



An
Bord
Pleanála

Inspector's Report ABP-316968-23

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

Skibbereen, Co. Cork

Planning Authority

Cork County Council

Planning Authority Reg. Ref.

DRZLT474626027

Appellant(s)

Joseph Hurley

Inspector

John Duffy

1.0 Site Location and Description

- 1.1. Skibbereen is located on the N71 approximately 30km west of Clonakilty and approximately 30km south-west of Dunmanway. The sites comprise Land Parcel IDs SK-R-04 and EX-RES-40251 on the RZLT draft map, which are located in proximity to each other and are situated on the eastern side of the town.
- 1.2. Land Parcel ID SK-R-04 comprises lands in agricultural use. There is a national monument, Recorded Monument CO141-091 – Ringfort, located at the northern part of the site and it extends across the northern site boundary onto adjoining lands.
- 1.3. Land parcel ID EX-RES-40251 located east of Land Parcel ID SK-R-04 accommodates a farmhouse, its associated private open space and a shed.

2.0 Zoning and Other Provisions

- 2.1. With effect from 6th June 2022 the Cork County Development Plan 2022 – 2028 replaced the 8 Municipal District Local Area Plans adopted in 2017, including the West Cork Municipal Districts LAP. Chapter 2 of Volume 5 of the Development Plan incorporates the West Cork Municipal District.
- 2.2. Land Parcel ID SK-R-04 is zoned ‘Residential’ and Land Parcel ID EX-RES-40251 is zoned ‘Existing Residential / Mixed Residential and Other Uses’ in the Cork County Development Plan 2022-2028.
- 2.3. Land Parcel ID SK-R-04 is subject to Objective SK R-04 which states: ‘Medium B Density Residential Development. Any proposals for the development of the site shall be accompanied by a visual analysis and landscaping plan for the site to minimise visual impact. The zoned area is within the Zone of Archaeological Potential of the Recorded Monument CO141-091 – Ringfort. Development proposals should ensure the protection of national monument on the site and an appropriate set back from same.’

3.0 Planning History

There is no recent relevant planning history relating to the subject sites.

4.0 Submission to the Local Authority

- 4.1. The appellant made a submission to the Local Authority seeking to have their lands removed from the draft map given that the lands have been in agricultural use for generations and are not serviced. Furthermore, residential zoning was never sought for the lands. Land Parcel ID EX-RES-40251 is a residential property below the threshold of 0.4047 ha and as such is exempt from registration in respect of the RZLT map.

5.0 Determination by the Local Authority

- 5.1. The Local Authority determined that the sites were in scope on the basis that they meet the criteria for inclusion on the RZLT Map as set out in section 653B of the Taxes Consolidation Act 1997.

6.0 The Appeal

6.1. Grounds of Appeal

- Appellant did not request that the lands be zoned for residential use. The lands are in agricultural / farming use.
- The lands are not serviced; the appellant understands that Irish Water is not in a position to provide water services at this location and as such the lands should be removed from the RZLT map.
- No demand for the zoned lands at this location.
- Public footpath does not extend to the lands.
- In the long-term, entrance to the lands should be from the public road.
- Imposition of the tax is wrong and unjust.

7.0 Planning Authority Response

- Uisce Éireann confirms that a water main exists on the public road and a sewer is located nearby at Pound Hill.
- Skibbereen WWTP has capacity constraints; connection applications are assessed considering specific demand requirements. 2022 Wastewater Treatment Capacity Register indicates limited spare capacity.
- Refers to RZLT Guidelines and notes that a need for network upgrades is not a reason to exclude lands where sufficient treatment capacity exists.

8.0 Assessment

8.1. The comments raised in the appeal submission are noted. The sites identified for inclusion on the RZLT map are zoned for residential use and the Planning Authority determined that the sites remain on the RZLT map.

8.2. In terms of Land Parcel ID EX-RES-40251 the appeal grounds indicate that this site is situated in the curtilage of a residential property. In this regard, the RZLT Guidance states on page 8 that:

Land which is zoned residential and contains existing residential development such as estates or individual houses are also considered 'in scope' from a zoning perspective and therefore must be included on the maps, however owners of residential properties within these areas will not be liable for the tax (See section 653O(1)(a) of the legislation).

8.3. If the appeal site forms part of the curtilage of a residential property, it is not considered a 'site' for the purposes of the RZLT, however this does not mean that the lands are removed from the map and no action is required of the Planning Authority. The landowner (appellant) must contact and provide information to the Revenue Commissioners, to demonstrate that the tax will not be payable.

