



An
Bord
Pleanála

Inspector's Report ABP-320630-24

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

Bulford, Kilcoole, Co. Wicklow

Planning Authority

Wicklow County Council

Planning Authority Reg. Ref.

WW-RZLT-02-2024

Appellant(s)

Brookhampton Limited

Inspector

Paul O'Brien

1.0 Site Location and Description

- 1.1. The appeal lands with an area of 0.52 hectares, identified as Parcel ID 313498 on the RZLT Final Map, are located to the west of Main Street, Kilcoole, Co. Wicklow. Access to the site may be got from Main Street to the east or from a laneway to the south of the lands. The site is undeveloped and under grass.

2.0 Zoning and Other Provisions

- 2.1. The site was zoned TC – Town Centre in the Greystones-Delgany and Kilcoole Local Area Plan 2013-2019 with an objective ‘To protect, provide for, and improve the development of a mix of town centre uses including retail, commercial, office and civic use, and to provide for ‘Living Over the Shop’ residential accommodation, or other ancillary residential accommodation. To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and promote urban design concepts and linkages between town centre activity areas.’
- 2.2. AP9, on the zoning map, refers to a proposal for the ‘Bullford Action Plan’ for the lands to the west of the subject site. Section 10.10 of the LAP provides full details on this. A link road is also proposed to the south of the site running from Main Street to the lands to the west.
- 2.3. This local area plan expired in 2019 and was not incorporated into the Wicklow County Development Plan 2022 – 2028. Section 1.2 of the development plan states the following:

‘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.

3.0 Planning History

- 3.1. ABP Ref. 316352-23, RZLT File, refers to a November 2023 decision to set aside the determination of the Local Authority and allow the appeal as the lands were not zoned and the lands do not satisfy the criterion for inclusion on the map set out in Section 653(b) of the Taxes Consolidation Act 1997, as amended.
- 3.2. PA Ref. 22/15/ ABP ref. PL27.314721 refers to an application for 56 houses, internal roads, car parking, pedestrian and cycle paths, public open spaces and all associated site and infrastructural works to facilitate connections to public services, vehicular entrance from Main Street with associated upgrades/improvements to Main Street to facilitate this access. The Planning Authority recommended a refusal of permission due to design, density and traffic safety issues, and no decision has been issued by the Board to date.
- 3.3. SHD Ref. 302552-18 refers to a December 2018 decision to refuse permission for 267 residential units, retail units, office units, childcare facility, innovation hub, and all associated site works. Reasons for refusal included issues of concern over foul drainage capacity, AA screening deficiencies and proposal for development on houses on Open Space zoned lands.
- 3.4. The Planning Authority report that the site is on the Vacant Site Register – VS/K/03B.

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:
- References the decision under ABP Ref. 316352-23, that the lands were within an expired LAP area and are not zoned.
 - Supporting documentation was provided to the Local Authority.

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 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 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:

- The site formed part of the expired Greystones- Delgany and Kilcoole Local Area Plan 2013 -2019 and was not incorporated into the Wicklow County Development Plan 2022 – 2028. The subject lands are no longer zoned and should not be included on the RZLT map.
- A link road is proposed to pass through the southern area of the lands and no date for this is available.
- Development of these lands has been prevented due to deficiencies in public infrastructure in the area, though these issues have now been addressed.

6.2. Planning Authority Response

By letter dated 23rd 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 primary issue raised in the appeal refers to the fact that the lands are not zoned. The Planning Authority report that the lands remain zoned as there is no expiration date for a local area plan. I would disagree with the Planning Authority, and I refer to the fact that the LAP has a date of 2013 to 2019 and no extension of the duration of this plan was ever sought or given.
- 7.3. 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).
- 7.4. There are no restrictions on the Uisce Éireann capacity registers for Water Supply or Foul Drainage for Kilcoole. Upgrades to the local road network including a link road to the lands to the west do not impact on this site. There are no restrictions in terms of demonstrating compliance with Section 653B(b).

8.0 Recommendation

- 8.1. Having regard to the foregoing I consider that the lands identified as Land Parcel ID 313498 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 313498 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-02-2024

Appeal by Brookhampton 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 27th day of June 2024 in respect of the site described below.

Lands at: Bulford, Kilcoole, 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:

Omit the lands from the Final Map. The subject lands are not zoned. Therefore, the site does not satisfy the criterion for inclusion on the map set out in Section 653B(c) of the Taxes Consolidation Act 1997, as amended.

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 313498 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. 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.

Paul O'Brien

Inspectorate

10th September 2024