



An
Bord
Pleanála

Inspector's Report ABP-316954-23.

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 Riverside, Church Road, Tullamore, Co. Offaly
Local Authority	Offaly County Council.
Local Authority Reg. Ref.	RZLT-D-05
Appellant	Grapemont Limited
Inspector	Irené McCormack

1.0 Site Description

1.1. The site comprises lands at Riverside, Church Road, Tullamore, Co. Offaly.

2.0 Zoning

2.1. The site is zoned Town Centre/Mixed Use in the Offaly Development Plan 2021 – 2027 and identified within the core retail area.

2.2. Land Use Zoning Objective – Town or Village Centre / Mixed Use

It is an objective of the Council to: LUZO-02: Provide for, protect and strengthen the vitality and viability of town/village centres, through consolidating development, encouraging a mix of uses and maximising the use of land, to ensure the efficient use of infrastructure and services.

Extract - Table 12.1 Land Use Zoning Matrix

	Town or Village Centre / Mixed Use	Residential - Existing	Residential - New	Residential – Strategic Reserve	Enterprise and Employment	Industrial and Warehousing	Business / Technology Park	Community Services/Facilities	Open Space / Amenity / Recreation	Neighbourhood Centre
Research and Development	O	X	X	X	O	O	V	X	X	X
Residential Care	O	O	O	X	O	X	X	O	X	X
Residential – Multiple (two or more units)	V	V	V	X	X	X	X	X	X	O
Residential – Single	V	V	V	X	X	X	X	X	X	X
Restaurant/ Café	V	X	X	X	O	O	O	O	X	O

2.3. Key Town (Tullamore)

SSP-06 - It is Council policy to strategically prioritise the development of Tullamore to underpin its role as a designated Key Town and driver of economic development for the county.

2.4. SSP-07 It is Council policy to require sustainable, compact, sequential growth and urban regeneration in Tullamore by consolidating the built-up footprint through a focus on regeneration and development of town centre infill and brownfield sites, and

encouraging regeneration of underutilised, vacant and derelict lands for residential development and mixed use to facilitate population growth.

2.5. The site is identified as Opportunity Site No. 6 in Tullamore as set out in the CDP 2021-2027.

2.6. Part of the site is identified within a Flood Zone.

3.0 **Planning History**

3.1. Site

OCC PL2/19/96 / ABP 306395-20 - Permission granted on 7th May 2021 to Grapemont Limited for demolition of existing buildings and structures on site and erection of retail-led, mixed use town centre development; the application is accompanied by An Environmental Impact Assessment Report (EIAR) at Church Road, Tullamore, Co. Offaly

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. It is set out that a submission has been made to the LA to vary the development plan such that the site is zoned and designated as Town Centre; Opportunity Site 6; Core Retail Area with residential open for consideration.

4.2. Reference is made to the planning history and that ABP decision was not based on the residential component of the scheme with rather the employment and retail components of the scheme.

4.3. The site is located adjacent to a river with a risk of flooding. Residential Use would be vulnerable. The site is not readily available for development and considerable assessment would be required to demonstrate that such vulnerable residential uses could be accommodated.

4.4. The land is not idle as the appellant has been actively seeking permission on the site for a number of years. Work will commence on implementing the pp (ABP 306395-20) in 2023. The development will contribute to social and community facilities.

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. The local authority consideration stated that land is zoned and serviced.
- 5.2. The site has been vacant for c. 15 years.
- 5.3. On Town centre/Mixed Use zoning, residential development is 'Normally Permitted'. Zoning provides for a mix of uses including residential.
- 5.4. Regarding Flooding the PA refer to FAQ document (March 2023) from DLRCC endorsed by the DHLGH stating that lands should not be scoped out simply due to flood mapping. These are matters for the development management process.
- 5.5. Regarding the commencement of development in 2023 there is no provision in the Act for deferral. The annual review of the maps will ascertain if they remain vacant or idle.

6.0 The Appeal

6.1. Grounds of Appeal

- The grounds of appeal are centre around legal argument namely land use zoning and what constitutes a zoning objective for the purposes of section 10(2)(a) of the 2000 Act.
- The submission extracts and includes text from planning judgements. The premises of the argument is that labels adopted by Planning Authorities such as zoning objective are not to be treated (by the Courts) as conclusive, zoning is merely an indicator of the kind of development that could in principle be considered. It is necessary to consider the policies and objectives of the CDP as a whole.
- By way of legal argument, it is set out that the provisions of Section 653B, being taxation provisions, must be strictly interpreted.
- Objective LUZO-02 does not identify residential use specifically as being acceptable.

7.0 Assessment

- 7.1. The legislation clearly sets out that Land which satisfies the relevant criteria is a reference to land that—

(a) is included in a development plan, in accordance with section 10(2) (a) of the Act of 2000, or local area plan, in accordance with section 19(2)(a) of the Act of 2000, zoned—

(i) solely or primarily for residential use, or

(ii) for a mixture of uses, including residential use,

7.2. The land zoned Town Centre/Mixed Use in the Offaly Development Plan 2021 – 2027. Table 12.1 Land Use Zoning Matrix of the Development Plan establishes that residential development is ‘permitted in principle’ on lands zoned Town or Village centre/Mixed Use.

7.3. Regarding the land use zoning and associated objectives of the CDP, Page 11 of the guidelines- *Operating Uses on Mixed Use Zoned Lands* set out “*with reference to land that is included in a development plan or local area plan and is zoned for a mixture of uses, including residential such as TC-Town Centre, DC-District Centre, RE-Regeneration, LC-Local Centre and RV-Rural Village, all land should be excluded from the map unless is it considered ‘vacant or idle’. ‘For clarity, lands on mixed use zonings only fall into scope where residential development is a ‘permitted in principle’ use in that zoning.* As stated above residential development is ‘permitted in principle’ on the lands the subject the RZLT. Furthermore, notwithstanding the applicant pursuing planning permission on the site, the PA state that the site has been vacant or idle for ca. 15 years. I note the appeal submission does not argue this point but sets out the works pursuant to planning permission ABP 306395-20 will commence in 2023. Tis statement is not substantiated in any way by the documentation on file. On the basis of the documentation received, it is reasonable to consider the lands vacant or idle.

7.4. The appeal grounds do not raise any exclusions that would apply to the subject lands and warrant its removal from the map, with reference to the Taxes Consolidation Act 1997 as amended and the RZLT Guidelines

8.0 Recommendation

8.1. I recommend that the Board confirm the determination of the local authority and direct the local authority to include the site on the map.

9.0 Reasons and Considerations

9.1. The site is part of an established urban area with services available and no capacity

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.

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.

Irené McCormack
Senior Planning Inspector

11th August 2023