8.4. I note the comments made in reference to the agricultural use of Land Parcel ID SK-R-04, however there are no exemptions from inclusion on the RZLT maps based on the land being used for agricultural purposes.

- 8.5. Uisce Éireann (UÉ) as per correspondence dated 31/01/2023, confirm that a water main exists on the public road (Pound Hill) near the sites, while a sewer exists on the green area at Pound Hill.
- 8.6. UÉ also notes that the 2022 Wastewater Treatment Capacity Register indicates limited spare capacity in the Skibbereen WWTP, which is not compliant with its license limits but is capable of achieving at least Urban Wastewater Treatment Directive standards. The correspondence also states that 'Potential availability of capacity would be dependent on any additional load not resulting in a significant breach of the combined approach as set out in Regulation 43 of the Waste Water Discharge Authorisation Regulations, which is a matter for the Planning Authority to consider.'
- 8.7. Furthermore, UÉ advises that capacity constraints exist in the Water Treatment Plants serving Skibbereen and the raw water supply and states that 'Connection applications may be assessed on an individual basis considering their specific demand requirements.'
- 8.8. Having reviewed the Wastewater Capacity Register I note that the capacity of Skibbereen WWTP (Reg. No. D0166) is listed as 'Amber' confirming that there is potential spare capacity and applications will be considered on an individual basis considering their specific load requirements. This does not demonstrate insufficient capacity to serve new residential development in Skibbereen (with applications to be assessed on an individual basis) and therefore I accept the Local Authority's conclusions with respect to the ability to service Land Parcel ID SK-R-04.
- 8.9. Upon review of the Water Supply Capacity Register I note the capacity of Skibbereen (Baltimore (Lake Cross) Water Treatment Plant to support 2032 population targets is listed as having 'Potential Capacity Available – LoS (Level of Service) improvement required.' This means that capacity constraints exist and connection applications will be assessed on an individual basis considering their specific load requirements. Level of service improvement is required to meet 2032 population targets. This does not demonstrate insufficient capacity to serve new residential development in Skibbereen (with applications to be assessed on an individual basis) and as such I accept the Local Authority's conclusions with respect to the ability to service Land Parcel ID SK-R-04.

- 8.10. I note that footpaths and public lighting are located in the Ard Carrig / Pound Hill residential estates which adjoin Land Parcel ID SK-R-04.
- 8.11. While not raised in the grounds of appeal I note that Land Parcel ID SK-R-04 is within the Zone of Archaeological Potential of the Recorded Monument CO141-091 – Ringfort which is situated at the northern part of the site, extending across the northern boundary onto adjoining lands. Section 3.1.2 of the RZLT Guidelines includes guidance relating to existing significant archaeology on lands and states the following:

Additionally, where zoned, serviced greenfield lands are known to contain significant archaeological remains, identified on the Record of Monument and Places (RMP) within Development Plans or Local Area Plans, then the area comprising either the known extent of the archaeological remains or the zone of notification should be excluded for the purpose of the mapping for the tax measure (see section 653B(c) of the legislation).

Having regard to the guidance as set out above, and pursuant to section 653B (c) I consider it is reasonable to exclude Land Parcel ID SK-R-04 from the RZLT map on the basis that this greenfield land contains significant archaeology and historic remains.

9.0 Recommendation

- 9.1. I recommend that the board confirm the determination of the Local Authority in respect of Land Parcel ID EX-RES-40251 and that this land be retained on the map.
- 9.2. I recommend that the board set aside the determination of the Local Authority in respect of Land Parcel ID SK-R-04 and that this land be excluded from the map.

10.0 Reasons and Considerations

- 10.1. In respect of Land Parcel ID EX-RES-40251 the RZLT Guidelines state that 'Land which is zoned residential and contains existing residential development such as estates or individual houses are also considered 'in scope' from a zoning perspective and therefore must be included on the maps, however owners of residential properties within these areas will not be liable for the tax.'

10.2. Land Parcel ID SK-R-04 contains a Recorded Monument CO141-091 – Ringfort. Having regard to the provisions of the section 653B of the Taxes Consolidation Act 1997, as amended, and section 3.1.2 of the RZLT Guidelines in relation to significant archaeology on subject lands, the site does satisfy the criteria for exclusion from the map set out in section 653B (c) of the Taxes Consolidation Act 1997, as amended.

I confirm that the report represents my professional 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.

John Duffy
Planning Inspector

18th September 2023