

Senior Executive Officer
Planning Department
Meath County Council
Buvinda House
Navan
Co. Meath
C15 Y291

27 March 2024

Re: Submission to Meath County Council in respect of lands identified as falling within the scope of the Residential Zoned Land Tax

Lands owned by [REDACTED] at Duffslane and Commons, Commons Road, Navan, County Meath

Land Parcel ID: MHLA00270876

Dear Sir / Madam,

This submission is made by [REDACTED] the registered owner of lands identified on Figure 1 at Duffslane and Commons, Commons Road, Navan, County Meath.

The submission is made in response to Meath County Council's publication of its Draft Residential Zoned Land Tax (RZLT) Map pursuant to section 653C of the Taxes Consolidation Act, 1997, as amended, identifying 'Relevant Sites' that the Council considers meet the relevant criteria as of 1 November 2022.

Figure 1 is an extract from the Council's online Draft Residential Zoned Land Tax (RZLT) Map, which identifies the Relevant Site extent outlined in red (Parcel ID: MHLA00270876).

In summary, the land is currently the subject of a Request for Further Information dated 10 August 2023, (MCC Reg. Ref. 23/625) on an application for 97 residential units. Given the nature and extent of information requested, it was necessary to agree an extension of the 6 months to make the response by an additional 3 months, to 17 May 2024. The substantive matters raised in the RFI include undertaking the necessary assessments and agreeing a Masterplan for the entirety of the Masterplan MP13 lands that includes extensive areas of Phase 2 residential land, and transportation, water services and flooding constraints relevant to the application site.

Having regard to the current constraints to the development of the site it is submitted that the subject lands do not meet the relevant criteria set out in section 653B of the Act and as detailed in Section 3.1.1, 3.1.2 and 4.1.1 of the RZLT Guidelines for Planning Authorities (June 2022). In particular, the lands do not come within the scope of section 635B(1)(b) by reason of not satisfying the criterion that:

Directors:
Declan Brassil &
Sharon Gorman

Reg No.:
329512

'it is reasonable to consider may have access, or be connected, to public infrastructure and facilities, including roads and footpaths, public lighting, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed and with sufficient service capacity available for such development...'

1. Relevant Legislation

Section 653Q of the Taxes Consolidation Act, 1997, (the Act) as amended, requires that the RZLT be paid annually (commencing 1 January 2024) in respect of a 'Relevant Site' on the basis that it satisfies the 'Relevant Criteria'. Section 635B of the Act sets out the 'relevant criteria' for the inclusion sites on a Draft Map:

*"(a) is **included in a development plan**, in accordance with section 10(2) (a) of the Act of 2000, or local area plan, in accordance with section 19(2)(a) of the Act of 2000, **zoned—***

(i) solely or primarily for residential use, or

(ii) for a mixture of uses, including residential use,

(b) it is reasonable to consider may have access, or be connected, to public infrastructure and facilities, including roads and footpaths, public lighting, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed and with sufficient service capacity available for such development, and

*(c) it is reasonable to consider is **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 known archaeological or historic remains."* [Emphasis in **bold**]

2. RZLT Guidelines for Planning Authorities, June 2022

The Department of Housing, Local Government and Heritage (DHLGH) issued the '*Residential Zoned Land Tax - Guidelines for Planning Authorities*' in June 2022 to assist Local Authorities, An Bord Pleanála and stakeholders in the implementation of the procedures and the requirements of the Residential Zoned Land Tax provisions. The guidelines were issued under section 28 of the Planning and Development Act 2000 (as amended), to promote the activation of land for housing provision.

The Guidelines state that they are intended as guidance to assist planning authorities and An Bord Pleanála in the implementation of the legislative provisions set out in Part 22A of the Taxes Consolidation Act, 1997 as introduced in the Finance Act 2021, and those primary legislative provisions must be complied with in this regard.

