



An
Coimisiún
Pleanála

Inspector's Report ABP-323327-25

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 map.

Location

Castle Gardens, Mitchelstown, Co. Cork.

Local Authority

Cork County Council.

Local Authority Reg. Ref.

ADRZLT708073504

Appellant

William O'Brien.

Inspector

Fergal Ó Bric.

1.0 Site Description

The lands identified as ADRZLT708073504 (land parcel ID MH-R-01-part of) are located in the north-western quadrant of the settlement of Mitchelstown and within the designated settlement boundary. The lands are located west of George's Street and south of the Castlefarm Road. The parcel of land has a stated area of 1.1 hectares and forms part of a larger land parcel located further to its south.

2.0 Zoning and other Provisions

The subject lands are located within the designated settlement boundary for Mitchelstown as set out within Volume 3 of the Cork County Development Plan 2022-2028. Mitchelstown is identified as a 'key' town within the Fermoy Municipal District (MD) within the Settlement Strategy for the county.

The lands are zoned as Medium B residential development and are required to provide an appropriate buffer for the broadleaved woodland along the southern boundary. This woodland needs to be retained and protected. Retention of attractive stone wall and trees on the site boundary will be required. and to

3.0 Planning History

On site:

I am not aware of any relevant or recent planning history pertaining to the subject lands.

Adjacent lands-immediately south of subject lands and part of land parcel ID MH-R-01.-Under Planning Reference 22/4751, in April 2023, Cork County Council permitted a development for the construction of forty-eight dwelling units

Under planning Authority reference DRZLT475160646, the Local Authority determined that the subject lands be included within the final RZLT map in 2024 and the Board upheld this decision under Board reference 316904-23 in September 2023.

4.0 Submission to the Local Authority

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

- The landowner requested that his lands be excluded from the RZLT map, be rezoned for agricultural use or that the RZLT tax liability be deferred for a period of five years.
- As per the provisions of Section 653B (b) of the Taxes Consolidation Act 1997, as amended, the lands have not 'sufficient service capacity' and spare foul water capacity is not available until the phase 2 upgrade of the Mitchelstown wastewater treatment plant (MWWTP) is completed.
- The landowner submitted e-mail correspondence from Uisce Eireann (UE) dated March 2025 which sets out that the MWWTP Phase 2 upgrade is presently at assessment stage and may get funding for RC5-2030-2034 investment period.
- Uisce Eiraeann states that it has created extra limited wastewater capacity through a number of remedial measures.
- The landowner sets out that 149 residential units have either been permitted or are in the development management system as well as a number of commercial units which may use up the additional limited capacity provided by Uisce Eireann.
- He requests that the land use zoning on the subject lands be changed to agricultural.
- The subject lands are actively used for agricultural purposes. His agricultural sheds are located north of the subject lands and access to his farmyard is at the northern boundary of the subject lands.
- The subject lands are landlocked and would not be allowed to be accessed from 'King's Square'.
- The lands have historically been used for agricultural purposes, and he intends for them to be used for agricultural purposes into the future.

5.0 Determination by the Local Authority

The Local Authority determined by order dated the 24th day of June 2025 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. Subject site meets the criteria for inclusion on the final Annual Map 2026 as set out in Section 653B of the Taxes Consolidation Act 1997, as amended.

6.0 The Appeal

6.1 Grounds of Appeal

The grounds of appeal are summarised as follows:

- The Local Authority determination would indicate that the subject lands are serviceable.
- The lands do not currently have access to services. The Mitchelstown WWTP (MWWTP) is in need of a capacity upgrade.
- This upgrade will not be completed until 2030 at the earliest and this timeline is not guaranteed.
- The long-term plans of Uisce Eireann (UE) as regards the MWWTP upgrade will make local landowners liable for the RZLT even though the lands will not be serviced for at least another five years.
- The RZLT liability should be deferred until a definitive timeline for the MWWTP upgrade can be provided by UE.

7.0 Local Authority Submission

The local authority made a submission to the Board. Issues raised include the following:

- Cork County Council acknowledge that at present water services capacity is constrained in Mitchelstown.
- However, Uisce Eireann's wastewater treatment capacity register (as published in December 2024) confirms that spare capacity is available and that the subject lands are serviceable as per correspondence received from UE dated May 2025.
- As UE have confirmed that piped water capacity is available, albeit that this capacity is limited, the lands remain in scope in accordance with the RZLT Guidelines for Planning Authorities, 2022. which states 'that all lands which are zoned and connected or able to be connected to the relevant network should be considered in scope until such time as the capacity is confirmed to have been utilised'.
- The subject site meets the criteria for inclusion within the final RZLT map.

8.0 Assessment

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”.

