



An  
Bord  
Pleanála

## Inspector's Report ABP-320454-24

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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

### Location

Leverstown, Sixmilebridge,, Co. Clare

### Local Authority

Clare County Council.

### Local Authority Reg. Ref.

24S1/008

### Appellant(s)

Martin Cooney

### Inspector

Fergal Ó Bric

## **1.0 Site Description,**

- 1.1 The lands identified as PA reference number 24S1/008 and parcel id number CELA0002229 comprise a stated area 0.05 hectares of land within the settlement of Sixmilebridge, Co. Clare.
- 1.2 There is a concurrent RZLT appeal under ABP reference number 320444-24 in the name of Fergus Conney, pertaining to lands located immediately adjoining and east/north-east-of the subject lands.

## **2.0 Zoning**

- 2.1 Sixmilebridge is designated as a small town within the Settlement Strategy set out within the current Clare County Development Plan 2023-2029. The lands are zoned Mixed Use (MU1) in the Sixmilebridge Settlement Statement contained in Volume 3b Shannon Municipal District of the Clare County Development Plan 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.
- 2.2 The Limerick-Shannon Metropolitan Area Strategic Plan (MASP) area includes the settlement of Sixmilebridge.
- 2.3 The following is envisaged for the MU1 lands: North of Clonlara Road:

This prominent, sloping site is located across from the old market house, directly adjacent to the town centre and partially within the designated Architectural Conservation Area. It has potential to facilitate the expansion of the existing town centre area through the development of a mixed use residential/commercial/hotel scheme/carpark which respects the existing pattern of development in the town. It is considered that MU1, given its location within easy walking distance of the town centre, has the potential to accommodate carparking, subject to needs identified in the traffic surveys which will be carried out during the lifetime of this plan. Refer also to the Place Making and Regeneration section of this settlement plan. Vehicular access should be taken from Frederick Square through the existing access and from

the Clonlara Road, through a new access located near the southwest corner of the site. The existing walled pump at the southern boundary of the site shall be preserved. All proposals for development on this site shall be accompanied by a site-specific Flood Risk Assessment.

2.4 The following general objectives are set out within the settlement statement:

- To promote the consolidation of the town through brownfield reuse/redevelopment and to address vacancy and the under-utilisation of the existing building stock while also promoting compact growth within the identified land-use zoning to support existing services, and encourage the development of new services, whilst retaining its existing character and its historic core area;
- To deliver up to 30% of all new homes targeted for Sixmilebridge within the existing built-up footprint;

2.5 The centre of Sixmilebridge is designated as an Architectural Conservation Area. The subject lands are located on the eastern perimeter and within the ACA boundary.

2.6 Section 19.3-Land use zoning within the County Development Plan sets out the following: *Sufficient lands should be provided at appropriate locations in accordance with the population and housing targets as set out in the Core Strategy, to facilitate the envisaged land use requirements of the area during the lifetime of this Development Plan.*

### 3.0 **Planning History**

The relevant planning history is considered to include the following:

PA reference number 20/680, in 2021 Clare County Council granted planning permission to the current appellant for the development of two dwellings houses within the subject lands. It is stated that to date no works have commenced.

#### **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 RZLT map as he already has received planning permission from the Planning Authority for the development of two dwellings on the lands which will remain live up until November 2026. He states that he is presently in the process of acquiring funds to complete the development.
- 4.2 He also states that he is the third generation of his family to own these lands and that he wishes to pass the lands onto the next generation of his family.

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

- 5.1 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, and
  - 2- 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 appeal to the Board sets out a number of reasons behind him seeking to have his lands removed from the final RZLT map. These include that he already has received planning permission from the Planning Authority for the development of two dwellings on the lands which will remain live up until November 2026. He states that he is presently in the process of acquiring funds to commence the development. He states that one of the permitted dwellings would be for a family member and his young family who are presently priced out of the property market.

- 6.2 He also states that he is the third generation of his family to own these lands and that he wishes to pass the lands onto the next generation(s) of his family.

