



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316577-23

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<b>Type of Appeal</b>	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
<b>Location</b>	Lands east of R689, Fethard Road, Clonmel, Co. Tipperary
<b>Local Authority</b>	Tipperary County Council
<b>Local Authority Reg. Ref.</b>	RZLT043
<b>Appellant(s)</b>	Hally & Sons Ltd.
<b>Inspector</b>	Frank O'Donnell

## 1.0 Site Location and Description

1.1. The subject site is located on the eastern side of the R689 Regional Road to the north of the centre of Clonmel. The site has a stated site area of c. 1.6 hectares and comprises of farmland. There is an existing roundabout with a spur to the subject lands located on the western site frontage along the R689. There is existing residential development to the immediate north and south of the subject site.

## 2.0 Zoning and other provisions

2.1. The subject site is zoned 'New Residential' in the Clonmel & Environs Development Plan, 2013, (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 zoning of the site under the Clonmel & Environs Development Plan, 2013, (as extended) therefore remains in effect.

2.4. Section 5.15 of the Plan relates to Radial Interconnector Routes and Vehicle River Crossing and includes the following Policy which is of relevance to the subject site:

### *'Policy INF 4: Protection of Reservation Corridors*

*It is the Policy of the Council to ensure that the proposed interconnector routes to the north and east of Clonmel and the new vehicular bridge linking lands east and south of Clonmel are provided for as part of new developments and completed to benefit new developments in a timely fashion. Lands required to facilitate these road infrastructures will be kept free from development.'*

- 2.5. On Map no. 2 (Transportation Map) which forms part of the Clonmel & Environs Development Plan, 2013, there is an indicative road route which traverses the centre of the site from east to west. At the location of the existing roundabout located along the western road frontage of the site, the map indicates '*Junction Upgrade Required.*'
- 2.6. On Map no. 6 (Specific Objectives) which forms part of the Clonmel & Environs Development Plan, 2013, the subject lands together with lands on the opposite side of the R689 to the west and the adjacent lands to the north-east and the vacant lands to the south form part of a Master Plan area. In addition, and on the same map no. 6, the subject site is indicated to as a Local Equipped Area for Play (LEAP) and is shown to contain a Greenway (landscaped walking/ cycle trail).

### **3.0 Planning History**

#### **3.1. Planning History for the subject site**

- 3.2. There is no relevant planning history associated with the subject site.

### **4.0 Submission to the Local Authority**

- 4.1. The Appellants made a submission to the Local Authority seeking to have their land exempted from the Residential Zoned Land Tax.

- 4.2. The following is a summary of the submission:

- You will note that a Reservation for a possible N-24 Route passes through the property (shaded in yellow). Because of this, the appellant states, they are not able to advance their proposals for development on the site until such time as the final route is decided.
- The Appellant states that they had prepared a full planning application for the site including pre-planning meetings, Architect and Engineer's drawings, reports, etc. but that due to the economic downturn, they did not submit/ proceed with the application in time.

## 5.0 Determination by the Local Authority

- 5.1. The lands are greenfield and zoned 'New Residential'.
- 5.2. It appears that the land is fully serviced.
- 5.3. A road link associated with the N24 Waterford to Cahir project is identified as having a route through the submission site. A buffer of 150m is applied to the study area for this specific road link. Further details are provided which include a link to the N24 Waterford to Cahir Project (<https://n24waterford2cahir.ie/>).
- 5.4. The Local Authority provide background as to the development of the N24 Waterford to Cahir Road Project which is stated to be currently at Phase 2 (Options Stage). The Road Project is being undertaken in partnership with Kilkenny County Council, Tipperary County Council, Transport Infrastructure Ireland (TII) and the Department of Transport (DoT).
- 5.5. The Local Authority include an extract from the N24 Route Options Map showing the potential alignment of Road Link 2 which traverses the site.
- 5.6. The Local Authority then refer to Section 653B (iii) of the Act and, in particular, subsection II) which relates to transport facilities and infrastructure. Reference is then made to the Section 28 Ministerial Guidelines, '*Residential Zoned Lands Tax – Guidelines for Planning Authorities, June 2022*', page 10 where it is stated that '*it is reasonable to exclude land required for the provision of community services and infrastructure which will sustain existing and future residential communities.*'
- 5.7. The Local Authority then refer to the Clonmel & Environs Development Plan, 2013 which contains a map-based objective for a link road through the submission site and to a corresponding policy, INF 4 which relates to the Protection of Reservation Corridors.
- 5.8. The Assessment then refers to feedback received from Tramore House Road Design Office (THRDO). In short, the main points of the THRDO feedback, which were provided to a representative of the landowner by email in January 2023 and which is attached as Appendix A of the Local Authority Assessment Report, are summarised as follows:

