



An  
Bord  
Pleanála

## Inspector's Report ABP-320430-24

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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**

The Miles, Clonakilty, Co. Cork

**Planning Authority**

Cork County Council

**Planning Authority Reg. Ref.**

ADRZLT 600960584

**Appellant(s)**

Cloncastle Developments Limited

**Inspector**

Fergal Ó Bric

## **1.0 Site Location and Description**

- 1.1. The subject lands are located south of the N71, national secondary route at the south-western perimeter of the town of Clonakilty. The lands are accessible from the east via the Miles Road from the N71 National Road from the north and from the west via the L8052 local road. There are residential developments (The Pines and Sruthán Beag) to the east and southeast of the subject lands. There is a row of one-off houses along the western boundary of the site and an agricultural field to the north. The Tawnies Lower Stream runs along part of the southern boundary of the site. There is a national monument (CO135-148 fulacht fia) located approximately 65 metres to the east of the site.
- 1.2. The subject lands are identified as Parcel ID number CK-R-01 on the RZLT map and comprise a stated area of 4.85 hectares.

## **2.0 Zoning and other provisions**

- 2.1. Volume 5 of the Cork County Development Plan 2022-2028 incorporates the West Cork Municipal District which includes the town of Clonakilty.
- 2.2. The subject site is zoned Medium B density Residential within the Cork County Development Plan 2022-2028.
- 2.3. The site is subject to Objective CK-R-01 which states: 'Medium B Density Residential Development. The site should be subject to a detailed landscape plan. Provision should be made for retention and protection of existing boundary hedgerows and mature trees and for the protection of the small stream on the southern boundary which supports biodiversity networks.'
- 2.4. The site is not located within Clonakilty Architectural Conservation Area (ACA).

### 3.0 Planning History

#### ***Subject site***

Planning reference ADRZLT 473414770 where the Planning Authority determined that the lands be included within scope in terms of the RZLT map and this determination was upheld by the Board under board reference number 317374-23.

23/020: Permission was granted in September 2023 for the construction of 93 houses, public open space and a creche facility. This decision has been subject of a third-party appeal to the Board, board reference 318260-24 and a decision from the Board is pending.

PA Ref. 20740 / ABP-312691-22: Permission was refused in July 2022 for construction of 93 houses on account of the existing deficiency in the provision of water supply in the area.

#### ***Adjacent sites***

P.A. Ref. No. 18/605: Permission granted for 81 no. houses and a childcare facility.

P.A. Ref. No. 18/703 – Permission granted for 99 no. houses and a creche.

### 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 RZLT map on the basis that they have a planning permission for a residential development of ninety-three dwellings on the subject lands and the decision is currently the subject of a third-party appeal to an Bord Pleanála, which is out of their control.

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

The local authority determined to include the site on the final RZLT map on the basis that the site constitutes land satisfying the relevant criteria set out in in Section 653B of the Act.

The reason(s) set out by the Local Authority are as follows:

1-The subject site meets with criteria for inclusion on the Final Annual Map 2025 as set out in Section 653B of the Taxes Consolidation Act, 1997, as amended.

## **6.0 The Appeal**

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

- The appellants set out that they have shown a willingness to develop the lands and a planning permission for a residential development of ninety-three dwellings on the subject lands issued by the Planning Authority.
- The Planning Authority decision is currently the subject of a third-party appeal to an Bord Pleanála, board reference ABP-318260-24, and a decision remains outstanding.
- The appeal is something that is out of the control of the appellants.

## **7.0 Planning Authority Response**

- The Planning Authority have no further observations to make on this appeal.
- All matters were considered to have been adequately addressed within the notification of determination and within the RZLT assessment report.

## **8.0 Assessment**

- 8.1. 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. 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.

