



An
Bord
Pleanála

Inspector's Report ABP-316784-23

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 Leixlip Gate, Leixlip, Co. Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	KCC-C108-21
Appellant(s)	Cairn Homes Properties Limited
Inspector	John Duffy

1.0 Site Location and Description

- 1.1. The lands (Parcel ID KELA00000207) are located at Kilmacredock Upper, Leixlip, Co. Kildare. They lie at the south-western edge of Leixlip, approximately 3 kilometres to the west of Leixlip town centre, to the north of the Leixlip / Celbridge interchange on the M4 Motorway (Junction 6) and are bounded to the west by the R449. A residential development at Harpur Lane, Leixlip is currently under construction on the northern part of the overall land parcel.
- 1.2. It is apparent from the documentation on file that this appeal relates to the southern part of the land parcel only.

2.0 Zoning and Other Provisions

- 2.1. The lands are zoned C – ‘New Residential’ with the objective ‘To provide for new residential development’ in the Leixlip Local Area Plan 2020-2023, which has been extended by a further 3 years up to 30th March 2026.
- 2.2. Section 12.1 of the LAP identifies Leixlip Gate (Kilmacredock) as one of 3 Key Development Areas (KDAs) within Leixlip. A design brief for the lands is set out in Section 12.4 of the LAP.
- 2.3. Section 12.5 notes development of KDAs within the LAP will be dependent on the timely delivery of a wide range of infrastructure including provision of water and wastewater infrastructure. In relation to the subject lands Table 12-1 of the LAP indicates the delivery schedule for water and wastewater infrastructure as ‘On-going – Subject to IW agreement prior to development.’ ‘On-going’ is defined in the LAP as ‘throughout the plan lifetime and beyond.’
- 2.4. To the north-east of the site is Leixlip Gate, a protected structure (RPS Ref. B11-113) which was formerly part of Castletown Demesne. The description is "walls / gates / railings."

3.0 Planning History

- PA Ref. 22/1226 refers to an application which was granted in 2022 by the planning authority relating to the southern part of the overall land parcel for a

new permanent opening in the existing boundary demesne wall and provision of access route to the lands to the south, and the provision of a temporary construction compound and carparking associated with completion of permitted development ABP Ref. TA09.307223.

- ABP Ref. TA09.307223 refers to a SHD application relating to the northern section of the overall land parcel for demolition of existing buildings, construction of 239 no. residential units (136 no. houses, 103 no. apartments), creche and associated site works. This application was granted permission in 2020 and is under construction.
- ABP Ref. 305724-19 refers to a pre-application consultation in respect of a proposed development of 245 no. residential units and relates to the northern section of the overall land parcel (138 no. houses, 77 no. apartments, 30 no. duplex units). An Bord Pleanála was of the opinion the documents submitted with the request to enter consultations required further consideration and amendment to constitute a reasonable basis for an application for strategic housing development.

Submission to the Local Authority

- 3.1. The appellant made a submission to the Local Authority seeking to have their lands removed from the draft map on the basis that several archaeological monuments and a concentration of archaeological sites are located in the immediate vicinity, that the site does not yet have the benefit of access to water supply and wastewater infrastructure and finally that it is premature to include the site on the RZLT map before the extent of groundwater sources beneath the site is determined.

4.0 Determination by the Local Authority

- 4.1. The Local Authority determined that the site was in scope. The site is appropriately zoned for residential development in accordance with the Leixlip LAP 2020 – 2023, as extended. It is reasonable to consider the lands are serviced or have access to

services necessary for dwellings to be developed. The issue relating to groundwater sources should be considered through the development management process.

5.0 The Appeal

5.1. Grounds of Appeal

The following points were made in support of the appeal, which generally reiterate the appellant's submission to the Local Authority:

- The subject lands are in an area containing several archaeological monuments and a significant concentration of archaeological sites. It has not yet been determined whether the subject lands contain significant archaeological remains. The potential for such remains affecting the development of lands is a valid consideration under section 653B(i) of the Act. The site should not be included on the RZLT map until an Archaeological Impact Assessment is undertaken as part of a grant of permission for residential development on the lands.
- The determination of the Local Planning Authority made no reference to the significant concentration of archaeological remains in the immediate vicinity of the site.
- The lands do not yet have access to water supply and wastewater infrastructure. Uisce Éireann has confirmed that a watermain and wastewater distribution network is not available near the lands. In the absence of a Confirmation of Feasibility the lands should not be included on the RZLT map. Consideration of adding the lands to the RZLT map should be deferred until after a grant of permission has been secured and the requirements / costs for water services infrastructure are confirmed.
- The lands are presently subject to site investigations to determine groundwater sources underneath the site. Inclusion of the site on the RZLT map in advance of completion of site investigations is premature.

5.2. Planning Authority Response

- No response on file

6.0 Assessment

- 6.1. The comments raised in the appeal are noted, as is the report of the Planning Authority. The site identified for inclusion on the RZLT map is zoned for residential use and the Local Authority determined that the site remain on the RZLT map.
- 6.2. It has not yet been determined whether there are significant archaeological remains at the site. This is not a reason to remove the lands from the draft map. It is however an issue which should be appropriately addressed by way of the development management process. I note that Page 9 of the RZLT Guidelines deals with the scenario where archaeological remains are discovered after lands are placed on the maps, as follows:

‘In terms of tax liability, where archaeological or historic remains are discovered after lands have been placed on the maps, section 653AD provides that the applicant may demonstrate to the satisfaction of the local authority that the physical condition of the land would preclude housing development. Where the local authority confirms that this is the case, the affected person may submit a claim for repayment of the tax.’
- 6.3. Uisce Éireann has indicated that a watermain and wastewater distribution network is not available in close proximity to the lands. The subject lands are situated immediately south of SHD development under construction by the appellant (TA09.307223 refers) and reference is made by the Local Planning Authority that that two manholes are proposed adjacent to the northern boundary of the lands to service future development. Whilst the infrastructure elements / connection 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. I am of the opinion that the land satisfies criterion 653B (b) and that it is serviced or has access to services necessary for dwellings to be developed and with sufficient service capacity available for such development.
- 6.4. There is no exemption under section 653B to exclude lands from the RZLT map on account of the need to undertake site investigations to determine the extent of groundwater sources beneath the site. This issue may be dealt with through the development management process.

7.0 Recommendation

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

8.0 Reasons and Considerations

- 8.1. The appellant requested that their lands be removed from the map based on the historic/archaeological remains in the general area of the site, that the lands are not yet served with water supply and wastewater infrastructure and finally that site investigations are required to assess the extent of groundwater sources beneath the lands.
- 8.2. The site is within an area zoned for residential use that is serviced or has access to services necessary for dwellings to be developed and with sufficient service capacity available for such development. The site does satisfy the criteria 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.

John Duffy
Planning Inspector

28th August 2023