



An
Bord
Pleanála

Inspector's Report

ABP-320348-24

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

Ard Gaoithe, Cashel Road, Clonmel,
Co. Tipperary

Local Authority

Tipperary County Council

Planning Authority Reg. Ref.

RZLT.2024.002

Appellant

Chris & Breda Lee

Inspector

Sinéad O'Connor

1.0 Site Location and Description

The lands identified as lands at Ard Gaoithe, Cashel Road, Clonmel, Co. Tipperary (Parcel ID TYLA00002803) are located circa 1.5 km north of Clonmel town centre. The lands adjoin the R688 along its western boundary, the L-16681 along its eastern boundary and Longfield Road at its southern boundary. There is established residential development to the southeast and southwest of the site. The majority of the lands to the immediate east are in agricultural use and there is a commercial/industrial estate to the west on the opposite side of the R688.

2.0 Zoning and Other Provisions

The relevant plan is the Clonmel and Environs Local Area Plan 2024-2030, which came into effect 25 March 2024.

- The subject site is zoned 'R1-New Residential' To provide for new residential development.
- Table 9.2: Zoning Matrix lists residential as 'permitted in principle' on zoned RS lands.
- Appendix 1 'Serviced Land Assessment' identifies the subject site as plot no. 2. Table 1 'SLA for Lands available for new residential development' indicates that the site has access to roads, footpaths, water, public lighting and the foul sewer. The site is designated as a Tier 1 site, that being 'Serviced Land'.
- Section 6.6 notes that proposed Road Link 1 "Connects the R688 Cashel Road via Longfield Avenue east to an existing roundabout (south of the Paddocks housing estate) on the R689 Fethard Road".
- **Policy 6.5:** *Preserve the Study Area and Route Corridor Options, or, when it emerges, the corridor of the Preferred Option for the proposed N24 Waterford to Cahir Scheme (Major National Road Project).*

3.0 Planning History

PA Ref. 06550075: On 04 December 2006 planning permission was granted to Chris and Breda Lee for the construction of 28 no. dwellings at the southern portion of the

subject site. This permission was not taken up and expired 03 March 2016.

I note that the appeal statement makes reference to a submission made under RZLT.2023.002. In the context of the sentence, I consider that this reference is an error and the appellant intended to refer to RZLT.2024.002.

4.0 Submission to the Local Authority

The appellants made a submission to the local authority seeking to have the full extent of their landholding at Parcel ID TYLA00002803 removed from the RZLT map on the basis that the N24 Waterford to Cahir Link Road works would preclude development at the site, and the Part 8 proposed Cashel Road Active Travel Scheme does not include access to the site to facilitate residential development.

5.0 Determination by the Local Authority

The local authority determined that:

By Order dated 26 June 2024, it was decided, that pursuant to Section 653(1)(a)(ii)(I) of the Finance Act 2021, to include the land to which Submission Ref. RZLT.2024.002 relates with the exception of the lands hatched red in figure 1 overleaf, in the Final Map of the Residential Zoned Land Tax as defined by Section 653K of the Finance Act 2023, for the following reason:

1. The southern portion of the land within the N24 Waterford to Cahir Road Project (see Figure 1 which outlines the lands to be excluded) should be excluded from the RZLT Final Map pursuant to Section 653B(iii)(II) of the Finance Act 2021, which is land that it is reasonable to consider is required for, or is integral to, occupation by transport facilities and infrastructure.
2. It is reasonable to consider that the remainder of 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. This land is not within the Route Corridors for the N24 Waterford to Cahir Road Project.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are summarised as follows:

- The full extent of the subject site (Parcel ID: TYLA00002803) should be excluded from the RZLT map on the basis that the lands cannot be connected to public infrastructure and facilities.
- A significant portion of the site occurs within the Preferred Transport Solution Corridor of the N24 Waterford to Cahir Road Improvement Project and, therefore, the full extent of the site is precluded from providing residential development for an indefinite period of time.
- Access from the Road Link 1/Link 1 Corridor at the south of the site has not been established.
- Local Road L-16681 to the east of the site is substandard in width, and does not have footpaths, cyclelanes or public lighting. There is insufficient capacity on this road to accommodate traffic arising from residential development at the site.
- Reference is made to the LA determination dated 28 March 2023 under PA Ref. RZLT041 for lands to the east of the site, which found that access from the L-16681 would not be viable on the basis that road upgrade works would be required.
- The site is not accessible from R688 Cashel Road on the basis of communications with a Senior Engineer in Tipperary County Council.
- A shared junction with the pharmaceutical complex to the west would require Third-Party consent, and is out of the control of the appellant.

