



An
Bord
Pleanála

Inspector's Report

ABP-320317-24

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

Old Road, Rush, Co. Dublin.

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

FIN-C657-RZT 24/04

Appellant(s)

Paul Flynn

Inspector

Fergal Ó Bric

1.0 Site Location and Description

The site is situated north west of Old Road in Rush, North County Dublin. The subject lands are stated to comprise 0.73 hectares and are located south-west of a residential dwelling. The subject lands are stated to comprise an agricultural field. The parcel id number is FL0000002144-part of.

2.0 Zoning and other provisions

- 2.1. The site is zoned RS – Residential and within the designated settlement boundary for Rush as set out within the Fingal County Development Plan 2023-2029.

3.0 Planning History

PA reference number RZLT128/22, in 2023, Fingal County Council determined that the lands should be included within the RZLT map. ABP reference 316534-23, in 2023, the Board confirmed the determination of the Planning Authority and directed the local authority to retain the lands on the RZLT map.

4.0 Submission to the Local Authority

- 4.1. The appellant made a submission to the Local Authority seeking to have his land removed from the draft map. The submission stated the lands form part of an active family farm.
- 4.2. The subject lands are greenfield and part of a wider agricultural business, the lands relate to sustainable agricultural practices which are a key aspect of the local economy. The subject lands are actively used for sustainable agricultural practices which are a key aspect of the local economy. The RZLT zoning on these lands poses a threat to the local economy of Rush. Reference to the Our Rural Future Rural Development Policy 2021-2025.
- 4.3. The site is not currently served by footpath infrastructure and there are currently no footpaths located on Old Road. Significant sections of new footpath would be required across other landholdings which are outside of the landowners control.

- 4.4. The site does not have access to the wastewater network and significant upgrade works would be required and would be at the expense of the developer.

5.0 Determination by the Local Authority

The local authority determined to include the site on the final RZLT map on the basis that the site constitutes land satisfying the relevant criteria set out in in Section 653B of the Act.

The reasons set out by the Local Authority are as follows:

- 1) The land is included in a Development Plan or a local area plan and is zoned for residential development or zoned for a mixture of uses, that includes residential development.
- 2) The land is serviced, or it is reasonable to consider may have access to services. Serviced means 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.
- 3) The land is not affected in terms of its physical condition, by matters to a sufficient extent to preclude the provision of dwellings, including contamination or the presence or archaeological or historic remains.
- 4) The existing non-residential use of the lands that are the subject of the submission are not considered to benefit from the exclusions set out in the Finance Act 2021 at Section 653B(c).

6.0 The Appeal

6.1. Grounds of Appeal

- The lands are integral to the operation and success of the farm business.
- Crops are grown on these lands to provide food for Irish families.
- The lands are underlain by fertile sandy soils unique to this area and these are a rare commodity.

- The value of farmers livelihoods needs to be taken not consideration.
- Retaining the site on the RZLT maps would diminish the viability of the farm.

7.0 Assessment

- 7.1. The comments raised in the appeal submission are noted. The lands identified for inclusion on the RZLT map are zoned RS-Residential in the current Fingal Development Plan 2023-2029. This zoning Objective is – *Provide for new residential communities subject to the provision of the necessary social and physical infrastructure*. The Local Authority determined that the lands are in scope and that they remain on the RZLT map. The local authority set out that the site is within a designated urban settlement with services available and no capacity or other reasons have been identified that would prevent the development of these lands for residential purposes.
- 7.2. The appellants set out that the lands are part of an active farmed since 1993 to the present day and have been registered with the Department of Agriculture each year since then for the single farm payment.
- 7.3. The Taxes Consolidation Act 1997 as amended by the Finance Act 2021, includes in section 653B the criteria for inclusion in the map. This states that it is applicable to lands zoned ‘(a) (i) solely or primarily for residential use, or (ii) for a mixture of uses, including residential use’ but not land ‘(c) (ii) that is referred to in paragraph (a)(ii) unless it is reasonable to consider that the land is vacant or idle.’ The land is zoned primarily for residential use, and not for mixed use, and therefore the exemption under part (c)(ii) does not apply. The RZLT Guidelines confirm that use of land for agricultural or horticultural purposes are not considered to be exempted from scope as they are not liable to commercial rates.
- 7.4. With respect to the appeal grounds concerning road infrastructure, the site is accessible from the Old Road, Rush, and has significant frontage onto this road. It would be within the normal parameters of a residential development proposition that it undertake upgrades to adjacent roadways and access points to facilitate development of the land. The roads are also within local authority ownership and the RZLT Guidelines confirm on page 23 that the site would be in-scope. With respect to public lighting, networks exist in the area that development of the site, with provision of public lighting, could connect to.

