



An
Bord
Pleanála

Inspector's Report

ABP-316396-23

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	Sraheens, Achill Sound, Co. Mayo
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	RZL035
Appellant(s)	Patrick J. Sweeney & Son Ltd. and Rory Sweeney
Inspector	Rachel Gleave O'Connor

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1.0 Site Location and Description

- 1.1. The site is located to the north west of the R319 in Achill Sound (Gob an Choire). Adjacent to the site to the north, east and south there is a mix of residential properties and commercial premises, with waterbody to the west, and further to the east. The site is south west of Michael Davitt Bridge. The site is currently formed of greenfield area with vegetation/trees, adjacent to surface car park / hardstanding area.

2.0 Zoning and other provisions

- 2.1. The subject site is zoned Tier 4 Rural Settlement Consolidation Zones, Core Area and partially within the Core Enhancement in the Tier IV Settlement Plan for Gob an Choire in the Mayo County Development Plan 2022-2028. Under the plan, a single mixed use zoning applies to Rural Settlement Consolidation Zones, including housing. Part of the site to the north west is in Flood Zone A.

3.0 Planning History

- 3.1. Planning history for adjacent area:
- 3.2. PA Reg. Ref. 08453 – On 8th May 2008 Planning Permission TEMPORARY GRANT for the construction of temporary staff car park for the duration of the road and sewage works being carried out by Mayo County Council.
- 3.3. PA Reg. Ref.13419 – On 10th October 213 Planning Permission GRANTED for demolition of existing retail, builder's providers and ancillary building of 541sqm alterations and additions to the existing licensed supermarket building to include new enclosed accessible customer entrance, change of use of part of existing dwelling house to retail use, additional retail area of 956sqm with stockroom, goods-in area, loading dock, dedicated supermarket goods-in yard, ancillary store, plant rooms, ancillary offices, staff accommodation, new covered car park, signage and ESB substation etc. PA Reg. Ref.134190 EXTENSION OF DURATION granted 7th January 2019.

- 3.4. PA Reg. Ref. 203 – On 13th August 2020 Planning Permission GRANTED for new front entrance lobby, external terrace area, canopy and signage to supermarket, retention of unauthorised structures and temporary car park etc.

4.0 Submission to the Local Authority

- 4.1. The appellant made a submission to the Local Authority seeking to have its land removed from the draft map. The submission states that the land has a lot of trees on it and is due to be planted with further deciduous trees early in the new year. It is the only area in the village or from Mulranny to Keel supporting this type of tree. The landowner has offered an area from this land to allow The Greenway to progress through the village and currently in discussions with the Co. Council regarding this. When planning permission was received for the adjacent car park, the planning office recommended the trees be planted to enhance the area.

(Inspector Note: Condition no.14 of planning permission reg. ref.P13/419 requires that the existing trees immediately inside the boundary wall between the public footpath and the proposed new permanent car park be maintained.)

5.0 Determination by the Local Authority

- 5.1. The subject lands are located within Achill Sound Tier IV Settlement Plan, which adopts a mixed-use consolidated zoning approach. The subject lands does not appear to be in use or be integral to a business premises in which a trade of profession is being carried on, that is liable to commercial rates; nor does it appear to be used to provide services to residents of adjacent residential areas. Furthermore, the lands meet the serviced land criteria set out in Section 653B of the Finance Act.
- 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

- The subject lands are integral to the business of the appellant, which has been providing services to the community of Achill Island and its Environs for over 100 years. Reference to planning permission ref.P13/419 and P13/4190.
- Due to the consequences of global economic uncertainties over the past 10 years, necessary to phase the proposed development and business expansion. To this end, obtained further planning consent for modified first phase of proposed development ref.P20/3, which is now nearing completion.
- The first phase of development (ref.P20/3) include further expansion of the builders providers yard / stores and supermarket, by including construction of the HGV designed access onto the R319 from the car park at the southeast of end of the site. Further demonstrating that the lands currently zoned for RZLT are required for and are integral to the expansion and development of the existing business which is located on the adjacent lands.
- The existing business on the adjacent lands is subject to commercial rates.
- The lands should also qualify for exclusion under Step 5 (i), (ii) and (vii) and out of scope, as agreed with Mayo Co. Co. to cede a significant road frontage portion of the lands to enable the development of the Achill Sound to keel Greenway and Trail Head, facilitating the Council in implementing strategic objectives set out in Chapters 5, 6 and 8 of the County Development Plan and the Gob an Choire Settlement Plan. Also previously facilitated Mayo Co. Co. on the lands for the construction of a public wastewater pumping station.
- These concessions bring benefits both to the community and the landowners business, as well as restricting opportunities for future development and business expansion on the lands.

