



An
Coimisiún
Pleanála

Inspector's Report ACP-323235-25

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

Daly's Hill, Kilkenny

Planning Authority

Kilkenny County Council

Planning Authority Reg. Ref.

KK-C303-9

Land Parcel ID:

KKLA00000123

Appellant(s)

Daly's Hill Limited

Inspector

Paul O'Brien

1.0 Site Location and Description

- 1.1. The subject site is located approximately 1.1km to the west of Kilkenny City centre. The irregular shaped site, with an area of 8 hectares is located to the south of the R695/ Kennyswell Road. The site is large and extends southwards and adjoins existing residential development to the north, east and south east. There are footpaths on the opposite side of the public road. The subject lands are under grass and are undeveloped.

2.0 Zoning and Other Provisions

- 2.1. The site is within the 'Development Plan Boundary' of the Kilkenny City and County Development Plan 2021 to 2027. The Kilkenny City zoning is indicated on Figure CS4 of the development plan. The subject site is zoned for 'Mixed Use' and includes a Z1 designation. Z1 refers to the 'Robertshill Mixed Use Zoning' and which states:
1. No vehicular connection to be permitted between the Central Access Scheme and Kennyswell Road through the site.
 2. Public open space to be provided along the Breagagh River, to form part of the Breagagh Regional Park.
 3. Any residential component of the site to be readily accessible from the parklands.
 4. An overall Framework Plan of the entire site shall be submitted at planning application stage.
 5. Any development on the site must have due regard to the amenities of existing residences.'
- 2.2. There are no protected structures, national monuments or any other item indicated on the development plan maps.

3.0 Planning History

- 3.1. PA Ref. 19/887/ ABP Ref. 307847-20 refers to an April 2021 decision to grant a 10 year planning permission for 266 residential units, two office buildings, a childcare facility, a local services centre with two commercial/ retail units and offices, a nursing home and a public park.

4.0 Submission to the Local Authority

- 4.1. The appellant made a submission to the Local Authority seeking to have its lands removed from the draft map on the basis that the site is contaminated with Japanese Knotweed, which is an invasive species, and there is a lack of a water supply to the site which has prevented development here.

5.0 Determination by the Local Authority

- 5.1. The Local Authority determined that the site under KK-C303-9 was in scope and stated:

‘Determinations pursuant to Section 653E(1)(a)(ii)(I) of the Taxes Consolidation Act 1997, as amended, for Submission References KK-C303-1, KK-C303-2, KK-C303-3, KK-C303-4, KK-C303-9 and KK-C303-10 to INCLUDE the land referred to in the above submissions on the Final Map of the Residential Zoned Land Tax as defined by 653K of the Taxes Consolidation Act, 1997, as amended, I hereby ordered.’

- 5.2. In relation to water supply, Uisce Éireann have confirmed by letter dated 12th of July 2025 that the site is serviceable.
- 5.3. The Planning Authority concluded that the subject lands were in scope under the terms of Part 22A of the Taxes Consolidation Act, 1997 as amended.

6.0 The Appeal

6.1. Grounds of Appeal

The following points were made in support of the appeal:

- Accepts that the site is suitably zoned for mixed use development and is serviced.
- The primary issue raised in the appeal is the matter of Japanese Knotweed on site and which is considered to prevent the development of these lands by way of contamination. Some attempt was made to treat this issue; however works were halted due to concerns raised by residents in the area.

Considers the subject lands not to be liable for RZLT as the site is contaminated and therefore falls out of scope.

6.2. Planning Authority Response

None received.

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 Pleanála¹ 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 1997 as amended, sets out the criteria for inclusion on the map, and states that the first consideration for inclusion 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 subject lands within Kilkenny City are zoned Mixed Use, under the Kilkenny City and County Development Plan 2021 to 2027, and which allows for residential development. The subject lands are therefore considered within scope of section 653B(a)(ii).