Section 3.1.1 of the Guidelines state as follows in respect of the relevant criteria:

'To satisfy the criteria as identified in section 653B, land must be zoned residential use or for mixed uses including residential within a Development Plan, Strategic Development Zone Planning Scheme or a Local Area Plan. This can include lands which are identified solely or primarily for residential purposes within a zoning matrix and mixed use zonings where residential developments are permitted in principle.

'In addition, the land must be connected to, or have access to public infrastructure and facilities necessary for dwellings to be developed and with sufficient service capacity available for such development. All lands which fulfil the criteria set out within the provisions of the legislation, whether

privately or publicly owned are considered to be in scope.'

The Guidelines provide the following example in applying the relevant date:

'Where land is confirmed to have been serviced for roads, paths, lighting prior to January 2022, but only serviced for waste water and water supply on 01 June 2022, then the latest date is to be utilised.'

'The cut-off date for land to be zoned and serviced and included on the draft map is 1 October 2022, i.e., one month before the publication date of the draft map.'

The subject lands were included on the Draft Map dated 1 November 2022 and as such the relevant date for the assessment of whether the lands were zoned and serviced was 1 October 2022.

Section 4.1.1 (ii) of the Guidelines states:

"While the aim of the tax is to activate land which can be developed for housing, this should not result in land being considered in scope for the tax where significant works are required to enable connection to services which are outside of the control of the applicant or the relevant planning authority to enable. In particular, where planning permissions have been granted subject to requirements for significant infrastructure to be delivered by infrastructure providers, this land should not be considered to be 'in-scope'. [Emphasis added in bold]"

Section 4.1.1 (iii) of the Guidelines:

'requires consideration of the services and infrastructure which are considered essential to the connection and development of residential communities. 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...

'Where land has permission, the same considerations should apply. If the works required to connect the land to services are materially significant, for example require access to 3rd party lands which are in private ownership or would require CPO or planning permission in themselves, then the land should be considered to be out of scope. Notwithstanding other development or works which may be considered, examples where land would be considered out of scope would include where the works required to connect the land to services involve the crossing of European Sites, rivers, streams or rail infrastructure where statutory consents are required...'

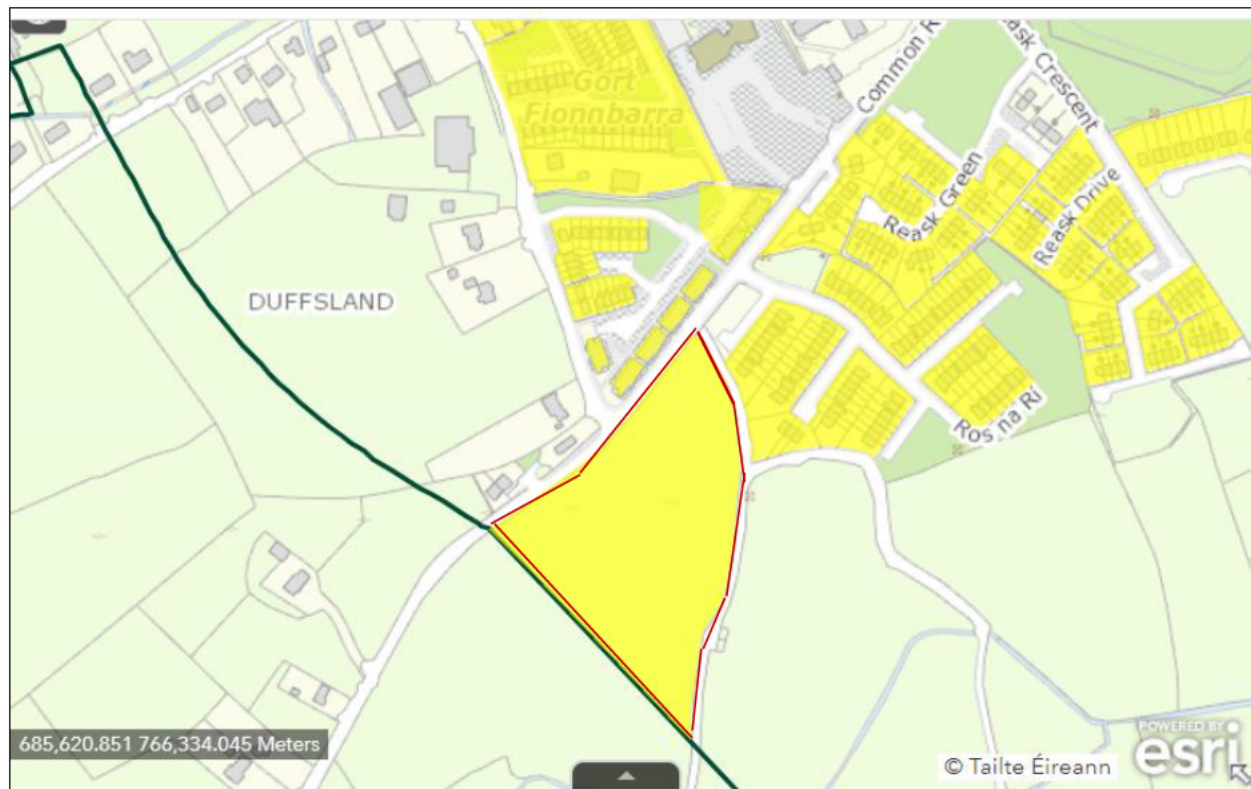
3. Description and identification of the Relevant Site

