



An
Bord
Pleanála

Inspector's Report ABP-316785-23.

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	Readsland, Dunshaughlin, Co. Meath
Local Authority	Meath County Council
Local Authority Reg. Ref.	MH-C89-13
Appellant	Castlethorn Construction Unlimited Company
Inspector	Emma Nevin

1.0 Site Description

1.1. The site, with an area of 2.23ha, is located in the townland of Readsland, approximately 1km to the east of Dunshaughlin town. The site relates to a greenfield site and forms parts of a larger land holding in the appellants ownership. The surrounding land use includes a residential estate and the Dunshaughlin GAA club and community centre.

2.0 Zoning

2.1. The site is zoned under the following objectives of the Meath County Development Plan 2021 – 2027.

- A2 'New Residential', with a stated objective "*To provide for new residential communities with ancillary community facilities, neighbourhood facilities as considered appropriate*". As such, residential is use permitted on the subject lands.
- The site is located within the Land Use Zoning - Settlement Boundary: Dunshaughlin.

3.0 Planning History

There is an extensive planning history pertaining to this and directly adjoining sites, in the appellants ownership. The following planning history is considered relevant to the subject appeal.

Ref: 23527 - Conditional planning permission granted by Meath County Council on the 10th July 2023 for the construction of 62 no. residential units comprising houses and apartments, all associated site development, landscape and boundary works, including a new 4-arm roundabout junction on the R125 Dunshaughlin Link Road, connecting with an extended Dun Rioga Avenue to the southeast of the existing Dun Rioga estate providing new vehicular, cycle and pedestrian access and egress car and bicycle parking, public open space including new children's playground, private communal open space, private and communal bin stores; 1no. ESB substation.

I note Condition 3 (b) of the above permission, which is of relevance to this appeal which states:

“3. Prior to the commencement of development, the applicant shall submit the following for written agreement from the Planning Authority:

(b) The Applicant, shall unless otherwise agreed, construct and complete the proposed roundabout prior to occupation of any residential unit on site”.

4.0 Submission to the Local Authority

- 4.1. This submission relates to land zoned as A2 – New Residential and land zoned as RA – Rural Area. The submission noted that Castlethorn Constructed have been proactively trying to develop their landholding over 20 years.
- 4.2. In respect of the A2 zoned lands it is stated that the site requires a new roundabout to be constructed on the Dunshaughlin by-pass to gain access to these lands and to serve the zoned lands to the south in the future. It is stated that the development of this roundabout would involve significant works and requires lands which are in third party control.
- 4.3. On the basis that there is significant works required to be undertaken to provide adequate services to facilitate the development of these lands and that these works are not in place as of 1st January 2022, the submission requests that the lands in question are not in scope.

5.0 Determination by the Local Authority

- 5.1. The northwestern section of the lands is located within the rural area and are not identified on the draft RZLT map. The lands zoned A1 Existing Residential should remain on the map as being ‘in-scope’ however will not be liable to the tax.
- 5.2. The A2 New Residential zoned land has been assessed in line with the criteria set out in the RZLT Guidelines, which state that land should be scoped in where it is zoned suitable for residential development, is serviced (meaning that the land is connected to or able to be connected to the necessary public infrastructure and facilities including road, footpath access, public lighting, foul sewerage drainage, surface water drainage and water supply necessary for dwellings to be developed

and for which there is service capacity available), is not affected by any physical consideration which may impact the ability to provide housing. Whilst the aim of the tax is to activate land which can be developed for housing, land that requires significant works to enable connection to service and are outside the control of the applicant should be scoped out.

- 5.3. It is noted that the submitter has stated that significant works in the form of a new roundabout onto the Dunshaughlin by-pass is required to serve these lands. A referral response has been provided by the Transportation Department dated 31 January 2023 stating,

“The development of the lands is subject to the approval of a Traffic and Transport Assessment. The lands can be accessed via the existing Dun Rioga roadways and the delivery of the lands may not be dependant on the construction of a new roundabout. The submission does not adequately demonstrate, by the way of evidence, that the roundabout is fundamental to the delivery of the site”.

It is therefore considered that given the availability of access servicing infrastructure via the Dun Rioga Residential Development these lands should remain as being ‘in-scope’ for the purposes of the Draft RZLT maps, and no change is required to the Draft RZLT Map.

6.0 The Appeal

6.1. Grounds of Appeal

- The appellant provides a background and context to the RZLT stating that the RZLT is not suitable as a tax instrument to promote housing because it does not correct larger and more foundational issues that are agreed to delay housing construction.
- The appellant also highlights the negative implications of the RZLT on developers and the RZLT must be amended.
- The appellant has serious reservation to the application of this punitive tax measure and considers that the introduction of same could have unintended consequences and impact negatively on the supply of new homes and as

such mitigate against the realisation of housing allocation targets under the Core Strategy of the County Development Plan.

