



An
Coimisiún
Pleanála

Inspector's Report ACP-323241-25.

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	Ballymaley, Ennis, Co. Clare
Local Authority	Clare County Council.
Local Authority Reg. Ref.	25SD1/003
Appellant	Buttermarket Developments Ltd.
Inspector	Fergal Ó Bric

1.0 Site Location and Description

The appeal lands identified as 25SD1/003 and Parcel ID number CELA0001485 (part of). The lands comprise c. 1.66 hectares of land within the designated settlement boundary of Ennis, Co. Clare.

2.0 Zoning and Other Provisions

- 2.1. The lands are zoned Low Density Residential LDR4 in the Ennis Settlement Map included in Volume 3a Ennis Municipal District of the Clare County Development Plan 2023-2029.
- 2.2. Section 19.3-Land use zoning within the 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

3.1. On Site

P. A. Reg. Ref. 23/271: In August 2023 the Planning Authority decision, (Clare County Council) granted planning permission for the development of 20 detached dwellings. It is stated that no works have commenced on site to date.

I note that the Local Authority state that the subject lands have been included on the RZLT maps since the publication of the first draft RZLT map in 2022. I am not aware of a planning appeal having been received in relation to the inclusion of the subject lands on the historic RZLT maps.

Adjacent lands-lands immediately contiguous to and north of the subject lands

PA reference number 25SD1/004, in 2025 Clare County Council determined that the lands are in scope and should be included within the RZLT map. ABP reference 323330-25, is presently under consideration by An Coimisiún Pleanála.

4.0 Submission to the Local Authority

The appellants raised the following issues:

- There is a live planning permission on the subject lands for the development of twenty detached dwelling units.
- Works have not commenced on site as the landowner is seeking to finalise the provision of social housing under Part V of the Planning and Development Act 2000, as amended.
- Until this agreement is finalised, no works can commence on site.
- The Annual Draft map as published on the Local Authority website does not clearly illustrate that the lands are subject to the RZLT. The legend on the map indicates that the RZLT lands are shaded yellow and outlined in pink are proposed to be included within the RZLT map.
- The landowners believed the lands would not be included within the RZLT map as their lands are not outlined in pink.

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. Service means having access to the necessary public infrastructure and facilities including road and footpath access, public lighting, foul sewer drainage, surface water drainage and water supply necessary for dwellings to be developed and for which there is service capacity available sufficient to enable housing to be developed.

6.0 The Appeal

6.1 Grounds of Appeal

- The lands should not be included within the RZLT map as there is a live planning permission on the subject lands for the development of twenty detached dwelling units. The owners are working towards commencing development on site as soon as possible.
- Condition number 2 of planning reference 23/271 requires a Part V agreement to be reached prior to the commencement of works within the site.
- Commencement of works has been delayed until an agreement is reached with the Local Authority regarding compliance with Part V of the Planning and Development Act 2000, as amended regarding the provision of Social and Affordable housing.
- Discussions with the Housing Department within the LA have been ongoing since October 2024.
- The appellants consider that it is not reasonable to apply the RZLT to the subject lands when the site owners are making progress in bringing the site to development stage.

7.0 Local Authority submission

The Local Authority stated that that they did not wish to make any additional comments or observations to those already made in the documentation submitted to the Coimisiún.

8.0 Assessment

8.1 Under Section 653J of the Taxes Consolidation Act 1997 (as amended) the role of the Coimisiún in the current appeal is to review the determination of the local authority under section 653E of the Act which is based on the application of the relevant criteria set out in section 653B of the Act for inclusion on the RZLT map. 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 Comisiún 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 Comisiún is restricted to considering whether the lands meet the qualifying criteria set out in Section 653B of the Taxes Consolidation Act 1997 (as amended) only”.

8.2 Section 653B of the Taxes Consolidation Act 1997 as amended, sets out the criteria for inclusion on the RZLT 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 residential therefore are within scope of section 653B(a).

8.3 The comments raised in the appeal submission are noted. The lands identified for inclusion on the RZLT map are zoned Residential and Low Density Residential LDR14 in the Ennis Settlement Map included in Volume 3a Ennis Municipal District of the Clare County Development Plan 2023-2029. The local Authority determined that the lands are in scope and that they remain on the RZLT map. The site is 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.

8.4 The legislation within Section 653B(a) 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.

8.5 Section 4.1.1 ii) of the RZLT Guidelines sets out the following: ‘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 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.

8.6 Of relevance, I note that the site has been the subject of a grant of planning permission by the Local Authority under planning reference 23/271. Permission was granted to Buttermarket Developments Limited on 18/08/2023 for the construction of twenty detached residential units. I have reviewed the conditions attached to this grant of planning permission and note there is no specific condition relating to wastewater upgrades or constraints that would preclude development coming forward on the site.

8.7 I note that the appellants have raised the issue within their appeal submission in relation to condition no 2 of 23/2721 and the requirement to reach an agreement regarding Part V of the Planning and Development Act 2000, as amended. This is not included as an exception for excluding the lands within Section 653B(iii) of the Taxes Consolidation Act 1997 as amended, and, therefore, I consider that this is not a valid reason for deeming the lands 'out of scope' as per the provisions of Section 653B(c) of the Taxes Consolidation Act, 1997.

8.8 I note from an examination of the Uisce Éireann capacity registers (published August 2025) [Clare | Wastewater Treatment Capacity Register | Uisce Éireann \(formerly Irish Water\)](#) confirms that the subject lands are green for both water supply and wastewater treatment, which indicates no capacity issues for either water supply or wastewater. I note that the water supply is subject to a level of service (LoS) improvement works. On

this basis, it is reasonable to consider that there is some capacity in the wastewater network to cater for development.

8.9 I also note that the local authority reference that a public footpath exists along the local road (L4162) located to the west of the subject lands.

8.10 Based on the information available I am satisfied that the lands do not meet the criteria for exclusion set out in section 653B (iii) of the Taxes Consolidation Act 1997 as amended

8.11 The appeal grounds do not raise any other matters 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

9.1 I recommend that the Coimisiún 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

10.1 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.

10.2 The lands identified as 24SD1/003 (Parcel ID number CELA0001485 -part of) located on residentially 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 lands are located on residentially zoned lands within an established urban area with evidence from Uisce Eireann that services are available, have the benefit of an extant planning permission 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 Coimisiún Order

Taxes Consolidation Act 1997 as amended.

Planning Authority: Clare County Council

Local Authority Reference Number: 24SD1/003

Appeal Buttermarket Developments Ltd. 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 30th day of June 2025 in respect of the site described below.

Lands at: Ballymaley, Ennis Co. Clare

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 CELA0001485 (part of). under 24SD1/003 should remain on the RZLT 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 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 24SD1/003 (Parcel ID number CELA0001485 -part of) located on residentially zoned lands identified within the current Clare County Development Plan are considered in scope of Section 653B(a) of the Taxes Consolidation Act 1997. as amended. The lands are located within an established urban area with evidence from Uisce Eireann that services are available, with the benefit of an extant planning permission 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

22nd day of October 2025