



An  
Bord  
Pleanála

## Inspector's Report ABP-320408-24

---

### 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

Castlemaine Road, Milltown, Killarney, Co. Kerry.

### Local Authority

Kerry County Council.

### Local Authority Reg. Ref.

KE-C18-RZLT-07.

### Appellant

Joanne O'Mahony & Stuart Griffin.

### Inspector

Fergal Ó Bric.

## **1.0 Site Description**

The lands identified as KE-C18-RZLT-07 (land parcel ID number KY0000001512-part of) with a stated area of c.0.78 hectares are located along the Castlemaine Road in the settlement of Milltown, Killarney, Co. Kerry, to the north-west of the settlement and within the designated settlement boundary.

## **2.0 Zoning**

The Corca Dhuibhne. Local Area Plan 2021-2027 includes Milltown.

Milltown is designated as a District town in the Kerry settlement Hierarchy.

The lands are zoned R1 New/Proposed Residential.

## **3.0 Planning History**

PA reference number KE-C6-RZLT-5, in 2023 Kerry County Council determined that the lands should be included within the RZLT map. ABP reference 316933-23-, in 2023, the Board confirmed the determination of the Planning Authority and directed the local authority to retain the lands identified as land parcel ID KY0000001512 under KE-C6-RZLT-5 on the RZLT map.

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

The appellants made a submission to the local authority seeking that their land be excluded on the basis that the land is not serviced as there is no access to foul sewer drainage. Reference is made to the tax status of the lands and that it would be more appropriate if the lands were to be zoned for mixed use purposes. It is also stated that the lands are not vacant or idle.

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

The local authority determined that the site fulfils the qualifying criteria to be included in the Final Map for the Residential Zoned Land Tax or the following reason:

1. The land in question is included in a local area plan and is zoned for residential development, 2. the land is serviced, or is reasonable to consider may have access to services and 3. the land is not affected in terms of 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 grounds of appeal are summarised as follows:

- The lands are not serviced. They do not have access to wastewater facilities.
- It is not reasonable to consider that the lands may have access to services, even if it had access to wastewater services, it is not clear that the Milltown Wastewater Treatment Plant (WWTP) has adequate capacity to cater for residential development on these lands.
- The Kerry County Development Plan 2022-2028 has identified Milltown as one of the 24 settlements 'in urgent need of wastewater infrastructure upgrades.

## **7.0 Local Authority Submission**

The local authority made a submission to the Board. Points raised include the following:

- Uisce Eireann's (UE) confirmed to the Local Authority that a foul sewer and watermain exist on the public road in close proximity to the lands.
- UE did not identify wastewater treatment plant capacity as an issue.
- According to the UE wastewater treatment capacity register, the Milltown WWTP is identified as having capacity available.

- UE have confirmed that water/sewer is available on the public road.
- Reference to application on adjoining lands to the south of the subject lands which when developed under planning reference 09.164 which availed of connections to the public water main and public sewer.
- The Planning Authority is satisfied that these lands have all services available or are able to connect to services and, therefore, should remain in scope in terms of the RZLT.

## 8.0 **Assessment**

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 (i) solely or primarily for residential use, (ii) or for a mixture of uses including residential. The lands are zoned R1-New/Proposed residential and, therefore, are within scope of section 653B(a).

The appellants have raised the issue of capacity within the piped services network to serve the lands and submit that the lands should be excluded from the RZLT map on this basis. Kerry County Council determined that the lands are in scope. Correspondence on file from UE confirms that a water main exists on the public road in close proximity to the lands and is accessible c.10 metres from the lands, adjoining the land parcel. UE have also confirmed that a foul sewer exists on the public road in close proximity (c.80 metres) to the lands. UE have not raised issue with capacity.

The provision of infrastructure to the subject lands is considered to be in the control of Kerry County Council or Uisce Eireann and the local authority determined that that the subject lands are in scope and, therefore, retained within the RZLT Final Map. For the purposes of falling within the scope of RZLT, among the criteria is whether it 'is reasonable to consider'. In my opinion it is reasonable to consider that the provision of access, footpaths, public lighting, surface water drainage, sewer and water connections may be provided where land is in the control of the landowner and/or the Local Authority. Consideration has also been had to the provisions of the

Residential Zoned Land Tax- Guidelines for Planning Authorities June 2022. On this basis, the land, therefore, does satisfy the criteria cited in section 653B(b) of the Taxes Consolidation Act 1997, as amended.

Having regard to the foregoing I consider that the lands zoned residential identified as land parcel ID KY0000001512 (part of) under KE-C18-RZLT-07 meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, and that there are no matters arising that warrant exclusion from the map.

#### **9.0 Conclusion & Recommendation**

The lands identified as land parcel ID number KY0000001512 (part of) under KE-C18-RZLT-07 are located within an established urban area with services available and no capacity or other reasons have been identified that would prevent the development of these lands in principle for residential purposes. The lands are accessible and there is no reason why they cannot be developed in principle in accordance with the residential zoning objective that applies to these lands. The lands identified as parcel ID KY0000001512 (part of) under KE-C18-RZLT-07 meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, and that there are no matters arising that warrant exclusion from the map. I recommend that the board confirm the determination of the local authority and direct the local authority to retain the lands identified as parcel ID KY0000001512 (part of) under KE-C18-RZLT-07 on the map.

#### **10.0 Reasons and Considerations**

Having regard to the determination by the local authority, the submitted grounds of appeal, the provisions of the section 653B of the Taxes Consolidation Act 1997, as amended, and the advice in Section 3.1.2 of the 2022 Guidelines for Planning Authorities on the Residential Zoned Land Tax, the lands identified as land parcel ID KY0000001512 under KE-C18-RZLT-07 should remain on the RZLT map.

The lands are zoned residential within an established urban area with services available and no capacity or other reasons have been identified that would prevent the development of these lands in principle for residential purposes. The lands are accessible and there is no reason why they cannot be developed in principle in

accordance with the residential zoning objective that applies to these lands. meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, and that there are no matters arising that warrant exclusion from the map.

## **11.0 Recommended Draft Board Order**

### **Taxes Consolidation Act 1997 as amended.**

**Planning Authority:** Kerry County Council

**Local Authority Reference Number:** KE-C18-RZLT-07

**Appeal** by Joanne O'Mahony and Stuart Griffin 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 Kery County Council on the 26<sup>th</sup> day of June 2024 in respect of the site described below.

**Lands at:** Castlemaine Road, Milltown, 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 confirms the determination of the local authority and direct the Local Authority to retain the lands identified as Parcel ID number KY0000001512 (part of) under KE-C18-RZLT-7 should remain on the RZLT map.

### **Reasons and Considerations**

The lands identified as KE-C18-RZLT-7 (Parcel ID number KY0000001512-part of) located on residentially zoned lands identified within the current Milltown Local Area Plan are considered in scope of Section 653B(b) of the Taxes Consolidation Act 1997. as amended. The lands are located within an established urban area with documentary evidence from Uisce Eireann that services are available, and 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.

---

Fergal Ó Bric  
Planning Inspectorate  
2<sup>nd</sup> day of September 2024