



An  
Bord  
Pleanála

## Inspector's Report ABP-320390-24

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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**

Mount Alto, Glanmire, Co. Cork

**Land Parcel ID**

CCLA00025489, CCLA00025503, CCLA00025520, CCLA00025629, CCLA00025630 and CCLA00075217.

**Planning Authority**

Cork City Council

**Planning Authority Reg. Ref.**

CRK-C272-RZLT2-32

**Appellant(s)**

Michael and Evelyn Kearney

**Inspector**

Paul O'Brien

## **1.0 Site Location and Description**

- 1.1. The appeal lands, identified as Parcel IDs CCLA00025489, CCLA00025503, CCLA00025520, CCLA00025629, CCLA00025630 and CCLA00075217 on the RZLT Final Map, are located to the north western side of Glanmire, Co. Cork, within the Cork City Council area. These land parcels make up a substantial area of land, and approximately 2 hectares refers to this appeal. The subject lands have an irregular shape. The area is characterized by residential development with agricultural uses found to the west of the subject site.

## **2.0 Zoning and Other Provisions**

- 2.1. The appeal site is zoned ZO 01 – ‘Sustainable Residential Neighbourhoods’ with an objective ‘To protect and provide for residential uses and amenities, local services and community, institutional, educational and civic uses.’
- 2.2. The Cork City Development Plan 2022 – 2028 states the following in relation to ZO 01 lands, as relevant to this appeal:

### **‘ZO 1.1**

The provision and protection of residential uses and residential amenity is a central objective of this zoning. This zone covers large areas of Cork City's built-up area, including inner-city and outer suburban neighbourhoods. While they are predominantly residential in character these areas are not homogenous in terms of land uses and include a mix of uses. The vision for sustainable residential development in Cork City is one of sustainable residential neighbourhoods where a range of residential accommodation, open space, local services and community facilities are available within easy reach of residents.

### **ZO 1.2**

Development in this zone should generally respect the character and scale of the neighbourhood in which it is situated. Development that does not support the primary objective of this zone will be resisted.

### **ZO 1.3**

Primary uses in this zone include residential uses, creches, schools, home-based economic activity, open space and places of public worship.

#### ZO 1.4

Uses that contribute to sustainable residential neighbourhoods are also acceptable in principle in this zone provided they do not detract from the primary objective of protecting residential amenity and do not conflict with other objectives of this Development Plan. Such uses include but are not limited to: small-scale local services including local convenience shops, community facilities; cultural facilities; hotels and hostels; live-work units; service stations (petrol filling stations); local medical services; third level education institutes; community based enterprise or social enterprises, health facilities including hospitals.

#### ZO 1.5

Where it can be suitable, the expansion of zoned Neighbourhood and Local Centres is open for consideration in this zone provided they meet the criteria for such centres set out in Chapter 7 Economy and Employment.

#### ZO 1.6

The employment policies in Chapter Economy and Employment designate particular locations for offices, office-based industry and major retailing development, and these uses are not generally permitted in this zone, unless they are community-based enterprises or social enterprises.

#### ZO 1.7

Many green areas of open space in residential estates in Cork City are included in this zone. There will be a presumption against development on all open space in residential estates including any green area or public amenity area that formed part of an executed planning permission for development and was identified for the purposes of recreation or amenity open space, including land which has been habitually used as public open space. Such lands shall be protected for recreation, open space and amenity purposes.'

### **3.0 Planning History**

- ABP Ref. 316766-23 refers to an October 2023 decision to confirm the determination of the local authority for the inclusion of these lands on the RZLT Maps.

### **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 for the following reasons:

- The indicated lands are in use as part of their domestic property and as part of the adjacent farmyard.
- The farmyard is in active use and is integrated with the lands surrounding the house.

Also requested that the lands be de-zoned, except for their farm house.

