



An
Bord
Pleanála

Inspector's Report

ABP-316749-23

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	Lismalaghlin, Castlemartyr, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	DRZLT474643340
Appellant(s)	Michael Lynch
Inspector	Rachel Gleave O'Connor

1.0 Site Location and Description

1.1. The appeal relates to two plots of land. Plot 1 is bounded to the west by Mogeely Road and to the west by Kiltha River. It is situated to the north east of industrial sheds and north west of existing residential estates at The Willows and Elm Grove. It is identified on the RZLT maps by Parcel ID CM-ZLT-04. Plot 2 is situated to the east of Plot 1 and separated to it by the road and properties that front onto the road. It is situated to the north of residential estates at Elm Grove, The Willows and The Maples. To the north of both plots is agricultural/greenfield lands.

2.0 Zoning and other provisions

2.1. The site is zoned 'Existing Residential / Mixed Residential and Other Uses' under the Cork County Development Plan 2022-2028. Residential is identified as an appropriate use under the zoning Objective in the Development Plan.

3.0 Planning History

3.1. No record of relevant planning history.

4.0 Submission to the Local Authority

4.1. The appellant made a submission to the Local Authority seeking to have its land removed from the draft map. It stated that:

- Request the land be zoned for agricultural use.
- Lands have been farmed continuously since the 1980s, and intention is to continue to farm the lands.
- In Volume 4 South Cork of the Development Plan, the lands while within the development boundary are not listed as being zoned for residential use.
- Plot 1 at Grange, Castlemartyr would not be suitable for housing as it is prone annually to flooding from the adjacent Kiltha River.
- Plot 2 at Lismalaghlin, Castlemartyr, is also prone to flooding due to a spring when after heavy rain causes a lake to form.

- The lands are not currently serviced by public utilities such as foul sewer and surface water and therefore cannot be developed.
- Plot 2 is currently not accessible from a public road and as such no access is available to service this plot.
- The lands are close to the future northern by-pass of Castlemartyr Village and as such a proposed development of same will likely be opposed by the NRA until such time as the by-pass has been constructed.

5.0 Determination by the Local Authority

5.1. The local authority provided an evaluation of the site with reference to the RZLT Guidelines, confirming the following:

- Plot 1: Uisce Éireann confirms that water main and sewer exists on close proximity to the site. Flood extents alongside river can be removed from final RZLT Map.
- Plot 2: Uisce Éireann confirms that water main and sewer exists on close proximity to the site. Current data shows that Flood Risk not identified for these lands. Access available via Mogeely Road.
- Neither site located close to U-01 as mapped in the 2022 CDP for Castlemartyr.
- Response from Uisce Éireann:
 - Plot 1: watermain accessible 10m away via Mogeely Road, adjoining the site. A sewer exists accessible 160m away via Mogeely Road adjoining the site;
 - Plot 2: watermain accessible 50m away via third party lands adjoining the site in The Maples housing estate. A sewer exists on the public road in The Maples proximate to the site, accessible 80m away via third party lands.

6.0 The Appeal

6.1. Grounds of Appeal

- There have been longstanding wastewater infrastructure deficiencies in Castlemartyr, which has impacted the delivery of growth of the settlement. Reg. Ref. 17/4624 and ABP-301316-18, permission was refused for 209 units, with the reason centered on constraints with regard to wastewater infrastructure. (Site located to the south of the appeal sites and south of the N25).
- The development of the lands are contingent on the delivery of upgrades to Castlemartyr Wastewater Treatment Plant as acknowledges in section 3.6.22 of the Development Plan.
- A planning application was submitted to Cork County Council by Irish Water for this infrastructure on the 26th October 2022 (ref.22/6416), yet to be determined. Once planning permission secured, it will be completed within a further 18 month period.
- The RZLT Guidelines state that lands should be both zoned and serviced 1 month before the publication of the draft map (i.e. 1st Oct 2022).
- The Council determination is silent on the issue of wastewater treatment capacity.

