



An  
Bord  
Pleanála

## Inspector's Report ABP-316487-23

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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
<b>Location</b>	Lands at Kilmuney, Ovens, Co. Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	DRZLT474859306
<b>Appellant(s)</b>	Jeremy Dineen
<b>Inspector</b>	Colin McBride

## **1.0 Site Location and Description**

1.1. The subject site is made up of land with an area of c. 2.10 hectares to the north of Kilumney/Ovens. The lands are in agricultural use.

## **2.0 Zoning and Other Provisions**

2.1. The site is zoned Existing Residential/Mixed Residential and Other Uses under the Cork County Development Plan 2022-2028.

2.2. There are no protected structures, national monuments or any other item indicated on the development plan maps that directly impact on this site.

## **3.0 Planning History**

3.1. No planning history.

## **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:

- The landowner has had discussions with Uisce Eireann regarding a PWSA (Project Works Services Agreement) with other landowners to design a wastewater solution for Kilumney and Ovens with Uisce Eireann not following through with such.
- The site does not come under the remit of RZLT given the lack of wastewater services in the area at present.

## **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 on the basis that interim development led infrastructure provision will be considered on a case by case basis.

## **6.0 The Appeal**

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

- There is a lack of public sewer/drainage/wastewater service in the area. There is no public surface water drainage and the site is on the edge of the village where public footpaths/lighting are also deficient with no continuous footpath from the site to the village. The only infrastructure available is a watermain.
- The lack of capacity in the Kilumney/Ovens WWTP is confirmed under Volume 4 of the Cork CDP. Permission has been refused in the area (ABP-310250-21) for a housing development due to lack of capacity in the WWTP. The site does not meet the criteria under section 653B for inclusion on the map.
- The landowners had discussions with Uisce Eireann regarding a PWSA (Project Works Services Agreement) with other landowners to design a wastewater solution for Kilumney and Ovens with Uisce Eireann not following through with such.
- The Council will not consider the provision of temporary wastewater treatment plants.

### **6.2 Response by Cork County Council**

- The Council consider that the site meets the criteria for inclusion on the RZLT map as it can connect to the water services network and spare capacity is currently available in the Kilumney WWTP with the site remaining in scope.
- The Council is aware that existing capacity is limited and will consider interim developer led on-site infrastructure provision pending additional treatment capacity with the Kilumney WWTP a priority site for upgrade by Uisce Eireann.

- Footpath and public lighting are available adjacent the site boundary.

## 7.0 Assessment

7.1. The appeal is under Section 653B(b) and the contention that the site does not have reasonable access to services in particular wastewater services. This is on the basis that the lands in question do not have access to wastewater treatment infrastructure with the existing Killumney Ovens WWTP operating at capacity. The Uisce Éireann response indicates that as of the 1<sup>st</sup> of October 2022 that there is limited spare capacity in the WWTP with current level of new connection enquiries submitted exceeding the capacity available with no further capacity for growth. The response also confirms a collection network is not available in close proximity to the site with the closest wastewater network 1200m away along the Killumney Road (L2216) with a river crossing to be navigated to connect to the network on the L2216. The Planning Authority determination justified inclusion of the site on the map on the basis that that interim development led infrastructure provision will be considered on a case by case basis. Uisce Éireann's capacity register (published June 2023) classifies Killumney WWTP as status Green indicating available capacity.

7.2. The Section 653B, of the Taxes Consolidation Act 1997 as amended, states that for lands to be included on the map:

*“(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.”*

7.3. There is capacity at Killumney WWTP (albeit limited capacity). Uisce Éireann have confirmed that there is limited spare capacity at Killumney WWTP as of 1<sup>st</sup> October 2022 and Uisce Éireann's capacity register (June 2023) classifies Killumney WWTP as having status Green meaning there is available capacity, albeit limited. Page 17 of the RZLT Guidelines confirms that:

*“Where capacity exists in wastewater treatment plants or water supply plants for a settlement, all lands which are zoned and connected or able to be connected to the relevant network should be considered in scope until such time as the capacity is confirmed to have been utilised.”*

7.4. Page 8 also confirms that with respect to the definition of serviced lands:

*“...A need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist...”*

7.5. In conclusion, Kilmoney WWTP has capacity and as such the site is considered to be serviced and in scope for the RZLT Map.

