



An
Bord
Pleanála

Inspector's Report ABP-320366-24

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 Map

Location

Coolagad, Greystones, Co. Wicklow

Land Parcel ID

311688 and 311689

Planning Authority

Wicklow County Council

Planning Authority Reg. Ref.

WW-RZLT-06-2024

Appellant(s)

Cairn Homes Properties Limited

Inspector

Paul O'Brien

1.0 Site Location and Description

- 1.1. The appeal lands identified as Parcel ID 311688 and 311689 on the RZLT Final Map, contains a relatively large area of 20.36 hectares of land located to the west of R761/ Rathdown Road, to the north west of Greystones, Co. Wicklow. The site consists of a number of large fields, and which are under grass, in agricultural use.
- 1.2. Surrounding lands are in agricultural use and are under grass, except to the east which consists of the Waverly housing development.

2.0 Zoning and Other Provisions

- 2.1. The northern part of the site was zoned R22 – ‘Residential with a density of 22 hectares’ in the Greystones-Delgany and Kilcoole Local Area Plan 2013 - 2019 with an objective ‘To provide for the development of sustainable residential communities up to a maximum density of 22 units per hectare and to preserve and protect residential amenity.’
- 2.2. The southern portion was zoned R17 – ‘To provide for the development of sustainable residential communities up to a maximum density of 17 units per hectare and to preserve and protect residential amenity.’
- 2.3. This local area plan expired in 2019 and was not incorporated into the Wicklow County Development Plan 2022 – 2028 as per Section 1.2 of the development plan – ‘Separate Local Area Plans are in place, which will be reviewed after the adoption of this plan, for the following towns / areas: Bray Municipal District, Wicklow Town - Rathnew, Arklow, Greystones – Delgany - Kilcoole and Blessington. These Local Area Plans are reviewed and made under Sections 18, 19 and 20 of the Planning and Development Act, and as such do not form part of the CDP. However, the CDP does provide the key parameters for these Local Area Plans such as the future population and housing targets and sets out the broad strategy for the future economic and social development of these towns.’
- 2.4. Preparation is underway on the drafting of a new Local Area Plan for Greystones-Delgany and Kilcoole. An initial consultation phase was completed in January 2024 and no draft plan has been displayed to date.

- 2.5. Note: Delay in the planning process is not a criteria for exclusion from the RZLT Final Maps.

3.0 Planning History

- 3.1. SHD Ref. ABP-313229 refers to an application for a 7-year permission for construction of 586 no. residential units (351 no. houses, 235 no. apartments), childcare facilities and associated site works. No decision has been made to date.
- 3.2. PA Ref. 23/342/ ABP Ref. 317445-23 refers to an application for the development of 98 houses, creche and all associated sites on part of the subject lands. No decision has been made to date.
- 3.3. ABP Ref. 316656-23 refers to a decision to 'Confirm the determination of 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 their lands removed from the Final Map on the basis that:
- Considers the lands to be appropriately zoned.
 - Lack of public infrastructure to serve the site – with reference to roads, wastewater treatment and surface water drainage.
 - Lands do not have the necessary infrastructure as of the 1st of January 2024.

5.0 Determination by the Local Authority

- 5.1. The Planning Authority determined that the site 'fulfils the qualifying criteria set out in Part 22A of the Taxes Consolidation Act 1997' for inclusion on the RZLT map for the following reasons:

‘1. The lands in question are included in a development plan or local area plan and is zoned for a mixture of uses, that includes residential development.

2. The lands are serviced, or it is reasonable to consider may have access to services. Serviced means having access to the necessary public infrastructure and

facilities including rad 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 lands are 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 of archaeological or historic remains’.

6.0 The Appeal

6.1. Grounds of Appeal

The following points were made in support of the appeal:

- Delays in the planning system have prevented the provision of services to these lands as of the 1st of January 2024.
- The decision to refuse permission under PA Ref. 23/342 (on appeal under ABP Ref. 317445-23) due to it conflicting with the Phasing and Sequencing provisions of the County Development Plan, as well as the lack of available public infrastructure conflicts with the inclusion of the lands on the RZLT maps.

6.2. Planning Authority Response

By letter dated 9th August 2024, no further comments are 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. The comments raised in the appeal are noted and the report of the Planning Authority with supporting reports are also noted. Delay in the planning process is not a criteria for exclusion from the RZLT Final Maps.
- 7.3. The zoning of these lands is under the ‘Greystones-Delgany and Kilcoole Local Area Plan 2013-2019’, and this plan has now expired. The Planning Authority have commenced the process of preparation of a new plan, but the current plan has expired.
- 7.4. The subject lands are therefore not zoned, and the lands cannot be considered to be suitable for inclusion on the RZLT maps in accordance with Section 653B(a)(i).
- 7.5. I note the other comments from the appellant. There is no reason why the lands could not be developed as there is access to this site and services can be provided to facilitate development here.

8.0 Recommendation

- 8.1. Having regard to the foregoing, I consider that the lands identified as Land Parcel IDs 311688 and 311689 on the RZLT Final Map do not meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended for the following reasons.

9.0 Reasons and Considerations

The lands identified as Parcel ID 311688 and 311689 on the RZLT Map are not within scope of Section 653B(a). The lands are located on lands for which there is no zoning at present as they are not included within the relevant county development plan or on a local area plan.

10.0 Recommended Draft Board Order

Taxes Consolidation Act 1997 as amended

Planning Authority: Wicklow County Council

Local Authority Reference Number: WW-RZLT-06-2024

Appeal by Cairn Homes Properties Limited 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 Wicklow County Council on the 26th day of June 2024 in respect of the site described below.

Lands at: Coolagad, Greystones, Co. Wicklow

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 IDs 311688 and 311689.

Reasons and Considerations

The lands identified as Parcel IDs 311688 and 311689 are not zoned as they are not indicated on the Wicklow County Development Plan 2022 – 2028, and there is no Local Area Plan in place for the zoning of these lands.

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.

Paul O'Brien

Inspectorate

10th September 2024