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

5.1. The Local Authority issued a letter on the 4<sup>th</sup> of July 2024 stating the following:

'I refer to your submission in relation to the above. Your submission included a request to change the zoning of lands.

Pursuant to section 6531.(4) of the Taxes Consolidation Act 1997, these lands have been identified as being suitable for residential development for the period of the Cork City Development Plan 2022-2028 and are contained in the Cork Strategy of the Development Plan.

It is considered that this land-use zoning objective is appropriate at this time.

Rezoning of these lands as requested would adversely affect the Core Strategy of the Cork City Development Plan 2022-2028 and set a precedent for similar type of rezonings. It is not proposed to make a variation of the Cork City Development Plan 2022-2028 in relation to these lands.

Section 653J of the Taxes and Consolidation Act 1997 states that an owner who is aggrieved with the determination of a local authority under section 653E may, within one month of receipt of the notification appeal that determination by notice in writing specifying the grounds for the appeal to An Bord Pleanála.’

## **6.0 The Appeal**

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

The following points were made in support of the appeal:

- Request that the lands, except for their farm house, be de-zoned.
- The indicated lands are in use as part of their domestic property and as part of the adjacent farmyard. They should be ruled out of scope or de-zoned.
- There is an operational farm here and which is sustainable, and which does not contravene good planning.

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

No further comment made.

## **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. 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 for residential use and therefore within scope of section 653B(a). The Planning Authority determined that the site remain on the RZLT map.
- 7.3. The appellant has outlined why they consider that these lands should be omitted from the Final Map, they are partially in domestic and partially in use for farming purposes. They have requested that the lands be de-zoned. The issue of zoning is not a matter for consideration under this process and can be addressed through the Planning Authority.
- 7.4. Lands can remain on the Final Map that are for domestic use, the appellant will not be required to pay the RZLT for lands that are subject to LPT. This is an issue that can be addressed through the Revenue Commissioners.
- 7.5. I note the comments made regarding the agricultural use of part of these lands, 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). The lands are zoned for residential purposes and are within scope of Section 653B(a).
- 7.6. I am of the view that the land should be retained on the final map as they are within scope of Section 653B(a).

## **8.0 Recommendation**

- 8.1. Having regard to the foregoing, I consider that the lands identified as Parcel ID CCLA00025489, CCLA00025503, CCLA00025520, CCLA00025629,

CCLA00025630 and CCLA00075217 be retained on the RZLT Final Map as they are within scope of Section 653B(a).

## **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 Land Parcel ID CCLA00025489, CCLA00025503, CCLA00025520, CCLA00025629, CCLA00025630 and CCLA00075217 on the RZLT Final Map are zoned ZO 01 – ‘Sustainable Residential Neighbourhoods’ and are considered to be within scope of Section 653B(a). The lands are in agricultural use, and this does not prevent their development for residential purposes. Any lands in residential use may be included on the map but may not be required to pay RZLT as they may be liable for LPT.

## **10.0 Recommended Draft Board Order**

**Taxes Consolidation Act 1997 as amended**

**Planning Authority: Cork City Council**

**Local Authority Reference Number: CRK-RZLT2-32**

**Appeal** by Michael & Evelyn Kearney 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 Cork City Council on the 4<sup>th</sup> of July 2024 in respect of the site described below.

**Lands at:** Mount Alto, Glanmire, Co. Cork

### **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 Land Parcel ID CCLA00025489, CCLA00025503, CCLA00025520, CCLA00025629, CCLA00025630 and CCLA00075217 on the Final RZLT Map.

### **Reasons and Considerations**

The lands identified as Parcel ID CCLA00025489, CCLA00025503, CCLA00025520, CCLA00025629, CCLA00025630 and CCLA00075217 are zoned ZO 01 – ‘Sustainable Residential Neighbourhoods’ in the Cork City Development Plan 2022 - 2028 and are considered to be in scope of section 653B. 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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Paul O'Brien

Inspectorate

26<sup>th</sup> September 2024