



An
Bord
Pleanála

Inspector's Report ABP-320340-24

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 Map

Location

Lands at Cloonsheebane, Hartley, Carrick on Shannon, Co. Leitrim

Planning Authority

Leitrim County Council

Planning Authority Reg. Ref.

RZLT 24-7

Appellant(s)

Kathleen Smith and others

Inspector

John Duffy

1.0 Site Location and Description

- 1.1. The appeal lands, identified as Parcel ID LMLA00000565 and part of Parcel ID LMLA00000562 on the RZLT Final Map are located at Cloonsheebane, Hartley, Carrick-on-Shannon, Co. Leitrim.

2.0 Zoning and Other Provisions

- 2.1. Carrick-on-Shannon is designated in the Leitrim County Development Plan 2023-2029 as a Tier 1 Key Town under the Leitrim County Settlement Hierarchy.
- 2.2. The appeal lands were zoned as 'Primarily Residential' (low density) in the Carrick-on-Shannon Local Area Plan (LAP) 2010-2019 however this Plan has expired.
- 2.3. The lands are not zoned in the current Leitrim County Development Plan 2023-2029 which was in effect at the time Leitrim County Council made its Determination.
- 2.4. Section 18(4)(a) of the Planning and Development Act 2000 states that 'A local area plan prepared under this section shall indicate the period for which the plan is to remain in force'. There is no record on the Leitrim County Council website that the Carrick-on-Shannon Local Area Plan (LAP) 2010-2019 has been extended further.
- 2.5. Leitrim and Roscommon County Councils have commenced the preparation of the Joint Carrick-on-Shannon Local Area Plan. In this regard a Draft Joint LAP 2025-2031 is in place since August 2024 however this was not in force when Leitrim County Council made its Determination. Under the Draft LAP the appeal lands are not subject to a residential zoning.

3.0 Planning History

No relevant history.

4.0 Submission to the Local Authority

- 4.1. The appellant made a submission to the Local Authority seeking to have their lands removed from the Final Map on the basis that the lands are used for agricultural

purposes, lack of access due to topography, absence of footpaths, and inadequate sewerage and surface water infrastructure.

5.0 Determination by the Local Authority

- 5.1. The Local Authority in its Determination state the following: “The lands zoned as Primarily Residential in the Carrick on Shannon Local Area Plan 2010-2019 fulfils the qualifying criteria set out in Part 22A of the Taxes Consolidation Act 1997...”
- 5.2. The Local Authority determined that the lands were in scope, that they are serviced in terms of roads, footpaths, public lighting, foul sewer drainage and water supply for which there is capacity available and therefore meet the qualifying criteria for inclusion on the RZLT map and accord with the Section 28 Ministerial Guidelines relating to RZLT.

6.0 The Appeal

6.1. Grounds of Appeal

The following points were made in support of the appeal:

- The Carrick-on-Shannon Town Development Plan is not finalised.
- The lands are not fully serviced by public infrastructure.
- Due to the topography of the site which has a drop of ten feet at one boundary, it is unsuitable for housing.
- The land is farmed. There is a long lease in place for agricultural purposes and as such the lands are exempt.
- Appellant is not a developer.

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. The appeal lands are not zoned under either the Leitrim County

Development Plan 2023-2029 or a Local Area Plan as required under section 653B(a) and therefore cannot be considered in scope for the RZLT.

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.

7.2. The grounds of appeal raise issue with the imposition of the RZLT on lands used for agricultural purposes. As noted in the 2022 RZLT 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. I am satisfied that the lands do not meet the criteria for exclusion set out in section 653B(c)(i). 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.

7.3. The appeal lands have access onto existing road infrastructure and they are serviced in terms of footpaths and public lighting. The report of the Local Authority indicates that Uisce Éireann has confirmed the site is serviced in terms of water and wastewater infrastructure. Whilst the appellant considers that the lands are unsuitable for housing due to the nature of the topography proximate to one of the site boundaries, I would expect that this issue would be addressed as part of the development of the site. 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. Having regard to the foregoing, I consider that the lands identified as Parcel ID LMLA00000565 and part of Parcel ID LMLA00000562 on the RZLT Final Map do not meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, and that the determination of the Local Authority be set aside for the following reason.

9.0 Reasons and Considerations

In the assessment of this appeal, regard was had to the content of the Residential Zoned Land Tax – Guidelines for Planning Authorities (June 2022) which are considered to be a helpful complement to understanding the spirit and intent of the

primary legislation. However, the recommendation is made within the clear parameters of the applicable legislation.

The lands identified as Parcel ID LMLA00000565 and part of Parcel ID LMLA00000562 on the RZLT Final Map are not zoned for residential development and therefore do not meet the qualifying criteria as set out in section 653B of the Tax Consolidation Act 1997 as amended and there are no matters arising that warrant its inclusion on the map.

10.0 Recommended Draft Board Order

Taxes Consolidation Act 1997 as amended

Planning Authority: Leitrim County Council

Local Authority Reference Number: RZLT 24-7

Appeal by Kathleen Smith and others 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 Leitrim County Council on the 27th day of June 2024 in respect of the site described below.

Lands at: Cloonsheebane, Hartley, Carrick-on-Shannon, Co. Leitrim

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 set aside the determination of the local authority and allow the appeal in relation to the lands identified as Parcel ID LMLA00000565 and part of Parcel ID LMLA00000562.

Reasons and Considerations

The zoning of these lands was under the Carrick-on-Shannon Local Area Plan 2010-2019, and this plan has expired. The lands are, therefore, not zoned and should not be included on the final RZLT map. The lands identified as Parcel ID LMLA00000565 and part of Parcel ID LMLA00000562 are, therefore, not zoned as per section 653B(a) of the Taxes Consolidation Act 1997, as amended, and should not be included on the final RZLT map.

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.

John Duffy
Planning Inspector

3rd September 2024