



An
Bord
Pleanála

Inspector's Report

ABP-320336-24

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

Mountrath, Portaoise, Co. Laois

Planning Authority

Laois County Council

Planning Authority Reg. Ref.

LS-C83-7

Appellant(s)

Jim Grincell

Inspector

Fergal Ó Bric

1.0 Site Location and Description

- 1.1. The subject lands are located on the northern side of the Shannon Road. Mountrath, in the south-eastern sector of the town. To the north and west are undeveloped lands that are zoned as open space. There is a stream that borders the western and northern boundaries of the subject lands. To the east and south are single residential dwellings on individual plots and to the south-east are and residential developments. The subject lands are stated to comprises an area of 0.18 hectares and the parcel id number is LSLA 03000003.

2.0 Zoning and other provisions

- 2.1. The site is zoned Residential 1-existing residential and is within the defined Development Boundary for Mountrath. Mountrath is designated as a self-sustaining town within the Settlement Strategy set out within Volume 2 of the current Laois County Development Plan 2021-2027.

3.0 Planning History

I am not aware of any planning history pertaining to the subject lands.

4.0 Submission to the Local Authority

The appellant made a submission to the Local Authority seeking to have his lands removed from the RZLT map. He raised the following issues:

- The land is bordered by a stream and by lands zoned for open space purposes.
- The land does not satisfy the criteria set out within the legislation, as to be subject to the RZLT it must be reasonable to consider that it is required for, or integral to, water and wastewater infrastructure.
- A wayleave agreement with the Local Authority on the lands commenced but was not completed.

- A copy of the Laois villages and towns sewerage improvement scheme map has been submitted demarcating approximately one third of the subject lands as a permanent wayleave and the other two thirds as a temporary wayleave.
- Therefore, on this basis, the lands should be removed from the RZLT map.

5.0 Determination by the Local Authority

The local authority determined to include the site on the final RZLT map on the basis that the site constitutes land satisfying the relevant criteria set out in in Section 653B of the Act.

The reasons set out by the Local Authority are as follows:

The lands would not be exempt from the application of the tax having regard to the exemptions listed in Section 653B (and following Planning Authority consultation with Uisce Eireann) which do not include the basic arguments put forward by the applicant. The lands remain in scope.

6.0 The Appeal

6.1. Grounds of Appeal

- The land is bordered by a stream and by lands zoned for open space purposes.
- The land does not satisfy the criteria set out within the legislation, as to be subject to the RZLT, the legislation sets out that it must be reasonable to consider that it is required for, or integral to, water and wastewater infrastructure.
- A wayleave procedure commenced with the Local Authority on the lands commenced but was not completed.
- A copy of the Laois villages and towns sewerage improvement scheme map has been submitted demarcating approximately one third of the subject lands as a permanent wayleave and the other two thirds as a temporary wayleave.
- Therefore, on this basis, the lands should be removed from the RZLT map.

7.0 Assessment

7.1 The grounds of appeal have been fully considered. Under section 653J of the Taxes Consolidation Act 1997 as amended, 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. 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.”

7.2 The lands identified for inclusion on the RZLT map are zoned R1-Existing Residential in the current Laois Development Plan 2021-2027. This zoning Objective is – To protect and enhance the amenity of developed residential communities. The Local Authority determined that the lands are in scope and that they remain on the RZLT map. The local authority set out that the site is within a designated urban settlement with services available and no capacity or other reasons have been identified that would prevent the development of these lands for residential purposes.

7.3 The appellant sets out that a wayleave procedure commenced on the land in relation to Laois towns and villages wastewater improvement scheme, but the wayleave process was not completed. The appellant has submitted correspondence issued by Laois County Council (LCC) Water Services Section dated August 2009. The appellant acknowledges within his appeal submission that the wayleave agreements were not completed. Therefore, this matter would not represent an impediment to the

development of the lands. In accordance with the provisions as set out with Section 653B of the Taxes Consolidation Act 1997, as amended.