- 7.5. With respect to wastewater infrastructure, the Planners Report references a submission from Uisce Eireann and a referral response from their Water Services Section have confirmed that a watermain exits in proximity (south) of the site along the Old Road, and the nearest foul sewer is located c.200 metres to the northeast of the subject lands. The local authority concludes that the site can be serviced and should remain in-scope. In my opinion, it would be within the normal parameters of a planning application for residential development to include provision for connection to wastewater networks, and the distance between the appeal site and the nearest sewer is not considered significant in that context.
- 7.6. With respect to pedestrian footpaths, there are pedestrian footpaths on the corner of Old Road and Whitestown Road to the south of the site, and it would be reasonable to expect a development proposition for the site to include new footpath infrastructure along the site extent. The subject lands are proximate to existing footpath infrastructure to the south of the site on the corner with Whitestown Road. As such, significant new sections are not necessary to connect to existing infrastructure, and works would be on lands within the landowners' control, or publicly owned land.
- 7.7. In relation to the subject lands, works that would be required to connect to existing wastewater and pedestrian infrastructure is within the normal parameters of what a development proposition might include, is not considered significant and can be reasonably considered to be undertaken over the landowners' lands or publicly owned land.
- 7.8. Therefore, in my opinion, the subject lands should be considered to be in-scope.
- 7.9. The fact that the lands are in active and established agricultural use does not qualify for omitting the lands from the map under section 653B, nor does the question of viability as a consequence of the application of the RZLT to the lands.

8.0 Recommendation

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

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, and the advice in section 3.1.2 of the Guidelines for Planning Authorities on the Residential Zoned Land Tax, the site is considered in scope for the purposes of the RZLT map.

The lands identified as FIN -C567-RZT24-04, parcel ID number FIN0000002144-part of are located on RS-Residential zoned lands identified within the current Fingal County Development Plan are considered in scope of Section 653B of the Taxes Consolidation Act 1997. as amended. I acknowledge that the lands form part of an active farm and are not vacant or idle, however the agricultural activities are not liable to commercial rates. The lands are located within an established urban area with services available, and no capacity or other reasons have been identified that would prevent the development of these lands in principle for residential purposes in accordance with the RS zoning objective that applies to these lands. The site does satisfy the criterion for inclusion on the map set out in section 653B of the Taxes Consolidation Act 1997, as amended

10.0 Recommended Draft Board Order

Taxes Consolidation Act 1997 as amended.

Planning Authority: Fingal County Council

Local Authority Reference Number: FIN -C567-RZT24-04

Appeal Paul Flynn in accordance with section 653J of the Taxes Consolidation Act 1997 as amended, against the inclusion of the land on the final Residential Zoned Land Tax Map by Fingal County Council on the 27th day of June 2024 in respect of the site described below.

Lands at: Old Road, Rush, County Dublin.

Decision

The Board in accordance with Section 653J of the Taxes Consolidation Act 1997 as amended, and based on the reasons and considerations set out below, hereby decided to:

The Board confirms the determination of the local authority and direct the Local Authority to retain the lands identified as Parcel ID number FIN0000002144 (part of) and Local Authority reference number FIN -C567-RZT24-04 should remain on the RZLT map.

Reasons and Considerations

The lands identified as FIN -C567-RZT24/04- (Parcel ID number FIN0000002144 part of). located on RS-Residential zoned lands identified within the current Fingal County Development Plan are considered in scope of Section 653B of the Taxes Consolidation Act 1997. as amended. I acknowledge that the lands form part of an active farm and are not vacant or idle, however the agricultural activities are not liable to commercial rates. The lands are located within an established urban area with services available, and no capacity or other reasons have been identified that would prevent the development of these lands in principle for residential purposes in accordance with the RS zoning objective that applies to these lands. The site does satisfy the criterion for inclusion on the map set out in section 653B of the Taxes Consolidation Act 1997, as amended

I confirm that the report represents my professional 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.

Fergal Ó Bric
Planning Inspectorate

26th day of September 2024