7.0 Assessment

The grounds of appeal have been fully considered. Under section 653J of the Taxes Consolidation Act 1997 as amended, the Board's role in the current appeal is to review the determination of the local authority under section 653E which is based on the application of the relevant criteria set out in section 653B of the Act for inclusion on the RZLT map. This position is consistent with the Residential Zoned Land Tax-

Guidelines for Planning Authorities June 2022 which clearly sets out in section 3.3.2 that:

“in considering appeals, An Bord Pleanála is restricted to considering the grounds of appeal, the determination of the local authority on the submission made during public display period, and any additional information on the servicing or use of the land which the Board may seek from the landowner, Local Authority or stakeholders identified in article 28 of the 2001 regulations. In assessing any appeal, the Board is restricted to considering whether the lands meet the qualifying criteria set out in section 653B only”.

The appellant states that the entirety of the site is precluded from development by the Clonmel Road Link 1, not just the southern portion of the site that is coloured in red in Figure 1 of the LA Determination.

In their assessment, the LA confirm that it is reasonable to consider that the northern portion of the site can be connected to services and is, therefore, in scope for inclusion in the RZLT map. The submission to the LA from the Tramore House Regional Design Office dated 07 May 2024 confirms that the Clonmel Road Link 3, as per the Preferred Transport Solution (PTS) of the N24 Waterford to Cahir project, will have no direct impact on the northern portion of the subject site. The submission confirms that Clonmel Road Link 1 overlaps with the southern portion of the site only and, therefore, this southern area was subsequently excluded from the RZLT map. The submission to the LA from the District Engineer confirmed that the site is located on the public road and that no issues arise in respect of road access, public lighting or footpaths.

With reference to the location of the Clonmel Road Link 1 of the N24 Waterford to Cahir Project and Policy 6.5 of the LAP, which preserves the N24 road corridor free from development, I consider that the southern portion of the site as shown in Figure 1 of the LA Determination meets the criteria for exclusion under Section 653B(iii)(II) of the Taxes Consolidation Act 1997 as amended.

In respect of the remaining area of the site, I note that the subject site immediately adjoins 3 no. public roads, the R688 to the west, the L-16681 to the east, and Longfield Avenue to the south. On the basis of Policy 6.5 of the LAP, I consider it reasonable that access to the northern portion of the site cannot be achieved from the south via Longfield Avenue. I consider that the L-16681 to the east of the site is too narrow to safely accommodate 2-way traffic and, therefore, it is not reasonable to consider that

this road has capacity for additional traffic. The northern portion of the site is currently accessed from the R688 Cashel Road. I note the submissions made to the LA from Active Travel in respect of the Part 8 project: The Proposed Cashel Road Active Travel Scheme, which indicate that provisions have been made under the current scheme to accommodate the established entrances to the site. Drawing from the above, I consider it reasonable to consider that future access to the site can similarly be accommodated.

In respect of footpaths, the submission from the District Engineer concluded that there is an existing footpath on the public road at the south of the site and that footpaths will be provided as part of the Proposed Cashel Road Active Travel Scheme. I note that there are existing footpaths along the R688 on the opposite side of the road, which serve the site. In addition, there is an existing footpath on the eastern side of the R688 circa 70 metres to the south of the existing site entrance to the R688. Based on the foregoing, it is reasonable to consider that the northern portion of the site can connect to existing footpaths.

