



An
Bord
Pleanála

Inspector's Report

ABP-316896-23

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	Infill site on the southern side of the R460, Clonmel Road, Cahir, Co. Tipperary
Local Authority	Tipperary County Council
Local Authority Reg. Ref.	RZLT048
Appellant(s)	Roger Byrne
Inspector	Frank O'Donnell

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1.0 Site Location and Description

1.1. The subject site is located on the southern side of the R640 Regional Road, c. 560 metres to the north-east of the centre of Cahir. The site is a corner infill site at the intersection of the Cherry Tree Lane residential estate road and the R460, is surrounded by established residential development to the immediate, east, west and south and has a stated site area of c. 0.1 hectares.

1.2. It should be noted that there are 2 no. separate concurrent RZLT Appeals pertaining to 2 no. sites within proximity to the subject site, as follows:

- Local Authority Ref. RZLT071 and An Bord Pleanála Case Ref. No. VY92.316885, relating to lands on the opposite side of the R640 Regional Road to the north-east of the subject site.
- Local Authority Ref. RZLT065 and An Bord Pleanála Case Ref. No. VY92.316882, relating to lands on the adjacent site to the immediate east/south-east of the subject site.

2.0 Zoning and other provisions

2.1. The subject site is zoned 'Existing Residential' in the Cahir Local Area Plan, 2021.

3.0 Planning History

3.1. Planning History for the subject site

3.2. 041522: Roger & Kay Byrne. Permission for a dormer bungalow, entrance and associated site works. Permission was GRANTED on 18/03/2010 subject to 9 no. conditions.

3.3. 031608: Roger & Kay Byrne. Permission for a dormer bungalow. INCOMPLETE APPLICATION.

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 landowner previously applied for and obtained a Grant of Planning Permission for a dwelling on the Plot. The Grant did not reflect a pre-existing agreement reached with the Council's agent regarding connection to certain services. The landowner queried this with the Council, who stated they would look into the matter and revert. That response is awaited. Given the matter rests with the Council, the Plot should not be subject to RZLT.
- 4.3. The availability of waste-water services for the Plot cannot be reasonably assumed. The Cahir Local Area Plan 2021 to 2027 (the 'LAP') at Clause 9.2 refers to the local Waste-Water Treatment Plant's limited capacity.
- 4.4. Clause 2.2 of the Revenue Commissioners' Guidance on the Residential Zoned Land Tax Part 22A-01-01, states, *'It is only when land is zoned for residential use and has access to necessary infrastructural services to allow for development to proceed that it is within the scope of the tax.'* That position has not been reached in relation to the Plot and it should be removed from RZLT map.
- 4.5. The Plot is less than 0.5 acres and retained by the landowner for future potential down-sizing. A national policy on downsizing or 'right sizing' is a stated objective of Housing For All. Action 20.5 of Housing for All refers to exploration of *'the options to support and incentivise rightsizing on a voluntary basis.'*
- 4.6. RZLT is introduced pursuant to Action 15.2 of Housing for All. Pending the issuing of such policy and incentivisation's, it is excessive and unjust to include down-sizing lands such as the Plot for RZLT in direct conflict with Housing for All's Action 20.5.
- 4.7. RZLT and Action 15.2 are grounded in Housing for All – Pathway to Increasing New Housing Supply. This wording of this Pathway clearly relates to deliver of development at scale. It is submitted that it is excessive to include a site less than 0.5 acres such as the Plot.
- 4.8. The LAP identifies sufficient sites to deliver the required 10.1 ha of zoned residential land for development at scale without reliance on smaller sites such as the Plot.

4.9. As per the Housing for All Executive Summary and Action 15.2, RZLT is to replace the Vacant Site Levy. The Plot was never subject to the Vacant Site Levy and it is submitted should not be within scope for this stated replacement tax.

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. 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 statutory notification of the Order is flawed.
- It is not reasonable to consider the Plot may have access to or be connected to services with sufficient service capacity available for development.
- 'Relevant issues' as defined in the Guidelines were not considered by the Council in its determination.
- The inclusion of the 0.5 acres in the Final Map is in conflict with the Housing for All Policy on downsizing.
- The legislative timeline makes compliance with the RZLT incentive impossible.
- The potential denial of my right to an appeal of [SIC] the Order, the mandating of action on the Plot, and the unfair treatment of persons under the Act, are contrary to Bunreacht na hEireann.
- Statutory Compliance: The Appellant is seeking assurances of compliance with certain requirements of the Act.

7.0 Assessment

- 7.1. The comments raised in the appeal are noted.
- 7.2. The Appellant considers the Local Authority Order to be flawed. The Appellants opinion in this regard is noted. The Appellants right of Appeal has not been infringed upon. This issue does not relate to any of the relevant qualifying criteria set out in Section 653B of the Act.
- 7.3. Uisce Eireann confirm the availability of nearby Water and Wastewater Networks and have not raised any capacity issues.
- 7.4. As per the Uisce Eireann Wastewater Treatment Capacity Register, published in June 2023, Cahir Wastewater Treatment Plant (Reg. Ref. D0167) is indicated to have a 'Green' status, i.e. '*spare capacity available.*' In addition, it is indicated that a Wastewater Treatment Plant project is planned or underway for Cahir. It is considered therefore that there is spare capacity available in the Cahir Wastewater Treatment Plant to accommodate future residential development.
- 7.5. 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 RZLT048 (RZLT PARCEL ID: TYLA00005143), 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. Uisce Eireann confirm the availability of nearby Water and Wastewater Networks and have not raised any capacity issues. It is considered there is spare capacity available in the Cahir Wastewater Treatment Plant to accommodate future residential development.
- 10.3. As per Section 653B(b) of the Act, it is considered reasonable to conclude that the subject lands may have access, or be connected, to public infrastructure and facilities, including roads and footpaths, public lighting, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed and with sufficient service capacity available for such development.
- 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.

Frank O'Donnell
Planning Inspector

14th July 2023