



An
Bord
Pleanála

Inspector's Report

ABP-316986-23

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 Knockane Road, Newcastle West, Co. Limerick.

Local Authority

Limerick County Council.

Planning Authority Reg. Ref.

LCC-C172-RZLT1-40.

Appellant(s)

Peter Culhane.

Inspector

Daire McDevitt.

1.0 Site Location and Description

The lands identified as Land Parcel LKLA00012248 and LKLA00012448 under LCC-C172-RZLT1-40 are located Knockane Road, Newcastle West, Co. Limerick.

2.0 Zoning and other provisions

Newcastle West Local Area Plan 2014-2020 (extend to April 2024) is the current operative Plan.

The lands are the subject of three land use zoning objectives:

- Existing Residential
- Residential Development Area Phase 1
- Residential Service Sites Phase 1

Existing Residential: The purpose of this zoning is to ensure that new development is compatible with adjoining uses and to protect the amenity of existing residential areas. Some home businesses may be open to consideration provided the activity is ancillary to the use of the house as the primary residence of the owner. The conversion of houses for the sole use for a business/offices will not be permitted. Refer to section 5.5 of this Plan.

New Residential Development Area: This zoning provides for new residential development and other services associated with residential development. While housing is the primary use in this zone, recreation, education, crèche/playschool, sheltered housing and small corner shops are also envisaged, subject to the preservation of residential amenity, traffic considerations and compliance with Section 5.5 in Chapter 5 of this Plan.

Residential Serviced Sites: Residential serviced sites offer an alternative to individuals wishing to build and design their own houses in an urban setting with established services rather than the open countryside. Suitable edge-of-town lands have been identified within the LAP boundary that provide the opportunity to cater for these lower densities, so as to provide an alternative to sporadic development in the rural areas. Proposals for the development of serviced sites shall comply with objective H3 in Chapter 4 of this plan. Permeability with existing residential areas, facilities, and

adjacent lands zoned for future development, pedestrian and cyclist mobility will be an important consideration of any proposal.

The Draft Newcastle West Local Area Plan 2023 was on display from the 6th May to 19th June 2023

3.0 Planning History

None stated.

4.0 Submission to the Local Authority

The appellant made a submission to the local authority seeking to have his land removed from the draft map on a number of grounds which include inter alia that he wishes to have the land rezoned. Is a full time farmer. The residential zoning is premature pending services (roads/footpaths/cycle lanes)The towns WWTP is close to capacity as such there is limited scope for further growth in the town. Development of the site would render the rest of the farm unviable as it is on a flood plain.

5.0 Determination by the Local Authority

The local authority determined that:

a) Under section 653I

The Limerick Development Plan 2022-2028 includes a Core Strategy for housing growth in line with National and Regional projected population growth requirements. As a result, the Local Authority does not propose to make a variation under section 13 of the Planning and Development Act 2000 (as amended) to amend the zoning of these lands at this time. However in order to ensure the Newcastle West Local Area Plan complies with Core Strategy a review of the Local Area Plan has commenced and consideration of the zoning of all lands will be undertaken during this process. It is envisaged that the Draft Local Area Plan will go on public display in the coming months and you are invited to engage with this process.

b) Under Section 653E:

1. The land in question is included on a development plan or local area plan and is zoned for residential development or zoned for a mixture of uses, that includes residential development.
2. The land is serviced, or is reasonable to consider may have access to services. Serviced means having access to the necessary public infrastructure and facilities including road and footpath access, public lighting, foul sewer drainage, surface water drainage and water supply necessary for dwellings to be developed and for which there is a services capacity available sufficient to enable housing to be developed.
3. The land is not affected in terms of its physical condition, by matters to a sufficient extent to preclude the provision of dwellings, including contamination or the presence of archaeological or historic remains.
4. As stated in the Guidelines, matters which are unrelated to the criteria identified in section 653B such as planning permission, commencement on land in -scope, finance or personal circumstances are not matters to be taken into account during consideration of submissions.

NOTE: The Residential Zoned Land Tax Guidelines state that “Land which is zoned residential and contain existing residential development such as estates or individual houses area also considered ‘in scope’ from a zoning perspective and therefore must be included on the maps “. The house and garden are not liable for the tax, as long as the house is subject to Local Property Tax (LPT). If your garden is greater than 1 acre, then you need to register for the RZLT with the Revenue Commissioners, however your house and garden will not be liable for the tax. You will be able to register for RZLT from late 2023 onwards. This is a matter for the Revenue Commissioners.

6.0 The Appeal

6.1. Grounds of Appeal

Grounds of appeal are summarised as follows:

- WWTS Capacity: The existing foul sewer in Newcastle West is at full capacity. (email to Minister O’Donovan’s Office from Irish Water included). IW outlined

the plant could accommodate c.200 units, there are c.240 permitted or awaiting approval.

