



An
Bord
Pleanála

Inspector's Report ABP-317968-23.

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	Knockranny, Westport, Co. Mayo
Local Authority	Mayo County Council
Local Authority Reg. Ref.	RZL-054
Appellant	Maeve Kelly
Inspector	Emma Nevin

1.0 Site Description

1.1. The site is located in the townland of Knockranny to the east of Westport. The site has frontage along Knockranny Road and relates to a back land site to the rear of existing residential dwellings which front Knockranny Road. The site area is stated as 0.19 hectares.

2.0 Zoning

2.1. The site is zoned under the Westport Town and Environs Development Plan, 2010 – 2016 “A2 Residential Phase 1 Medium Density”, with a stated objective;

- *“To protect, improve and develop residential areas and to provide for facilities and amenities incidental to those residential areas, where appropriate. Up to 15 units per hectare will be considered in area zoned A2 Residential Phase I Medium Density”.*

2.2. While it is noted that the Westport Town and Environs Development Plan, expired in 2016, regard is had to the Mayo County Development Plan, 2022-2028, which includes the following objectives:

- Objective CSO3, which states;

“To adopt Local Area Plans for Ballina, Castlebar and Westport that align with the NPF, RSES and this Core Strategy. During the transition period between adoption of this County Development Plan and the adoption of the Local Area Plans for Ballina, Castlebar and Westport, the objectives (including zoning objectives), policies and standards in this County Development Plan shall apply to these towns”.

- Objective SSO 13 which states;

“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”.

2.3. As such the subject site is zoned for residential as noted above.

- 2.4. Section 12.3 of the Mayo County Development Plan, 2022 – 2028, also states that *“Individual local area plans will be prepared for the Tier I towns of Ballina, Castlebar and Westport, as statutorily required under the Planning and Development Act 2000 (as amended)”*.

3.0 Planning History

None located.

4.0 Submission to the Local Authority

- 4.1. This submission related to land located at Knockranny, Westport, Co. Mayo. The submitter is not a developer and considers the RZLT a punitive imposition on ordinary people, considers that the land is not suitable for the tax and requests that the land be excluded.
- 4.2. The topography and condition of the land renders the usable part of the ground smaller than it seems on the map.
- 4.3. A portion of the land consists of driveway, described as residential property to be excluded from scope of RZLT.
- 4.4. The land contains a water source which makes the ground soggy/boggy and therefore used for gardening and grazing purposes.
- 4.5. The land was transferred to the landowner with an agreement/undertaking to not subsequently sell it to a third party, or provide any other development save a single dwelling for the landowner.
- 4.6. The landowner is not in a position as present to build on the land.

5.0 Determination by the Local Authority

- 5.1. The subject land is located on residential zoned land, zoned A2 Residential Phase 1 Medium Density as per the Westport Town & Environs Development Plan, 2010 – 2016.
- 5.2. The land encompasses 2 no. plots in the land folio for the subject land at Knockranny, which includes road frontage along Knockranny Road (L-58521-20) to

the north. Furthermore, there is a driveway within the land folio which provides direct access to the site from the existing road network.

- 5.3. Additional details were requested from the landowner within the appropriate period in relation to point 2 of their appeal – “that the land may be “affected in physical condition by considerations which may impact the ability to provide housing on the land”. They were requested to provide details by way of verifiable documentary evidence to support their submission that the land is not capable of any form of residential development. A response was returned by the landowner acknowledging the position presented to them and confirm that they will not be making any further submission.
- 5.4. Furthermore, notwithstanding the personal legal agreements made by the owner at the time of acquisition of these lands/site, as stated in the submission/appeal, no evidence has been submitted to demonstrate that there is a contractual obligation to preclude the owner from developing the said lands.
- 5.5. The provisions for exclusions in the scoping process were considered (as per the criteria set out in the Finance Act). There is no evidence to suggest that the subject lands are contaminated or unable to be developed for residential purposes.
- 5.6. For the purpose of the RZLT, the subject land is appropriately zoned, is capable of connecting to the public road and footpath network and public water/wastewater/surface water services at this location, and therefore meets the scoping criteria as per Section 653B of the Finance Act, 2021.

6.0 The Appeal

6.1. Grounds of Appeal

- The appellant has stated that the majority of RZLT appeals have been unsuccessful to date.
- The inclusion of this portion of land on the RZLT map will achieve the opposite of the objective which is to free up land for housing and development.

- The appellant states that they are not in a position to sell the land and are also not a developer and as such including the land on the RZLT and the imposition of tax that will follow will serve only to make any building or development on the plot far less likely.
- The gardens around Westport are bigger than this plot and are exempt from RZLT but are covered by local property tax.
- On the basis that there is significant works required to be undertaken to provide adequate services to facilitate the development of these lands and that these works were not in place as of 1st January 2022 the lands in question are not in-scope.

6.2. No additional report was received from Mayo County Council following the appeal. The local authority in their response to the appeal submitted details of the determination issued by the local authority for the lands included on the RZLT Supplemental Map.

7.0 Assessment

7.1. It should be noted that the lands subject to this appeal are the lands identified by Parcel ID: MOLA00003373 – MCC, Ref: RZL 054 of the RZLT Supplementary Map.

7.2. 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. It is noted that subject site is zoned “A2 Residential Phase 1 Medium Density”, as per the Westport Town and Environs Development Plan, 2010 – 2016. However, the zoning objectives of this local area plan continues to be implemented as per the Mayo County Development Plan 2022 – 2028. As such, the subject site is zoned for residential.

7.3. I refer to Section 3.3.2 Restriction to Considering Criteria for Inclusion, of the Residential Zoned Land Tax – Guidelines for Planning Authorities, 2022, which states *“in considering appeals, An Bord Pleanála is restricted to considering the grounds of appeal, the determination of the local authority on the submission made during public display period, and any additional information on the servicing or use of the land which the Board may seek from the landowner, Local Authority or*

stakeholders identified in article 28 of the 2001 regulations. In assessing any appeal, the Board is restricted to considering whether the lands meet the qualifying criteria set out in section 653B only”.

- 7.4. I also note Section 3.2.3 of the Residential Zoned Land Tax – Guidelines for Planning Authorities, 2022, which describes consideration of submissions on Inclusion on maps and states that “*Matters which are unrelated to the criteria identified in section 653B such as planning permission, commencement on land in-scope, finance, or personal circumstances are not matters to be taken into account during consideration of submissions”.*
- 7.5. As such, the unsuccessful RZLT appeals, the personal circumstances of the appellant and the implications of such a tax does not fall within the criteria for consideration as set out in Section 653B of the Taxes Consolidation Act, 1997, as amended.
- 7.6. In addition, the appellant references the gardens around Westport, the size of same and the local property tax associated with these lands. However, this does not qualify as criteria for omitting the lands from the map under Section 653B of the Taxes Consolidation Act 1997, as amended.
- 7.7. The Council in their determination also state, as a matter of fact, that the site has road access, a footpath network, and public lighting along Knockranny Road, water network/capacity infrastructure via the main public road, wastewater connection via the foul sewer located on the main road (Knockranny Road to the north of the lands), and surface water connections, via the surface water main located on the main road (Knockranny Road to the north of the lands).
- 7.8. In this regard, 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 RZL 054 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 the inclusion of the lands will achieve the opposite of the objective to free up the land for housing.
- 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 RZL 054 are considered in scope of Section 653B of the Taxes Consolidation Act 1997, as amended.

I confirm that the report represents my professional 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

25th September 2023