The subject site is located to the southwest of Navan in the townlands of Duffslane and Commons. The site extends to approximately 2.63 ha

The yellow area within the red line boundary is zoned Objective A2 (New Residential) (Phase 1) and is located within a large landbank designated as Masterplan No. 13 (MP13) on Map No. 28(a) of the Meath County Development Plan, 2021-2027.

Figure 2 below is an extract from Map No. 28(a) of the Meath County Development Plan 2021-2027 that identifies the full extent of the MP13 lands and the LDR link road.

Figure 1 Map Identifying the Relevant Site on the Draft RZLT Map (Yellow Area outlined in Red)



The relevant Development Plan objectives for the MP13 lands are stated as follows:

"Master Plan 13 relates to land situated between the Trim Road and the Commons Road. These lands are to be developed primarily for residential uses. The Master Plan has an area of c.39.6 hectares. To ensure there is appropriate service provision in this part of the town, the development of these lands shall include the provision of local services and facilities including a neighbourhood centre, which may also include small scale enterprises compatible with a residential location community facilities, and the reservation of a site for a primary school, the size and location of which shall be agreed with the Department of Education.

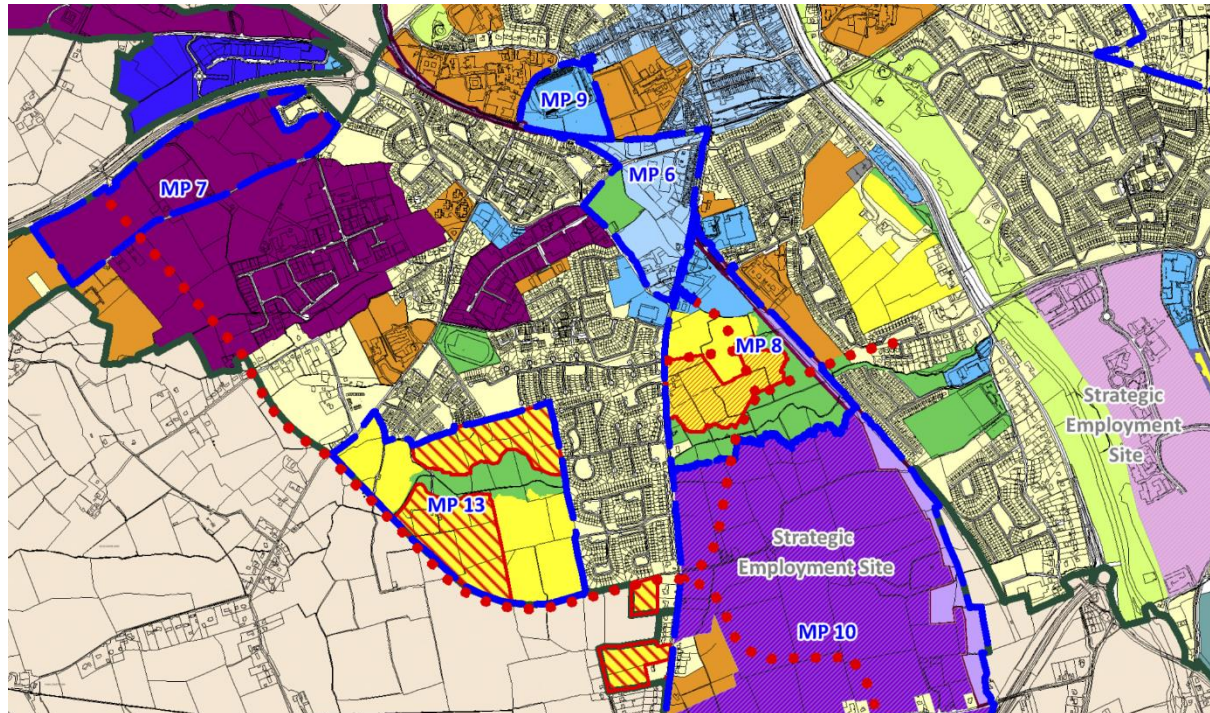
"An integral part of the development of these lands will be the delivery of Local Distributor Road LDR 2(a). The design and delivery of this Distributor Road shall be integrated into any Master Plan for these lands. This Distributor Road shall be delivered in its entirety in conjunction with the development of this Master Plan. Any phasing proposals regarding the development of these lands and the construction of the Distributor Road shall be agreed in writing with the Planning Authority as part of the preparation of the Master Plan."

The MP13 Lands are located to the north of the LDR2(a) link road that forms part of the strategic LDR road network for the town, linking the Commons Road to the Trim Road, and forming part of the wider LDR road objective that will connect to the M3 link roads and the north side of the town. The County Development Plan states:

