



An
Bord
Pleanála

Inspector's Report ABP-316933-23.

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	Lands at Castlemaine Road, Milltown, Killarney, Co. Kerry.
Local Authority	Kerry County Council.
Local Authority Reg. Ref.	KE-C6-RZLT-5.
Appellant	Joanne O'Mahony & Stuart Griffin.
Inspector	Dáire McDevitt.

1.0 Site Description

The lands identified as KE-C6-RZLT-5 (land parcel ID KY0000001512) with a stated area of c.7 hectares are located along the Castlemaine Road in Milltown Killarney, Co. Kerry.

2.0 Zoning

Corca Dhuibhne. Local Area Plan 2021-2027 includes Milltown.

Milltown is a District town in the Kerry settlement Hierarchy.

The lands are zoned R1 New/Proposed Residential.

3.0 Planning History

None stated.

4.0 Submission to the Local Authority

The appellants made a submission to the local authority seeking that their land be excluded on the basis that the land is not serviced as there is no access to foul sewer drainage. Located on the N70. Reference is made to the tax status of the lands and that it is more appropriate that the lands are zoned mixed use. It is also submitted that the lands are not vacant or idle.

5.0 Determination by the Local Authority

The local authority determined that the site fulfils the qualifying criteria to be included in the Final Map for the Residential Zoned Land Tax or the following reason:

1. The land in question is included in a development plan and is zoned for residential development, 2. the land is serviced, or is reasonable to consider may have access to services and 3. the land is not affected in terms of physical condition, by matters to a sufficient extent to preclude the provision of dwellings, including contamination or the presence of archaeological or historic remains.

6.0 The Appeal

6.1 Grounds of Appeal

The grounds of appeal are summarised as follows:

- The lands are not serviced – it does not have access to wastewater facilities.
- It is not reasonable to consider that the lands may have access to services, even if it had access to wastewater services, It is not clear the Milltown Treatment Plant has capacity to deal with any substantial development on these lands.
- Kerry County Development Plan 2022-2028 has identified Milltown as a settlement ‘in urgent need to wastewater infrastructure treatment’.
- Uisce Eireann in June 2022 identified Milltown Wastewater Treatment Capacity as ‘Amber’, a further acknowledgement of capacity issues.

7.0 Local Authority Submission

The local authority submitted a detailed submission. Points raised include inter alia:

- UE did not identify WWTP capacity as an issue.
- UE have confirmed that water/sewer is available on the public road.
- Reference to application on adjoining lands which state connection to public water main and public sewer.
- The planning authority is satisfied that these lands have all services available or are able to connect to services and that they therefore should remain in scope in terms of RZLT.

8.0 Assessment

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 (i) solely or primarily for residential use,(ii) or for a mixture of uses including residential. The lands are zoned R1 and therefore are within scope of section 653B(a).

The appellants have raised issue with capacity to serve the lands and submit that the lands should be excluded from the map on this basis. The appeal refers to refer to Uisce Eireann (UE) categorisation of the Milltown WWTP as 'Amber status'. Kerry County Council determined that the lands are in scope. Correspondence on file from UE confirms that a water main existing on the public road in close proximity to the lands and is accessible c.10m away on the N70, adjoining the land parcel. And have confirmed that a sewer existing on the public road in close proximity (c.80m) to the site on the N70. UE have not raised issue with capacity.

The provision of infrastructure to the subject lands are considered to be in the control of Kerry County Council or Uisce Eireann and the local authority determined that that the subject lands are in scope and therefore retained within the RZLT Final Map.

For the purposes of falling within the scope of RZLT the criteria is whether it to 'is reasonable to consider'. In my opinion it is reasonable to consider that the provision of access, footpaths, public lighting, surface water drainage, sewer and water connections may be provided where land is in the control of the landowner or local authority. On this basis the land, therefore, does satisfy the criteria cited in section 653B(b) of the Taxes Consolidation Act 1997, as amended.

Having regard to the foregoing I consider that the lands zoned residential identified as land parcel ID KY0000001512 under KE-C6-RZLT-5 meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, and that there are no matters arising that warrant exclusion from the map.

9.0 Conclusion & Recommendation

The lands identified as land parcel ID KY0000001512 under KE-C6-RZLT-5 are located within an established urban area with services available and no capacity or other reasons have been identified that would prevent the development of these lands in principle for residential purposes. The lands are accessible and there is no reason why they cannot be developed in principle in accordance with the residential zoning objective that applies to these lands. This portion of the lands identified as parcel ID KY0000001512 under KE-C6-RZLT-5 meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, and that there are no matters arising that warrant exclusion from the map. And I recommend that the board confirm the determination of the local authority and direct the local authority to retain the lands identified as parcel ID KY0000001512 under KE-C6-RZLT-5 on the map.

10.0 Reasons and Considerations

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 2022 Guidelines for Planning Authorities on the Residential Zoned Land Tax, the lands identified as land parcel ID KY0000001512 under KE-C6-RZLT-5 should remain on the RZLT map.

The lands are zoned residential within an established urban area with services are available and no capacity or other reasons have been identified that would prevent the development of these lands in principle for residential purposes. The lands are accessible and there is no reason why they cannot be developed in principle in accordance with the residential zoning objective that applies to these lands. meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, and that there are no matters arising that warrant exclusion from the 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.

Dáire McDevitt
Senior Planning Inspector
26th July 2023