



An
Bord
Pleanála

Inspector's Report ABP-320445-24

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

Location

New Road, Ennis, Co. Clare

Local Authority

Clare County Council.

Local Authority Reg. Ref.

24S1/003

Appellant

Chrissie Daly

Inspector

Fergal Ó Bric

1.0 Site Description

The appeal lands identified as 24S1/003 and Parcel ID number CELA0002120. The lands are stated to comprise an area of c. 0.6 hectares of land within the designated settlement boundary of Ennis, Co. Clare.

2.0 Zoning

The site is zoned MU1-Mixed use within the Ennis Settlement Map included in Volume 3a Ennis Municipal District of the Clare County Development Plan (CDP) 2023-2029. The following is set out within the Plan specifically in relation to these lands: This site is situated to the west of the Clare County Council building on New Road in Ennis and is ideally located to provide for office development or for uses associated with the nearby schools. The provision of pedestrian linkages from New Road to Francis Street via a footbridge across the River Fergus will greatly improve connectivity to the town centre. This site is partially within Flood Zones A, B and C. Less vulnerable uses should be located on the ground floor in Flood Zones A and B, with residual risks considered through a site specific flood risk assessment, which has regard to the information set out in the Strategic Flood Risk Assessment in Volume 10c of this plan.

A residential use is acceptable in principle on mixed use zoned lands as per the zoning matrix included within Appendix 2 of the current CDP.

3.0 Planning History

I am not aware of any planning history pertaining to the subject lands.

4.0 Submission to the Local Authority

- The lands adjoin the offices of Clare County Council with road frontage onto on New Road.
- The lands are specifically designated as MU1 within the Clare County Development Plan. designated for the provision of large-scale high-quality office accommodation.

- The site is ideally located to provide for office development or for uses associated with the nearby schools.
- The lands are clearly not identified for the provision of residential development.
- To include the lands on the final RZLT map would be in contravention of the current Clare Development Plan.

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 for the following reasons:

- 1 The land in question is included in the Clare County Development Plan 2023-2029 and is zoned for residential development or zoned for a mixture of uses, that includes residential development, 2. the land is serviced, or is reasonable to consider may have access to services.

6.0 **The Appeal**

6.1 **Grounds of Appeal**

- The lands are adjoining the offices of Clare County Council with road frontage onto on New Road.
- The lands do not satisfy the criteria as set out within Section 653B on the taxes Consolidation Act 1997.
- Public representatives informed the appellant that the subject lands were identified for the provision of a carpark to alleviate traffic congestion in the area.
- The site was identified within the previous Clare County Development Plan 2017-23 as MU1 for the provision of large-scale, high-quality office space.
- The lands are specifically designated as MU1 within the current Clare County Development Plan 2023-2029, designated for the provision of large-scale high-quality office accommodation.

- The site is ideally located to provide for office development or for uses associated with the nearby schools.
- The lands are clearly not identified for the provision of residential development.
- To include the lands on the final RZLT map would be in contravention of the current Clare Development Plan.

7.0 **Local Authority Submission**

The local authority made no comments in relation to this appeal.

8.0 **Assessment**

8.1 The comments raised in the appeal submission are noted. The lands identified for inclusion on the RZLT map are zoned MU1-Mixed use within the Ennis Settlement Map included in Volume 3a Ennis Municipal District of the Clare County Development Plan (CDP) 2023-2029. A residential use is acceptable in principle on mixed use zoned lands as per the zoning matrix included within Appendix 2 of the current CDP. The lands are considered to be vacant and idle, albeit there is a specific objective pertaining to the provision of an office development on the lands as per the MU1 specific objective within the current Clare County Development Plan. The local Authority determined that the lands are in scope and that they remain on the RZLT map. The Planning Authority set out that the lands are 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. Based on the information set out within the local authority report and the information within the appeal submission.

8.2 Section 653B of the Taxes Consolidation Act 1997, as amended clearly sets out that land in scope will be zoned for residential development or a mixture of uses including residential; be serviced or have access to servicing by water, wastewater, road, footpath and public lighting; and not be affected by contamination or significant archaeological remains which would preclude development taking place. Section 4.1.1 of the RZLT Guidelines sets out the following: iii) Services to be

considered of the guidelines state that *“in assessing whether land or landbanks are able to connect to services, Planning Authorities should take into account the following:- In the first instance, where the infrastructure is located adjoining, intersecting, at a boundary or corner of a landbank, in a nearby public road, or is connected to an existing development adjoining the landbank, the lands should be considered to be ‘connected’ or ‘able to connect’ and therefore are in-scope”*.