- Should Clonmel Road Link no. 2 form part of the overall preferred transport solution for the project, there would be direct impacts on the lands identified.
- It should be noted that the corridors shown on the map are 150m wide to facilitate the development of a potential road within the corridor, however the actual land needed within the corridor would be less dependent on the final design.
- The alignment of Clonmel Road Link no. 2 is based upon 'Indicative Routes' previously highlighted for potential development in the Clonmel and Environs Development Plan 2013.
- Therefore, should Clonmel Road Link No. 2 not form part of the preferred transport solution for the N24 project, there is still potential for development of a road link through here by others separate to the N24 project on the basis of the Clonmel and Environs Development Plan, 2013.
- THRDO would make the observation that any developments proposed for these lands could seek to implement or facilitate the implementation of a road on a similar alignment to Clonmel Road Link No. 2/ the indicative route within the Clonmel Plan of 2013.

5.9. The recommendation of the Local Authority Assessment is that the land should be included in the RZLT Final Map.

5.10. It is reasonable to consider that the land may have access, or be connected, to services and is therefore in-scope for the RZLT pursuant to Section 653B of the Finance Act 2021.

5.11. Note: the alignment of the Road Link No. 2 as referred to under the N24 Waterford to Cahir Road Project, aligns with 'Indicative Routes' previously highlighted for potential development in the Clonmel and Environs Development Plan, 2013. The link road remains deliverable under the Clonmel and Environs Development Plan, 2013.

5.12. The Local Authority determined that the site was in scope and should remain on the map.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- The Appellants are seeking to have the subject site EXCLUDED from the RZLT Map.
- The Appellants include an attached map and state that as is evident from the said map that the corridor (150m) for the possible Road Link covers a substantial part of their site. The Appellant states that until such time as it is known if 'Road Link 2' will be required or its final route and width can be finalised, they cannot prepare proposals for development on the site.
- The Appellants refer to Section 653B c) iii) (I) - (VII) of the Finance Act 2021, and state that their site qualifies for EXCLUSION under Category II '*Transport and Infrastructure*'. On this basis the Appellants submit that in accordance with the 'Residential Zoned Land Tax – Guidelines for Planning Authorities', Tipperary Co. Council should have EXCLUDED their site from the Map.

## 7.0 Assessment

- 7.1. The comments raised in the appeal are noted.
- 7.2. There is an indicative road route through the subject lands, as shown on the Transportation Map (Map no. 2) of the Clonmel and Environs Development Plan, 2013. In addition, as per the same map, it is indicated that there is a '*Junction Upgrade Required*' at the eastern site frontage/ existing roundabout.
- 7.3. The site is also the subject of Road Link no. 2 as per the N24 Waterford to Cahir Road Project. The Tramore House Road Design Office (THRDO) make the observation that any developments proposed for these lands could seek to implement or facilitate the implementation of a road on a similar alignment to Clonmel Road Link No. 2/ the indicative route within the Clonmel Plan of 2013.
- 7.4. I am satisfied that the link road remains deliverable under the Clonmel and Environs Development Plan, 2013 and that therefore the development of the site for residential purposes is not precluded based on such an indicative road link. Similarly, I am satisfied that the identification of the site as Road Link no. 2 under the N24 Waterford

to Cahir Road project does not preclude the development of the site for residential purposes.

- 7.5. The subject lands do not therefore warrant exclusion from the Map as per Guidance set out in Section 3.12 (Exclusions from the Map) of the Guidelines for Planning Authorities (Residential Zoned Land Tax), June 2022 or indeed the Criteria for Inclusion on the Map set out in Section 653B c) iii) II) *‘Transport facilities and Infrastructure’*.

## 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 RZLT043 (RZLT Map Parcel ID: TYLA00002788), 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 link road remains deliverable under the Clonmel and Environs Development Plan, 2013 and does not preclude the development of the site for residential purposes.
- 10.3. The identification of the site as Road Link no. 2 under the N24 Waterford to Cahir Road project similarly does not preclude the development of the site for residential purposes.
- 10.4. The Grounds of Appeal do not support a different conclusion in relation to this matter.
- 10.5. 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.

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Frank O'Donnell

Planning Inspector

26th July 2023