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 lands included within the RZLT map by the Planning Authority are zoned medium residential and, therefore, are within scope of Section 653B(a) (i).

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’.

The appellant has raised the issue of access to piped services and references e-mail correspondence from Uisce Eireann (UE) dated the 21st day of March 2025 setting out which sets out that an upgrade to the Mitchelstown WWTP is presently at assessment stage and will be considered for inclusion within the next investment plan RC5 in 2030. I also note that UE submitted written correspondence to the Local Authority dated May 2025 and acknowledged that the capacity register for water supply and wastewater treatment is at ‘amber’ which indicates constraints and/or ‘limited capacity’. UE also confirmed that watermains and foul sewer networks exist on the public road (George’s Street) in close proximity to the subject lands. UE have submitted GIS mapping to confirm the location of the watermains and foul sewer networks.

I note from an examination of the Uisce Éireann capacity registers (published August 2025) [Cork | Water Supply Capacity Register | Uisce Éireann \(formerly Irish Water\)](#) confirms that the subject lands are serviceable, 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. Wastewater capacity is 'amber' but that there is a wastewater treatment plant upgrade either planned or underway to increase foul capacity. On this basis, it is reasonable to consider that there is some capacity in the wastewater network to cater for development.

I specifically refer to the written correspondence prepared by Cork County Council and sent to the Coimisiún dated the 22nd day of August 2025. In this correspondence, the local Authority acknowledge the 'water services constraints in Mitchelstown at present and that connections to the piped water services would only be feasible following infrastructure upgrades to the Mitchelstown piped water services. However, under Section 653B (b) of the taxes Consolidation Act, 1997, land is considered in scope for RZLT if it is either currently connected to, or capable of being connected to essential services, including foul sewer drainage. In this case, while the subject lands may not presently be capable of being connected, they are located within an area where connection is feasible, and UE have confirmed that there is limited capacity available within the MWWTP and that the watermains and foul sewer networks are located in close proximity to the subject lands. Therefore, the land meets the statutory criteria as set out with Section 653B (b) of the taxes Consolidation Act 1997, as amended where the consideration is as follows 'is it reasonable to consider that the lands may have access, or be connected, to public infrastructure and facilities, including roads and footpaths, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed and with sufficient service capacity available for such development'. and is accordingly liable for the tax'.

I consider that the subject lands could access the public services via the public networks, notwithstanding that capacity within the foul sewer and watermains network is presently restricted. Cork 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 Cork 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 as set out within Section 653B (b) of the Taxes Consolidation Act 1997 as amended, 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 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

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 a request to the local authority (correspondence from the appellants to the Local Authority dated 27th March 2025). The 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 Medium residential identified as land parcel ID number MH-R-01 (part of) under ADRZLT708073504 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 land parcel ID number MH-R-01 (part of) under ADRZLT708073504 are located within an established urban area on residentially zoned lands 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 parcel ID number MH-R-01 (part of) under ADRZLT708073504 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 parcel ID number MH-R-01 (part of) under ADRZLT708073504 on the map.

10.0 Reasons and Considerations

Having regard to the determination by the local authority, the submitted grounds of appeal, the provisions of the section 653B (b) 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 number MH-R-01 (part of) under ADRZLT708073504 should remain on the RZLT map.

The lands identified as land parcel ID number MH-R-01 (part of) under ADRZLT708073504 are located within an established urban area on residentially zoned lands 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 parcel ID number MH-R-01 (part of) under ADRZLT708073504 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. 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 subject lands meet the qualifying criteria set out in section 653B (b) 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 parcel ID number MH-R-01 (part of) under ADRZLT708073504 on the map.

11.0 Recommended Draft Coimisiún Order

Taxes Consolidation Act 1997 as amended.

Planning Authority: Cork County Council

Local Authority Reference Number: ADRZLT708073504

Appeal by William O'Brien 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 Cork County Council on the 24th day of June 2025 in respect of the site described below.

Lands at: Castle Gardens, Mitchelstown, Co. Cork

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 MH-R-01 (part of) under ADRZLT708073504 should remain on the RZLT map.

Reasons and Considerations.

Having regard to the determination by the local authority, the submitted grounds of appeal, the provisions of the section 653B (b) 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 number MH-R-01 (part of) under ADRZLT708073504 should remain on the RZLT map.

The lands identified as land parcel ID number MH-R-01 (part of) under ADRZLT708073504 are located within an established urban area on residentially zoned lands 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 parcel ID number MH-R-01 (part of) under ADRZLT708073504 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. 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 subject lands meet the qualifying criteria set out in section 653B (b) 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 parcel ID number MH-R-01 (part of) under ADRZLT708073504 on the map.

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