



An
Bord
Pleanála

Inspector's Report ABP-320458-24

Type of Appeal

Appeal under section 653BJ(1) of the Taxes Consolidation Act 1997, as amended, against the inclusion of land on the Residential Zoned Land Tax Map.

Location

Lands at Termonfeckin, Drogheda, Co. Louth.

Local Authority

Louth County Council

Planning Authority Reg. Ref.

LH-C58-5

Appellant

Jim Reilly

Inspector

Sinéad O'Connor

1.0 Site Location and Description

The lands identified as lands at Termonfeckin, Drogheda, Co. Louth (Parcel ID LHLA33557) are located near the town centre on the northern side of Big Street (R166). The lands accommodate a residential dwelling and agricultural shed at the west of the site and agricultural lands under grass in the east of the site. The lands are surrounded on all sides by residential development.

2.0 Zoning and Other Provisions

The relevant plan is the Louth County Development Plan 2021-2027.

- As per Map 3.4, the site is zoned A1 Existing Residential - To protect and enhance the amenity and character of existing residential communities.
- Residential is listed as a Generally Permitted Use under Section 13.21.5 of the Plan.

3.0 Planning History

There is no recent or relevant planning history at this site.

4.0 Submission to the Local Authority

The appellants made a submission to the local authority seeking to have their land removed from the final map on the basis that the lands include a dwelling that is subject to Local Property Tax, the lands are in agricultural use, the existing entrance is used for the farming business and there is no other entrance to the site, the site is critical for the ongoing operation of the farm business, residential development at the site would land lock the farmyard and sheds, and conflicts between residential development and farm machinery would occur at the site entrance.

5.0 Determination by the Local Authority

The local authority determined that:

It is considered that the land identified within your submission do meet the criteria for inclusion on the maps as set out in Sections 653B of the Finance Act 2021. This is based on the fact that the lands are considered to have access to road, water supply and foul sewer drainage infrastructure, as well as meeting all other criteria set out in Section 653B of the Finance Act 2021. It should be noted that RZLT will not be liable for the lands associated with the dwelling house where LPT is paid.

We therefore wish to advise you that Land Parcel ID LHLA 33557 will be included within the Final Residential Zoned Land Tax Map due be published on the 1st of February 2025. Part of the land in this Parcel ID is in agricultural use, however the use of land for agricultural purposes is not considered to be exempted from the scope of the tax.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are summarised as follows:

- The existing farmyard is directly connected to the appellant's dwelling.
- The lands are in agricultural use and the shed and land are used for the storage for farm machinery.
- The existing entrance is the only access to the farmyard and land.
- Residential development at the site would landlock the farmyard.
- There are potential for conflicts between residential development and farm machinery at the site entrance.
- The farmyard is critical for the ongoing operation of the farm business.

7.0 Assessment

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”.

The appeal submission has raised grounds that are outside of the scope of the Boards assessment including land use zoning. As per section 653J of the Act, the Boards role is to review the LA determination, which is based solely on the criteria set out in Section 653B of the Act. The legislation does not give the Board any role in determining land use zoning.

The site is zoned A1 Existing Residential under the Development Plan and, therefore, meets the criteria under Section 653B(a) of the Act.

The appellant states that the existing access to the lands is the primary entrance to the farmyard and is required for the operation of the agricultural business. The lands have 2 no. existing entrances from Big Street (R166), one to serve the residential dwelling and the other to serve the agricultural lands. There are no physical constraints at the site that would prevent access to the site from the public road. On the basis that the lands are connected to the road network, I consider that the site meets the criteria under Section 653B(b) of the Act.

The site is surrounded by residential development and immediately bounds the public road, therefore, it is reasonable to consider that the site is able to connect to existing water services. From the UE capacity registers, there does not appear to be a WWTP in Termonfeckin and the closest facility is in Drogheda. The Uisce Éireann (UE) Wastewater Treatment Capacity Register published June 2023 (accessed 16 September 2024) indicates that there is spare capacity available at the Drogheda WWTP. The UE 10-Year Water Supply Capacity Register Published June 2023 (accessed 16 September 2024) indicates that there is capacity available at the South Louth & East Meath Water Resource Zone however, Level of Service (LoS) improvements are required to meet 2032 population targets. Page 8 of the RZLT

Guidelines sets out that a need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist. Drawing from the above, I consider that there is sufficient capacity in the water network to serve the site.

There are no physical conditions or constraints at the site that would preclude the provision of dwellings, therefore, the site meets the criteria for inclusion of the RZLT map under Section 653B(c) of the Act.

The Grounds of Appeal state that the site is not vacant or idle and is integral to the appellant's agricultural business.

As per Section 653B(i), where a site is zoned primarily for residential use, it is only excluded from the RZLT map where the trade or profession being undertaken at the site is subject to commercial rates. I note that page 11 of the Residential Zoned Land Tax - Guidelines for Planning Authorities June 2022 (RZLT Guidelines) states that *"Use of land for agricultural or horticultural purposes are not considered to be exempted from scope as they are not subject to rates"*. As agriculture is not subject to commercial rates, I do not consider that the site meets the criteria for exclusion under Section 653B(i) of the Taxes Consolidation Act 1997, as amended (the Act).

Drawing from the foregoing, I consider that the site meets the criteria for inclusion on the RZLT map under Section 653B of the Act.

8.0 Recommendation

Having regard to the foregoing, I consider that the lands identified as lands at Termonfeckin, Drogheda, Co. Louth (Parcel ID LHLA33557) 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. I recommend that the determination of the local authority be confirmed, and the lands retained on the RZLT 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 Authority 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 lands at Termonfeckin, Drogheda, Co. Louth (Parcel ID LHLA33557) are located on lands zoned A1 Existing Residential and are therefore considered in scope of section 653B(a). The lands are currently accessed from the R166 and it is reasonable to consider that the site is able to connect to services and facilities from this public road or adjoining residential developments. The UE capacity registers accessed 17 September 2024 indicate that there is capacity to serve the site. In this way, the site meets the criteria under Section 653B(b). No physical characteristics 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. The site is in residential and agricultural use and does not meet the criteria for exclusion from the map under Section 653B(i).

10.0 Recommended Draft Board Order

Taxes Consolidation Act 1997 as amended

Planning Authority: Louth County Council

Local Authority Reference Number: LH-C58-5

Appeal by Jim Reilly 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 Louth County Council on the 28 day of June 2024 in respect of the site described below.

Lands at: Termonfeckin, Drogheda, Co. Louth.

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 lands at Termonfeckin, Drogheda, Co. Louth. (Parcel ID LHLA33557) 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 Authority 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 lands at Termonfeckin, Drogheda, Co. Louth (Parcel ID LHLA33557) are located on lands zoned A1 Existing Residential and are therefore considered in scope of section 653B(a). The lands are currently accessed from the R166 and it is reasonable to consider that the site is able to connect to services and facilities from this public road or adjoining residential developments. The UE capacity registers accessed 17 September 2024 indicate that there is capacity to serve the site. In this way, the site meets the criteria under Section 653B(b). No physical characteristics 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. The site is in residential and agricultural use and does not meet the criteria for exclusion from the map under Section 653B(i).

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Sinéad O'Connor

Planning Inspector

Date: 17 September 2024