



An
Bord
Pleanála

Inspector's Report ABP-320387-24

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 Map.

Location

Lands South of Dunnes Car Park, Wine Street & East of Adelaide Street, Sligo

Local Authority

Sligo County Council

Planning Authority Reg. Ref.

RZLT-24-12

Appellant

Better Value Unlimited Company

Inspector

Sinéad O'Connor

1.0 Site Location and Description

The lands identified as lands to the south of Dunnes Car Park (Parcel IDs SOLA00000683 & SOLA00000684) are located on the eastern side of the R287 in Sligo Town Centre. The site is irregular in shape, and largely occupies the back lands behind the commercial properties fronting wine street to the north, Adelaide street to the west and John Street to the south. Parcel ID SOLA00000684 is located to the north of Parcel SOLA00000683 and immediately adjoins the car park serving Dunnes Stores to the north. Parcel ID SOLA00000683 has circa 25 metres of road frontage directly onto Adelaide Street and adjoins a disused commercial yard to the south. The lands are currently overgrown with scrub vegetation and contain unused and unkempt buildings.

2.0 Zoning and Other Provisions

The subject site has most recently been zoned under the Sligo and Environs Development Plan 2010-2016 (SEDP). The SEDP was automatically extended when Sligo Borough Council was abolished in 2014. The SEDP was extended again in August 2017 when it was incorporated into the Sligo County Development Plan 2017-2023.

The Sligo County Development Plan 2017-2023 (SCDP) was adopted on 31 July 2017 and was extended up to July 2024 by a resolution of the Council dated 03 April 2023. The County Development Plan is currently being reviewed and, most recently, written submission on the Proposed Amendments to Draft County Development Plan 2024-2030 were accepted by the Council up to 05 July 2024.

Relevant provisions of the SEDP are summarised below:

- Under the SEDP, the site is zoned C1 – city centre uses to ‘Protect and upgrade the retain function, supported by a range of complementary functions, within the city’s commercial/retail core and encourage the establishment of commercial/retail activities in the areas reserved for the centre’s expansion’.
- Section 5.2.1 of the SEDP states that the City Centre should accommodate a diverse range of commercial, retail and leisure uses complemented by residential uses.

- The lands are located in the Zone of Archaeological Potential for the Historic Town of Sligo City. This ZAP encapsulates the Sligo's city centre.

3.0 Planning History

Relevant planning history across the sites is summarised below as follows:

PA Ref. 0670009: On the 16 October 2007 planning permission was granted to Dunnes Stores for a 2 and 3 storey retail development including a 5-storey car park. The service entrance is from Adelaide Street. This permission was extended until 13 January 2018.

PA Ref. 1370010: On the 10 June 2013 planning permission was granted to Dunnes Stores (Sligo) Ltd for the demolition of derelict structures on Adelaide Street, retention of part of a gable end, improvement works to 2 no. building facades on Wine Street, and the removal of vegetation from the site.

PA Ref. PL.19301: On the 31 January 2020 planning permission was granted to Better Value Unlimited Company for the use of the subject sites as a temporary car park, including a new vehicular access onto Adelaide Street. Condition 3. requires that an archaeologist is employed on-site to monitor all groundworks. There is no indication that this planning permission has been taken up.

PA Ref. RZLT39, ABP Ref. VY21.316908: On the 14 August 2023, the Board decided to confirm the determination of the local authority that the lands meet the qualifying criteria set out under Section 653B of the Taxes Consolidation Act 1997, as amended.

4.0 Submission to the Local Authority

The appellants made a submission to the local authority (LA) seeking to have their land removed from the final map on the basis of the following:

- The site, which is zoned C1 for City Centre Uses, is not allocated a housing yield under Table 5J 'Total zoned land, strategic land reserve, indicative housing and population yields of lands available for development by 2016' of the SEDP.
- Reference is made to the Centre Block Masterplan (1999), which was the basis for previous retail applications at the site.

- Reference is made to the Wine Street Car Park Regeneration Site (REG-7) of the Draft Sligo Council Development Plan 2024-2030, which shows the indicative location of a multi-storey car park at the sites.
- It is stated that the inclusion of the site on the RZLT map is premature pending confirmation of the location of the car park.

5.0 Determination by the Local Authority

The local authority determination of the 02 July 2024 states the following:

It has been determined that the site in question fulfils the qualifying criteria set out in Part 22A of the Taxes Consolidation Act 1997 (as introduced by the Finance Act 2021) and the 2022 Section 28 Ministerial Guidelines 'Residential Zoned Land Tax – Guidelines for Planning Authorities' for inclusion on the RZLT map for the following reasons:

1. The land in question is included in a development plan or local area plan and is zoned for residential development or a mixture of uses, that includes residential development.
2. The land is serviced, or it is reasonable to consider may have access to services. Serviced means having access to the necessary public infrastructure and facilities including road and footpath access, public lighting, foul sewer drainage, surface water drainage and water supply necessary for dwellings to be developed and for which there is service capacity available sufficient to enable housing to be developed.
3. The land is not affected in terms of its physical condition, by matters to a sufficient extent to preclude provision of dwellings, including contamination or the presence of archaeological or historic remains.
4. It is considered that the lands that are the subject of the submission are vacant or idle; as provided in the guidelines 'vacant or idle land' means land which, having regard only to development (within the meaning of the Act of 2000) which is not unauthorised development (within the meaning of the Act of 2000), is not required for, or integral to, the operation of a trade or profession being carried out on, or adjacent to, the land.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are summarised as follows:

- The sites are zoned C1 under the SEDP, which expires 31 July 2024.
- On the basis that the SEDP is expired, the lands are not zoned and do not meet the requirements for inclusion on the RZLT Map.
- Table 5J of the SEDP does not provide a housing allocation for the sites.
- Under the Draft Plan, the site forms part of the Wine Street Car Park Regeneration Site (REG-7). The indicative location of a multi-storey car park is shown at the sites.
- There is no certainty regarding the provision of housing at REG-7 and the lands are not including in the Core Strategy Housing Allocation. Residential development at the sites would be inconsistent with the Core Strategy of the Draft Plan.

