



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316939-23

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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>	Park Road, Kenure, Rush, Co. Dublin
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	RZLT116/22
<b>Appellant(s)</b>	Mervyn Booth.
<b>Inspector</b>	Rachel Gleave O'Connor

## Contents

1.0 Site Location and Description .....	3
2.0 Zoning and other provisions .....	3
3.0 Planning History.....	3
4.0 Submission to the Local Authority.....	3
5.0 Determination by the Local Authority .....	3
6.0 The Appeal .....	4
7.0 Assessment.....	4
8.0 Recommendation.....	5
9.0 Reasons and Considerations.....	6

## **1.0 Site Location and Description**

- 1.1. The site is located to the south of Palmer Road and north of Park Road, with frontage onto both of these roads. It extends in a linear character from Palmer Road, before angling to the west and connecting to Park Road. The site is adjacent to agricultural fields on all sides and is agricultural in character itself. There are existing residential estates further to the east.

## **2.0 Zoning and other provisions**

- 2.1. The site is zoned RA – Residential Area and within the defined Development Boundary for Rush under the Fingal County Development Plan 2023-2029.

## **3.0 Planning History**

- 3.1. No records of any 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 stated that there are no connections to services, footpath, lighting, surface water and drains, sewerage drains, access and is adjoining land which is agricultural land and which there is no residential development on. The land is subject to transport infrastructure – East West Street, Rush Inner Relief Road CPO.

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

- 5.1. The local authority consulted with Uisce Éireann, who confirmed that with respect to Water Networks, the site is not serviced but is serviceable via the watermain in the land to the south of the site. Subject to the scale of any future development, services upgrades may be required. With respect to wastewater, the site is not serviced. The nearest sewer is circa 100m south-east of the site. A report from Water Services at the local authority, states that the lands are located in the vicinity of services, while

upgrades may be required, it is reasonable to expect such works to be included as part of any future planning application.

5.2. 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

- While land is zoned it is unsafe to farm or develop.
- Damage was caused by Fingal Co. Council contractor during CPO upgrade of Park Road leaving the trees and wall unstable and dangerous. The Council agreed they would excavate roadworks a few meters away from the wall, this was not the case. Photos attached.
- Lack of services and infrastructure at land i.e. no footpath, access, drainage, (new junction on this land not even designed) will need 'third party consent'.
- Stone wall of 'heritage importance' would have to be removed for access. Requires planning consent, and this is all confirmed by Fingal Co. Council, email attached.
- Fingal Co. Council state the new East West street, Park Road will intersect on this land and will be 'complex' and are awaiting Department of Transport Traffic Plan for Rush.

## 7.0 Assessment

7.1. The appeal grounds refer to a wall of heritage value that requires planning consent for removal, and an email is included that confirms that this is the view of a Senior Planner at Fingal Co. Council. The location this wall is not clear, the site appears to have frontage to both Park Road and Palmer Road and so an access could be provided as part of a development proposition for the site. There are no heritage designations applicable to the site as outlined in the zoning map for the area.

7.2. With respect to the compulsory purchase of lands, this appears to relate to a corner of the site on Park Road to facilitate new junction access for a new road. This would

not prevent the site being available for residential development, albeit any proposal for the site would need to accommodate the new road arrangement as it interacts with the site.

7.3. Services such as drainage, water and wastewater can be connected to, as confirmed by Uisce Éireann and the Water Services section of the local authority. Upgrade and connection works could take place across local authority lands (roads) and would be within the normal parameters of a development proposition.

7.4. 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 Park Road or Palmer 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 agricultural lands and the nearest existing residential estates are a significant distance away, c.150m to the south east on Park Road or c.200m away to the north east on Palmer Road, with interfaces to lands that may be in third party ownership in-between.

7.5. 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.”*

7.6. 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 public authority.

7.7. As a result, in my opinion, due to the extent of new footpath infrastructure required and the uncertainty of whether this would require works in third party lands, the site should not be considered in-scope.

## 8.0 Recommendation

8.1. I recommend that the board set aside the determination of the local authority and allow the appeal.

## 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, the site is not served by existing pedestrian infrastructure and would require the provision of extensive sections of new footpath to connect to existing provision, there is also uncertainty whether this would require works on lands in third party ownership, and as such cannot be considered in-scope for the RZLT.

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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Rachel Gleave O'Connor  
Senior Planning Inspector

09 June 2023