As per Appendix 1 of the LAP, Parcel ID TYLA00002803 comprises Tier 1 serviced land that is available for development. Drawing from the above, I consider that the northern portion of the land satisfies the criteria cited in section 653B(b) of the Taxes Consolidation Act 1997, as amended.

The lands are zoned for residential development and, therefore, meets the criteria for inclusion of the RZLT map under Section 653B(a) of the Act. As per documentation submitted to LA and recent UE capacity registers (accessed 06 September 2024), it is considered reasonable that the site can connect to existing water infrastructure and there is capacity in the system to serve future development. I note that level of service improvements are required at the Clonmel & Environs water resource zone however, these works would not preclude development or inclusion on the RZLT map with reference to page 8 of the RZLT Guidelines. There are no physical conditions at the northern portion of the site that would preclude the provision of dwellings, therefore, the site meets the criteria for inclusion of the RZLT map under Section 653B(c) of the Act.

8.0 Recommendation

Having regard to the foregoing, I recommend that the Board confirm the determination of the local authority. I consider that the southern portion of the site identified as Ard Gaoithe, Cashel Road, Clonmel, Co. Tipperary (Parcel ID TYLA00002803), which are those shown in red in Figure 1 of the LA Determination, meet the criteria for exclusion from the RZLT map under Section 653B(iii)(II) of the Taxes Consolidation Act 1997, as amended. I consider that the remainder of the lands, referred to as the northern portion of the site and identified as being the lands not shown in Figure 1 of the LA Determination dated 26 June 2024, meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended. The grounds of appeal have not raised other matters under section 653B of the Taxes Consolidation Act 1997, as amended and there are no matters arising that warrant exclusion of the remainder of the subject lands from the final map.

9.0 REASONS AND CONSIDERATIONS

The lands identified as Ard Gaoithe, Cashel Road, Clonmel, Co. Tipperary (Parcel ID TYLA00002803) located on lands zoned R1-New Residential are considered in scope of section 653B(a). The southern portion of lands, as per Figure 1 of the LA Determination, meet the criteria for exclusion from the RZTL map under Section 653B(iii). The remainder of the site, referred to as the northern portion of the site, meet the criteria for inclusion on the RZLT map under 653B(b) on the basis that it is reasonable to consider that these lands can connect to the R688 and to existing services. There are no physical constraints that would preclude the provision of dwellings at the northern portion of the site.

10.0 Recommended Draft Board Order

Taxes Consolidation Act 1997 as amended

Planning Authority: Tipperary County Council

Local Authority Reference Number: RZLT.2024.002

Appeal by Chris and Breda Lee in accordance with section 653J of the Taxes Consolidation Act 1997 as amended, against the inclusion of the northern portion of their land on the Residential Zoned Land Tax Map by Tipperary County Council on the 26 day of June 2024 in respect of the site described below.

Lands at: Ard Gaoithe, Cashel Road, Clonmel, Co. Tipperary

Decision

The Board in accordance with section 653J of the Taxes Consolidation Act 1997 as amended, and based on the reasons and considerations set out below, hereby decided to:

The Board confirm the determination of the local authority and direct the local authority to exclude from the RZLT map the southern portion of the lands at Parcel ID TYLA00002803, those being the lands shown in red in Figure 1 of the LA Determination dated 26 June 2024, and to include in the RZLT map the remainder of the lands at Parcel ID TYLA00002803, those being the lands not shown in red in Figure 1 of the LA Determination.

Reasons and Considerations

The lands identified as Ard Gaoithe, Cashel Road, Clonmel, Co. Tipperary (Parcel ID TYLA00002803) located on lands zoned R1-New Residential are considered in scope of section 653B(a). The southern portion of lands, as per Figure 1 of the LA Determination, meet the criteria for exclusion from the RZTL map under Section 653B(iii). The remainder of the site, referred to as the northern portion of the site, meet the criteria for inclusion on the RZLT map under 653B(b) on the basis that it is reasonable to consider that these lands can connect to the R688 and to existing services. There are no physical constraints that would preclude the provision of dwellings at the northern portion of the site.

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.

Sinead O'Connor

Planning Inspector

Date: 10 September 2024