



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316864-23

---

**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**

Kilconny, Belturbet, Co. Cavan

**Planning Authority**

Cavan County Council

**Planning Authority Reg. Ref.**

RZLT07

**Appellant(s)**

James & Sylvia Maynes

**Inspector**

Frank O'Donnell

## **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 .....	5
7.0 Assessment.....	6
8.0 Recommendation.....	6
9.0 Reasons and Considerations.....	7

## **1.0 Site Location and Description**

- 1.1. The subject site is located to the north-west of the centre of Belturbet and has a stated site area of 1.31 hectares. The site fronts onto the Kilconny Road to the north. There is extensive established residential development to the immediate south and further to the south-west.

## **2.0 Zoning and other provisions**

- 2.1. The subject site is zoned 'Proposed Low Density Residential and Existing Residential' in the Belturbet Written Statement which forms part of the Cavan County Development Plan, 2022 to 2028.

## **3.0 Planning History**

### **3.1. Subject Site**

- 3.2. There is no planning history on the subject site.

## **4.0 Submission to the Local Authority**

- 4.1. The Appellants made a submission to the Local Authority seeking to have their land removed from the draft map.
- 4.2. The submission requests that the lands be rezoned as agricultural land. The land is used for agricultural purposes only. The Appellants state that they keep cattle on the land and that it is also adjacent to their home house and similarly adjacent to a separate house and various agricultural sheds which are stated to be used in conjunction with the land.
- 4.3. It is requested that this land reflect the reality of the position in that it is mainly used for agricultural purposes and not for residential purposes. The Appellants state that they have no intention, at this time, to use it to build residential properties.

## 5.0 Determination by the Local Authority

- 5.1. It has been determined that the site in question fulfils the qualifying criteria set out in Part 22A of the Taxes Consolidation Act 1997 (as introduced by the Finance Act 2021) and the 2022 Section 28 Ministerial guidelines 'Residential Zoned Land Tax – Guidelines for Planning Authorities' for inclusion on the RZLT map.
- 5.2. Matters which are unrelated to the criteria identified in the submission as per Section 653B of the Act, such as, planning permission, commencement of land-in-scope, finance, or personal circumstances are not matters to be taken into account during consideration of submissions.
- 5.3. The use of land for agricultural or horticultural purposes are not considered to be exempt from the scope as they are not subject to rates.
- 5.4. The request to unzone the subject lands is not considered appropriate taking into account the proper planning and sustainable development of the area. The Cavan County Development Plan 2022 – 2028 came into effect on the 11<sup>th</sup> of July 2022. The subject site is zoned Proposed Low Density Residential Development and Existing Residential. These zonings are considered appropriate taking into account the provision of existing infrastructure and services, the proximity of the lands to the town centre, the adjoining predominantly residential uses surrounding the site and the requirements of the core strategy to provide residential units to meet the population targets set for Belturbet.
- 5.5. 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

- Devastating implications for the family run farm. The Appellants run a suckler to beef herd and the land is used for grazing.
- The land is not derelict or neglected.
- This land is included in the Appellants area aid payment, and this also proves that he is farming the said fields.
- There are 2 dwelling houses on the fields in question. The Appellants live in the newest house. The other house has been renovated to a modern standard. The hayshed has been recently reroofed and a lot of work has been carried out to clean up and improve the image and make the yard more manageable.
- The Appellants neighbour has stated that he sent in a letter to Cavan County Council and received no response. The Appellant questions how can they both put in a fresh appeal if they don't receive a response from their previous appeals.
- Margins are very tight in farming and how can we expect to pay tax on land that is being grazed. The Appellant feels that this is very unfair that he will have to pay tax on land that he needs in order to keep his stocking rate up to comply with farming schemes that he has entered into. The Appellant states that it is seldom agricultural land comes up for sale, so there is no prospect of him being able to purchase replacement land.
- The Appellant states that he is a pensioner and that in the next few months he intends to transfer the land to his youngest son. The Appellant states that you are expecting a young farmer in his 20s starting out to be able to pay this unfair tax. It is stated that the Government is supposed to be encouraging young people into farming and then on the other hand they will be levelled with this unfair tax. The Appellant considers that it will be hard enough on his son to make a profit.
- The Appellant is seeking a face-to-face meeting, to show the problem that this will create. The Appellant states that all he wants is for his son to be given a fair

chance to take over and farm the whole fields that we have now without any taxes. The Appellant states that he looks forward to a meeting.

## **7.0 Assessment**

- 7.1. The comments raised in the appeal are noted.
- 7.2. The Planning Authority has outlined in its report why they have determined that the site is in scope for inclusion on the RZLT maps. The Proposed Low Density Residential and Existing Residential zoning allows for residential development.
- 7.3. No issue in relation to vehicular access to the site have been raised as an issue of concern. The area is served by water supply, foul drainage, surface water drainage, and there is no reason as to why this site cannot be suitably serviced. The area is also served by existing public lighting and a footpath.
- 7.4. The 2 no. existing dwellings and associated outbuildings referenced in the Appeal submission are excluded from the map.
- 7.5. The Appellants right of appeal to An Bord Pleanála has not been infringed upon.
- 7.6. There is no mechanism within the legislation to facilitate a face-to-face meeting with An Bord Pleanála in respect of the appeal.
- 7.7. No issues in relation to contamination or archaeological remains that may be on site have been raised as an issue of concern.
- 7.8. I therefore consider that the site, should remain for inclusion on the Residential Land Tax Maps as the site zoning allows for residential development and there are no known restrictions on the development of these lands.

## **8.0 Conclusion**

- 8.1. The site is within an established urban area with services available and no capacity issues or other reasons have been identified that would prevent the development of these lands for residential purposes. The site does satisfy the criteria for inclusion on the map set out in Section 653B(c) of the Taxes Consolidation Act 1997, as amended.

## 9.0 Recommendation

- 9.1. I recommend that the Board confirm the determination of the Local Authority and that the indicated site be retained on the map.

## 10.0 Reasons and Considerations

- 10.1. The lands identified as RZLT07 (Submission no. 10), meet the qualifying criteria set out in Section 653B of the Taxes Consolidation Act 1997, as amended. Having regard to the issues raised in the Appeal, there are no matters arising that warrant exclusion from the map.
- 10.2. 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.

---

Frank O'Donnell  
Planning Inspector

10<sup>th</sup> July 2023