



An
Bord
Pleanála

Inspector's Report ABP-316499-23.

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

Drewsborough, Scariff, Co. Clare

Local Authority

Clare County Council.

Local Authority Reg. Ref.

S1/022

Appellant

Tony & Geraldine Maloney

Inspector

Irené McCormack

1.0 Site Description

- 1.1. The site comprises 1.77ha. of lands within the settlement of Scarriff/Tuamgraney Co. Clare.

2.0 Zoning

- 2.1. The lands contain four no. sites, site 1 zoned *Low Density Residential LDR6* and the remaining three sites zoned *Existing Residential* in the Scarriff/Tuamgraney Settlement Statement contained in Volume 3c Killaloe 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.

Low Density Residential - This zoning refers to the use of lands to accommodate a low-density pattern of residential development, primarily detached family dwellings. The underlying priority shall be to ensure that the character of the settlement/area is maintained and further reinforced by a high standard of design. Proposed developments must also be appropriate in scale and nature to the areas in which they are located.

3.0 Planning History

- 3.1. Site

None

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 to no specific zoning.

4.2. Plot Uses -

- Plot 1 – in use for farming
- Plot 2 – Part of farming activity
- Plot 3 – Family home
- Pot 3 – Holiday rental

4.3. The lands are currently in use for agriculture. A reduction in the size of the farm will reduce viability.

5.0 Determination by the Local Authority

5.1. The local authority determined that the sites were in scope and should remain on the map. The local authority consideration stated that land is zoned, serviced and located in close proximity to the town centre and therefore consistent with principles of compact growth and sequential development.

5.2. 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 LA note Section 653O of the Act and set out that while the lands maybe in scope for the tax, provided they are associated with the existing residence they are not liable for the RZLT.

5.3. The LA set out that the land is serviced having access to necessary public infrastructure, including road and footpath, public lighting, foul sewer, surface water drainage and water supply.

5.4. Uisce Eireann were consulted by the local authority and reported that the landowner did not cite water/wastewater service issues and therefore consider a formal response was not necessary.

6.0 The Appeal

6.1. Grounds of Appeal

- Request for lands not to be zoned residential.
- Not informed about zoning and never sought to develop the lands.
- Sufficient housing permitted locally to accommodate need.
- Concern raised about existing residential properties - RZLT causing burden and worry.

7.0 Assessment

7.1. The fact that the lands are in agricultural use and/or that the appellant never sought to develop the lands or that there is other housing permitted locally does not qualify for omitting the lands from the map under section 653B.

7.2. Regarding the concerns raised about existing residential properties, I note section 3.1.1 Criteria for Inclusion within the Scope of the Tax Measure in the guidelines states that *“Residential Properties Land which is zoned residential and contains existing residential development such as estates or individual houses are also considered ‘in scope’ from a zoning perspective and therefore must be included on the maps, however owners of residential properties within these areas will not be liable for the tax (See section 653O(1)(a) of the legislation)”*.

7.3. The site is located on lands that form part of the Scarriff Settlement Plan map (Volume 3c Killaloe Municipal District Settlement Plans of the CDP 2017-2023). The land parcels are located immediate to the village core where services exist including footpath and public lighting, and it is therefore to be expected that the site is suitable for development of residential units in accordance with the zoning that applies.

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