



An
Bord
Pleanála

Inspector's Report ABP-316684-23

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

Convent Road, Claremorris, Co. Mayo.

Planning Authority

Mayo County Council

Planning Authority Reg. Ref.

RZL007

Appellant(s)

Rita Cleary

Inspector

Rachel Gleave O'Connor

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1.0 Site Location and Description

- 1.1. The site is located on the east of Convent Road (N60) and to the rear of residential properties fronting onto the road. The lands also adjoin Barr Na H-Áille residential estate to the south and Elm Park estate to the north east. The site bound greenfield areas to the north. There is a site entrance from N60 that appears to adjoin the subject site.

2.0 Zoning and other provisions

- 2.1. The subject site is zoned New Residential in the Claremorris Settlement Land Use Zoning Map under the Mayo County Development Plan 2022-2028.

3.0 Planning History

- 3.1. PA Reg. Ref. 033324 – Planning permission GRANTED on 9th August 2004 for housing development (44no. semi-detached houses) including the demolition of existing dwelling house and construction of new access road.
- 3.2. PA Reg. Ref. 09837 – Planning permission GRANTED on 11th March 2010 for 51 no. houses, connection to local authority sewers, landscaping and all associated works. Appeal ABP Reg. Ref. 236462 concerning financial contribution.

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 the lands do not meet the criteria in Section 653B of the Taxes Consolidation Act 1997, in particular sub-section (b) of Section 653B. the land does not adjoin / have access to the public road and footpath and is landlocked. Any access to the public road would involve the consent of adjoining third party landowners.

5.0 Determination by the Local Authority

- 5.1. The site is zoned New Residential – a priority location for new residential development in the Claremorris settlement plan, as set out in the Mayo County Development Plan 2022-2028.
- 5.2. The subject lands forms part of a holding that would appear to be in single ownership as per stated legal interest indicated in the planning history associated with the site (PI.09/837 refers). Planning permission was granted for a large housing development on this land. The application site also included a portion of land along Convent Road which provided access to serve the development. The maps and details contained in the application as granted under PI.09/837 state that the land is a single landholding. The submission refers only to the rear of portion of that holding. The legal interest of the submitter is not declared in this submission. However, it is noted that separate submission has been made (RZL020) for the portion of the land along the Convent Road, equating to the remainder of the holding as per the stated legal ownership mentioned above. Based on the details supplied in this submission, and that of RZL020, together with the stated legal interest as contained in and granted under PI.09.837, the entirety of the lands would appear to be in a single ownership. On this basis, it is considered that development of this land is within the scope for inclusion on the draft RZLT Map.
- 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 lands cannot be developed as they do not have public road access.
- Attached confirmation from solicitor that landowner interest relates to land parcel MOLA 00002132 only and not adjoining lands, and confirmation from planning advisors that the land parcel cannot be developed as it does not have access to public road.
- Landowner accesses the land parcel for farming purposes via a 3.3m wide laneway.

- The Mayo Co. Co. Chief Executive's order, erroneously assumed that the entirety of the lands referred to in a 2009 grant of planning (09/837) are in single ownership.
- The 2009 planning application incorporated the subject site and additional lands belonging to three adjoining landowners which provided access.
- The landowner of the subject site is not the owner of these additional / adjoining lands and there is no entitlement to the lands.

(Inspector notes letters included with the grounds of appeal as referenced in the grounds and supporting the matters raised).

7.0 **Assessment**

- 7.1. The grounds of appeal relate to a single matter and whether the site is considered landlocked and therefore exempt from the RZLT with reference to 653B of the Act.
- 7.2. With respect to the landowner extent, I note that the planning application form for historical planning application reference 09/837 stated that the application was made by the owner of the site. Separate legal ownership interests were not identified as part of the application. However, I accept that the appellant has provided confirmation that their legal interest extends to landownership of RZLT Parcel ID MOLA00002132 and a right of access to the lands via a laneway.
- 7.3. There is no reference by the Council or the appellant to the portions of the site that bound existing residential estates to the south and east. I note that the historical planning application detailed what appears to be a connection to Elm Park, in the same location where that estate also includes a road up to the bounds with the subject site. I am satisfied that there is the ability to connect into Elm Park and/or Barr Na H-Áille. These adjacent residential estates appear to be to Local Authority Road standards, and there is nothing to suggest they are not publicly controlled.
- 7.4. It would be expected as part of any development proposition on the subject site that this include footpaths within the site extent, and connection to public lighting, water/wastewater, drainage etc can be facilitated via public roadway as identified above via Elm Park and/or Barr Na H-Áille, and such connection works would form part of a normal development proposition for any site.

7.5. With reference to the preceding paragraph, I am satisfied that the subject lands are in-scope for the RZLT.

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.

Rachel Gleave O'Connor
Senior Planning Inspector

30th June 2023