



An  
Bord  
Pleanála

## Inspector's Report ABP-316772-23.

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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 Map
<b>Location</b>	Lands at Killumney Ovens, Co. Cork
<b>Local Authority</b>	Cork County Council
<b>Local Authority Reg. Ref.</b>	DRZLT- 473267882
<b>Appellant</b>	Caroline Crowley
<b>Inspector</b>	Emma Nevin

## 1.0 Site Description

- 1.1. The site comprises a parcel of land located to the south side of Crannog Close Road. The site, which is a green field site, is bound by a mix of uses, predominantly residential. The has a stated area of 8.65ha.

## 2.0 Zoning

- 2.1. The site is zoned Special Policy Area, under objective R2 'Existing Residential' as per Volume 4 'South Cork' of the Cork County Development Plan 2022-2028, for "Existing Residential/Mixed Residential and Other Uses".

## 3.0 Planning History

None located.

## 4.0 Submission to the Local Authority

- 4.1. The wastewater capacity is insufficient, as the provision of wastewater capacity upgrades to support the future growth of the settlement are proposed but have yet to be resolved.
- 4.2. An Bord Pleanala Reference (PL04.310250) refused permission for a development of 72 dwellings on grounds that the development was premature pending the upgrade of the wastewater treatment plant in the surrounding area.
- 4.3. There are watermain network / pumping station issues.
- 4.4. Irish Water have confirmed upgrades, however there is currently no capacity in the wastewater treatment plant to support this.
- 4.5. In accordance with Section 653B of the Taxes Consolidation Act, 1997, as amended the subject lands should be discounted from the RZLT Map until such time as there is a wastewater treatment capacity.

## 5.0 Determination by the Local Authority

5.1. A report was received from Uisce Eireann which confirms that:

- A watermain and sewer exists on the public road in close proximity to the site, GIS data indicates that a watermain is accessible 10 metres away, via the road Crannog Close, adjoining land parcel.
- A collection network is not available in close proximity to the site. The closest wastewater network indicated on GIS is 1300m away along the Killumney Road (L2216). Local knowledge may provide greater clarity. A river crossing would have to be navigated to connect to the network on the L2216 Killumney Road.
- There is limited spare capacity in the Killumney WWPT, and the level of new connection enquiries to UE exceeds the available capacity at the plant and UE considers there is currently no further capacity for growth.
- Killumney WWPT has been nominated as a priority site under the Small Towns and Villages Growth Programme (STVGP), and UE is progressing a project under STVGP to provide capacity for projected growth.

5.2. Regard is had to the RZLT Guidelines (page 7) which states; “In addition the land must be connected to or have access to public infrastructure and facilities necessary for dwelling to be developed and with sufficient service capacity available for such development”.

5.3. Regard is had to the RZLT Guidelines (page 8) which states; ‘*A need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist*’.

5.4. The site can connect to the water services network and spare capacity currently is available in the Killumney WWTP.

5.5. The Council is also aware that the existing spare capacity available in the Killumney WWTP is limited and will consider interim developer led on-site infrastructure provision that can connect to the network, pending additional treatment plant capacity being made available. As set out by Uisce Eireann, Killumney WWTP has been nominated as a priority site under the Small Towns and Villages Growth

Programme and UE is progressing a project under that programme to provide capacity for projected growth.

- 5.6. It was determined that the subject site fulfils the qualifying criteria set out in the Taxes Consolidation Act, 1997, as amended and the Section 28 Ministerial Guidelines “Residential Zoned Land Tax – Guidelines for Planning Authorities’ for inclusion on the RZLT Map.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The appellant raised similar issues to those in the submission to the local authority including:

- The appellant is committed to contributing towards the delivery of this projected growth through the development of their lands.
- The appellant notes that it has been established that there are capacity issues with the existing WWTP and that the proposed upgrade works will not be delivered in the foreseeable future, therefore in line with Development Plan Objectives WM 11-9a no new development can proceed in Ovens/Killumney until adequate public wastewater is provided.
- The appellant asks the Board to note that Sections 4.6.11 and 4.6.12 of the Development Plan highlight significant constraints in the existing wastewater and water infrastructure provision stating that the settlement does not have capacity to accommodate further growth until the WWTP is upgraded.
- The WWTP upgrade has not yet progressed to concept design stage and will not be completed or operational under the current capital programme which comes to an end in 2024.
- For lands to be considered in scope for the RZLT they need to be zoned and serviced on 1<sup>st</sup> October 2022 or 1<sup>st</sup> April 2023. The subject lands were and remain unserviced at these RZLT cut-off dates and are therefore out of scope.