7.6. The Uisce Eireann response confirms that a collection network is not available in close proximity to the site with the closest wastewater network 1200m away along the Kilmoney Road (L2216) with a river crossing to be navigated to connect to the network on the L2216. Under section 4.1.1(iii) of the RZLT Guidelines relating to services to be considered it is stated that...

“This requires consideration of the services and infrastructure which are considered essential to the connection and development of residential communities. In assessing whether land or landbanks are able to connect to services, Planning Authorities should take into account the following:- In the first instance, where the infrastructure is located adjoining, intersecting, at a boundary or corner of a landbank, in a nearby public road, or is connected to an existing development adjoining the landbank, the lands should be considered to be ‘connected’ or ‘able to connect’ and therefore are in-scope”.

“Where the infrastructure does not meet the threshold above, the following needs to be considered:

- Where no planning permission is in place, are the works to connect the landbank to the services on public land under the control of the local authority or land which will be available to the landowner/developer, in which case the land may be in-scope?

- Do the connections to services involve minor works, in which case the land may be in-scope?
- Do the connections to services require access to 3rd party lands or 3rd party development to take place, in which case the land may be out of scope?”

In the case of...

Foul sewerage drainage

“The provision of connections to the public foul sewer network is a matter for Irish Water. Information from Irish Water, as well as the local authority water services section, on the ability to service the lands will inform whether land should be included in draft or supplemental maps. For lands which do not have the benefit of planning permission in particular, the ease of connecting to the existing network should be a determining factor. Connections which can be made by directly connecting to infrastructure which is on, or adjacent to the land in question will result in lands being scoped in. Consideration of connections which would require more significant works should take into account whether the land required to deliver the works is in the control of the applicant or the local authority, as set out above”.

7.7 Uisce Eireann have confirmed that a collection network is not available in close proximity to the site with the closest wastewater network 1200m away along the Kilumney Road (L2216) with a river crossing to be navigated to connect to the network on the L2216. When evaluated against the criteria outlined above under Section 4.11(iii) of the RZLT Guidelines wastewater collection infrastructure is not located adjoining, intersecting, at a boundary or corner of a landbank, in a nearby public road, or is connected to an existing development adjoining the landbank. In this case the services does not meet the threshold for inclusion and in this case does meet there criteria outlined above as works in question does not appear be on lands under local authority control, would appear to involve third party lands and could not be considered to be minor works give the distance and need for a river crossing. In this regard I do not consider that the lands in question meet the criteria for inclusion on the map under section 653B(b) and it is not reasonable to conclude that such may have access to the necessary services in regards to wastewater

infrastructure in terms of a collection network with the closest wastewater network 1200m away along the Killumney Road (L2216) with a river crossing to be navigated to connect to the network on the L2216.

7.8 In regards to access to footpaths the site is located on the outskirts of Killumney which is lacking in suburban character, however is characterised by a significant levels of existing dwellings and a semi-rural character. There is a lack of continuous footpath network between the site and the settlement centre with a fragmented footpath network. The appellant would have the ability to provide footpath along the road frontage of the site, however there is lack of existing footpaths to link into. I would not consider the lack of strong footpath network in the area would necessarily preclude the development of dwellings on the lands in question given the character of the settlement and in this regard would not recommend excluding the lands from the RZLT map on this basis.

## 8.0 Recommendation

8.1. I recommend that the board do not confirm the determination of the Local Authority and that the indicated site 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(b) of the Taxes Consolidation Act 1997, as amended, and the advice in section 4.1.1(iii) of the Guidelines for Planning Authorities on the Residential Zoned Land Tax, the site is considered not to meet the criteria for inclusion the RZLT map on the basis of the lack of reasonable access to wastewater services with no collection network in close proximity to the site with the closest wastewater network 1200m away along the Killumney Road (L2216) with a river crossing to be navigated to connect to the network on the L2216.

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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Colin McBride  
Senior Planning Inspector

11<sup>th</sup> September 2023