



An
Coimisiún
Pleanála

Inspector's Report ACP-323318-25

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

Drakelands, Breaghagh Valley,
Kilkenny

Planning Authority

Kilkenny County Council

Planning Authority Reg. Ref.

KK-C303-10

Land Parcel ID:

KKLA00000208

Appellant(s)

Noreside Construction Limited

Inspector

Paul O'Brien

1.0 Site Location and Description

- 1.1. The subject site is located approximately 1.2km to the west of Kilkenny City centre. The rectangular site, with a stated area of 1.5 hectares is located to the west of the Circular Road. This road has been upgraded with new footpaths and public lighting provided and site boundaries have benefited from improved fencing. 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 'New Residential' and the site is located within the 'Breagagh Valley Masterplan' area. Full details of this Masterplan are provided in Section 2.2.3 of the development plan. The subject site is located within Parcel E and as per Table 2.3 the Character of area is indicated to be 'Higher Density Residential' and under the heading 'This Parcel Must Contain' it states 'Residential development at a mean density of 36-40 residential units/hectare (14.5-16/acre)'.
- 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. 24/60307 refers to a May 2025 decision to grant permission for 64 residential units on this site and all associated site works.

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 on the basis that the inclusion of these lands was unjust as it the lands were subject to an active permission and the site is not serviced, the adjoining land is in the ownership of the Council and road access is required to service these lands. This road is referred to as Road R8 and is located on Council owned lands.

5.0 Determination by the Local Authority

- 5.1. The Local Authority determined that the site under KK-C303-10 was in scope, the order stating the following: KK-C303-10

‘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:

- There has been an on-going process for the planned development of these lands, permission has been received for the provision of housing on these lands, and there has been ongoing discussion on the sale of this permitted development. Contracts for sale have been issued to an interested party in order to bring forward the development of these lands.
- The issue of road access is raised. The Planning Authority refer to the applicant having a right of way and can build the road themselves at their expense at any time. The appeal refers to a deed that the applicant can build the road and provide services if Kilkenny County Council fail to do so within two years of a date from 25th of May 2024. The appeal considers that the road cannot be provided before the 26th of May 2026.

Considers the subject lands not to be liable for RZLT as the necessary access road cannot be provided until after the 26th of May 2026.

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 are zoned ‘New 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 site is serviced’. The appeal refers to the need for Road R8 and which is within the control of Kilkenny County Council. They also refer to a deed that would allow for them to construct the road but not before the 26th of May 2026. The RZLT process does not require specifics in relation to infrastructure other than it is reasonable to

¹ Now An Coimisiun Pleanála

consider that the site can be serviced. The site has direct road frontage, and I consider that the site could be developed and is not restricted by a lack of road access. The test is whether or not housing can be constructed and as direct frontage is available, the need for Road R8 is not a sufficient impediment for residential development here. The available information demonstrates compliance with the requirements of 653B(b) of the Act.

- 7.4. 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'.
- 7.5. There are no known physical restrictions on the development of these lands. The appeal refers to delays on the progression of the site development. The submitted appeal sets out the process they have undertaken to date and refers to a grant of permission having now been received for the development of these lands. The landowner/ developer has also sought to sell these lands and the permission on it to a third party and this process is underway. This is noted; however, the receipt of a planning permission or the process of a land sale do not exempt the inclusion of such lands from the final maps and are not restrictions on the development of land under 653B(c). The RZLT Guidelines for Planning Authorities state the following, 'Matters which are unrelated to the criteria identified in section 653B such as planning permission, commencement on land in-scope, finance, or personal circumstances are not matters to be taken into account during consideration of submissions. Furthermore the size of the landholding, ownership of the land by private, public or semi-state bodies,, lack of knowledge of ownership or transfer of ownership should not be considered.' The issues raised in relation to the planning permission and the sale of land do not therefore justify the exclusion of the lands from the RZLT Map.
- 7.6. Restrictions listed in the Act include contamination, the presence of archaeological or historic remains and there is no known presence of these here, therefore the lands are not excluded on that basis.

7.7. Conclusion: Considering all of the issues raised in the appeal and the report of the Planning Authority, I consider that the site should remain on the Residential Land Tax Maps, as the site is suitably zoned for New Residential development under Section 653B(a) of the Taxes Consolidation Act 1997, as amended.

8.0 Recommendation

Having regard to the foregoing, I consider that the land identified under Land Parcel ID KKLA00000208 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 KKLA00000208 on the RZLT Map are within scope of Section 653B(a). The lands are located on lands zoned for New Residential and which allows for residential development, is serviced and where it has been demonstrated that it is reasonable to consider that access can be provided that would allow for the development of housing here. 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.

10.0 Recommended Draft Commission Order

Taxes Consolidation Act 1997 as amended

Planning Authority: Kilkenny County Council

Local Authority Reference Number: KK-C303-10

Appeal by Noreside Construction 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 29th day of July 2025 in respect of the site described below.

Lands at: Drakelands, Breagagh Valley, 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 KKLA00000208 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 KKLA00000208 on the RZLT Map are within scope of Section 653B(a). The lands are located on lands zoned for New Residential and which allows for residential development, is serviced and where it has been demonstrated that it is reasonable to consider that access can be provided that would allow for the development of housing here. 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.

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

23rd October 2025