



An
Bord
Pleanála

Inspector's Report ABP-316328-23.

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
Location	Easkey, Sligo
Sligo	Sligo County Council.
Local Authority Reg. Ref.	RZLT 34
Appellant	Mary and Declan Brennan.
Inspector	Dáire McDevitt

1.0 Site Description

The appeal lands (Parcel ID SOLARE 167) are located at Castletown, Easkey, Co. Sligo

I note that throughout the documentation the spelling Easky and Easkey are both used.

2.0 Zoning

As per notices on the Sligo County council website (updated 14 April 2021) "The Sligo and Environs Development Plan 2010-2016 (SEDP) was adopted in November 2009 and was due to expire in 2015. When Sligo Borough Council was abolished in 2014, the lifetime of the SEDP was automatically extended in accordance with the legislation. In August 2017, the provisions of the SEDP were further extended through incorporation into the Sligo County Development Plan 2017-2023 (CDP)". The Sligo County Development Plan 2017-2023 has been extended to July 2024.

Volume 2 contains Mini Plans. 22. Easky mini Plan applies to the appeal lands.

Easky is identified as a village sustaining the rural community. The lands which are the subject of this appeal are zoned 'Residential Uses'.

3.0 Planning History

Details taken from SCC Online Planning Applications register:

PA Ref. 08208 refers to an Extension Duration

PA Ref. 071130 refers to an application for the demolition of 1 no. shed and construction of 6 no. terrace dwellings and 4 no. apartments, connection to public water main an sewers and construction of 17 no. car parking spaces. (withdrawn)

PA Ref. 07123 refers to an application for the demolition of 1 no. shed and construction of 6 no. terrace dwellings, connection to public water main an sewers and construction of 12 no. car parking spaces. (withdrawn)

The appellant has set out in the documentation that he purchased the property c.10 years ago off a developer when permission for the apartments had lapsed.

4.0 Submission to the Local Authority

The appellants made a submission to the Local Authority seeking to have their lands removed from the draft map on the basis that the land is in agricultural use and the lands is not serviced.

5.0 Determination by the Local Authority

The local authority determined that the land should be retained on the RZLT Draft Map as it was in scope and should remain on the map as 1) it is included in a development plan/local area plan and is zoned for residential development or a mixture of uses, that includes residential, 2) the land is serviced, or is reasonable to consider may have access to services and 3) the land is not affected in terms of physical condition, by matters to a sufficient extent to preclude the provision of dwellings, including contamination or the presence of archaeological or historic remains and 4) the existing non-residential use of the lands that are the subject of the submission are not considered to benefit from the exclusions set out in the guidelines as the use: does not provide a service to the existing or future residential community and b) is not liable to commercial rates.

6.0 The Appeal

6.1 Grounds of Appeal

- The lands are under 0.4 hectares.
- Appellant purchased property after the permission for apartments had lapsed. His mother's private residence where he resides with his mother (other named appellant) is included in the RZLT map and should be excluded.

- The property to the east of the house where they reside was purchased a few years ago and is split into 2 separate folios (SL 26133F and SL 23138F). This property is below 0.4ha and therefore should be excluded.
- A house located to the east of folio SL13138F is not in their ownership and should be excluded.

7.0 Assessment

While not raised in the grounds of appeal I note that lands are zoned 'residential uses'. In this regard I am satisfied that the lands come within the scope of section 653B(a).

The grounds of appeal set out that the lands should be excluded as the lands identified as RZLT 34 includes property that is not within the appellants ownership and lands identified are under 0.4 hectares.

With regard to the issue of ownership raised by the appellant, the RZLT Guidelines clearly set out that in the preparation of the RZLT maps, the local authority does not need to establish who the owner(s) of the lands are in order to include lands on the draft, supplemental or final map. An appeal relating to the inclusion of land on the RZLT map should be made by the relevant landowner.

The appeal lands are zoned 'Residential Uses' and includes a number of properties, one of which is stated to be occupied by the appellants thus it is submitted is exempt from RZLT. It is also submitted that the lands are under 0.4 hectares.

