



An
Bord
Pleanála

Inspector's Report ABP-320416-24.

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

Kanturk, Co. Cork

Local Authority

Cork County Council.

Local Authority Reg. Ref.

ADRZLT602590829

Appellant

Darach Meade and Bridget O Sullivan

Inspector

Fergal Ó Bric

1.0 Site Description

The subject lands comprise two land parcels. The first, parcel id number KK-ZLT-22 which comprises an area of 2.58 hectares and is located north-east of the second and adjoining land parcel, parcel id number KK-R-03, which comprises an area of c. 2.47 hectares. Both land parcels are located to the north of the settlement of Kanturk and within the designated settlement boundary.

2.0 Zoning

- 2.1. The KK-ZLT-22 plot is zoned existing residential/mixed residential and other uses and the KK-R-03 plot is zoned new/proposed residential-medium density in the Kanturk Settlement Map included in Volume 3 of the Cork County Development Plan 2022-2028.
- 2.2. Section 2.5.6 of Volume 3, Kanturk settlement plan sets out the following in relation to housing: Kanturk has been allocated a population target of 2,937 in the County Development Plan to 2028 representing growth of approximately 587 people on Census 2016 figures. In order to accommodate this level of population growth, an additional 224 housing units will be required for the period 2020-2028. Based on the National Planning Framework's requirement to deliver 30% of the core strategy requirement within the built envelope of the town and the Plan's commitment to deliver higher densities, a lower land requirement is now required than in previous plans.

3.0 Planning History

3.1. Site

There are a number of older planning permissions dating back to between 2004 and 2007 on the KK-ZLT-22 plot relating to permissions for residential development schemes. However, these permissions were not enacted and have since lapsed.

I am not aware of any planning history pertaining to the KK-R-03 plot of land.

4.0 Submission to the Local Authority

The appellants raised the following issues:

- There is local resistance to development on the lands.
- There have been issues with anti-social behaviour and trespassing on the lands.
- There is a wastewater capacity issue in Kanturk and, therefore, no new houses can be constructed in Kanturk until 2028.
- The lands should be excluded from the RZLT map on the basis of not being serviced.
- An upgrade would be required to the public wastewater infrastructure in advance of development commencing on the lands.

5.0 Determination by the Local Authority

The local authority determined that the site fulfils the qualifying criteria to be included in the Final Map for the Residential Zoned Land Tax for the following reason:

- The subject sites meet the criteria for inclusion on the final annual RZLT map 2025 as set out in Section 653B of the Taxes Consolidation Act 1997, as amended.

6.0 The Appeal

Grounds of Appeal

- 1 The appeal sets out that the lands do not meet the qualifying criteria set out in Section 653B of the Taxes Consolidation Act 1997, as amended, as the lands are constrained by infrastructure requirements including access to water and wastewater piped services would have to be made through land owned by third parties. Therefore, uncertainty exists as to whether the relevant third-party consent(s) would be forth coming.

- 2 The appellants Consultant Engineer has liaised with Uisce Eireann (UE) who have identified that upgrades to the Kanturk WWTP are required.
- The RZLT Guidelines, June 2022 established that land “*must have access to or be connected to relevant services*”, The necessary upgrades to the WWTP are outside the control of the appellant demonstrating the lands should be determined “Out of Scope”.
 - Uisce Eireann (UE) state that capacity exists at present for some residential development. However, based on the UE correspondence, it is clear that the full extent of the zoned lands in Kanturk cannot be accommodated within the Kanturk WWTP.
 - There is a ring fort to the south within parcel number KK-R-03 and this section should be removed from the RZLT map.
 - There is trespassing and anti-social behaviour occurring on the lands.

7.0 Local Authority submission

The Local Authority (LA) issued a response to the grounds of appeal submitted by the appellants. The LA set out the following:

- Cork County Council has had full regard to infrastructural capacities relating to all submissions received in relation to the inclusion within the RZLT map, including submissions received from Uisce Eireann.
- UE have confirmed that watermains and foul sewers are accessible in proximity to both plots of lands.
- The Local Authority confirm that both plots of land meet the criteria required by the relevant RZLT legislation as regard access to services.

- The two plots of land remain in scope for the purpose of the RZLT until such time as the available wastewater treatment plant capacity is fully utilised.
- The adjoining Egmont Woods residential development has been taken in charge by the local authority.
- The appellants own both plots of land which adjoin the Freemount Road where services can be extended, if required.

8.0 Assessment

8.1 The comments raised in the appeal submission are noted. The lands identified for inclusion on the RZLT map comprise two adjoining land parcels. The first (KK-ZLT-22), and more northerly plot adjoin the western side of the Freemont Road, the R579 are zoned existing residential/mixed residential and other uses. The second plot (KK-R-03), is located to the south-west of the first plot and are zoned new/proposed residential-medium density in the Kanturk Settlement Map included in Volume 3 of the Cork County Development Plan 2022-2028. 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 plots of land are 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.

