



An
Coimisiún
Pleanála

Inspector's Report ACP-323339-25

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

Brigown, Mitchelstown, Co. Cork.

Local Authority

Cork County Council.

Local Authority Reg. Ref.

ADRZLT708068225

Appellant

Jill Mullins-Flynn

Inspector

Fergal Ó Bric.

1.0 Site Description

The lands identified as ADRZLT708068225 (land parcel ID MH-RAP-05) are located in the south-eastern quadrant of the settlement of Mitchelstown and within the designated settlement boundary. The lands are located between the Brigown Road to the north of the subject lands and Railway Road to the west of the subject lands. The parcel of land has a stated area of 4.08 hectares

2.0 Zoning and other Provisions

- 2.1. 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.
- 2.2. The lands are zoned MH-RAP-05-Medium B residential to include provision for a relief road. and are designated as a 'regeneration area' within the Plan.
- 2.3. There is a specific objective pertaining to the lands MH-U-01-relief road which also pertains to other adjacent lands, to the west of the subject lands and on the opposite side of Railway Road.

3.0 Planning History

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

RZLT history

Planning authority reference number DRZLT-472963484, In 2023, Cork County Council determined that the lands be included within the final RZLT map for 2024. This determination was confirmed by An Coimisiún Pleanála under reference number 319900-23.

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 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 Eireann states that it has created extra limited wastewater capacity through the implementation of 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.
- She requests that the land use zoning on the subject lands be changed to agricultural.
- The lands are currently leased to a local farmer under a six-year lease arrangement. The subject lands are actively used for agricultural purposes.
- The lands have historically been used for agricultural purposes by the family, and it is hoped that her family will continue to farm the lands when they come of age. She 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 reason:

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 date 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 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**

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 MH-RAP-05-Medium B residential and, therefore, are within scope of section 653B(a) (i) of the Act.

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 (MWWTP) 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 (Brigown Road) 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 Eireann capacity registers on the 12th day of November 2025 [Cork | Water Supply Capacity Register | Uisce Éireann \(formerly Irish Water\)](#) (published August 2025) 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 water 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 definition of being 'serviced' or 'serviceable' and is accordingly liable for the tax'.

Page 8 of the Residential Zoned Land Tax - Guidelines for Planning Authority, June 2022 (RZLT Guidelines) sets out 'that a need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist'. Issues relating to capacity within the watermain and foul sewer networks were raised by the appellants and it is contended that there is access to a foul sewer main and public waterman in proximity to the subject lands, albeit that capacity is available within the foul sewer and watermains networks within the Mitchelstown area, as confirmed by the Uisce Eireann within their written report, dated 21st May 2025. I consider that the lands be deemed in scope' in accordance with the provisions of Section 653B (b) of the taxes Consolidation Act 1997, as amended.

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.

I note that the subject lands have direct access onto the Brigown Road to the north and Railway Road along the western site boundary. On this basis, it is reasonable to consider that the subject lands have access to or may be connected to public infrastructure and facilities including roads and, therefore, satisfy the criteria cited in section 653B(b) of the Taxes Consolidation Act 1997, as amended.

An objective for the development of a relief road through the subject lands and other third-party lands further west and on the opposite side of railway road is included within the current Cork County Development Plan 2022-2028. This indicative alignment is exactly that, and it does not preclude residential development on the lands. Any proposal should have regard to any indicative road corridor and incorporate proposals as part of a site layout. This matter would be the subject of relevant agreements and consents and assessed by the planning authority through the development management process. The presence of an indicative road is not included in the criteria for exclusion under Section 653B(b) of the Taxes Consolidation Act 1997 and, therefore, the lands remain in scope and the grounds of appeal relating to this matter should be set aside.

The Local Authority therefore considered the lands to be in scope under Section 653B(b) of the Taxes Consolidation Act 1997

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, satisfies the criteria cited in section 653B(b) of the Taxes Consolidation Act 1997, as amended.

The lands are zoned residential within an established urban area with services available and where connection to the public piped water services is feasible as determined by Uisce Eireann in their written correspondence, dated 6th day of May 2025 and no 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 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.

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 applicant in this instance made a request to the local authority (correspondence from the appellants to the Local Authority dated 28th March 2025). The Medium B Residential 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 MH-RAP-05-Medium B residential identified as land parcel ID number MH-RAP-05 under ADRZLT708068225 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-RAP-05 under ADRZLT708068225 are located within an established urban area on residentially zoned lands with services available and access to the public piped water services is feasible as set out by Uisce Eireann in its written correspondence and 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-RAP-05 under ADRZLT708068225 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-RAP-05 under ADRZLT708068225 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 ADRZLT708068225 (Parcel ID number MH-RAP-05) located on residentially zoned lands identified within the current Cork County Development Plan 2022-28 are considered in scope of Section 653B(b) of the Taxes Consolidation Act 1997, as amended. The lands are located on residentially zoned lands within an established urban area with documentary evidence from the Uisce Eireann within its written correspondence that connection to piped services is feasible and no 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 note that the Residential Zoned Land Tax - Guidelines for Planning Authority, June 2022 (RZLT

Guidelines) sets out 'that a need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist'.

11.0 Recommended Draft Coimisiún Order

Taxes Consolidation Act 1997 as amended.

Planning Authority: Cork County Council

Local Authority Reference Number: ADRZLT708068225

Appeal by Jill Mullins-Flynn 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: Brigown, 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-RAP-05 under ADRZLT708068225 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.

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The lands identified as ADRZLT708068225 (Parcel ID number MH-RAP-05) located on residentially zoned lands identified within the current Cork County Development Plan 2022-28 are considered in scope of Section 653B(b) of the Taxes Consolidation Act 1997, as amended. The lands are located on residentially zoned lands within an established urban area with documentary evidence from the Uisce Eireann within its written correspondence that connection to piped services is feasible and no 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 note that the Residential Zoned Land Tax - Guidelines for Planning Authority, June 2022 (RZLT Guidelines) sets out 'that a need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist'.

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
14th day of November 2025