



An  
Bord  
Pleanála

## Inspector's Report ABP-316271-23.

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<b>Type of Appeal</b>	Appeal under section 653J(1) of the Taxes Consolidation Act 1997, as amended, against the inclusion of land on the Residential Zoned Land Tax
<b>Location</b>	Clonroadmore, Ennis, Co. Clare
<b>Local Authority</b>	Clare County Council.
<b>Local Authority Reg. Ref.</b>	S1/019
<b>Appellant</b>	Dermot Merry
<b>Inspector</b>	Irené McCormack

## 1.0 Site Description

1.1. The site comprises c. 1.7ha. of lands within the settlement of Ennis, Co. Clare,

## 2.0 Zoning

2.1. The site was zoned *Existing Residential* and *Low Density Residential LDR 33* in the Ennis Settlement Map contained in Volume 3a Ennis Municipal District of the Clare County Development Plan 2017-2023.

*Note: Clare County Development Plan 2023-2029 was adopted by the Elected Members of Clare County Council at a Special Planning Meeting on the 9th March 2023. The Plan came into effect 6 weeks from the date of adoption, on 20th April 2023.*

2.2. CDP19.2 Development Plan Objective: Zoning of Lands. It is an objective of Clare County Council: *To ensure that sufficient lands are zoned at appropriate locations in the settlement plans and local area plans of the County, in accordance with the Core Strategy population targets, in order to meet the envisaged land use requirements of the area during the lifetime of this Development Plan.*

2.3. Section 2.9.1 of Volume 3a Ennis Municipal District of the Clare County Development Plan 2017-2023. States:

### Site LDR33 Knox's Bridge

*The density of the proposed development will inform the most suitable location for vehicular access. Low density development may be accommodated through the existing access way subject to a satisfactory Traffic Impact Assessment being submitted. Any development shall be of a high quality design which sensitively incorporates the orchard/walled garden area, protects the mature trees on site, provides a buffer to the railway line and reflects the riverside setting, providing a green infrastructure buffer along the river bank. Partial removal of the stone wall dividing the site may be permitted for vehicular and pedestrian access (in an east-west direction). Any planning application relating to this site shall include an archaeological assessment having regard to the proximity of an Archaeology Zone and a number of Recorded Monuments.*

*The northern section of this site is located in an area that has been identified as being at risk from flooding. A Flood Risk Assessment in accordance with 'The Planning System and Flood Risk Management – Guidelines for Planning Authorities' (DoEHLG/OPW 2009) shall also be submitted as part of any planning application made in relation to this site. Any development proposals shall include details of how surface water will be controlled during construction to allow the local authority to screen the proposals under Article 6(3) of the EU Habitats Directive. Only proposals that can clearly demonstrate that they will not adversely affect on the cSAC will be permitted.*

*The trees located on the perimeter of the site shall be retained and incorporated into future development proposals and lighting shall be designed to ensure that there will be no increase in ambient light levels beyond the perimeter of the development footprint (through a light spill model study). A landscape management plan will also be required.*

### **3.0 Planning History**

#### **3.1. Site**

None

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

- The submission requested the land be excluded from the RZLT as the lands are not served by public services, roads and associated infrastructure.
- Archaeological investigation maybe required.
- Requesting change of zoning form LDR to commercial.

### **5.0 Determination by the Local Authority**

- 5.1. The local authority determined the site to be in scope and should remain on the map. The local authority consideration stated that land is zoned and serviced with access available to the adjoining road network.
- 5.2. In relation to the current residential use the lands are in scope by virtue of Section 653B of Part 22A of the Taxes Consolidation Act 1997. The LA note Section 653O of the Act and set out that while the lands maybe in scope for the tax, provided they are associated with the existing residence they are not liable for the RZLT.

- 5.3. The land is not affected in terms of its physical condition by the presence of know archaeological or historic remains to preclude the provision of dwellings.
- 5.4. Uisce Eireann were consulted by the local authority and reported that wastewater and water networks are located along the Clon Road 7m and 11m respectively from the lands.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- The lands are bound by third party properties.
- The lands are only accessible via a 4m wide tree lined office driveway.
- No regard given to zoning proposals set out in Draft Clare County Development 2023-2029
- Concerns regarding potential risk of flooding on the site.
- The distance involved to service the site in terms of water and wastewater connection is ca. 380m and will require pumping.
- The Council haven no evidence to substantiate statement with respect to archaeology on site.

