



An
Bord
Pleanála

Inspector's Report ABP-316803-23.

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	Summerhill or Aghnaharna, Portlaoise, Co. Laois
Local Authority	Laois County Council.
Local Authority Reg. Ref.	LS-C46-RZLT-13
Appellant	Bircrest Ltd.
Inspector	Irené McCormack

1.0 Site Description

- 1.1. The site comprises lands at Summerhill or Aghnaharna, Portlaoise. Laois. The lands comprise two parcels ca. 2.19ha. in area.

2.0 Zoning

- 2.1. The Laois County Development Plan 2021-2027 was adopted on 25th January 2022 and came into effect 8th March 2022.
- 2.2. The land is zoned R2 - New Proposed Residential in the Laois County Development Plan 2021-2027 and the Portlaoise LAP 2018-2024.
- 2.3. R2 Zoning Objective - *To provide for new residential development, residential services and community facilities.*
- 2.4. Map 2.2 – Portlaoise of the CDP identifies “Roads Being Approved” through the lands.

3.0 Planning History

3.1. Site

None

4.0 Submission to the Local Authority

- 4.1. The appellant made a submission to the Local Authority seeking to have the lands excluded because their development is reliant upon the completion of road infrastructure through and beyond the site, the delivery of which is partly in third party control.
- 4.2. There is a 110kv Overhead Power Line traversing the lands.

5.0 Determination by the Local Authority

- 5.1. The local authority determined that the lands, the western most portion fronts onto and is directly accessible from Southern Circular Route R941.
- 5.2. The easternmost portion is landlocked however the applicant is also the owner of the portion immediately due north which similar to the westernmost portion fronts onto and is directly accessible from the R941.

- 5.3. The alleged dependence on other parties to construct major road infrastructure would not arise.
- 5.4. Regarding the 110KV power line no documentary evidence from the relevant utility regarding its implications for development have been furnished.

6.0 The Appeal

6.1. Grounds of Appeal

- Request for lands be excluded from the RZLT.
- The lands are subject to a statutory designation to construct a road through and beyond the site, the delivery of which is partly in third party control.
- Development of the lands will increase congestion on the Portlaoise Southern Circular Road (PSCR) and will likely face difficulty securing approval from the Roads Department (reference made to application to the northwest of the lands).
- It is further set out that there is no zoned land between the RZLT lands and the Rathleague Road along the route of the proposed road, it is not viable for the landowner or the owner of the lands to the southwest through the proposed road runs to construct this road. Unless the Council CPO the lands it is highly unlikely the lands will be developed.
- It is noted that a clearance of 23m is required either side of the centre line or arounds a pylon of a 110kv Overhead Powerline.

7.0 Assessment

- 7.1. The legislation clearly sets out that land in scope will be zoned for residential development or a mixture of uses including residential; be serviced or have access to servicing by water, wastewater, road, footpath and public lighting; and not be affected by contamination or significant archaeological remains which would preclude development taking place.
- 7.2. Regarding access to the lands, I note the PA state the western most portion fronts onto and is directly accessible from Southern Circular Route R941 and while it is acknowledged that the easternmost portion is landlocked the PA state that the appellant is also the owner of the portion immediately due north which like the westernmost portion fronts onto and is directly accessible from the R941.

7.3. Section 4.1.1 *iii) Services to be considered* sets out that under Section 653B of the provisions, the definition of land in- scope for RZLT identifies lands which are connected to, or able to be connected to services as being in scope. The guidelines set out that in assessing whether land or landbanks are able to connect to services, account should be taken of where the infrastructure is located adjoining, intersecting, at a boundary or corner of a landbank, in a nearby public road, or is connected to an existing development adjoining the landbank, the lands should be considered to be ‘connected’ or ‘able to connect’ and therefore are in-scope. Therefore, on the basis that the appellant is the owner of the adjoining lands through which access can be obtained, it is reasonable to consider that the lands are ‘able to connect’. I note the appeal submission does not contradict the PA’s statement regarding ownership of these adjoining lands. Therefore, access arrangements are not contingent on third-party consent.

7.4. Section 3.1.2 *Exclusions from the Map* of the guidelines state that exclusions of particular lands as set out in the legislation and as clarified in the guidelines should be taken into account. With specific reference to *Land Required for Infrastructure and Community Services* the guidelines state:

“As set out within the legislation, it is reasonable to exclude land required for the provision of community services and infrastructure which will sustain existing and future residential communities....

Accordingly, a significant number of uses which may be required or are provided on either residential or mixed-use lands which permit housing are to be excluded from maps to accompany the Residential Zoned Land Tax.

These are clearly set out in Section 653B(c)(iii)(I) – (VII) and include II. transport facilities and infrastructure and III. energy infrastructure and facilities, IV. telecommunications infrastructure and facilities...”

II. Transport Facilities and Infrastructure

7.5. Regarding the proposed new road through the lands, the guidelines state that where a zoning facilitates residential development, but also makes provision for other uses including the uses identified in Section 653B(c)(iii)(I) – (VII) (I) – (VII) by way of a statement or written objective, but does not specifically identify land within a statutory

plan for those uses, the whole of the land area should be considered to be in scope unless the location and scale of the excluded uses is clearly set out.

- 7.6. In this instance, I note Map 2.2 – Portlaoise of the CDP identifies “Roads Being Approved” through the lands, dissecting the land parcels. In line with the guidance the PA have excluded this route corridor from the RZLT lands. The remainder of the residential zoned lands have been included in the RZLT. I am satisfied this approach is consistent with the guidelines.

III. energy infrastructure and facilities, IV. telecommunications infrastructure and facilities.

- 7.7. Regarding the 11kv Overhead Power Line on the lands, I note the lands are not specifically identified for the provision of infrastructure or telecommunications in the Laois County Development Plan 2021-2027. The guidelines state that where a zoning facilitates residential development, but also makes provision for other uses including the uses identified in (I) – (VII) above by way of a statement or written objective, but does not specifically identify land within a statutory plan for those uses, the whole of the land area should be considered to be in scope unless the location and scale of the excluded uses is clearly set out. Therefore, by virtue of the fact that the development plan does not identify these lands for the provision of infrastructure or telecommunications in accordance with the above, it is reasonable to consider that the entirety of the land is in scope.

- 7.8. Whilst I note the buffer stated by the appellant this cannot be verified and is not supported by a policy in the development plan or any formal submission from the utility provider and therefore cannot be considered.

- 7.9. The appeal grounds do not raise any exclusions that would apply to the subject lands and warrant its removal from the map, with reference to the Taxes Consolidation Act 1997 as amended and the RZLT Guidelines

8.0 Recommendation

- 8.1. I recommend that the Board confirm the determination of the local authority and direct the local authority to include the site on the map.

9.0 Reasons and Considerations

- 9.1. 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 Guidelines for Planning Authorities on the Residential Zoned Land Tax, the site is considered in scope for the purposes of the RZLT map.

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.

Irené McCormack
Senior Planning Inspector

11th August 2023