



An
Bord
Pleanála

Inspector's Report

ABP-316842-23

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	Clonbrusk, Coosan, Athlone, Co. Westmeath.
Planning Authority	Westmeath County Council
Planning Authority Reg. Ref.	WM-C49-RZLT-20
Appellant(s)	Barry Dillion
Inspector	Rachel Gleave O'Connor

Contents

1.0	Site Location and Description	3
2.0	Zoning and other provisions	3
3.0	Planning History.....	3
4.0	Submission to the Local Authority.....	3
5.0	Determination by the Local Authority.....	4
6.0	The Appeal	4
7.0	Assessment.....	6
8.0	Recommendation.....	6
9.0	Reasons and Considerations.....	6

1.0 Site Location and Description

- 1.1. The subject site is formed of open greenfield area on Coosan Road, situated adjacent to residential houses to the west (on the opposite side of Coosan Road), south and north east, and wooded areas to the east.

2.0 Zoning and other provisions

- 2.1. The site is not zoned in the current Westmeath County Development Plan 2021-2027. The site was formerly zoned residential in the Athlone Town Development Plan 2014-2020, however with the adoption of the Westmeath County Development Plan 2021 which includes the administrative area of Athlone, the zoning under the former Town Development Plan is no longer applicable.
- 2.2. Section 10(8) of the Planning and Development Act 2000 states that 'There shall be no presumption in law that any land zoned in a particular development plan (including a development plan that has been varied) shall remain zoned in any subsequent development plan'.
- 2.3. There is no current Local Area Plan applicable to the location of the appeal site. As such, the subject site is currently unzoned.

3.0 Planning History

- 3.1. None applicable.

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. The submission stated that the lands are actively used for agricultural purposes. The land is subject to yearly heavy flooding from September to April, and floods easily in Summer. There are sections of the field to the north and east with a foot of water and on the western boundary up to a foot in places. The drain along the west, north and east of the site is full of water. There are flooding Risk maps of the Coosan Area, no records have been made of the flooding extent on this parcel of land and on the land located to the east (photos provided).

Due to this, the submission states that it would be unfair to include these lands in the final RZLT map. The submission also states that the lands are in use for agricultural purposes and therefore are not vacant or idle.

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. The authority states that having regard to Section 653(b) of the Finance Act, the consideration of lands as being 'vacant' or 'idle' refers solely to the consideration of lands that are zoned as 'mixed use', which is not the case in this instance. The authority also states that flooding is not set out in legislation as being a reason to remove the land from scope. The lands should not be scoped out simply due to the flood mapping as the land may have development potential depending upon location, size and scale of flooding. The development management process and application of the Planning System and Flood Risk Management Guidelines will determine whether the lands are suitable for the types of development permissible within the zoning matrix, while it may be that certain development is not compatible with the relevant flooding zone, other development may be suitable on the lands.
- 5.2. The land parcel is considered to be appropriately zoned residential development, have access to infrastructure services and does not have a legislative reason to remove the land from scope.
- 5.3. The local authority determined that the site was in scope and should remain on the map.

6.0 The Appeal

6.1. Grounds of Appeal

- Submission prepared with the assistance of an Ecologist.
- There was no notice given of the rezoning of the land under the Athlone Town Development Plan 2014-2020, otherwise there would have been an appeal of its inclusion and rezoning due to the physical condition of the site and unsuitability to be developed as a medium density residential area.

- Other zoned land is excluded from the RZLT maps. The land east of the site which is excluded, has high levels of standing water, this is due to the land topography, soil type, and high ground water levels. The land parcel to the east, which is flooded all year round, was left to sit 'idle' due to the flooding, was left to grow a mature wet willow woodland habitat, hosting many native Irish tree species, and providing habitat for protected species.
- Westmeath County Council and Athlone Town Council have failed to take the physical condition of the land into consideration when designing the Athlone Town Development Plan.
- The land also has moderate groundwater vulnerability. Due to the vicinity of the site to the River Shannon SAC, it is reasonable to expect connection of the water bodies and drains within the site and the site to the east to be connected to the River Shannon.
- If a water body on a site is displaced, it will place other areas at risk of flooding.
- Would be difficult to develop due to the high volume of water being held on the site.
- The land is subject to yearly heavy flooding from September to April, and flooding throughout the year. Up to a foot of water is on the site. Drains are full of water.
- No records have been made of the flooding extent on the site (photos of flooding on the site provided).
- There is no reasonable indication at present when the subject site will be serviced by the current local infrastructure or future infrastructure, therefore it is reasonable to concluded that the lands are 'unserved' and therefore, excluded form the RZLT scope in accordance with provisions of section 653Q(1)(b).
- Land to the west of the site has been sold in the past as development land, but was subsequently downzoned due to the risk of flooding. It is now used for agricultural purposes. House to the west recently demolished due to 'sinking'. A newly built house required pile foundation.

- The area to the east is effectively underwater all year.
- Request that until such time the water table and the potential flood risks associated with the site are investigated, that the land is excluded from the RZLT map and taxation.

7.0 **Assessment**

- 7.1. 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.
- 7.2. The subject site is not zoned for residential use under either the Westmeath Council Development Plan 2021-2027 or under a Local Area Plan. As such the site is not zoned and therefore should be removed from the RZLT map.

8.0 **Recommendation**

- 8.1. I recommend that the board set aside the determination of the local authority and allow the appeal.

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, the site is not zoned under a current Development Plan or Local Area Plan for the area, and as such cannot be considered in-scope for the RZLT.

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

30th May 2023