



An  
Bord  
Pleanála

## Inspector's Report ABP-316890-23

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### 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 on the northern side to the R688 Clonmel Road, Clerihan, Ballyclearahan, Co. Tipperary.

### Local Authority

Tipperary County Council.

### Planning Authority Reg. Ref.

RZLT042.

### Appellant(s)

John Paul Magnier.

### Inspector

Daire McDevitt.

## **1.0 Site Location and Description**

The lands identified as Land Parcel TYLA0000809 under PA Ref. RZLT042 are located on the norther side of the R688 Clonmel Road in Ballyclerahan, Co. Tipperary.

Documentation refers to Clerihan.

There is a concurrent appeal by John Paul Magnier under ABP Ref. 316888-23 for lands to the east of the Old Cork Road in Cashel, Co. Tipperary.

## **2.0 Zoning and other provisions**

The lands are zoned R6 New Residential with a stated objective ‘to provide for new residential development’ in the Ballyclerihan Service Centre Settlement Plan in Volume 2 Settlement Guide & Settlement Plans, Tipperary County Development Plan 2022-2028.

## **3.0 Planning History**

None stated.

## **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 the local infrastructure does not have capacity to enable to lands to be developed and as such the 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 serviced 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 drainage needs to the surrounding residential development is currently serviced by 1 no sewer located along the R688. Significant upgrades to the existing network would be required, as such the lands do not satisfy criteria outlined in section 653B(b).

## **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 has submitted that the lands should be excluded as significant upgrades to the water mains network would be required to facilitate residential development on the lands. 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. Correspondence on file from Uisce Eireann confirms that a water main and public sewer exists on the public road in close proximity to the site and that the watermain is accessible c.3m away via the R688 and the public sewer c. 130m away via the R688.

Page 8 of the Residential Zoned Land Tax Guidelines for Planning Authority 2022 clear sets out that 'A need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist.

For the purposes of falling within the scope of RZLT the criteria is whether it to 'is reasonable to consider'. 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. The issue of capacity has not been raised and based on the information available I have no evidence that this is the case.

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 Land Parvel ID TYLA0000809 under PA Ref. RZLT042 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 TYLA0000809 under PA Ref. RZLT042 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 TYLA0000809 under PA Ref. RZLT042 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 TYLA0000809 under PA Ref. RZLT042 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 TYLA0000809 under PA Ref. RZLT042 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.*

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Dáire McDevitt

Senior Planning Inspector

1<sup>st</sup> August 2023