



An
Bord
Pleanála

Inspector's Report ABP-317854-23.

Type of Appeal	Appeal under section 653J(2) of the Taxes Consolidation Act 1997, as amended, against the inclusion of land on the Residential Zoned Land Tax Map
Location	Lands on the Dublin Road, Murrough, Galway City.
Local Authority	Galway City Council
Local Authority Reg. Ref.	GLWC-C9-RZLT-5
Appellant	Trigo Property Company Limited and Feirm Mara Chosta Mahigh Eo Teoranta
Inspector	Emma Nevin

1.0 Site Description

- 1.1. The site it is located approximately 3 kilometres east of Galway City centre in the townland of Murrough. The Ballybane Road (R865) and the Dublin Road (R338) converge to form the site frontage at the interface with the Skerrit roundabout. The land comprises a former hotel development, that is now demolished. The land is surrounded northwards and nor eastwards by existing established residential development. The has an indicated are of 2.66 ha.

2.0 Zoning

- 2.1. The site is zoned objective CI as per the Galway City Development Plan 2023 - 2029, with a stated objective *“To provide for enterprise, light industry and commercial uses other than those reserved to the CC zone”*.
- 2.2. The Plan states that, *“CI zoned sites, with an objective for regeneration, namely Headford Road LAP area (including Dyke Road), Corrib Great Southern Site, Sandy road, Nuns Island and Knocknacarra District Centre, shall accord with the vision as provided for in Chapter 10”*
- 2.3. Section 10.12 of the Plan also states that *“This 2.7 hectare site is located on the Dublin Road at the Skerrit Roundabout. The site formerly accommodated a hotel and surface car park. It has potential for significant redevelopment for a mix of uses and in particular for residential use to meet the housing targets for the city.*

A minimum of 50% of the potential gross floor area shall be reserved for residential use. In view of the advantaged location, being proximate to key facilities, a location along a public transport corridor and with good aspect, a greater proportion of the floor area space can be dedicated for residential purposes where the site supports a range of neighbourhood facilities, community facilities for the wider area, and an open space of a scale and quality to function as a local park.

Given the significant scale of the site and obligation to deliver certain uses, a Masterplan will be required in advance of any redevelopment. In addition to guidance set out in Chapter 8, the Plan will incorporate the proposed BusConnects Galway: Dublin Road pedestrian, cycle and public transport corridor and a setback equivalent to the existing green linear space running along the Dublin Road”.

3.0 Planning History

Relevant planning history:

Ref: 15/17 – Extension of duration of permission granted on 23rd March 2015 for the development permitted under Ref 09/395.

Ref: 09/395 - Conditional planning permission granted by Galway City Council on the 1st December 2009 for a development consisting of the demolition of the existing hotel structure comprising a five storey block, a two storey block over ground, two single storey structures and a gas tank including all associated siteworks and landscaping.

4.0 Submission to the Local Authority

- The submission requests that the plot of land be excluded from the Supplemental RZLT Map.
- The submission states that it is not possible to achieve planning consent or delivery of residential units as per the zoning objectives and policies of the Galway City Development Plan at this time.
- The submission references the specific objective for the site in Section 10.12 of the Galway City Development Plan whereby a minimum 50% residential combined with neighbourhood facilities and community facilities is set out for the site.
- The submission was accompanied by a conceptual design for the site consisting of 15,000 sq. m. of commercial/retail space and residential and student accommodation. It states that the advancement of this project is hindered in the absence of a plan led approach/joint retail strategy for the MASP.
- The submission also states that until a retail strategy for the Galway Metropolitan Area is finalised that the Galway City Development Plan prohibits development of this land, and that the development of the project is premature pending the publication of the retail strategy which is seen as a statutory policy designation.

