



An
Bord
Pleanála

Inspector's Report ABP-316687-23.

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	Athlunkard, Co. Clare
Local Authority	Clare County Council.
Local Authority Reg. Ref.	S1/010
Appellant	John DeCourcy
Inspector	Irené McCormack

1.0 Site Description

- 1.1. The site comprises 2.5ha. of lands within the settlement of Athlunkard, Parteen, Co. Clare,

2.0 Zoning

- 2.1. The site was zoned Residential R1 Settlement Plan contained in volume 3b 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. Volume 3b of the Clare County Development Plan 2017-2023 - Athlunkard Pg. 48 states:

R1 Riverside Site

This is a residential site opening onto the R463, with some river frontage along the southern boundary. Housing along the southern boundary shall be orientated to face onto the river.

The R1 lands shall be developed in their entirety. Any development proposals on this site will be required to undertake screening for appropriate assessment and an appropriate buffer zone (minimum 30m) shall be maintained to protect the SAC. The proposals must incorporate a habitat and species survey as part of an ecological impact assessment which will inform any environmental assessment.

Access shall be directly onto the R463. Development contributions shall be sought towards the upgrade of the junction with the R463 as indicated on the Settlement Plan map, possibly including the provision of a roundabout. The development of R1 shall also be contingent on demonstrating that the additional traffic volumes that will be

generated can be satisfactorily accommodated on the existing network in the absence of the Limerick Northern Distributor Road

3.0 Planning History

3.1. Site

None

4.0 Submission to the Local Authority

- The appellant outlines that the lands are currently in use as part of a farm.

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 rezoning request, the LA states that a proposed variation of the Development Plan (2017-2023) under Section 13 of the Planning and Development Act 200m as amended , as described in Section 6531(4)(b) of Part 22A of the Taxes Consolidation Act 1997 (as introduced by the finance Act 2021), is not proposed and the existing zoning on the land is to be retained as per the Clare County Development Plan 2017-2023 having regard to the proximity of the lands to the village centre, accessibility and the promotion of compact and sequential growth.

5.3. Uisce Eireann were consulted by the local authority and reported that as the applicant did not cite water/wastewater service issues a formal response was not necessary.

5.4. The LA refer to a submission from UE relating to an adjoining site and note that UE confirmed that the Athlunkard area is served by the Bunlicky Wastewater Treatment Plant in Limerick City, and it is envisaged there is adequate capacity available to cater for the projected growth over the period of the plan.

5.5. Further information was requested regarding the extent of landownership.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are set out in two reports.

Garland Consultant Engineering

- Reference is made to Volume 3b of the CDP 2023-2029 as it relates to R1 lands: -

“Access shall be directly onto the R463, and development contributions shall be sought towards the upgrade of the junction with the R463 as indicated on the settlement plan map, possibly including the provision of a roundabout. The development of R1 shall also be contingent upon demonstrating that the additional traffic volumes generated by the proposed development can be satisfactorily accommodated on the existing network in the absence of the Limerick Northern Distributor Road”.

It is set out that the Northern Distributor Road is not contained in LSMATS and there is no government funding for the road.

- It is argued that it is evident from the development plan that there is concern pertaining to the existing road and transport infrastructure and its capacity to cater for the development of these zoned lands.
- It is stated that the appellant does not own the entirety of the lands and that the adjoining third party may not wish to develop, impacting funding for the stated required junction upgrade.

Town & Country Resources Limited Planning Consultants

- The lands for part of a larger landholding and are being actively farmed.
- The appeal requests the entirety of the land be excluded from the RZLT on the basis that the land do not satisfy the relevant criteria set out in Section 653(b) of the Act – Section 653(b) states:

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, and...

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, Clare County Development Plan 2017-2023 as the appeal relates to this determination.
- 7.2. The fact that the lands are in active and established agricultural use does not qualify for omitting the lands from the map under section 653B, nor does the question of viability as a consequence of the application of the RZLT to the lands.
- 7.3. Regarding the issue of access to the site, firstly and notwithstanding the contents of the submission received from Garland Consultant Engineering, it would appear the applicant is the owner of the entirety of the lands the subject of the RZLT and much of the adjoining lands as per land holding map submitted to the LA on 25th January 2023. Therefore, access arrangements are not contingent on third-party consent.
- 7.4. Similarly, I note the contents of Volume 3b of the CDP 2017-2023 as it relates to R1 lands, the upgrade of the junction with the R463 and the Northern Distributor Road. Regarding road access Section 4.1.1 Pg. 24 of the RZLT guidelines state in appraising whether suitably zoned lands are connected, or able to be connected to services this assessment must consider the following infrastructure categories:

- *Road access*

In considering road access, the Planning Authority must take into account the ease of access to existing road infrastructure by the identified lands. Construction of significant sections of new road access across other landholdings, should be discounted with the exception of Local Authority owned lands, where use and access are a matter for the authority.

- 7.5. In this case the site has direct access on the R463 and is not dependent on the delivery of the Northern Distributor Road. Any junction upgrade works deemed necessary to accommodate future development will be determined at planning application stage, owing to the location fronting the R463 it is reasonable to assume access can

reasonably be facilitated. I note the provision of planned Active Travel measures will benefit the site also.

- 7.6. The site is located on lands that form part of Athlunkard, Parteen, Co. Clare. Parteen is a built-up area forming part of the environs of Limerick City and it is therefore to be expected that the site is suitable for development of residential units in accordance with the zoning that applies to the site.

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.

Irené McCormack
Senior Planning Inspector

21st June 2023