¹ Now An Coimisiun Pleanála

- 7.3. The lands can be considered to be vacant or idle as they are not developed, they are not required or integral for the operation of a trade or profession, and there is no unauthorised development on these lands.
- 7.4. For the purposes of falling within the scope of the RZLT, the criteria is whether it 'is reasonable to consider that the land 'may have access to' or 'be connected to' public infrastructure facilities' necessary for the development of dwellings. The Local Authority determined the lands to be in scope as it is reasonable to consider 'that this site is serviced'. The site is adjacent to public roads and there are services in the area. Footpaths and public lighting can be provided to facilitate the development of these lands.
- 7.5. Services: The site is located in an established urban area of Kilkenny City, and I have checked the Uisce Éireann Capacity registers, dated August 2025, for this area on the 23rd of October 2025. In terms of Water Supply it states that there is 'Capacity Available - LoS improvement required' and in terms of 'Wastewater treatment
- 7.6. The appellant has outlined that the site is contaminated with Japanese Knotweed. The Planning Authority reported in their assessment dated June 2025, that the presence of Japanese Knotweed would not prevent the development of a site for residential use. Permission was granted by the Planning Authority and An Bord Pleanála for the development of this site. The Planning Authority issued a letter in relation to the process of treating the Japanese Knotweed in January 2023 and no response was made.
- 7.7. I note the appeal and the report of the Planning Authority. I am satisfied that the presence of Japanese Knotweed would not prevent the development of this site for residential use. Section 653B(c) does not list Japanese Knotweed as a criteria for exclusion from the map. The RZLT Guidelines for Planning Authorities state 'Lands which are unable to be developed due to the need for significant remediation are to be excluded from the scope of the measure. These are specifically identified as sites with a degree of contamination which would preclude residential development for the time being and which are on a verifiable register such as EPA sites licensed under Section 22 of the Waste Management Acts.' The appellant has not provided any documentary evidence that these lands are contaminated.

- 7.8. There are no known other contaminants, or archaeological/ historic remains that would prevent the development of these lands for residential purposes.
- 7.9. **Conclusion:** The site is suitably zoned, serviced and there are no known restrictions on its development. I am satisfied that the presence of Japanese Knotweed is not a matter to a sufficient extent to preclude the provision of dwellings on these lands and the appeal does not demonstrate compliance with Section 653B(c) of the Taxes Consolidation Act 1997. On this basis, the land, therefore, satisfies the criteria cited in section 653B(a)(ii) of the Taxes Consolidation Act 1997, as amended and the grounds of appeal should be dismissed.

8.0 Recommendation

Having regard to the foregoing, I consider that the land identified under Land Parcel ID KKLA00000123 on the RZLT Final Map meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, and there are no matters arising that warrant exclusion of the subject lands from the final map.

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 Land Parcel ID KKLA00000123 on the RZLT Map are within scope of Section 653B(a). The subject site is located on lands zoned for Mixed Use under the Kilkenny City and County Development Plan 2021 - 2027 and which allows for residential development, is serviced and where it has been demonstrated that access can be provided for. The lands are located within the development area of Kilkenny City Centre. 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 zoning objective that applies to these lands. The presence of Japanese Knotweed does not prevent residential development on these lands; the

appellant has not provided any documentary evidence that this plant would prevent the development of any dwellings on these lands. No other issues of contamination or archaeological/ historic remains have been identified that would prevent the development of residential units here.

10.0 Recommended Draft Commission Order

Taxes Consolidation Act 1997 as amended

Planning Authority: Kilkenny County Council

Local Authority Reference Number: KK-C303-9

Appeal by Daly's Hill 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 Kilkenny County Council on the 24th day of July 2025 in respect of the site described below.

Lands at: Daly's Hill, Kilkenny

Decision

The Commission 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:

Confirm the determination of the local authority and direct the local authority to retain the lands identified as Land Parcel ID KKLA00000123 on the final map.

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 Land Parcel ID KKLA00000123 on the RZLT Map are within scope of Section 653B(a). The subject site is located on lands zoned for Mixed Use under the Kilkenny City and County Development Plan 2021 - 2027 and which allows for residential development, is serviced and where it has been demonstrated that access can be provided for. The lands are located within the development area of Kilkenny City Centre. 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 zoning objective that applies to these lands. The presence of Japanese Knotweed does not prevent residential development on these lands; the appellant has not provided any documentary evidence that this plant would prevent the development of any dwellings on these lands. No other issues of contamination or archaeological/ historic remains have been identified that would prevent the development of residential units here.

I confirm that the report represents my profession 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

23rd October 2025