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Bord  
Pleanála

## Inspector's Report ABP-316512-23.

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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 Aughameeney, Co. Leitrim (plot 17 L16602004)
<b>Local Authority</b>	Leitrim County Council.
<b>Local Authority Reg. Ref.</b>	RZLT D22
<b>Appellant</b>	Sean Fox (Bridget Fox)
<b>Inspector</b>	Dáire McDevitt

## 1.0 Site Description

The appeal lands identified as RZLT D22 (Plot 17 L16602004) has a stated area of c. 0.70 hectares is located at Aughameeney in Carrick on Shannon, co. Leitrim.

## 2.0 Zoning

Leitrim County Development Plan 2023-2029 was adopted by the Elected Members of Leitrim County Council at a Special Planning Meeting on the 7<sup>th</sup> February 2023. The Plan came into effect 6 weeks from the date of adoption, on 21<sup>st</sup> March 2023. The Determination which is the subject of this appeal was made on the 27<sup>th</sup> March 2023.

Notices on Leitrim County Council website note that the Leitrim County Development Plan 2015-2021 was extended by resolution to the 31<sup>st</sup> March 2023. The lands are not zoned in the Leitrim County Development Plan 2015-2021 which was the plan in effect during the RZLT submission period.

The lands are not zoned in the current Leitrim County Development Plan 2023-2029 which was the plan in effect at the time Leitrim County Council made its Determination.

The lands were formerly the subject of two land use zonings ('Primarily Residential' and Residential Reserve/Support') Carrick-on-Shannon Local Area Plan 2010-2015 which has expired. As such the site currently has no zoning.

The Planning Authority in their Determination state "*the lands zoned primarily residential in the Carrick-on-Shannon Local Area Plan 2010-2019 will retain this zoning.*"

The local authority highlighted in a note attached to the Notification of Determination on Submission received on the Draft Residential Zoned Land Tax (RZLT) map that Leitrim County Council together with Roscommon County Council have initiated the

preparation of a Joint Local area Plan for the Carrick-on-Shannon and Cortober settlements.

Section 18(4)(a) of the Planning and Development Act 2000 states that '*A local area plan prepared under this section shall indicate the period for which the plan is to remain in force*'. There is no record on the Leitrim County Council website that the LAP has been extended.

### **3.0 Planning History**

None stated

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

The appellants made a submission to the local authority seeking to have their lands removed from the draft map on the basis that it would interfere with the agricultural intentions of the land.

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

The local authority determined that the land should be retained on the RZLT Draft Map as it was in scope and should remain on the map having regard to a) part 22A of the Taxes Consolidation Act 1997 (as introduced by the Finance Act 2021), b) section 28 Ministerial guidelines 'Development Plan Guidelines for Planning Authorities', the lands zoned primarily residential in the Carrick-on-Shannon Local Area Plan 2010-2019 will retain this zoning, be included in the final map published on 01 December 2023 and will be in scope of the Residential Zoned Land Tax.

### **6.0 The Appeal**

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

Grounds of appeal are summarised as follows:

- There is no plan to develop the lands as this would interfere with its agricultural use.

- There is no wastewater access on this low lying field.
- Uneven elevation of this land causes flooding from time to time. Residential development on this land could make the flooding worse.
- There is no direct access to the public road.
- There is an abundance of land zoned residential within Carrick on Shannon which is not developed which should be developed before land located 2 miles from the town.

## **7.0 Assessment**

Section 653B of the Taxes Consolidation Act 1997 as amended, sets out the criteria for inclusion in the map, and states that the first consideration for inclusion in the map is land which in subsection (a) 'is included in a development plan' or 'local area plan' zoned solely or primarily for residential use, or for a mixture of uses including residential. The appeal lands are not zoned under either the Leitrim County Development Plan 2023-2029 or a Local Area Plan as required under section 653B(a) and therefore cannot be considered in scope for the RZLT

I address the other matters raised in the Grounds of Appeal below, however, as set out above the subject site is not zoned for residential use and therefore cannot be considered in scope for the RZLT for that reason.

With regard to the use of the lands for agricultural purposes. As noted in the 2022 RZLT Guidelines the use of land for agricultural or horticultural purposes are not considered to be exempted from scope as they are not subject to rates. Based on the information available I have no evidence that this is the case. I am satisfied that the lands do not meet the criteria for exclusion set out in section 653B(c).

Notwithstanding, and as set out above, the site is not currently zoned under a Development Plan or Local Area Plan, and therefore is not in-scope for the RZLT.

With respect to the submission that the land is subject to flooding from time to time which may be made worse by residential development.

Section 653B(c) states that land satisfies the criteria for inclusion on the map if it is reasonable to conclude that its physical condition is not affected by matters to preclude the provision of housing including contamination and the presence of

known archaeological or historic remains. However it is not excluded either, and the use of the word “including” would indicate that relevant matters of the site’s physical condition are not restricted to contamination or archaeological and historic remains. Housing can be provided on lands subject to a certain level of flood risk where the proper planning and sustainable development of the area justified it, so the presence of flood risk would not always indicate that the physical condition of the land precludes the provision of housing. Based on the information submitted by the appellant and the local authority I conclude that it would be reasonable to consider that those lands are not affected in terms of their physical condition to preclude the provision of housing. I am of the view that the location of the appeal lands on land identified as Zone A and B having regard to the guidance set out in the 2009 Guidelines referred to above that the lands identified as RZLT D22 (Plot 17 L16602004) meet the criteria for inclusion under section 653B(c) . Notwithstanding, and as set out above, the site is not currently zoned under a Development Plan or Local Area Plan, and therefore is not in-scope for the RZLT.

## **8.0 Recommendation**

I recommend that the board set aside the determination of the local authority and remove the lands identified as RZLT D22 (Plot 17 L16602004) from the map.

## **9.0 Reasons and Considerations**

Having regard to the determination by the local authority, the submitted grounds of appeal, the provisions of the section 653B(a) of the Taxes Consolidation Act 1997, as amended, the lands identified as RZLT D22 (Plot 17 L16602004) are not zoned under a current Development Plan or Local Area Plan for the area, and as such cannot be considered in-scope for the RZLT.

*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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Dáire McDevitt  
Senior Planning Inspector  
22nd June 2023