



An
Coimisiún
Pleanála

Inspector's Report ABP-323214-25

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	Lands at Ballycasheen, Killarney, Co. Kerry
Local Authority	Kerry County Council.
Local Authority Reg. Ref.	KE-C40-RZLT-20.
Appellant	Patrick and Gene Cronin.
Inspector	Fergal Ó Bric.

1.0 Site location and Description

The appeal lands identified as KE-C40-RZLT-20 (land parcel ID KY0000000480) with a stated area of c.0.21 hectares and are located on the Cork Road, Ballycasheen, Killarney, Co. Kerry.

2.0 Zoning and Other Provisions

Volume 2 of the Kerry County Development Plan 2022-2028 contains the Killarney Town Development Plan.

This plan sets out the policies and objectives for the future development of the towns of Tralee, Killarney, and Listowel, including compliance with the core strategy for the County.

Zoning Maps for Tralee, Killarney & Listowel are included in Volume 2 of the Kerry County Development Plan 2022-2028. As per Table 3.7, the Zoned Land Required, has been determined based on the Settlement Capacity Audit contained in Volume 2 for these settlements. Residential lands in Tralee and Killarney are phased in order to meet the housing targets of these settlements allowing for the contribution of brownfield/ infill sites and to reflect the tiered approach to zoning.

Killarney is identified as a key town within the Kerry County Settlement Strategy.

The subject lands are zoned R1 New/Proposed Residential. The lands are identified as KE 15/16/17 and allocated Tier 2 on the Tier phasing map which shows Tier 1 and Tier 2 lands in Killarney as part to the Settlement Capacity Audit (Vol 2, Section 5 within the Development Plan)

Tier 2 'serviceable zoned lands':

This zoning comprises lands that are not currently sufficiently serviced to support new development but have potential to become fully serviced within the life of the plan i.e. the lands are currently constrained due to the need to deliver some or all development services required to support new development, i.e. road or footpath access including lighting, foul sewer drainage, surface water drainage, water supply and/or additional service capacity.

- These lands may be positioned within the existing built-up footprint of a settlement, or contiguous to existing developed lands or to tier 1 zoned lands, where required to fulfil the spatially sequential approach to the location of the new development within the identified settlement.
- The potential for delivery of the required services and/or capacity to support new development must be identified and specific details provided by the planning authority at the time of publication of both the draft and final development or area plan.

3.0 Planning History

PA reference number KE-C6-RZLT-7, in 2023 Kerry County Council determined that the lands should be included within the RZLT map. ABP reference 316459-23, in 2023, the Board confirmed the determination of the Planning Authority and directed the local authority to retain the lands identified as land parcel ID number KY0000000480 under KE-C6-RZLT-7 on the RZLT map.

PA reference number 12/203928, in 2012, Kerry County Council refused -planning permission on the subject lands for the development of two industrial warehouse units.

PA reference number 05/204452, in 2005, Kerry County Council refused planning permission on the subject lands for a dwelling house.

4.0 Submission to the Local Authority

The appellants made a submission to the local authority seeking that their land be excluded on the basis that they wish to have their lands rezoned for commercial/industry/enterprise/economic development purposes. The appellants stated that these alternative land use zonings would be more appropriate at this location which are remote from residential services and amenities. Mr Patrich Cronin was refused planning permission by the Board on these lands in 2005 for the construction of a dwelling due to the unsuitability of the site for residential development and issues regarding road safety. Notwithstanding the proposals to upgrade the Cork Road at the Ballycasheen junction, the subject lands would be unsuitable for residential development due to traffic volumes a residential development would generate directly accessing onto the N22 and the excessive noise such traffic volumes would generate. The lands would be suitable for commercial/industrial/enterprise/economic development uses being located on the perimeter of the town, similar to other commercial developments of this nature.

