



An  
Bord  
Pleanála

## Inspector's Report ABP-316488-23.

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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 Map
<b>Location</b>	Lands at Brigown House, Mitchelstown, Co. Cork
<b>Local Authority</b>	Cork County Council
<b>Local Authority Reg. Ref.</b>	DRZLT- 469329510
<b>Appellant</b>	Patrick Dwane
<b>Inspector</b>	Emma Nevin

## 1.0 Site Description

- 1.1. The site comprises a parcel of land located to the north of Brigown Road to the southeast of Mitchelstown town. The site is bound by a mix of uses, including residential. The has a stated area of 1.56ha.

## 2.0 Zoning

- 2.1. The site is zoned MD-R-07 'Medium B density residential development' under Volume 3 'North Cork' of the Cork County Development Plan 2022-2028.
- 2.2. The Cork County Development Plan 2022-2028, 'Medium Density B' states;  
*'An increased minimum threshold is recommended from 12 to 20 units /ha in this category and the maximum threshold from 25 to 35 units /ha which will overlap with the Medium A category. This revised density range of 20-35 units/ha would not generally be applicable in the larger settlements >5,000 population other than for limited site specific reasons relating to sites with topography/ heritage constraints or where there is a specific market requirement. This revised Medium B density category would be generally applicable to suburban and greenfield sites of the smaller towns with a population'*

## 3.0 Planning History

- 3.1. None located.

## 4.0 Submission to the Local Authority

- 4.1. The services infrastructure in Mitchelstown (specifically water supply and WWPT) are not capable of handling (as of January 1<sup>st</sup> 2022) additional housing capacity associated with zoned land in the town.
- 4.2. It was stated by Cork County Council that "Mitchelstown requires investment in WWT and Drinking Water Supply. The Irish Water Investment Plan lists Mitchelstown WWPT for upgrades".
- 4.3. As of November 2022, these required service capacity upgrades are still not complete.

- 4.4. As highlighted in the submitted summary of publicly available reporting on the services capacity constraints for Mitchelstown and the pathway to remediate it sometime in 2023.
- 4.5. It is clear service is not sufficient/service capacity not available to enable housing to be development on land parcel ID MH-R-07.

## 5.0 Determination by the Local Authority

- 5.1. A report was received form Uisce Eireann which confirms that:
- A watermain and sewer exists on the public road in close proximity to the site (10 metres away, via Brigown Road, adjoining land parcel) and can be connected to same.
  - Regarding water supply, there can be intermittent disruptions to supply, however capacity exists to serve the development.
  - The 2022 wastewater treatment capacity register indicates that, although limited, spare capacity currently exists in the Mitchelstown wastewater treatment plant. Upgrade works are ongoing to improve the level of service.
  - A sewer exists on the public road in close proximity to the site and the sewer is accessible 8m away via the Brigown Road, adjoining land parcel.
  - The WWPT is capable of achieving at least urban wastewater treatment directive standards. Potential additional capacity is available, depending on any additional load, not resulting in a significant breach of the combined approach as set out in Regulation 43 the Wastewater Discharge (Authorisation) Regulations 2007.
  - UE recently completed a capital maintenance works at Mitchelstown WWPT to bring the 4th trickling filter back into operation and increase the capacity of the plant from 5,600 PE to 7,400 PE in terms of achieving the UWWTD.
  - A longer- term upgrade will be required to achieve WWDA ELV compliance and may require a new discharge location.

- 5.2. Regard is had to the RZLT Guidelines (page 7) which states; “In addition the land must be connected to or have access to public infrastructure and facilities necessary for dwelling to be developed and with sufficient service capacity available for such development”.
- 5.3. Regard is had to the RZLT Guidelines (page 8) which states; ‘*A need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist*’.
- 5.4. It was determined that the subject site fulfils the qualifying criteria set out in the Taxes Consolidation Act, 1997, as amended and the Section 28 Ministerial Guidelines “Residential Zoned Land Tax – Guidelines for Planning Authorities’ for inclusion on the RZLT Map.

