



An  
Bord  
Pleanála

## Inspector's Report ABP-320313-24

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### 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

Kilkishen, Co. Clare

### Local Authority

Clare County Council.

### Local Authority Reg. Ref.

24S1/015

### Appellant(s)

John & Hilda McHugh

### Inspector

Fergal Ó Bric

## 1.0 Site Description

- 1.1 The lands identified as PA reference number 24S1/015 and parcel id number CELA000611 and comprises a stated area of 3.8 hectares of land within the settlement of Kilkishen, Co. Clare.

## 2.0 Zoning

- 2.1 Kilkishen is designated as a large village within the Settlement Strategy set out within the current Clare County Development Plan 2023-2029. The lands are zoned Existing Residential in the Kilkishen Settlement Statement contained in Volume 3c Killaloe Municipal District of the Clare County Development Plan 2023-2029.
- 2.2 The following general objectives are set out within the settlement statement:
- To promote the consolidation of the existing village through brownfield reuse/redevelopment and compact growth within the identified land use zoning to support existing services and encourage the development of new services, whilst retaining its existing character.
  - To ensure that existing population levels and services are maintained
- 2.3 With regard to Housing and Sustainable Communities the following is set out: The strategy for the village is to promote the consolidation of the existing village through brownfield reuse/redevelopment and compact growth within the appropriate land use zoning.
- 2.4 The centre of Kilkishen village is designated as an Architectural Conservation Area. However, the subject lands are not located within the ACA boundary.
- 2.5 Section 19.3-Land use zoning within the County Development Plan sets out the following: *Sufficient lands should be provided at appropriate locations in accordance with the population and housing targets as set out in the Core Strategy, to facilitate the envisaged land use requirements of the area during the lifetime of this Development Plan.*

### **3.0 Planning History**

#### **3.1. Site**

The relevant planning history is considered to include the following:

PA reference number S1/043, in 2023 Clare County Council determined that the lands should be included within the RZLT map. ABP reference 316598-23-, in 2023, the Board confirmed the determination of the Planning Authority and directed the local authority to retain the lands identified under PA reference number S1/043 on the RZLT map.

### **4.0 Submission to the Local Authority**

- 4.1. The appellants made a submission to the Local Authority seeking to have their lands removed from the final RZLT map as the wastewater infrastructure does not have adequate capacity to cater for additional housing development.
- 4.2. Further information was submitted to the local authority in the form of a map identifying the full extent of the subject lands.

### **5.0 Determination by the Local Authority**

- 5.1. Further information was submitted by the appellants in the form of a map identifying the extent of lands within their ownership.
- 5.2. The local authority determined that the site fulfils the qualifying criteria to be included in the Final Map for the Residential Zoned Land Tax for the following reasons:

- 1- The land in question is included in the Clare County Development Plan 2023-2029 and is zoned for residential development
- 2. the land is serviced,

### **6.0 The Appeal**

#### **6.1 Grounds of Appeal**

The grounds of appeal raise the following matters:

- A developer has recently been refused planning permission on lands on the edge of the village due to a lack of capacity within the sewerage network.
- Local elected representatives have informed the appellants that the issue of sewerage capacity will not be overcome in the short to medium term.
- The RZLT should not be applicable to lands that are not serviceable.

## 7.0 Local Authority Submission

The local authority made no comment in relation to this appeal.

## 8.0 Assessment

- 8.1 The comments raised in the appeal submission are noted. The lands identified for inclusion on the RZLT map are zoned Existing Residential in the Kilkishen Settlement Statement contained in Volume 3c Killaloe Municipal District of the Clare County Development Plan 2023-2029. The local Authority determined that the lands are in scope and that they remain on the RZLT map. The site is within a designated village settlement with services available and no capacity or other reasons have been identified that would prevent the development of these lands for residential purposes.
- 8.2 The legislation clearly sets out that land in scope will be zoned for residential development or a mixture of uses including residential; be serviced or have access to servicing by water, wastewater, road, footpath and public lighting; and not be affected by contamination or significant archaeological remains which would preclude development taking place. Section 4.1.1 of the RZLT Guidelines set out the following: iii) Services to be considered of the guidelines state that *“in assessing whether land or landbanks are able to connect to services, Planning Authorities should take into account the following:- In the first instance, where the infrastructure is located adjoining, intersecting, at a boundary or corner of a landbank, in a nearby public road, or is connected to an existing development adjoining the landbank, the*

*lands should be considered to be ‘connected’ or ‘able to connect’ and therefore are in-scope”.*

8.3 Section 4.1.1 ii) Review of land with planning permission of the guidelines states that *where development for housing or housing and a mix of other uses has been permitted on land which falls into the scope of the tax as set out within the legislation, then default presumption should be given to considering all such lands with permissions to be within scope....Significant works by the applicant to undertake the development which are a part of the plans and particulars lodged as a part of the permitted development should be given careful consideration in light of Section 4.1.1.(iii) of these Guidelines.*

8.4 Uisce Eireann (UE) stated in their submission to the Planning Authority (dated 10<sup>th</sup> day of May 2024) that a watermain is accessible on the public road in proximity to the site, c. 14 metres from the lands and a public sewer connection is available c. 5 metres on the public road in proximity to the site. UE states capacity at present exists for a limited level of development. On this basis, it is reasonable to consider that there is some capacity in the wastewater network to cater for development.

8.5 I also note that a public footpath and public lighting exists along the R462 from which the lands can be accessed.

8.6 Based on the information available, I am satisfied that the lands do not meet the criteria for exclusion set out in section 653B.

8.7 The appeal grounds do not raise any other matters 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.

## 9.0 Recommendation

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

## 10.0 Reasons and Considerations

The lands identified as 24S1/015 and parcel id number CELA000611 located on residentially zoned lands identified within the current Clare County Development Plan are considered in scope of Section 653B of the Taxes Consolidation Act 1997, as amended. The lands 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 in accordance with the residential zoning objective that applies to these lands.

## 11.0 Recommended Draft Board Order

**Taxes Consolidation Act 1997 as amended.**

**Planning Authority:** Clare County Council

**Local Authority Reference Number:** 24S1/015

**Appeal** John and Hilda McHugh in accordance with section 653J of the Taxes Consolidation Act 1997 as amended, against the inclusion of the land on the Residential Zoned Land Tax Map by Clare County Council on the 27<sup>th</sup> day of June 2024 in respect of the site described below.

**Lands at:** Kilkishen Co. Clare

### **Decision**

The Board in accordance with section 653J of the Taxes Consolidation Act 1997 as amended, and based on the reasons and considerations set out below, hereby decided to:

The Board confirms the determination of the local authority and direct the Local Authority to retain the lands identified as Parcel ID number CELA000611 under local authority reference number 24S1/015 should remain on the RZLT map.

## **Reasons and Considerations**

The lands identified as 24S1/015 and parcel id number CELA000611 located on residentially zoned lands identified within the current Clare County Development Plan are considered in scope of Section 653B of the Taxes Consolidation Act 1997. as amended. The lands 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 in accordance with the residential zoning objective that applies to these lands.

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.

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Fergal Ó Bric  
Planning Inspectorate

5<sup>th</sup> day of September 2024