



An
Bord
Pleanála

Inspector's Report

ABP-316820-23

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 Kilcrenagh House, Kilcrenagh, Carrigrohane, Co. Cork
Local Authority	Cork City Council
Local Authority Reg. Ref.	CRK-RZLT-90
Appellant(s)	Denis and Florian Riordan
Inspector	Frank O'Donnell

1.0 Site Location and Description

- 1.1. The subject lands are located at Woodside, Carrigrohane at the northwestern end of Kerry Pike. The site lies c. 4.5 km to the west of the northwestern outskirts of Cork City.
- 1.2. The Local Authority Determination in respect of CRK-RZLT-90 relates to Land Parcel ID CCLA00065798.

2.0 Zoning and other provisions

- 2.1. The lands which are subject to this appeal are zoned '*ZO 1 Sustainable Residential Neighbourhoods. Zoning Objective 1: To protect and provide for residential uses and amenities, local services and community, institutional, educational and civic uses.*'

3.0 Planning History

- 3.1. Planning History on the subject Appeal site and adjacent lands to the immediate north.
- 3.2. 2039213 (Appeal Ref. No. ABP-308650-20): TFT Construction Ltd. Permission to construct 13 dwelling houses (phase 3) and all associated ancillary development works including access roads, parking, footpaths, drainage, landscaping and amenity areas. Permission was GRANTED on 10/05/2021 subject to 15 no. conditions.
- 3.3. 2039122: TFT Construction Ltd. INCOMPLETE APPLICATION.
- 3.4. 2039116 (Appeal Ref. no. ABP-308657-20): TFT Construction Ltd. Permission to construct 13 dwelling houses and all associated ancillary development works including access roads, parking, footpaths, drainage, landscaping and amenity areas. Permission was GRANTED on 10/05/2021 subject to 16 no. conditions.
- 3.5. Other Relevant Planning History as quoted by the Appellant, located c. 1.2 km to the southeast of the subject site.
- 3.6. 2240976 (Appeal Ref. no. PL28.314905): O Flynn Construction (Horlans) Ltd. Development of domestic dwellings and retail units. A Notification of Decision to GRANT planning permission was issued by Cork City Council on 27/09/2022 subject to 41 no. conditions. This decision is the subject of a current Appeal to An Bord Pleanála. A decision was due on 07/03/2023.

- 3.7. Condition no. 2 of the above NOTIFICATION OF DECISION TO GRANT permission restricts the number of residential units permitted by that grant of permission to 96 no. units. Condition no. 22 of same is a prior to commencement condition for pre-connection agreements for water and wastewater with Irish Water.

4.0 Submission to the Local Authority

- 4.1. The Appellant made a submission to the Local Authority seeking to have the land removed from the draft map.
- 4.2. The Land Parcels ID (s) referenced in the submission are CCLA00065798 and CCLA00065800.
- 4.3. Existing glasshouse nursery compound/ complex/ operating since 1948. Also included in the land parcel (CCLA00065798) is a residential dwelling house that is not owned by the Appellant (indicated with the number 28 on the map).
- 4.4. Wastewater Treatment Capacity.
- 4.5. Under planning reg. ref. no. 2240976 Irish Water refer to a requirement for watermain upgrade and that they had no plan to carry out such upgrades.
- 4.6. With regard to Kilcreanagh House which is shown on parcel CCLA00066400, the curtilage of the house extends to the hatched area shown in attachment A. This includes CCLA00065822, CCLA00065821, CCLA00065820, CCLA00066409 and part of parcel CCLA00065819. It is stated that it is noted that this latter parcel also includes residential dwelling houses which are not owned by the Appellants. It is respectfully requested that the mapping be adjusted to align with the boundary of the Appellants curtilage.

5.0 Determination by the Local Authority

- 5.1. The Local Authority Evaluation Report dated 31/03/2023 relates to Land Parcel ID (s): CCLA00065798.
- 5.2. Having evaluated the submission, it is considered that the land DOES constitute land satisfying the criteria as per Section 653E (1) (a) (ii) (I) of the Taxes Consolidation Act, 1997 as amended, therefore it is recommended that the land(s) at Kilcreanagh House,

Kilcrenagh, Carrigrohane should be INCLUDED in the final map for the following reasons:

5.3. Reason(s)

5.4. The land is included in the Cork City Development Plan 2022 - 2028, in accordance with Section 10 (2) of the Act of 2000 and is further zoned (i) solely or primarily for residential use, or (ii) for a mixture of uses, including residential use.

5.5. Pursuant to Section 653B c) i) of the Act, the land is not in use as a premises in which a trade or profession is being carried on that is liable to commercial rates.

6.0 The Appeal

6.1 Grounds of Appeal

The Grounds of Appeal are summarised as follows:

- Major works on third party lands outside the landowner and Local Authority's control are required in order to deliver a residential development on the subject lands, in conjunction with current planning permissions within the area. The required connection to wastewater infrastructure services is located east along Woodlands Road. Given that there is no consent for same, the lands should be considered out of scope for inclusion on the RZLT map.
- Lack of capacity in the existing wastewater infrastructure serving the area to accommodate new residential development. Reference is made to the Kerry Pike pumping station, which was constructed in c. 2015, and to specific planning permissions which have been granted, with development underway, or are in the planning pipeline at present.
- Water capacity/ water network upgrades required/ no Irish Water plan in place for the upgrade works. Reference is made to planning reg. ref. no. 2240976 and the Irish Water Report attached to same.
- Irish water notes in the submission on planning reg. ref. no. 2240976 that the wastewater network in this area is at capacity, but that future capacity will be distributed on a first come, first served basis.

