



An
Bord
Pleanála

Inspector's Report ABP-316374-23

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	The Miles, Clonakilty, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	DRZLT473414770
Appellant(s)	Cloncastle Developments Limited
Inspector	John Duffy

1.0 Site Location and Description

- 1.1. Clonakilty is located on the N71 approximately 50km south-west of Cork City. The subject lands are located at the western end of the town of Clonakilty. The lands are accessible from the east via the Miles Road from the N71 National Road and from the west via the L8052 local road. A local road bounds the site to the north (known as the Miles Road) and this serves residential development in the area. There are residential estates to the east and southeast of the site. There is a row of one-off houses along the western boundary of the site and an agricultural field to the north. The Tawnies Lower Stream runs along part of the southern boundary of the site. There is a national monument (CO135-148 fulacht fia) located approximately 65 metres to the east of the site.
- 1.2. The site comprises Parcel ID CK-R-01 on the RZLT draft map.

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 West Cork Municipal Districts LAP. Chapter 2 of Volume 5 of the Development Plan incorporates the West Cork Municipal District.
- 2.2. The subject site is zoned 'Residential' in the Cork County Development Plan 2022-2028.
- 2.3. The site is subject to Objective CK-R-01 which states: 'Medium B Density Residential Development. The site should be subject to a detailed landscape plan. Provision should be made for retention and protection of existing boundary hedgerows and mature trees and for the protection of the small stream on the southern boundary which supports biodiversity networks.'
- 2.4. The site is not located within Clonakilty Architectural Conservation Area (ACA).

3.0 Planning History

Subject site

23/020: Current application lodged with the Planning Authority for 93 units.

PA Ref. 20740 / ABP-312691-22: Permission was refused in July 2022 for construction of 93 houses on account of the existing deficiency in the provision of water supply facilities in the area.

Adjacent sites

P.A. Ref. No. 18/605: Permission granted for 81 no. houses and a childcare facility.

P.A. Ref. No. 18/703 – Permission granted for 99 no. houses and a creche.

4.0 Submission to the Local Authority

- 4.1. The appellant made a submission to the Local Authority seeking to have their lands removed from the draft map on the basis that the lands cannot be connected to water supply due to insufficient capacity within the Clonakilty Water Supply System.

5.0 Determination by the Local Authority

- 5.1. The Local Authority determined that the site was in scope on the basis that it 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 land cannot be connected to water supply due to insufficient capacity within the Clonakilty Water Supply System.
- There is no reliable timeframe for the required upgrade works to be delivered.

- Refers to the observation made by Irish Water in connection with the previous planning application/appeal on the site and suggests that the necessary infrastructure may not be delivered until at least 2027.
- Refers to the previous refusal reasons relating to lack of water supply given by the Local Planning Authority and An Bord Pleanála for the previously proposed residential development (PA Ref. 20740 / ABP-312691-22).

7.0 Planning Authority Response

- Previous refusal for residential development on lands is noted.
- A sewer exists on the public road proximate to the site.
- Acknowledge that supply challenges exist in the Clonakilty Water Supply Zone, however a Capital Investment Project (CIP) is underway by Uisce Éireann to alleviate supply challenges in the area, comprising a new water supply pipeline from Bandon to Clonakilty with estimated completion during 2023.
- Current residential application on the lands (Ref. No. 23/020). Applicant is liaising with Uisce Éireann to determine feasibility of connection to the network.
- In the context of the current planning application, the applicant has noted that water supply constraints are currently being resolved.

8.0 Assessment

- 8.1. The site identified for inclusion on the RZLT map is zoned for residential use and the Planning Authority determined that the site remain on the RZLT map.
- 8.2. The grounds of appeal raise the issue of water supply capacity. Uisce Éireann's capacity register notes that the Clonakilty Water Supply Scheme (WRZ ID: 0500SC0153) is stated to have 'Potential Capacity Available - LoS improvement required.' Potential Capacity Available - LoS improvement required means that capacity constraints exist, and connection applications will be assessed on an individual basis considering their specific load requirements.

8.3. Uisce Éireann, as per correspondence to the Local Authority dated 27/01/2023, confirm the following in respect of water networks in terms of Parcel ID CK-R-01:

- *Uisce Éireann wish to confirm that supply challenges exist in the Clonakilty Water Supply Zone, and consider this site not serviced.*
- *Uisce Éireann have a Capital Investment Programme (CIP) Project underway, but not yet complete, to alleviate the current supply challenges in the area.*

8.4. I note the Planning Authority's response to the appeal dated 16th March 2023 which confirms that a CIP project is underway by Uisce Éireann to address supply challenges in the area and that it is anticipated the project will be completed during 2023.

8.5. Section 653B, of the Taxes Consolidation Act 1997 as amended, states lands to be included on the map should be serviced:

“(b) it is reasonable to consider may have access, or be connected, to public infrastructure and facilities, including roads and footpaths, public lighting, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed and with sufficient service capacity available for such development.”

8.6. The Act therefore asks that service capacity is available for development. Page 27 of the RZLT Guidelines expands upon this and sets out a ‘Serviced Land Definition’ on page 8 of the Guidelines, “...A need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to **exist**.” The definition also states that “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.”

8.7. The Local Authority's response to the appeal notes that water supply challenges in the area will be alleviated following completion of the CIP comprising a new water pipeline between Bandon and Clonakilty, which is estimated to be delivered during 2023. However, the response from Uisce Éireann to the Local Authority dated 27/01/2023 confirms that the subject site is not serviced in terms of water supply and

that there is no existing provision. The RZLT Guidelines are clear that the identification of water supply capacity concerns existing provision. As the potential for development of the subject site would be upon the basis of current works being undertaken to improve capacity, I am not satisfied that the subject site can be considered to benefit from existing water supply infrastructure capacity. As a result, the subject site is not in scope for the RZLT Maps.

- 8.8. In conclusion, the site is not served by existing water supply capacity, and as such, cannot be considered to fall within scope of the RZLT which under section 653B(b) requires that it is reasonable to consider that a site may have access to public infrastructure.

9.0 Recommendation

- 9.1. I recommend that the board set aside the determination of the Local Authority and that the indicated site be removed on the map.

10.0 Reasons and Considerations

- 10.1. 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 Section 4.1.1 (iii) of the RZLT Guidelines, existing water supply infrastructure capacity to serve the site has not been demonstrated, and as such the site cannot be considered in-scope for the RZLT.

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.

John Duffy
Planning Inspector

28th August 2023