



An
Bord
Pleanála

Inspector's Report

ABP-316893-23

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 on the west side of the N65, north of the town centre, Borrisokane, Co. Tipperary
Local Authority	Tipperary County Council
Local Authority Reg. Ref.	RZLT003
Appellant(s)	Robert Armitage
Inspector	Frank O'Donnell

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1.0 Site Location and Description

- 1.1. The subject site is located on lands to the western side of the N65 National Secondary Road approximately 500 metres to the North of the centre of Borrisokane. The site has a stated site area of c. 1.4 hectares. The majority of the eastern site boundary fronts directly onto the N65. The site is located within the 50 kph speed limit.

2.0 Zoning and other provisions

- 2.1. The subject site is zoned 'New Residential' in the Borrisokane Service Centre Settlement Plan and associated land use zoning map which forms part of the Tipperary County Development Plan, 2022 to 2028.

3.0 Planning History

- 3.1. Planning History for the subject site
- 3.2. There is no recent planning history on the subject site.

4.0 Submission to the Local Authority

- 4.1. The Appellants made a submission to the Local Authority seeking to have their land removed from the draft map.
- 4.2. The Appellant requests that his land be rezoned as agriculture and exempt from RZLT as he has no intention of building on said lands.

5.0 Determination by the Local Authority

- 5.1. Pursuant to Section 653E(1)(a)(ii)(l) of the Finance Act 2021, to INCLUDE the land to which Submission Ref. RZLT003 relates, in the Final Map of the Residential Zoned Land Tax as defined by Section 653B of the Finance Act 2021, for the following reason:
 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.

Note: For land zoned solely or primarily for residential use, the use of the land for farming is not a use which is precluded from the RZLT under the provisions of Section 653B (i) of the Finance Act 2021.

Note: The zoning change element of the submission will be considered in due course and in accordance with Sections 653I(4) of the Finance Act 2021.

5.2. 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 lands in question, bought in 1985, form part of the family partnership landholding base for an active dairy farm. The farm business has undergone recent significant development and investment and the land is actively used and required for agricultural purposes. As the lands identified are not key to the sustainable compact development of Borrisokane as required under a sustainable planning and development approach and as there are ample alternative opportunity sites available that could be targeted for required development, it is considered reasonable to request that the subject lands appeals are removed from the RZLT mapping.
- The Appellant states that *'he never wanted it to be zoned'*.
- The objective of the RZLT is to activate land that is services and zoned for residential use or mixed use, including residential use, in order to increase housing supply and to ensure regeneration of vacant and idle lands in urban locations. The lands in question are not idle and form active farmland.
- Urban development and regeneration, including housing supply is not existent in rural towns and villages such as Borrisokane, due to rural employment loss and general rural decline and the RZLT approach will not address any housing issues in these areas.
- No significant demand for development property in Borrisokane exists. There are no planned development proposals, either from private or public, Local Authority sources.

- No market for development land in Borrisokane exists, based on the lack of demand.
- Ample available development site potential within the village, which are more suitable to provide a consolidated and compact settlement, without extension or expansion of services.
- Existing residential developments in Borrisokane have had partially constructed sites (ghost areas) demolished. These areas are still available for development.
- Suitable residential land owned by the Local Authority and a housing agency have not been brought forward or strategically planned for development.
- Borrisokane showed a population decline in the 2016 census, which underlines the lack of demand for residential development locally.
- Borrisokane is identified as amber in rating in terms of capacity for Wastewater treatment on the Irish Water Services Status portal. Therefore, the service is approaching capacity or needs improvement works. This will be a restrictive factor to development. In addition, while Borrisokane falls into the amber category, there are no plans to upgrade or increase capacity or improve the service rating. It follows therefore that major development would not be sustainable in these areas and as such should be removed from RZLT until service capacity is at a suitable level.
- The office of the Planning Regulator (OPR) in submission to the draft stages of the current Tipperary County Development Plan 2022 – 2028, outlined that Tipperary have zoned more land for residential use than that which is expected to be required to serve housing needs for the county, based on projected project increase and housing demands. Typically, there can be up to 2-3 times more land zoned within the plan than will be realistically required. Historically, within the village there is land that has been zoned for residential use for over 20 years and has not been developed.
- The OPR states requirements for zoned land should be based in density and demand. The Tipperary County Development Plan does not specify residential density assumptions, targets or provide a planned approach to inform zoning requirements.

- The OPR also recommends that up to 30% of zoned residential land should focus on village infill, brownfield redevelopment and replacement of derelict sites, to provide a more sustainable and compact settlement pattern and growth.
- Tipperary County Council have identified a key strategic opportunity site within the Borrissokane Settlement Plan, as part of the current County Development Plan, 2022 to 2028, which is located West of Main Street, Borrissokane. This has been earmarked for sustainable residential development within the plan. This is the only area the Local Authority have identified to encourage development within the plan and has been identified as a priority. Therefore, it can be inferred, that it sees this as the most suitable area for initial short to medium development. Of note, this area is not included in the RZLT mapping, which seems contrary to the concept of RZLT and raises questions as to what logic or criteria has been used in the formation of the RZLT map by the local authority.
- Areas identified by the Local Authority as suitable key opportunity sites should be encouraged through a targeted approach. It is sites that are thus strategically identified and properly planned in terms of suitable density/ build form by the local authority, that should be identified as RZLT areas, rather than trying to entrap all available land areas. Therefore, a planned, phased approach to encouraging the right land to become available would result.
- The imposition of the RZLT is an opportunity tax burden. It does not reflect the reality of whether the land is available to be brought forward for development or if the land is being hoarded to maximise future development opportunity. Realistic engagement should be made at a local area level with stakeholders, landowners, developers, estate agents and the local authority to ascertain the demand for development. This would be an important factor in determining the land use policy and whether all or certain residential zoned land should be included in the RZLT.
- The RZLT, as proposed, is disproportionate to the current and working value of the land concerned. Development value of ownership may never be realized and based on the past and current development pattern of Borrissokane, most

of the residential zoned land will not be developed in the lifetime of the current county development plan or those following. This will result in a purely revenue collection exercise and will have very little impact on the availability of development land.

- The RZLT should only focus on key identified land areas, that the Local Authority earmark as priority locations for development, in order that a focused approach to compact sustainable development of Borrisokane is achieved in accordance with proper planning.

7.0 Assessment

7.1. The comments raised in the appeal are noted.

7.2. As per the Uisce Eireann Wastewater Treatment Capacity Register, published in June 2023, Borrisokane Wastewater Treatment Plant (Reg. Ref. D0326) is indicated to have an 'Amber' status, i.e. *'potential spare capacity, applications to be considered on an individual basis considering their specific load requirements.'* It is therefore considered, owing to the confirmed Amber Status of the Borrisokane Wastewater Treatment Plant, that there is potential spare capacity to accommodate future residential development.

7.3. It is noted that the Local Authority states in its Assessment that all services are available. There is nothing presented in the Grounds of Appeal to indicate otherwise.

7.4. The remaining Grounds of Appeal do not relate to any of the relevant qualifying criteria set out in Section 653B of the Act.

8.0 Conclusion

8.1. 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 RZLT003 (Site Ref. no. TYLA00004273), meet the qualifying criteria set out in Section 653B of the Taxes Consolidation Act 1997, as amended, and there are no matters arising that warrant exclusion from the map.
- 10.2. All services are available and there is potential spare capacity in the Borrisokane Wastewater Treatment Plant to accommodate future residential development.
- 10.3. 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.

Frank O'Donnell
Planning Inspector

14th July 2023