



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316717-23

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<b>Type of Appeal</b>	Appeal under section 653J(1) of the Taxes Consolidation Act 1997, as amended, against the inclusion of land on the Residential Zoned Land Tax
<b>Location</b>	Rathkelly, Ballinrobe, Co. Mayo.
<b>Planning Authority</b>	Mayo County Council
<b>Planning Authority Reg. Ref.</b>	RZL014
<b>Appellant(s)</b>	David Killeen
<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 south of Creagh Road, north and east of Rhobe River, and west of Rathkelly road. The site is a greenfield plot of land.

## **2.0 Zoning and other provisions**

- 2.1. The subject site is Strategic Residential Reserve Tier 1 under the Mayo County Development Plan 2022-2028.

## **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 stated that the land is in use as active farmland and contained within the various Agri schemes that the landowner has registered with the Dept of Agriculture. As active farmland, it should not be subject to RZLT, and should remain designated residential.

## **5.0 Determination by the Local Authority**

- 5.1. The local authority stated that actively farmed land is only considered for exclusion from RZLT on land that is underpinned by a 'Mixed Use' zoning, where it is demonstrated that active farming is the main use of the land and is a primary place of work i.e. farm. The current use of this land (farming) is not a consideration in this instance as it is residentially zoned. Exemption from the Tax Liability on Residentially zoned lands on the basis of active farming is not a provision under the Finance Act 2021 for the purposes of the draft RZLT map. Therefore this land remains in scope.
- 5.2. These lands have road frontage, footpaths, lighting, ability to be connected to water and wastewater network, with surface water sewer located along the main road.
- 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 land is being actively farmed and has been actively farmed for an extended period of time and is currently subjected to standard Department of Agriculture subsidization through various schemes some of which run over a 5 year period.
- Part of the site is essential for the day to day use of the landholding as it provides the main access point to the land holding and facilitates the movement and general animal husbandry requirements of livestock.
- The site was subject to infilling activity which requires further time for material to settle for the purposes of construction of housing units.
- The triangular section of the site located along the western boundary which is not suitable for the purposes of building due to the shape and area of ground should be excluded.
- The site is prone to flooding.

## 7.0 Assessment

- 7.1. The appeal grounds do not raise any exclusions that would apply to the subject lands and warrant its removal from the map, with reference to the Taxes Consolidation Act 1997 as amended and the RZLT Guidelines. 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. From a review of the floodinfo.ie website, it is apparent that the site is not categorised as being at risk of flooding. Any development proposition would include enhanced measures for drainage as a matter of course. It would also be a standard to include site preparation works such as levelling if required. The shape of the site does not prevent development of the site. As such, the site is considered in scope for the purposes of 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