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## Inspector's Report ABP-320490-24

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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**

Main Street, Kilnaleck, Co. Cavan  
A82K2F6

**Planning Authority**

Cavan County Council

**Planning Authority Reg. Ref.**

RZLT 2024

**Appellant(s)**

Derek McCabe

**Inspector**

John Duffy

## **1.0 Site Location and Description**

- 1.1. The subject lands accommodate an end of terrace two storey residential property located at Main Street, Kilnaleck, Co. Cavan. Part of Land Parcel ID CNLA00000062 on the RZLT Final Map refers.

## **2.0 Zoning**

- 2.1. The subject land is zoned 'Town Core' in the Cavan County Development Plan 2022-2028, with the zoning objective to 'Protect and enhance the special physical and social character of the town and village core while providing and/or improving town/village centre facilities.' Residential development is permitted within this zoning objective.

## **3.0 Planning History**

No recent planning history

## **4.0 Submission to the Local Authority**

- 4.1. The appellant made a submission to the Local Authority seeking to have the subject land removed from the RZLT map given that the site accommodates a residential property with a rear yard and that it does not include an expanse of land suitable for a residential development. The submission includes a copy of a notification dated 28<sup>th</sup> April 2022 from the appellant to the Local Authority outlining works to change the use of the property from a vacant commercial unit to a residential unit and also the Local Authority's response of 29<sup>th</sup> June 2022.

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

- 5.1. The Local Authority determined that the site is in scope. It is the opinion of the Local Authority that the property is not in use and it is therefore classified as vacant or idle.

## **6.0 The Appeal**

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

The following points are made in support of the appeal:

- The property is a residential property. A change of use from a vacant commercial property to a residential unit was executed under the Planning and Development Act (Exempted Development) Regulations 2022 (S.I. 75 of 2022 refers). The Local Authority was notified accordingly on 28<sup>th</sup> April 2022 and it responded by way of letter dated 29<sup>th</sup> June 2022.
- The property is devoid of any garden space and has the benefit of a very small yard only.
- The land accommodates the residential unit; there is no expanse of land which could accommodate residential development.
- The property is subject to the Local Property Tax (LPT) and such payment has been made to the Revenue Commissioners.
- In June 2024 there was a water leak in the property and the tenant was rehoused pending the insurance claim and repair work. The Council's report incorrectly stated that the property was vacant.
- The title to the property is in question; it is the applicant's advice that a section of the property is registered to Cavan County Council. In this regard the applicant refers to an attached map from Land Registry.

The following documents are appended to the appeal:

- A copy of the Notification of the Local Authority's RZLT Determination dated 27<sup>th</sup> June 2024
- A copy of the Local Authority's RZLT Assessment.

- A copy of a notice dated 22<sup>nd</sup> April 2022 to the Local Authority from the appellant outlining works to change the use of the subject property from a vacant commercial unit to a residential unit.
- A copy of the Local Authority's response to aforementioned notification dated 29<sup>th</sup> June 2022.
- A partial extract from a folio map relating to the lands.
- A partial copy of a LPT bill.
- A copy of the appellant's submission to the Local Authority relating to RZLT.

## 7.0 Assessment

- 7.1. The comments raised in the appeal submission are noted. The site identified for inclusion on the RZLT map is zoned 'Town Core' where a mixture of uses are permissible, including residential use, and the Local Authority determined that the site remain on the RZLT map. The site is within Kilnaleck Town Centre with services available and no capacity reasons have been identified that would prevent the development of the land for residential purposes. The site does satisfy the criteria for inclusion on the map set out in section 653B (b) of the Taxes Consolidation Act 1997, as amended.
- 7.2. The Local Authority is of the opinion that the lands are not in active use and that they are vacant or idle. In this regard, I note the photographs of the interior of the property included on the file. Based on these images and having regard to the appeal submission, I do not consider it has been demonstrated that the subject lands are vacant or idle. As such, I consider that the lands do not fall within the scope of the RZLT.
- 7.3. I note Section 3.2.3 of the Guidelines (Residential Zoned Land Tax - Guidelines for Planning Authorities, June 2022) which states that:

*'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. Furthermore the size of the landholding, ownership of the land by*

*private, public or semi-state bodies, lack of knowledge of ownership or transfer of ownership should not be considered.'*

The grounds of appeal, specifically issues relating to the size of the landholding on the RZLT map, planning issues and matters relating to ownership are not matters which fall within the criteria for exclusion from the RZLT map as per Section 653B of the Act.

- 7.4 The appeal grounds state that the property is subject to Local Property Tax and that payment has been made to the Revenue Commissioners. Attached to the appeal is a partial copy of a bill for LPT however this does not provide definitive evidence that LPT has been paid in respect of the subject property. Existing residential property may appear on local authority maps prepared for the purposes of RZLT. Nonetheless, where such property is liable to LPT it is excluded from the scope of the tax.

## **8.0 Recommendation**

- 8.1. Having regard to the foregoing, I consider that the lands identified as part of Land Parcel ID CNLA00000062 on the RZLT Final Map do not meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, on the basis that it has not been demonstrated that the subject lands are vacant or idle. Based on the documentation submitted the lands are in residential use. Therefore, I recommend that the determination of the Local Authority is set aside and that the appeal is allowed.

## **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 lands identified as part of Land Parcel ID CNLA00000062 on the RZLT Final Map zoned Town Core are considered to be outside the scope of Section 653B. Based on the documentation submitted the lands are in residential use and as such they are not considered to be vacant or idle.

## 10.0 Recommended Draft Board Order

**Taxes Consolidation Act 1997 as amended**

**Planning Authority: Cavan County Council**

**Local Authority Reference Number: RZLT 2024**

**Appeal** by Derek McCabe 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 Cavan County Council on the 26<sup>th</sup> day of June 2024 in respect of the site described below.

**Lands at:** Main Street, Kilnaleck, Co. Cavan

### **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 set aside the determination of the local authority and allow the appeal in relation to the land identified as part of Parcel ID CNLA00000062.

### **Reasons and Considerations**

The lands identified as part of Land Parcel ID CNLA00000062 on the RZLT Final Map zoned Town Core are considered to be outside the scope of Section 653B. Based on the documentation submitted the lands are in residential use and as such they are not considered to be vacant or idle.

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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John Duffy  
Planning Inspector

19<sup>th</sup> September 2024