- An Bord Pleanála Reference (PL04.310250) refused permission for a development of 72 dwellings on grounds that the development was premature pending the upgrade of the wastewater treatment plant in the area.
- As confirmed by Uisce Eireann to the planning application 20/6894, the further development in Ovens/Killeens is dependent on the delivery of critical infrastructure upgrades which are outside the control of the appellant and subject to separate consent processes and accordingly the lands were not serviceable on October 1<sup>st</sup> 2022, and April 1<sup>st</sup> 2023.
- Therefore, the lands should be excluded from the RZLT Map as the lands have yet to satisfy the criteria of Section 653(b) of the Taxes Consolidation Act, 1997, as amended.

## 7.0 Assessment

- 7.1. To satisfy the criteria as identified in section 653B of the Taxes Consolidation Act 1997, as amended, land must be zoned residential use or for mixed uses including residential. It is noted that subject site is zoned R2 ‘Existing Residential/Mixed Residential and Other Uses’ under Volume 3 ‘North Cork’ of the Cork County Development Plan 2022-2028.
- 7.2. Regard is had to the Uisce Eireann further information response to the ‘RZLT Query’ sought by the Local Authority as part of their assessment. Uisce Eireann confirmed that a watermain exists on the public road, in close proximity to the site. There is limited wastewater capacity available in the Killumney WWTP. However, the Killumney WWTP has been nominated as a priority site under the STVGP and Uisce Eireann is progressing a project under the scheme to provide for projected growth.
- 7.3. Notwithstanding, the capacity issues and the requirement for upgrades to the existing systems, I refer to the Residential Zoned Land Tax - Guidelines for Planning Authorities, 2022, ‘Serviced Land Definition’, which states “*Information from stakeholders such as Irish Water will play a key role in identifying these lands and providing confirmation of existing capacity in wastewater treatment plants and water treatment plants along with data informing the date of connection or ability to connect to services, where this date was after 1 January 2022. A need for network upgrades*

*is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist*".

As per the guidelines, a need for upgrades to an existing system is not considered criteria for exclusion under Section 653B (b) of the Taxes Consolidation Act 1997, as amended.

- 7.4. It is also noted the Killumney WWTP (Ref. A0435) has a 'Green Status' on the Uisce Eireann Wastewater Treatment Capacity Register published in June 2023. Green status is stated to mean '*spare capacity available*'. It is also noted that a 'WWTP Project Planned/Underway'.
- 7.5. In my opinion there is a viable wastewater connection available in proximity to the site and, therefore, the site can be reasonably serviced in terms of wastewater, as per Section 653B (b) of the Taxes Consolidation Act 1997, as amended.
- 7.6. In terms of water networks, a water main exists on the public road in close proximity to the site.
- 7.7. In my opinion there is a viable water supply/ connection available in proximity to the site and, therefore, the site can be reasonably serviced in terms of water supply, as per Section 653B (b) of the Taxes Consolidation Act 1997, as amended.
- 7.8. The reference to the planning history in the area is not criteria for omitting the lands from the map under Section 653B of the Taxes Consolidation Act, 1997, as amended.
- 7.9. With respect to the relevant policies in relation to infrastructure contained within the Development Plan, I consider that these would not prevent a proposal coming forward to develop the lands for residential dwellings and this, would be addressed through the development management process and consultation with any relevant statutory bodies and is not criteria for omitting the lands from the map under Section 653B of the Taxes Consolidation Act, 1997, as amended.
- 7.10. As such, the lands are considered to be serviced for residential dwellings as per as per Section 653B (b) of the Taxes Consolidation Act 1997, as amended.

## 8.0 Recommendation

- 8.1. I recommend that the board confirm the determination of the local authority and direct the local authority to retain the lands identified as DRZLT- 473267882 on the map.

## 9.0 Reasons and Considerations

- 9.1. The appellant requested that their site be removed from the map due to the fact that the lands are not capable of being serviced. 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 Residential Zoned Land Tax – Guidelines for Planning Authorities, 2022. The lands as identified DRZLT- 473267882 are considered in scope of section 653B of the Taxes Consolidation Act 1997, as amended,

*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.*

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Emma Nevin  
Planning Inspector

1<sup>st</sup> September 2023