



An
Coimisiún
Pleanála

Inspector's Report ABP-323323-25

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	Main Street, Ballylinan, Co. Laois
Local Authority	Laois County Council.
Local Authority Reg. Ref.	LS-C110-9
Appellant	Margaret Murphy
Inspector	Irené McCormack

1.0 Site Description

- 1.1. The site comprises lands at Rahin, Ballylynan, Co. Laois. The site is identified as 0.46ha. in area and is noted to the north of the village. The parcel id number is LSLA07000002.

2.0 Zoning

- 2.1. The Laois County Development Plan 2021-2027 was adopted on 25th January 2022 and came into effect 8th March 2022.
- 2.2. The land is zoned R1 –*Existing Residential* in the Laois County Development Plan 2021-2027. R1 Zoning Objective - *To protect and enhance the amenity of developed residential communities.*

3.0 Planning History

3.1. Site

ABP-316806-23 – RZLT - Confirm the determination of the local authority.

4.0 Submission to the Local Authority

- The submission states that the full folio of this field has a mixture of zoning part residential part agriculture.
- The land is leased to the appellant's son and is an integral part of his farming operation.
- The appellant made a submission to the Local Authority seeking to have the lands rezoned for mixed use or as indicated with reference to correspondence dated 9th August LS-C83-RZLT-8 section (b) "*The Planning Authority considered that the zoning awarded, open space/amenity is the most suitable zoning classification for the lands*". It is set out that the current RZLT maps to not reflect this.

5.0 Determination by the Local Authority

5.1. Regarding the rezoning request

- The assessment refers to the request for rezoning and the provisions of the Finance Act 2024 which provides an opportunity to make such a rezoning request and Circular Letter: NRUP 03/2024. The PA note that the two documents are contradictory and noting the Circular Letter rather than Objective 1(a) of the

Residential Zoned Land Tax Change in zoning of lands subject to existing economic activity (2024) set out that they are not in favour of rezoning the lands having regard to the established zoning classification, the land-use matrix and provisions of the Core Strategy and the need to address housing demand nationally and locally.

- No infrastructure service impediments were noted regarding the site.
- The local authority determined that the sites were in scope and should remain on the map. The local authority consideration stated that land is zoned Residential.

6.0 The Appeal

6.1. Grounds of Appeal

- The area zoned in not practical in shape for development.
- There is no site access.
- Laois CC stated that the land was an amenity space in 2024.
- The site is not serviced.
- The Lands are being actively farmed by the appellants son's organic enterprises.

7.0 Assessment

- 7.1. The grounds of appeal have been fully considered. Under section 653J of the Taxes Consolidation Act 1997 as amended, the Commission'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."

- 7.2. The legislation 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.
- 7.3. Regarding reference made by the appellant that the Planning Authority had in 2024 considered that the zoning awarded, open space/amenity is the most suitable zoning classification for the lands, a review of Map 5.3(A) -*Ballylynan zoning map* as part of the County Development Plan 2021-2027 would indicate that the rear of the lands in question are zoned open space /amenity. These lands are not within the identified parcel the subject of the appeal. I note the PA offer no comment as regards the appellants claim. Notwithstanding, in the absence of any evidence in this regard, the applicable zoning relevant to the subject site is that as identified in the Development Plan -R1 –*Existing Residential*.
- 7.4. As regards access, the lands front directly onto the public road with footpath connection to the village provided via the lands to the south on the same side of the public road. Therefore, it is reasonable to assume that the site can be accessed from the public road.
- 7.5. With respect to wastewater and water connections, the local authority set out within their RZLT assessment that the subject lands are serviced or serviceable with connections to the wastewater and watermains networks and a review of the Uisce Eireann Capacity Register determined that foul drainage for Ballylynan has a *Green* indicator indicating spare capacity and water is identified as *Potential Capacity Available – LoS improvement required*= Capacity Available to meet 2034 population targets. I have reviewed the Uisce Eireann Register (25/9/2025) and note same. I am satisfied that there is water and wastewater capacity locally and this is not an impediment to the development of the lands.
- 7.6. Therefore, it is reasonable to consider the land is not affected, in terms of its physical condition, by matters to a sufficient extent to preclude the provision of dwellings.
- 7.7. Regarding the fact the lands are used as part of the appellants son's farming enterprise, the fact that the lands zoned R1 – *Existing Residential* are in agricultural use does not qualify for omitting the lands from the map under section 653B. The

Taxes Consolidation Act 1997 as amended by the Finance Act 2021, includes in section 653B the criteria for inclusion in the map. This states that it is applicable to lands zoned '(a) (i) solely or primarily for residential use, or (ii) for a mixture of uses, including residential use' but not land '(c) (ii) that is referred to in paragraph (a)(ii) unless it is reasonable to consider that the land is vacant or idle.' The land is zoned for residential use and, therefore, the exemption under part (c)(ii) does not apply.