8.2 The legislation clearly sets out that land in scope will be zoned for residential development or a mixture of uses including residential; be serviced or have access to servicing by water, wastewater, road, footpath and public lighting; and not be affected by contamination or significant archaeological remains which would preclude development taking place. Section 4.1.1 of the RZLT Guidelines set out the following:

iii) Services to be considered of the guidelines state that *“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".

8.3 Section 4.1.1 ii) Review of land with planning permission of the guidelines states that *where development for housing or housing and a mix of other uses has been permitted on land which falls into the scope of the tax as set out within the legislation, then default presumption should be given to considering all such lands with permissions to be within scope....Significant works by the applicant to undertake the development which are a part of the plans and particulars lodged as a part of the permitted development should be given careful consideration in light of Section 4.1.1.(iii) of these Guidelines.*

8.4 Uisce Eireann have stated in their submission to the Planning Authority (dated 3rd day of May 2024) that north-eastern plot KK-ZLT-22 has access to a watermain and foul sewer through the Egmont Woods residential scheme, approximately ten metres from its northern boundary. The local Authority report states that the Egmont Woods residential development has been taken in charge by them. UE confirm in their submission that the south-western plot, KK-R-3 has access to the watermain and foul sewer approximately 80 metres from the lands on the Newmarket Road. UE set out that the south-westerly lands (KK-R-03) could be serviced via a connection from the north-eastern lands (KK-RZT-22), without the need to rely on consent from third party landowners. The UE capacity register (dated June 2023) shows Kanturk as having an amber status for wastewater capacity, which indicates there is potential spare capacity at present for some development on the two land plots, however upgrade works are likely to be required to cater for the development of the full extent of the residential zoned lands within Kanturk. The UE capacity register sets out that for water supply, there is: Potential Capacity Available - LoS improvement required. On this basis, it is reasonable to consider that there is some capacity in the water and wastewater networks to cater for residential development within the subject lands.

8.5 I also note that the local authority reference that access to roads infrastructure, footpaths and public lighting exists along the adjoining Freemount Road, the R579 which is located along the eastern boundary of the KK-RZT-22 parcel of land. The KK-R-03 parcel could be accessed through the KK-RZT-22 parcel, given the two land

parcels adjoin each other. Therefore, it is reasonable to consider that there is capacity in the road and footpath infrastructure networks to cater for residential development on the subject lands.

8.6 The appellants raised the issue of a ringfort within the KK-R-03 plot. However, this matter would be addressed as part of the development management process in consultation with the Department of Housing, Local Government and Heritage. This does not preclude the land from being developed for residential purposes. I am satisfied that this is not a matter included within the criteria for exclusion set out in section 653B to the Taxes Consolidation Act 1997, as amended.

8.7 With regard to the anti-social behaviour and trespassing occurring on the lands, again, this is not a matter included within the criteria for exclusion set out in section 653B to the Taxes Consolidation Act 1997, as amended.

8.8 Based on the information submitted, I am satisfied that the lands do not meet the criteria for exclusion set out in Section 653B to the Taxes Consolidation Act 1997, as amended

8.9 The appeal grounds do not raise any other matters that would apply to the subject lands and warrant its removal from the map, with reference to the Taxes Consolidation Act 1997 as amended and the RZLT Guidelines.

9.0 Recommendation

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

10.0 Reasons and Considerations

The lands identified as ADRZLT602590829 (Parcel ID numbers KK-ZLT-22 and KKR-03 located on residentially zoned lands identified within the current Cork County Development Plan 2022-2028 are considered in scope of Section 653B of the Taxes Consolidation Act 1997. as amended. The lands are located within an established urban area with documentary evidence from Uisce Eireann that

services are 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 residential zoning objective that applies to these lands.

11.0 Recommended Draft Board Order

Taxes Consolidation Act 1997 as amended.

Planning Authority: Cork County Council

Local Authority Reference Number: ADRZLT602590829

Appeal Darach Meade and Bridget O Sullivan 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 Clare County Council on the 26th day of June 2024 in respect of the site described below.

Lands at: Kanturk, 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 confirms the determination of the local authority and direct the Local Authority to retain the lands identified as Parcel ID numbers KK-ZLT-22 and KK-R-03 under ADRZLT602590829 should remain on the RZLT map.

Reasons and Considerations

The lands identified as ADRZLT602590829 (Parcel ID numbers Parcel ID numbers KK-ZLT-22 and KKR-03) located on residentially zoned lands identified within the current Cork County Development Plan 2022-2028 are considered in scope of Section 653B(a) of the Taxes Consolidation Act 1997. as amended. The lands are located within an established urban area with documentary evidence from Uisce Eireann that services are 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 residential zoning objective that applies to 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.

Fergal Ó Bric
Planning Inspectorate

3rd day of October 2024