- Incapacity to pay additional annual taxation: It is submitted that he cannot afford to pay the RZLT (copy of recent tax return included)
- Farming Livelihood: The lands have been farmed and the RZLT is putting livelihood and future of the farm into question.
- Mains water supply: Upgrade would be required to cater for a large development on the lands.
- Inadequate Road Network & Road Safety Concerns: The existing road network is not fit for purpose for the existing housing supply. Planning applications have been unsuccessful due to difficulties accessing onto the N21. Development premature pending the Southern Relief Road for Newcastle West. Residential zoning in advance of this is reckless and premature. Existing footpaths are substandard.
- The OPR have clearly stated that they wish to see a reduction in the total amount of residential zoned land in Newcastle West as part of the adoption of the current Local Area Plan. And need to prioritise locations within the current Core Strategy which are currently serviced, which the appeal lands are not (cope of OPR submission to Limerick City & County Council on the Issues Paper for the review of the Newcastle West Area Plan 2014 to 2020 (as extended) dated 13th March 2023.

7.0 Assessment

The comments raised in the appeal are noted. The local authority outlined in its report why it has determined that the site is in scope for inclusion on the RZLT maps.

The appellant has submitted that the OPR have clearly stated that they wish to see a reduction in the total amount of residential zoned land in Newcastle West as part of the adoption of the current Local Area Plan. And the need to prioritise locations within the current Core Strategy which are currently serviced, which the appellant submits that appeal lands are not. A copy of OPR submission to Limerick City & County Council outlined above is submitted to highlight this.

Under section 653J the board's role in the current appeal is to review the determination of the local authority under section 653E which is based on the application of the relevant criteria set out in section 653B of the act for inclusion on the RZLT map. The legislation does not give the board a role in determining zoning submissions by applying the provisions of section 653I. This position is consistent with the Residential Zoned Land Tax- Guidelines for Planning Authorities June 2022 which clearly sets out in section 3.3.2 that "in considering appeals, An Bord Pleanála is restricted to considering the grounds of appeal, the determination of the local authority on the submission made during public display period, and any additional information on the servicing or use of the land which the Board may seek from the landowner, Local Authority or stakeholders identified in article 28 of the 2001 regulations. In assessing any appeal, the Board is restricted to considering whether the lands meet the qualifying criteria set out in section 653B only".

Compliance with the provisions of section 653I or not does not fall within the remit of this report. The role of An Bord Pleanála in this instance is restricted to considering compliance with the qualifying criteria set out in section 653B.

The grounds of appeal have also referred to the appellant's financial circumstances. As noted above the Board is restricted to considering whether the lands meet the qualifying criteria set out in section 653B only. Finance circumstances are not addressed under section 653B therefore are beyond the remit of this report,

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

The appellant has submitted that the lands should be excluded as the Newcastle West WWTP is at capacity. Uisce Eireann did not raise issue with capacity. The UE Wastewater Treatment Capacity Register published June 2023 has assigned a green status (spare capacity) to Newcastle West with WWTP planned/underway.

The appellant has submitted that the lands should be excluded as significant upgrades to the water mains network would be required to facilitate residential development on the lands. The local authority determined the lands to be in scope as it is reasonable to consider that the land has access to, or be connected to, services. Correspondence on file from Uisce Eireann confirms that a water main and public sewer exists on the public road in close proximity to the site and that the watermain and public sewer are accessible c.5m away via the Knockane road.

Page 8 of the Residential Zoned Land Tax Guidelines for Planning Authority 2022 clearly sets out that 'A need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist. For the purposes of falling within the scope of RZLT the criteria is whether it is 'reasonable to consider'. The provision of infrastructure to the subject lands are considered to be in the control of Limerick County Council or Uisce Eireann and the local authority determined that the subject lands are in scope and therefore retained within the RZLT Final Map.

The appellant has submitted that the lands should be excluded as there are difficulties regarding access onto the N21 and lack of footpath connections. The lands can be served in principle by the existing road network that is in place and are zoned residential. National guidelines notes that accesses onto national roads limited access may be considered on transitional zoning. As with all development, the applicant/developer will be expected to provide for any internal road network necessary to serve the site and similarly a connection to the public road network would be provided by the developer in accordance with the requirements of the Local Authority

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.

The appellant submitted that the lands should be excluded as in use for agricultural purposes. As noted in the 2022 Guidelines the use of land for agricultural or horticultural purposes are not considered to be exempted from scope as they are not subject to rates. Based on the information available I have no evidence that this is the

case. I am satisfied that the lands do not meet the criteria for exclusion set out in section 653B(c)(i) and therefore the appeal on these grounds should be dismissed.

Having regard to the foregoing I consider that the lands zoned residential identified as Land Parcel LKLA00012248 and LKLA00012448 under LCC-C172-RZLT1-40 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 LKLA00012248 and LKLA00012448 under LCC-C172-RZLT1-40 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 in principle and there is no reason why they cannot be developed in principle in accordance with the residential zoning objective that applies to these lands.

The lands identified as Land Parcel LKLA00012248 and LKLA00012448 under LCC-C172-RZLT1-40 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 Land Parcel LKLA00012248 and LKLA00012448 under LCC-C172-RZLT1-40 on the map.

8.0 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

LKLA00012248 and LKLA00012448 under LCC-C172-RZLT1-40 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 this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Dáire McDevitt

Senior Planning Inspector

2nd August 2023