



An
Bord
Pleanála

Inspector's Report ABP-316354-23.

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 Grange, Killumney/Ovens, Co. Cork
Local Authority	Cork County Council
Local Authority Reg. Ref.	DRZLT- 473700886
Appellant	O'Brien O'Flynn Construction Unlimited
Inspector	Emma Nevin

1.0 Site Description

- 1.1. The site comprises a parcel of land located in Grange in the settlement of Killumney Ovens. The site bounds Grange Terrace Road to the south, the rear of residential properties to the east and west and a car park and playing fields to the north. The has a stated area of approximately 4.95ha.

2.0 Zoning

- 2.1. The site is zoned under objective 'KO-R-01' as per Volume 4 'South Cork' of the Cork County Development Plan 2022-2028, for "Medium (A) Residential Development".

3.0 Planning History

Ref: 235485: Current application with Cork County Council for the Construction of 51 no. dwelling houses comprising 30 no. 4-bed dwelling houses, 12 no. 3-bed dwelling houses and 9 no. 2-bed dwelling houses, a temporary wastewater treatment plant, pumping station and all associated site development works including vehicular access, footpaths, parking, drainage, landscaping, and amenity areas – decision pending.

Ref: 224345 - Extension of duration of permission granted by Cork County Council on 14th April 2022 of permission granted under Planning Reg. No. 07/11996 and 12/6410.

Ref: 185900 - Extension of duration of permission granted by Cork County Council on 1st November 2018 of permission granted under Planning Reg. No. 07/11996 and 12/6410.

Ref: 126410 – Extension of duration of permission granted by Cork County Council on 28th January 2013 of permission granted under Planning Reg. No. 07/11996.

Ref: 0711996 – Conditional planning permission granted by Cork County Council on 03rd September 2008 for Residential development of 90 no. dwelling houses comprising of 76 no. detached dwellings and 14 no. terraced dwellings, creche, vehicular entrance and right hand turning lane, underground foul water pumping

station, 4 no. underground storm water attenuation tanks, play area, landscaping and associated site development works and services – this permission is due to expire on 31/12/23.

4.0 Submission to the Local Authority

- 4.1. The lands do not have access to wastewater treatment plant/infrastructure necessary for dwellings to be developed.
- 4.2. Irish water has responsibly for the delivery of the infrastructure necessary for the lands to be developed. The development of these lands in therefore outside of the control of the landowner.
- 4.3. While measures are being put in place to provide the necessary infrastructure to serve the area, there is no definite timeframe for the delivery of the infrastructure.
- 4.4. The site currently has a grant of permission under Ref. 07/11996 (due to expire on 31/12/2023) due to deficiencies in the wastewater treatment infrastructure in the village and the inability of Irish Water to facilitate a connection agreement, it has not been possible to develop housing on the lands at Grange Cross.

5.0 Determination by the Local Authority

- 5.1. Cork County Council had full regard to the infrastructural capacities relating to all submissions received in relation to its RZLT Draft Map, in accordance with Section 653B of the Taxes Consolidation Act, 1997, as amended including referring submissions relating to water services to Uisce Eireann.
- 5.2. A report was received form Uisce Eireann which confirms that:
 - A watermain and sewer exists on the public road in close proximity to the site, GIS data indicates that a watermain is accessible 20 metres away, via the L2216 Killumney Road, adjoining land parcel.
 - Uisce Eireann confirm that a sewer exists on the public road, L2216 Killumney Road, GIS data also indicates that the sewer is accessible 590m away via the road, L2216, adjoining the land parcel.

- As of 1st October 2022, while the Wastewater Treatment Plant (WWTP) Capacity Registers indicate that there is limited spare capacity in the Killumney WWTP, the current level of new connection enquires submitted to UE exceeds the available capacity at the plant and UE consider there is currently no further capacity for growth.
 - Killumney WWPT has been nominated as a priority site under the Small Towns and Villages Growth Programme (STVGP), and UE is progressing a project under STVGP to provide capacity for projected growth.
- 5.3. Regard is had to the RZLT Guidelines (page 7) which states; “In addition the land must be connected to or have access to public infrastructure and facilities necessary for dwelling to be developed and with sufficient service capacity available for such development”.
- 5.4. Regard is had to the RZLT Guidelines (page 8) which states; ‘*A need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist*’.
- 5.5. The site can connect to the water services network and spare capacity currently is available in the Killumney WWTP.
- 5.6. The Council is also aware that the existing spare capacity available in the Killumney WWTP is limited and will consider interim developer led on-site infrastructure provision that can connect to the network, pending additional treatment plant capacity being made available. As set out by Uisce Eireann, Killumney WWTP has been nominated as a priority site under the Small Towns and Villages Growth Programme and UE is progressing a project under that programme to provide capacity for projected growth.
- 5.7. It was determined that the subject site fulfils the qualifying criteria set out in the Taxes Consolidation Act, 1997, as amended and the Section 28 Ministerial Guidelines “Residential Zoned Land Tax – Guidelines for Planning Authorities’ for inclusion on the RZLT Map.

