



An
Bord
Pleanála

Inspector's Report

ABP-317024-23

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 Clonakilty, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	DRZLT472953638
Appellant(s)	Fachtna and Catherine McCarthy
Inspector	Rachel Gleave O'Connor

1.0 Site Location and Description

1.1. The site is located south west of Tawnies Grove, with a link to that road. The substantive part of the site is situated away from the road and to the rear of properties that front Tawnies Lower to the north, Redwood Park and Ardcarraig to the south, and Sea Breeze Heights and Tawnies Upper to the west. Residential and agricultural uses characterise the area.

2.0 Zoning and Other Provisions

2.1. The site is zoned 'Existing Residential/Mixed Residential and Other Uses' under the Cork County Development Plan 2022-2028. Residential is identified as an appropriate use under the zoning Objective in the Development Plan.

3.0 Planning History

3.1. No record of relevant planning history.

4.0 Submission to the Local Authority

4.1. The appellant made a submission to the Local Authority seeking to have its land removed from the draft map. It stated that:

- The lands are not serviced by sewerage nor public water. Engineer has advised that the public sewer has not been completed to the roadway on the north, which is the only roadway that can provide access to the site/field. Same engineer advised that there was no possibility of securing planning permission until water supply was available. Current water supply to the town is inadequate.
- Current interest in permitting the son of the landholder to apply for planning permission at some point for one single dwelling.
- A part of the zoned land shown includes part of the landholders garden.
- The lands are used for agricultural purposes.

5.0 Determination by the Local Authority

5.1. The local authority provided an evaluation of the site with reference to the RZLT Guidelines, confirming the following:

- Uisce Éireann confirm that water supply challenges exist in the Clonakilty Water Supply Zone, and consider this site not serviced. UÉ have a Capital Investment Programme (CIP) Project underway, but not yet complete, to alleviate the current supply challenges in the area.
- UÉ wish to confirm that a sewer exists on the public road, Tawnies Grove, in close proximity to the site, the sewer is 205m away via third party lands.
- No exemptions for agricultural use, no mapping changes required.

6.0 The Appeal

6.1. Grounds of Appeal

- The lands are not serviced.
- The absence of services, allied with unsatisfactory access, meant that development on any significant scale was never possible. Potential development is intended for one private dwelling at sometime in the future. Never applied for planning permission, as advised this would be unsuccessful.
- The landholder has never been approached by a developer, as proof of lack of development potential.
- Letter enclosed from Cathal Lombard Solicitors, describing access constraints to the lands, which do not extend to the public road. To access the field, it is necessary to pass over an access in third party ownership and not taken in charge by CCC. Which presents issues with regards to both road and water/waster infrastructure connection. While a right of way has been exercised without interruption or challenge, by the landholder and other property owners to access dwellings via this access, it cannot be used to access more than one house on the lands.

7.0 Assessment

7.1. The criteria for inclusion in the RZLT map is outlined in Section 653B of the Taxes Consolidation Act 1997 as amended. Lands should be zoned primarily residential or for a mixture of uses including residential, and under Section 653B(b):

“(b) it is reasonable to consider may have access, or be connected, to public infrastructure and facilities, including roads and footpaths, public lighting, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed and with sufficient service capacity available for such development,”

7.2. The RZLT Guidelines expand upon what is meant by ‘serviced lands’ and on pages 23 and 24, clearly identify that where works are required across third party lands to facilitate connections, the land may be considered out of scope.

7.3. The subject site has a link to the public road; however the appeal grounds include a solicitor letter that identifies that to access this link, it is necessary to pass over lands that are not within the landholder control. Uisce Éireann has also identified that in order to connect to wastewater services, connection would be required across third party lands. UÉ also confirms that this site is not serviced with respect to water supply.

7.4. Based upon the foregoing, it is not reasonable to consider that the subject site may have access or be connected to public infrastructure and facilities. As such, the subject site is not in scope for inclusion on the RZLT map.

8.0 Recommendation

8.1. I recommend that the board set aside the determination of the local authority and allow the appeal.

9.0 Reasons and Considerations

9.1. 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 Section 4.1.1 (iii) of the RZLT Guidelines; it is not reasonable to consider that the subject site may have access or be connected to public

infrastructure and facilities. As such the site cannot be considered in-scope for the RZLT.

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.

Rachel Gleave O'Connor
Senior Planning Inspector

31 August 2023