



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316973-23

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<b>Type of Appeal</b>	Appeal under section 653J(1) of the Taxes Consolidation Act 1997, as amended, against the inclusion of land on the Residential Zoned Land Tax
<b>Location</b>	East side of Glenconnor Road, Clonmel, Co. Tipperary
<b>Local Authority</b>	Tipperary County Council
<b>Local Authority Reg. Ref.</b>	RZLT025
<b>Appellant(s)</b>	Michael O'Connell
<b>Inspector</b>	Frank O'Donnell

## 1.0 Site Location and Description

- 1.1. The subject site is located on the east side of the Glenconnor Road to the north-west of the centre of Clonmel. The site comprises of a house, farmland and farm buildings, has considerable site frontage onto the public road to the south-west and has a stated site area of c. 3.18 hectares.

## 2.0 Zoning and other provisions

- 2.1. The subject site is zoned 'New Residential' in the Clonmel & Environs Development Plan, 2013, (as extended).
- 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 Clonmel & Environs Development Plan, 2013, (as extended) therefore remains in effect.

## 3.0 Planning History

- 3.1. Planning History for the subject site
- 3.2. There is no planning history associated with 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 following is a summary of the submission:

- Based on Section 653b of the Taxes Consolidation Act, the farm should not be zoned for RZLT.
- An inevitable financial debt will arise.
- Full public services unavailable.
- Sufficient lands in the area with approved permissions to meet demand until circa 2035.
- Local Authority lands, zoned for residential use, remain without development plans by the Authority in the Garryshane/ Glenconnor West areas for at least 10 years without progress on developing these lands.
- Category Tier 2 property per the County Development Plan.

## **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**

- No Foul Water Sewers bound this property.
- The aim of the Act is to activate planning permissions and influence behaviours. There are no approved/ rejected planning permissions associated with this

land. There have been no planning applications lodged in relation to this property. The spirit of the legislation is primarily to influence developers to activate their land Banks. The Appellant is not a developer, and these lands are an integral and critical part of a working farm and have no other purpose.

- The Appellant refers to previous approved developments dating back to 2007 which, it is stated, are yet to be completed due to lack of demand. The Appellant contends that this indicates an over-supply of development land in the Ardgeeha/ Glenconnor area. The Appellant considered that current permissions should satisfy housing demand in the area for at least the next decade. The Appellant states that there is no population explosion in Clonmel, with only modest actual and forecasted population increases in the Clonmel area based on the current census, unlike other larger Regional Cities.
- Inconsistencies, inequality and lack of fairness in the RZLT system. There is an apparent distinction being made between public and private lands. There are other State Lands in the Clonmel area which, if activated for development, would meet any or all demand for housing in the Clonmel area. This would negate the necessity for forcing private farmlands in the area into the Development process.
- The Appellants lands are integral and critical to his overall farming activity for a number of reasons including:
  - The existing farm infrastructure in place at Glenconnor/ adjacent to the Appellants private dwelling house, other parcels of land on the holding have no agricultural buildings or facilities for animal handling.
  - Access to the infrastructure on this land is essential for animal welfare/ statutory testing.
  - Viability of the entire farming operation/ undue financial burden.
- Developers will not engage in the purchase of lands that have a continuing charge associated with the lands, i.e. RZLT. Developers would conclude that there is no business opportunity in the area due to the extent of developments already approved and incomplete.

## 7.0 Assessment

- 7.1. The comments raised in the appeal are noted.
- 7.2. Uisce Eireann confirm in relation to Water Networks that a water main exists on the public road in close proximity to the site. It is further stated that available GIS data indicates the watermain is accessible approximately 10m away via the road, Glenconnor Road, adjoining the land parcel. No water supply capacity issues are raised by Uisce Eireann.
- 7.3. It is noted the Clonmel and Environs water resource zone (WRZ ID: 2900SC0025) is stated to have Capacity Available – LoS improvement required (Capacity Available – LoS improvement required means '*Capacity Available to meet 2032 population targets - Level of service (LoS) improvement required. Leakage reduction and/or capital investment will be required to maintain/improve levels of service as demand increases. These proposals will be developed & prioritised through the National Water Resources Plan and investment planning process*').
- 7.4. It is considered therefore that there is a viable water supply/ connection available in proximity to the site and that therefore the site can be reasonably serviced in terms of water supply.
- 7.5. Uisce Eireann confirm in relation to Wastewater Networks that a sewer exists in close proximity to the site. It is further stated that available GIS data, indicates that the sewer is accessible approximately 35m away in nearby lands, to the north of Oakwood housing estate. It is stated that IW has no information as to the ownership of the lands surrounding the land parcel. No wastewater capacity issues are raised by Uisce Eireann. It is noted the Clonmel Wastewater Treatment Plant (WWTP) (Ref. D0035) has a Green status on the Uisce Eireann Wastewater Treatment Capacity Register published in June 2023. Green status is stated to mean that there is spare capacity available.
- 7.6. It is considered therefore that there is a viable wastewater connection available in proximity to the site and that therefore the site can be reasonably serviced in terms of wastewater.
- 7.7. 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 RZLT025 (RZLT Map Parcel ID: TYLA00002868 and TYLA00002870), 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. There is existing available Water and Wastewater infrastructure proximate to the subject lands and no capacity or supply issues have been raised by Uisce Eireann.
- 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.

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Frank O'Donnell  
Planning Inspector

14<sup>th</sup> July 2023