



An
Bord
Pleanála

Inspector's Report

ABP-317102-23

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	Cornamagh, Athlone, Co. Westmeath.
Planning Authority	Westmeath County Council
Planning Authority Reg. Ref.	WM-C49-RZLT-17
Appellant	John and Mary Galvin
Inspector	Daire McDevitt

1.0 Site Location and Description

- 1.1. The site (parcel ID WH000000028) is located at Cornamagh, Athlone, Co, Westmeath and is stated to be current used for farming.

2.0 Zoning and other provisions

- 2.1. The site is not zoned in the current Westmeath County Development Plan 2021-2027. The site was formerly zoned residential in the Athlone Town Development Plan 2014-2020, however with the adoption of the Westmeath County Development Plan 2021 which includes the administrative area of Athlone, the zoning under the former Town Development Plan is no longer applicable.
- 2.2. Section 10(8) of the Planning and Development Act 2000 states that 'There shall be no presumption in law that any land zoned in a particular development plan (including a development plan that has been varied) shall remain zoned in any subsequent development plan'.
- 2.3. The site was zoned under the 2009 Cornamagh Local Area Plan which has expired. As such, the subject site is currently unzoned.

3.0 Planning History

- 3.1. Non noted

4.0 Submission to the Local Authority

- 4.1. The appellants made a submission to the Local Authority seeking to have their land removed from the draft map. The submission stated that the lands should be excluded from the RZLT Map as energy infrastructure (38 Kv electricity supply line) crosses the land and the absence of direct access to 'public infrastructure and facilities, including roads and footpaths'

5.0 Determination by the Local Authority

- 5.1. The planning authority considered that the lands are in scope as zoned residential and have access to relevant services.

- 5.2. Uisce Éireann in response to a further information request have confirmed that water and wastewater facilities are available in close proximity to the subject lands. Water mains and foul sewer are available c.10m away via the Cornamagh Road adjoining land parcel.
- 5.3. The provision of infrastructure to the subject lands are considered to be in the control of Westmeath County Council and Uisce Éirean. Having consideration to the above, it is determination of the Planning Authority that the subject lands are in scope and therefore retained within the RZLT Final Map.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.2. The grounds of appeal submit that the lands should be excluded from the RZLT Map as energy infrastructure (38 Kv electricity supply line) crosses the land and the absence of direct access to 'public infrastructure and facilities, including roads and footpaths'

7.0 Assessment

- 7.1. 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.
- 7.2. The subject site is not zoned for residential use under either the Westmeath Council Development Plan 2021-2027 or under a Local Area Plan. As such the site is not zoned and therefore should be removed from the RZLT map as it does not comply with section 653B(a).
- 7.3. I address the other matters raised in the Grounds of Appeal below, however, as set out above the subject site is not zoned for residential use and therefore cannot be considered in scope for the RZLT for that reason.

- 7.4. With respect to energy infrastructure traversing the site. I note the nature of the infrastructure, given the scale of which, if required, could be undergrounded I do not consider that it would meet the criteria for exclusion on those grounds. Notwithstanding, and as set out above, the site is not currently zoned under a Development Plan or Local Area Plan, and therefore is not in-scope for the RZLT.
- 7.5. With respect to the absence of direct access to ‘public infrastructure and facilities, including roads and footpaths’. The site is bounded by public roads and notwithstanding reference to infrastructures requirements contained in an expired LAP, I am of the view that the subject site would not be considered outside of the scope of the RZLT for this reason alone. Notwithstanding, and as set out above, the site is not currently zoned under a Development Plan or Local Area Plan, and therefore is not in-scope for the RZLT.
- 7.6. With respect to the absence of direct access to ‘public infrastructure and facilities, including roads and footpaths’. The site is bounded by public roads and notwithstanding reference to infrastructures requirements contained in an expired LAP I am of the view that the subject site would not be considered outside of the scope of the RZLT for this reason alone. Notwithstanding, and as set out above, the site is not currently zoned under a Development Plan or Local Area Plan, and therefore is not in-scope for the RZLT.
- 7.7. With respect to the lack of surface water drainage network serving the existing roads abutting the lands. The provision of infrastructure to the subject lands are considered to be in the control of Westmeath County Council and Uisce Eireann and it is determination of the Planning Authority that the subject lands are in scope and therefore retained within the RZLT Final Map. Notwithstanding, and as set out above, the site is not currently zoned under a Development Plan or Local Area Plan, and therefore is not in-scope for the RZLT.

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(a) of the Taxes Consolidation Act 1997, as amended, the site is not zoned under a current Development Plan or Local Area Plan for the area, and as such 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.

Dáire McDevitt
Senior Planning Inspector

30th May 2023