



An
Bord
Pleanála

Inspector's Report 320385-24

Type of Appeal

Appeal under section 653BJ(1) of the Taxes Consolidation Act 1997, as amended, against the inclusion of land on the Residential Zoned Land Tax Map.

Location

Lands at Keeraun and Ballynahowan East, Ballymoneen Road, Galway.

Local Authority

Galway City Council

Planning Authority Reg. Ref.

GLWC-C15-RZLT-4

Appellant

Cairn Homes Galway Ltd.

Inspector

Sinéad O'Connor

1.0 Site Location and Description

The lands identified as Lands at Keeraun and Ballynahowan East, Ballymoneen Road, Galway (Parcel ID GCLA00002384, GCLA00001274, GCLA00002379) are located in the west of Galway City, on the west side of Ballymoneen Road. The subject site accommodates 4 no. dwellings at the road frontage with Ballymoneen Road and the remainder of the site is under grass. The site immediately adjoins the Slí Ghael and Fána Buá residential development to the east, and the Maoilín residential development to the south. To the north and west of the site are lands under grass.

2.0 Zoning and Other Provisions

The relevant plan is the Galway City Development Plan 2023-2029.

- The lands are zoned R-Residential: To provide for residential development and for associated support development, which will ensure the protection of existing residential amenity and will contribute to sustainable residential neighbourhoods.
- Under Section 11.2.8 of the Plan, Residential is compatible with the R-Residential zoning objective.
- The location of the N6 Galway City Ring Road (N6 GCRR) is mapped to the northwest of the site. No part of the subject site occurs within the mapped location of the N6 works.
- Section 4.8 Specific Objectives include the following:
 - Objective 9. Identify through a review of the Galway Transport Strategy the need for bus transport in areas of Galway City currently not serviced by bus transport to include rural Bushypark, Circular Road, Upper Ballymoneen Road, Menlough and other locations as appropriate.
 - Objective 23 states the following: “Reserve the route corridor of the N6 Galway City Ring Road (N6 GCRR) project as approved with conditions and modifications by An Bord Pleanála which accommodates the designated strategic road and the associated bridge crossing of the River Corrib”.
 - Objective 24 states the following: Give priority to the reservation the N6 GCRR designed strategic road corridor and any associated land requirements over

other land uses and objectives in the City Development Plan and prohibit developments within the designed strategic road corridor which could potentially prejudice the development of this strategic road and river crossing.

- Objective 35. Carry out an audit of the road network relative to pedestrian services and standards in all areas outside of the city centre and implement a programme of improvements in accordance with a scheme of priorities relative to accessibility, safety and convenience. Priority of investigation will be given to the following roads namely: Circular Road, Letteragh Road and Ballagh Road, Ballymoneen Road, Cappagh Road, Castlegar Road and all other local roads as deemed necessary.

3.0 Planning History

PA Ref. 06/481: On the 15 March 2007 planning permission was granted for the construction of 210 residential units and commercial development at lands including the subject site.

PA Ref. GLWC-C6-RZLT-3, ABP Ref. 316817-23: On the 21 August 2023 the Board decided to confirm the determination of the LA to retain the subject lands on the RZLT map.

PA Ref. 2460270: On the 29 August 2024 an application was lodged for the demolition of 2 no. dwellings at the site and the construction of 156 no. residential units. The proposed development is accessed from the Ballymoneen Road, and it is proposed to connect to existing water infrastructure that is also at Ballymoneen Road. I note that this application post-dates the LA determination and the information submitted with the application was not available to the LA when their determination was made.

The lands to the northwest of the site have been the subject of several applications in respect of the N6 Galway City Ring Road. Most recently, on 12 October 2023, an application was made to the Board under ABP Ref. 318220-23, which is a reactivation of the application under ABP Ref.302848-18 after this decision was quashed.

