



An  
Bord  
Pleanála

## Inspector's Report ABP-320396-24

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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 John Street, Dingle, Co. Kerry

**Planning Authority**

Kerry County Council

**Planning Authority Reg. Ref.**

KE-C18-RZLT-6

**Appellant(s)**

Philomena Rohan

**Inspector**

John Duffy

## **1.0 Site Location and Description**

- 1.1. The appeal lands, identified as part of Parcel ID KY0000000658 on the RZLT Final Map are located on the north-eastern side of John Street in Dingle, Co. Kerry. At the rear of the subject lands a gate provides access onto the relief road.

## **2.0 Zoning and Other Provisions**

- 2.1. The appeal site is zoned R1 'New / Proposed Residential' in the Dingle / Daingean Uí Chúis Local Area Plan (LAP) 2021-2027 which forms part of the Corca Dhuibhne Electoral Area LAP.
- 2.2. The R1 zoning objective states the following: 'To facilitate the development of residential units in accordance with the Core Strategy.'

## **3.0 Planning History**

An Bord Pleanála Reference PL08.315671 / Planning Authority Reference 22542 refers to a current appeal on adjoining lands relating to partial demolition of a wall along John Street and a lean-to-shed to facilitate access and construction and the development of 39 no. two and three storey residential units and all ancillary site development works.

## **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 RZLT Map on the basis that the lands are land-locked with no access to the road.

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

5.1. The Local Authority determined that the site was in scope and that it be included in the Final RZLT Map for the following reasons:

1. The land in question is included in a local area plan and is zoned for residential development.
2. The land is serviced, or it is reasonable to consider may have access to services.
3. The land is not affected in terms of its physical condition, by matters to a sufficient extent to preclude the provision of dwellings, including contamination or the presence of archaeological or historic remains.

## **6.0 The Appeal**

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

The following points were made in support of the appeal:

- The lands do not have direct access to the public road and public services as a result of a third party owning a strip of land between the end of the rear garden and the public road. As such, the lands should be excluded from the final RZLT map.

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

- Inside the roadside boundary there is no additional boundary or sub-division on the ground; the lands form part of the one area of ground.
- A submission was received previously from Thomas and Philomena Riordan of John Street in Dingle, in connection with this site (including the strip of ground referred to in the appeal) which related to the final RZLT Map published in November 2023. The Local Authority requested further information from this party in order to confirm land ownership. Information was subsequently provided by a solicitor confirming the lands are in the ownership of Philomena Riordan (nee Rohan).

- The strip of land referred to on the appeal (Folio KY24881) is registered to Mary Philomena Riordan and Thomas Riordan of John Street, Dingle. The names on Folio KY24881 would therefore appear to match the names of those with an interest in the subject lands.
- The Local Authority is satisfied that the lands have services available or are able to connect to services and that they should remain in scope for RZLT.

## 7.0 **Assessment**

- 7.1. The contents of the appeal is noted. The main ground of appeal is that the subject lands in the appellant's ownership are land-locked to the rear by way of a strip of land at the rear site boundary, which is stated to be in third party ownership and preventing access and connectivity to the road and other services. It is on this basis that the appellant seeks the lands to be excluded from the RZLT map.
- 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.
- 7.3. Section 4.1.1 (iii) of the Residential Zoned Land Tax – Guidelines for Planning Authorities (June 2022) states the following on page 24:
- 'If the works required to connect the land to services are materially significant, for example require access to 3rd party lands which are in private ownership or would require CPO or planning permission in themselves, then the land should be considered to be out of scope.'
- 7.4. I note that the appellant has not provided any documentary evidence which clearly demonstrates and verifies third party ownership of the narrow strip of land between the rear of the subject lands and the road. In the absence of such documentation, I recommend that the subject lands are retained on the final map.

7.5. The land is serviced or it is reasonable to consider it may have access to services. I note there is a narrow access to the lands from John Street and there is an existing gate from the lands opening to the relief road to the east. 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 KY0000000658 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 KY0000000658 on the RZLT Final Map zoned R1 - 'New / Proposed 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: Kerry County Council**

**Local Authority Reference Number: KE-C18-RZLT-6**

**Appeal** by Philomena Rohan 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 Kerry County Council on the 18<sup>th</sup> day of June 2024 in respect of the site described below.

**Lands at:** John Street, Dingle, Co. Kerry

### **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 KY0000000658 on the final map.

### **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 KY0000000658 are zoned 'R1 'New / Proposed 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

4<sup>th</sup> September 2024