



An  
Bord  
Pleanála

## Inspector's Report ABP-320369-24

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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 Map

**Location**

Lands at Monien, Kinlough, Co. Leitrim

**Planning Authority**

Leitrim County Council

**Planning Authority Reg. Ref.**

RZLT 24-12

**Appellant(s)**

Gerry Connolly

**Inspector**

John Duffy

## **1.0 Site Location and Description**

- 1.1. The appeal lands, identified as part of Parcel ID LMLA00000309 on the RZLT Final Map, are located in the settlement of Kinlough, Co. Leitrim.
- 1.2. There is a concurrent RZLT appeal also by Gerry Connolly (ABP-320381-24) in respect of this appeal site.

## **2.0 Zoning and Other Provisions**

- 2.1. Kinlough is designated in the Leitrim County Development Plan 2023-2029 as a Tier 2B Support Town under the Leitrim County Settlement Hierarchy, with its function recognised as fulfilling “local service and some specialised employment and tourism functions which play an important role in supporting the social, economic and cultural life within their rural communities”
- 2.2. While the zoning of the appeal site is indicated as ‘Existing Residential’ on the RZLT Final Map, it is confirmed as ‘New Residential’ and identified as ‘Low Density Residential’ in the Leitrim County Development Plan 2023-2029, which takes precedence.
- 2.3. The ‘New Residential’ zoning objective states the following: ‘To provide primarily for new residential development and community services at appropriate densities for the positioning of the centre in the Settlement Hierarchy and with an emphasis on quality of design.’

## **3.0 Planning History**

An Bord Pleanála Reference ABP-316266-23 / Planning Authority Reference RZLT D12 refers to a July 2023 decision which notes that the subject lands meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, and therefore the subject lands are to be included on the RZLT map.

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

- 4.1. The appellant made a submission to the Local Authority requesting that the zoning of the lands be changed to agricultural use as the lands are part of a working farm.

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

- 5.1. In terms of the request to zone the lands for agricultural purposes the Local Authority noted the central location of the lands in close proximity to the centre of Kinlough and the existing infrastructure in place and therefore considered it appropriate to zone the lands for residential purposes. The Local Authority concluded that to remove these lands would affect the growth of Kinlough as a Support Town in the county and would potentially undermine the Core Strategy of the County Development Plan. As such, the Local Authority decided that the lands are to remain zoned for residential purposes.

## **6.0 The Appeal**

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

The following points were made in support of the appeal:

- The lands comprise a working farm which provides income for a farming family.
- No consideration is given to the impact the tax would have on small farmers and their families.
- It is likely that the lands would have to be sold to fund the tax.
- The subject lands may be able to accommodate one or two houses, however there is an unfinished housing estate in the area which is allowed to remain unfinished.

### **6.2. Planning Authority Response**

- None received.

## **7.0 Assessment**

- 7.1. The grounds of appeal raise issue with the imposition of the RZLT on the farming community and their families. This matter is not an issue considered within the provision of section 653B Taxes Consolidation Act 1997, as amended. Under section 653J 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. The Residential Zoned Land Tax - Guidelines for Planning Authorities (June 2022) clearly sets out in section 3.3.2 the restrictions to considering criteria for inclusion. This states 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. Section 653B of the Taxes Consolidation Act, 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 zoned residential and therefore within scope of section 653B(a). The Planning Authority determined that the site remain on the RZLT map.

7.2 I note the lands are used for agricultural purposes, however as referenced in the 2022 RZLT Guidelines, the use of the land for agricultural or horticultural purposes is 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).

7.3. I am of the view that the land satisfies criteria 653B (b) of the Taxes Consolidation Act 1997, as amended, and that it is serviced or has access to services necessary for dwellings to be developed and with sufficient service capacity available for such development. As such the lands could have development potential.

## **8.0 Recommendation**

8.1. Having regard to the foregoing, I consider that the lands identified as part of Parcel ID LMLA00000309 on the RZLT Final Map meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended. The grounds of appeal have not raised other matters under section 653B of the Taxes Consolidation Act 1997, as amended and there are no matters arising that warrant exclusion of the subject lands from the final map.

## **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 part of Parcel ID LMLA00000309 on the RZLT Final Map zoned 'New Residential' are considered to be within scope of Section 653B(a). The lands are located within an established urban area. 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.

## **10.0 Recommended Draft Board Order**

**Taxes Consolidation Act 1997 as amended**

**Planning Authority: Leitrim County Council**

**Local Authority Reference Number: RZLT 24-12**

**Appeal** by Gerry Connolly 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 27<sup>th</sup> day of June 2024 in respect of the site described below.

**Lands at:** Monien, Kinlough, 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 confirm the determination of the local authority and direct the local authority to retain the lands identified as part of Parcel ID LMLA00000309 on the final map.

### **Reasons and Considerations**

The lands identified as part of Parcel ID LMLA00000309 are zoned 'Existing Residential' and are considered to be in scope of section 653B(a). The lands are located within an established urban area. 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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John Duffy  
Planning Inspector

2<sup>nd</sup> September 2024