- Taking account of recent planning applications in the Kerry Pike area, which are detailed in the submission, the Appellant submits that the lands do not fulfil all of the criteria, as set out in the Act, to be included on the RZLT map at this point in time.
- The Appellant also requests the Board to address the inconsistencies and inaccuracies in relation to other land parcels. The Appellant states that most of them relate to and are contained within the curtilage of their residential property, Kilcrenagh House, and others are entirely separate ownerships, for which, although they are also residential properties, the Appellants should have no liability or responsibility.

7.0 Assessment

- 7.1. The comments raised in the appeal are noted. The Local Authority has submitted a copy of the Determination. There is no Local Authority Report/ Assessment on file.
- 7.2. The Appellants submission to the Local Authority, dated 13/12/2022, references Land Parcel ID (s) CCLA00065798 and CCLA00065800. Also referenced in the submission are Land Parcel ID (s) CCLA00066400, CCLA00065822, CCLA00065821, CCLA00065820, CCLA00066409 and part of parcel CCLA00065819.
- 7.3. It is noted that the Local Authority Determination (CRK-RZLT-90), dated 30/03/2023, relates to Land Parcel ID CCLA00065798 only.
- 7.4. As per the provisions of Section 653J 3) a) of the Act, the Appeal is curtailed to the Determination of the Local Authority, i.e., Land Parcel ID CCLA00065798. It is noted that the Appellant has requested the Board to address the inconsistencies and inaccuracies in relation to other land parcels. Such considerations are outside of the powers of the Board in its determination of this appeal under Section 653J of the Act.
- 7.5. As per the Uisce Eireann 10 Year Water Supply Capacity Register, published in June 2023, the Tower Water Treatment Plant (WRZ ID Reg. Ref. 0500SC0082), which serves Kerry Pike, is indicated to have 'Capacity Available - LoS improvement required.' (Capacity Available - LoS improvement required means '*Capacity Available to meet 2032 population targets - Level of service (LoS) improvement required. Leakage reduction and/or capital investment will be required to maintain/improve*

levels of service as demand increases. These proposals will be developed & prioritised through the National Water Resources Plan and investment planning process).

- 7.6. As stated in Section 10.298 of Volume 1 of the Cork City Development Plan, 2022 to 2028, *'the Tower Wastewater Treatment Plant serves Tower, Blarney, Cloghroe and Kerry Pike.'*
- 7.7. As per the Uisce Eireann Wastewater Treatment Capacity Register, published in June 2023, Blarney Wastewater Treatment Plant (Reg. Ref. D0043) which serves Kerry Pike is indicated to have a 'Green' status, i.e., 'Spare capacity available.'
- 7.8. It is noted as per the Irish Water Reports attached to both planning reg. ref. no. 2039116 (Appeal Ref. no. ABP-308657-20) & 2039213 (Appeal Ref. no. ABP-308650-20) that no objections are raised by Irish Water to those said developments subject to 2 no. standard conditions. It is further noted that condition no. 8 of both said permissions is a prior to commencement condition for pre-connection agreements for water and wastewater with Irish Water.
- 7.9. The Appellant refers to a Report from Uisce Eireann attached to planning reg. ref. no. 2240976 (Appeal Ref. no. PL28.314905). It is noted that a decision is still pending in relation to appeal ref. no. PL28.314905 and that the said reports pre-dates the above quoted Uisce Eireann capacity register references from June 2023.
- 7.10. As per recommendations contained in Section 3.1.1 of the Residential Zoned Land Tax Guidelines, 2022, I am satisfied that it is reasonable to consider that the lands may have access to a water supply and wastewater treatment/ disposal system.
- 7.11. The presence of a dwelling house on the map is not a relevant point of exclusion under Section 653B. Similarly, liability for tax is not a relevant consideration.
- 7.12. Section 3.1.2 of the Residential Zoned Land Tax, Guidelines for Planning Authorities, June 2022 provides specific guidance in relation Exclusions from the Map. The Appellant's stated Horticulture Business is not, in my opinion, providing a service to the existing or future residential community, as described in the Guidelines, Section 3.1.2 (Operating Uses on Residential Zoned Lands).
- 7.13. The Guidelines state that the use of land for agricultural or horticultural purposes are not considered to be exempted from scope as they are not subject to rates. The part

of the subject appeal site, which is in use for horticultural purposes, in my opinion, should therefore remain in scope.

- 7.14. Having regard to the foregoing, and to recommendations contained in Section 4.1.1 iii) (Services to be considered) of the Residential Land Zoning Tax Guidelines for Planning Authorities, 2022, I am satisfied that it is reasonable to consider that upon the relevant dates, the subject lands were in scope as per the provisions of Section 653B b) of the Act.

8.0 Conclusion

- 8.1. The site does satisfy the criterion for inclusion on the map set out in Section 653B(b) of the Taxes Consolidation Act 1997, as amended.

9.0 Recommendation

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

10.0 Reasons and Considerations

- 10.1. The lands identified as CRK-RZLT-90 (Land Parcel ID (s): CCLA00065798), meet the qualifying criteria set out in Section 653B of the Taxes Consolidation Act 1997, as amended.
- 10.2. *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.*

Frank O'Donnell
Planning Inspector

25th September 2023