



An
Bord
Pleanála

Inspector's Report

ABP-316868-23

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 (Submission no. 8)
Appellant(s)	Brendan O'Reilly
Inspector	Frank O'Donnell

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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 0.81 hectares. The site has a narrow road frontage onto the Kilconny Road to the south and there is an existing agricultural laneway along the western site boundary. The site is accessed via an existing agricultural access from the public road to the south. The lands rise steadily from the public road in a general northern direction. There is established residential development facing onto the public road to the east of the site.

2.0 Zoning and other provisions

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

3.0 Planning History

- 3.1. Planning history for adjacent area:
- 3.2. 64/4540. Outline Planning Permission was granted to Francis B. O'Reilly to erect a dwelling house. This permission relates to an adjoining field.

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 Appellant states that the lands are beside number 4 on the Cavan County Development Plan, 2022 to 2028, for Belturbet. The Appellant states that as a point of information, no footpath runs along or service's any amenities, that the road frontage is 14 metres and that there is no immediate access to the local sewage.
- 4.3. The Appellant states that he has been personally farming these lands for over 30 years and, with his late father before him, the lands have been farmed through several generations of his family. The lands are stated to be used for making winter fodder for the Appellants dairy cows and for grazing at the end of the year. It is stated that three plus cuts of silage are taken from these lands each year. It is stated that these lands

are farmed intensively, and the soil is regularly tested, and fertilised accordingly. The Appellant states that lime is spread regularly and that the lands are maintained to the highest standard and have been recently re-seeded, drained and fenced, to allow a maximum environmental positive impact, and carried out at a significant cost, to provide for long term future agricultural use.

4.4. The Appellant states that without these lands, and the use of same, he would be unable to produce enough fodder for his dairy herd, or followers during the winter-time. It is stated that this would negatively affect the Appellants livelihood and the long and short term future of the farm.

4.5. The Appellant states that some 23 or 24 years ago, together with a neighbour, he gave ground to Cavan County Council to allow for the widening of the road for two cars to meet and pass safely and the inclusion of a footpath to allow the safety of pedestrians to gain access to and from the then newly constructed Annagh Park. The Appellant states that no compensation was paid, offered, or looked for by either himself or his neighbour.

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 local authority determined that the site was in scope and should remain on the map.

6.0 The Appeal

6.1. Grounds of Appeal

- The appellant questions the decision to deny him his right to own this property, and to be arbitrarily deprived of future use of said property. The appellant also questions the 'common good' of developing this particular piece of land.
- The appellant is also disappointed as to the manner in which this determination has been made. The appellant considers that Cavan County Council failed to consult with him, as he would have expected them to do so, based on previous accommodations. The appellant states that this lack of consultation has left him confused with their outcome email and attachments. The appellant believes that the commentary and visual records differ of Cavan County Council differ.
- The appellant states that if this decision is to stand, he will be without access to his remaining lands.
- The appellant states that he is also disappointed in the lack of response, save an acknowledgement, of a Freedom of Information request submitted by him, on April 14th, 2023. In this request, the appellant states that he asked to know why a determination had been made, to include the 'Subject land' in the final map.
- In conclusion, the appellant states that, in his opinion, the lack of consultation, and the lack of response to his FOI request, along with the determination in the first place, is damaging. The appellant states that this is damaging to the proper use of this land, damaging to the surrounding lands, and damaging to health. Finally, the appellant states that as a professional in his field, it appears to be him, that this land is not the intended purpose of this tax. (As per the Finance Act, 2021).

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 Residential zoning allows for residential development.
- 7.3. No issues 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 on the southern side of the public road fronting the site.
- 7.4. Future agricultural access to the Appellants lands to the rear can be facilitated via an existing agricultural laneway to the west of the overall holding. Future access to such lands is not considered to be impeded, as a result of the decision as asserted by the Appellant.
- 7.5. No issues in relation to contamination or archaeological remains that may be on site have been raised as an issue of concern.
- 7.6. 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 criterion 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. 8), 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

10th July 2023