



An
Bord
Pleanála

Inspector's Report ABP-317007-23.

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 Main Street, Castledermot, Co. Kildare
Local Authority	Kildare County Council
Local Authority Reg. Ref.	KCC-C108-59
Appellant	Trevor Moore
Inspector	Emma Nevin

1.0 Site Description

- 1.1. The site, with an area of 0.23ha, is located in the centre of Castledermot. The site comprises a terrace of three no. two-bay two-storey buildings, which have shopfront and public house elevations to the ground floor, with fenestration to the first-floor level. The terrace of buildings addresses main street. The garden to the rear runs parallel to the rear of the buildings fronting 'Keenans Lane'.

2.0 Zoning

- 2.1. The site is zoned 'Town Centre' as per the Zoning Map V2-1.1B of Volume 2 of the Kildare County Development Plan, 2023 – 2029, under objective A, with a stated objective *"To provide for the development and improvement of appropriate town centre uses including residential, commercial, office and civic use"*.
- 2.2. The Plan states that the *"purpose of this zoning is to protect and enhance the special character of the town centre and to provide for and improve retailing, residential, commercial, office, cultural and other uses appropriate to the centre of a developing town. It will be an objective of the Council to encourage the use of buildings and backlands and especially the full use of upper floors. The size and scale of all new developments shall not be out of character with the already established town centre area. Retail developments shall have regard to Chapter 8 of Volume 1. Warehousing and other industrial uses will generally not be permitted in the town centre"*.
- 2.3. Residential use is permitted in principle within this zoning objective.
- 2.4. The buildings on site are listed on the National Inventory of Architectural Heritage (NIAH) as follows; Reg. No. 11823004; Reg. No. 11823003; and Reg. No. 11823002.
- 2.5. The is located within a Zone of Archaeological Potential as per the Objectives Map V2-1.1B of Volume 2 of the Kildare County Development Plan, 2023-2029. However, there are no identified Record of Monuments & Places (RMP) on the subject site as per the Objectives Map.

3.0 Planning History

None located.

4.0 Submission to the Local Authority

- 4.1. The appellant submits the lands have been used as a general grocer, hardware, drapery, cafe since 1916 and more recently as an antique business. The premises are now boarded up; however, the landowner intends to reopen the shop in 2023.
- 4.2. It is unclear if the structure on site is a protected structure.
- 4.3. There is no legal right of way from the public roadway to these rare lands which are landlocked and, as such, cannot be connected to public infrastructure and services.
- 4.4. The rear of the site is currently being used for the growing of some crops, poultry keeping and beekeeping.
- 4.5. As such the appellant requests that the lands are removed from the Draft RZLT Map.

5.0 Determination by the Local Authority

- 5.1. The subject land is included in Volume 2 of the Kildare County Development Plan 2023 - 2029 and is zoned 'A' Town Centre, residential development is 'permitted in principle' within the relevant zoning matrix.
- 5.2. The land is serviced, or it is reasonable to consider may have access to services necessary for dwellings to be developed and for which there is service capacity available sufficient to enable housing to be developed.
- 5.3. The local authority has stated that the lands are currently vacant or idle and are in limited use associated with the residential and commercial structures on site.
- 5.4. The site comprises a terrace of three structures with commercial use on the ground floor fronting onto the Main Street with associated backlands. The structures are not listed on the record of protected structures of the local authority. They are, however, listed in the record of National Inventory of Architectural Heritage (NIAH) as follows; Reg. No. 11823004; Reg. No. 11823003; and Reg. No. 11823002.

