



An
Coimisiún
Pleanála

Inspector's Report ACP-323344-25

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

Kildorrery Road, Mitchelstown, Co. Cork.

Local Authority

Cork County Council.

Local Authority Reg. Ref.

ADRZLT700730123

Appellant

Reps of Thomas & Anne Roche

Inspector

Fergal Ó Bric.

1.0 Site Description

The lands identified as ADRZLT700730123 (land parcel ID MH-X-01) and are located in the western quadrant of the settlement of Mitchelstown and within the designated settlement boundary. The lands are located north of the R565 (Kildorrery Road) and west of George's Street. The parcel of land has a stated area of 1.99 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 site is zoned Special Policy Area, under objective MH-X-01. The objective for the lands is to 'Protect the existing trees which contribute to the amenity and environment of the town. Consideration may be given to the provision of a maximum of 5 dwelling units subject to access, layout, siting, and design issues ensuring the protection of the trees'.
- 2.3. There are two protected structures reference numbers 20&18096-detached 4 bay two storey house built circa 1880 and 20&18116-extensive demense boundary wall built circa 1780 to the now demolished Mitchelstown Castle
- 2.4. The site is also included within the National Inventory of Architectural Heritage.

3.0 Planning History

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

RZLT history:

In 2023 Cork County Council included the subject lands within the draft RZLT map under reference number DRZLT- 473449616 and this decision was upheld by An Coimisiún Pleanála under reference number 316892-23.

4.0 Submission to the Local Authority

The appellants 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 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.
- The landowners state that they are actively seeking to sell the subject lands.
- There are two protected structures within the site, the Demense boundary wall and a period house. In addition, there are preservation orders on the mature trees within the grounds. These constraints inhibit the development of the subject lands.

5.0 Determination by the Local Authority

The Local Authority determined by order dated the 24th day of June 2025 to exclude the subject lands from the Final Map for the Residential Zoned Land Tax for the following reason:

1. Subject site does not currently meet 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:

- They note from the Notice of Determination that the site meets the criteria for inclusion within the final RZLT map for 2026.
- 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 lands are also listed as an NIAH entry (reference number 20818116-Exebnsive demesne boundary wall) and on the Record of Protected Structures -1357-Demenmse Castle Garden and Buildings.
- As the lands are subject to a statutory designation, it was considered that they did not meet the criteria for inclusion as set out within the Taxes Consolidation Act 1997, as amended.
- On that basis, Cork County Council issued a determination to exclude the lands from the final RZLT map for 2026.
- 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 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 MH-X-01 zoning that applies to the lands provides for an element of residential development 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 (Kildorrery Road-R665) in close proximity to the subject

lands. UE have submitted GIS mapping to confirm the location of the watermains and foul sewer networks.

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 (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 Eireann capacity registers on the 17th 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 fould 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 Authorities (RZLT Guidelines), June 202, 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 foul sewer network 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 as confirmed by the Uisce Eireann within their written report. 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 Kildorrery Road along the southern site boundary and George's Street along the eastern 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.

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

The MH-X-01 zoning that applies to the lands provides for a small element of residential development 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. 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 this regard. .

The appellants state that two structures within the subject lands are included within the Record of Protected Structures (RPS) due to the existence of a boundary wall (reference number 20818116) associated with the former Mitchelstown Castle (now demolished) and a 4 bay period house (reference number 20818096) and are also included within the National Inventory of Architectural Heritage (NIAH-reference number 1357-Demenmase Castle Garden and Buildings).

As per Section 653B (iv) of the Taxes Consolidation Act 1997, as amended, exceptions are provided for and these include lands ‘that are subject to a statutory designation that may preclude development’

I consider that the subject lands can be considered to be exempt having regard to the provisions of Section 653B(vi) in ‘that it is reasonable to consider that the lands ‘are subject to a statutory designation that may preclude development’. Due to their statutory designations within the RPS and the NIAH. The Local Authority in their determination decided to exclude the lands from the final RZLT map on this basis.

In conclusion, I am of the opinion that the subject land parcel should be excluded from the final RZLT map as they can be considered to be exempt under the provisions of Section 653B(vi) of the Taxes Consolidation Act 1997, as amended as ‘it is reasonable to consider that the lands ‘are subject to a statutory designation that may preclude development’.

Having regard to the foregoing I consider that the lands zoned MH-X-01 under ADRZLT700730123 do not meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, as the lands are subject to statutory designations, given that there are two protected structures, an extensive boundary wall and a period dwelling within the grounds which are also afforded protection within the National Inventory of Architectural Heritage and are considered to be exempt from the RZLT under the provisions of Section 653B(iv) of the Taxes Consolidation Act 1997, as amended, that warrant exclusion from the map.

9.0 Conclusion & Recommendation

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 Parcel ID number under ADRZLT700730123 on the RZLT Map located on the Kildorrery Road in Mitchelstown are considered out of scope under the provisions of Section 653B(vi) of the Taxes Consolidation Act 1997, as amended as they do not meet the qualifying criteria set out within this section within the Act. The Local Authority determined that the subject lands be excluded from the final RZLT map. I consider that the subject lands should be excluded from the final RZLT map as they are subject to statutory designations as they are included within the Record of Protected Structures and within the National Inventory of Architectural Heritage and are exempt under Section 653B(vi) of the Taxes Consolidation Act, 1997, as amended.

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.

I note that the subject lands would comply with the provisions of Section 653B(a) (i) of the Taxes Consolidation Act 1997, as amended, in that residential development is provided for within the MH-X-01 zoning objective for the lands and that the lands are serviceable as per the written correspondence from Uisce Eireann and, therefore, come within the scope of Section 653B(b) of the Taxes Consolidation Act 1997, as amended. The Local Authority determined that the subject lands be excluded from the final RZLT map. I consider that the lands identified as Parcel ID number under ADRZLT700730123 on the RZLT Map do not meet the qualifying criteria set out in Section 653B of the Taxes Consolidation Act 1997, as amended. The lands should be excluded from the final RZLT map as they are subject to statutory designations as they are included within the Record of Protected Structures and within the

National Inventory of Architectural Heritage and are exempt under Section 653B(vi) of the Taxes Consolidation Act, 1997, as amended.

11.0 Recommended Draft Coimisiún Order

Taxes Consolidation Act 1997 as amended.

Planning Authority: Cork County Council

Local Authority Reference Number: ADRZLT700730123

Appeal by Reps of Thomas & Anne Roche 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: Kildorrery Road, 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 remove the lands identified as Parcel ID number MH-X-01 under ADRZLT700730123 from the final 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.

I note that the subject lands would comply with the provisions of Section 653B(a)(i) of the Taxes Consolidation Act 1997, as amended, in that residential development is provided for within the MH-X-01 zoning objective for the lands and that the lands are

serviceable as per the written correspondence from Uisce Eireann and, therefore, come within the scope of Section 653B(b) of the Taxes Consolidation Act 1997, as amended. The Local Authority determined that the subject lands be excluded from the final RZLT map. I consider that the lands identified as Parcel ID number under ADRZLT700730123 on the RZLT Map do not meet the qualifying criteria set out in Section 653B of the Taxes Consolidation Act 1997, as amended. The lands should be excluded from the final RZLT map as they are subject to statutory designations as they are included within the Record of Protected Structures and within the National Inventory of Architectural Heritage and are exempt under Section 653B(vi) 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.

Fergal Ó Bric
Planning Inspectorate
17th day of November 2025