

An  
Bord  
Pleanála

**Board Direction**  
**BD-017838-24**  
**ABP-320388-24**

The submissions on this file and the Inspectors report were considered at a Board Meeting held on the 10/10/2024. The Board agreed with the Inspectors recommendation and decided as follows:

The Board 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 Board confirm the determination of the local authority in part and set aside the determination of the local authority in part and allow the appeal in part in relation to the lands identified as Lands at Oranmore, in the townland of Dunkellin, Co. Galway (Parcel ID GALAOMA011, GALAOMA014, GALAOMA016):

- The Board sets aside the determination of the local authority in respect of those parts of the western boundary of Parcel 2 (Parcel ID GALAOMA014) that are subject to mapped objective 'Constrained Land Use', which is associated with 'Indicative Flood Zone B'. With reference to Objective GCMA 19 of the Volume 2 of the Galway County Development Plan 2022-2028, these areas are precluded from providing residential development. It is reasonable to consider that the areas of Parcel ID GALAOMA014 that are subject to the 'Constrained Land Use' objective do not meet the criteria under Section 653B(c) of the Act.
- The Board confirms the determination of the local authority in respect of Parcel 1 (Parcel ID GALAOMA011) and Parcel 3 (Parcel ID GALAOMA016), and the area of Parcel 2 (Parcel ID GALAOMA014) that is not subject to the 'Constrained Land Use' objective. These areas are zoned for mixed uses, including residential use, are vacant or idle, and are not subject to any designation or physical constraint that would preclude the provision of dwellings.

## **Reasons and Considerations**

In the assessment of this appeal, regard was had to the content of the Residential Zoned Land Tax- Guidelines for Planning Authority 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 Lands at Oranmore, in the townland of Dunkellin, Co. Galway (Parcel ID GALAOMA011, GALAOMA014, GALAOMA016). Parcel 1 (Parcel ID GALAOMA011), Parcel 2 (Parcel ID GALAOMA014) and Parcel 3 (Parcel ID GALAOMA016) are located on lands zoned TC-Town Centre. Residential (Excluding Apartments) and Retirement Home/Nursing Home/Sheltered Housing as Permitted in Principle on lands zoned TC. With reference to the definition of 'residential development' in the Finance (Local Property Tax) Act 2012, as per Section 653A of the Taxes Consolidation Act 1997 as amended, I consider that residential uses are permissible in principle on zoned TC lands.

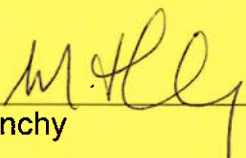
Parcel 1 (Parcel ID GALAOMA011) is zoned TC and therefore, meets the criteria under Section 653B(a) of the Act. Parcel 1 is not in use and is, therefore, vacant or idle. Parcel 1 immediately adjoins Main Street and Oran More Road and contains existing residential development; therefore, it is reasonable to consider that the site is able connect to existing public infrastructure and facilities. The UE capacity registers published June 2023, accessed 25 September, indicate that there is space capacity in the water networks to serve Parcel 1. The location of Parcel 1 within the Oranmore ACA does not preclude the provision of dwellings on the lands, with reference to Section 12.5.3 of the Plan. In this regard, Parcel 1 meets the criteria under Section 653B(c) of the Act.

Parcel 2 (Parcel ID GALAOMA014) is zoned TC and therefore, meets the criteria under Section 653B(a) of the Act. Parcel 2 is not in use and is, therefore, vacant or idle. Parcel 2 immediately adjoins Oran More Road on three sides and commercial development to the east. Based on the foregoing, it is reasonable to consider that Parcel 2 is able to connect to public infrastructure and services. The UE capacity registers published June 2023, accessed 25 September, indicate that there is space capacity in the water networks to serve Parcel 2. Parts of the western boundary of

Parcel 2, which currently accommodate perimeter fencing, are subject to a 'Constrained Land Use' objective. Under Objective GCMA 19 of the Volume 2 of the Plan, land uses vulnerable to flooding are precluded for 'Constrained Land Use' lands. The Planning System and Flood Risk Management Guidelines for Planning Authorities 2009, list dwellings as a land use that is highly vulnerable to flooding. On this basis, it is reasonable to consider that the lands designated 'Constrained Land Use' at Parcel 2 are precluded from providing dwellings and, therefore, do not meet the criteria under Section 653B(c) of the Act. No physical or other reasons have been identified that would prevent the remainder of Parcel 2, comprising those areas not subject to a 'Constrained Land Use' objective, from development for residential purposes in accordance with the mixed-use zoning objective that applies to these lands.

Parcel 3 (Parcel ID GALAOMA016) is zoned TC and therefore, meets the criteria under Section 653B(a) of the Act. Parcel 3 is not in use and is, therefore, vacant or idle. Parcel 3 immediately adjoins Castle Road, Oran More Road, and commercial development to the east. Based on its proximity to the road and existing urban development it is reasonable to consider that Parcel 3 is able connect to existing public infrastructure and facilities. The UE capacity registers published June 2023, accessed 25 September, indicate that there is space capacity in the water networks to serve Parcel 3. The southeast corner of Parcel 3 is located within the Oranmore ACA. As per Section 12.5.3 of the Plan, the ACA designation does not preclude the provision of new development or dwellings at the site. In this regard, Parcel 3 meets the criteria under Section 653B(c) of the Act.

**Board Member**

  
Mary Henchy

**Date:** 10/10/2024