



An  
Bord  
Pleanála

## Inspector's Report ABP-316579-23

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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**

Lands at Grange Killumney, Co. Cork

**Planning Authority**

Cork County Council

**Planning Authority Reg. Ref.**

DRZLT474505540

**Appellant(s)**

Phil McCarthy & Others

**Inspector**

Colin McBride

## **1.0 Site Location and Description**

- 1.1. The subject site is made up of land with an area of c. 2.881 hectares in the townland of Grange to the south west of Ovens.

## **2.0 Zoning and Other Provisions**

- 2.1. The site is located on lands that are subject to two zonings, the majority of the site is zoned New/Proposed Residential (Medium Density) with the remainder zoned Existing Residential 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:
- Lack of capacity within the existing Killumney Ovens WWTP to permit development of the subject site, in the event that agreement is reached with Uisce Eireann to take over the WWTP there will be significant delays regarding design and obtaining discharge authorisation from the EPA.

## **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**

- Since 2018 Cork County Council and ABP have denied applications for permission in the area due to capacity deficiencies within the Killumney WWTP with an example given (ABP-310250-21). Until WWTP capacity is improved the site should be excluded from the RZLT map and does not meet the criteria for inclusion under section 635B(b).
- The landowners had discussions with Uisce Eireann regarding a PWSA (Project Works Services Agreement) with other landowners to design a wastewater solution for Killumney and Ovens with Uisce Eireann not proceeding with such.

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

- Use of the land for the purposes of agriculture does not exempt the lands from inclusion on the RZLT map.
- 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 Killumney 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 Killumney WWTP a priority site for upgrade by Uisce Eireann.

## 7.0 Assessment

7.1. The appeal is under Section 635B(b) and the contention that the site does not have reasonable access to services in particular wastewater services. This on the basis that the lands in question does not have access to wastewater treatment infrastructure with the existing Killumney Ovens WWTP operating at capacity. The Uisce Éireann response indicates 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. It is confirmed that there is watermain and public sewer in the public road in close proximity to the site. 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. 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, Killumney WWTP has capacity and as such the site is considered to be serviced and in scope for the RZLT Map.

7.6. I therefore consider that the site should remain on the map in accordance with the recommendation of the Planning Authority.

## **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.

## **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.

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Colin McBride  
Senior Planning Inspector

01<sup>st</sup> September 2023