



An
Bord
Pleanála

Inspector's Report

ABP-316798-23

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

Lands at Mountain Road, Cahir, Co. Tipperary.

Local Authority

Tipperary County Council.

Planning Authority Reg. Ref.

RZLT050.

Appellant(s)

Melclon Unlimited.

Inspector

Daire McDevitt.

1.0 Site Location and Description

The lands identified as Land Parcel ID TYLA0005112 under PA Ref. RZLT050 are located at Mountain Road, Cahir, Co. Tipperary.

There are concurrent RZLT appeals by John Paul Magnier under ABP Ref. 316888-23 for lands to the east of the Old Cork Road in Cashel, Co. Tipperary (Land Parcel ID TYLA00004029) and under ABP 316890-23 Land Parcel ID TYLA0000809) under PA Ref. RZLT042 are located on the northern side of the R688 Clonmel Road in Ballyclerahan, Co. Tipperary.

2.0 Zoning and other provisions

The bulk of the lands are zoned R6 New Residential with a stated objective 'to provide for new residential development' with a section adjoining the road zoned R Existing Residential with an objective 'to preserve and enhance existing residential development and residential amenity and provide for additional facilities where gaps are identified' in the Cahir Local Area Plan 2021-2027.

3.0 Planning History

None stated.

4.0 Submission to the Local Authority

The appellants made a submission to the local authority seeking to have their land removed from the draft map on the basis that the local infrastructure does not have capacity to enable the lands to be developed and as such the Bengurragh lands are not serviceable and should be excluded from RZLT until this matter is resolved.

5.0 Determination by the Local Authority

The local authority determined that:

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

6.0 The Appeal

6.1. Grounds of Appeal

Grounds of appeal are summarised as follows:

- The lands should be excluded due to the constraints of the site in terms of access.
- Significant upgrades would be required in terms of access/road and footpath provision.
- Works outside appellant's control.

7.0 Assessment

The comments raised in the appeal are noted. The local authority outlined in its report why it has determined that the site is in scope for inclusion on the RZLT maps.

Section 653B of the Taxes Consolidation Act 1997 as amended, sets out the criteria for inclusion in the map, and states that the first consideration for inclusion in the map is land which in subsection (a) 'is included in a development plan' or 'local area plan' zoned solely or primarily for residential use, or for a mixture of uses including residential. The appeal lands are zoned residential and therefore within scope of section 653B(a).

The appellants have submitted that the lands should be excluded as there are constraints regarding access via Mountain Road which would require significant upgrades in order to provide access to the lands which are the subject of this appeal. And that any development of the lands would be premature pending upgrades to the local road network. Provision of footpaths would also be an issue and require works outside the applicants control which is further constrained by the existing boundary treatment along Mountain Road. The local authority determined the lands to be in scope as it is reasonable to consider that the land has access to, or be connected to, services.

With regard to the provision access and footpaths and the requirement for 'significant upgrades' or works outside the appellant's control.

Pg. 24 of the RZLT guidelines state:

If the works required to connect the land to services are materially significant, for example require access to 3rd party lands which are in private ownership or would require CPO or planning permission in themselves, then the land should be considered to be out of scope.

The provision of infrastructure to the subject lands are considered to be in the control of Tipperary County Council and Uisce Eireann and the local authority determined that that the subject lands are in scope and therefore retained within the RZLT Final Map. Whilst infrastructure elements/connection may not be in place at present, these would be expected to be provided in conjunction with the development of a site, generally developer led. Issues relating to capacity have not been raised. Based on the information available I have no evidence that this is the case. For the purposes of falling within the scope of RZLT the criteria is whether it to 'is reasonable to consider'. In my opinion it is reasonable to consider that the provision of access, footpaths, public lighting, sewer and water connections may be provided where land is in the control of the landowner or local authority. On this basis the land, therefore, does satisfy the criteria cited in section 653B(b) of the Taxes Consolidation Act 1997, as amended.

Having regard to the foregoing I consider that the lands zoned residential identified as Land Parvel ID TYLA0005112 under PA Ref. RZLT050 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.

9.0 Conclusion & Recommendation

The lands identified as Land Parvel ID TYLA0005112 under PA Ref. RZLT050 are located 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 in principle for residential purposes. The lands are accessible in principle and there is no reason why they cannot be developed in principle in accordance with the residential zoning objective that applies to these lands.

The lands identified as Land Parvel ID TYLA0005112 under PA Ref. RZLT050 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. And I recommend that the board confirm the determination of the local authority and direct the local authority to retain the lands identified as Land Parvel ID TYLA0005112 under PA Ref. RZLT050 on the map.

8.0 Reasons and Considerations

Having regard to the determination by the local authority, the submitted grounds of appeal, the provisions of the section 653B of the Taxes Consolidation Act 1997, as amended, and the advice in section 3.1.2 of the 2022 Guidelines for Planning Authorities on the Residential Zoned Land Tax, the lands identified as Land Parvel ID TYLA0005112 under PA Ref. RZLT050 should remain on the RZLT map.

The lands are zoned residential within an established urban area with services are available and no capacity or other reasons have been identified that would prevent the development of these lands in principle for residential purposes. The lands are accessible and there is no reason why they cannot be developed in principle in accordance with the residential zoning objective that applies to these lands. 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.

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.

Dáire McDevitt

Senior Planning Inspector

1st August 2023