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 or the following reason:

1. The land in question is included in a development plan and is zoned for residential development, 2. the land is serviced, or is reasonable to consider may have access to services and 3. the land is not affected in terms of physical condition, by matters to a sufficient extent to preclude the provision of dwellings, including contamination or the presence of archaeological or historic remains.

6.0 The Appeal

6.1 Grounds of Appeal

The grounds of appeal are summarised as follows:

- The appellants are seeking that their lands be excluded from the final RZLT map on the basis that they wish to have their lands rezoned for commercial/industrial/enterprise/economic development purposes.
- Commercial/enterprise zonings would be more appropriate at this location which are remote from residential services and amenities.
- Mr Patrich Cronin was refused planning permission by the Board on these lands in 2005 for the construction of a dwelling due to the unsuitability of the site for residential development and issues regarding road safety.
- Notwithstanding the proposed upgrade of the Cork Road/Ballycasheen junction, where traffic lights would be introduced, the subject lands would be unsuitable for residential development due to the volume of traffic in the area associated with the N22 and noise generated from such traffic.
- The lands would be suitable for commercial/industrial/enterprise/economic development uses being located on the perimeter of the town similar to other commercial developments of this nature.

7.0 Local Authority Submission

- The Local Authority states that the appeal relates to the inclusion of the subject lands on the RZLT draft map,
- All of the planning issues relating to the submission are dealt within the Planner's Report.
- The content of the appeal does not raise any additional points that are required to be addressed by the Planning Authority.

8.0 **Assessment**

The grounds of appeal seek to have the lands removed from the RZLT map on the basis that they wish to have the lands rezoned for commercial/industry and/or economic development purposes.

Section 653B of the Taxes Consolidation Act 1997 as amended, sets out the criteria for inclusion in the map, and states that the first consideration for inclusion in the map is land which in subsection (a) 'is included in a development plan' or 'local area plan' zoned (i) solely or primarily for residential use,(ii) or for a mixture of uses including residential. The appeal lands are zoned R1 and, therefore, are within scope of section 653B(a). I note that the lands are identified as Tier 2 in the tiered approach to residential zoned lands within the County Development Plan. The local authority determined the lands to be in scope.

Tier 2 comprises lands that are not currently sufficiently serviced to support new development but have potential to become fully serviced within the life of the plan as such residential development is not precluded during the lifetime of the plan subject to certain criteria being met. I consider, therefore, the lands are within scope of section 653B(a).

I note from the correspondence submitted by Uisce Eireann under PA reference number KE-C6-RZLT-7 which confirmed that water mains and a foul sewer exist within the adjacent residential development, Whitebridge Manor. UE stated that a watermain is accessible c.120m away via a road crossing of the N22, south-west of the subject lands.

I have consulted the Uisce Eireann (UE) capacity register and as of August 2025, it is green for wastewater indicating that there is wastewater capacity available and that there is also capacity available in the public water mains supply, albeit there is a level of service (LoS) improvement required for water supply. Kerry County Council determined that the lands are in scope.

The provision of infrastructure to the subject lands is considered to be in the control of Kerry County Council or Uisce Eireann and the local authority determined that that the subject lands are in scope and, therefore, retained within the RZLT Final Map. For the purposes of falling within the scope of RZLT, among the criteria is whether it 'is reasonable to consider'. In my opinion it is reasonable to consider that the provision of access, footpaths, public lighting, surface water drainage, sewer and water connections may be provided on lands under the control of the landowner and/or the Local Authority. Consideration has also been had to the provisions of the Residential Zoned Land Tax- Guidelines for Planning Authorities June 2022. On this basis, the land, therefore, does satisfy the criteria cited in section 653B(b) of the Taxes Consolidation Act 1997, as amended.