- 7.8. For clarity, with regard to residential zoned land, and mixed-use zoned land, sections 653B(c)(i) and (c)(ii) respectively identify where certain uses may be excluded from the tax measure:

Operating Uses on Residential Zoned Lands- *With reference to land that is included in a development plan or local area plan and is zoned solely or primarily for residential use such as 'Residential' or 'New Residential', existing uses to be excluded from the scope of mapping for the tax measure must provide a service to the existing or future residential community, must be an authorised use, must be considered a premises in use by a trade or profession and must be liable to commercial rates. Local Authorities should seek input from their Rates Offices in this regard.*

*For clarity, existing uses such as shops, cafes and similar commercial uses which would be utilised by a residential community on a day-to-day basis and support the sustainable development of the community are considered to be exempted from scope. **Use of land for agricultural or horticultural purposes are not considered to be exempted from scope as they are not subject to rates** (section 3.1.2 Exclusions from the Map Pg. 11 Residential Zoned Land Tax - Guidelines for Planning Authorities June 2022).*

Therefore, the use for agriculture is not exempt from the map under section 653B.

- 7.9. With specific reference to the ground of appeals and the request for rezoning, the Commission will note that the zoning of land and/or variation of the Development Plan or Local Area Plan is a reserved function and not a matter for the Commission. The Commission will also note that provision to request land be rezoned is contained in section 114(b) of the Finance Act 2024, which amends section 653I of the Taxes Consolidation Act 1997 and facilitates requests 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. With respect to the zoning request, in their assessment the PA concluded that it would be inappropriate to re-zone the lands having regard to the ongoing housing crisis and to do so would be contrary to the provision of the core strategy. Therefore, as noted above the applicable site zoning is R1- *Existing Residential*. Furthermore, the shape of the site is not a relevant consideration as regards the RZLT.

- 7.10. In summary, the fact that the lands are in agricultural use does not qualify for omitting the lands from the map under section 653B. The land use zoning assigned to the lands is statutory function of Laois County Council and not a matter for the Board. The appeal grounds do not raise any exclusions 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.
- 7.11. The site is located on lands that form part of the Ballylynan settlement. The land parcel is located immediate to the village settlement where services exist including footpath and it is therefore to be expected that the site is suitable for development of residential units in accordance with the zoning that applies.

8.0 Recommendation

- 8.1. Having regard to the foregoing, I consider that the lands identified as LS-C110-9, parcel ID number LSLA07000002 meets 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. The fact the lands are in use for agriculture does not exempt them from the map under section 653B.
- 8.2. 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.
- 8.3. I recommend that the Commission confirm the determination of the local authority and direct the local authority to include the site on the map. Having regard to the foregoing I consider that the lands identified as LS-C100-9 (Parcel ID LSLA07000002) do not

meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended for the following reasons.

9.0 Reasons and Considerations

The lands identified as LS-C110-9, parcel ID number LSLA07000002 are located on R1- *Existing Residential* zoned lands identified within the current Laois County Development Plan are considered in scope of Section 653B of the Taxes Consolidation Act 1997 as amended. 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 R1-residential zoning objective that applies to these lands. The site satisfies the criterion for inclusion on the map set out in section 653B of the Taxes Consolidation Act 1997, as amended.

10.0 Recommended Draft Order

Taxes Consolidation Act 1997 as amended.

Planning Authority: Laois County Council Local Authority Reference Number: LS - C110-9

Appeal: Margaret Murphy in accordance with section 653J of the Taxes Consolidation Act 1997 as amended, against the inclusion of the land on the final Residential Zoned Land Tax Map by Laois County Council on the 1st day of July 2025 in respect of the site described below.

Lands at: Rahin, Ballylinan, County Laois.

Decision

The Commission 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 Commission confirm the determination of the local authority and direct the Local Authority to retain the lands identified as Parcel ID number LSLA07000005 and Local Authority reference number LS-C110-9 should remain on the RZLT map.

Reasons and Considerations

The lands identified as LS-C110-9, parcel ID number LSLA07000002 are located on

R1-*Existing Residential* zoned lands identified within the current Laois County Development Plan are considered in scope of Section 653B of the Taxes Consolidation Act 1997 as amended. 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 R1-residential zoning objective that applies to these lands. The site satisfies the criterion for inclusion on the map set out in section 653B of the Taxes Consolidation Act 1997, as amended.

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.

Irené McCormack
Senior Planning Inspector

13th October 2025