



An
Bord
Pleanála

Inspector's Report ABP-316870-23

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	Castleparcs, Mallow, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	DRZLT473626678
Appellant(s)	Piktor Ltd
Inspector	Colin McBride

1.0 Site Location and Description

1.1. The subject site is made up of land to the west of Mallow. The site is mainly under grass with an existing dwelling and associated outbuildings also on site.

2.0 Zoning and Other Provisions

2.1. The site is located on lands impacted by two zonings, the majority of the site is zoned Residential (Medium A) with two smaller portions zoned Existing residential/Mixed residential and Other Uses zoned under the Cork County Development Plan 2022-2028.

2.2. There are no protected structures, national monuments or any other item indicated on the development plan maps that directly impact on this site.

3.0 Planning History

3.1. No planning history.

4.0 Submission to the Local Authority

4.1. The appellant made a submission to the Local Authority seeking to have its lands removed from the draft map on the basis that:

- Lands are currently undevelopable due to lack of infrastructure with lack of to wastewater services with the Mallow WWTP upgrade an ongoing process.
- There is lack of certainty regarding timescale of the delivery of necessary infrastructure to serve the site and the delivery of such is outside of the landowners' control.
- The inclusion of the landowners land is not within the spirit of the legislation with the ongoing attempts to engage with the planning process to deliver housing on these lands.

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 on the basis that Uisce Eireann confirmed 2023 for WWTP upgrade completion.

6.0 The Appeal

6.1. Grounds of Appeal

- The appellant refers to section 4.1.1 of the RZLT Guidelines regarding assessment of services required to facilitate development of lands for residential development. The appellant questions the level of evaluation carried out by the Council in concluding the site should be included on the map.
- The lands are currently undevelopable due to lack of infrastructure with lack of capacity within the existing Mallow WWTP and no information detailing the likely timescale for upgrading of the WWTP.
- The existing lands are not connected to relevant services and do not have access to same as per the definition of serviced land under Section 3.1.1 of the RZLT Guidelines.
- As the improvements necessary to service the site are outside of the control of the applicant or relevant planning authority such land should not be considered in scope as per Section 4.2.2 of the RZLT Guidelines.

6.2 Response by Cork County Council

- The Council consider that the site meets the criteria for inclusion on the RZLT map as water services networks are available on adjoining lands.
- The Council state that the Uisce Eireann have confirmed that a watermain exists on third party lands in close proximity to the site, a sewer exists on the public road in close proximity to the site and the upgraded Mallow WWTP is estimate to be commissioned by the end of April 2023 with network upgrades expected to be completed by the end of April 2023.

7.0 Assessment

- 7.1. The appeal is under Section 635B(b) and the contention that the site does not have reasonable access to services in particular wastewater services. This is on the basis that the lands in question do not have access to wastewater treatment infrastructure with the existing Mallow WWTP operating at capacity. Uisce Éireann's wastewater treatment capacity register identifies that Mallow wastewater treatment plant (WWTP) has a 'Green' capacity level, indicating potential spare capacity, with applications to be considered on an individual basis considering their specific load requirements. There is no Uisce Eireann response on file. The Planning Authority determination justified inclusion of the site on the map on the basis that that Uisce Eireann confirmed April 2023 for WWTP upgrade completion.
- 7.2. There is capacity at Mallow WWTP with Uisce Eireann's capacity register (June 2023) classifying the WWTP as having status Green meaning there is available capacity based on loads received in 2022. Page 17 of the RZLT Guidelines confirms that:
- "Where capacity exists in wastewater treatment plants or water supply plants for a settlement, all lands which are zoned and connected or able to be connected to the relevant network should be considered in scope until such time as the capacity is confirmed to have been utilised."*
- 7.3. Page 8 also confirms that with respect to the definition of serviced lands:
- "...A need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist..."*
- 7.4. In conclusion, Mallow WWTP has capacity and as such the site is considered to be serviced and in scope for the RZLT Map.
- 7.5. I therefore consider that the site should remain on the map in accordance with the recommendation of the Planning Authority.

8.0 Recommendation

- 8.1. I recommend that the board confirm the determination of the Local Authority and that the indicated site be retained 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.

Colin McBride
Senior Planning Inspector

01st September 2023