



An  
Bord  
Pleanála

## Inspector's Report ABP-316706-23.

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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>	Warren of Drum, Boyle, Roscommon
<b>Local Authority</b>	Roscommon County Council.
<b>Local Authority Reg. Ref.</b>	RZLT BE -1
<b>Appellant</b>	Barry Lynch
<b>Inspector</b>	Dáire McDevitt

## **1.0 Site Description**

The appeal lands (RZLT -BE1) are located on the north eastern environs of Boyl, access via the Warren Road land located west of Drumderrig House Care Home.

## **2.0 Zoning**

The lands are not zoned in the current Roscommon County Development Plan 2022-2028.

The lands were formerly the subject of two zonings, 'the southern portion under 'New Residential' and the northern portion 'Residential Reserve' in the Boyle Local Area Plan 2015-2021 which has expired. As such the site currently has no zoning.

The Planning Authority in their assessment stated that the LAP remains a material consideration until the new LAP comes into effect. Boyle Local area Plan 2023-2029 is currently under review. Section 18(4)(a) of the Planning and Development Act 2000 states that '*A local area plan prepared under this section shall indicate the period for which the plan is to remain in force*'. There is no record on the Roscommon County Council website that the LAP has been extended.

## **3.0 Planning History**

None noted.

## **4.0 Submission to the Local Authority**

The appellants made a submission to the Local Authority seeking to have their lands removed from the draft map on the basis that field A has been used for community related uses (sporting) since c.2000, the topography of field B does not lend favourable to residential development and field C has a section which is prone to flooding and as such is not ideal for residential development.

## **5.0 Determination by the Local Authority**

The local authority determined that the land should be retained on the RZLT Draft Map as it was in scope and should remain on the map as a) Roscommon County

Council is satisfied that the subject lands, included as being 'in scope' on the Residential Zoned Land Tax (RZLT) Draft Map published on 1<sup>st</sup> November 2022, fulfil the qualifying criteria for inclusion on the RZLT map, with the said criteria set out in Part 22A of the Taxes Consolidation Act 1997 (as introduced by the Finance Act 2021) and further detailed in the Residential Zoned Land Tax- Guidelines for Planning Authorities (2022) as issued under section 28 of the Planning and Development Act 2000 (as amended) and b) that the said lands will be retained as 'in scope' on the final RZLT map. Due to be published on 1<sup>st</sup> December 2023.

## **6.0 The Appeal**

### **6.1 Grounds of Appeal**

- Field 1 should be excluded as it used for agricultural/leisure/recreation uses and should continue to enjoy such uses.
- Field 2 should be excluded as it is not suitable for residential development, on engineering (flooding) and environmental grounds.
- Field 18 should be excluded as it is not suitable do development due to the topography of lands.

The grounds of appeal included the following documentation:

- Environmental Report
- Engineers report
- Auctioneers Opinion on Viability of Development on the Subject lands.
- Copy Extract of article by Francis McDonnell on Agriland.ie published 8<sup>th</sup> March 2023.
- Letter from Teagasc dated 24<sup>th</sup> April 2023.
- Letter from Boyle Summer Show Committee.
- Map No. 1, 2 & 3.

## **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 subject site is not zoned under either the Roscommon County Development Plan 2022-2028 or under a Local Area Plan (Boyle Local Area Plan 2015-2021 has expired). As such the site is not zoned and therefore should be removed from the RZLT map as it does not comply with section 653B(a).

I address the other matters raised in the Grounds of Appeal below, however, as set out above the subject site is not zoned for residential use and therefore cannot be considered in scope for the RZLT for that reason.

With respect to the use of lands (field 1) for agricultural/leisure/recreation uses and should continue to enjoy such uses:

With regard to the use of the lands for agricultural purposes. As noted in the 2022 RZLT Guidelines the use of land for agricultural or horticultural purposes are not considered to be exempted from scope as they are not subject to rates. Based on the information available I have no evidence that this is the case. I am satisfied that the lands do not meet the criteria for exclusion set out in section 653B(c).

Notwithstanding, and as set out above, the site is not currently zoned under a Development Plan or Local Area Plan, and therefore is not in-scope for the RZLT.

The use as sporting (reference to a former use as training pitches by the local GAA club) is not stated to be a current use in the grounds of appeal. I am satisfied that the lands do not meet the criteria for exclusion set out in section 653B(c).

Notwithstanding, and as set out above, the site is not currently zoned under a Development Plan or Local Area Plan, and therefore is not in-scope for the RZLT.

The use once a year by the Boyle Summer show for recreational/leisure purposes is not a criteria for exclusion set out in section 653B(c). Notwithstanding, and as set out above, the site is not currently zoned under a Development Plan or Local Area Plan, and therefore is not in-scope for the RZLT.

With respect to the submission that the land is subject to flooding (field 18) and that the topography of lands (section of field 2) are not suitable for residential

development, on engineering and environmental grounds. I note that the grounds of appeal include Engineering and Environmental Reports. The local authority is its assessment (not dated) noted that there was no record of flooding on the lands.

Section 653B(c) states that land satisfies the criteria for inclusion on the map if it is reasonable to conclude that its physical condition is not affected by matters to preclude the provision of housing including contamination and the presence of known archaeological or historic remains. Flood risk is not mentioned in this subsection. However it is not excluded either, and the use of the word “including” would indicate that relevant matters of the site’s physical condition are not restricted to contamination or archaeological and historic remains. Housing can be provided on lands subject to a certain level of flood risk where the proper planning and sustainable development of the area justified it, so the presence of flood risk would not always indicate that the physical condition of the land precludes the provision of housing. Based on the information available I have no evidence that this is the case.

I do not consider that the lands identified as RZLT-BE1 meet the criteria for exclusion under section 653B (c) the grounds set out in the appeal. Notwithstanding, and as set out above, the site is not currently zoned under a Development Plan or Local Area Plan, and therefore is not in-scope for the RZLT.

## **8.0 Recommendation**

I recommend that the board set aside the determination of the local authority and remove the lands identified as RZLT-BE1 from the map.

## **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(a) of the Taxes Consolidation Act 1997, as amended, the lands identified as RZLT-BE1 are not zoned under a current Development Plan or Local Area Plan for the area, and as such cannot be considered in-scope for the RZLT.

*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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Dáire McDevitt  
Senior Planning Inspector  
22nd June 2023