



An
Bord
Pleanála

Inspector's Report

ABP-316970-23

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	Main Street, Castlebar, Co. Mayo
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	RZL006
Appellant(s)	Pat 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	5
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 Market Street in the Castlebar Town Centre. The site contains a vacant property and the plot extends to Humbert Mall.

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 Objective E – Town Centre in the Castlebar and Environs Development Plan 2008-2014 (as extended).

3.0 Planning History

- 3.1. PA Reg. Ref. 16589 – On 17th February 2017 Planning Permission GRANTED for the demolition of two storey building and construction of retail premises, adaption of boundary wall, construction of wall, shopfront, signage, drainage, lighting and associated works. Contribution Appeal ABP Reg. Ref. PL16.248176 – amended contribution condition no.17 in Oct 2017.
- 3.2. PA Reg. Ref. 165890 – Planning Application submitted in November 2022 for the Extension of Duration of planning permission ref.16589. No record of decision.

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 following points:
 - The property was subject to a fire some years ago. Planning permission granted in November 2017 has lapsed (ref.16589) and awaiting approval of an extension to that permission from Mayo County Council (ref.165890).

Substantial funds have been invested. The fees are excessive. Development of the property has not been economically viable. The company directors have a responsibility not to invest in something commercial non-viable. To impose this financial burden on the property would force the company directors to act against its best interests and may require the company to seek protection in law.

- Retail / Office use is the best use of the property. It is expected permission would be granted again for the same and would make it unsuitable as a relevant site for RZLT.
- The property is 0.17ha and less than the 0.4047ha stipulated in the RZLT legislation. Inequality of including the Main Street facing retail portion in the RZLT at variance with adjacent properties and family gardens. Purpose is to increase the value of property and is selective and prejudicial in nature. Seek removal of the entire property from the map.
- Towns like Castlebar have vast areas unsuitable for residential accommodation without targeting the commercial heart of the town. More appropriate to focus on residential zoned areas.

5.0 Determination by the Local Authority

- 5.1. The building along the main street is boarded up (fire damaged), the remainder of the site to the rear is vacant/idle and located along the Main Street in Castlebar Town Centre. Notwithstanding the issues presented in the submission, the subject site / property meets the scoping criteria set out in 653B as the building is vacant/idle with the rear garden area overgrown and unused. The building and associated grounds do 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 draft 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

- Currently using the site for the storage of stone that was removed from the Homemaker arcade demolition and being saved for use in future developments on the Main Street. This demolition was requested by Mayo Co. Co. in 2019 to facilitate a land swap [sic] with them only 100m from this property.
- The yard was also used by Mayo Co. Co. as a depot and working yard for over 12 months to facilitate the refurbishment of the Main Street of Castlebar.
- Applied for planning permission which was granted and active until Oct 2022 (P16/589 granted 23/10/2017). Sought an extension to the permission as Covid pandemic, market conditions and financial funding issues meant that project was not viable within the 5 year period. Surprised to find the extension was not granted given the lockdown period of nearly 3 years. Site included on the RZLT map during the appeal process. In the process of drafting a new planning application which will develop the site in coming years.
- Site currently used as a depot for neighbouring Castle Book Shop.
- Have a fiduciary responsibility to act in the best interest of the company and may be forced to seek a judicial review based on the prejudicial and selective nature of a commercial property on the Main Street being included on an RZLT Land Tax Map. It is worth nothing that no properties in Council ownership have been included.

7.0 Assessment

- 7.1. 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 E Town Centre with zoning categories for a range (or mix) of uses, including residential (houses/apartments – refer to table 15.1 of the Castlebar and Environs Development Plan 2008-2014).

- 7.2. The Local Authority state that the site is vacant and the appellant does not dispute this. The appellant references use of the premises for the storage of building materials, and it does not appear to be integral to the operation of an adjacent business (subject to rates) or provide services to the adjacent residential areas (as per the definition of vacant/idle under the Act). 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 E and for a mix of Town Centre uses, including houses/apartments, and is vacant/idle.
- 7.3. 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 falls within the definition of vacant/idle for the purposes of the Act, 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