of the Council to "*CS O9 Review and prepare on an ongoing basis a portfolio of Local Area Plans (LAPs) for the mandatory LAP settlements (and environs, where appropriate) of Naas, Maynooth, Newbridge, Leixlip, Kildare, Athy, Celbridge, Kilcock, Monasterevin, Sallins, Clane and Kilcullen in accordance with the objectives of the County Development Plan and 36 all relevant Section 28 Ministerial Guidelines.*"

3.0 Planning History

Reg: 981242: Conditional permission was granted by Kildare County Council on 29th September 1998 for erection of dormer bungalow, relocate existing field entrance and all ancillary works.

4.0 Submission to the Local Authority

- 4.1. The landowner submits that he has no intention of developing this land.
- 4.2. Refers to a submission made to Kildare County Council, in December 2020, in relation to the vacant site levy and encloses copies of the correspondence in this regard.
- 4.3. Requests that the current zoning be removed as the landowner is not in a position to pay the levies as may be determined.

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 zoned for residential development by virtue of zoning objective ‘C4’ in the Monasterevin Local Area Plan 2016 – 2022.
- 5.3. The lands are serviced, or it is reasonable to consider that it may have access to services i.e. having access to the necessary public infrastructure and facilities including road and footpath access, public lighting, foul sewer drainage, surface water drainage and water supply necessary for dwellings to be developed and for which there is service capacity available sufficient to enable housing to be developed.
- 5.4. The request to rezone the land is noted. However Circular Letter NRUP 07/2000, states that it is recommended that the process of reviewing all rezoning submissions received should be undertaken as a single, collective variation process after the public notification period for the supplemental map has ended on 1 June 2023. The impact of any rezoning on overall strategy for the proper planning and sustainable development of the area including the core strategy and housing supply targets for the County, as identified in the Kildare County Development Plan 2023-2029, will be of particular relevance. Any amendments to zoning will continue to ensure compliance with the requirements of Section 10(2A) of the Planning and Development Act, 2000, as amended.

6.0 The Appeal

6.1. Grounds of Appeal

- The subject lands were zoned for residential purposes in the early eighties when the land was inherited by the appellant.
- The land was and is in agricultural use and will continue to be used as agricultural land by the appellant.
- The appellant has no intention of developing or selling the land and has requested that the zoning be removed.

7.0 Assessment

- 7.1. The comments raised in the appeal are noted and the report of the Planning Authority with supporting reports are noted.
- 7.2. 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 of the Taxes Consolidation Act, 1997, as amended.
- 7.3. The zoning of these lands is under the Monasterevin Local Area Plan 2016 – 2022, and this plan has now expired. While it is an objective of the Core Strategy and Settlement Strategy to “CS 09 Review and prepare on an ongoing basis a portfolio of Local Area Plans (LAPs) for the mandatory LAP settlements (and environs, where appropriate) of Naas, Maynooth, Newbridge, Leixlip, Kildare, Athy, Celbridge, Kilcock, Monasterevin, Sallins, Clane and Kilcullen in accordance with the objectives of the County Development Plan and 36 all relevant Section 28 Ministerial Guidelines”, it is unclear as to whether the Planning Authority have commenced the process of preparation of a new local area plan for Monasterevin, and the current plan has expired.
- 7.4. The subject lands are therefore not zoned, as per Section 653B(a) of the Taxes Consolidation Act, 1997, as amended and the lands cannot be considered to be suitable for inclusion on the RZLT maps.

7.5. The appellant is seeking to rezone the land as part of the appeal. It is noted that the local authority advised that the impact of any rezoning on overall strategy for the proper planning and sustainable development of the area including the core strategy and housing supply targets for the County, as identified in the Kildare County Development Plan 2023-2029, will be of particular relevance. However, the Board is restricted in its determination of the appeal to the criteria set out in Section 653B of the Taxes Consolidation Act, 1997, as amended. As such, the proposed rezoning of lands does not fall within the said criteria.

8.0 Recommendation

8.1. I recommend that the board set aside the determination of the Local Authority and that the lands identified as KCC-C108-56 be removed from the map.

9.0 Reasons and Considerations

9.1. The appellant requested that their site be removed from the map due to the fact that these lands were zoned residential in the early eighties and the land is in agricultural use. The appellant has no intention of developing or selling the land and has requested that the zoning be removed.

9.2. The zoning of these lands was under the Monasterevin Local Area Plan 2016 – 2022, and this plan has expired, there is no replacement Local Area Plan under preparation. The lands identified as KCC-C108-56 are, therefore, not zoned, as per Section 653B(a) of the Taxes Consolidation Act, 1997, as amended and should not be included on the relevant RZLT maps.

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

22nd August 2023