## 7.0 Assessment

- 7.1. The LA assessment was carried out pursuant to the Clare County Development Plan 2017-2023. Subsequent to the determination by the LA in on 30<sup>th</sup> March 2023 the new Clare County Development Plan 2023-2029 came into effect on 20<sup>th</sup> April 2023. Notwithstanding, the adoption of the Clare County Development Plan 2023-2029 this assessment is based on the development plan in place at the time of the LA assessment, the Clare County Development Plan 2017-2023 as the appeal relates to this determination. Concerns raised regarding zoning provisions set out in the Clare County Development Plan 20123-2029 as they relate to this site cannot be considered.
- 7.2. Regarding concerns raised about access to the site, I note the *Residential zoned* land to the west of the site fronts the Clon Road R871. The LA in their assessment set out that the road frontage at ca. 40m is sufficient to enable access to a residential

development. I would agree. Based on the information available I am satisfied that the lands do not meet the criteria for exclusion set out in section 653B(b).

- 7.3. Regarding concerns raised about wastewater and water supply, the LA in their assessment indicate that the site is serviced. I note the submission from Uisce Eireann reported that wastewater and water networks are located along the Clon Road 7m and 11m from the lands. I note no concerns regarding capacity were raised.
- 7.4. Volume 10c - Infrastructure Environs and Flood Risk Zones – Map 17 of the CDP 2017-2023 establishes that a portion of the site to the north lies within Flood Zone A. Subject to compliance with the Flood Risk Guidelines (2020) this does not preclude the development of the site for residential purposes. This is consistent with section 2.9.1 of Volume 3a Ennis Municipal District of the Clare County Development Plan 2017-2023 as it relates to the site (LDR33 Knox's Bridge).
- 7.5. The primary use of the land is residential with commercial office use to the northwest. Regarding the issue of archaeology, there are a number of Record Monuments in proximity to the site namely: - RMP CL033-085002- *House - 16th/17th century*, RMP CL033-085 - *Settlement deserted* – medieval, RMP CL033-085003 – *Bridge* and RMP CL033-085004- *Bridge*. The zone of notification for these Monuments as identified on the [maps.archaeology.ie/historicenvironment](https://maps.archaeology.ie/historicenvironment) (reviewed 20<sup>th</sup> June 2023) is to the northwest of the existing structures on the site, partially with the land zoned *Residential* but outside of the land zoned *LDR 33*. Therefore, it would be reasonable to conclude that surrounding zone of notification of the RMP'S affect the physical condition of that specific part of the site to an extent that would preclude the provision of housing there. This conclusion is consistent with the advice on significant archaeology in section 3.1.2 of the RZLT guidelines. It is therefore recommended that this part of the site be omitted from the map under section 653B(c) of the act.

## 8.0 Recommendation

- 8.1. I recommend that the Board confirm the determination of the local authority in part by directing that the position and zone of notification around the Recorded Monuments identified as RMP CL033-085002- *House - 16th/17th century*, RMP CL033-085 - *Settlement deserted* - medieval CL033-085003 – *Bridge*, CL033-085004- *Bridge* on the Sites and Monuments Record be omitted from the Residential Zoned Land Tax Map and that the remainder of the site be included on the map.

## 9.0 Reasons and Considerations

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 3.1.2 of the Guidelines for Planning Authorities on the Residential Zoned Land Tax in relation to significant archaeology, it is reasonable to consider that the zone of notification associated with RMP CL033-085002- *House* - 16th/17th century, RMP CL033-085 - *Settlement deserted* - medieval RMP CL033-085003 – *Bridge*, RMP CL033-085004- *Bridge* entered on the Sites and Monuments Record would preclude the provision of dwellings on that part of the site within the meaning of section 653B(c), the remained of the site forms part of an established urban area with services available and no capacity or other reasons have been identified that would prevent the development of these lands for residential purposes, and as such does satisfy the criterion for inclusion on the map set out in section 653B(c) of the Taxes Consolidation Act 1997, as amended.

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.

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Irené McCormack  
Senior Planning Inspector

21<sup>st</sup> June 2023