



An
Bord
Pleanála

Inspector's Report

ABP-316671-23

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	Claremount, Claremorris, Co. Mayo.
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	RZL003
Appellant(s)	Colm Kitching
Inspector	Rachel Gleave O'Connor

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1.0 Site Location and Description

- 1.1. The site is situated to the north west of Claremount Manor road. The site is formed of agricultural fields, bound by agricultural fields and uses to the north, west and south east, with Claremount Manor and Elmwood residential estates situated to the south west. An access to the site is situated on Claremount Manor road, with private road traversing the site

2.0 Zoning and other provisions

- 2.1. The site is zoned Strategic Residential Reserve Tier 1 in the Claremorris Settlement Land Use Zoning Map under the Mayo County Development Plan 2022-2028. The Land Use Zoning Objectives table on from page 223 of the plan states that in Tier II Towns and Villages such as Claremorris, the land use zoning objective for Strategic Residential Reserve Tier 1 is as follows:

To protect and safeguard suitable, undeveloped lands for future multiple residential developments. These lands are generally not developable during the lifetime of this plan for multiple residential developments. However, this position will be reviewed by the Planning Authority periodically over the lifetime of the plan to ensure housing growth targets are achieved (Refer to Core Strategy Table). Where it is apparent that 'New Residential' lands cannot or will not be developed within the plan period, residential development may be considered within Strategic Residential Reserve Tier I. Single houses shall only be considered on a limited basis, where it has been established that the lands in question do not adversely impact on the intended future use of these lands; form part of the overall family landholding and no other appropriately zoned lands are available within the plan boundary; and a demonstrable economic or social need has been established (Refer to Objective RHO 1).

3.0 Planning History

- 3.1. No records of 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 stated a request to have the lands excluded from the proposed local plan if their zoning is going to make them liable for Residential Zoned Land tax. If the lands are in Tier 2 and not liable, happy to have them remain.

5.0 Determination by the Local Authority

- 5.1. De-zoning/re-zoning will be considered under Section 13 of the Planning and Development Act.
- 5.2. The lands are currently zoned Strategic Reserve Tier 1, which has provision for housing during the lifetime of the Plan, and unless otherwise demonstrated, the subject lands are liable for RZLT unless the zoning objective underpinning this parcel of land is removed from the Claremorris settlement plan (by variation of the CDP). The land meets all scoping criteria as per the Finance Act 2021.
- 5.3. 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 zoning as proposed affecting approximately 80% of Kitchings farm lands involving the area around their sons house, together with adjoining farm buildings / houses, are the most fertile and productive lands of the farm, with the remaining c.20% being lower wet lands.
- The income from the farm enterprise will be unable to sustain the land tax necessitating that the lands be sold and the landowner give up farming.

7.0 Assessment

7.1. 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. The lands are not situated in an area identified as being at risk of flooding.

- 7.2. 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. RZLT land parcel ID MOLA00002136 is zoned Strategic Residential Reserve Tier 1 under the Mayo County Development Plan 2022-2028. The Land Use Zoning Objective for Strategic Residential Reserve Tier 1 states:

*To protect and safeguard suitable, undeveloped lands for future multiple residential developments. **These lands are generally not developable during the lifetime of this plan for multiple residential developments.** However, **this position will be reviewed by the Planning Authority periodically over the lifetime of the plan to ensure housing growth targets are achieved (Refer to Core Strategy Table).** Where it is apparent that 'New Residential' lands cannot or will not be developed within the plan period, residential development may be considered within Strategic Residential Reserve Tier I. Single houses shall only be considered on a limited basis, where it has been established that the lands in question do not adversely impact on the intended future use of these lands; form part of the overall family landholding and no other appropriately zoned lands are available within the plan boundary; and a demonstrable economic or social need has been established (Refer to Objective RHO 1).* (Emphasis added).

- 7.3. The lands zoned Strategic Residential Reserve Tier 1 are specifically identified in the Development Plan as not 'generally' being developable during the lifetime of the plan, however this is subject to review by the Planning Authority. As such, in my view these lands are not zoned for residential development for the purposes of the RZLT, as development of the lands for residential use will ordinarily be prohibited during the lifetime of the plan, with an exemption to this prohibition being subject to the review of the Planning Authority, and as such outside of the control of the landowner. This implies that a variation of the plan would be required to bring forward this site for residential development in the lifetime of the plan.
- 7.4. As a result, I do not consider the site to be in-scope for the RZLT.

8.0 Recommendation

- 8.1. I recommend that the board set aside the determination of the local authority and allow the appeal.

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 zoned Strategic Residential Reserve Tier 1, and as such, is not currently available for residential development within the lifetime of the Mayo County Development Plan 2022-2028, and as such cannot be considered in-scope for the RZLT.

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