



An
Bord
Pleanála

Inspector's Report ABP-316598-23.

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	Kilkishen, Co. Clare
Local Authority	Clare County Council.
Local Authority Reg. Ref.	S1/043
Appellant	John & Hilda McHugh
Inspector	Irené McCormack

1.0 Site Description

- 1.1. The site comprises 3.8ha of lands within the settlement of Kilkishen, Co. Clare,

2.0 Zoning

- 2.1. The land is zoned Existing Residential in the Kilkishen 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.

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 as their children wish to build four no. one-ff houses on the lands in the future.
- 4.2. Other available land will be farmed organically by the appellants son.

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 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.

6.0 The Appeal

6.1 Grounds of Appeal

- The zoning of the land impacts the devalues the period residence and renders it unsaleable.

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 30th March 2023 the new Clare County Development Plan 2023-2029 came into effect on 20th 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.
- 7.2. 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 in agricultural use does not qualify for omitting the lands from the map under section 653B, nor does the question of devaluation of property as a consequence of the application of the RZLT to the lands.

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