Page 4 of the Residential Zoned Land Tax -Guidelines for Planning Authorities June 2022 sets out that '*a number of exemptions are also set out within the provision, and while existing permanently -occupied residential dwellings will be indicated on the maps where located within a residential zoning, homes are not within the scope of the taxa and the owners of such properties will not be liable for this tax.*'

Section 3.1.1 of the guidelines includes guidance on the criteria for inclusion with the scope of the tax measure. This sets out with regard to residential properties that *“Land which is zoned residential and contains existing residential development such as estates or individual houses are also considered ‘in scope’ from a zoning perspective and therefore must be included on the maps, however home owners of residential properties within these areas will not be liable for tax (see section 653O (1)(a) of the legislation).*

Under section 653J 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. The legislation does not give the board a role in determining whether a site is a ‘relevant site’ by applying the provisions of section 653O or whether a site is ultimately liable for a charge under the RZLT. 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 the restrictions to considering criteria for inclusion. This states 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”.*

Whether the site complies section 653O or not does not fall within the remit of this report. The role of An Bord Pleanála in this instance is restricted to considering compliance with the qualifying criteria set out in section 653B.

While I note that the grounds of appeal do not specifically raise the use of the lands for agricultural purposes or that the lands are not serviced. The grounds of appeal include a copy of the original submission Sligo County Council dated 31st December 2022 as such I consider them part of the current appeal. The submission set out that the lands should be excluded as the lands were in agricultural uses and not serviced which I address below.

With regard to the use of the lands for agricultural purposes. As noted in the 2022 RZLT Guidelines the use of land for agricultural or horticultural purposes are not considered to be exempted from scope as they are not subject to rates. Based on the information available I have no evidence that this is the case. I am satisfied that the lands do not meet the criteria for exclusion set out in section 653B(c)(i).

Pg. 24 of the RZLT guidelines state:

If the works required to connect the land to services are materially significant, for example require access to 3rd party lands which are in private ownership or would require CPO or planning permission in themselves, then the land should be considered to be out of scope.

The local authority in their Submission Assessment dated 23rd March 2023 state that the review of the land, including Irish Water RAG assessment, indicates that the land is serviced.

The provision of infrastructure to the subject lands are considered to be in the control of Sligo County Council and Uisce Eireann and the local authority determined that that the subject lands are in scope and therefore retained within the RZLT Final Map.

There is no correspondence on file from Uisce Éireann. Whilst infrastructure elements/connection may not be in place at present, these would be expected to be provided in conjunction with the development of a site, generally developer led. Issues relating to capacity have not been raised. Based on the information available I have no evidence that this is the case. I am satisfied that the lands do not meet the criteria for exclusion set out in section 653B(b).

Having regard to the foregoing I consider that the lands identified as RZLT 34 meet the qualifying criteria set out in section 653B of the Taxes and consolidation Act 1997, as amended, and that there are no matters arising that warrant exclusion from the map.

Conclusion

The site is located on lands zoned for residential uses. Having reviewed the documentation on file, submissions and grounds of appeal I consider that the lands identified as RZLT 34 meet the qualifying criteria set out in section 653B of the Taxes and consolidation Act 1997, as amended, and that there are no matters arising that warrant exclusion from the map.

7.0 Recommendation

I recommend that the board confirm the determination of the local authority and direct the local authority to retain the lands identified as RZLT 34 on the map.

8.0 Reasons and Considerations

The lands identified as RZLT 34 meet the qualifying criteria set out in section 653B of the Taxes and consolidation Act 1997, as amended, and that there are no matters arising that warrant exclusion from the map.

I confirm that the report represents my profession planning assessment, judgment and opinion on the matter assigned to me and that no person has influenced or tried to influence, directly or indirectly, the exercise of my professional judgment in an improper or inappropriate way.

Dáire McDevitt
Senior Planning Inspector
21st June 2023