- The appellant notes that the lands are zoned to accommodate residential development and that any of the houses at the Dun Rioga estate developed by the appellant, whilst shown on the RZLT Map are not liable to tax due to there being existing dwelling at this location. This is a matter for the individual property owners to address.
- The appellant has been actively trying to develop these lands.
- The appellant states that the planning authority should be requested to submit an assessment of all lands in the appellants landholding, confirming how the criteria of 653B of the Taxes Consolidation Act 1997, as amended is met.
- The appellant refers to the criteria for inclusion on the map, in particular road infrastructure, and that a planning application was lodged on 21st April 2023, for 62 no. dwellings on the lands. A new roundabout junction on the R125 Dunshaughlin Link Road was included as part of the planning application as the means to access and serve the subject site as well as facilitating the future Phase 2 designated lands.
- The subject site requires a new roundabout to be constructed on the Dunshaughlin Link Road to gain access to these lands. The development of this roundabout would involve significant works and requires lands which are in third party control. This is considered significant works which have not yet been permitted or completed.
- On the basis that there is significant works required to be undertaken to provide adequate services to facilitate the development of these lands and that these works were not in place as of 1st January 2022 the lands in question are not in-scope.

6.2. No additional report was received from Meath County Council following the appeal. The local authority in their response to the appeal noted that there was no further information request made to Irish Water, the NRA, or any prescribed body. A copy of the local authority determination and the report from the Transportation Department was submitted.

7.0 Assessment

- 7.1. It should be noted that the lands subject to this appeal are the lands identified by Parcel ID: MHLA00130177 of the RZLT Draft Map, only.
- 7.2. 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. It is noted that subject site is zoned A2, 'New Residential' of the Meath County Development Plan 2021-2027.
- 7.3. I refer to Section 3.3.2 Restriction to Considering Criteria for Inclusion, of the Residential Zoned Land Tax – Guidelines for Planning Authorities, 2022, which states *"in considering appeals, An Bord Pleanála is restricted to considering the grounds of appeal, the determination of the local authority on the submission made during public display period, and any additional information on the servicing or use of the land which the Board may seek from the landowner, Local Authority or stakeholders identified in article 28 of the 2001 regulations. In assessing any appeal, the Board is restricted to considering whether the lands meet the qualifying criteria set out in section 653B only"*. As such, the background and context of the tax and the implications of same on landowners and the fact that the appellant has been actively trying to develop the landholding does not fall within the criteria for consideration as set out in Section 653B of the Taxes Consolidation Act, 1997, as amended.
- 7.4. I also note Section 3.2.3 of the Residential Zoned Land Tax – Guidelines for Planning Authorities, 2022, which describes consideration of submissions on Inclusion on maps and states that *"Matters which are unrelated to the criteria identified in section 653B such as planning permission, commencement on land in-scope, finance, or personal circumstances are not matters to be taken into account during consideration of submissions"*.
- 7.5. Any of the land(s) within Parcel ID: MHLA00130177, subject to this appeal which contain existing residential dwellings, are *"not within the scope of the tax and the owners of such properties will not be liable for this tax"*, as per the Guidelines.
- 7.6. Regarding the request for the local authority to provide an assessment of the lands in the appellants ownership, I note that the local authority is only required to provide a determination on the lands subject to the RZLT Draft Map.

- 7.7. The reference to the planning application lodged on 21st April 2023 is noted, however this application was deemed 'incomplete' on the local authority website. A subsequent planning application was submitted and granted permission (on 10th July 2023) for residential dwellings and associated site works under Ref: 23527, referenced in the planning history above (Section 3.0).
- 7.8. The Residential Zoned Land Tax - Guidelines for Planning Authorities, 2022, outlines that the purpose of the RZLT *"is to activate existing planning permissions and zonings where housing is permitted and where the land is connected to, or has access to services, but remains undeveloped. It is primarily intended to influence behaviour towards increased housing output"*, and *"The activation of existing permissions and utilisation of the resource of zoned serviced land is a key aspect of ensuring that housing development is forthcoming on residential landbanks and urban centres"*.
- 7.9. Section 4.1.1 (ii) of the Residential Zoned Land Tax - Guidelines for Planning Authorities, 2022, also states; "Where development for housing or housing and a mix of other uses has been permitted on land which falls into the scope of the tax as set out within the legislation, then default presumption should be given to considering all such lands with permissions to be within scope," , subject to services being considered.
- 7.10. The appellant states that the significant works are required to provide adequate services to facilitate the development of these lands, in terms of a new roundabout to be constructed on the Dunshaughlin Link Road, to gain access to the lands, which are in third party ownership.

I note Condition No. 3 (b) Ref: 23527 which states; *"Prior to the commencement of development, the applicant shall submit the following for written agreement from the Planning Authority:*

(b) The Applicant, shall unless otherwise agreed, construct and complete the proposed roundabout prior to occupation of any residential unit on site".

- 7.11. Notwithstanding the condition attached to the permission on site, regard is had to the report received from the Transportation Department of Meath County Council, on the RZLT submission to the local authority (dated 31st January 2023), which states that the lands can be access via the existing Dun Rioga roadways, which is in the

appellants ownership, and that the delivery of the lands may not be dependent on the construction of a new roundabout. As such, subject to the agreement with the local authority, I consider that the site is suitably serviced by means of road access and as such are considered to be 'connected' or 'able to connect' as per Section 653B(b) of the Taxes Consolidation Act, 1997, as amended.

- 7.12. I consider that the site is suitably zoned and serviced to allow for residential dwellings as per Section 653B of the Taxes Consolidation Act 1997, as amended, and therefore, the site can be considered in scope for the RZLT maps.

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 MH-C89-13 on 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 the lands are not capable of being serviced. 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 the Residential Zoned Land Tax – Guidelines for Planning Authorities, 2022. The lands as identified MH-C89-13 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

13th September 2023