



An
Bord
Pleanála

Inspector's Report

ABP-316841-23

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	Loughshinny, County Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	RZLT106/22
Appellant(s)	Ivan Wilde
Inspector	Rachel Gleave O'Connor

1.0 Site Location and Description

- 1.1. The site is located to the south of Loughshinny Park, opposite the junction for Mine Road. The site is situated adjacent to residential dwellings that front onto Loughshinny Park.

2.0 Zoning and other provisions

- 2.1. The site is zoned RS – Residential in the Fingal County Development Plan 2023-2029. The site was previously zoned RS – Residential under the Fingal County Development Plan 2017-2023 which was the plan in force at the time the Local Authority determined that the site was in scope for the RZLT Maps.

3.0 Planning History

- 3.1. No records of relevant planning history.

4.0 Submission to the Local Authority

- 4.1. The appellant made a submission to the Local Authority seeking to have its land removed from the draft map. The submission states that land used for commercial or business purposes, outside the standard exemption for land subject to the Local Property Tax (LPT) should be deemed exempt.
- 4.2. The subject site is ancillary to the landowners business, which is specifically trawler fishing and fresh seafood supply. The current use of the site is for parking of our client's commercial vehicles, storage of fishing related materials (fish boxes, trawler nets) and a small, cladded shed to protect the materials more vulnerable to adverse weather conditions. The landowner has continued use of the site since 1985, and prior to that the site was used for storage of fish boxes and overwintering boats. Contend that the landowner therefore enjoys the benefit of non-conforming uses of which are provided for in the Planning and Development Act 2000 (as amended) the current Fingal Development Plan 2017-2023 and the Draft Fingal Development Plan 2023-2029.

- 4.3. It is intended that the zoning be retained to facilitate the provision of a single home in future.
- 4.4. The site extends to 750sqm, equivalent to 0.07 hectares, which it is reasonably considered should be exempt from the RZLT as it would not yield more than one detached dwelling.

5.0 Determination by the Local Authority

- 5.1. The subject site is ancillary to the owner's business – trawler fishing and fresh seafood supply. The current use comprises the parking [of] commercial vehicles and storage of fishing related materials. The site also contains a small storage shed. The premises has been in continual use since 1985 for parking and prior to this, served as storage for the business. It is contended that the site fulfils a non-conforming and facilitates an on-going business.
- 5.2. The submission also refers to the limited site area of the site 750sqm which is of adequate size to cater for 1no. dwelling and due to the scale and yield should be deemed exempt from RZLT.
- 5.3. No recent planning permission relates to the subject property or the use thereon of car parking/storage. Furthermore, the property is not subject to commercial rates.
- 5.4. As indicated in the RZLT Guidelines section 3.1.1 criteria for inclusion within the scope of the Tax Measures, use of the land for purposes set out in the submission are not considered to be exempted form scope as they are not subject to commercial rates.
- 5.5. The local authority determined that the site was in scope and should remain on the map.

6.0 The Appeal

6.1. Grounds of Appeal

- The land is family owned and contains essential equipment for their family business.

- The current use comprises the parking of commercial vehicles and storage of fishing related materials. The premises has been in continual use since 1985, served as storage for the business. It is contended that the site fulfils a non-conforming use and facilitates an on-going business.
- Land is vital to the running of the landowners business and they are not in a position to pay the tax, but may wish to develop the land in future.
- The site is 750sqm which is outside the remit of the policy.
- The site included in the RZLT parcel ID number includes a residential dwelling existing within the highlighted site with two Eircodes of K34 T202 and K34 Y754, which excludes the site from the RZLT.

7.0 Planning Authority Response

- 7.1. Reference is made to a dwelling on adjacent lands to the north and to Eircodes relating to same. It should be noted that no submissions (to the Draft RZLT Map) were received in relation to lands containing the referenced dwelling. Fingal County Council's determination relates solely to the appeal site.

8.0 Assessment

- 8.1. The grounds of appeal refer to the use of the lands as part of a business, however there is no evidence the use is authorised and the Local Authority confirm that commercial rates are not paid. The RZLT Guidelines state on page 11 that:

“With reference to land that is included in a development plan or local area plan and is zoned solely or primarily for residential use such as ‘Residential’ or ‘New Residential’, existing uses to be excluded from the scope of mapping for the tax measure must provide a service to the existing or future residential community, must be an authorised use, must be considered a premises in use by a trade or profession and must be liable to commercial rates. Local Authorities should seek input from their Rates Offices in this regard.”

- 8.2. The grounds of appeal also state that the land is part of a residential property and should be excluded on this basis. Page 8 of the RZLT Guidelines state that:

“Land which is zoned residential and contains existing residential development such as estates or individual houses are also considered ‘in scope’ from a zoning perspective and therefore must be included on the maps, however owners of residential properties within these areas will not be liable for the tax (See section 653O(1)(a) of the legislation).”

- 8.3. As such the lands remain in scope for the RZLT Map on this basis and the landowner would need to revert to Revenue in relation to whether they are liable for the tax.
- 8.4. The site can be accessed from Loughshinny Park adjacent to the landowners residential property. There is existing footpath infrastructure opposite the site on Loughshinny Park, and this connects into the wider pedestrian infrastructure network for the area. It would be anticipated a part of any normal development proposition for a site that it includes connections to necessary infrastructure, and this can be achieved via publicly owned land, namely the road network.

9.0 Recommendation

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

10.0 Reasons and Considerations

- 10.1. 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 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 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.

Rachel Gleave O'Connor
Senior Planning Inspector

07 July 2023