



An
Bord
Pleanála

Inspector's Report

ABP-316724-23

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	Teeling Street, Ballina, Co. Mayo.
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	RLZ016(B)
Appellant(s)	Mary Loftus
Inspector	Rachel Gleave O'Connor

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1.0 Site Location and Description

- 1.1. The site is located to the east of Teeling Street and west of Market Lane / car park area. Currently the site is occupied by a vacant property and its associated grounds.

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 C1 – Commercial (Town Centre) (Map no.6A) 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 stated that the property has a current existing operating use which is not unauthorised and it is permitted to exclude the lands from the tax for this reason. It is within the Council discretion to consider the exclusion of lands from the tax even where such use is non-conforming. It would require significant works and infrastructure by the local authority to prepare this property for development.
- 4.2. The legislation is intended to cover areas like Dublin and other large urban areas where there is a major housing shortage and developers are holding on to land banks. There is no housing shortage in Ballina, county Mayo and these lands are not needed for development.

4.3. Difficult to sell the property, which requires significant works, because there is sufficient alternative development and residential properties already within the town.

4.4. Unreasonable and against property rights.

5.0 Determination by the Local Authority

5.1. The subject lands are located in the town centre of Ballina on lands zoned Commercial (Town Centre) in the Ballina Town and Environs Development Plan. The RZLT Guidelines state that all land in Town Centre should be excluded from the map unless considered vacant or idle. The subject land does not appear to be in use by, or be integral to, a business premises in which a trade or profession is being carried on that is liable to commercial rates, nor does it appear to be used to provide services to residents of adjacent residential areas. On this basis it is considered that the subject land does not meet the exclusion provisions contained in Section 653B(i)(ii)(iii) of the Finance Act 2021 and is therefore considered to be in scope for the purposes of the RZLT.

5.2. The property on the site is boarded up and would as such be regarded as vacant/idle, including lands to the rear. Eirecode data (F26 F6P2) indicates the building as a vacant single occupancy residential building. It should be noted that a number of sites along this street are listed on the Derelict Sites register, thus not scoped in for the purposes of RZLT mapping. This site is not included on the Derelict Sites register, however it appears to be vacant idle for some time. Google street view images dating from 2009, 2011, 2017, 2018, 2019 and 2022 are included showing the property boarded up.

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 property is on a street zoned C1 Commercial (Town Centre) Ballina Town and Environs Development Plan 2009-2015 and the reason given in the Chief Executive's Order no.408/2023 that the land should be excluded unless

vacant or idle (with further details given on this reasoning on why the land was being considered vacant or idle including that property does not appear to be in use by, or integral to, a business premises in which a trade or profession is being carried on liable to commercial rates and also that property not used to provide services to residents of adjacent residential areas) is incorrect as it is clear under the RZLT legislation that this reasoning only applies to properties and lands zoned residential or zoned mixed use and not to property or lands zoned commercial only which are not within the scope of RZLT legislation. As this property is in an area zoned C1 Commercial, it should be excluded from the RZLT and from the final RZLT map.

- It would require significant works and infrastructure by the local authority to prepare these lands for development. Any development would not be viable as the tax cost would be too high.
- The legislation is intended to cover areas like Dublin and other large urban areas where there is a major housing shortage and developers are holding on to land banks. There is no housing shortage in Ballina, county Mayo and these lands are not needed for development.
- Difficult to sell the property, which requires significant works, because there is sufficient alternative development and residential properties already within the town.
- Unreasonable and against property rights.

7.0 **Assessment**

- 7.1. The Ballina Town and Environs Development Plan 2009-2015 describes the Land Use Zoning Objectives for the area, and the zonings under that plan are enshrined into the Mayo County Development Plan 2022-2028 under objective SSO 13 as set out above. With respect to zoning categories (section 2.13.6 of the plan) states that C1 is primarily for commercial use, to provide for shopping and retail stores, office development, and other town centre uses, including houses/apartments. 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. The subject site is zoned C1 Commercial (Town Centre) with zoning categories for a

range (or mix) of uses, including residential (specifically houses/apartments). As such, the site falls within scope of the land use zonings applicable to the RZLT.

7.2. The Local Authority state that they understand the site to be vacant and include material to support this conclusion. The appellant has not provided any material or indication that the property is occupied and/or that rates (in relation to property or commercial taxes) are paid on the site. Section 3.1.2 of the RZLT Guidelines describe permissible exclusions from the map, including where land located within mixed use zones, which permit a variety of uses including residential, should only be considered to be in scope for the tax where they are vacant or idle. As set out above, the subject site is zoned for a mix of use, including residential. As the property is also vacant, the site should be considered in scope for the RZLT.

7.3. The site is situated in an established town centre area proximate to existing infrastructure. It would be anticipated a part of any normal development proposition for a site that it include connections to necessary infrastructure. The question of viability does not qualify for omitting the lands from the map under section 653B.

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