



An
Bord
Pleanála

Inspector's Report ABP-316947-23.

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 Map
Location	Lands at Brigown, Mitchelstown, Co. Cork
Local Authority	Cork County Council
Local Authority Reg. Ref.	DRZLT- 473451017
Appellant	David O’Gorman
Inspector	Emma Nevin

1.0 Site Description

- 1.1. The site comprises a parcel of land located to the northern side of Brigown Road, and to the southeast of Mitchelstown town. The site is bound by a mix of uses, including residential. The has a stated area of 1.68ha.

2.0 Zoning

- 2.1. The site is zoned MD-R-03 'Medium B density residential development' under Volume 3 'North Cork' of the Cork County Development Plan 2022-2028.
- 2.2. The Cork County Development Plan, 2022-2028, 'Medium Density B' also states; *'An increased minimum threshold is recommended from 12 to 20 units /ha in this category and the maximum threshold from 25 to 35 units /ha which will overlap with the Medium A category. This revised density range of 20-35 units/ha would not generally be applicable in the larger settlements >5,000 population other than for limited site specific reasons relating to sites with topography/ heritage constraints or where there is a specific market requirement. This revised Medium B density category would be generally applicable to suburban and greenfield sites of the smaller towns with a population'*

3.0 Planning History

- 3.1. None located.

4.0 Submission to the Local Authority

- 4.1. The lands are not capable of being serviced.
- 4.2. The appellant cites 22/4420 as being refused in the area for wastewater treatment plant capacity issues.
- 4.3. The lands are in agricultural use.

5.0 Determination by the Local Authority

- 5.1. A report was received form Uisce Eireann which confirms that:

- A watermain and sewer exists on the public road in close proximity to the site. GIS data indicates that the watermain is accessible 15 metres away, via Sliabh Alainn, adjoining the narrow leg of the site.
- A sewer exists on the public road in close proximity to the site. GIS data indicates that the sewer is accessible 10m away via Sliabh Alainn, adjoining the narrow leg of the site. This sewer drains to Brigown Pumping station which may require upgrade works to cater for the full development of the site.
- Regarding water supply, challenges currently exist in the Mitchelstown Water Resource Zone, more specifically in the Mitchelstown North Water Supply Zone. Intermittently, the level of service from this supply is disrupted due to high turbidity levels. Upgrade works are ongoing to improve the level of service.
- The 2022 wastewater treatment capacity register indicates that, although limited, spare capacity currently exists in the Mitchelstown wastewater treatment plant. Upgrade works are ongoing to improve the level of service.
- The WWTP is capable of achieving at least urban wastewater treatment directive standards. Potential additional capacity is available, depending on any additional load, not resulting in a significant breach of the combined approach as set out in Regulation 43 the Wastewater Discharge (Authorisation) Regulations 2007.
- UE recently completed capital maintenance works at Mitchelstown WWPT to bring the 4th trickling filter back into operation and increase the capacity of the plant from 5,600 PE to 7,400 PE in terms of achieving the UWWTD.
- A longer- term upgrade will be required to achieve WWDA ELV compliance and may require a new discharge location.

5.2. Regard is had to the RZLT Guidelines (page 7) which states; “In addition the land must be connected to or have access to public infrastructure and facilities necessary for dwelling to be developed and with sufficient service capacity available for such development”.

- 5.3. Regard is had to the RZLT Guidelines (page 8) which states; *'A need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist'*.
- 5.4. The Council considers that the site subject of this appeal meets with the criteria for inclusion on the final RZLT Map as the site can connect to the water services network and space capacity currently is available in the Mitchelstown water supply and WWTP.
- 5.5. The Council is aware of that the existing spare capacity available in the Mitchelstown WWTP is limited and will consider interim developer led on-site infrastructure provision that can connect to the network pending additional treatment plant capacity being made available.
- 5.6. It was determined that the subject site fulfils the qualifying criteria set out in the Taxes Consolidation Act, 1997, as amended and the Section 28 Ministerial Guidelines "Residential Zoned Land Tax – Guidelines for Planning Authorities" for inclusion on the RZLT Map.

6.0 The Appeal

6.1. Grounds of Appeal

The appellant raised similar issues to those in the submission to the local authority as follows:

- The lands are currently being used for farming/agricultural use.
- Large scale developments in the area are being refused planning on the basis that the sewerage treatment plant in Mitchelstown has no spare capacity. This is evidenced by the recent refusal by Cork County Council to a proposed development at Cloonlough, Mitchelstown (Ref. 224420).
- Other developments prior to 2020 have been granted permission but only subject to the sewerage plant being upgraded as follows – Church Street, Mitchelstown – 18 Houses (Ref: 166646); Sliabh Alainn, Brigown – 24 Houses (Ref: 166142); and Covent Hill Brigown – 32 Houses (Ref: 185485).

