



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316793-23

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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 at west of the N62, Templemore Road, Roscrea, Co. Tipperary
<b>Planning Authority</b>	Tipperary County Council
<b>Planning Authority Reg. Ref.</b>	RZLT011
<b>Appellant</b>	James Lynch
<b>Inspector</b>	Frank O'Donnell

## 1.0 Site Location and Description

- 1.1. The subject site is located on backlands on the western side of the N62 National Secondary Road, approximately 1.08 km south of the centre of Roscrea. This site has a stated site area of 2.06 hectares and bounds Rosslands and Kennedy Park residential developments to the immediate north and south respectively. The site forms part of a larger landholding at this location.
- 1.2. The adjacent lands to the north-west remain as undeveloped farmland.
- 1.3. There is an existing bungalow type dwelling located on the adjacent site to the immediate north-east of the subject site, which fronts onto the N62 National Secondary Road.

## 2.0 Zoning and other provisions

- 2.1. The subject site is zoned 'New Residential Phase 1' and 'New Residential Low-Density Phase 1' in the Roscrea Local Area Plan, 2012 to 2018 (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 Roscrea Local Area Plan, 2012 to 2018, (as extended) therefore remains in effect.
- 2.4. The DRAFT Roscrea Local Area Plan, 2023 to 2029, is currently in preparation and was placed public display from 24th February 2023 to 11th April 2023.
- 2.5. Under the DRAFT Roscrea Local Area Plan, 2023 to 2029, the subject site is zoned, as 'Strategic Reserve'. The Strategic Reserve Objective, as set out in Section 9.0, Table 9.1 of the Draft Roscrea LAP, is stated to be a 'Long Term strategic and

*sustainable development site’ and includes the following description ‘sites that may deliver housing within the subsequent plan period (unless a review of the current plan identifies a need for additional lands). (4.4.4 of the Guidelines).’*

- 2.6. Until such time as the Draft Roscrea Local Area Plan, 2023 to 2029, comes into effect, the statutory plan for the area remains the Roscrea Local Area Plan, 2012 to 2018 (as extended). The zoning of the site under the Roscrea Local Area Plan, 2012 to 2018, (as extended) therefore remains in effect.

### **3.0 Planning History**

#### **3.1. Planning history for adjacent area:**

- 3.2. 08510357: Michael Halpin. Permission for an existing domestic shed and all associated site works. Permission was GRANTED on 30/06/2008 subject to 3 no. conditions. (Site to the immediate north-west of the subject site).
- 3.3. 08510217: Michael Halpin. Incomplete Application.

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

- 4.1. The Appellant made a submission to the Local Authority seeking to have their land removed from the draft map.
- 4.2. The Appellant states that this parcel of land has no proper access to the public road (N62) and it is not possible to develop this site.
- 4.3. The Appellant states that this land is and has always been used for farming purposes.

### **5.0 Determination by the Local Authority**

- 5.1. 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.
- 5.2. Note: It is considered that road access to the land is reasonably available through Kennedy Park.
- 5.3. 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 Grounds of Appeal are as follows:

- The Appellant refers to the Office of the Planning Regulator submissions of over-zoning versus housing need in this area in that there are 63 hectares of land zoned residential in Roscrea as against 18 hectares of need. The Appellant considers that the lands the subject of this determination could not therefore be viably [SIC] developed in circumstances where there would be no demand for houses located there.
- The Appellant considers that access to the lands from the public road as stated in the Determination via Kennedy Park, a 1950s/ 60s Local Authority housing estate, is both inappropriate and impracticable.
- The Appellant considers that the sale of the said lands would render his farming enterprise unviable and would result in a claw back of his farm entitlements. The Appellant states that the lands are actively farmed by him.
- The Appellant considers that the Determination should be deemed invalid.
- The Appellant considers that the Determination made by the Council will interfere with his property rights and seriously depreciate the value of his lands.
- The Appellant considers that the Council in making the said Determination has acted ultra vires, unconstitutionally and in breach of his common law rights.
- The Appellant requests that An Bord Pleanála refuse the Determination.

## 7.0 Assessment

7.1. The comments raised in the appeal are noted.

7.2. The Planning Authority has outlined in its report why they have determined that the site is in scope for inclusion on the RZLT maps. The *'New Residential Phase 1'* and *'New Residential Low-Density Phase 1'* zoning allows for residential development.

- 7.3. The issue of access to the lands is raised by the Appellant. The Appellant considers that access to the lands from the public road via Kennedy Park is both inappropriate and impracticable.
- 7.4. The Local Authority state as a note in the Determination that it is considered that road access to the land is reasonably available through the Kennedy Park.
- 7.5. Kennedy Park is an adjacent housing scheme to the immediate south/ south-west of the subject site. Having reviewed the layout and potential connectivity from the subject site to Kennedy Park, which is immediately adjacent to the subject site with no intervening third party lands, it is reasonable to consider that the subject lands may have access to Kennedy Park and, by default, the wider public road network.
- 7.6. The area is served by water supply, foul drainage, surface water drainage, and there is no reason as to why this site cannot be suitably serviced.
- 7.7. I therefore consider that the site, should remain for inclusion on the Residential Land Tax Maps, as the site zoning allows for residential development and there are no known restrictions on the development of these lands.

## **8.0 Conclusion**

- 8.1. I am satisfied that having regard to the nature/ location of the site that these lands can be suitably developed for residential development. 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 RZLT011 (RZLT Map Parcel ID: TYLA00005429 & TYLA00003315), meet the qualifying criteria set out in Section 653B of the Taxes Consolidation Act 1997, as amended, and that there are no matters arising that warrant exclusion from the map.
- 10.2. The subject land can be accessed via Kennedy Park to the south/ south-west and, by default, the wider public road network.
- 10.3. The Grounds of Appeal do not support a different conclusion in relation to this matter.
- 10.4. 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

18<sup>th</sup> July 2023