



An
Coimisiún
Pleanála

Inspector's Report ABP-323330-25.

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| 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. | 25SD1/004 |
| Appellant | Patrick & Mary O'Donoghue. |
| Inspector | Fergal Ó Bric |

1.0 Site Description

The appeal lands identified as 25SD1/004 and Parcel ID number CELA0001485 (part of). The lands comprise c. 2.48 hectares of land within the designated settlement boundary of Ennis, Co. Clare.

2.0 Zoning

- 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

I am not aware of any planning history associate with the subject lands.

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 south of the subject lands

PA reference number 25SD1/003., in 2025 Clare County Council determined that the lands should be included within the RZLT map. ABP reference 323241-25, is presently under consideration by An Coimisiún Pleanála.

Adjacent lands-Lands immediately contiguous to and south of the subject lands

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

4.0 Submission to the Local Authority

The appellants raised the following issues:

- The subject lands are not serviced.
- The provision of services to the subject lands would depend on the development of the adjacent lands (to the south) which are in separate ownership. There is a live planning permission on the adjacent lands for the development of twenty detached dwelling units.
- 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 subject lands were not outlined in pink on 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 by order dated 30th 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 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. Serviced 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 they comprise a private house and garden area attached to the home and includes cultivated, mowed and forest planted areas.
- The total remaining area comprises 1.669 hectares but is part of the garden area associated with the family home but is less cultivated. This area comprises a mix of orchard, tress, shrubbery and unmowed grasses.
- 110 KV electricity cables traverse the subject lands and a corridor each side of these lines should be excluded from the RZLT map as development would not be permitted within this corridor as it cannot be developed.
- The lands are not serviced, and it is not reasonable to consider that there is access to services. Services could only be accessed from third party lands, and no consent has been provided to access the services within the third-party lands.

5.0 Local Authority submission

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

6.0 Assessment

- 6.1 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”.
- 6.2 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).
- 6.3 The comments raised in the appeal submission are noted. The lands identified for inclusion on the RZLT map 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. 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.

6.4 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'.

6.5 I note that the Clare County Council stated that the subject lands have direct access onto a local road, the L4162 located west of the appeal site where there are public footpaths and streetlighting and a watermain and foul sewer along this road. The Local Authority therefore considered the lands to be in scope under Section 653B(b) of the Taxes Consolidation Act 1997.

6.6 The provision of infrastructure to the subject lands is considered to be in the control of Clare 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) 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.

6.7 Having regard to the foregoing. I consider that the lands zoned residential identified as 24SD1/004 and Parcel ID number CELA0001485 (part of) 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.

6.8 I note that the appellants have raised the issue within their appeal submission in relation to the lands comprising the family dwelling, ancillary gardens associated with the family home and various mown and unmown lands, orchards and planted area. These are not included as exceptions for excluding the lands within Section 653B(iii) of the Taxes Consolidation Act, 1997 as amended. and, therefore, do not qualify for excluding the lands from the map under Section 653B of the Act.

6.9 I note from an examination of the Uisce Eireann 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.

6.10 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.

6.11 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.

7.0 Recommendation

7.1. 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.

8.0 Reasons and Considerations

8.1. The lands identified as 24SD1/004 (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 zoned residential and located within an established urban area with evidence from Uisce Eireann 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.

11.0 Recommended Draft Coimisiún Order

Taxes Consolidation Act 1997 as amended.

Planning Authority: Clare County Council

Local Authority Reference Number: 24SD1/004

Appeal by Patrick and Mary O Donoghue. 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 24SD1/004 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 24SD1/004 (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 on residentially zoned lands within an established urban area with evidence from Uisce Eireann 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