5.0 Determination by the Local Authority

- 5.1. Galway City Council based their assessment on Section 653B of the Taxes Consolidation Act, 1997, as amended for inclusion in map including the Residential Zoned Land Tax – Guidelines for Planning Authorities (DHLGH)(June 2022).
- 5.2. The local authority considers the requirements for this land as set out in the Galway City Development Plan 2023 – 2029. The plan designated this land as a regeneration site with potential for a mix of uses and in particular for residential use to meet the housing targets for the city.
- 5.3. The local authority refers to Section 10.12 of the Plan, specifically, “*A minimum of 50% of the potential gross floor area shall be reserved for residential use. In view of the advantaged location, being proximate to key facilities, a location along a public transport corridor and with good aspect, a greater proportion of the floor area space can be dedicated for residential purposes where the site supports a range of neighbourhood facilities, community facilities for the wider area, and an open space of a scale and quality to function as a local park*”. In this regard the land is considered to meet the criteria for inclusion in the RZLT (Section 653B(a)) as it is included in the plan as a mixed use site including residential.
- 5.4. The local authority notes the references the issues highlighted by the landowner in respect to securing planning permission for these lands and considers that the requirement for a mix of uses does not unduly impact on the potential for residential development on these lands to merit exclusion from the RZLT map.
- 5.5. The local authority states that in relation to the retail strategy, the development plan includes a retail hierarchy and robust policies to support the provision of an appropriate range and scale of retail in the city commensurate with catchment demands. The Development Plan also requires appropriate retail impact assessment to be carried out with any major retail proposals. The absence of a new retail strategy for Galway and the metropolitan area does not prohibit the development of this land and a mixed use development of the site which includes for residential use would not be considered premature pending the preparation of the retail strategy.
- 5.6. The land meets the criteria set out in Section 653B of the Taxes Consolidation, is considered to be suitable for residential development and meets the criteria set out

in the legislation, notwithstanding that a permission for commercial development exists. It should also be noted that the guidance document on the Residential Zoned Land Tax states that the insurance of a grant of permission alone does not justify deferral from the RZLT.

6.0 The Appeal

6.1. Grounds of Appeal

The appellant raised similar issues to those in the submission to the local authority including:

- The appellant states by virtue of the zoning designation which relates to the lands it is not possible to achieve planning consent or deliver residential units as per the zoning objective and policies of the Galway City Development Plan 2023 – 2029 at this time. Specifically, under the provisions of the City Plan it states under Section 10.12: *“A minimum of 50% of the potential gross floor area shall be reserved for residential use. In view of the advantaged location, being proximate to key facilities, a location along a public transport corridor and with good aspect, a greater proportion of the floor area space can be dedicated for residential purposes where the site supports a range of neighbourhood facilities, community facilities for the wider area, and an open space of a scale and quality to function as a local park”*. As per the policy the range of uses required on the site are minimum 50% residential, neighbourhood facilities and community facilities.
- As part of the appeal the appellant submitted a concept proposal to provide circa 15,000 sq. m. commercial (retail) uses that are envisaged to provide for the neighbourhood and community facilities.
- The appellant highlights the zoning objectives seeking to deliver neighbourhood and community facilities on site necessitate the provision of retail uses as part of the site’s development.
- Given the Retail Strategy for the Galway Metropolitan Area has not been finalised a planning application to develop these lands would be premature and not plan-led until such time as a Retail Strategy is adopted.

- The appellant highlights Policy 6.11 of the City Development Plan which has the following objectives;

“Review the strategies and policies for retailing and vary the plan if necessary, following the preparation of a Joint Retail Strategy for the Galway Metropolitan Area with Galway County Council, to ensure sufficient policy support to create a positive framework for continued vitality and investment in the main retail areas especially the Galway MASP and to ensure an informed and consistent approach to policies relating to shared retailing activities in line with national policy. The preparation of the Joint Retail Strategy for the Galway Metropolitan Area will be completed within one year of the adoption of the City Development Plan and will be initiated and managed by a joint local authority working group”, and,

“Require that major proposal for retail development should be supported by a Retail Impact Assessment (RIA) prepared in line with the Retail Planning Guidelines for Planning Authorities (2012) and that demonstrates compliance with the strategies in the development plan in particular the objective to not adversely impact on the vitality and vibrancy of an existing retail centre in particular at the city centre”.

This policy context until a retail strategy for the Galway Metropolitan Area is finalised the City Developmental Plan prohibits development of this site.

- The appellant states that under the Retail Planning guidelines the policy context requires such development to be planned and further restricts development on the Corrib site until the retail strategy for Galway is adopted and the key policy objectives of Section 2.1 of the Retail Planning Guidelines have been referred to.
- The appellant that is it on this basis there is a statutory policy designation under the Galway City Development Plan and the Retail Planning Guidelines, which preclude development until such time as the regional strategy for Galway is finalised.
- The appellant also highlights that if a planning application was submitted at this juncture seeking permission for the proposals enclosed it would be

refused planning permission as being premature given a retail strategy for Galway is not in place yet.

