



An
Bord
Pleanála

Inspector's Report

ABP-316888-23

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 East of the Old Cork Road, Cashel, Co. Tipperary.
Local Authority	Tipperary County Council.
Planning Authority Reg. Ref.	RZLT040.
Appellant(s)	John Paul Magnier.
Inspector	Daire McDevitt.

1.0 Site Location and Description

The lands identified as Land Parcel ID TYLA00004029 under PA Ref. RZLT040 are located to the east of the Old Cork Road in Cashel, Co. Tipperary.

There is a concurrent RZLT appeals by John Paul Magnier under ABP Ref. 316890-23 for lands on the north side of the R688 Clonmel road, Clerihan, Co. Tipperary (PARCEL ID TYLA00004809).

2.0 Zoning and other provisions

The Tipperary County Development Plan 2022 to 2028 came into effect on 22/08/2022.

Section 4.2.1 states

'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.'

The Cashel and Environs Development Plan, 2009 to 2015 (as extended), is one of several town development plans identified in Table 4.2 and is therefore still in effect.

The lands are zoned R1 New Residential (Phase 2) in the Cashel & Environs Development Plan 2009 to 2015. Stated objective 'to provide for new residential development. Density on such sites will be determined by the nature of the site and proximity to town.

New Residential Development: The incorporation of revised population projections for Cashel as set out in the RPGs requires the management of lands zoned for 'New Residential' use. There is a need for 16ha of lands zoned for New Residential use to cater for projected growth to 2015. In order to secure the provision of the required area of land for new residential development in accordance with the National Spatial Strategy and the RPGs, Phase 1 and 2 'New Residential' lands have been identified. Map 1A of the varied Plan illustrates the location of Phase 1 and Phase 2 new

residential lands. The council will facilitate housing development on lands zoned for new residential use identified as Phase 1. Proposals for multi-unit residential development on new residentially zoned lands designated as Phase 2 shall be subject to a Justification Test (Refer to Section 9.8 of the Plan). This provision shall not be applied so as to act to prevent the orderly and sustainable development of Cashel or to disadvantage those seeking to reside in the town.

Policy HSG 1: New Residential Development It is the policy of the Council to facilitate housing development on new residentially zoned lands identified as Phase 1 on Map 1A. Proposals for multi-unit residential development on new residentially zoned lands designated as Phase 2 on Map 1A shall be subject to a Justification Test to demonstrate that the development of additional land is capable of being accommodated in the receiving environment and complies with the development management requirements of this Development Plan. All new development proposals shall be in accordance with the development management standards, design statements and other guidelines of the Cashel and Environs Development Plan 2009 –2015.

Policy ECON 2: Key Employment Master Plan Areas It is the policy of the Council to facilitate the development of lands identified on Maps 1 and 2 at Coopers Lot and Waller’s Lot for appropriate employment uses as part of Master Plans to be prepared by the relevant landowner(s) to the agreement of the Planning Authority, and in compliance with the key parameters set out in Appendix 3 Master Plans and Chapter 9 Development Management Standards.

The appeal lands form part of the wider Coopers Lot Masterplan lands.

Appendix 1 Part 4 Coopers Lot MasterPlan. This includes reference to the requirement for phasing.

3.0 Planning History

None stated pertaining to the appeal lands.

Lands to the northeast: ABP Ref. 313207-22 relating to a decision to refuse permission for 108 residential units (SHD Application).

4.0 Submission to the Local Authority

The appellant made a submission to the Local Authority seeking to have his land removed from the draft map on the basis that Appendix 4 of the Cashel LAP identifies the requirement for the development of a 'Coopers Lot Masterplan' which the subject site forms part of. Any Masterplan should be agreed with the planning authority and address the phasing of development. No Masterplan has been agreed, and in the absence of same any development relating to the lands is premature. The lands should be excluded from the RZLT until such time as a Masterplan has been prepared and agreed with the planning authority to advance developemtn of this landbank.

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.

NOTE: The requirement to prepare a masterplan in a Development Plan or Local Area Plan would not in itself rule a site out of scope. Where the Masterplan is required to overcome or address infrastructure deficit, without which the land or part of the land would not meet the criteria of Section 653B of the Finance Act 2021, then the affected site or part of the site should be omitted from the final map. This is not considered to be the case with the submission land.

6.0 The Appeal

6.1. Grounds of Appeal

Grounds of appeal are summarised as follows:

- Development is premature in the absence of a Masterplan for the lands as demonstrated in the decision to refuse permission for a SHD application under ABP 313207-22.
- In the absence of a Masterplan access is via an Industrial Estate which is entirely improper.

- Masterplan lands would be the subject of phasing. The appeal lands (Phase 2) would be landlocked until Phase 1 lands are developed.
- Development of lands is dependent on third party agreements.

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 appellant requested that his site be removed from the map due to the absence of a Masterplan as is stated is required by Tipperary County Council before the lands in question can be developed. And any application for development on these lands is likely to be considered 'premature' pending an approved Masterplan. Reference to ABP 313207-22 on adjoining lands to support this argument.

The requirement for a masterplan to be prepared is not included in the criteria for exclusion as set out under section 353B, as such I consider that the land complies with the criteria set out in section 353B of the Taxes Consolidation Act 1997 and this ground of appeal dismissed.

The appellant has also submitted that in the absence of a Masterplan the lands are landlocked as detailed phasing is required as part of the Masterplan and the lands in question are identified as phase 2. There is no masterplan in place for the Coopers Lot Masterplan lands which the appeal lands form part of. It is also submitted that in the absence of the phasing and sequential development of the masterplan lands, the appeal lands are landlocked with the only available access via an industrial estate which is not suitable for residential development.

The appellant has submitted that the lands should be excluded as there is inadequate access via an Industrial Estate. The lands can be served in principle by the existing road network that is in place and are zoned residential. As with all development, the applicant/ developer will be expected to provide for any internal road network necessary to serve the site and similarly a connection to the public road network would be provided by the developer in accordance with the requirements of the Local Authority. As set out above for the purposes of falling within the scope of RZLT the criteria is whether it to 'is reasonable to consider' if access can be provided. On this basis the land, therefore, does satisfy the criteria cited in section 653B(b) of the Taxes Consolidation Act 1997, as amended.

The provision of infrastructure to the subject lands are considered to be in the control of Tipperary County Council or Uisce Eireann and the local authority determined that that the subject lands are in scope and therefore retained within the RZLT Final Map. 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, surface water drainage, 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 TYLA00004029 under RZLT040 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 parcel ID TYLA00004029 under RZLT040 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 parcel ID TYLA00004029 under RZLT040 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 parcel ID TYLA00004029 under RZLT040 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 parcel ID TYLA00004029 under RZLT040 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

31st July 2023