



An
Bord
Pleanála

Inspector's Report ABP-316570-23.

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	Maugheraboy, Sligo
Sligo	Sligo County Council.
Local Authority Reg. Ref.	RZLT 26
Appellant	Thomas Aidan O'Connor
Inspector	Dáire McDevitt

1.0 Site Description

The site is bounded by Maugheraboy Road, Cedar Drive, Springhill Court and The Park Avenue. There are sheds located on the southern portion of the site.

The appellant has referred to land at Knappagh Beg, Sligo (RZLT 26), the local authority in their Determination refer to lands at Maugheraboy, Sligo, RZLT 26. I also note that the Determination refers to Aidan O’Conor, the appellant refers to himself as Thomas Aidan O’Connor. The appeal refers to a plot of land identified as RZLT26 on the Draft RZLT Maps and the appellant (notwithstanding the name used or townland referred to) has identified the same plot of land in the grounds of appeal I am satisfied that all parties are referencing to the same plot of land for the purposes of this report.

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.

The lands which are the subject of this appeal are zoned RE Existing Residential Areas with a stated objective ‘to protect and enhance existing residential amenity’.

There are no protected structures, national monuments or any other similar item indicated on the development plan maps.

3.0 Planning History

None noted on SCC planning register.

4.0 Submission to the Local Authority

The appellant made a submission to the Local Authority seeking to have his lands removed from the draft map on the basis that there is no access to services (ref B1), namely surface water drainage, energy infrastructure traverses the land (ref.B2) and part of the land (ref.B3) is used for wastewater infrastructure.

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 e 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 are to that are the subject of the submission are not considered to benefit from the exclusions set out in the guidelines as the use: a) 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 site does not have access to public services, namely surface water drainage and should be excluded under section 653B(b). Nearest surface water drainage is c.610m away and would require access through third party lands.
- Sections should be excluded under section 653B(iii) as a 20kv ESB underground power conductor cable and Uisce Eireann trunk sewer are present. These services require considerable lands for separation distance which are not usable for development purposes.

7.0 Assessment

The lands are the subject of a residential zoning at the time of determination and such zoning permits in principle residential development meeting the criteria under Section 635B(a).

The appellant submits that the lands do not have access to public services, namely surface water drainage and should be excluded from the scope of RZLT under section 653B(b). The appellant has stated that the closest available connection is c.610m away via third party lands which would require significant works on lands outside the local authority and appellants control.

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.

With respect to the absence of direct access to 'public infrastructure and facilities, including roads and footpaths'. The site is bounded to the north by The Park Avenue, to the west by Springhill Court and associated roads and to the south by Magheraboy Road. And notwithstanding reference to surface water connections c.610m from the site. I note that the local authority in their Submission Assessment dated 20th March 2023 state that there is no evidence submitted to demonstrate the land (ref. B1) has no access to surface water drainage and that the site is identified as having access on Irish Water RAG assessment.

The provision of infrastructure to the subject lands are considered to be in the control of Sligo County Council and Uisce Éireann and it is determination of the Local Authority 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) and therefore the appeal on these grounds should be dismissed.

The grounds of appeal also set out that sections of the land (Ref. B2 and B3) should be excluded under section 653B(iii) as a 20kv ESB underground power conductor cable and Uisce Eireann trunk sewer are present. These services require considerable lands for separation distance which are not usable for development purposes.

With respect to energy infrastructure on a section of the site. The local authority refer to overhead kv lines. I note that these run along the northern boundary with The Park Avenue. I note the nature of the infrastructure, given the scale of which, if required, could be undergrounded or re-routed I do not consider that it would meet the criteria for exclusion on those grounds and therefore the appeal on these grounds should be dismissed.

With respect to the trunk sewer on a section of the site. I note the nature of the infrastructure, given the scale of which, if required, could be diverted. I do not consider that it would meet the criteria for exclusion on those grounds and therefore the appeal on these grounds should be dismissed.

The site is not affected, in terms of physical condition, by matters to a sufficient extent to preclude the provision of dwellings, including contamination or presence of known archaeological or history remains. There are no protected structure or recorded monument on site.

Conclusion

Having regard to the determination by the local authority, the submitted grounds of appeal, the provisions of section 653B of the Taxes Consolidation Act 1997, as amended, based on the information available I consider that is reasonable to conclude that the site may have access to public infrastructure and utilities. I am satisfied that the lands do not meet the criteria for exclusion set out in section 653B(b) and therefore the appeal on these grounds should be dismissed.

With respect to energy infrastructure and wastewater infrastructure on sections of the lands I note the nature of the infrastructure, given the scale of which, if required, could be undergrounded I do not consider that it would meet the criteria for exclusion under section 653B (iii).

With respect to the trunk sewer traversing a section of the site. I note the nature of the infrastructure, given the scale of which, if required, could be diverted. I do not consider that it would meet the criteria for exclusion on those grounds and therefore the appeal on these grounds should be dismissed.

7.0 Recommendation

I recommend that the board confirm the determination of the local authority and that the lands identified as RZLT 26 be retained on the map.

8.0 Reasons and Considerations

The location of the site on lands zoned residential solely or primarily for residential use falls within the scope of the criteria under 653B of the Taxes Consolidation Act 1997, as amended.

The site is not constrained by the presence of energy or wastewater infrastructure. The land satisfies the criteria for inclusion under section 653B(iii) of the Taxes and Consolidation Act 1997 as amended.

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

19th June 2023