## **7.0 Local Authority Submission**

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

## **8.0 Assessment**

- 8.1 The lands are zoned Mixed Use (MU1) in the Sixmilebridge Settlement Statement contained in Volume 3b Shannon Municipal District of the Clare County Development Plan 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 appellant has stated that he is hoping to enact his planning permission but is awaiting funding to develop the two dwellings. The lands are considered to be vacant and idle, albeit there is an extant planning permission for the development of two dwellings within the lands. The Planning Authority determined that the site remain on the RZLT map. The Planning Authority set out that the site is located within a built-up area 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 Under Section 653B c) (ii) the question to be considered is it reasonable to consider that the land is vacant or idle. The appellant sets out within his appeal submission that he already has received planning permission from the Planning Authority for the development of two dwellings on the lands which will remain live up until November 2026. He states that he is presently in the process of acquiring funds to complete the development.
- 8.3 The legislation 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 set 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”*.

- 8.4 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*.
- 8.5 The Sixmilebridge Settlement Plan does not identify any watermain issues and states that the existing Wastewater Treatment Plant serving the town has significant spare capacity available to service the needs of the target population. The Local Authority (LA) references the Uisce Eireann capacity register in June 2023 where the subject lands are shaded green, which demonstrates that adequate water and wastewater capacity within the piped services networks is available to serve the subject lands. On this basis. As set out within Under Section 653B (b) of the Taxes Consolidation Act 1997, as amended, it is reasonable to consider that there is some capacity in the wastewater network to cater for development.
- 8.6 This is consistent with the guidelines Irish Water Pg. 26 which state that where “settlement capacity audit identifies a certain quantum of residential development availability in the treatment plants serving a settlement, all of the land which may be able to access the infrastructure should be considered in scope. Where development

takes place and capacity no longer remains, then the annual review of the map should reflect this, and lands may be removed from scope”.

- 8.7 This site is not located within any of the flood zones A, B or C. as per the information set out within the Strategic Flood Risk Assessment within Volume 10c of the County Development Plan. The MU1 specific objective that pertains to the lands sets out the following: All proposals for development on this site shall be accompanied by a site-specific Flood Risk Assessment. Therefore, the issue of flooding would be addressed in detail as part of 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.
- 8.8 I also note the local authority state that lighting exists along the R471 and that there is capacity for a footpath to be provided along the street frontage (R471) of the subject lands from which the lands can be accessed.
- 8.9 Based on the information available, I am satisfied that the lands do not meet the criteria for exclusion as set out within Section 653B of the Taxes Consolidation Act 1997, as amended.
- 8.10 The appeal grounds do not raise any exclusions that would apply to the subject lands and warrant its 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 map.

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

The lands identified as 24S1/008 and parcel id number CELA0002229 are located on mixed use zoned lands identified within the current Clare County Development Plan are considered in scope of Section 653B of the Taxes

Consolidation Act 1997, as amended. The site is part of an established urban area, designated as a small town within the current County Development Plan. A residential use is permissible in principle under the MU-mixed use land use zoning pertaining to the subject lands. The lands are considered to be vacant and idle with services available and no capacity or other reasons have been identified that would prevent the development of these lands for residential purposes. The site does satisfy the criterion for inclusion on the map set out in section 653B(c) of the Taxes Consolidation Act 1997, as amended. The site is considered in scope for the purposes of the final RZLT map.

## **. 11.0 Recommended Draft Board Order**

**Taxes Consolidation Act 1997 as amended.**

**Planning Authority:** Clare County Council

**Local Authority Reference Number:** 24S1/008

**Appeal** Martin Cooney, 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 27<sup>th</sup> day of June 2024 in respect of the site described below.

**Lands at:** Leverstown, Sixmilebridge, 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 CELA002229 under 24S1/008 should remain on the RZLT map.

### **Reasons and Considerations**



The lands identified as 24S1/008 and parcel id number CELA0002229 are located on mixed use zoned lands identified within the current Clare County Development Plan are considered in scope of Section 653B of the Taxes Consolidation Act 1997, as amended. The site is part of an established urban area, designated as a small town within the current County Development Plan. A residential use is permissible in principle under the MU-mixed use land use zoning pertaining to the subject lands. The lands are considered to be vacant and idle with services available and no capacity or other reasons have been identified that would prevent the development of these lands for residential purposes. The site does satisfy the criterion for inclusion on the map set out in section 653B(c) of the Taxes Consolidation Act 1997, as amended. The site is considered in scope for the purposes of the final RZLT map.

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

19th day of September 2024