



An
Bord
Pleanála

Inspector's Report

ABP-316967-23

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.	RZL005
Appellant(s)	Ita Staunton
Inspector	Rachel Gleave O'Connor

Contents

1.0 Site Location and Description	3
2.0 Zoning and other provisions	3
3.0 Planning History.....	3
4.0 Submission to the Local Authority.....	3
5.0 Determination by the Local Authority	4
6.0 The Appeal	4
7.0 Assessment.....	5
8.0 Recommendation.....	6
9.0 Reasons and Considerations.....	6

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.

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 the property in question is a residential property on which there has always been Local Property Tax Paid. As such it should not be included. The rear of the garden which is necessary to the enjoyment of the residence is less than the 0.4047 hectares specified in the legislation. The property has always been maintained to a level which satisfied the Ballina UDC. This property has been the subject of commercial planning applications in the Ballina UDC area which were not commercially viable. This further burden is unfair.

5.0 Determination by the Local Authority

- 5.1. From the records held in Mayo Co. Co. it would appear that the former use of the subject property (as indicated on the map) is of a commercial nature. Eircode data for this property (F26 X673) indicates it as a 'single occupancy, non-residential, vacant building'. Notwithstanding the details submitted of a Local Property Tax payment, the property does not appear to be of a residential use. It is boarded up with the surrounding grounds appearing vacant and idle. Inspection carried out by MCC (2019) in respect of derelict sites in Ballina town area include an assessment of the subject property, referring to it as the 'Old Staunton's Ophthalmic Optician Building'. The scoping exercise confirms the idle nature of this property and its surrounding lands. The lands 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 map.
- 5.2. 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 in question is a residential property on which there has always been Local Property Tax Paid. As such, it should be excluded.
- The rear garden which is necessary to the enjoyment of the residence is less than 0.4047ha specified in the legislation.
- The property has always been maintained to a level which satisfied Ballina UDC and Mayo Co. Co.
- In recent years, the premises has been used to store personal items and to assist with the landowners adjacent Optician business which is a full

commercially rated property on which all rate payments are up to date. It is intended in future to upgrade the interior in the near future.

7.0 Assessment

- 7.1. The appellant states that the property is a residential dwelling, however they also state that it is used in association with the operations of a nearby commercial premises under the same ownership. The appellant states they pay Local Property Tax (LPT) on the property. The appellant states they pay commercial rates on the nearby business. There are no commercial rates paid on the subject property. With respect to the payment of LPT, page 8 of the RZLT Guidelines state that:

Land which is zoned residential and contains existing residential development such as estates or individual houses are also considered 'in scope' from a zoning perspective and therefore must be included on the maps, however owners of residential properties within these areas will not be liable for the tax (See section 653O(1)(a) of the legislation).

- 7.2. As such, the payment of LPT on the property does not exempt it from inclusion on the RZLT maps.
- 7.3. The Local Authority state that they understand the site to be vacant and note references to support this conclusion. 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. The subject site is zoned C1 and 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. The property appears vacant, and the use described by the appellant does not appear integral to the operation of the nearby business. As the property is also vacant, the site should be considered in scope for the RZLT.

7.4. 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