"The development of the remaining residential lands in the town is closely linked to the delivery of distributor roads. As part of the growth strategy for the town some of these lands have been phased based on a residential evaluation and prioritisation of lands. This includes the following lands at:

"Commons Road: c.33 hectares of residential lands are dependent on the delivery of a link road between the Commons Road and the Trim Road (LDR 2(a)). Approximately 17.4 hectares of these lands have been made available during this Plan, with the remaining 15.6 hectares being unavailable for development until after 2027."

Figure 2: Zoning Map No. 28(a) of the MCDP 2021-2027



The MP13 landbank includes lands designated as Phase 1 that can be developed within the life of the current County Development Plan subject to the availability of the necessary water services connections, and lands designated Phase 2 that cannot be developed until after 2027. The subject lands are designated as Phase 1 lands.

4. Relevant Site Status

The lands are the subject of an application for 97 residential units and the first phase of the LDR2(a) link road for the extent of the proposed application site boundary of the western field and establishing a new junction with Commons Road (MCC Reg. Ref. 23/625)

██████████ and its predecessor, ██████████, have been engaged with MCC and Irish Water for over three years for the purpose of progressing the application on the lands that is now the subject of an extensive Request for Further Information. It was not possible to address the substantive issues within the 6 month period of the date of the RFI, and a 3 month extension to 17 May 2024 was agreed with MCC. The substantive matters raised in the RFI include undertaking extensive assessments for the purpose of agreeing a Masterplan for the entirety of the Masterplan MP13 lands that includes extensive areas of Phase 2 residential land. Those assessments include phasing and implementation of transportation and water services infrastructure, and undertaking AA and SEA screening, for the MP13 area. The RFI also raises substantive issues relating to transportation, water services and flooding constraints relevant to the application site. A copy of the Request for Further Information is attached at

Appendix B.

