



An  
Bord  
Pleanála

## Inspector's Report ABP-316355-23.

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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 Map
<b>Location</b>	Lands at Codrum Hall, Grange, Ovens, Co. Cork
<b>Local Authority</b>	Cork County Council
<b>Local Authority Reg. Ref.</b>	DRZLT- 473460273
<b>Appellant</b>	Ruden Homes
<b>Inspector</b>	Emma Nevin

## 1.0 Site Description

- 1.1. The site comprises a parcel of land located to the eastern end of the defined settlement boundary of Killumney and Ovens. The site is bound by a mix of uses, predominantly residential. The has a stated area of approximately 7.0ha.

## 2.0 Zoning

- 2.1. The site is zoned Special Policy Area, under objective R2 'Existing Residential' as per Volume 4 'South Cork' of the Cork County Development Plan 2022-2028, for "Existing Residential/Mixed Residential and Other Uses".

## 3.0 Planning History

Relevant planning history:

Ref: 217517 - Extension of duration of permission granted by Cork County Council on 25th February 2022 for development permitted under Planning Ref. 06/12722 & ABP Ref. PL04.224953 and extended under Ref. 13/4725, 18/4980.

Ref: 184980 – Extension of duration of permission granted by Cork County Council on 13<sup>th</sup> June 2018 for development permitted under Planning Ref. 06/12722 and extended by 13/4725.

Ref: 134725 - Extension of duration of permission granted by Cork County Council on 13<sup>th</sup> June 2013 for development permitted under Planning Ref. 06/12722.

Ref: 0612722 – Conditional planning permission granted by Cork County Council on the 18<sup>th</sup> July 2007, and decision to grant permission upheld on appeal to An Bord Pleanála (ABP PL04.224953) on the 23<sup>rd</sup> April 2008 for the demolition of existing dwellinghouse and storage shed and construction of residential development of 161 no. residential units comprising detached dwellings, semi-detached dwellings, and terraced dwellings. Including 4 no. apartments, creche, 2 no. ESB sub-stations, foul water underground pumping station to include control building, new vehicular entrance and right-hand turning lane and all associated site development works to include landscaping and the expansion of an existing wastewater treatment plant on a separate site.

## 4.0 Submission to the Local Authority

- 4.1. The site currently under construction and due for completion in 2023.
- 4.2. The appellants requests that the existing residential mapping be removed.
- 4.3. The site does not currently have access to adequate public infrastructure to allow dwellings to be developed within major private sector investment by the client.

## 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 1300 metres away, via the L2216 Killumney Road, adjoining land parcel.
  - GIS data also indicates that a sewer and septic tank, serving the adjacent Beverly Court development, exists within the land parcel. It is essential that such assets are protected, and access is maintained at all times. The site layout would have to take account of the proximity of sewer, septic tank, and their wayleaves. Minimum separation distance requirements between buildings and sewers of this size are assessed on a case-by-case basis but are typically 7–10m.
  - As of 1<sup>st</sup> 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.

- The guidelines only provide examples of materially significant work and that this does not preclude other scenarios that may occur.
- The guidelines make it clear that that land should not be included where the works required to connect the land to service are material significant.
- The infrastructure deficit in the public wastewater treatment plant has required the need for the appellant to provide a wastewater treatment plant on a separate site, which is now completed and required a significant capital investment on their behalf to carry out these material works and ensures housing targets can be met.
- There is no definitive timeframe in place for when the Sanitary Authority Irish Water will take in charge the private wastewater treatment plant. This will require ongoing significant investment from our client.
- 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 benefits from an existing planning permission for 156 residential units and are included for the expansion of a wastewater treatment plant on a separate site to the west, which has now been completed. There is sufficient capacity within the surface/storm and sewage infrastructure systems to cope with the loading from the approved development and that the water services networks have the capacity to accommodate the development. These works have required a significant capital investment from the appellant to ensure the site is fully serviced and will result in the delivery of houses in a settlement where there are capacity issues with the public sewer to accommodate further growth until such time as the public wastewater treatment plant is upgraded.
- There currently is no access to the public wastewater treatment plant and significant investment and material works are required by the appellant to connect to the services infrastructure.

- The appellant's land does not satisfy the criteria for inclusion on the RZLT Map as it does not have access to public infrastructure, in particular foul sewerage, necessary for dwellings to be developed.
- Due to the capacity issues with the public WWTP, the subject site does not currently have access to public infrastructure. The dwellings can only be developed, subject to private sector investment by the appellant and therefore do not satisfy the criteria set out in Section 653(b) of the Taxes Consolidation Act, 1997, as amended.

## 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. The appellant refers specifically to Sections 3.1.1 and 4.1.1 of the Residential Zoned Land Tax - Guidelines for Planning Authorities, 2022, specifically the fact that works required to connect the land to service are material significant and required a significant capital investment on behalf of the appellant to carry out these material works. Section 4.1.1 of the guidelines state that *"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"*.

In addition, the works are within the landholder or public land control, and are not considered materially significant, as per the guidelines.

- 7.4. While the appeal grounds reference significant capital investment required to undertake infrastructure connections, this is not criteria for omitting the lands from the map under Section 653B of the Taxes Consolidation Act, 1997, as amended.
- 7.5. 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 watermain exists on the public road, in close proximity to the site. A sewer exists on the public road. There is limited wastewater capacity available in the Killumney WWTP. 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.
- 7.6. 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.

- 7.7. 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'.
- 7.8. 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.

- 7.9. I also refer to Section 4.1.1 (iii) of the Residential Zoned Land Tax - Guidelines for Planning Authorities, 2022, which states that “*For private foul sewer networks, evidence by the operator, of lack of capacity within the waste water treatment plant or system serving the lands is required in order to scope lands out from inclusion on draft or supplemental maps*”. Uisce Eireann has confirmed that there is existing spare capacity, while limited, in the Killumney WWTP.
- 7.10. In terms of water networks, a water main exists on the public road in close proximity to the site.
- 7.11. 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.
- 7.12. 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.
- 7.13. The references to the planning permissions on site are noted, however this is not criteria for omitting the lands from the map under Section 653B of the Taxes Consolidation Act, 1997, as amended.
- 7.14. 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- 473460273 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 can only be developed



subject to private sector investment. 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- 473460273 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.*

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Emma Nevin  
Planning Inspector

4<sup>th</sup> September 2023