



An
Bord
Pleanála

Inspector's Report

ABP-320425-24

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

Lands on the East side of Glenconnor Road, Ardgeeha, Clonmel, Co. Tipperary

Local Authority

Tipperary County Council

Planning Authority Reg. Ref.

RZLT.2024.011

Appellant

Michael O'Connell

Inspector

Sinead O'Connor

1.0 Site Location and Description

The lands identified as lands on the east side of Glenconnor Road, Ardgeeha, Clonmel, Co. Tipperary (Parcel IDs TYLA000002868 &TYLA000002870) are located in the northwest of Clonmel. Parcel ID TYLA000002870 accommodates a residential dwelling and adjoining farmyard. Parcel ID TYLA000002868 wraps around Parcel ID TYLA000002870 and comprises agricultural lands. Both sites have direct frontage onto the Glenconnor Road.

2.0 Zoning and Other Provisions

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

- Parcel ID TYLA000002870 is zoned 'RS-Existing Residential'- to Provide for residential development and protect and improve residential amenity.
- Parcel ID TYLA000002868 is zoned 'R1 - New Residential'- To provide for new residential development.
- Table 17: Zoning Matrix indicates that Residential is Permitted in Principle on both RS and R1 lands.
- Parcel ID TYLA000002868 constitutes Site 13 under 'Table 1: SLA for Lands available for new residential development' of Appendix 1 'Serviced Land Assessment'. This site is designated as a Tier 1 site, that being 'Serviced Land'.

3.0 Planning History

PA Ref. RZLT025, ABP Ref. VY92.316973: On the 16 October 2023 the Board decided to confirm the local authority determination to include the sites on the RZLT map on the basis that they meet the criteria for inclusion under Section 653B of the Taxes Consolidation Act 1997. as amended.

4.0 Submission to the Local Authority

The appellants made a submission to the local authority seeking to have their land

removed from the final map on the basis that the lands do not currently have access to existing services. To connect to existing services would require access over Third-Party lands. The Clonmel Waste Water Treatment Plant (WWTP) does not have sufficient capacity to service development, which will have impacts on the River Suir Special Area of Conservation. There is insufficient capacity on the local road network to accommodate development. There are no cycle lanes, and the footpaths are substandard.

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 lands to which Submission Ref. RZLT.2024.011 relates, 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) 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.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are summarised as follows:

- There is insufficient capacity in the Clonmel WWTP.
- Potential for negative impacts on the River Suir SAC, to which the WWTP discharges.
- Insufficient capacity on the local road network to accommodate development.
- There are no cycle lanes, and the footpaths are substandard.

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”.

Since the previous decision made under PA Ref. RZLT025, ABP Ref. VY92.316973, I note that the Clonmel and Environs Local Area Plan 2024-2030 has come into effect. Under the current Plan, the site retains its residential land use zoning objective. Aside from the LAP, the physical character and context of the site remains unchanged since the previous appeal submission.

The current Grounds of appeal refer to a lack of connection to the public foul sewer and the need for Third Party lands to connect to same. The appeal statement states that there is insufficient capacity in the WWTP to accommodate development at the site.

The LA in their assessment refer to the submission from Uisce Éireann (UE) dated 30 April 2024, which confirmed that there is a public foul sewer located circa 35 metres from the site, at the Oakwood Housing Estate.

I note that the Oakwood development is located 35 metres to the south of the subject lands, on the Glenconnor Road. The Oakwood development immediately adjoins the public road and, therefore, no Third-Party consent would be required to make a connection to this existing sewer. The Uisce Éireann (UE) Wastewater Treatment Capacity Register published June 2023 (accessed 5 September 2024) indicates that there is spare capacity available at the Clonmel WWTP. Drawing from the above, it is reasonable to consider that a connection can be made to the existing foul sewer network and that there is sufficient capacity in the system to serve residential

development at the site. On this basis, the land satisfies the criteria cited in section 653B(b) of the Taxes Consolidation Act 1997, as amended and the grounds of appeal should be dismissed.

The Appeal Statement refers to lack of capacity on the road network to accommodate development, lack of public lighting, and substandard nature of the existing footpath as reasons for exclusion from the RZLT map.

The subject lands immediately adjoin Glenconnor Road and Parcel ID TYLA000002870 has 2 no. existing vehicular entrances onto this road. Owing to its proximity to the road, it is reasonable to consider that Parcel ID TYLA000002868 can also access Glenconnor Road. The submission to the LA from the District Engineer raised no concerns regarding capacity on this road and I note that Parcel ID TYLA000002868 is designated as a Tier 1 site under the LAP. On this basis, it is reasonable to consider that there is sufficient capacity on the public road to accommodate development. There is an existing footpath on the eastern side of Glenconnor Road, and there is public lighting circa 115 metres to the south of the lands along this road. On the basis that the lands are served by a footpath and are located in closed proximity to public lighting, it is reasonable to consider that the lands have access to public infrastructure and facilities. I do not consider that the lack of cycle lanes preclude development at the site. I consider that the land satisfies the criteria cited in section 653B(c) of the Taxes Consolidation Act 1997, as amended and the grounds of appeal should be dismissed.

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 subject lands from the final map.

8.0 Recommendation

Having regard to the foregoing, I consider that the lands identified as lands on the east side of Glenconnor Road, Ardgeeha, Clonmel, Co. Tipperary (Parcel IDs TYLA000002868 & TYLA000002870) 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 subject lands from the final map.

9.0 REASONS AND CONSIDERATIONS

The lands identified as lands on the east side of Glenconnor Road, Ardgeeha, Clonmel, Co. Tipperary (Parcel IDs TYLA000002868 & TYLA000002870) are located on lands zoned 'R1 - New Residential' and 'RS-Existing Residential' and are considered in scope of section 653B(a). Documentary evidence from UE confirms that services are available, and the UE Water Capacity Registers 2023 confirm there is sufficient waste water capacity to serve the lands. No capacity or other reasons have been identified that would prevent the development of these lands in principle for residential purposes in accordance with the residential zoning objective that applies to these lands.

10.0 Recommended Draft Board Order

Taxes Consolidation Act 1997 as amended

Planning Authority: Tipperary County Council

Local Authority Reference Number: RZLT.2024.011

Appeal by Michael O'Connor care of John Ryan in accordance with section 653J of the Taxes Consolidation Act 1997 as amended, against the inclusion of the 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: Lands on the East side of Glenconnor Road, Ardgeeha, 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 retain the lands identified as lands on the east side of Glenconnor Road, Ardgeeha,

Clonmel, Co. Tipperary (Parcel IDs TYLA000002868 &TYLA000002870) on the final map.

Reasons and Considerations

The lands identified as lands on the east side of Glenconnor Road, Ardgeeha, Clonmel, Co. Tipperary (Parcel IDs TYLA000002868 &TYLA000002870) are located on lands zoned 'R1 - New Residential' and 'RS-Existing Residential' and are considered in scope of section 653B(a). Documentary evidence from UE confirms that services are available, and the UE Water Capacity Registers 2023 confirm there is sufficient waste water capacity to serve the lands. No capacity or other reasons have been identified that would prevent the development of these lands in principle for residential purposes in accordance with the residential zoning objective that applies to these lands.

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