



An
Bord
Pleanála

Inspector's Report ABP-316405-23.

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

Location

Ashline, Kilrush Road, Ennis, Co. Clare

Local Authority

Clare County Council.

Local Authority Reg. Ref.

S1/054

Appellant

Hartnett Homes & Estate Developers Ltd.

Inspector

Irené McCormack

1.0 Site Description

- 1.1. The site comprises c. 2.4ha. of lands within the settlement of Ennis, Co. Clare,

2.0 Zoning

- 2.1. The site comprises land parcels zoned Residential, Low Density Residential and Existing Residential 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 19.4 Nature of Zonings states –

Residential - Residential use shall be taken to primarily include the use of land for domestic dwellings. It may also provide for a range of other uses particularly those that have the potential to foster the development of new residential communities e.g. schools, crèches, open spaces etc

3.0 Planning History

- 3.1. Site

None

4.0 Submission to the Local Authority

- 4.1. The submission to the LA reflects the grounds of appeal.

5.0 Determination by the Local Authority

- 5.1. The local authority determined that the site was in scope and should remain on the map. The local authority consideration stated that land is zoned and serviced, accessible to the town centre and consistent with the principles of compact growth,
- 5.2. The LA note that where lands associated with a residential property exceed 0.4747ha. /1 acre, while not liable for the RZLT, the owners of such properties must register the site.
- 5.3. The RZLT is based on the current 2017-2023 CDP, the final Map to be published in December 2023 will have regard to the CDP 2023-2029.
- 5.4. Uisce Eireann were consulted by the local authority and reported that a watermain existing in the verge adjacent to the southern boundary and c. 60m away in the green area northeast of the site. In addition, a sewer exists in the vicinity of the land c. 10m fronting the northern corner of the site and another c. 220m away on the Kilrush Road (N68/R475).

6.0 The Appeal

6.1. Grounds of Appeal

- The appellant requests the lands be zoned for Agriculture owing to the established agricultural/equine use on site.
- Lands zoned Residential and Low Density Residential cannot connect to the Road Infrastructure. Access would require the benefit of planning permission from either the N68 or the access road serving Ennis National school. Land should be deemed “Out of Scope”.
- Noting the change in the development plan that appellant is seeking to ensure the supplemental RZTL Map and Final RZTL Map takes account of the changes once the CDP 2023-20296 is in place.
- Request that existing residential dwelling and stables be excluded.

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 30th March 2023 the new Clare County Development Plan 2023-2029 came into effect on 20th 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 2017-2023 as they relate to this site cannot be considered.
- 7.2. The RZLT is based on the current 2017-2023 CDP, the final Map to be published in December 2023 will have regard to the CDP 2023-2029.
- 7.3. The appellant states out that the *Residential* and *Low Density Residential* zoned lands cannot connect to the road infrastructure and that access would require the benefit of planning permission from either the N68 or the access road serving Ennis national school. The lands the subject of this appeal front both the N68 Kilrush Road and the L-4641 (to the west) and therefore subject to planning the lands can be accessed directly from both roads. Based on the information available I have no evidence that access cannot be obtained from the road network fronting the site.
- 7.4. 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 fact that the lands are in agricultural use does not qualify for omitting the lands from the map under section 653B.
- 7.5. The site is located on lands that form part of the zoning map for Ennis Town, (volume 3a of the Clare County Development Plan 2017-2023). The lands are serviced, having access to the necessary public infrastructure and facilities including road and footpath access, public lighting, foul sewer, surface water drainage and water supply and it is therefore to be expected that the site is suitable for development of residential units in accordance with the zoning that applies.

7.6. The appeal grounds do not raise any exclusions that would apply to the subject lands and warrant its removal from the map, with reference to the Taxes Consolidation Act 1997 as amended and the RZLT Guidelines.

8.0 Recommendation

8.1. I recommend that the Board confirm the determination of the local authority and direct the local authority to include the site 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 3.1.2 of the Guidelines for Planning Authorities on the Residential Zoned Land Tax, the site is 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.

Irené McCormack
Senior Planning Inspector

21st June 2023