



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316439-23

---

**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**

Site 1 - West side of Brittas Road, N62 Templemore Road, Thurles, Co. Tipperary.

**Local Authority**

Tipperary County Council

**Local Authority Reg. Ref.**

RZLT044

**Appellant(s)**

Philip & Catherine Leahy

**Inspector**

Frank O'Donnell

## Contents

1.0 Site Location and Description .....	3
2.0 Zoning and other provisions .....	3
3.0 Planning History.....	3
4.0 Submission to the Local Authority.....	4
5.0 Determination by the Local Authority .....	4
6.0 The Appeal .....	5
7.0 Assessment.....	6
8.0 Conclusion.....	6
9.0 Recommendation.....	7
10.0 Reasons and Considerations .....	7

## 1.0 Site Location and Description

1.1. The subject site is located on the west side of the Brittas Road, N62 Templemore Road, approximately 0.95 km to the north of the centre of Thurles. The site has a stated area of 0.97 hectares, has a general L shape and comprises of a house, farm sheds and farmland. The site fronts onto the Brittas Road to the east and the Jimmy Doyle Road to the south.

## 2.0 Zoning and other provisions

2.1. The site is zoned 'Existing Residential' in the Thurles & Environs Development Plan, 2009, (as extended).

2.2. The Tipperary County Development Plan 2022 to 2028 came into effect on 22/08/2022. As per Section 4.2.1 of the Tipperary County Development Plan, the following is stated in relation to the status of Town Development Plans and LAPs:

### *'4.2.1 Town Plans:*

*The settlement strategy has identified 12 towns in Tipperary. Town Development Plans are currently in place for seven of these towns, with two towns subject to LAPs. As stated in the Core Strategy, the current Town Development Plans and LAPs will remain applicable until they are replaced with LAPs, in accordance with the framework and timeline as set out in Table 4.2.'*

2.3. The zonings of the site under the Thurles & Environs Development Plan, 2009 plan therefore remain in effect.

## 3.0 Planning History

3.1. Planning history for the adjacent area:

3.2. PA Reg. Ref. 97541628. Applicant: Philip Leahy. Permission for mixed housing development (122 houses) & associated site works. Permission was GRANTED on 07/04/1998 subject to 38 no. conditions.

## 4.0 Submission to the Local Authority

- 4.1. The appellants made a submission to the Local Authority seeking to have their land removed from the draft map. The submission related to 2 no. distinct sites referred to as Site 1 (Submission Map 1) and Site 2 (Submission Map 2) in the said submission.
- 4.2. Tipperary County Council issued a Split Decision dated 28<sup>th</sup> March 2023 (Order dated 27<sup>th</sup> March 2023) to INCLUDE Site 1 (Submission Map 1) on the final RZLT Map and to EXCLUDE Site 2 (Submission Map 2) on the final RZLT Map. The subject Appeal is solely concerned with Site 1 (Submission Map 1) only.
- 4.3. Site 1 Submission. The submission lodged with the Local Authority is summarised as follows:
  - House and gardens of approximately 0.3998 hectares in area.
  - Farmyard and Sheds of approximately 0.1049 hectares in area.
  - Field beside the farmyard/ sheds of approximately 0.4656 hectares in area.
  - The Appellant states that the farmyard/ sheds and the adjoining field are exempt from the RZLT as they are required for or integral to the operation of a trade or profession being carried out on or adjacent to the land, thus not vacant or idle.

## 5.0 Determination by the Local Authority

- 5.1. Site 1 (Submission Map 1)
- 5.2. It is reasonable to consider the land may have access or be connected to services, thus in-scope for the RZLT pursuant to Section 653B(b) of the Finance Act 2021.
- 5.3. Note: The residential property, located on that is zoned solely or primarily for residential use with access to all services, must remain on the RZLT Final Map, but will not be subject to the RZLT. The extent of ground which is considered to form part of the residential property is not a matter for consideration by the Local Authority. This is a matter for disclosure by the landowner to the Revenue Commissioners.

- 5.4. Note: The question of whether land is deemed to be vacant or idle is only applicable to land zoned for a mixture of uses, including residential use. In this case, the land is zoned 'Existing Residential', solely or primarily for residential use.
- 5.5. Note: For land zoned solely or primarily for residential use, the use of the land for farming is not a use which is precluded from the RZLT under the provisions of Section 653 (i) of the Finance Act, 2021.
- 5.6. The Local Authority determined that Site 1 (Submission Map 1) is in scope and should remain on the map.
- 5.7. Site 2 (Submission Map 2)
- 5.8. It is reasonable to consider that the land does not have access, or be connected, to public infrastructure and facilities, specifically road access, and thus not in scope for the RZLT pursuant to Section 653 (b) of the Finance Act 2021.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- The Appeal solely relates to Site 1 (Submission Map 1).
- The site is a working farm (Herd Number: V1700650) and no allowance for the farm sheds and farmyard is being taken into consideration. Farming is a business; the sheds and farmyard are integral to the operation of the business.
- The land beside the farm sheds and farmyard are also integral to the operation of the farm and they are not vacant or idle.
- As these are the only farm buildings that they own/ operate, then if they are forced to sell their farmyard, they must cease farming, which they states is against their wishes.
- The appellants state that if their objection on the grounds above is not successful, then they request that the lands marked on the enclosed map 1 be rezoned for a mixture of uses including residential use for the following reasons:
  - a. The rezoning of their lands would facilitate the appropriate planning of the townland of Brittas Road, Thurles, Co. Tipperary and the environs along the N62 north of Thurles.

- b. At present, this area is zoned exclusively residential. The appellants refer to Map no. 2 which is enclosed as part of the appeal submission.
- c. In excess of 230 residential units have been built in this area, with the possibility of another 30 acres of residentially zoned land being developed for housing. The appellants refer to Map no. 2 which is enclosed as part of the appeal submission.
- d. At present, there is no zoned land mixed-use for the development of retail/ commercial facilities to cater for the residential population in this catchment area.
- e. As a result, residents in need of services travel by car through the centre of Thurles to the retail outlets located in the south of the urban area of Thurles e.g., Aldi, Lidl, and Dunnes Stores. Further adding to the traffic congestion in the town.
- f. This is not conducive to the development of a community in the area.
- g. Given the current environmental targets we are being encouraged to meet this is unnecessarily adding to our carbon footprint.
- h. I am therefore requesting the rezoning of our land to a mixture of uses including residential. Which we think would be beneficial for this part of Thurles Town.

## 7.0 Assessment

7.1. The comments raised in the appeal are noted.

7.2. The Grounds of Appeal do not relate to any of the relevant qualifying criteria set out in Section 653B of the Act.

## 8.0 Conclusion

8.1. The site is 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 for residential purposes. The site does satisfy the criterion for inclusion on the map set out in section 653B(c) of the Taxes Consolidation Act 1997, as amended.

## 9.0 Recommendation

- 9.1. I recommend that the board confirm the determination of the Local Authority and that the indicated site be retained on the map.

## 10.0 Reasons and Considerations

- 10.1. The lands identified as RZLT044 (Site 1: Submission Map no. 1) (RZLT Map Parcel ID: TYLA00003576), meet the qualifying criteria set out in Section 653B of the Taxes Consolidation Act 1997, as amended, and there are no matters arising that warrant exclusion from the map.
- 10.2. The Grounds of Appeal do not support a different conclusion in relation to this matter.
- 10.3. I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

---

Frank O'Donnell  
Planning Inspector

14<sup>th</sup> July 2023