



An  
Bord  
Pleanála

## Inspector's Report ABP-316463-23.

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**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**

Hawarder Villa, Millmount Road,  
Mullingar, Co. Westmeath

**Local Authority**

Westmeath County Council.

**Local Authority Reg. Ref.**

WM-C49-RZLT-12

**Appellant**

Christian and Isena Pohl

**Inspector**

Dáire McDevitt

## 1.0 Site Description

- 1.1. The site comprises two parcels of land located at Hawarder Villa, Millmount Road in Mullingar Co. Westmeath. The lands which are the subject of this appeal are located on the eastern side of Millmount Road, slightly to the north of the junction with Auburn Road. The land includes Hawarder Villa (Protected Structure) which is stated to be the residence of the appellants and also includes lands to the side/rear which are greenfield, the current access is stated to be the subject of civil legal proceedings at present. The land adjoins Lakeview (Protected Structure).

## 2.0 Zoning

### 2.1. Mullingar Local Area Plan 2014-2020 (as extended)

Land use Zoning The site is within the Existing Residential area, with the backland site to the rear 'Proposed Residential' all within the LAP boundaries of Mullingar. Section 10.2 provides the Land Use Zoning Objectives. O-LZ1: To provide for residential development, associated services and to protect and improve residential amenity. This Objective covers both new and established residential areas. The Royal Canal Greenway which is part of the National Cycle Network is to the east.

The land is located within the Millmount Architectural Conservation Area

The land is located within the Millmount/Sunday's Well Character Area

Hawarder Villa is a protected structure (Ref. 019-096)

WM19-058 Recorded Monument is located on lands in the appellants ownership by excluded for inclusion in the draft RZLT map.

## 3.0 Planning History

**PA Reg. Ref. 196279 (ABP 309027-21)** refers to an April 2021 decision to refuse permission for the provision of 1 vehicular access road for lands to the rear, the

relocation of gates, 1 pedestrian entrance at the corner of Millmount Road and proposed new access road to serve Lakeview House.

## **4.0 Submission to the Local Authority**

4.1 The appellant made a submission to the Local Authority seeking to have its lands removed from the draft map on the basis that land parcel WH000000462 is below the threshold and refers to Hawarder Villa and gardens which is occupied as a residence by the appellants and therefore should be excluded. Land parcel WH000000443 (lands to rear of Hawarder Villa) should be excluded as not serviced in terms of road infrastructure.

## **5.0 Determination by the Local Authority**

5.1. The local authority determined that the subject lands constitute lands which satisfy the relevant criteria as set out under the Finance Act 2021 and therefore land parcels WH000000443 and WH000000462 should be included in the final map.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- Hawarder Villa and gardens (parcel ID WH000000462) has an area of c.0.27hectares which is less than the 0.4047 hectares outlined in the Act. The house and gardens are zoned 'Existing Residential' and are occupied by the appellants and the subject to LPT payments, thus exempt from RZLT.
- The lands to the rear of Hawarder Villa (folio WH33640F) (Parcel ID WH000000443) are zoned 'Proposed Residential' but do not meet the legibility criteria under section 653B as it is not serviced in terms of road infrastructure and access.
- An application for access to the lands was refused permission in 2019 on the grounds of traffic safety and road issues.
- The current access is unauthorised, neither does it serve as an access to the parcel of lands which is the subject of this appeal. When the appellant

purchased the lands in 2014, the entrance to the lands comprised of an overgrown entrance with remnants of railing and a low stone wall to the west. The appellant has outlined that the access to the land is the subject of separate civil legal action.

- The land is constrained for development as it is not serviced in terms of road infrastructure, the Royal Canal abuts the site to the east and an ACA to the west. There is no permitted access and significant works would be required to provide access and would require planning permission.

## **7.0 Assessment**

The appellant requested that the two parcels of land be removed from the map as addressed below.

Land Parcel ID WH000000462 refers to a c.0.27ha plot of land which contains Hawarder Villa and gardens. The house and gardens are zoned 'Existing Residential' and are occupied by the appellants and the subject of LPT payments, thus it is submitted is exempt from RZLT. I note the argument submitted with regard to the payment of the RZLT, the purpose of this appeal relates to the inclusion (or not) of the lands which are the subject of this appeal on the RZLT Maps and does not refer to the liability to pay tax.

Section 653O(1)(a) sets out that land which contains existing residential properties, including individual houses are considered 'in scope' from a zoning perspective and therefore must be included on the maps, however owners of these properties will not be liable for the tax. The appellants have submitted Land Parcel ID WH000000462 is subject to Local Property Tax (LPT). As set out above liability for the payment of the tax is not within the scope of this report, having regard to the criteria set out under section 653B parcel ID WH000000462 shall remain on the maps as it is zoned residential and does not meet the criteria for its exclusion. Therefore I consider that this ground of appeal should be dismissed.

Land Parcel ID WH000000443 refers to a plot of land located to the rear of Hawarder Villa. It is submitted that said lands should be excluded as they are not serviced in terms of road infrastructure. The appellants have argued that there are

issues regarding providing access to the site and that planning permission would be required for said access. The site can be served in principle by the existing road network that is in place and is zoned 'proposed residential'. As with all development, the applicant/ developer will be expected to provide for any internal road network necessary to serve the site and similarly a connection to the public road network would be provided by the developer in accordance with the requirements of the Local Authority. Therefore I consider that this ground of appeal should be dismissed.

The status of Hawarder Villa as a protected structure does not preclude it from development, nor does the presence of Millmount ACA. Any application would be assessed on its own merits but in principle their status is not an impediment to development. I do not consider that sections of the lands should be excluded on this basis.

There is no correspondence on file from Uisce Éireann. Whilst infrastructure elements may not be in place at present, these would be expected to be provided in conjunction with the development of a site, generally developer led.

I therefore consider that the parcel ID WH000000462 And parcel ID WH000000443 should be retained on the RZLT Map.

## **7.1. Conclusion**

Parcel ID WH000000462 refers to land that is zoned for residential purposes and should remain on the map, the issues of liability for payment of the tax is not under consideration in this instance.

Parcel ID WH000000443 is located on lands zoned 'Proposed Residential' where residential use is permitted in principle. The site can in principle be served by the existing road network that is in place. As with all development, the applicant/ developer will be expected to provide for any internal road network necessary to serve the site and similarly a connection to the public road network would be provided by the developer in accordance with the requirements of the Local Authority.

I therefore consider that Parcel ID WH000000462 and Parcel ID WH000000443 should be retained on the RZLT Map as it does not meet the criteria set out under 653B(c) of the Taxes and Consolidation Act 1997 as amended (as introduced by the Finance Act 2021) for its exclusion.

## **8.0 Recommendation**

- 8.1. I recommend that the board confirm the determination of the local authority and that the indicated site be retained on the map and the appeal dismissed.

## **9.0 Reasons and Considerations**

Parcel ID WH000000462 and Parcel ID WH000000443 satisfy the criteria for inclusion on the map set out in section 653B(c) of the Taxes Consolidation Act 1997, as amended.

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Dáire McDevitt  
Senior Planning Inspector

29<sup>th</sup> May 2023