## 6.0 The Appeal

### 6.1 Grounds of Appeal

The appellant raised similar issues to those in the submission to the local authority as follows:

- The services infrastructure in Mitchelstown (specifically water supply and WWPT) are not capable of handling (as of January 1<sup>st</sup> 2022) additional housing capacity associated with zoned land in the town.
- It was stated by Cork County Council that “Mitchelstown requires investment in WWT and Drinking Water Supply. The Irish Water Investment Plan lists Mitchelstown WWPT for upgrades”.
- As of November 2022, these required service capacity upgrades are still not complete.
- As highlighted in the submitted summary of publicly available reporting on the services capacity constraints for Mitchelstown and the pathway to remediate it sometime in 2023.
- It is clear service is not sufficient/service capacity not available to enable housing to be development on land parcel ID MH-R-07.

## 7.0 Assessment

- 7.1. To satisfy the criteria as identified in section 653B of the Taxes Consolidation Act 1997, as amended, land must be zoned residential use or for mixed uses including residential. It is noted that subject site is zoned MD-R-07 'Medium B density residential development' under Volume 3 'North Cork' of the Cork County Development Plan 2022-2028.
- 7.2. The issues raised by the appellant with respect to sufficient capacity available to service the subject lands are noted.
- 7.3. Regard is had to the Uisce Eireann further information response to the 'RZLT Query' sought by the Local Authority as part of their assessment. Uisce Eireann confirmed that wastewater capacity (while limited) is available and water supply is also available (while intermittent disruption exists). The wastewater treatment is capable of achieving Urban WWT Directive Standard.
- 7.4. Notwithstanding, the requirement for upgrades to the existing systems, I refer to the Residential Zoned Land Tax - Guidelines for Planning Authorities, 2022, 'Serviced Land Definition', which states "*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. A need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist*".

As per the guidelines, a need for upgrades to an existing system is not considered criteria for exclusion under Section 653B (b) of the Taxes Consolidation Act 1997, as amended.

- 7.5. It is also noted the Mitchelstown water resource zone (WRZ ID: 0500SC0100) is stated to have 'Potential Capacity Available - LoS improvement required', on the Uisce Eireann Water Supply Capacity Register published in June 2023 (Potential Capacity Available - LoS improvement required = Capacity constraints exist, connection applications will be assessed on an individual basis considering their specific load requirements - Level of service (LoS) improvement required to meet 2032 population targets. Improvement proposals will include but are not limited to

leakage reduction and/or capital investment. These proposals will be required to maintain/improve levels of service as demand increases. These proposals will be developed & prioritised through the National Water Resources Plan and investment planning process).

- 7.6. While there is an improvement required, in my opinion there is a viable water supply/ connection available in proximity to the site and, therefore, the site can be reasonably serviced in terms of water supply, as per Section 653B (b) of the Taxes Consolidation Act 1997, as amended.
- 7.7. Furthermore, the Mitchelstown WWTP (Ref. D0202) has a 'Amber Status' on the Uisce Eireann Wastewater Treatment Capacity Register published in June 2023. Amber status is stated to mean '*potential spare capacity, applications to be considered on an individual basis considering their specific load requirements*'. It is also noted that a 'WWTP Project Planned/Underway'.
- 7.8. In my opinion there is a viable wastewater connection available in proximity to the site and, therefore, the site can be reasonably serviced in terms of wastewater, as per Section 653B (b) of the Taxes Consolidation Act 1997, as amended.
- 7.9. As such, the lands are considered to be serviced for residential dwellings as per as per Section 653B (b) of the Taxes Consolidation Act 1997, as amended.

## 8.0 Recommendation

- 8.1. I recommend that the board confirm the determination of the local authority and direct the local authority to retain the lands identified as DRZLT- 469329510 on the map.

## 9.0 Reasons and Considerations

- 9.1. The appellant requested that their site be removed from the map due to the fact that there is water and wastewater capacity issues in Mitchelstown and therefore is it not reasonable to consider that there is sufficient capacity available necessary for dwellings to be developed.
- 9.2. 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 the Residential Zoned Land Tax – Guidelines for Planning Authorities, 2022. The lands as identified DRZLT- 469329510 are considered in scope of section 653B of the Taxes Consolidation Act 1997, as amended,

*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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Emma Nevin  
Planning Inspector

31<sup>st</sup> August 2023