



An
Coimisiún
Pleanála

Inspector's Report ACP-323289-25

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

Lacken Lodge, Dublin Road,
Leggethsrath West, Co. Kilkenny

Planning Authority

Kilkenny County Council

Planning Authority Reg. Ref.

KK-C303-3

Land Parcel ID:

KKLA00000200

Appellant(s)

Alexander J Wilsdon

Inspector

Paul O'Brien

1.0 Site Location and Description

- 1.1. The subject site is located approximately 1km to the east of Kilkenny City centre, located on the eastern side of the River Nore. The subject lands are located to the north east of the Dublin Road, though street frontage is reduced through the sites location behind a row of detached houses and storage sheds. The lands are undeveloped and are under grass. Adjoining lands are in residential use to the south east, the Dublin to Kilkenny railway line to the north east and light industrial/ storage sites to the north west.

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 'Existing Residential'.
- 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. **ABP Ref. 316394-23** refers to a July 2023 decision to confirm the determination of the Local Authority to include these lands on the Residential Zoned Land Tax 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 draft map. The land is not suitably serviced, and it is sometimes used to provide a service to the local community through the use of the site for car parking associated with large events at the nearby Nowlan Park GAA ground.
- 4.2. The lack of services relates to water supply, and a requirement from the Kilkenny County Fire Service that all developments of over 100 units/ commercial developments are to be served with a 150mm diameter watermain. The area is served by a 100mm diameter watermain and upgrade works would require the crossing of numerous third party lands.

- 4.3. The second issue raised refers to the occasional use of the site, for car parking, associated with large events in the Nowlan Park GAA ground which is within close proximity of the subject site.

5.0 Determination by the Local Authority

- 5.1. The Local Authority determined that the site, under KK-303-3, was in scope, the order stating the following:

‘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.’

6.0 The Appeal

6.1. Grounds of Appeal

The following points were made in support of the appeal:

- The lands are currently zoned for ‘Existing Residential’ however there is no certainty that this will continue into the future.
- Notes the report of Uisce Éireann, but the primary issue is the need for a water supply/ pressure that is far and above what is currently in place at present in the area. The existing pipe on the Dublin Road is only a 100mm internal diameter and which has a poor hydrant flow rate. Details from Kilkenny Fire and Rescue Service are provided to indicate what their requirements are for a development of between 40 and 100 houses. It is considered that a minimum of a 150mm diameter pipe is required here.
- Reference is made to sites in Co. Limerick that were considered to be in scope, however it was later evident that these locations were out of scope due to insufficient wastewater capacity.

Considers the subject lands not to be liable for RZLT.

6.2. Planning Authority Response

No additional comments were made by email received on 14th August 2025.

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 ‘Existing Residential’, 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)(i).
- 7.3. 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

¹ Now An Coimisiun Pleanála

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.

- 7.4. The submitted appeal only refers to the existing water supply and which they, the appellant, consider would be insufficient to meet the requirements of the Kilkenny Fire and Rescue Service. At a density of 35 dwellings per hectare, it would be expected that over 160 units could be provided here.
- 7.5. Uisce Éireann have confirmed that there is a water supply serving this site. For the benefit of the Commission, the Uisce Éireann Capacity registers, dated August 2025, for this area were checked 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 capacity' there is a 'Green' capacity available for the 'Kilkenny City and Environs WWTP'. I am satisfied that adequate services are available to facilitate the development of these lands.
- 7.6. It is standard in the development of a site such as this that upgrade works may be required for the development of a scheme of 160 units. I would consider that such upgrade/ capacity enhancement works would be expected for a development of such a scale. The RZLT Guidelines state that the 'need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist.' Treated water is available in the area, as confirmed by the Uisce Éireann Capacity Register, but notes that a level of service improvement may be required. Required upgrade works would also allow for the requirements of the Kilkenny Fire and Rescue Service to also be met.
- 7.7. The test here 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 and I consider that the site meets these requirements.
- 7.8. There are no known restrictions on the development of this site due to contamination or due to the presence of archaeology or known historic remains.
- 7.9. Conclusion: The site is suitably zoned, serviced and there are no known restrictions on its development. 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 KKLA00000200 on the RZLT 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 KKLA00000200 on the RZLT Map are within scope of Section 653B(a). The lands are located on lands zoned for ‘Existing Residential’ development as per the Kilkenny City and County Development Plan 2021 – 2027, and where it has been demonstrated that necessary services, including water supply, can be provided for. The lands are located within an established urban 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. There are no known contaminants of these lands or archaeology/ historic remains that would prevent the development of these lands for residential purposes.

10.0 Recommended Draft Commission Order

Taxes Consolidation Act 1997 as amended

Planning Authority: Kilkenny County Council

Local Authority Reference Number: KK-C303-3

Appeal by Alexander J Wilsdon 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 15th day of July 2025 in respect of the site described below.

Lands at: Lacken Lodge, Dublin Road, Leggethrath West, Co. 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 KKLA00000200 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 KKLA00000200 on the RZLT Map are within scope of Section 653B(a). The lands are located on lands zoned for 'Existing Residential' development as per the Kilkenny City and County Development Plan 2021 – 2027, and where it has been demonstrated that necessary services, including water supply, can be provided for. The lands are located within an established urban 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. There are no known contaminants of these lands or archaeology/ historic remains that would prevent the development of these lands for residential purposes.

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