



An  
Bord  
Pleanála

## Inspector's Report ABP-316198-23

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**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**

Lands at Orchard Avenue,  
Newmarket, Co. Cork

**Planning Authority**

Cork County Council

**Planning Authority Reg. Ref.**

DRZLT472543160

**Appellant(s)**

Katherine O'Connor

**Inspector**

John Duffy

## **1.0 Site Location and Description**

- 1.1. The subject site which accommodates a dormer type dwelling is located to the south-east of Newmarket town centre, on the southern side of Orchard Avenue, which itself is situated off the Island Road.
- 1.2. The site comprises Parcel ID EX-RES-32967 on the RZLT draft map.

## **2.0 Zoning and Other Provisions**

- 2.1. With effect from 6<sup>th</sup> June 2022 the Cork County Development Plan 2022 – 2028 replaced the 8 Municipal District Local Area Plans adopted in 2017, including the Kanturk Mallow Municipal District LAP. Chapter 2 of Volume 3 of the Development Plan includes the Kanturk Mallow Municipal District.
- 2.2. The subject site located within the town development boundary and is zoned 'Existing Residential / Mixed Residential and Other Uses' in the Cork County Development Plan 2022-2028.
- 2.3. The site is not located within an Architectural Conservation Area (ACA).

## **3.0 Planning History**

There is no recent, relevant, or valid applications on this site.

## **4.0 Submission to the Local Authority**

- 4.1. The appellant made a submission to the Local Authority seeking to have a correction made to the boundary and site area of Parcel ID EX-RES-32967 on the RZLT map on the basis that the western portion of the lands are not within their ownership or landholding.

## 5.0 Determination by the Local Authority

5.1. The Local Authority determined that the site was in scope. The site meets the criteria for inclusion on the RZLT map as set out in section 653B of the Taxes Consolidation Act 1997.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The following points were made in support of the appeal:

- Requests a correction be made to the boundary and site area of Parcel ID EX-RES-32967 on the basis that a portion of the lands on the western side are not part of the appellant's landholding and not within their ownership.
- The area of the appellant's property is 0.32 ha and contains a dwelling which is subject to the Local Property Tax (LPT).
- The RZLT map gives the area of the land parcel as 0.44 ha and as such the appellant would be liable to register for RZLT.

### 6.2. Planning Authority Response

- Polygons generated by the OSI mapping exercise indicate the extent of in-scope lands and do not necessarily follow land ownership boundaries.
- In accordance with 653T of the legislation a liable person shall prepare and return a self-assessment, and this shall relate to lands in the person's ownership.

## 7.0 Assessment

7.1. The comments raised in the appeal submission are noted.

7.2. Section 3.2.3 of the Guidelines (Residential Zoned Land Tax - Guidelines for Planning Authorities, June 2022) states that:

*'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.'*

7.1. The grounds of appeal, including issues relating to the size of the landholding on the RZLT map and the ownership of the land, are not matters which fall within the criteria for exclusion from the map as per Section 653B of the Act.

7.2. The appeal grounds indicate that the appellant's site is part of the curtilage to a dwelling where Local Property Tax is paid. If the site is situated in the curtilage of a residential property, the RZLT Guidance states on page 8 that:

*Land which is zoned residential and contains existing residential development such as estates or individual houses are also considered 'in scope' from a zoning perspective and therefore must be included on the maps, however owners of residential properties within these areas will not be liable for the tax (See section 653O(1)(a) of the legislation).*

7.3. If the appeal site forms part of the curtilage of a residential property, it is not considered a 'site' for the purposes of the RZLT, however this does not mean that the lands are removed from the map and no action is required of the Planning Authority. The landowner (appellant) must register for the RZLT and provide information to the Revenue Commissioners, to demonstrate that the tax will not be payable.

## **8.0 Recommendation**

8.1. I recommend that the board confirm the determination of the Local Authority and that the indicated site be retained on the map.

## **9.0 Reasons and Considerations**

9.1. Having regard to the determination by the Local Authority, the submitted grounds of appeal, the provisions of the section 653B of the Taxes Consolidation Act 1997, as amended, and the advice in section 3.2.3 of the Guidelines for Planning Authorities on the Residential Zoned Land Tax, the site (zoned for residential use) is considered in scope for the purposes of the RZLT map.

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.

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John Duffy  
Planning Inspector

7<sup>th</sup> September 2023