The application was been delayed by identified constraints in *inter alia* water services infrastructure, and is now delayed at RFI stage, and some uncertainty remains in respect of whether and when the necessary upgrades will be undertaken to facilitate connections and capacity.

The Pre-connection Enquiry (PCE) to Irish Water submitted with the application confirms that the development of up to 100 units is “feasible subject to upgrades”. A copy of the PCE is attached as Appendix B. The Site Specific Comments on the PCE identifies three water supply network upgrades that are required, and more significantly that the wastewater connection is dependent on the completion of the Navan Interceptor sewer.

Whilst Uisce Eireann have commenced the preliminary design for the Navan Interceptor Sewer they have confirmed that the planning and implementation process is likely to take c.3/4 years and it is anticipated it will be post 2027 when this infrastructure will be accessible.

As such, there is uncertainty in respect of when it can be expected to be delivered. This uncertainty could result in onerous conditions being attached to a grant of permission that phase development in line with the availability of infrastructure capacity, or that permission could be refused as premature pending the water services upgrades, and in particular the Navan Interceptor sewer.

In this regard, the lands immediately to the east of the subject lands, also under the control of [REDACTED] [REDACTED] are also zoned Objective A2 – Residential (Phase 1). Those lands were included on the Draft Map published by MCC on 1 November 2022, and were removed by MCC on foot of a submission by [REDACTED]. The Planner’s Report on that submission recommended the removal of the lands having regard to a Report from Uisce Eireann that stated *inter alia* that:

‘Substantial works will be required to provide wastewater services. This includes an assessment of the capacity of the Poolboy WWPS and the network between the site and the Poolboy WWPS’.

It is submitted that the referenced upgrades are also required to service the subject lands and the subject lands should be excluded from the RZLT Map for this reason.

In this regard, and having regard to the extensive and substantive matters raised in the RFI, the works necessary to enable the servicing of the lands are significant and are outside the control of the owner and MCC. Furthermore, the lands were not serviced, and there was significant uncertainty in respect of water services, at the relevant date for inclusion of the lands on the draft Map on 1 October 2022.

Accordingly, in the event that permission was refused by reason of constraints referred to under section 635B (1)(b), or onerous conditions are attached to any grant of permission that would adversely affect the viability of the development or its completion within the life of the permission, the site would not constitute a Relevant Site and should be removed from the RZLT map.

On the basis of the foregoing, it is submitted that the lands are not in scope having regard to section 4.1.1(ii) of the Guidelines that state that *‘[w]hile the aim of the tax is to activate land which can be developed for housing this should not result in land being considered in scope for the tax **where significant works are required to enable connection to services which are outside of the control of the applicant or the relevant planning authority to enable.**’*

Accordingly, it is submitted that the site does not meet the following relevant criteria under section 635B (1)(b) and should not be considered to be in scope:

“(b) it is reasonable to consider may have access, or be connected, to public infrastructure and

facilities, including roads and footpaths, public lighting, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed and with sufficient service capacity available for such development, and... "

Accordingly, it is respectfully requested that the lands that extends to approximately 2.36 ha be removed from the Draft RZLT Map as it does not meet all of the relevant criteria for inclusion.

I trust that is in order and I look forward to confirmation of receipt.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Declan Brassil', with a stylized flourish at the end.

Declan Brassil

Declan Brassil & Co.

Appendix A

Irish Water PCE in respect of the Subject Site (c. 100 units)

Appendix B

Request for Further Information dated 10 August 2023

MCC Reg. Ref. 23/625