The Planning Authority noted that the subject lands have direct access onto the N22 within the 60 kilometre per hour speed control zone. Having regard to the provisions of the Spatial Planning and National Roads Guidelines, specifically in relation to transitional zones-where direct access to a national route is provided for within a 60km/h zone and objective 14-31 within the current Kerry County Development Plan (KCDP) 2022-28 which also provides for access to national routes within 60 km/h zones subject to the submission of a Road Safety Audit (RSA) and that proposals are in accordance with the TII publication; The Treatment of Transition Zones to Towns and Villages on National Roads DN-GEO-03084 (2018), and considered the lands to be in scope.

In addition to the above, the Commission will note the provisions contained in section 114(b) of the Finance Act 2024, which amends section 653I of the Taxes Consolidation Act 1997 provided a mechanism for landowners to seek to amend the zoning of lands which are subject to existing economic activity, by virtue of requests to amend the zoning, submitted to the relevant local authority in accordance with section 653I of the Taxes Consolidation Act 1997 (as amended). The requests were to be made to the relevant local authority between 1 February and 1 April 2025, inclusive, with a requirement for the local authority to provide written acknowledgement of the request to the landowner by 30 April 2025. The intention of this legislation was to provide a recourse for landowners to identify land needed for a particular use type including agriculture and for the LA to evaluate the submission and review the zoning accordingly with a view to varying the relevant Plan in accordance with Section 13 of the Planning and Development Act, where a rezoning would be considered appropriate. It appears the applicants in this instance made request to the local authority (correspondence from the appellants to the Local Authority dated 25th March 2025). The Local authority acknowledged the receipt of the rezoning submission in correspondence dated the 7th day of April 2025. The R1 New/Proposed Residential town zoning remains the defined land use zoning for these lands. On this basis, it is reasonable to assume that the lands are in-scope.

Having regard to the foregoing I consider that the lands zoned residential identified as KE-C40-RZLT-20 meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, and that there are no matters arising that warrant exclusion from the map.

9.0 Conclusion & Recommendation

The lands identified as KE-C40-RZLT-20 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. The lands are accessible and there is no reason why they cannot be developed in principle in accordance with the residential zoning objective that applies to these lands. The lands identified as KE-C40-RZLT-20 meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, and that there are no matters arising that warrant exclusion from the map. I recommend that the Coimisiún confirm the determination of the local authority and direct the local authority to retain the lands identified as KE-C40-RZLT-20 on the map.

10.0 Reasons and Consideration

Having regard to the determination by the local authority, the submitted grounds of appeal, the provisions of the section 653B of the Taxes Consolidation Act 1997, as amended, and the advice in section 3.1.2 of the 2022 Guidelines for Planning Authorities on the Residential Zoned Land Tax, the lands identified as land parcel ID KY0000000480 under KE-C40-RZLT-20 should remain on the RZLT map.

The lands are zoned residential within an established urban area with services are available and no capacity or other reasons have been identified that would prevent the development of these lands in principle for residential purposes. The lands are accessible and there is no reason why they cannot be developed in principle in accordance with the residential zoning objective that applies to these lands. meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, and that there are no matters arising that warrant exclusion from the map.

Recommended Draft Coimisiún Order

Taxes Consolidation Act 1997 as amended.

Planning Authority: Kerry County Council

Local Authority Reference Number: KE-C40-RZLT-20

Appeal by Patrick and Gene Cronin 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 Kerry County Council on the 27th day of June 2025 in respect of the site described below.

Lands at: Ballycasheen, Killarney, Co. Kerry

Decision

The Coimisiún 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 Coimisiún confirms the determination of the local authority and direct the Local Authority to retain the lands identified as Parcel ID number KY0000000480 under KE-C40-RZLT-20 should remain on the RZLT map.

Reasons and Considerations.

The lands identified as KE-C40-RZLT-020 (Parcel ID number KY0000000480) located on residentially zoned lands identified within the current Killarney Town Development Plan are considered in scope of Section 653B(b) of the Taxes Consolidation Act 1997. as amended. The lands are located within an established urban area with evidence from the Uisce Eireann services capacity register that services are 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
15th day of October 2025