



An
Bord
Pleanála

Inspector's Report ABP-317071-23.

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

Walshestown, Newbridge, Co. Kildare

Local Authority

Kildare County Council

Local Authority Reg. Ref.

KCC-C108-60

Appellant

Peter Buckley

Inspector

Emma Nevin

1.0 Site Description

- 1.1. The subject site, with an area of 3.75ha, is located in the townland of Walshestown, to the southeast of Newbridge. The site is a green field site with an irregular shape. The surround land use is primarily residential with the M7 motorway located further to the south of the land parcel.

2.0 Zoning

- 2.1. The site is zoned 'new residential' in the Newbridge Local Area Plan 2013 - 2019 to 22nd December 2021 (inclusive) under objective C, with a stated objective "To provide for new residential development".
- 2.2. The plan further states that "*This zoning provides for new residential development and associated ancillary services. Permission may also be granted for home based economic activity within this zone subject to the preservation of residential amenity and traffic considerations. New residential areas should be developed in accordance with a comprehensive plan detailing the layout of services, roads, pedestrian and cycle routes and the landscaping of open space*".
- 2.3. The Newbridge Local Area Plan expired in 2021, and was not incorporated into the Kildare County Development Plan 2023 - 2029. Chapter 2, Core Strategy & Settlement Strategy, of the Development Plan states it is an objective of the Council to; "*CS 09 Review and prepare on an ongoing basis a portfolio of Local Area Plans (LAPs) for the mandatory LAP settlements (and environs, where appropriate) of Naas, Maynooth, Newbridge, Leixlip, Kildare, Athy, Celbridge, Kilcock, Monasterevin, Sallins, Clane and Kilcullen in accordance with the objectives of the County Development Plan and 36 all relevant Section 28 Ministerial Guidelines.*"

3.0 Planning History

None located.

Relevant adjoining planning history:

- Ref. No. 04/132: Conditional permission was granted by Kildare County Council and the decision was upheld on appeal to An Bord Pleanála

(PL09.208971) for a residential development of 154 houses and all associated site works.

4.0 Submission to the Local Authority

4.1. The landowner submits that the lands be excluded from the RZLT Map, on the ground that the land does not satisfy criteria in Section 653B(b) of the Act.

5.0 Determination by the Local Authority

5.1. 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.

5.2. The subject lands are zoned for residential development in the Newbridge Local Area Plan 2013 – 2019, as amended.

5.3. The land is serviced, or it is reasonable to considered that it may have access to services i.e., having access to the necessary public infrastructure and facilities including road and footpath access, public lighting, foul sewer drainage, surface water drainage and water supply necessary for dwellings to be developed and for which there is service capacity available sufficient to enable housing to be developed. Section 4.1.1(iii) of the RZLT guidelines is referenced in this regard.

6.0 The Appeal

6.1. Grounds of Appeal

- The subject lands do not meet the criteria set out in Section 653B of the Taxes Consolidation Act, 1997, as amended.
- The land is not serviced, and it is unreasonable to consider that it may have access to services as defined for the following reasons:
 - (i) The public foul sewer is over 1 mile from the property, there is not a public water main, or surface water sewer to which the appellant has the legal right to connect to.

- (ii) The land does not have the legal right to connect to the sewers and other services of the adjoining estate, Walshestown Park, which are not in charge.
- (iii) The existing foul sewer services at Kilbelin Abbey, does not have the capacity to cater for the development of the appellant's land. There are problems with the sewerage system and there have been for some time past serious blockages of this system at the rear of Kilbelin graveyard and Newbridge.
- (iv) Significant works are required to enable connection to the services of Walshestown Park or Kilbelin Abbey, which are outside of the appellants control, and outside the control of the relevant planning authority.
- (v) The appellant would be required to acquire an easement over third party lands, to enable connection to the services, the cost of which would be substantial.
- (vi) To develop the land, it will be necessary to lay new foul sewers along the public road back to connect into the public sewer together with a surface water and a watermain, which constitute significant works at a considerable cost.

7.0 Assessment

- 7.1. The comments raised in the appeal are noted and the report of the Planning Authority with supporting reports are noted.
- 7.2. With respect to the existing services to the subject site, regard is had to the local authority assessment which references and adjoining development to the north (Ref. No. 04/132) of the subject lands, which indicate a 225mm diameter foul and storm services, 150mm diameter watermain, and road, footpath and streetlights that run up to the appellants lands. It is also noted that the subject site has access to the public road. I also reference Section 4.1.1 (iii) of the Residential Zoned Land Tax - Guidelines for Planning Authorities, 2022, which states; “ *In assessing whether land or landbanks are able to connect to services, Planning Authorities should take into*

account the following:- In the first instance, where the infrastructure is located adjoining, intersecting, at a boundary or corner of a landbank, in a nearby public road, or is connected to an existing development adjoining the landbank, the lands should be considered to be ‘connected’ or ‘able to connect’ and therefore are in-scope”. In this regard, it is considered that the site is suitably serviced and are considered to be ‘connected’ or ‘able to connect’ as per Section 653B(b) of the Taxes Consolidation Act, 1997, as amended.

- 7.3. In terms of capacity, and the issues with the existing system and significant works to connect to the system, it is noted that no report was received from Uisce Eireann.
- 7.4. It is noted that Newbridge is served by the Osberstown Wastewater Treatment Plant in Naas (ULLVSS WWTP Osberstown) and has a Green Status on the Uisce Eireann Wastewater Treatment Capacity Register published in June 2023. Green status is stated to mean *‘spare capacity available’*.
- 7.5. In my opinion there is a viable wastewater connection available in proximity to the site and, therefore, the site can be reasonably serviced in terms of wastewater, as per Section 653B (b) of the Taxes Consolidation Act 1997, as amended.
- 7.6. Notwithstanding, the zoning of these lands is under the Newbridge Local Area Plan 2013 – 2019, extended to 22nd December 2021 (inclusive), and this plan has now expired. While it is an objective of the Core Strategy and Settlement Strategy to “*CS 09 Review and prepare on an ongoing basis a portfolio of Local Area Plans (LAPs) for the mandatory LAP settlements (and environs, where appropriate) of Naas, Maynooth, Newbridge, Leixlip, Kildare, Athy, Celbridge, Kilcock, Monasterevin, Sallins, Clane and Kilcullen in accordance with the objectives of the County Development Plan and 36 all relevant Section 28 Ministerial Guidelines*”, it is unclear as to whether the Planning Authority have commenced the process of preparation of a new local area plan for Newbridge, and the current plan has expired.
- 7.7. The subject lands are therefore not zoned, as per Section 653B(a) of the Taxes Consolidation Act, 1997, as amended, and the lands cannot be considered to be suitable for inclusion on the RZLT maps.

8.0 Recommendation

- 8.1. I recommend that the board set aside the determination of the Local Authority and that the lands identified as KCC-C108-60 be removed from the map.

9.0 Reasons and Considerations

- 9.1. The appellant requested that their site be removed from the map due to the fact that these lands are not serviced.

The zoning of these lands was under the Newbridge Local Area Plan 2013 – 2019, extended to 22nd December 2021 (inclusive), and this plan has expired, there is no replacement Local Area Plan under preparation. The lands identified as KCC-C108-60 are, therefore, not zoned, as per Section 653B(a) of the Taxes Consolidation Act, 1997, as amended and should not be included on the relevant RZLT maps.

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

22nd August 2023