The appeal statement makes reference to PA. Ref. 23/129, ABP Ref. 318465-23. This site is located circa 2 km to the east of the subject site. Under this application, the

Board overturned the PA decision to refuse planning permission for the proposed development.

4.0 Submission to the Local Authority

The appellants made a submission to the local authority seeking to have their land removed from the final map on the basis that development at the site has been impeded by the N6 Galway Ring Road scheme, permission was previously refused on the basis of prematurity pending the scheme, the lands meet the criteria for exclusion under Section 653B(c)(iii) and (iv) of the Act, upgrade works are required at Ballymoneen Road and Rahoon Road under the Development Plan, and the draft maps do not specify the dates the lands met the criteria for inclusion.

5.0 Determination by the Local Authority

The local authority determined that:

Having evaluated the submission, it is considered that the land parcel (Parcel ID GCLA00002384, GCLA00001274, GCLA00002379) located to the south of the objective for the N6 Galway City Ring Road (N6 GCRR) does constitute land satisfying the criteria as per Section 653B of the Taxes Consolidation Act 1997 (as amended), therefore the land at Keeraun & Ballynahown East, Ballymoneen Road, Galway City should be included on the final map for the following reasons:

Reasons:

The land meets the criteria set out in Section 653B of the Tax Consolidation Act 1997 (as amended), in that it has reasonable access to public infrastructure and facilities, necessary for dwellings to be developed and with sufficient service capacity available for such development and is not affected, in terms of its physical condition, by matters to a sufficient extent to preclude the provision of dwellings.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are summarised as follows:

- The site does not meet the criteria for inclusion on the RZLT map.
- Development is precluded by the N6 Galway City Ring Road. PA Ref. 23/129 was refused planning permission by the PA on the basis that the development was premature pending the N6.
- The sites meet the criteria for exclusion from the RZLT map under Section 653B(b) and (c), on the basis that infrastructure is required to serve the site.
- Upgrades to the Ballymoneen Road and Ragoon Road, as per the Development Plan, constitute infrastructural upgrades required to connect the site to roads and services.
- The topography and narrowness of the site have delayed the preparation of planning applications at the site.
- There are delays in the planning application process that are outside of the appellant's control.
- The site should only be scoped into RZLT where planning permission has been obtained.

7.0 Assessment

The grounds of appeal have been fully considered. Under section 653J of the Taxes Consolidation Act 1997 as amended, the Board's role in the current appeal is to review the determination of the local authority under section 653E which is based on the application of the relevant criteria set out in section 653B of the Act for inclusion on the RZLT map. This position is consistent with the Residential Zoned Land Tax-Guidelines for Planning Authorities June 2022 which clearly sets out in section 3.3.2 that:

"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".

The appeal submission has raised grounds that are outside of the scope of the Boards assessment, including delays in the planning system and the dates of inclusion on the RZLT map. As per section 653J of the Act, the Boards role is to review the LA determination, which is based solely on the criteria set out in Section 653B of the Act. The legislation does not give the Board any role in assessing impacts arising from delays in the planning system and the timing of inclusion on the RZLT map.

The subject site was the subject of a previous RZLT determination under ABP Ref. 316817-23: Under ABP 316817-23 the Board decided to confirm the determination of the local authority to retain the site on the RZLT map. I note that the context and character of the site has not significantly changed since this previous determination.

The subject site is zoned R-Residential and, therefore, meets the criteria for inclusion on the RZLT map under Section 653B(a) of the Act.

