



An  
Bord  
Pleanála

## Inspector's Report ABP-316590-23.

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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>	Drumbiggle, Ennis, Co. Clare
<b>Local Authority</b>	Clare County Council.
<b>Local Authority Reg. Ref.</b>	S1/028
<b>Appellant</b>	White Cedar Developments Ltd.
<b>Inspector</b>	Irené McCormack

## 1.0 Site Description

1.1. The site comprises c. 4 ha. of lands within the settlement of Ennis, Co. Clare,

## 2.0 Zoning

2.1. The site was zoned Residential in the Ennis Settlement Map contained in Volume 3a Ennis 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. The site is identified as Site R29, Pg. 49 of Volume 3a Ennis Municipal District of the Clare County Development Plan 2017-2023 states:

*Site R29 -Adjacent to Pairc na Coile Nursing Home*

*This site has been identified for residential development. The area of the site to the west of Park na Coille includes an attractive natural habitat which should be retained, at least in part, as open space between new development and the nursing home, providing an open space buffer between the two developments. This site is located less than 1km from a known bat roost. Proposals for development on this site must be informed by appropriate bat surveys and ensure that there is no loss of habitats used by Lesser Horseshoe Bats. Any habitat loss must be offset by additional landscape planting to ensure connectivity across the landscape. All design proposals, including lighting, must be informed by the results of the bat survey. A landscape management plan must also accompany any development proposals.*

### 3.0 Planning History

#### 3.1. Site

**ABP 313271 -22** (CCC Reg. Ref. 21/599) – Currently on Appeal. Permission granted by CCC on 11/3/2022 for the Construction of 58 no. residential units. Alterations and upgrade to the access road and associated site development works. The application is accompanied by a Natura Impact Statement (NIS).

\*\*This site occupies a portion of the lands to the northeast (access) and the south.

### 4.0 Submission to the Local Authority

- 4.1. The appellant challenges the inclusion of the lands in the RZLT having regard to the proposed *Strategic Residential Reserve* zoning under the CDP 2023-2029 precluding residential development until April 2027 and Section 653B of the Act - *(c) it is reasonable to consider is not affected, in terms of its physical condition, by matters to a sufficient extent to preclude the provision of dwellings, including contamination or the presence of known archaeological or historic remains, but which is not land— (IV) that is subject to a statutory designation that may preclude development*
- 4.2. The physical constraints of the site are set out noting that the site is overgrown and subject to ecological constraints.
- 4.3. The current appeal to ABP on planning application 21/599 granted by CCC noted.
- 4.4. Conclusion- There are potential constraints on the site to development as of the 1<sup>st</sup> January 2022 (relevant criteria - Map date as per legislation) should the land remain in scope the effective date for the application of the RZLT should be three years subsequent to the grant of permission to ensure adequate time to allow the development come forward.

### 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. The local authority consideration stated that land is zoned and serviced.

- 5.2. In relation to the ecological constraints on the lands, there is no exclusion in relation to ecological constraints in the RZLT legislation (Part 22A of the Taxes Consolidation Act 1997)
- 5.3. The RZLT does not provide exclusion of the grounds that a planning permission granted by a PA has been appealed to ABP.
- 5.4. The RZLT is based on the current 2017-2023 CDP, the final Map to be published in December 2023 will have regard to the CDP 2023-2029.
- 5.5. The LA has no role in relation to the date the tax becomes due.

## 6.0 The Appeal

### 6.1 Grounds of Appeal

- Contents of the submission to the LA reiterated noting that the land in question is now designated Strategic Residential Reserve in the CDP 2023-2029.
- It is argued that although Section 653B(c) does not include reference to ecology, this should be considered in the context of any designation and should not be limited to *“including contamination or the presence of know archaeological or historic remains”*.
- Noting the current live planning application, the applicant requests the Board to “scope out” these lands until such time as the development is granted planning permission.
- Noting the potential constraints to development the application of the RZLT should be five years subsequent to the grant of permission to ensure adequate time to allow the development to come forward.

## 7.0 Assessment

- 7.1. The LA assessment was carried out pursuant to the Clare County Development Plan 2017-2023. Subsequent to the determination by the LA in on 30<sup>th</sup> March 2023 the new Clare County Development Plan 2023-2029 came into effect on 20<sup>th</sup> April 2023. Notwithstanding, the adoption of the Clare County Development Plan 2023-2029 this assessment is based on the development plan in place at the time of the LA

assessment, the Clare County Development Plan 2017-2023 as the appeal relates to this determination. Concerns raised regarding zoning provisions set out in the Clare County Development Plan 20123-2029 as they relate to this site cannot be considered.

- 7.2. Regarding ecology on the site and Section 653B(c) (iv) *statutory designation* that may preclude development, I note the lands are not subject to any statutory ecology designation precluding development on the site. Whilst the site maybe overgrown with associated biodiversity embedded, any concerns in this respect would be expected to be assessed as part of the planning application process.
- 7.3. The site is located on lands that form part of the zoning map for Ennis Town, (volume 3a of the Clare County Development Plan 2017-2023). The LA set out that the lands are serviced, having access to the necessary public infrastructure and facilities including road and footpath access, public lighting, foul sewer, surface water drainage and water supply and it is therefore to be expected that the site is suitable for development of residential units in accordance with the zoning that applies. I note the appellants does not dispute same.
- 7.4. Regarding request to differ the tax, the Board has no role in relation to the date the tax becomes due.
- 7.5. The appeal grounds do not raise any exclusions that would apply to the subject lands and warrant its removal from the map, with reference to the Taxes Consolidation Act 1997 as amended and the RZLT Guidelines. The fact that the lands are subject to a planning appeal (ABP313271 -22) does not qualify for omitting the lands from the map under section 653B.

## 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 professional 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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Irené McCormack  
Senior Planning Inspector

21<sup>st</sup> June 2023