



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316807-23

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<b>Type of Appeal</b>	Appeal under section 653J(1) of the Taxes Consolidation Act 1997, as amended, against the inclusion of land on the Residential Zoned Land Tax.
<b>Location</b>	Lands at Knocknasuff, Waterloo, Blarney, Cork
<b>Local Authority</b>	Cork City Council.
<b>Planning Authority Reg. Ref.</b>	CRK-RZLT-39.
<b>Appellant(s)</b>	JAW Asset Holdings Limited
<b>Inspector</b>	Daire McDevitt.

## **1.0 Site Location and Description**

The lands identified as CRK-RZLT-39 (Parcel ID CCLA 00064864 and CCLA00064875) refer to lands at Knocknasuff, Waterloo in Blarney, Cork.

## **2.0 Zoning and other provisions**

The relevant plan is the Cork City and Development Plan 2022-2028.

The lands are zoned ZO 02 New Residential Neighbourhood (Map 11)

Identified as Tier 2 lands in Figure 2.21 'The Growth Strategy Map'.

Section 2.51 notes ' Tier 2 sites are zoned land that are considered serviceable by physical infrastructure within the life of this Plan'.

Section 12.14 'Tier 2 lands are serviceable zoned lands that are not currently fully serviced but have the potential to become fully serviced within the life of the Plan'.

## **3.0 Planning History**

None noted.

## **4.0 Submission to the Local Authority**

The appellants made a submission to the local authority seeking to have their land removed from the draft map, requesting that lands be excluded on the basis that the lands are Tier 2. The lands can only be accessed from the Monacnapa Road to the west of the site where there is currently no footpath network. Delivery of footpaths along the Monacnapa and Waterloo Roads is constrained by narrow road width (c.4m) and third party lands.

## **5.0 Determination by the Local Authority**

The local authority determined that:

- The land is included in the Cork City Development Plan 2022-2028, in accordance with section 10(2)(a) of the Act and is further zoned (i) solely or primarily for residential use.
- These lands satisfy section 653(B) of the act, in that it is reasonable to consider that the land may have access, or be connected, to public infrastructure and facilities, including roads and footpaths, public lighting, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed an with sufficient service capacity for such development.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

Grounds of appeal are summarised as follows:

- The lands are zoned ZO02 and identified as Tier 2. The development of the lands is predicated on the resolution of infrastructural and access constraints, which are outside the appellant's control.
- The delivery of footpath on the Monacnapa Road is constrained by narrow road widths (c.4m) and the presence of several third-party dwellinghouses and landowners between the site and the River Martin Amenity Walkway. The constraints of the local road network have impeded growth and expansion of Blanery as recognised in section 10.265 of the Cork City Development Plan 2022.
- Issues with constraints (footpaths and road upgrades) highlighted at pre-planning meeting in May 2022 to discuss a development of 55 houses on the site.
- Local Authority assessment is silent on the required upgrades.

## **7.0 Assessment**

The comments raised in the appeal are noted.

Section 653B of the Taxes Consolidation Act 1997 as amended, sets out the criteria for inclusion in the map, and states that the first consideration for inclusion in the map is land which in subsection (a) 'is included in a development plan' or 'local area plan' zoned solely or primarily for residential use, or for a mixture of uses including residential. While the lands are zoned ZO02 New Residential Neighbourhood under the Cork City Development Plan 2022-2028 the lands are identified as Tier 2 lands in Figure 2.21 'The Growth Strategy Map'. Section 2.51 states "Tier 2 sites are zoned land that are considered serviceable by physical infrastructure within the life of this Plan" and Section 12.14 states "Tier 2 lands are serviceable zoned lands that are not currently fully serviced but have the potential to become fully serviced within the life of the Plan". Therefore the Tier 2 lands were not available for development on the relevant dates or the date the local authority made its Determination and as such are not considered within scope of section 653B(a)(i).

Notwithstanding that I consider the lands out of scope, I have assessed the grounds of appeal below as follows:

The grounds of appeal submit that the lands are not connected or is it reasonable to consider that they have access to, or be connected to footpaths and the provision of same is severely restricted by the width of the road and requirement to pass over third party lands.

With respect to pedestrian footpaths, the local authority does not address this point directly. The site does not appear to benefit from existing public footpaths to either Monacnapa Road or Waterloo Road and while the development of the lands might reasonably be expected to include an extent of footpath infrastructure, to connect to the nearest existing footpaths to this appeal site, would require the creation of significant new sections. The site is situated adjacent to one-off housing which does not have a pedestrian network in place. Road upgrades could potentially interface with third party controlled lands.

Page 25 of the RZLT Guidelines state that with respect to footpath access:

*"for lands to be considered in scope, there should be an ease of connection to an existing footpath network to facilitate active travel modes from the outset. Provision of significant sections of new footpath across other landholdings, where the land is*

*not in the control of the landowner or local authority should be discounted when considering lands to be in-scope.”*

For the purposes of falling within the scope of RZLT the criteria is whether it to ‘is reasonable to consider’. In this instance it is likely that to create new footpath infrastructure, works would be required on third party lands outside of the ownership of either the appellant or local authority and my opinion it is not reasonable to that the land may have access to, or be connected to public infrastructure and on this . basis the land does not satisfy the criteria cited in section 653B(b) of the Taxes Consolidation Act 1997, as amended. Notwithstanding, and as set out above, the lands are not in scope of Section 653B(a).

Having regard to the foregoing I consider that the lands identified as CRK-RZLT-39 (Parcel ID CCLA 00064864 and CCLA00064875) do not meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended.

## **8.0 Conclusion & Recommendation**

The lands identified as CRK-RZLT-39 (Parcel ID CCLA 00064864 and CCLA00064875) are located on lands zoned ZO02 New Residential Neighbourhood and identified as Tier 2 lands in the Cork City Development Plan 2022-2028 and as such were not available for residential development on the relevant dates or on the date the local authority made its Determination. The land is not in-scope of section 653B(a) and therefore should be omitted from the final RZLT map as it does not meet the criteria for inclusion under section 653B of the Taxes and Consolidation Act 1997 as amended (as introduced by the Finance Act 2021).

Furthermore the lands are not served by existing pedestrian infrastructure and would require the provision of extensive sections of new footpath to connect to existing provision, and would cross lands in third party ownership, and as such cannot be considered in-scope for the RZLT.

I recommend that the board set aside the determination of the local authority and direct the local authority to remove the lands identified as CRK-RZLT-39 (Parcel ID CCLA 00064864 and CCLA00064875) from the final map.

## 9.0 Reasons and Considerations

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 2022 Guidelines for Planning Authorities on the Residential Zoned Land Tax.

The land identified as CRK-RZLT-39 (Parcel ID CCLA 00064864 and CCLA00064875) are located on lands zoned ZO02 New Residential Neighbourhood and identified as Tier 2 lands in in the Cork City Development Plan 2022-2028 and as such was not available for residential development on the relevant dates or on the date the local authority made its Determination. The land does not comply with the criteria set out under section 653B(a) and therefore should be omitted from the RZLT map as it does not meet the criteria for inclusion under section 653B of the Taxes and Consolidation Act 1997 as amended (as introduced by the Finance Act 2021).

*I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.*

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Dáire McDevitt

Senior Planning Inspector

7<sup>th</sup> September 2023