The appellant states that the site does not meet the criteria under Section 653B(b) and that significant infrastructural works are required to connect the site to roads and services. The subject site has direct road frontage onto Ballymoneen Road at its eastern boundary, and there are 3 no. existing entrances to the site from the Ballymoneen Road that serve the existing dwellings. It is considered reasonable that the currently undeveloped parts of the site can be accessed from Ballymoneen Road via these existing entrances. Given the extent of development on Ballymoneen Road, it is considered reasonable that there is water infrastructure located at, or proximate to, the public road. As no third-party lands are required to connect the site to the public road, it is reasonable to consider that the site is able to connect to water services. In addition to the above, the subject site immediately adjoins residential development at its eastern and southern boundaries. Page 23 of the RZTL guidelines states: *“where the infrastructure is located adjoining, intersecting, at a boundary or corner of a landbank, in a nearby public road, or is connected to an existing development adjoining the landbank, the lands should be considered to be ‘connected’ or ‘able to connect’ and therefore are in-scope”*. Owing to the proximity of the site to the existing residential developments, it is reasonable to consider that a connection to roads and water infrastructure can also be provided through these developments. With reference to the wordings of objectives in Section 4.8 of the Development Plan, I do not consider that the infrastructure objectives relating to the Ballymoneen Road preclude the provision of dwellings at the site. Given that the site is already connected to the road

network, it is reasonable to consider that there is sufficient capacity to serve the site and that future development is not reliant upon or premature pending the development of the N6 Galway City Ring Road. In this way, it is reasonable to consider that there is sufficient capacity in the road network to serve the site.

The Uisce Éireann (UE) Wastewater Treatment Capacity Register published June 2023 (accessed 18 September 2024) indicates that there is Spare Capacity Available at the Mutton Island WWTP. The UE 10-Year Water Supply Capacity Register Published June 2023 (accessed 18 September 2024) indicates that there is Capacity Available at the Lough Corrib (Galway City, Tuam, Loughrea) Water Resource Zone however, Level of Service (LoS) improvements are required to meet 2032 population targets. Page 8 of the RZLT Guidelines sets out that a need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist. Drawing from the above, it is reasonable to consider that there is capacity in the water network to serve the lands. Based on the foregoing, I consider that the site meets the criteria for inclusion on the RZLT map under Section 653B(b) of the Act.

The appellant states that the site fails to meet the criteria under Section 653B(c) as the site is narrow and undulating. The subject site forms part of the planning permission granted under PA Ref. 06/481. Under this permission, the subject site accommodates houses, apartments, open space and internal roads. Most recently, an application was lodged under PA Ref. 2460270 for residential development and ancillary works at the site. In light of the foregoing, it is evident that the site is not too narrow or undulating to accommodate residential development. In this way, the site does not meet the criteria for exclusion under Section 653B(c) of the Act.

The appellant states that development of the site is precluded by the N6 Galway City Ring Road Scheme. The subject site does not overlap with any part of the N6 GCRR as per the Land Use Zoning and Specific Objectives map of the Galway City Development Plan 2023-2029. Figure 4.1.07 'Landowner Accommodation' sheet 7 of 30 and Figure 4.1.08 'Landowner Accommodation' sheet 8 of 30 of A.9.1 of Volume 2 of the Response to Further Information Documentation submitted under ABP Ref.302848-18, which is reactivated under ABP Ref. 318220-23, show that no part of the subject site occurs within the land-take for the N6 infrastructural works. In this way, the Development Plan objectives that seek to retain the N6 corridor free from development are not applicable to the subject site. Based on the foregoing, I do not

consider that the N6 Galway City Ring Road precludes the provision of dwellings at the site, therefore, the site does not meet the criteria for exclusion under Section 653B(iii)(II) of the Act.

8.0 Recommendation

Having regard to the foregoing, I consider that the lands identified as Lands at Keeraun and Ballynahowan East, Ballymoneen Road, Galway (Parcel ID GCLA00002384, GCLA00001274, GCLA00002379) meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended. The grounds of appeal have not raised other matters under section 653B of the Taxes Consolidation Act 1997, as amended and there are no matters arising that warrant exclusion of the subject lands from the final map. I recommend that the determination of the local authority be confirmed, and the lands retained on the RZLT map.

9.0 REASONS AND CONSIDERATIONS

In the assessment of this appeal, regard was had to the content of the Residential Zoned Land Tax- Guidelines for Planning Authority June 2022 which are considered to be a helpful complement to understanding the spirit and intent of the primary legislation. However, the recommendation is made within the clear parameters of the applicable legislation.

