



An
Bord
Pleanála

Inspector's Report ABP-316368-23

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	Carrignafoy, Cobh, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	DRZLT473703749
Appellant(s)	Frank and Martin O'Mahoney
Inspector	John Duffy

1.0 Site Location and Description

- 1.1. The lands, the subject of this appeal, comprise Land Parcel IDs CH-R-11 and EX-RES-35869, which are situated at Carrignafoey, Cobh, Co. Cork.
- 1.2. Land parcel ID CH-R-11 is located approximately 1.3 km to the north of Cobh town centre on the periphery of a built-up residential area. The site comprises a number of agricultural fields, with the College Manor residential estate bounding the site to the south, Cobh GAA grounds and a water tower located to the south-east, and agricultural lands to the north and west.
- 1.3. Land Parcel ID EX-RES-35869 (incorrectly labelled as EX-RES-35446 in the landowner's submission to the Local Authority, in the Local Authority's determination and the appeal submission) comprises a site containing a mixed-use building which accommodates a creche facility and apartments in the College Manor residential estate, located approximately 0.75 km north of Cobh town centre.

2.0 Zoning and Other Provisions

- 2.1. With effect from 6th June 2022 the Cork County Development Plan 2022 – 2028 replaced the 8 Municipal District Local Area Plans adopted in 2017, including the Cobh Municipal District LAP. Chapter 2 of Volume 4 of the Development Plan includes the Cobh Municipal District.
- 2.2. Parcel ID CH-R-11 is zoned 'Residential' in the Cork County Development Plan 2022 – 2028.
- 2.3. Parcel ID EX-RES-35869 is zoned 'Existing Residential/Mixed Residential and Other Uses.'

3.0 Planning History

Land Parcel ID CH-R-11

- PA Ref. 23/4526 is a current application for 92 no. residential units and all associated site works. Comprises Phase 1 of a two-phase residential development.

Land Parcel ID EX-RES-35869 - No recent, relevant or valid planning 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 three 3 sites removed from the draft map. In terms of Land Parcel CH-R-11, public infrastructure is not fully in place and upgrades are required in relation to water services infrastructure. In relation to Land Parcel EX-RES-35446 (correct Land Parcel ID is EX-RES-35869) the site accommodates a creche and as such it should be omitted from the draft map. Land Parcel EX-RES-33153 accommodates a residential development and associated public open space / amenity lands which should be removed from the LAP.

5.0 Determination by the Local Authority

- 5.1. The Local Authority determined that the public open space associated with Land Parcel EX-RES-33153 should be excluded from the draft map as it does not meet the criteria for inclusion having regard to section 653B of the Taxes Consolidation Act 1997, and that the lands identified in Land Parcels CH-R-11 and EX-RES-35446 (correct Land Parcel ID is EX-RES-35869) are in scope on the basis that they meet

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 appeal relates to Land parcel IDs CH-R-11 and EX-RES-35869 only. The following points were made in support of the appeal:

- The decision by the Local Authority did not provide a satisfactory infrastructural assessment of the lands as required by the RZLT Guidelines.
- In terms of Land Parcel ID CH-R-11 significant upgrades are required to water supply and wastewater infrastructure for the area. As such the landowner must bridge the gap between the available public infrastructure and the infrastructure necessary required to develop houses on the lands. Therefore, the lands should not be included on the RZLT map.
- In relation to Land Parcel ID EX-RES-35446 (correct Land Parcel ID is EX-RES-35869) the lands comprise a creche facility which constitutes a social and community facility. Lands required or used for social, community or recreational infrastructure should be excluded from the map in accordance with the RZLT Act.

6.2. Planning Authority Response

- The Local Authority had full regard to infrastructural capabilities relating to all submissions received and also referred submissions relating to water services to Uisce Éireann, which in this case confirmed that both trunk and distribution water mains exist within the site extents and a sewer exists in the public road, at College Manor, in close proximity to the site. The RZLT Guidelines state that 'A need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist.' No issues in relation to capacity have been raised.
- The land that is zoned for residential use and contains existing residential development including apartments above the creche are in scope and liable

persons will need to make a return to the Revenue Commissioners in accordance with section 653U of the Finance Act 2021.

7.0 Assessment

- 7.1. The comments raised in the appeal are noted, as is the report and response of the Local Planning Authority. The sites identified for inclusion on the RZLT map are zoned for residential use and the Local Planning Authority determined that the sites remain on the RZLT map.
- 7.2. Uisce Éireann provided a site-specific report to the Local Planning Authority, dated 27th January 2023, which confirmed that both trunk and distribution water mains exist within the site extents. In terms of wastewater networks, the report notes that a sewer exists on the public road in College Manor, in close proximity to Land Parcel EX-RES-35446. Available GIS data indicates that the sewer is accessible in the south-western corner of Land Parcel CH-R-11.
- 7.3. Having regard to the above, it is clear that water supply and wastewater infrastructure are located in close proximity to the sites. It is therefore my opinion that services are available, and no capacity or other reasons have been identified that would prevent the development of Land Parcel CH-R-11 for residential purposes. This site satisfies the criteria for inclusion on the map set out in section 653B (c) of the Taxes Consolidation Act 1997, as amended.
- 7.4. The appeal grounds in relation to Land Parcel ID EX-RES-35446 indicate that the lands accommodate a building with a creche, which it is submitted, should be removed from the RZLT map on the basis that it constitutes a social and community facility. I note that according to Eircode.ie the building also accommodates at least 10 apartments. As such, this site is part of the curtilage to residential units 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).

- 7.5. 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 provide information to the Revenue Commissioners, to demonstrate that the tax will not be payable.
- 7.6. The issue of liability under the Tax Code is a matter for the Revenue Commissioners and is not a consideration under this process,

8.0 Recommendation

- 8.1. I recommend that the board confirm the determination of the Local Authority and that the subject sites 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 3.1.1 of the Guidelines for Planning Authorities on the Residential Zoned Land Tax, the sites (zoned for residential use) are considered in scope for the purposes of the RZLT map.

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.

John Duffy
Planning Inspector

7th September 2023