



An
Bord
Pleanála

Inspector's Report ABP-320433-24

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 32 / 33 Parnell Street,
Limerick

Planning Authority

Limerick City and County Council

Planning Authority Reg. Ref.

LCC-C293-RZLT5-5

Appellant(s)

John Moran

Inspector

John Duffy

1.0 Site Location and Description

- 1.1. The subject lands which accommodate a vacant building are located on the western side of Parnell Street in Limerick city centre and comprise Land Parcel ID LKLA00002946 on the final RZLT Map.

2.0 Zoning and Other Provisions

- 2.1. The subject lands relating to Parcel ID LKLA00002946 are zoned 'City Centre' in the Limerick City and County Development Plan 2022-2028. The 'City Centre' zoning objective states the following: 'To protect, consolidate and facilitate the development of the City Centre commercial, retail, educational, leisure, residential, social and community uses and facilities.'

3.0 Planning History

No recent or relevant planning history relation to the appeal site.

4.0 Submission to the Local Authority

- 4.1. The appellant made a submission to the Local Authority seeking to have the lands removed from the final RZLT map on the following basis:
- The lands do not meet the 'in-scope' criteria.
 - Section 653B of the Taxes Consolidation Act 1997 intends to exempt commercial premises being rented for purposes which are subject to the payment of rates.
 - The premises, formerly used as a bookmakers was acquired by the owner with vacant possession. It is intended that it be released to another trade or business for which commercial rates should be applicable.

5.0 Determination by the Local Authority

- 5.1 The Local Authority determined that the lands satisfy the relevant criteria as set out in section 653B for the following reasons:

- In accordance with Section 653B(b)(ii), the land is included in the Limerick City and County Development Plan 2022-2028 and is zoned 'City Centre' for a mixture of uses.
- In accordance with Section 653B(c), it is reasonable to consider that the lands have access, or can be connected, to public infrastructure and facilities including roads, footpaths, public lighting, water supply, foul sewer drainage and surface water drainage and for which there is capacity available, sufficient to enable housing to be developed.
- In accordance with Section 653B(b)(d)(ii), it is reasonable to consider the commercial premises (referred to in Section 653B(d)(i)) is vacant or idle. Pending the occupancy and permanent use of the premises, the lands will be included in the Final RZLT Map for the Tax Year 2025, which is to be published on 31st January 2025.

6.0 The Appeal

6.1 Grounds of Appeal

The following points are made in support of the appeal:

- The building's historical and current use has been primarily commercial and was formerly a betting office.
- The unit has no attached land.
- There is no rear access to the unit and the installation of rear windows is precluded due to overlooking concerns.
- The mixed-use zoning does not specifically require residential use.
- The property is currently vacant but actively available for leasing.
- The property is subject to commercial rates which have been paid consistently. There are specific exclusions for properties utilised for commercial purposes and where rates are paid.
- The property was acquired by the appellant through his Small Self-Administered Pension Scheme which is subject to stringent regulatory guidelines (Chapter 19 of the Pensions Manual refers).

- Small Self-Administered Pension Schemes are prohibited from engaging in speculative property development, including conversion of commercial properties to residential use. If the land is part of a pension scheme and cannot be developed due to these regulations it does not meet the criteria for the RZLT. It is therefore considered that the land is affected by physical conditions that impact the ability to provide housing, on account of restrictions on development imposed by pension scheme regulations and therefore it may be excluded from the tax.

The following documents are appended to the appeal:

1. Determination Order issued by Limerick City and County Council & Report.
2. Commercial Rates Notice
3. Chapter 19 of the Pensions Manual
4. "Residential Zoned Land Tax - Your Questions Answered" Document
5. "Residential Zoned Land Tax - Guidelines for Planning Authorities June 2022"
6. Guidance on the Residential Zoned Land Tax Part 22A-01-01
7. Map of the property

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 1997 as amended, sets out the criteria for inclusion on the map, and states that the first consideration for inclusion 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 subject lands are zoned 'City Centre' and while this mixed-use zoning does not specifically require residential use, residential use is a permitted use under the zoning objective. Therefore, the lands are considered within the scope of section 653B(a)(ii).
- 7.3 The lands are within Limerick city and it is considered that they have access to or can be connected to public infrastructure and facilities, including roads and footpaths, public lighting, foul sewer drainage, surface water drainage and water supply necessary for dwellings to be developed and with sufficient service capacity for such development. No capacity reasons have been identified that would prevent the development of these lands for residential purposes.
- 7.4 Page 12 of the RZLT Guidelines set out that 'vacant or idle land' means land which, having regard only to development (within the meaning of the Act of 2000), is not required for, or integral to, the operation of a trade or profession being carried out on, or adjacent to, the land. Section 3.1.2 of the Guidelines relates to exclusions of particular lands from the map. In terms of determining whether lands are vacant or idle the Guidelines state the following:

Setting out the text in the legislation 'vacant or idle land' means land which, having regard only to development (within the meaning of the Act of 2000) which is not unauthorised development (within the meaning of the Act of 2000), is not required for, or integral to, the operation of a trade or profession being carried out on, or adjacent to, the land; the first step is to determine if the development on the land is required for or integral to a trade or profession being carried out on the land or adjacent to the land.

