



An
Bord
Pleanála

Inspector's Report ABP-316921-23.

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

Magheraboy, Co. Sligo

Sligo

Sligo County Council.

Local Authority Reg. Ref.

RZLT 18

Appellant

Maguire Asset Holdings Ltd.

Inspector

Dáire McDevitt

1.0 Site Description

The appeal lands (Parcel ID SOLA00000825) are located at Magheraboy, east of Oakfield Crescent estate and c.1.5km southwest of Sligo town to the north of the Western Distributor Road. The northern portion fronts on to the railway tracks which run north to south at the sites eastern boundary.

2.0 Zoning

As per notices on the Sligo County council website (updated 14 April 2021) “The Sligo and Environs Development Plan 2010-2016 (SEDP) was adopted in November 2009 and was due to expire in 2015. When Sligo Borough Council was abolished in 2014, the lifetime of the SEDP was automatically extended in accordance with the legislation. In August 2017, the provisions of the SEDP were further extended through incorporation into the Sligo County Development Plan 2017-2023 (CDP)”. The Sligo County Development Plan 2017-2023 has been extended to July 2024.

The lands which are the subject of this appeal are zoned R3 – medium/high density residential areas. The land is designated as ‘Strategic Land Reserve’ on the amended land use zoning map 1 (dated 3 October 2011) and refers to section 5.4.4.6 Designation of Strategic Land Reserve.

Variation no. 2: Core Strategy of the Sligo and Environs Development Plan 2010-2016 Amendments to the text of the Plan

Section 5.4.4.6 sets out that when selecting lands that would remain developable during the current plan period, the Planning Authorities had regard to the principle of sequential development (see Box 5.E on p. 15 of the SEDP) and to the strategic zoning policies included in Section 5.2.2 Zoning principles of the SEDP.

Strategic Land Reserve policies:

It is the policy of Sligo Borough and County Councils to:

P-SLR-1 Designate and maintain as Strategic Land Reserve (SLR) the lands marked accordingly on the (Amended) Zoning Map pertaining to the SEDP.

P-SLR-2 Restrict residential development on lands included in the SLR during the lifetime of the SEDP 2010- 2016, except for one-off rural housing in cases of genuine rural-generated housing need which comply with the criteria set out in section 7.2.5 of the Plan.

P-SLR-3 On lands included in the SLR, permit the development of community facilities and other non-residential developments compatible with residential uses insofar as they do not adversely impact on the potential for comprehensive and co-ordinated development of surrounding lands.

P-SLR-4 Release lands from the Strategic Land Reserve only in exceptional circumstances, i.e. if the supply of residential land proves insufficient during the lifetime of the SEDP. Any land release shall be supported by factual evidence and shall conform with the strategic zoning policies outlined in Section 5.2.2 of the SEDP. The land release shall be done using the development plan variation procedure.

P-SLR-5 Notwithstanding the policies, objectives and any other provisions contained in Chapters 6 to 16 of the SEDP, no development will be permitted if it conflicts with the Core Strategy.

There are no protected structures, national monuments or any other similar item indicated on the development plan maps.

3.0 Planning History

None included in the local authority assessment.

4.0 Submission to the Local Authority

The appellants made a submission to the Local Authority seeking to have their lands removed from the draft map on the basis that they were designated Strategic Land Reserve which has restricted the site from residential development. It is also submitted that the lands are landlocked with no access to roads with access via third party lands, and that the site is not served by foul sewer connections.

5.0 Determination by the Local Authority

The local authority determined that the land should be retained on the RZLT Draft Map as it was in scope and should remain on the map as 1) it is included in a development plan/local area plan and is zoned for residential development or a mixture of uses, that includes residential, 2) the land is serviced, or is reasonable to consider may have access to services and 3) the land is not affected in terms of physical condition, by matters to a sufficient extent to preclude the provision of dwellings, including contamination or the presence of archaeological or historic remains and 4) the existing non residential use of the lands are to that are the subject of the submission are not considered to benefit from the exclusions set out in the guidelines as the use: a) does not provide a service to the existing or future residential community and b) is not liable to commercial rates.