- In the Covent Hill application, the Water Services report recommended a refusal of planning.
- The most recent large scale development proposal is Cork Mark Development of Georges Street, Mitchelstown and a decision is not expected on this until mid-2023 and will possibly be deemed premature.
- The lands are not capable of being serviced and are not connected to the mains services and should be excluded from the Residential Zone Land Tax Map.

7.0 Assessment

- 7.1. To satisfy the criteria as identified in section 653B of the Taxes Consolidation Act 1997, as amended, land must be zoned residential use or for mixed uses including residential. It is noted that subject site is zoned MD-R-03 'Medium B density residential development' under Volume 3 'North Cork' of the Cork County Development Plan 2022-2028.
- 7.2. The use of the lands for farming/agriculture purposes does not qualify as criteria for omitting the lands from the map under Section 653B of the Taxes Consolidation Act 1997, as amended.
- 7.3. The references to adjoining large scale planning permission and proposed developments in the area, does not qualify as criteria for omitting the lands from the map under Section 653B of the Taxes Consolidation Act 1997, as amended.
- 7.4. The issues raised by the appellant with respect to sufficient capacity available to service the subject lands are noted.
- 7.5. Regard is had to the Uisce Eireann further information response to the 'RZLT Query' sought by the Local Authority as part of their assessment. Uisce Eireann confirmed that wastewater capacity (while limited) is available and water supply is also available (while intermittent disruption exists). The wastewater treatment is capable of achieving Urban WWT Directive Standard.
- 7.6. Notwithstanding, the requirement for upgrades to the existing network, I refer to the Residential Zoned Land Tax - Guidelines for Planning Authorities, 2022, 'Serviced Land Definition', which states "*Information from stakeholders such as Irish Water will*

play a key role in identifying these lands and providing confirmation of existing capacity in wastewater treatment plants and water treatment plants along with data informing the date of connection or ability to connect to services, where this date was after 1 January 2022. A need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist”.

As per the guidelines, a need for upgrades to an existing network is not considered criteria for exclusion under Section 653B (b) of the Taxes Consolidation Act 1997, as amended.

- 7.7. It is also noted the Mitchelstown water resource zone (WRZ ID: 0500SC0100) is stated to have ‘Potential Capacity Available - LoS improvement required’, on the Uisce Eireann Water Supply Capacity Register published in June 2023 (Potential Capacity Available - LoS improvement required = Capacity constraints exist, connection applications will be assessed on an individual basis considering their specific load requirements - Level of service (LoS) improvement required to meet 2032 population targets. Improvement proposals will include but are not limited to leakage reduction and/or capital investment. These proposals will be required to maintain/improve levels of service as demand increases. These proposals will be developed & prioritised through the National Water Resources Plan and investment planning process’).
- 7.8. While there is an improvement required, in my opinion there is a viable water supply/ connection available in proximity to the site and, therefore, the site can be reasonably serviced in terms of water supply, as per Section 653B (b) of the Taxes Consolidation Act 1997, as amended.
- 7.9. Furthermore, the Mitchelstown WWTP (Ref. D0202) has a ‘Amber Status’ on the Uisce Eireann Wastewater Treatment Capacity Register published in June 2023. Amber status is stated to mean *‘potential spare capacity, applications to be considered on an individual basis considering their specific load requirements’*. It is also noted that a ‘WWTP Project Planned/Underway’.
- 7.10. In my opinion there is a viable wastewater connection available in proximity to the site and, therefore, the site can be reasonably serviced in terms of wastewater, as per Section 653B (b) of the Taxes Consolidation Act 1997, as amended.

7.11. As such, the lands are considered to be serviced for residential dwellings as per as per Section 653B (b) of the Taxes Consolidation Act 1997, as amended.

8.0 Recommendation

8.1. I recommend that the board confirm the determination of the local authority and direct the local authority to retain the lands identified as DRZLT- 473451017 on the map.

9.0 Reasons and Considerations

9.1. The appellant requested that their site be removed from the map due to the fact that there is water and wastewater capacity issues in Mitchelstown and that the lands are used for farming, therefore it is not reasonable to consider that there is sufficient capacity available necessary for dwellings to be developed.

9.2. 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 the Residential Zoned Land Tax – Guidelines for Planning Authorities, 2022. The lands as identified DRZLT- 473451017 are considered in scope of section 653B of the Taxes Consolidation Act 1997, as amended.

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.

Emma Nevin
Planning Inspector

14th September 2023