



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316513-23

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<b>Development</b>	Inclusion of the land on the Residential Zoned Land Tax draft map.
<b>Location</b>	Newtown, Castleconnor, Ballina, Co. Mayo.
<b>Planning Authority</b>	Mayo County Council
<b>Planning Authority Reg. Ref.</b>	RZL029
<b>Appellant(s)</b>	Robert Morrow
<b>Inspector</b>	Rachel Gleave O'Connor

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## 1.0 Site Location and Description

- 1.1. The site is located to the west of Glebe Road, south of The Glebe and east of the River Moy. To the south-east and south of the site there are agricultural fields. To the north-east and north there are residential streets.

## 2.0 Zoning and other provisions

- 2.1. The Mayo County Development Plan 2022-2028 includes Objective SSO 13 that:

*The land use zoning provisions of the existing town and environs development plans for Ballina, Castlebar and Westport shall continue to be implemented on an interim basis until such time as local area plans are adopted for these towns, whilst also having regard to any draft local area plan, and subject to compliance with the provisions of the Mayo County Development Plan, including the Core Strategy population/housing targets.*

- 2.2. The subject site is zoned Phase 2 - Residential (Map no.6) under the Ballina and Environs Development Plan 2009-2015.

## 3.0 Planning History

- 3.1. No records of any relevant planning history.

## 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 requests that the site be rezoned from residential to agricultural use. The landowner is a farmer and the land is essential for their livelihood. The field is an overwintering site for migratory birds. Positive implications as a result of rezoning to agricultural use are outlined in the submission.

## 5.0 Determination by the Local Authority

- 5.1. The subject lands are zoned 'Residential' (Phase II) in the Ballina and Environs Development Plan. Requests for re-zoning are considered under Section 13 of the Planning and Development Act. Based on the Dept. Circular NRUP07/2022,

proposed changes to zoning cannot be considered as part of the RZLT scoping process. Any proposals to alter a zoning to an adopted plan may be considered by the Planning Authority collectively under a separate process in accordance with the Circular. For the purposes of clarity, the subject lands remain in scope for the purposes of the draft RZLT map. Notwithstanding the request for the rezoning of lands at this location, the subject land meets the scoping criteria as set out in Section 653B of the Finance Act 2021.

5.2. It is also noted, that the upcoming Draft Ballina & Environs LAP is due to go on public display in the coming weeks/months, which will afford the landowner an opportunity to make a submission on the re-zoning of subject lands.

5.3. The site is serviced.

5.4. 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 land is in active farming use and has been by the landowner since 1979.
- The land is vital to the farming business.
- The existing residential zoning on the land was not sought by the landowner.
- Majority of the land is within a special area of conservation next to the river so cannot be built upon in any event and the remainder is a winter feeding ground for migrating birds and has extensive habitat features. This therefore rules out any development on the lands.
- A justification for rezoning the lands to agricultural use is also set out.

## **7.0 Assessment**

7.1. The fact that the lands are in active and established agricultural use does not qualify for omitting the lands from the map under section 653B, nor does the question of viability as a consequence of the application of the RZLT to the lands.

- 7.2. As outlined by the Local Authority, the request for rezoning can only be considered separately and does not impact the consideration for inclusion for the RZLT maps.
- 7.3. With respect to European sites, the subject site overlaps with the River Moy Special Area of Conservation where it bounds the River Moy to the west. This designation does not apply to the entire site area, and approximately a third of the site overlaps the SAC. It is noted that the appellant suggests that the remainder of the site forms an overwintering location for birds associated with European sites. The designation and utilization of the site by overwintering birds would not necessarily prohibit development of the site, which would require Screening and/or Appropriate Assessment to determine the implications and/or need for mitigation arising from the ecological value of the site and potential impact on European sites. The overlapping of a site with Natura 2000 European sites is not identified as a reason for exclusion from the RZLT in section 653B. I note that the RZLT Guidelines reference on page 24 examples where land would be considered out of scope, including where works required to connect the land to services involve the crossing of European Sites, however in regard to the subject site, connection would be facilitated to the east and via existing residential estates, particularly via Glebe Road where the subject site has frontage onto the same. This would be outside of the European site extent.
- 7.4. As a result of the foregoing, I am satisfied that the site can be considered in scope for the RZLT maps.

## **8.0 Recommendation**

- 8.1. I recommend that the Board confirm the determination of the local authority and direct the local authority to include the site 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 in scope for the purposes of the RZLT map.

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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Rachel Gleave O'Connor  
Senior Planning Inspector

30<sup>th</sup> June 2023