- On this basis the appellant states it cannot be a case that the RZLT applies to this site which is not developable at this time, and it is not appropriate for the RZLT to be applied to lands which cannot obtain planning consent for the mixed-use zoning objective until a retail strategy for Galway is adopted.
- The appellant refers to Section 653B of the Act ‘Criteria for inclusion in map’, which states; “*but which is not – land that is subject to a statutory designation that may preclude development*”, and the lands be omitted from the Supplemental RZLT map.

6.2. No additional report was received from Galway City Council following the appeal. The local authority in their response to the appeal submitted the following:

- i. Notice of Determination dated 27th July 2023.
- ii. Chief Executives Order dated 27th July 2023.
- iii. Submission Evaluation Report of Galway City Council scoping in the subject lands.
- iv. Copy of submitted made by Comer Group Ireland to the RZLT Supplemental Map.
- v. Copy of Pl. Ref. 15/17.
- vi. Copy of PL. Ref. 09/395.

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.

7.2. The subject site is zoned ‘CI as per the Galway City Development Plan 2023 - 2029, with a stated objective “*To provide for enterprise, light industry and commercial uses other than those reserved to the CC zone*”, and while the primary land use is mixed use, the City Development Plan has a specific objective pertaining to this site that “a

minimum of 50% of the potential gross floor area shall be reserved for residential use”.

As such, the site is suitably zoned.

- 7.3. I refer to Section 3.1.2 of the Residential Zoned Land Tax – Guidelines for Planning Authorities, 2022, which describes 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 appropriately zoned, and Galway City Council in their assessment, state, as a matter of fact, that the site is currently vacant/idle as the former hotel on this site has been demolished.

As such, the site is considered to be vacant/idle and, therefore, the site falls within scope of the land use zonings applicable to the RZLT.

- 7.4. The appellant states that by virtue of the zoning it is not possible to develop the lands, however, as noted above the site is suitably zoned in accordance with Section 653B (a) of the Taxes Consolidation Act, 1997, as amended.

- 7.5. The appellant submitted a design concept for the site as part of the appeal, and references that the requirement of neighbourhood and community facilities on site, would require a plan-led approach and retail strategy as per the Retail Planning Guidelines. The appellant also states that a planning application submitted at this juncture would be refused planning permission as being premature. However, I refer to Section 4.1.1 (vii) of the Residential Zoned Land Tax – Guidelines for Planning Authorities, 2022, which states;

“The focus of the local authority and An Bord Pleanála upon appeal should be on whether the land meets the relevant criteria in section 653B or not. Matters such as housing need, impact on amenity, whether the land has planning permission or not should not form part of consideration”.

Therefore, these are not matters which fall within the criteria for exclusion from the map as per Section 653B of the Taxes Consolidation Act, 1997, as amended, and as such cannot be considered in the appeal process.

7.6. The requirement for a retail strategy for this specific site as highlighted by policy objectives in the Galway City Development Plan 2023 – 2029, is noted. However, a policy objective is not considered a statutory designation.

As such, I consider that there are no statutory designations pertaining to the site that may preclude development or that would warrant exclusion under Section 653B (c)(iv) of the Taxes Consolidation Act, 1997, as amended.

7.7. Moreover, I do not consider that the requirement for a retail impact assessment for development on this site, and the preparation of a retail strategy for the area, as indicated in the City Development Plan, would preclude development of this site, or would warrant exclusion under Section 653B of the Taxes Consolidation Act, 1997, as amended.

7.8. I consider that the site is suitably zoned and serviced to allow for residential dwellings as per Section 653B of the Taxes Consolidation Act 1997, as amended, and therefore, the site can be considered in scope for the RZLT Supplemental Map.

8.0 Recommendation

8.1. I recommend that the board confirm the determination of the local authority and direct the local authority to retain the lands identified as GLWC-C9-RZLT-5 on the RZLT Supplemental Map.

9.0 Reasons and Considerations

9.1. The appellant requested that their site be removed from the map due to the fact that until a retail strategy for the Galway Metropolitan Area is finalised that the City Development Plan prohibits development of this land, and that the development of these lands is premature pending the publication of the retail strategy which is seen as statutory policy and should be excluded from the Supplemental Map.

9.2. 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 the Residential Zoned Land Tax – Guidelines for Planning Authorities, 2022. The lands as identified GLWC-C9-RZLT-5 are

considered in scope of Section 653B of the Taxes Consolidation Act 1997, as amended.

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.

Emma Nevin
Planning Inspector

16th October 2023