The lands identified as Lands at Keeraun and Ballynahowan East, Ballymoneen Road, Galway (Parcel ID GCLA00002384, GCLA00001274, GCLA00002379) are located on lands zoned R-Residential and are, therefore, considered in scope of section 653B(a). The site has direct road frontage and 3 no. existing entrances from the Ballymoneen Road. The site also immediately adjoins existing residential schemes to the east and south. It is reasonable to consider that the site can access existing roads and water infrastructure from either Ballymoneen Road, the Slí Ghael residential development or the Maoilín residential development. UE capacity registers accessed 18 September 2024 indicate that there is capacity available in the water systems to serve the site. The site, therefore, meets the criteria under Section 653B(b) of the Act. The subject site gained planning permission for residential development under PA Ref. 06/481, and accommodated houses, apartments, internal roads and public open spaces under

this permission. The current application on the site, PA Ref. 2460270, similarly accommodates residential dwellings and ancillary works at the site. On this basis, I consider that the site is not too narrow or undulating to provide dwellings and, therefore, the site meets the criteria under Section 653B(c) of the Act. The subject site does not overlap with any part of the N6 Galway City Ring Road therefore, the site does not meet the criteria for exclusion under Section 653B(iii)(II).

10.0 Recommended Draft Board Order

Taxes Consolidation Act 1997 as amended

Planning Authority: Galway City Council

Local Authority Reference Number: GLWC-C15-RZLT-4

Appeal by Cairn Homes Galway Ltd. care of MKO in accordance with section 653J of the Taxes Consolidation Act 1997 as amended, against the inclusion of the land on the Residential Zoned Land Tax Map by Galway City Council on the 28 day of June 2024 in respect of the site described below.

Lands at: Keeraun and Ballynahowan East, Ballymoneen Road, Galway

Decision

The Board in accordance with section 653J of the Taxes Consolidation Act 1997 as amended, and based on the reasons and considerations set out below, hereby decided to:

The Board confirm the determination of the local authority and direct the local authority to retain the lands identified as Lands at Keeraun and Ballynahowan East, Ballymoneen Road, Galway (Parcel ID GCLA00002384, GCLA00001274, GCLA00002379) on the final map.

Reasons and Considerations

In the assessment of this appeal, regard was had to the content of the Residential Zoned Land Tax- Guidelines for Planning Authority June 2022 which are considered to be a helpful complement to understanding the spirit and intent of the primary legislation. However, the recommendation is made within the clear parameters of the applicable legislation.

The lands identified as Lands at Keeraun and Ballynahowan East, Ballymoneen Road, Galway (Parcel ID GCLA00002384, GCLA00001274, GCLA00002379) are located on lands zoned R-Residential and are, therefore, considered in scope of section 653B(a). The site has direct road frontage and 3 no. existing entrances from the Ballymoneen Road. The site also immediately adjoins existing residential schemes to the east and south. It is reasonable to consider that the site can access existing roads and water infrastructure from either Ballymoneen Road, the Slí Ghael residential development or the Maoilín residential development. UE capacity registers accessed 18 September 2024 indicate that there is capacity available in the water systems to serve the site. The site, therefore, meets the criteria under Section 653B(b) of the Act. The subject site gained planning permission for residential development under PA Ref. 06/481, and accommodated houses, apartments, internal roads and public open spaces under this permission. The current application on the site, PA Ref. 2460270, similarly accommodates residential dwellings and ancillary works at the site. On this basis, I consider that the site is not too narrow or undulating to provide dwellings and, therefore, the site meets the criteria under Section 653B(c) of the Act. The subject site does not overlap with any part of the N6 Galway City Ring Road therefore, the site does not meet the criteria for exclusion under Section 653B(iii)(II).

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.

Sinéad O'Connor

Planning Inspector

Date: 26 September 2024