7.0 Local Authority Response

- CCC had full regard to the infrastructural capacities relating to submissions received.
- Uisce Éireann confirmed proximity to water main and sewer via the Mogeely Road for Plot 1 and via The Maples housing estate and third party lands for Plot 2.
- CCC acknowledge the refusal in Castlemartyr ref. 17/4624 based on the capacity of the WWTP, however, the RZLT site was referred to Uisce Éireann as part of the assessment process and no issue relating to services to the subject site were raised.

- For clarification, the total landholding for the site allows access to Mogeely Road. Road Access and access to Water Supply and Wastewater are available through land to the same.
- The site meets the criteria for inclusion with the RZLT map.

8.0 Assessment

8.1. The grounds of appeal assert that the site is not serviced with respect to wastewater. The Local Authority contend that Uisce Éireann have confirmed availability of water and wastewater services proximate to the site and via the public road. Uisce Éireann's response to the RZLT determination indicates availability of water and wastewater infrastructure proximate to the site and no capacity constraints are raised. The Uisce Éireann capacity register states that Castlemartyr WWTP has an 'Amber' classification, indicating 'potential spare capacity, applications to be considered on an individual basis considering their specific load requirements.' As such, there is capacity indicated at the WWTP. On the basis of this and the response from Uisce Éireann, it is reasonable to consider that the site may have access to be connected to wastewater infrastructure is available.

8.2. I note the appellants reference to section 3.6.22 of the Development Plan which states in relation to Castlemartyr that:

“The waste water treatment plant serving the village has limited but sufficient capacity to accommodate growth. The Waste Water Treatment Plant is currently not compliant with Waste Water Discharge Licence Emission Limit Values. Castlemartyr is on the Irish Water Investment Plan for an upgrade of the Wastewater Treatment facilities in the village in order to protect the environment and quality of receiving waters and to facilitate growth. This project is due for completion in 2023/24.”

8.3. This confirms that there is capacity to support growth of the town, albeit limited. The section also notes concerns regarding emission limit values and the need to protect the environment. The upgrades required are to improve impact upon receiving waters. Regardless of the upgrades required from an environmental perspective, the Castlemartyr WWTP has capacity (albeit limited), which is the focus of the RZLT criteria.

- 8.4. While I note the previous planning refusal in Castlemartyr in 2018 (to the south of Plots 1 and 2), that refusal relates to 'existing wastewater constraints' with specific reference to the emission limit values. The reference to capacity in reason for refusal no.1 of ref. ABP-301316-18 relates to an acknowledgement of the limited overall extent of capacity to serve developments in Castlemartyr, as indicated by the 'Amber' classification (explained in this section above). The reason for refusal is tied in with environmental protection and not lack of capacity per se.
- 8.5. Uisce Éireann have confirmed the availability of public infrastructure to service the site, the necessary connections can be undertaken via Mogeely Road which directly adjoins Plot 1. Plot 2 does not directly adjoin Mogeely Road, however the landownership extent (as confirmed in submitted maps) extends to the road. As such, and with reference to the response from Uisce Éireann, access to third party lands is not required to connect Plot 2 to services, which can be achieved via Mogeely Road instead by crossing lands within the same landholding as Plot 2. Pedestrian footpaths exist on Mogeely Road, and connections to other necessary infrastructure can also be facilitated via this public road.
- 8.6. As such, I am satisfied that the subject site is in scope for inclusion on the RZLT map.

9.0 Recommendation

- 9.1. I recommend that the Board confirm the determination of the local authority and direct the local authority to include the site on the map.

10.0 Reasons and Considerations

- 10.1. 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 the Guidelines for Planning Authorities on the Residential Zoned Land Tax, the site should remain on the RZLT map.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has

influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Rachel Gleave O'Connor
Senior Planning Inspector

06 September 2023