



An
Bord
Pleanála

Inspector's Report ABP-316714-23.

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	Lands at Drumshanbo, Co. Leitrim.
Sligo	Leitrim County Council.
Local Authority Reg. Ref.	RZLT D23
Appellant	Aoife Kielty Feely.
Inspector	Dáire McDevitt

1.0 Site Description

The appeal lands identified as RZLT D23 are located in the settlement of Drumshanbo, Co. Leitrim.

2.0 Zoning

Notices on Leitrim County Council website note that the Leitrim County Development Plan 2015-2021 was extended by resolution to the 31st March 2023. The Leitrim County Development Plan 2015-2021 was the plan in effect during the RZLT submission period.

Leitrim County Development Plan 2023-2029 was adopted by the Elected Members of Leitrim County Council at a Special Planning Meeting on the 7th February 2023. The Plan came into effect 6 weeks from the date of adoption, on 21st March 2023. The Determination which is the subject of this appeal was made on the 27th March 2023.

Drumshanbo is designated in the Leitrim County Development Plan 2023-2029 as a Tier 2B Support Town under the Leitrim County Settlement Hierarchy, with its function recognised as fulfilling “local service and some specialised employment and tourism functions which play an important role in supporting the social, economic and cultural life within their rural communities”

The lands which are the subject of this appeal are zoned ‘New Residential’ and identified as ‘Low Density Residential’ with stated objective ‘ *to provide primarily for new residential development and community services at appropriate densities for the positioning of the centre in the Settlement Hierarchy and with an emphasis on quality of design*’

3.0 Planning History

None stated.

4.0 Submission to the Local Authority

The appellant made a submission to the Local Authority seeking to have her lands removed from the draft map on the basis that the lands are only used for agriculture, lands are subject to flooding/drainage issues and there are already a high number of vacant and uncompleted developments in Drumshanbo.

5.0 Determination by the Local Authority

The local authority determined having regard to a) part 22A of the Taxes Consolidation Act 1997 (as introduced by the Finance Act 2021) and b) section 28 Ministerial guidelines 'Residential Zoned Land Tax – Guidelines for Planning Authorities (2022) concluded that-a) In accordance with the criteria set out in Part 22A of the Taxes Consolidation Act 1997 (as introduced by the Finance Act 2021) and the 2022 section 28 Ministerial guidelines 'Residential Zoned Land Tax – Guidelines for Planning Authorities (2022) the lands now zoned as Low Density Residential in the Leitrim County Development Plan 2023-2029, will be included in the final map published on 01 December 2023.

6.0 The Appeal

6.1 Grounds of Appeal

Grounds of appeal are summarised as follows:

- The lower part of the land is flooded due to water ingress from an adjoining site.
- No guarantees allowed an entrance on the land from the main road. At present relying on a shared entrance with adjoining landowner.

Original submission to the local authority included which refers inter alia to :

- Land use for agricultural purposes.
- There are upward of 100 vacant houses in the Drumshanbo area including a number of uncompleted estates.

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).

With respect to the submission that the land is subject to flooding The local authority is its assessment did not provide a comment in relation to the issue of flooding.

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 and the grounds of appeal relating to this matter should be dismissed.

The appellant has submitted that there is no access to the land off the main road and access is via a shared entrance with an adjoining landowner. The site can be served in principle by the existing road network that is in place and is zoned for residential use. As with all development, the applicant/ developer will be expected to provide for any internal road network necessary to serve the site and similarly a connection to the public road network would be provided by the developer in accordance with the requirements of the local authority and assessed on its own merits through the development management process where required. Therefore I consider that this ground of appeal should be dismissed.

While not raised in the grounds of appeal the use of the lands for agricultural purposes was raised in the original submission to the local authority and as it is

included with the grounds of appeal I shall address it in my assessment. 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)(i).

Reference to an abundance of vacant and incomplete properties in the area. This is not a criteria for exclusion in section 653B of the act.

Conclusion

Having regard to the foregoing I consider that the lands identified as RZLT-D23 meet the criteria for inclusion under section 653B and the grounds of appeal should be dismissed.

8.0 Recommendation

I recommend that the board confirm the determination of the local authority and retain the lands identified as RZLT D23 on 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 of the Taxes Consolidation Act 1997, as amended, the lands identified as RZLT D23 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 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.

Dáire McDevitt

Senior Planning Inspector

26th June 2023