- 5.5. All three structures (original use referred to as house) have a regional rating and are recognised for their architectural, artistic, historical, and social special interest.
- 5.6. The entire site is included within the zone of notification of the National Monument Service (NMS) online interactive map/ search facility, Historic Environment View (HEV). The zones on the HEV do not constitute buffer zones completely excluding the possibility of development, though they can be taken as indicating areas for consideration in relation to the possible impacts on the site or monument in question. Planning authorities are required to refer planning applications to certain bodies in specified circumstances, and the planning application is examined with reference to the possible impact on both known and yet unidentified archaeological heritage. The relevant planning authority will consider the recommendation of the NMS as part of its decision-making process in relation to the application. Therefore, it is recommended that the land be retained on the RZLT map.
- 5.7. It was determined that the subject site fulfils the qualifying criteria set out in the Taxes Consolidation Act, 1997, as amended and the Section 28 Ministerial Guidelines “Residential Zoned Land Tax – Guidelines for Planning Authorities’ for inclusion on the RZLT Map.

6.0 The Appeal

6.1. Grounds of Appeal

The appellant states:

- The site in question has been used as a general grocer, hardware, drapery, cafe in operation since circa 1916 by my immediate family.
- Castledermot has suffered from general dereliction like most lands in the villages in rural Ireland.
- The appellant is querying if the property is or is not a protected structure. It was a protected structure up to recently, but it is not exactly clear at present.
- The property was protected in 2009 in the main Development Plan appendices, and in the 2009 Castle Dermot Local Area Plan (specifically pages 16, 17 and 37). The property was identified on page 16 of the

Castledermot Local Area Plan as CT18 ‘Thompson’s’ House and Shopfront, Main Street and as denoted on the map indicating built heritage items. Page 97 of the Castledermot Local Area Plan in Section HE2 stated “*To ensure the maintenance of the historic character and built form of the town centre of Castledermot by respecting building heights, predominant fenestration patterns and cladding/roof covering with reference to adjacent and/or nearby historic buildings*”.

- The combination of the protected structure status at that time in combination with the HE2 objective, meant that nothing could be changed in principle with the current layout of the shops.
- There is no legal right of way from the public road to the rear lands and the rear lands are landlocked with no road or footpath access. The physical condition does not allow development at present. There was no way of building to the rear as there was no means of access to the roadway fronting the property without knocking down some of the protected structure to access. This refers to the period in and around 2009.
- The site is present on the NIAH and the planners would not allow demolition of the existing structures to facilitate development.
- The rear land cannot readily be connected to the roadway, public infrastructure, and services without travelling through third party lands. The lands to the north, east and south are not in the appellants’ ownership. The only land that abuts the public roadway is the shop front road frontage.
- The appellant states that they would be willing to develop the rear of the site for housing and conjunction with an adjacent landowner should the situation arise in the future.
- The site is also located in a rich archaeological area and any development requires extensive archaeological investigation.
- The lands to the rear of the shop are used in conjunction with the shop and living above accommodation. The sheds in the yard were used in conjunction with the hardware business and the garden to the rear were used to grow organic vegetables and other produce for the shop, etc. The rear of the site is

currently being used for the growing of some crops, poultry keeping and beekeeping, etc.

- The appellant states that the shops will reopen within the coming year and the land to the rear will be used to grow vegetables and other produce for sale in the shop. In this regard the shop will be a local shop again, and the land will be used in association with this.
- The appellant refers to the Residential Zoned Land Tax Guidelines for Planning Authorities, June 2022 in particular Sections 3.1.1, 3.1.2, and 4.1.1 and where the backland does not have access to the public roadway without interfering with the existing shops and streets as detailed in Section 3.1.1.
- Lands to the rear including the shops and overhead accommodation are less than 0.4047 hectares in area and have always been used in the enjoyment of the residential element of the property.
- The appellant refers to page 12 of the Guidelines, which states that operating uses on mixed-use zoned lands with reference to land that is included in a development plan or local area plan and is zoned for a mix of uses, including residential such as TC-Town Centre, that all land should be excluded from the map unless it is considered vacant or idle. The appellant states that he is currently working on the premises and given that the land is located within the town centre, the land should be excluded as it is not vacant while work is ongoing.

