



An
Coimisiún
Pleanála

Inspector's Report ACP-323320-25

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 Cleeny, Killarney, Co. Kerry.
Local Authority	Kerry County Council.
Local Authority Reg. Ref.	KE-C40-RZLT-19.
Appellant	Michael O'Shea.
Inspector	Fergal Ó Bric.

1.0 Site Description

The appeal lands are identified as KE-C40-RZLT-19 and Parcel ID number KY0000001440 and are located on the western side of the N22 National secondary road in Cleeny, Killarney, Co. Kerry. The lands are located approximately 1.5 kilometres north-west of the town centre and are stated to be actively farmed by the appellant/landowner.

2.0 Zoning

The Killarney Town Development Plan is set out within Volume 2 of the Kerry County Development Plan (CDP) 2022-2028.

The CDP 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 for the plan period has been determined based on the Settlement Capacity Audit (SCA) 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 in the Regional Social Economic Strategy (RSES) for the southwest region.

The subject lands have the benefit of an R2 Existing Residential land use zoning objective.

3.0 Planning History

The relevant planning history is considered to include the following:

Planning Authority reference 24/345-In 2024 Michael O Shea was granted planning permission to refurbish and extend a single storey disused dwelling.

PA reference number KE-C5-RZLT-13, in 2023 Kerry County Council determined that the lands should be included within the RZLT map. ABP reference 316818-23-, 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 KY0000001440 under KE-C5-RZLT-13 on the RZLT map.

4.0 Submission to the Local Authority

The appellant made a submission to the local authority setting out the following:

- Part of the appellants' lands are zoned existing residential, and part of the land parcel also comprises the appellants' family home.
- Seeking that his lands be excluded on the basis that the lands are stated to be actively farmed and form part of his farming enterprise where his complex of farm buildings are located.
- Seeking to have his lands rezoned for agricultural use.

5.0 Determination by the Local Authority

The Local Authority by order dated 27th day of June 2025 determined that the site fulfils the qualifying criteria to be included in the final map for the Residential Zoned Land Tax or the following reasons:

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,
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 appellant states that he made a request to the Local Authority seeking to have his lands rezoned for agricultural purposes and this request was refused. The reasons for refusal of the rezoning request are unclear.
- Part of the subject lands are zoned existing residential and comprise an area of 1.39 hectares. The appellants' family home is also part of the overall lands and comprises an area of 0.28 hectares.
- The subject lands should be rezoned for agricultural use as he currently uses these lands as part of his farming enterprise, and his farm buildings are located within these lands.
- The lands are in productive agricultural use and are not available for residential development.
- The farming of these lands are the livelihood of the appellant and his family.

7.0 Assessment

The grounds of appeal have been fully considered. 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 Coimisiún 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 Coimisiún may seek from the landowner, Local Authority or stakeholders identified in Article 28 of the 2001 regulations. In assessing any appeal,

the Coimisiún 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”.

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 existing residential within the current Kerry County Development Plan 2022-2028 and, therefore, are within scope of section 653B(a).

Section 653B (b) of the Taxes Consolidation Act 1997 as amended, specifically addresses the issue of connection to public infrastructure and states ‘it is reasonable to consider may have access, or be connected, to public infrastructure and facilities, including roads and footpaths, public lighting, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed and with sufficient service capacity for such development’.

I note that the Kerry County Council states that the subject lands have direct access onto the N22. The Local Authority assessment states that with the Kerry National Road Design Office (KNRDO) who ‘stated they would have no objection to the proposed (residential) development’. The Local Authority in its assessment states that ‘the site has access to the public road where services are also available’. Therefore, I am satisfied that there are public footpaths and streetlighting and a watermain and foul sewer along this public road. The Local Authority therefore considered the lands to be in scope under Section 653B(b) of the Taxes Consolidation Act 1997.

I consider that the subject lands could access the public services via the adjoining Kenny Heights residential development. I have consulted the Uisce Éireann (UE) capacity register [Kerry | Wastewater Treatment Capacity Register | Uisce Éireann \(formerly Irish Water\)](#) 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 Éireann 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. On this basis, the land, therefore, satisfies the criteria cited in section 653B(b) of the Taxes Consolidation Act 1997, as amended and these grounds of appeal should be dismissed.

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 legalisation 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 R2 Existing 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.

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 fact that the lands are in active and established agricultural use does not qualify for excluding the lands from the map under Section 653B of the Taxes Consolidation Act 1997, as amended., nor does the question of viability as a consequence of the application of the RZLT to the lands

Having regard to the foregoing. I consider that the lands zoned residential identified as KE-C40-RZLT-19 and Parcel ID number KY0000001440 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 located within an established urban area on residentially zoned lands with services are available and no capacity or other reasons including that the lands are in active agricultural use 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-19 and Parcel ID number KY0000001440 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-19 and Parcel ID number KY0000001440 on the map.

10.0 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 KE-C40-RZLT-19 (Parcel ID number KY0000001440) located within an established urban area 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. Notwithstanding their established and active agricultural and residential use, the lands 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 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: Kerry County Council

Local Authority Reference Number: KE-C40-RZLT-19

Appeal Michael O Shea. 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: Cleeny, 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 KY0000001440 under KE-C40-RZLT-19 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 KE-C40-RZLT-19 (Parcel ID number KY0000001440) located within an established urban area 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. Notwithstanding their established and active agricultural and residential use, the lands 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 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
12th day of November 2025