- 7.4 The Taxes Consolidation Act 1997 as amended by the Finance Act 2021, includes in section 653B the criteria for inclusion in the map. This states that it is applicable to lands zoned ‘(a) (i) solely or primarily for residential use, or (ii) for a mixture of uses, including residential use’ but not land ‘(c) (ii) that is referred to in paragraph (a)(ii) unless it is reasonable to consider that the land is vacant or idle.’ The land is zoned for residential use, and not for mixed use, and, therefore, the exemption under part (c)(ii) does not apply.
- 7.5 With respect to wastewater and water connections, the local authority set out within their RZLT assessment form that the subject lands are serviced or serviceable with connections to the wastewater and watermains networks. Connection can be achieved along the Shannon Road, via lands in local authority control. The Local Authority set out within the RZLT assessment report that they consulted with Uisce Eireann who confirmed that there is a watermain (3 metres from the subject lands along the Shannon Road) and foul sewer (6 metres from the subject lands along the Shannon Road) in proximity to the subject lands. Such connections would be reasonably included as part of any development proposition for the site. With respect to capacity, UE did not reference the presence of wayleave agreements in relation to the subject lands. Uisce Eireann’s online capacity registers (dated June 2023) state that there is wastewater capacity available in Mountrath and that there is water capacity subject to LoS improvements. Therefore, it is reasonable to consider that the subject lands have access to the piped water services and that connectivity to same from the subject land is easily achievable.
- 7.6 With respect to pedestrian infrastructure, the subject lands front onto the Shannon Road where there are presently a public footpath on the northern side of the road, the same side as the subject lands., I am satisfied that public streetlighting is available on the opposite side of the Shannon Road and is available within proximity to the subject lands. Therefore, it is reasonable to consider that the subject lands

have access to a public road, footpath and streetlighting in proximity to the subject lands and that connectivity to same from the subject land is easily achievable.

7.7 The fact that the lands are stated to have a temporary right of way over part of them and a permanent right of way over another part would not necessarily preclude them from being developed for residential purposes and does not qualify for excluding the lands from the RZLT map under Section 653B, nor does the question of viability as a consequence of the application of the RZLT to the lands.

7.8 The fact that the subject lands adjoin a stream, and lands zoned for open space purposes along their western and northern boundaries would not be an impediment to the development of the subject lands, as set out within Section 653B of the Taxes Consolidation Act 1997, as amended. This is not a reason for exclusion from the RZLY map as per Section 653B (c) of the Taxes Consolidation Act 1997, as amended.

7.9 Therefore, in my opinion, the subject lands should be considered to be in-scope.

7.0 **Recommendation**

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

8.0 **Reasons and Considerations**

The lands identified as LS-C83-7, parcel ID number LSLA 03000003 are located on R1-Residential zoned lands identified within the current Laois County Development Plan are considered in scope of Section 653B of the Taxes Consolidation Act 1997, as amended. The location of the lands in proximity to a stream or open space zoned lands is not an impediment to the development of the subject lands, as per Section 653B c) 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, including that in relation to a wayleave agreement which was never completed, have been identified that would prevent the development of these lands in principle for residential purposes in accordance with the R1-residential zoning

objective that applies to these lands. The site satisfies the criterion for inclusion on the map set out in section 653B of the Taxes Consolidation Act 1997, as amended

9.0 Recommended Draft Board Order

Taxes Consolidation Act 1997 as amended.

Planning Authority: Laois County Council

Local Authority Reference Number: LS -C83-7

Appeal Jim Grincell in accordance with section 653J of the Taxes Consolidation Act 1997 as amended, against the inclusion of the land on the final Residential Zoned Land Tax Map by Laois County Council on the 1st day of July 2024 in respect of the site described below.

Lands at: Shannon Road, Mountrath, County Laois.

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 and Local Authority reference number LS-C83-7 should remain on the RZLT map.

Reasons and Considerations

The lands identified as LS-C83-7, parcel ID number LSLA 03000003 are located on R1-Residential zoned lands identified within the current Laois County Development Plan are considered in scope of Section 653B of the Taxes Consolidation Act 1997, as amended. The location of the lands in proximity to a stream or open space zoned lands is not an impediment to the development of the subject lands, as per Section 653B c) 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, including that in relation to a wayleave agreement which was never completed, have been identified that would prevent the development of these lands in principle for residential purposes in accordance with the R1-residential zoning objective that applies to these lands. The site satisfies the criterion for inclusion on the map set out in section 653B 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.

Fergal Ó Bric
Planning Inspectorate

10th day of October 2024