



An
Bord
Pleanála

Inspector's Report

ABP-316930-23

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	Lands on the west side of the N65, Borrisokane, Co. Tipperary
Local Authority	Tipperary County Council
Local Authority Reg. Ref.	RZLT028 & RZLT029
Appellant(s)	Austin Dennison
Inspector	Frank O'Donnell

1.0 Site Location and Description

1.1. The subject site is located on the western side of the N65 National Secondary Road c. 275 metres to the south-west of the centre of Borrisokane. The site has a stated site area of c. 0.8 hectares. The subject site is surrounded by established residential development. The site is adjacent and to the immediate south-east of the established residential development of Finnoe Drive. The site includes an existing agricultural access/ laneway directly onto the N52 to the south-east.

2.0 Zoning and other provisions

2.1. The subject site is zoned 'Existing 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.

3.3. Planning History on adjacent lands

3.4. 12510159: Austin Dennison. Permission for a stable unit, including associated site works. Permission was GRANTED on 31/07/2012 subject to 3 no. conditions.

4.0 Submission to the Local Authority

4.1. The Appellant made a submission to the Local Authority seeking to have their land removed from the draft map.

4.2. A summary of the submission is as follows:

- There is no intention or ability to develop the lands by the landowner.
- The lands are currently in agricultural use and provide grazing area for donkeys and horses housed on my lands in conjunction with planning grant file 1251059 for stables.

- The continued use of the lands for agricultural use are integral to the use and enjoyment of the stables. Without the use of the lands the stable provision is untenable.
- The access to the lands is insufficient for the purposes of development and the provision of a serviced access road to the property.
- The lands are in effect practically landlocked.

5.0 Determination by the Local Authority

- 5.1. It has been determined, pursuant to Section 653E(1) (a) (ii) (I) of the Finance Act, 2021, to INCLUDE the land to which Submission Ref. RZLT028 & RZLT029 relates, in the Final Map of the Residential Zoned Land Tax as defined by Section 653K of the Finance Act 2021.
- 5.2. It is reasonable to consider 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, noting that road access to the submission land is reasonably available through Finnoe Drive.
- 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 653 (i) of the Finance Act, 2021.
- 5.4. Note: Due to the nature of the access from the N52, the extent of area of land which forms the access way/ entrance lane from the N52, will be excluded from the Final Map.
- 5.5. 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 form part of the Appellants landholding upon which he keeps rescue horses and donkeys. A planning permission grant from Tipperary County Council file ref:12510159, facilitated the construction of stables and

associated facilities for the keeping of the animals. The access and use of the land is fundamental to the continued keeping of animals at this location.

- The land is located adjacent to 3 existing residential developed areas and offers a valuable green space and amenity area in the settlement area. The Appellant considers that its use is better served in this manner in an area that is already relatively densely development for a village setting to remain available for amenity use.
- The South boundary of the lands contains an overgrown disused mass path / bridle way, which is being proposed to be renewed for public use. This would be complimented with the continued open land use for amenity use.
- 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 are in use.
- 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 having an 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 Borrisokane Settlement Plan, as part of the current County Development Plan, 2022 to 2028, which is located West of Main Street, Borrisokane. 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, which 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 Borrisokane, 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. The subject lands are zoned 'Existing Residential' which facilitates residential development. The use of the land for the care of rescue horses and donkeys is not a use which is listed in the relevant qualifying criteria set out in Section 653B of the Act which would exclude the lands from inclusion on the map. The referenced planning permission relates to a stable building located on an adjacent dwelling site which is not included on the map.
- 7.3. The Appellant refers to the south boundary of the lands which is stated to include an overgrown/ discussed mass path/ bridle way. The Appellant states that this is being proposed to be renewed for public use. The Appellant states that this would be complimented with the continued open use of his land for amenity use.
- 7.4. The Local Authority reference this area of the site in the Site Description presented in the assessment, i.e., '*Access to the land is via a narrow laneway from the N52.*' The Appellants stated proposed public use of these lands is noted. This area of the overall site is considered to be an overgrown access way which is zoned 'Existing Residential' and facilitates residential development. Any intended future use of this area of the site does not fall within the criteria for exclusion from the map as set out in Section 653B of the Act and, in particular, Section 653B c) iii) I) or Section 653B c) iii) VII).
- 7.5. 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.
- 7.6. It is noted that the Local Authority states in its Assessment that all services are available. Uisce Eireann confirm the availability of nearby Water and Wastewater Networks and have not raised any capacity issues. There is nothing presented in the Grounds of Appeal to indicate otherwise.

- 7.7. The Local Authority has outlined in its report why they have determined that the site is in scope for inclusion on the RZLT maps. The Proposed Residential zoning allows for residential development.
- 7.8. No issues in relation to vehicular access to the site have been raised as an issue of concern. 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. The area is also served by existing public lighting and a footpath on both sides of the public road fronting the site.
- 7.9. I therefore consider that the site, should remain for inclusion on the Residential Land Tax Maps as the site zoning allows for residential development and there are no known restrictions on the development of these lands.
- 7.10. 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. I am satisfied that having regard to the nature/ location of the site that these lands can be suitably developed for residential development. 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 RZLT028 & RZLT029 (RZLT Map Parcel ID TYLA00005556, TYLA00005564 & TYLA00005555), 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 lands can be accessed from the public road.
- 10.3. 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. There are no capacity issues arising.
- 10.4. The Grounds of Appeal do not support a different conclusion in relation to this matter.
- 10.5. 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