



An
Bord
Pleanála

Inspector's Report ABP-316634-23.

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	Ardmore Road, Mullingar, Co. Westmeath
Local Authority	Westmeath County Council.
Local Authority Reg. Ref.	WM-C49-RZLT-8
Appellant	Helga Dolan
Inspector	Dáire McDevitt

1.0 Site Description

- 1.1. The site comprises a parcel of land identified as WM-C49-RZLT-8 (Parel ID WH000000424) located at Ardmore in Mullingar, Co. Westmeath.

2.0 Zoning

- 2.1. **Mullingar Local Area Plan 2014-2020** (as extended)

The site is zoned 'Proposed Residential'

3.0 Planning History

PA Ref. 991018 refers to a 1999 permission relating to a cattle shed.

4.0 Submission to the Local Authority

- 4.1 The appellant made a submission to the Local Authority seeking to have two parcels of land, identified as 'A' and 'B' removed from the draft map on the basis that land the lands are landlocked and have no access to services necessary for dwellings to be developed.

5.0 Determination by the Local Authority

The local authority determined that site A should be included on the Final Map and that Site B should not be included on the final Map for reasons set out:

1. Site A:

The subject lands relate to Proposed Residential zoned lands included in the Mullingar Local Area Plan 2014-2020 as extended. It is the consideration of the Planning Authority that the lands satisfy the relevant criteria specified under section 653B (a) of the Taxes Consolidation Act 1997 (as amended by the Finance Act 2021), as the lands in question are included in a Development Plan, in accordance with section 10(2)(a) of the Planning and Development Act 2000 (as amended), or a Local Area Plan, in accordance with section 19(2)(a) of the Act and are zoned solely or primarily for residential

use; are serviced, or it is reasonable to consider have access to services and are not affected in terms of its physical condition or impediment so as to preclude the provision of dwellings.

2. Site B:

The subject lands relate to Proposed Residential zoned lands included in the Mullingar Local Area Plan 2014-2020 as extended. It is the consideration of the Planning Authority that the lands do not satisfy the relevant criteria specified under section 653B (a) of the Taxes Consolidation Act 1997 (as amended by the Finance Act 2021), as the lands in question are included in a Development Plan, in accordance with section 10(2)(a) of the Planning and Development Act 2000 (as amended), or a Local Area Plan, in accordance with section 19(2)(a) of the Act and are zoned solely or primarily for residential use; however, it is considered that works required to connect to existing services are materially significant/may require access through third party lands and accordingly these lands are considered out of scope.

6.0 The Appeal

6.1. Grounds of Appeal

- Plot A is landlocked.
- Plot B was removed from the map by Westmeath County Council on the grounds that 'works required to connect to existing services are materially significant/may require access through third party lands'. The same applies to the appeal site and should be removed too as Site A is landlocked and access to provide services would be through third party lands.
- Portion of the site is low lying marsh land.
- There is a right of way/way leave owned by the 3rd party inhibiting the construction of an access road through lands (not zoned residential) without prior consent.

- Break in parcel is interpreted as providing a link road within the Admore Marlinstown Framework Plan making the lands unproductive and non-viable for residential purposes.
- Lands are farmed.

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 zoned residential and therefore within scope of section 653B(a).

Pg. 24 of the RZLT guidelines state:

If the works required to connect the land to services are materially significant, for example require access to 3rd party lands which are in private ownership or would require CPO or planning permission in themselves, then the land should be considered to be out of scope.

The provision of infrastructure to the subject lands are considered to be in the control of Westmeath County Council and Uisce Eireann and it is determination of the local authority that the subject lands are in scope and therefore retained within the RZLT Final Map.

The local authority in its Submission Assessment dated 23rd March 2023 noted that 'the site is located c 50m from the public road that provides access to the Holy Family Primary school, and also a link for future development of the lands to the rear of the school that are in the ownership of the submitter. The intervening lands between the subject lands and infrastructure services at Holy Family Primary School are also noted to be within the submitters ownership'.

Correspondence from Uisce Eireann confirmed water and wastewater facilities are available to the subject lands identified as Site A.

Whilst infrastructure elements may not be in place at present, these would be expected to be provided in conjunction with the development of a site, generally developer led. No capacity issues were identified. Based on the information available I have no evidence that this is the case. I am of the view that it is reasonable to conclude that the site may have access to public infrastructure and utilities, including roads and footpaths as such complies with criteria for inclusion under section 653B(b) and the grounds of appeal should be dismissed.

Conclusion

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

8.0 Recommendation

I recommend that the board confirm the determination of the local authority and that the indicated site be retained on the map and the appeal dismissed.

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 of the Taxes Consolidation Act 1997, as amended, the lands identified as Parcel ID WH000000424 meet the provisions of section 653B for inclusion and there are no matters arising that warrant exclusion from the 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. \

Dáire McDevitt
Senior Planning Inspector
26th June 2023