6.0 The Appeal

6.1. Grounds of Appeal

The appellant raised similar issues to those in the submission to the local authority including:

- The appellant states that the decision taken by Cork County Council did not provide a satisfactory infrastructural assessment of the land as required under Section 3.1.1 and 4.1.1 of the residential zoned land tax guidelines for planning authorities June 2022.
- Irish Water have responsibility for the delivery of public (wastewater) infrastructure necessary for the lands to be considered 'serviced'.
- While measures are being put in place to provide the necessary infrastructure to service the area, there is no definite timeframe available for the delivery of the infrastructure.
- The County Development Plan, specifically Section 4.6.11 of Volume 4, underlines the existing capacity issues within the settlement of Killumney/Ovens which currently precludes the provision of residential development.
- The site currently has a grant of permission under Ref. 07/11996 (due to expire on 31/12/2023) due to deficiencies in the wastewater treatment infrastructure in the village and the inability of Irish Water to facilitate a connection agreement, it has not been possible to develop housing on the lands at Grange Cross.
- Given the infrastructural deficiencies relating to the site, it is requested that the lands are removed from the Draft RZLT Map.

7.0 Assessment

- 7.1. To satisfy the criteria as identified in section 653B of the Taxes Consolidation Act 1997, as amended, land must be zoned residential use or for mixed uses including residential. It is noted that subject site is zoned R2 'Existing Residential/Mixed

Residential and Other Uses' under Volume 4 'South Cork' of the Cork County Development Plan 2022-2028.

- 7.2. The Council stated that it had full regard to infrastructural capacities relating to all submissions received in relation to the RZLT Draft Map. It is also noted that the submission was referred to Uisce Eireann for consideration and comment.
- 7.3. Regard is had to the Uisce Eireann further information response to the 'RZLT Query' sought by the Local Authority as part of their assessment. Uisce Eireann confirmed that a sewer exists on the public road, in close proximity to the site, via the L2216 Killumney Road.
- 7.4. There is limited wastewater capacity available in the Killumney WWTP. However, the Killumney WWTP has been nominated as a priority site under the STVGP and Uisce Eireann is progressing a project under the scheme to provide for projected growth.
- 7.5. Notwithstanding, the capacity issues and the requirement for upgrades to the existing systems, I refer to the Residential Zoned Land Tax - Guidelines for Planning Authorities, 2022, 'Serviced Land Definition', which states "*Information from stakeholders such as Irish Water will play a key role in identifying these lands and providing confirmation of existing capacity in wastewater treatment plants and water treatment plants along with data informing the date of connection or ability to connect to services, where this date was after 1 January 2022. A need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist*".

As per the guidelines, a need for upgrades to an existing system is not considered criteria for exclusion under Section 653B (b) of the Taxes Consolidation Act 1997, as amended.

- 7.6. It is also noted the Killumney WWTP (Ref. A0435) has a 'Green Status' on the Uisce Eireann Wastewater Treatment Capacity Register published in June 2023. Green status is stated to mean '*spare capacity available*'. It is also noted that a 'WWTP Project Planned/Underway'.
- 7.7. In my opinion there is a viable wastewater connection available in proximity to the site and, therefore, the site can be reasonably serviced in terms of wastewater, as per Section 653B (b) of the Taxes Consolidation Act 1997, as amended.

- 7.8. It terms of water networks a water main exists on the public road in close proximity to the site, via the L2216 Killumney Road.
- 7.9. In my opinion there is a viable water supply/ connection available in proximity to the site and, therefore, the site can be reasonably serviced in terms of water supply, as per Section 653B (b) of the Taxes Consolidation Act 1997, as amended.
- 7.10. With respect to the relevant policies in relation to infrastructure contained within the Development Plan, I consider that these would not prevent a proposal coming forward to develop the lands for residential dwellings and this, would be addressed through the development management process and consultation with any relevant statutory bodies and is not criteria for omitting the lands from the map under Section 653B of the Taxes Consolidation Act, 1997, as amended.
- 7.11. The references to the planning permission on site is noted, however this is not criteria for omitting the lands from the map under Section 653B of the Taxes Consolidation Act, 1997, as amended.
- 7.12. As such, the lands are considered to be serviced for residential dwellings as per as per Section 653B (b) of the Taxes Consolidation Act 1997, as amended.

8.0 Recommendation

- 8.1. I recommend that the board confirm the determination of the local authority and direct the local authority to retain the lands identified as DRZLT- 473700886 on the map.

9.0 Reasons and Considerations

- 9.1. The appellant requested that their site be removed from the map due to the fact that the lands do not have access to public infrastructure and facilities (in this case a sufficient wastewater system) required for dwellings to be developed. 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 the Residential Zoned Land Tax – Guidelines for Planning Authorities, 2022. The lands as identified DRZLT- 473700886 are considered in scope of section 653B 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.

Emma Nevin
Planning Inspector

4th September 2023