- 8.3 Section 4.1.1 ii) Review of land with planning permission of the guidelines states that *where development for housing or housing and a mix of other uses has been permitted on land which falls into the scope of the tax as set out within the legislation, then default presumption should be given to considering all such lands with permissions to be within scope....Significant works by the applicant to undertake the development which are a part of the plans and particulars lodged as a part of the permitted development should be given careful consideration in light of Section 4.1.1.(iii) of these Guidelines*.
- 8.4 The lands have direct road frontage onto New Road to the south and Dr. Daly’s Road to the west. The Local Authority state that there is a public footpath along both roads and street lighting adjacent to the lands. The Local Authority set out that there is access to the piped water services adjacent to the subject lands. The Local Authority acknowledges the existence of the MU1 objective pertaining to the lands which seeks to develop the lands for office development or other development associated with the nearby schools. The Local Authority state that the mixed-use zoned lands fall within scope as residential development is acceptable in principle on mixed use zoned lands as set out within the land use zoning matrix of the current Clare County Development Plan. I would concur with the stance of the local authority, given that a residential use is permissible in principle on MU1-mixed use zoned lands.
- 8.5 The Planning Authority within their report state that there is access to the piped sewer/storm and water networks along both New Road and Dr. Daly’s roads. The issue of capacity constraints has not been raised as an issue by either of the parties. As set out within Section 653B (b) of the Taxes Consolidation Act 1997, as amended, it is reasonable to consider that there is capacity in the wastewater

network to cater for development. The Uisce Eireann capacity register (latest version available dated June 2023) states that there is capacity available within the local watermains network and within the Ennis north wastewater treatment plant.

- 8.6 This site is partially within Flood Zones A, B and C as set out in the Strategic Flood Risk Assessment in Volume 10c of the current Clare County Development Plan. The Plan sets out that: Less vulnerable uses should be located on the ground floor in Flood Zones A and B, with residual risks considered through a site-specific flood risk assessment, which has regard to the information as set out in the Strategic Flood Risk Assessment in Volume 10c of the Development Plan. The risk of flooding would not necessarily preclude residential uses within the lands, especially within upper floors as part of a mixed-use development. The issue of flooding would be addressed in detail through the submission of a site specific flood risk assessment as part of the MU1 specific objective requirements and through the development management process. Section 3.3.2 of the RZLT Guidelines 2022 specifically sets out the following: The board is restricted to considering whether the lands meet the qualifying criteria as set out in Section 653B of the Taxes Consolidation Act 1997, as amended only.
- 8.7 The appellant states within her appeal submission that the lands have been mooted in the past for use as a car park and that there is a specific MU1 objective pertaining to the lands for the provision of an office development as per the provisions of the current Clare County Development Plan. I note that these matters are not included

within the criteria for exclusion from the RZLT map as set out within Section 653B (c) of the taxes Consolidation Act 1997, as amended.

8.8 Based on the information available, I am satisfied that the lands meet the criteria for inclusion within scope as set out in section 653B.

8.9 The appeal grounds do not raise any other matters that would apply to the subject lands and warrant their removal from the 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 final RZLT map.

10.0 **Reasons and Considerations**

The lands identified as 24S1/003 (Parcel ID number CELA0002120 located on MU1 mixed use zoned lands identified within the current Clare County Development Plan are considered in scope of Section 653B(b) of the Taxes Consolidation Act 1997, as amended. The lands are zoned MU1- mixed use within the current Clare County Development Plan where a residential use is permissible in principle. The lands are considered to be vacant and idle. The lands 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 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: Clare County Council

Local Authority Reference Number: 24S1/003

Appeal Chrissie Daly. 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 Clare County Council on the 27th day of June 2024 in respect of the site described below.

Lands at: New Road, Ennis Co. Clare

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 CELA0002120 and Local Authority reference number 24S1/003 should remain on the RZLT map.

Reasons and Considerations

The lands identified as 24S1/003 (Parcel ID number CELA0002120 located on MU1 mixed use zoned lands identified within the current Clare County Development Plan are considered in scope of Section 653B(b) of the Taxes Consolidation Act 1997, as amended. The lands are zoned MU1- mixed use within the current Clare County Development Plan where a residential use is permissible in principle. The lands are considered to be vacant and idle. The lands 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 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

19th day of September 2024