*“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.”.*

- 8.1 The lands identified for inclusion on the RZLT map are zoned CK-R-01-Medium B Residential in the current Cork Development Plan 2022-2028. The Local Authority determined that the lands are in scope and that they remain on the RZLT map. The local authority set out that the site is within a designated urban settlement with services available and no capacity or other reasons have been identified that would prevent the development of these lands for residential purposes.
- 8.2 The grounds of appeal raise the issue of the planning permission granted by the Planning Authority in September 2023 for a residential development within the subject lands. This decision is the subject of a third-party appeal to the Board, and a decision on this appeal is pending. Notwithstanding, the grant of planning permission, under planning reference 23/20 for a residential scheme of ninety three dwelling units in September 2023, pertaining to the subject lands, as per the provisions of Section 653B c) (iii) of the Taxes Consolidation Act 1997, as amended, this is not a reason to exclude the lands from the RZLT map.
- 8.3 In terms of piped water services, Uisce Eireann (UE) made a submission to the local Authority dated the 18<sup>th</sup> day of June 2024. Within this submission, UE confirmed the watermains have potential spare capacity available, but that a level of service (LoS) is required. They also confirm that upgrade works are ongoing to increase capacity and that these works will continue in 2024. There are two potential sources of water supply, the first is along the public road approximately 220 metres adjacent to the land parcel to the north and the second is 40 metres away via the adjoining housing development (The Pines) to the east of the subject lands. In terms of wastewater, UE confirmed that there

are two potential sources of wastewater supply, along the public road approximately 220 metres adjacent to the land parcel to the north and 40 metres away via the adjoining housing development (The Pines) to the east of the subject lands. Uisce Éireann's capacity register (last updated in June 2023) sets out that the Clonakilty Water Supply Scheme (WRZ ID: 0500SC0153) is stated to have 'Potential Capacity Available - LoS improvement required.'. The LoS improvement required means that capacity constraints exist, and connection applications will be assessed on an individual basis considering their specific load requirements. Therefore, I am satisfied that there is some capacity available within the piped water services to service the subject lands.

8.4 The Planning Authority within their assessment have set out that the site is serviceable in terms of roads, footpaths, public lighting, water supply, wastewater and surface water infrastructure. The appellants themselves acknowledge within their appeal submission that the site has access to services, or it is reasonable to consider may have access to services. On this basis, it is reasonable to consider that there is some capacity in the piped services network to cater for residential development on the lands.

8.5 Based on the information submitted by the appellant and the Planning Authority, I am satisfied that the lands do not meet the criteria for exclusion set out in section 653B (c) of the legislation.

8.6 The appeal grounds do not raise any other matters that would apply to the subject lands and warrant its removal from the RZLT map, with reference to the Taxes Consolidation Act 1997 as amended and the RZLT Guidelines.

## **9.0 Recommendation**

I recommend that the Board confirm the determination of the local authority and direct the local authority to include the site on the map.

## **10.0 Reasons and Considerations**

The lands identified as ADRZLT 600960584 , parcel ID number CK-R-01 are located on Medium B density residential zoned lands identified within the current Cork County Development Plan are considered in scope of Section 653B of the Taxes

Consolidation Act 1997. as amended. The lands are located within an established urban area with services available, and notwithstanding the grant of planning permission for a residential development within the subject lands, under planning reference 23/20, 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.

## **11.0 Recommended Draft Board Order**

**Taxes Consolidation Act 1997 as amended.**

**Planning Authority:** Cork County Council

**Local Authority Reference Number:** ADRZLT 600960584

**Appeal** Cloncastle Developments Ltd in accordance with section 653J of the Taxes Consolidation Act 1997 as amended, against the inclusion of the land on the final Residential Zoned Land Tax Map by Cork County Council on the 14<sup>th</sup> day of June 2024 in respect of the site described below.

**Lands at:** The Mlles, Clonakilty, County 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 confirms the determination of the local authority and direct the Local Authority to retain the lands identified as Parcel ID number CK-R-01 and Local Authority reference number ADRZLT 600960584 should remain on the RZLT map.

### **Reasons and Considerations**

The lands identified as ADRZLT 600960584 , parcel ID number CK-R-01 are located on Medium B density residential zoned lands identified within the current Cork County Development Plan are considered in scope of Section 653B of the Taxes

Consolidation Act 1997. as amended. The lands are located within an established urban area with services available, and notwithstanding the grant of planning permission for a residential development within the subject lands, under planning reference 23/20, 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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Fergal Ó Bric  
Planning Inspectorate

9th day of October 2024