



An  
Bord  
Pleanála

## Inspector's Report ABP-320339-24

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**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**

Ballinglanna, Glanmire, Cork, Co. Cork

**Land Parcel ID**

CCLA00037859

**Planning Authority**

Cork City Council

**Planning Authority Reg. Ref.**

CRK-RZLT2-24

**Appellant(s)**

O'Flynn Group

**Inspector**

Paul O'Brien

## **1.0 Site Location and Description**

- 1.1. The appeal lands, identified as Parcel ID CCLA00037859 on the RZLT Final Map, are located to the south eastern side of Glanmire, Co. Cork, within the Cork City Council area. The site, which has an irregular shape, has a stated area of 9.859 hectares. The lands adjoin existing residential development in the Church Green and Butlers View development and part of the site consists of constructed housing and infrastructure.

## **2.0 Zoning and Other Provisions**

- 2.1. The appeal site is zoned ZO 02 – ‘New Residential Neighbourhoods’ with an objective ‘To provide for new residential development in tandem with the provision of the necessary social and physical infrastructure’.

- 2.2. The Cork City Development Plan 2022 – 2028 states the following in relation to ZO 02 lands:

### **‘ZO 2.1**

Lands in this zone are designated as Tier 1 or Tier 2 zoned lands in the Core Strategy. Any development proposals must satisfy the requirements for developing on Tier 1 or Tier 2 lands set out in Chapter 2 Core Strategy.

### **ZO 2.2**

This zone covers primarily greenfield, undeveloped lands for new sustainable residential areas. Development in this zone, while primarily residential, must provide an appropriate mix of housing types and tenures along with the amenity, social, community and physical infrastructure required to promote compact growth, balanced communities and sustainable, liveable communities.

### **ZO 2.3**

Uses set out under ZO 1 Sustainable Residential Neighbourhoods are appropriate under this zone subject to such uses supporting the creation of sustainable communities and not conflicting with the primary objective of this zoning.’

- 2.3. As per the Core Strategy, the site is located on Tier 2 lands and as section 2.51 of the Cork City Development Plan 2022 – 2028 ‘Tier 2 sites are zoned land that are considered serviceable by physical infrastructure within the life of this Plan.’

### **3.0 Planning History**

- ABP Ref. 316787-23 refers to an October 2023 decision to confirm the determination of the local authority for the inclusion of these lands on the RZLT Maps.
- ABP Ref. 300543 refers to a March 2018 decision to grant permission for a SHD development including the demolition of an existing dwelling house and farm buildings and for the construction of 608 no. residential units, crèche, conversion of former coach house to provide retail/professional services, reservation of 1.2ha site for 16 classroom school, road improvements and associated site works.
- PA Ref. 23/42154 refers to an October 2023 decision to grant permission for an LRD scheme for 130 residential units, neighbourhood centre, creche, retail unit and community building. This grant of permission replaced the neighbourhood centre and 126 residential units that formed part of the permission under ABP Ref. 300543-18.

### **4.0 Submission to the Local Authority**

- 4.1. The appellant made a submission to the Local Authority seeking to have their lands removed from the Final Map for the following reasons:
- The indicated land parcel is in use as open space/ amenity area to serve the adjoining residential development. They are not therefore available for development.

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

- 5.1. The Local Authority issued an order on the 27<sup>th</sup> of June 2024 stating the following:  
‘A determination pursuant to Section 653E(1)(ii)(I) of the Finance Act 2021, as amended, for Submission Reference CRK-C272-RZLT2-24 to INCLUDE the above

land on the Final Map of the Residential Zoned Land Tax as defined by 653K of the Finance Act 2021 for the reasons set out above is hereby made’.

5.2. Notice was issued on the 28<sup>th</sup> of June 2024 stating the following:

‘I refer to your submission in relation to the above. I wish to inform you that by Order dated 27<sup>th</sup> June, 2024 it was decided to include the above land from the final map of the Residential Zoned Land Tax for the following reason (s)

- The land is included in the Cork City Development Plan 2022-2028, in accordance with Section 10(2)(a) of the Act of 2000 and is further zoned (i) solely or primarily for residential use, or (ii) for a mixture of uses, including residential use.
- These lands satisfy section 653(b) of the Act, in that it is reasonable to consider that the land may have access, or be connected, to public infrastructure and facilities including roads and footpaths, public lighting, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed with sufficient service capacity available for such development.’

## 6.0 The Appeal

6.1. Grounds of Appeal

The following points were made in support of the appeal:

- The planning history of the site is outlined by the appellant.
- Parcel ID Ref. CCLA 00037859 forms an area of land of a substantially completed residential development and includes open space/ amenity lands, footpaths and roads. This is in accordance with Section 653B(iii) points I, II & VII.
- The Planning Authority decision is inconsistent with the removal of similar lands from the draft maps.
- Insufficient details are provided as to how this decision was reached.

