



An
Bord
Pleanála

Inspector's Report ABP-316765-23.

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	Maxol Service Station at Arklow Road, Gorey, Co. Wexford
Local Authority	Wexford County Council.
Local Authority Reg. Ref.	WXF-C82-3
Appellant	Maxol Ireland Limited
Inspector	Irené McCormack

1.0 Site Description

- 1.1. The site comprises lands at the Maxol Service Station at Arklow Road, Gorey, Co. Wexford

2.0 Zoning

The Gorey LAP 2017-2023 was extended under the provisions of Section 251 of Planning and Development Act, 2000 (as amended). The LAP expired on the 3rd of June 2023. The Wexford County Development Plan 2022-2028 was adopted on 13th June 2022 and came into effect on 25th July 2022.

- 2.1. On the 1st of January 2022 the lands were zoned - Central Business Area (CBA) in the Gorey LAP 2017-2023.
- 2.2. R2 Zoning Objective - *To Provide for Central Business Area*
- 2.3. Gorey Town Gorey was designated as a Key Town in the RSES which notes that it is an important and thriving town which is well placed to accommodate additional economic growth and become more self-sustaining.

3.0 Planning History

WCC Reg. Ref. 20081946 – Permission granted to demolish an existing habitable dwelling house which adjoins existing forecourt and also for the removal of all boundary material including hedging and walls and to extend forecourt surface over the adjoining property with ancillary works to include the making good and weathering of the walls of the adjoining property @ at Arklow Road, Gorey, Co. Wexford.

4.0 Submission to the Local Authority

- The lands to the southwest of the service station site is in active use as part of service station as per planning permission WCC 20081946 and are not vacant or idle.
- The lands to the rear are zoned mixed use and are in active use by a business.

5.0 Determination by the Local Authority

5.1. The local authority state that the rear business site was closed during survey work prior to the publication of the Draft RZLT map and on the 25/01/2023 and therefore remains applicable for RZLT mapping. It is set out that the site will be surveyed again prior to final 2023 RZLT map publication.

5.2. It was determined that the map should be amended to exclude the existing parking area on the western boundary as this is part of the service station.

6.0 The Appeal

6.1. Grounds of Appeal

- A portion of the site forming part of the forecourt of the garage associated with the Petrol Filling Station forms part of an authorised, rate paying businesses.
- Request the Board to confirm that the southwestern portion of the site be excluded as this form part of the Petrol Filling Station as this is not referenced in the *Notification of Determination* from the LA.
- It is noted that while the land to the rear is not currently in active use, they were for an extended period, and they will be again. They lands are not suitable for residential development as there is no safe vehicular access and no alternative road connection. Similarly, there is no ease of connection to public footpaths. Works to improve would require third party consent.

7.0 Planning Authority Response

7.1. The Planning Authority response was received on 15th May 2023. The PA set out:

- The site was surveyed three times and the lands to be rear deemed not to be in active use, which the agent has now conceded.
- Based on submissions the appellant owns the lands at the front and rear and third-party consent to access does not arise
- The fact that the site was previously in use as a business would substantiate access and footpath connections are available.
- Issues over width for suitable access are development management issues and not relevant to the RZLT.

- Recommendation to amend map at the southwest side of Maxol as authorised car parking present to be excluded from the map.

8.0 Assessment

- 8.1. Regarding the portion of the forecourt to the southwest of the existing Maxol Service Station, I note the PA in their original assessment conceded that this area forms part of the active commercial forecourt and should be removed from the map. These lands were not referenced in the formal notification to the appellant on the 30th of March 2023. I further note that these lands have been removed from the on-line Wexford RZLT map (reviewed 8th September 2023). The further submission to the Board by the PA on 15th May 2023 confirms their removal. I am satisfied that these lands are no longer considered 'in scope' and have been removed from the RZLT map. Their exclusion from the map is reflected in their exclusion from the notification issued to the appellant on 30th March 2023. I am therefore satisfied that the appeal should be limited to lands to the rear of the service station only as the lands to the southwest of the forecourt are no longer identified on the RZLT.
- 8.2. As regard the lands to the rear, I note all parties concede that the lands are not in active use. However, the appellant argues that the lands are not accessible and not appropriately serviced by a public footpath and should therefore not be included on the RZLT Map.
- 8.3. The legislation clearly sets out that land in scope will be zoned for residential development or a mixture of uses including residential; be serviced or have access to servicing by water, waste-water, road, footpath and public lighting; and not be affected by contamination or significant archaeological remains which would preclude development taking place. Section 4.1.1 iii) *Services to be considered* of the guidelines state that *"in assessing whether land or landbanks are able to connect to services, Planning Authorities should take into account the following:- In the first instance, where the infrastructure is located adjoining, intersecting, at a boundary or corner of a landbank, in a nearby public road, or is connected to an existing development adjoining the landbank, the lands should be considered to be 'connected' or 'able to connect' and therefore are in-scope"*.
- 8.4. The guidelines states that where the infrastructure does not meet the threshold above, the following needs to be considered:

- *Where no planning permission is in place, are the works to connect the landbank to the services on public land under the control of the local authority or land which will be available to the landowner/developer, in which case the land may be in-scope?*
- *Do the connections to services involve minor works, in which case the land may be in-scope?*
- *Do the connections to services require access to 3rd party lands or 3rd party development to take place, in which case the land may be out of scope*

8.5. The PA have stated in their submission that the site is currently accessible via the forecourt of the Service Station as evidenced by the previous use and which is in the same ownership and therefore not dependent on third party consent as suggested by the appellant. The PA further state that lands are 37m from a public footpath via the Service Station and there is sufficient additional width on the site to accommodate vehicular and pedestrian access. On this basis, it is reasonable to consider the lands to be 'connected' or 'able to connect' to the existing road network. Whilst I note the concerns raised by the appellant regarding the provision and feasibility of access, I agree with the PA that the development management issues associated with the provision of the access is not a matter for the RZLT.

8.6. 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.

9.0 Recommendation

9.1. I recommend that the Board confirm the determination of the local authority and direct the local authority to include the site on the map.

10.0 Reasons and Considerations

10.1. 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 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.

Irené McCormack

Senior Planning Inspector

11th September 2023