The appellant states the building on the land is presently vacant but is actively available for leasing. As such, it is clear that the land is vacant or idle. There is no trade or profession being carried out on the lands and as such, the land is vacant or idle having regard to the 'vacant or idle land' meaning set out in the RZLT Guidelines. I note that the report on file from the planning authority confirms that no rates are being paid for this vacant property. Having regard to the foregoing I

consider that the land cannot avail of the exclusion as set out under section 653B (c)(ii) of the Taxes Consolidation Act 1997, as amended.

- 7.3 Section 653AD provides that the applicant may demonstrate to the satisfaction of the local authority that the physical condition of the land would preclude housing development. The appellant considers that the land is affected by physical conditions impacting the ability to provide housing, given the restrictions on development imposed by pension scheme regulations and as such it may be excluded from the tax. I note that section 653(B)(c) of the legislation make provision for exclusion of lands from the map on the basis of physical condition including contamination or the presence of known archaeological or physical remains. Possible impacts on development arising from pension scheme rules do not in my view constitute physical or on-site conditions which preclude the development of housing.
- 7.4 Section 3.2.3 of the Guidelines (Residential Zoned Land Tax - Guidelines for Planning Authorities, June 2022) states the following:
- Matters which are unrelated to the criteria identified in section 653B such as planning permission, commencement on land in-scope, finance, or personal circumstances are not matters to be taken into account during consideration of submissions.*
- Section 3.3.2 of the Guidelines also confirms that An Bord Pleanála is restricted to considering whether the land meets the qualifying criteria set out in section 653B only. The remaining grounds of appeal include matters relating to access and site development constraints, the redevelopment of the lands and associated possible planning issues which may arise. Such matters are outside the qualifying criteria in section 653B; as such they cannot be considered in the appeal process. It is considered that such issues are detailed design matters which would normally be considered and addressed as part of the Development Management process and they are not for consideration as part of this appeal process.
- 7.5 Having regard to the foregoing I consider that the land should remain for inclusion on the final RZLT Map given the site is zoned for a mixture of uses including residential development, that it is vacant or idle and that it does not fall within the exemptions as set out under section 653B (c) (i) – (v) of the Taxes Consolidation Act 1997, as amended.

8.0 Recommendation

I consider that the lands identified as Parcel ID LKLA00002946 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 land identified as Parcel ID LKLA00002946 on the RZLT Final Map is zoned 'City Centre' and while this mixed-use zoning does not specifically require residential use, residential use is a permitted use under the zoning objective. The land is therefore considered to be within scope of Section 653B(a)(ii). The land is located within Limerick city 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 City Centre zoning objective that applies to these lands. The land is not affected in terms of its physical condition, by matters to a sufficient extent to preclude the provision of dwellings and, therefore, the land does not avail of the exemption under section 653B(c). No rates are being paid for the property; there is no trade or profession being carried out on the land and, as such, the land is vacant or idle. The land does not fall within the exemptions as set out under section 653B (c) (i) – (v) of the Taxes Consolidation Act 1997, as amended.

10.0 Recommended Draft Board Order

Taxes Consolidation Act 1997 as amended

Planning Authority: Limerick City and County Council

Local Authority Reference Number: LCC-C293-RZLT5-5

Appeal by John Moran 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 Limerick City and County Council on the 6th day of June 2024 in respect of the site described below.

Lands at: 32/33 Parnell Street, Limerick

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 Parcel ID LKLA00002946 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 land identified as Parcel ID LKLA00002946 on the RZLT Final Map is zoned 'City Centre' and while this mixed-use zoning does not specifically require residential use, residential use is a permitted use under the zoning objective. The land is therefore considered to be within scope of Section 653B(a)(ii). The land is located within Limerick city 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 City Centre zoning objective that applies to these lands. The land is not affected in terms of its physical condition, by matters to a sufficient extent to preclude the provision of dwellings and, therefore, the land does not avail of the exemption under section 653B(c). No rates are being paid for the property; there is no trade or profession being carried out on the land and, as such, the land is vacant or idle. The land does not fall within the exemptions as set out under section 653B (c) (i) – (v) of the Taxes Consolidation Act 1997, as amended.

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

23rd September 2024