6.0 The Appeal

6.1 Grounds of Appeal

- The appellant submits that the lands should be excluded as the site (Parcel ID SOLA00000825) is designated Strategic Land Reserve and as such are deemed unsuitable/not available for residential development during the lifetime of the current Development Plan.
- The lands are landlocked with access to the road via third party lands. On this basis it is submitted the lands do not comply with the criteria in section 653B(b) of the Act as they do not have an existing connection to public infrastructure and service.
- The lands are not serviced by foul sewer connection. On this basis it is submitted the lands do not comply with the criteria in section 653B(b) of the Act as they do not have an existing connection to public infrastructure and service.

7.0 Assessment

The appellant submits that the site should be excluded as the land is zoned Strategic Land Reserve and as such is deemed not suitable for development during the lifetime of the current plan. Furthermore it is submitted that the lands do not comply with Section 653B (b) as they do not have direct road access or access to foul sewerage connections and therefore should be excluded from the RZLT map.

Sligo CC concluded in their report (Submission Assessment) dated 13th March 2023 stated that the SLR phasing policy for the release of land is not, in itself, a reason to exclude.

While I note that the site has a residential land use zoning it is also the subject of SLR designations on the zoning map. Section 5.4.4.6 of the Plan set out restrictions that apply to SLR lands. These include P-SLR-2 which states 'Restrict residential development on lands included in the SLR during the lifetime of the SEDP 2010-2016, except for one-off rural housing in cases of genuine rural-generated housing need which comply with the criteria set out in section 7.2.5 of the Plan'. This restriction results in the land not being available for residential development that is not subject to significant restrictions, as such I do not consider that it is available for development for residential uses for the general public during the lifetime of the current County Development Plan and as such should be excluded from the RZLT Map on this basis. I am satisfied that the lands do not comply with section 653B(a) and therefore the appeal on these grounds should be upheld.

The appellants have also submitted that the lands are not accessible from public roads.

Pg. 24 of the RZLT guidelines state:

If the works required to connect the land to services are materially significant, for example require access to 3rd party lands which are in private ownership or would require CPO or planning permission in themselves, then the land should be considered to be out of scope.

It is likely that to create appropriate access works would be required on third party lands outside of the ownership of either the appellant or public authority. I am of the

view that is reasonable to conclude that the site may have access to public infrastructure and utilities, including roads and footpaths..’

Under section 653B(b) on the basis of the information available to the board in the concurrent appeals (ABP References 316915-23 and 316945-23) where the various landowners have set out that the need to connect up the different sites to services and access to the public road implies that they would be otherwise ready to go with housing. Based on the information submitted with the concurrent appeals regarding business addresses I am of the view that there is some slight evidence of a connection between them.

There is no correspondence on file from Uisce Éireann. Whilst infrastructure elements/connection may not be in place at present, these would be expected to be provided in conjunction with the development of a site, generally developer led. Issues relating to capacity have not been raised. Based on the information available I have no evidence that this is the case. I am satisfied that the lands do not meet the criteria for exclusion set out in section 653B(b) and therefore the appeal on these grounds should be dismissed.

Conclusion

The lands located on lands residential with a Strategic Land Reserve (SLR) and as such is not available for residential development during the lifetime of the current Plan. The land does not comply with the criteria set out under section 653B(a) and therefore should be omitted from the RZLT map as it does not meet the criteria for inclusion under section 653B of the Taxes and Consolidation Act 1997 as amended (as introduced by the Finance Act 2021).

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, based on the information available I consider I am of the view that is reasonable to conclude that the site may have access to public infrastructure and utilities, including roads and footpaths..’ I am satisfied that the lands do not meet the criteria for exclusion set out in section 653B(b) and therefore the appeal on these grounds should be dismissed.

7.0 Recommendation

I recommend that the board set aside the determination of the local authority and direct the local authority to omit the plot of land identified as Parcel ID SOLA00000823 from the map.

8.0 Reasons and Considerations

The lands (Parcel ID SOLA00000825) are located on lands residential with a Strategic Land Reserve (SLR) and as such is not available for residential development during the lifetime of the current Plan. The land does not comply with the criteria set out under section 653B(a) and therefore should be omitted from the RZLT map as it does not meet the criteria for inclusion under section 653B of the Taxes and Consolidation Act 1997 as amended (as introduced by the Finance Act 2021).

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.

Dáire McDevitt
Senior Planning Inspector

16th June 2023