



An
Bord
Pleanála

Inspector's Report ABP-316814-23.

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	Main Street, Ballylynan, Co. Laois
Local Authority	Laois County Council.
Local Authority Reg. Ref.	LS-C46-RZLT-8
Appellant	Michael Murphy
Inspector	Irené McCormack

1.0 Site Description

- 1.1. The site comprises lands on Main Street, Ballylynan, Co. Laois. The site is identified as 1.0ha. in area.

2.0 Zoning

- 2.1. The Laois County Development Plan 2021-2027 was adopted on 25th January 2022 and came into effect 8th March 2022.
- 2.2. The land is zoned R2 - New Proposed Residential in the Laois County Development Plan 2021-2027.
- 2.3. R2 Zoning Objective - *To provide for new residential development, residential services and community facilities.*
- 2.4. The lands to the rear (northwest) are zoned Strategic Reserve Objective - *To provide lands for future development in line with national and regional targets over the next Plan period 2021-2027.* These lands are not identified on the RZLT map.

*I note the PA in their assessment refer to the lands as R1, however, I have reviewed the zoning map and the lands are identified as R2 on Map 5.3 (A) Ballylynan in the CDP 2021-2027.

3.0 Planning History

3.1. Site

ABP PI.11.227230 / LCC Reg. Ref. 07/155 - Permission granted on 14TH December 2007 for 23 detached and 4 semi-detached two storey dwellings and associated site work on lands at Main Street, Ballylynan, Co. Laois.

4.0 Submission to the Local Authority

- 4.1. The appellant made a submission to the Local Authority seeking to have the lands rezoned for mixed use.
- 4.2. The submission states that the full folio of this field has a mixture of zoning part residential part agriculture.
- 4.3. The lands include a disused open quarry and an area subject to a 25-year lease with the option of an additional 10-year arrangement with National Broadband Ireland.

4.4. In addition to the above the full land parcel is leased to the appellant's son and is an integral part of his farming operation.

5.0 **Determination by the Local Authority**

5.1. The local authority determined that the sites were in scope and should remain on the map. The local authority consideration stated that land is zoned Residential.

5.2. In relation to the current agriculture the lands are in scope.

5.3. The telecommunication structure is in situ on the lands and occupies a very limited area.

5.4. Reference is made to new CDP 2021-2027, the zoning provision and planning history on the site.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- Request for lands be reassessed as the Lands are being actively farmed, incorporate long term leases and has a discussed quarry.
- Request for mixed residential zoning.

7.0 **Assessment**

7.1. The legislation clearly sets out that land in scope will be zoned for residential development or a mixture of uses including residential; be serviced or have access to servicing by water, wastewater, road, footpath and public lighting; and not be affected by contamination or significant archaeological remains which would preclude development taking place. Regarding reference made by the appellant to a disused quarry on site, I note the PA do not refer to any disused quarry on the lands but rather that the land is zoned for residential as per the recently adopted development plan 2021-2027. Therefore, on the basis of the zoning, it is reasonable to consider the land is not affected, in terms of its physical condition, by matters to a sufficient extent to preclude the provision of dwellings.

7.2. The fact that the lands are in agricultural use does not qualify for omitting the lands from the map under section 653B.

7.3. Section 3.1.2 *Exclusions from the Map* of the guidelines state that exclusions of particular lands as set out in the legislation and as clarified in the guidelines should be taken into account. With specific reference to *Land Required for Infrastructure and Community Services* the guideline state:

“As set out within the legislation, it is reasonable to exclude land required for the provision of community services and infrastructure which will sustain existing and future residential communities....”

Accordingly, a significant number of uses which may be required or are provided on either residential or mixed-use lands which permit housing are to be excluded from maps to accompany the Residential Zoned Land Tax.

These are clearly set out in Section 653B(c)(iii)(I) – (VII) and include; III. energy infrastructure and facilities, IV. telecommunications infrastructure and facilities...”

7.4. Firstly, I note the lands are not specifically identified for the provision of infrastructure or telecommunications in the Laois County Development Plan 2021-2027. The guidelines state that where a zoning facilitates residential development, but also makes provision for other uses including the uses identified in (I) – (VII) above by way of a statement or written objective, but does not specifically identify land within a statutory plan for those uses, the whole of the land area should be considered to be in scope unless the location and scale of the excluded uses is clearly set out. Therefore, by virtue of the fact that the development plan does not identify these lands for the provision of infrastructure or telecommunications in accordance with the above, it is reasonable to consider that the entirety of the land is in scope.

7.5. The land use zoning assigned to the lands is statutory function of Laois County Council and not a matter for the Board.

7.6. The appeal grounds do not raise any exclusions that would apply to the subject lands and warrant its removal from the map, with reference to the Taxes Consolidation Act 1997 as amended and the RZLT Guidelines.

7.7. The site is located on lands that form part of the Ballylynan settlement. The land parcel is located immediate to the village core where services exist including footpath and public lighting, 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

11th August 2023