



An
Bord
Pleanála

Inspector's Report ABP-316740-23.

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	Fossabeg, Scarriff, Co. Clare
Local Authority	Clare County Council.
Local Authority Reg. Ref.	S1/061
Appellant	Reps of the late James O'Grady
Inspector	Irené McCormack

1.0 Site Description

- 1.1. The site comprises 3.4ha. of lands within the settlement of Scarriff/Tuamgraney Co. Clare.

2.0 Zoning

- 2.1. The lands consist of three parcels and are zoned R1 – Residential, LDR2 and LDR 3 - Low Density Residential in the Scarriff/Tuamgraney 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 –

Low Density Residential - This zoning refers to the use of lands to accommodate a low-density pattern of residential development, primarily detached family dwellings. The underlying priority shall be to ensure that the character of the settlement/area is maintained and further reinforced by a high standard of design. Proposed developments must also be appropriate in scale and nature to the areas in which they are located.

- 2.4. Pg. 13 of Section 1: Service Town Scarriff/Tuamgraney of Volume 3c Killaloe Municipal District of the Clare County Development Plan 2017-2023.

R1 Lands to the East of the Church, Scarriff These lands have been identified as being suitable for housing due to their close proximity to the town centre and to many of the services available in the area. The lands are gently sloping and this feature shall be incorporated into any future development of the site. The development of R1 shall

incorporate a large extent of open space. Currently there is a parking area associated with the church along the western boundary of the lands. Provision shall be made for replacement parking should these spaces be removed as part of future development proposals. The natural stone walls along the roadside boundary of the site are also a prominent feature and shall be incorporated into future development on the lands.

R1 is bounded by the Scarriff stream which is currently at moderate status and therefore has a Water Framework Directive (WFD) Objective of restore to “good” status. Any future development at this location will need to take into consideration the requirements of the WFD and the achievement of its objectives. A significant portion of R1 contains wet grass land which should be carefully assessed as part of any planning application process as part of an overall ecological assessment. Any proposal for development on this site shall also be subject to and accompanied by a Flood Risk Assessment.

3.0 Planning History

3.1. Site

Reg Ref. CCC 99/2144 – Permission refused by CCC to Mr. & Mrs. James O'Grady for or 90 houses comprising of 45 detached/16 semi-detached/9 terraced and 20 apartments (in 5 separate 2 storey blocks) together with a nursing home and the requisite development works including roads, services utilities and landscaping as Fossa Beg, Scarriff. Two nol. Reasons for refusal:

1. Capacity of water supply
2. Deficiency in public sewerage

4.0 Submission to the Local Authority

- The appellant made a submission to the Local Authority seeking to have their lands removed from the draft map citing the lack of water infrastructure and the refusal of planning application CCC 99/2144 for 90 houses due to water and wastewater constraints.
- Zoning status of the lands and adjoining lands over the past, current (2017-2023) and proposed Development Plan (2023-2029) outlined and queried.

- Requested lands be removed in order to develop all of the land in a coherent manner. Lands currently in agricultural use.
- Request the rezoning from Residential and Low Density Residential to Strategic Residential Reserve.
- Limited demand for residential development in the area.
- The existing use of the land is agricultural.

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.
- 5.2. The local authority consideration stated that it is desirable to develop lands in a sequential manner in line with national and regional objectives for compact growth. The lands are 100m north of the town centre and connected by a public footpath and public lighting and there is water and wastewater capacity in the town and the water and wastewater networks are located in proximity to the lands.
- 5.3. In relation to the existing residences, it is set out that while residential properties are required to be included on the RZLT map such properties are not liable for this tax.
- 5.4. Uisce Eireann were consulted by the local authority and reported adequate capacity in the wastewater network accessible within the lands west of Church Street and c. 135m from the land west of Church Street along its northern boundary. UE notes limited public water supply with additional capacity required to facilitate the entire site. The water main is located on the public road accessible to the site along Church Street (L4061).
- 5.5. The LA report noted the UE submission to the review of the Development Plan setting out that there is adequate capacity in the existing wastewater network, limited capacity in the public water network with additional capacity required to cater for the target population to 2029. Groundwater investigation underway to augment supply and water treatment plant capacity upgrade is at scoping stage.

6.0 The Appeal

6.1 Grounds of Appeal

- No proper planning consideration given to whether the zoned lands are

serviced in respect of proper water supply.

- No proper planning consideration given to the rezoning request.
- No proper consideration given to the Clare County Development Plan 2023-2029.

6.2. A copy of planning notification 99/2144 forward to ABP on 11th May 2023. A cover letter clarifies that folio 1689 parcel CELA 0001698 ca. 3.4ha. is the subject of this appeal.

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 previous land use zonings attributed to the site and the fact that the lands are in agricultural use does not qualify for omitting the lands from the map under section 653B.

7.3. Regarding concerns raised about water supply, the LA in their assessment indicate that the site is serviced. I note the submission from Uisce Eireann reported adequate capacity in the wastewater network but limited public water supply with additional capacity required to facilitate the development. The LA further note in their assessment the UE submission to the review of the Development Plan (2023-2029) setting out that there is limited capacity in the public water network with additional capacity required to cater for the target population to 2029 and that groundwater investigations are underway to augment supply and water treatment plant capacity upgrade is at scoping stage. On this basis, it is reasonable to consider that there is some capacity in the water network to cater for development.

7.4. This is consistent with the guidelines **Irish Water** Pg. 26 state that where “*settlement capacity audit identifies a certain quantum of residential development availability in the*

treatment plants serving a settlement, all of the land which may be able to access the infrastructure should be considered in scope. Where development takes place and capacity no longer remains, then the annual review of the map should reflect this and lands may be removed from scope”.

- 7.5. The site is located on lands that form part of the Scarriff Settlement Plan map (Volume 3c Killaloe Municipal District Settlement Plans of the CDP 2017-2023). The land parcels are located immediate to the village core, and it is therefore to be expected that the site is suitable for development of residential units in accordance with the zoning that applies.

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