7.0 **Assessment**

- 7.1. To satisfy the criteria as identified in section 653B of the Taxes Consolidation Act 1997, as amended, land must be zoned residential use or for mixed uses including residential. The subject site is zoned 'objective A', 'Town Centre', and while the primary land use is development and improvement of appropriate town centre uses including commercial, office and civic use employment generating, residential use can also be considered under this zoning objective.
- 7.2. Section 3.1.2 of the Residential Zoned Land Tax – Guidelines for Planning Authorities, 2022, describe permissible exclusions from the map, including where

land located within mixed use zones, which permit a variety of uses including residential, should only be considered to be in scope for the tax where they are vacant or idle. The subject site is zoned for mixed use, including residential. Kildare County Council in their assessment, state, as a matter of fact, that the site is currently vacant/idle and is not required for or integral to the operation of a trade or profession being carried out. While the appellant states that work is being undertaken on the existing property and it is envisaged that the shops will reopen in the coming year, the buildings are vacant. As such, the property is considered to be vacant/idle and, therefore, the site falls within scope of the land use zonings applicable to the RZLT.

- 7.3. The dereliction in the town and the previous use of the property, which as noted above is presently vacant/idle, as a grocer, hardware, drapery, café does not exempt the lands from inclusion on the RZLT maps.
- 7.4. Additionally, the use of the rear lands for the growing of growing of some crops associated with the shop, poultry keeping and beekeeping, etc. does not exempt the lands from inclusion on the RZLT maps.
- 7.5. The appellant states that there is no right of way from the public road to the rear of the site and these lands cannot readily be connected to the roadway, public infrastructure, and services without travelling through third party lands. While this is noted in relation to the rear of the site, the front of the site addresses the main street, public footpath and roadway, and therefore it is reasonable to consider that the site may have access or be connected to public infrastructure, necessary for dwellings to be developed as per 653B (b) of the Taxes Consolidation Act, 1997, as amended.
- 7.6. The appellant refers to the protected status of the buildings and quotes references to the Castledermot Local Area Plan 2009, however, the Castledermot Local Area Plan 2009, as referenced has expired. In addition, the existing structures are not listed on the Record of Protected Structures in the current Development Plan. However, they are listed on the NIAH i.e. Reg. No. 11823004; Reg, No. 11823003; and Reg. No. 11823002, and are recognised for their Architectural, Artistic, Historical, and Social interest. The NIAH designations on the site would not prevent a proposal coming forward to develop the site, and any application would be assessed on its own merits. I do not consider that the lands should be excluded on this basis.

- 7.7. The lands are located is within a Zone of Archaeological Notification with no protected structures, national monuments or any other similar item indicated on the subject site. This is a designation, which requires notification of the relevant statutory bodies (Department of Housing, Local Government and Heritage, in the event of an application) and does not preclude development subject to the appropriate archaeological analysis of any site for development with such an area. I do not consider that the lands should be excluded on this basis.
- 7.8. The appellant also refers to the fact that the shops and overhead accommodation are less than 0.04047 hectares. However, this guidance as per the Residential Zoned Land Tax Guidelines for Planning Authorities, 2022, only refers to existing residential properties, and the subject buildings are not in residential use i.e. commercial at ground floor level. As such this exclusion does not apply to the subject site.
- 7.9. Section 3.1.2 Exclusions from the Map, Operating Uses on Mixed Use Zoned Lands of the guidelines states "*With reference to land that is included in a development plan or local area plan and is zoned for a mixture of uses, including residential such as TC-Town Centre, DC-District Centre, RE-Regeneration, LC-Local Centre and RV-Rural Village, all land should be excluded from the map unless is it considered 'vacant or idle'. 'For clarity, lands on mixed use zonings only fall into scope where residential development is a 'permitted in principle' use in that zoning*". As noted above, the subject site is vacant/ide and is within an area where residential development is permitted in principle, as such this exclusion does not apply to the subject site.
- 7.10. As such, I consider that the site can be suitably serviced to allow for residential dwellings.

8.0 Recommendation

- 8.1. I recommend that the board confirm the determination of the local authority and direct the local authority to retain the lands identified as KCC-C108-59 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. The lands as identified KCC-C108-59 are considered in scope of section 653B of the Taxes Consolidation Act 1997, as amended,

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.

Emma Nevin
Planning Inspector

30th August 2023