



An
Bord
Pleanála

Inspector's Report ABP-320427-24

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 Moneynure, Drumshambo, Co. Leitrim

Planning Authority

Leitrim County Council

Planning Authority Reg. Ref.

RZLT 24-3

Appellant(s)

Aoife Kielty-Feely

Inspector

John Duffy

1.0 Site Location and Description

- 1.1. The appeal lands, identified as part of Parcel ID LMLA00000558 on the RZLT Final Map are located at Moneynure Townland, Drumshambo, Co. Leitrim.

2.0 Zoning and Other Provisions

- 2.1. Drumshanbo 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. The lands which are the subject of this appeal are zoned ‘New Residential’ and identified as ‘Low Density Residential’ with stated objective ‘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-316724-23 / Planning Authority Reference RZLT D23 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 seeking to have their lands removed from the Final Map on the basis that the lands are leased to a third party for agricultural purposes, the roadside section of the lands is subject to flooding, the lack of housing demand in the area, the lack of adequate water supply and concern raised in connection with existing wastewater capacity in the area.

5.0 Determination by the Local Authority

- 5.1. The Local Authority determined that the site was in scope. It considered that the land is serviced, or it is reasonable to consider may have access to services.

6.0 The Appeal

6.1. Grounds of Appeal

The following points were made in support of the appeal:

- The map published on the Council's website and available for inspection purporting to be the Final 2024 RZLT Map is inaccurate, neither dated nor numbered and therefore incapable of being used as a site identification tool forming the basis for taxation. No reference is made to, inter alia, the effective date of zoning or any amendments thereto.
- Correspondence from the Council dated 27th June 2024 and the associated Notification of Determination is inaccurate and confusing referring to the land as 'Drumshambo.' The land is located in Moneynure townland.
- The lands are leased to a third party who carries out an agricultural enterprise. As such the lands are not available to build on or sell during the period of the lease.
- The lands are subject to flooding.
- No evidence of up to date housing need assessment undertaken in the area.
There is an absence of housing demand in the area.
- Existing water supply in the area is inadequate.
- Existing sewage treatment plant is overloaded and beyond capacity.
- The appeal should be decided following a site inspection and contact with the appellant should a different opinion on the appeal grounds be formed.

7.0 Assessment

- 7.1. 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. The grounds of appeal raise issue with the imposition of the RZLT on lands used for agricultural purposes. 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."
- 7.3 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).
- 7.4 The submission suggests that part of the land is liable to flooding. Section 653B(c) states that land satisfies the criteria for inclusion on the map if it is reasonable to conclude that its physical condition is not affected by matters to preclude the provision of housing including contamination and the presence of known archaeological or historic remains. While flood risk is not specifically mentioned in this sub-section the use of the word "including" would indicate that relevant matters of the site's physical condition are not restricted to contamination or archaeological and historic remains. Housing can be provided on lands subject to a certain level of flood risk if justified by the proper planning and sustainable development of the area, so the presence of flood risk would not always indicate that the physical condition of the land precludes

the provision of housing. Based on the information available I have no evidence that this is the case and I consider this ground of appeal should be dismissed.

- 7.5 I note that Uisce Éireann has confirmed to the Local Authority that both a water main and a sewer exist on the public road immediately proximate to the appeal lands.
- 7.5 The grounds of appeal raise the issue of water supply capacity. Uisce Éireann's capacity register notes that the Drumshambo Water Supply Zone (WRZ ID: 1700SC0001) is stated to have 'Capacity Available' to meet 2032 population targets. The capacity register also notes that leakage reduction and/or capital investment will be required to maintain/improve levels of service as demand increases, which will be developed and prioritised through the National Water Resources Plan and investment planning process.
- 7.6 The grounds of appeal also raise the issue of wastewater treatment capacity. Having reviewed Uisce Éireann's wastewater capacity register I note that the capacity of Drumshambo WWTP (Reg. No. D0144) is listed as 'Amber' confirming that there is potential spare capacity and applications will be considered on an individual basis considering their specific load requirements. This does not demonstrate insufficient capacity to serve new residential development in Drumshambo (with applications to be assessed on an individual basis) and therefore I consider that the subject lands could be served by the treatment plant.
- 7.7 I note the issues raised in relation to purported shortcomings with the Final RZLT Map published by the Local Authority and the lack of housing demand in the area. Such matters are not for consideration by the Board in this appeal.
- 7.8 In my opinion, a site inspection of the subject lands is not necessary. I have accessed online photography of the lands and in conjunction with the documentation on file I am satisfied that the appeal can be properly and fully assessed without the need to visit the site. Similarly I am satisfied that the appeal can be decided through written procedures without the need to meet with the parties.
- 7.9 In conclusion, 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 appeal lands, identified as part of Parcel ID LMLA00000558 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 LMLA00000558 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 24-3

Appeal by Aoife Kielty-Feely 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: Moneynure, Drumshambo, 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 LMLA00000558 on the final map.

Reasons and Considerations

The lands identified as part of Parcel ID LMLA00000558 are zoned 'New 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.

John Duffy
Planning Inspector

3rd September 2024