6.2. Planning Authority Response

No further comment made.

## 7.0 Assessment

- 7.1. The grounds of appeal have been fully considered. Under section 653J of the Taxes Consolidation Act 1997 as amended, the Board's role in the current appeal is to review the determination of the local authority under section 653E which is based on the application of the relevant criteria set out in section 653B of the Act for inclusion on the RZLT map. This position is consistent with the Residential Zoned Land Tax-Guidelines for Planning Authorities June 2022 which clearly sets out in section 3.3.2 that:

“in considering appeals, An Bord Pleanála is restricted to considering the grounds of appeal, the determination of the local authority on the submission made during public display period, and any additional information on the servicing or use of the land which the Board may seek from the landowner, Local Authority or stakeholders identified in article 28 of the 2001 regulations. In assessing any appeal, the Board is restricted to considering whether the lands meet the qualifying criteria set out in section 653B only”.

- 7.2. Section 653B of the Taxes Consolidation Act, as amended, sets out the criteria for inclusion in the map, and states that the first consideration for inclusion in the map is land which in subsection (a) ‘is included in a development plan’ or ‘local area plan’ zoned solely or primarily for residential use, or for a mixture of uses including residential. The appeal lands are zoned for residential use and therefore within scope of section 653B(a). The site is located on Tier 2 Lands in accordance with the Core Strategy of the Cork City Development Plan 2022 – 2028. Considering that development has taken place, they are developable and adequate services have been provided within the life of the development plan. The Planning Authority determined that the site remain on the RZLT map.
- 7.3. The appellant provides aerial photographs indicating that the development of their lands, including the provision of public open space/ amenity lands, is substantially complete. I agree with their appeal and consider that the development here is substantially complete and does not comprise vacant or idle lands. The lands can be considered to be exempt through Section 653B(iii)(VII) in ‘that it is reasonable to consider is required for, or is integral to, occupation by (VII) recreational

infrastructure, including sports facilities and playgrounds,' and the remaining lands are in residential use.

- 7.4. The second and third part of their appeal refers to a lack of detail as to how Cork City Council came to their decision. I agree with the appellant in that there is no detailed assessment provided in support of their determination and it is not evident as to how the decision was reached.
- 7.5. I am of the view that the land should be omitted from the final map as they can be considered to be exempt through Section 653B(iii)(VII) in 'that it is reasonable to consider is required for, or is integral to, occupation by (VII) recreational infrastructure, including sports facilities and playgrounds,' and the remaining lands forming this land parcel are clearly in residential use.

## **8.0 Recommendation**

- 8.1. Having regard to the foregoing, I consider that the lands identified as Parcel ID CCLA00037859 on the RZLT Final Map do not meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended. The lands should be omitted as they are either in use as public open space/ amenity function as exempt under Section 653B(iii)(VII) or are in functioning residential use.

## **9.0 Reasons and Considerations**

In the assessment of this appeal, regard was had to the content of the Residential Zoned Land Tax – Guidelines for Planning Authorities (June 2022) which are considered to be a helpful complement to understanding the spirit and intent of the primary legislation. However, the recommendation is made within the clear parameters of the applicable legislation.

The lands identified as Parcel ID CCLA00037859 on the RZLT Final Map are zoned ZO 02 – 'New Residential Neighbourhoods' and are considered to be outside the scope of Section 653B(a). The lands are recommended to be omitted as they are either in use as public open space/ amenity function as exempt under Section 653B(iii)(VII) or are in functioning residential use.

## **10.0 Recommended Draft Board Order**

**Taxes Consolidation Act 1997 as amended**

**Planning Authority: Cork City Council****Local Authority Reference Number:** CRK-RZLT2-24

**Appeal** by O'Flynn Group in accordance with section 653J of the Taxes Consolidation Act 1997 as amended, against the inclusion of the land on the Residential Zoned Land Tax Map by Cork City Council on the 28<sup>th</sup> day of June 2024 in respect of the site described below.

**Lands at:** Ballinglanna, Glanmire, Co. Cork

**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 set aside the determination of the Local Authority and allow the appeal in relation to the lands identified as Land Parcel ID CCLA00037859.

**Reasons and Considerations**

The lands identified as Parcel ID CCLA00037859. are zoned ZO 02 – 'New Residential Neighbourhoods' in the Cork City Development Plan 2022 - 2028 and are considered to be out of scope of section 653B. The lands are located within an established urban area. The lands shall be omitted as they are either in use as public open space/amenity function as exempt under Section 653B(iii)(VII) or are in functioning residential use.

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.

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Paul O'Brien

Inspectorate

26<sup>th</sup> September 2024