



An
Bord
Pleanála

Inspector's Report ABP-316786-23.

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	Clonminch Lane, Tullamore, Co. Offaly
Local Authority	Offaly County Council.
Local Authority Reg. Ref.	RZLT-D-12
Appellant	Dervil Dolan
Inspector	Irené McCormack

1.0 Site Description

1.1. The site comprises lands at Clonminch Lane, Tullamore, Co. Offaly.

2.0 Zoning

2.1. The site is zoned Existing Residential in the Offaly Development Plan 2021 – 2027

2.2. Land Use Zoning Objective – New Residential -It is an objective of the Council to: LUZO-04 Provide for new residential development and other services incidental to residential development.

2.3. Section 12.4.2 -Existing Residential - *This zoning allows for the conservation and enhancement of the quality and character of existing residential areas, to protect residential amenities and to allow for small scale infill development which is appropriate to the character and pattern of development in the area. Existing residential zoned land may also provide for small scale home based employment uses where the primary residential use will be maintained.*

2.4. SMAO-16 - *It is an objective of the Council to examine the feasibility of providing future relief / distributor roads adjacent to / within the following towns and villages, taking into account environmental sensitivities as identified in the SEA Environmental Report and the policies and objectives of the County Development Plan relating to sustainable mobility. Where feasibility is established, the Council will seek to pursue and / or facilitate the relevant project, subject to other provisions in the Plan, including section 8.6.4 Corridor and Route Selection Process. Where lines are shown on the maps in Volume 2, they are indicative only. • Tullamore*

3.0 Planning History

3.1. Site

None

4.0 Submission to the Local Authority

4.1. The appellant made a submission to the Local Authority seeking to have its lands removed from the draft map as the lands are in residential use and less than 0.1 ha.

5.0 Determination by the Local Authority

5.1. The local authority determined that the site was in scope and should remain on the map. The local authority consideration stated that land is zoned and serviced.

6.0 The Appeal

6.1. Grounds of Appeal

- The lands are not serviced. The LA previous stated as part of a pre-planning that there are concerns in relation to the capacity of the sewer – *the development could be considered premature until the southern interceptor sewer is constructed.*
- The LA also expressed concerns regarding the requirement for a strategic distributor road.
- The lands are part of a residential property less than 0.1ha.
- The lands remain in agricultural use.

7.0 Local Authority Response

- The PA note that the preplanning referred to by the appellant related to a wider site that included enterprise and employment lands.
- The PA note that there is a watermain and sewer less than 10m from the site accessible via the public road, Clonminch Road, adjoining the site.

8.0 Assessment

8.1. The legislation clearly sets out that land in scope will be zoned for residential development or a mixture of uses including residential; be serviced or have access to servicing by water, wastewater, road, footpath and public lighting; and not be affected by contamination or significant archaeological remains which would preclude development taking place. Section 4.1.1 iii) Services to be considered of the guidelines state that *“in assessing whether land or landbanks are able to connect to services, Planning Authorities should take into account the following:- In the first instance, where the infrastructure is located adjoining, intersecting, at a boundary or corner of a landbank, in a nearby public road, or is connected to an existing development*

adjoining the landbank, the lands should be considered to be 'connected' or 'able to connect' and therefore are in-scope".

- 8.2. Regarding concerns raised about wastewater connection, the LA in their response to the appeal indicate that the site is serviced. I note there is no submission from Uisce Eireann. However, a review of the Uisce Eireann capacity register indicated available capacity in the Tullamore WWTP. On this basis, it is reasonable to consider that there is some capacity in the water network to cater for development.
- 8.3. I note the lands are bound to the north by Clonminch Lane and to the east by Clonminch Road (R443), therefore it is reasonable to consider that the site can be accessed from the public road. Regarding reference to a strategic distributor road, I note Objective SMAO-16 of the CDP and have reviewed Appendix II of the CDP – Tullamore Town Plan zoning map. The map identifies the indicative route to the south and outside of the lands the subject of this RZLT.
- 8.4. In relation to the current residential use the lands are in scope by virtue of Section 653B of Part 22A of the Taxes Consolidation Act 1997. The LA note Section 653O of the Act and set out that while the lands maybe in scope for the tax, provided they are associated with the existing residence they are not liable for the RZLT.
- 8.5. The fact that the lands are in agricultural use does not qualify for omitting the lands from the map under section 653B.
- 8.6. The appeal grounds do not raise any exclusions that would apply to the subject lands and warrant its removal from the map, with reference to the Taxes Consolidation Act 1997 as amended and the RZLT Guidelines

9.0 Recommendation

- 9.1. I recommend that the Board confirm the determination of the local authority and direct the local authority to include the site on the map.

10.0 Reasons and Considerations

- 10.1. The site is part of 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.

I confirm that the report represents my profession 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.

Irené McCormack
Senior Planning Inspector

11th August 2023