7.0 **Assessment**

- 7.1. To satisfy the criteria as identified in section 653B of the Taxes Consolidation Act 1997 (as amended) land must be zoned residential use or for mixed uses including residential. The subject site is zoned Tier 4 Rural Settlement Consolidation Zones and for mixed use, including houses/apartments.

- 7.2. Section 3.1.2 of the RZLT Guidelines describe permissible exclusions from the map, including where land located within mixed use zones, which permit a variety of uses including residential, should only be considered to be in scope for the tax where they are vacant or idle. The subject site is zoned for mixed use, including residential and is undeveloped, therefore being vacant/idle. As such, the site falls within scope of the land use zonings applicable to the RZLT.
- 7.3. The appellant states that the lands are integral to the adjacent business. The Act allows exemptions where land/property is integral to the operation of an adjacent business, however the appellant describes that the land is integral to the future expansion opportunities of the business, not its current day-to-day functions. The lands included in the RZLT map are not in use and are formed of undeveloped greenfield area, as such, no exemption would apply.
- 7.4. There is no use being undertaken on the land that is integral to the **operation** of the adjacent business. The appellants grounds relate to the future expansion of the business and not its day-to-day functioning. On this basis, the site can be considered in scope for the RZLT, however further matters of note are outlined below.
- 7.5. The site is situated in an established town centre area proximate to existing infrastructure. It would be anticipated a part of any normal development proposition for a site that it include connections to necessary infrastructure. The question of viability does not qualify for omitting the lands from the map under section 653B.
- 7.6. The appeal grounds do not raise the matter of flood risk; however I note that the land use zoning map for the settlement under the current Development Plan identifies that a portion of the north west end of the site is situated in Flood Risk Zone A and B. Residential is classified as a highly vulnerable use and a justification test is required for its development in Flood Zone A and B. The Mayo Strategic Flood Risk Assessment 2022 identifies that in Achill Sound, highly vulnerable development should be avoided in Flood Zone A and B (page 33). This amounts to a statutory designation that may preclude development, and as such, this part of the site should be removed from the RZLT map in accordance with section 653B(iv).
- 7.7. I note the appellants assertions with respect to the Achill Sound to Keel Greenway. The Achill Sound to Keel Greenway is enshrined in the Development Plan (Walking

and Cycling Projects Table 6.4 and Map 6.1 Proposed County Greenway Plan) and the appellant provides copies of 'Permissive Access Works Agreement'(s) relating to areas of lands in the landowners control. One of these areas corresponds with the frontage of the site (works on north side of the Main Road). Any part of the site that overlaps the area required for this greenway project should therefore be excluded from the RZLT maps in accordance with section 653B(iii)(II) as land that is integral to occupation by transport facilities and infrastructure.

- 7.8. As a result of the foregoing, I recommend that the parts of the site situated in flood risk zones A and B and overlapping areas required for the greenway be removed from the RZLT map.

8.0 Recommendation

- 8.1. I recommend that the Board confirm the determination of the local authority in part, by directing that the parts of the site overlapping Flood Risk Zones A and B, and the Achill Sound to Keel Greenway Walking and Cycling Project, be omitted from the Residential Zoned Land Tax Map, and that the remainder of the site be included on the map.

9.0 Reasons and Considerations

- 9.1. Having regard to the determination by the local authority, the submitted grounds of appeal, the provisions of the section 653B of the Taxes Consolidation Act 1997, as amended, and the advice in section 3.1.2 of the Guidelines for Planning Authorities on the Residential Zoned Land Tax, the site is considered partially in scope for the purposes of the RZLT map. Under section 653B(iii)(II) and (iv) the parts of the site overlapping the Achill Sound to Keel Greenway Walking and Cycling Project and Flood Risk Zones A and B should be removed from the RZLT map, with the remainder of the site remaining in scope.

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.

Rachel Gleave O'Connor
Senior Planning Inspector

30th June 2023