



An
Bord
Pleanála

Inspector's Report ABP-316925-23

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 Map

Location

Site 2, East side of the Dark Road, Gortlandroe, Nenagh, Co. Tipperary

Local Authority

Tipperary County Council

Local Authority Reg. Ref.

RZLT010. Site 2, East side of the Dark Road, Gortlandroe, Nenagh, County Tipperary.

Appellant

Patrick Gubbins

Inspector

Frank O'Donnell

1.0 Site Location and Description

1.1. The subject Appeal relates to 1 no. site located to the north-west of the centre of Nenagh Town. The 1 no. site is referenced as follows:

- Site 2 (RZLT Map Parcel ID: TYLA00005070)

1.2. Site 2 is located on the east side of the Dark Road and comprises of farmland. The site has a stated site area of 2.03 hectares and is accessible from the Dark Road to the west and the adjacent residential development at Carrig Rua to the east.

2.0 Zoning and other provisions

2.1. Site No. 2 is zoned 'Serviced Sites Phase 1' in the Nenagh Town & Environs Development Plan, 2013, (as extended). Serviced Sites Phase 1 zoning allows for residential development.

2.2. The Tipperary County Development Plan 2022 to 2028 came into effect on 22/08/2022. As per Section 4.2.1 of the Tipperary County Development Plan, the following is stated in relation to the status of Town Development Plans and LAPs:

'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.'

2.3. The zoning of the site under the Nenagh Town & Environs Development Plan, 2013, (as extended), therefore remains in effect.

2.4. The DRAFT Nenagh Local Area Plan, 2024 to 2030, is currently in preparation. A Pre-Draft issues was placed public display from 4th November 2022 to 5th December 2022.

2.5. The DRAFT Nenagh Local Area Plan, 2024 to 2030, has yet to be published.

3.0 Planning History

3.1. Panning History for the Site No. 2

- 3.2. 10520023: Patrick Gubbins. Outline Permission for three sites for houses, including three entrances and ancillary services. Outline Planning Permission was REFUSED on 25/11/2010. The reason for refusal is stated to be based on the access arrangement to individual sites off the Dark Road.

4.0 Submission to the Local Authority

- 4.1. The Appellant made a submission to the Local Authority seeking to have their land, i.e. 2 no. sites (Sites 1 & 2) removed from the draft map.
- 4.2. The Appellant sought that the following Residential Zoned Lands be Excluded from the Tax Maps, and to De-Zone for Tipperary County Council Current Zoned Planning Maps, Reference Folio Numbers TY55119F and TY14981 (Referenced on attached Land Registry Maps submitted to the Local Authority).
- 4.3. The Appellant referenced folio No. TY23419F. The Appellant referenced previous Residential Zoning back to 2010.
- 4.4. The Appellant stated that the Family are happy to return the zoned lands to agricultural practice which, it is stated, will further support, and enhance their dairy business in an ever-challenging environment.

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. Note: The residential property (identified as Site C in the submission) is located on that is zoned solely or primarily for residential use with access to all services, must remain on the RZLT Final Map, but will not be subject to the RZLT if liable to Local Property Tax. The extent of ground which is considered to form part of the residential property is not a matter for consideration by the Local Authority. This is a matter for disclosure by the landowner to the Revenue Commissioners.

- 5.3. 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 (c) (i) of the Finance Act, 2021.
- 5.4. Note: The zoning change element of the submission will be considered in due course and in accordance with Sections 653 I (4) of the Finance Act 2021.
- 5.5. The Local Authority determined that sites 1 and 2 were in scope and should remain on the map.

6.0 The Appeal

6.1. Grounds of Appeal

6.2. The Grounds of Appeal are as follows:

- RZLT Parcel ID: Site 2 – TYLA00005070.
- Attached lands were zoned residential prior to 2010 due to demand in the immediate environment.
- Since that time members of the family have grown up and are now engaged in intensive dairy farming, I refer to Herd Number V1220852.
- It is the family's strong desire to DE-Zone all these lands marked for residential zoning and would be De-Zoned back to agricultural and in line with our dairy farming enterprise as part of our current agricultural enterprise (70 of a cow herd).
- The family have recently engaged with the Local Authority as part of the Nenagh Town Local Plan to remove this land marked residential and to De-Zone back to agricultural in line with our agricultural enterprise.

7.0 Assessment

- 7.1. The comments raised in the appeal are noted.
- 7.2. The Appeal is solely concerned with Site no. 2 (RZLT Parcel ID Site 2 – TYLA00005070).
- 7.3. The Local Authority has outlined in its report why they have determined that sites 1 and 2 are in scope for inclusion on the RZLT maps. The “Serviced Sites Phase 1’ zoning of Site no. 2 allows for residential development.
- 7.4. No issues in relation to vehicular access to site no. 2 have been raised as an issue of concern.
- 7.5. The area is served by water supply, foul drainage, surface water drainage, and there is no reason as to why this site cannot be suitably serviced.
- 7.6. 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 (Site no. 2) be retained on the map.

10.0 Reasons and Considerations

- 10.1. The lands identified as RZLT010 (RZLT Map Parcel ID: Site 2: TYLA00005070), 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.
- 10.2. The Grounds of Appeal do not support a different conclusion in relation to this matter.

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

18th July 2023