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”.

In their assessment, the LA state that the lands are zoned C1 and that the site is envisaged to accommodate a diverse range of uses including residential, as per Section 5.2.1 of the SEDP.

The Grounds of Appeal state that the SEDP is due to expire on the 31 July 2024 and that if the Draft Plan is not adopted before this date, the site will be unzoned and therefore would not qualify for inclusion on the RZLT map.

The LA made their determination on 02 July 2024. The Council Resolution to extend the SCDP, dated 03 April 2023, states that the SCDP is extended for a period of up to 1 year, to July 2024. The SCDP was adopted on the 31 July 2017 and was due to expire on 31 July 2023, therefore, the extension by 1 year brings the expiration date to 31 July 2024. However, the resolution specifically brings the expiration date of the SCDP *“to July 2024”*, rather than explicitly to the end of the July 2024. In this way, it could be argued that the SCDP expired 30 June 2024. On the basis that the resolution specifically extended the SCDP by up to 1 year and considering the normal understanding of the wording in the resolution, I consider that the Development Plan was in place until 31 July 2024 and was in force when the LA made their RZLT determination. In this way, it is my opinion that the site meets the criteria for inclusion on the RZLT map under Section 653B(a) of the Taxes Consolidation Act 1997 as amended.

The Appeal Statement refers to Table 5J of the SEDP in stating that there is no housing allocated to the subject sites and, therefore, the sites should be excluded from the RZLT maps. I note that Table 5J of the SEDP refers to projected housing yields up to 2016. I do not consider that the contents of Table 5J preclude the delivery of housing at the subject site on the basis that this table is now out-of-date and does not reflect the current vacant nature of the sites. I consider it reasonable to set aside the grounds of appeal in this regard.

The Appeal Statement states that the Wine Street Car Park Regeneration Site (REG-7), which forms part of the Draft Development Plan, shows the indicative location of a multistorey car park on the sites. It is further stated that the Draft Plan does not envisage the provision of housing on these sites as REG-7 has not been included in the Core Strategy Allocation. The LA determination is based on the SEDP, which was the statutory plan in place at the time.

The subject lands are zoned C1, which is a mixed-use zoning under the SEDP. The lands are currently unused and largely overgrown. In this way, the sites do not meet the criteria for exclusion under reference to Section 653B(ii) of the Act.

Parcel ID SOLA00000683 has direct road frontage onto Adelaide Street, which has public footpaths and lighting along its full extent. I consider that Parcel ID SOLA00000684 can be accessed through Parcel ID SOLA00000683 on the basis that these parcels are under the same ownership. The Uisce Éireann (UE) Wastewater Treatment Capacity Register published June 2023 (accessed 4 September 2024) indicates that there is spare capacity available at the Sligo WWTP. The UE 10-Year Water Supply Capacity Register Published June 2023 (accessed 4 September 2024) indicates that there is capacity available in the Sligo Town & Environs Water Resource Zone. In this way, it is reasonable to consider that the sites can connect and be serviced by existing public infrastructure.

As per Map 6 'Protected Structures, ACAs and ZAPs (City Centre)' of the SEDP, the full extent of the subject sites is within the Zone of Archaeological Potential of Sligo, which is a historic town that appears in the Record of Monuments and Places. Page 9 of the Residential Zoned Land Tax- Guidelines for Planning Authority June 2022 set out "*brownfield land which lies within a zone of notification may be scoped in, as development has taken place on the land and matters relating to resolution of potential archaeological remains can be dealt with during the development management process*". The objectives of the SEDP do not preclude the development of lands in the Sligo ZAP, and generally seek archaeological impact assessments and monitoring as part of planning applications. I consider it relevant that planning permission has recently been permitted at the sites. Any future application at the subject sites would be considered its merits and the location of the site in a ZAP would not impede development. I do not consider that the subject sites should be excluded on this basis, as the sites do not meet the criteria for exclusion under Section 653B(c).

8.0 Recommendation

Having regard to the foregoing, I consider that the lands identified as Lands South of Dunnes Car Park, Wine Street & East of Adelaide Street, Sligo (Parcel IDs SOLA00000683 & SOLA00000684) 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.

9.0 REASONS AND CONSIDERATIONS

The lands identified as lands to the south of Dunnes Car Park (Parcel IDs SOLA00000683 & SOLA00000684) located on lands zoned C1 under the Sligo and Environs Development Plan 2010-2016, which forms part of the Sligo County Development Plan 2017-2023, as extended, are considered in scope of section 653B(a). The lands, which are zoned for mixed-uses, are vacant and idle. The lands are located within an established urban area with confirmation from the UE Capacity Registers 2023 that services are available and that there is sufficient capacity to serve the lands. The location of the site within the Zone of Archaeological Potential for Sligo does not preclude development on this Brown Field Site. No capacity or other reasons have been identified that would prevent the development of these lands in principle for residential purposes in accordance with the residential zoning objective that applies to these lands.

10.0 Recommended Draft Board Order

Taxes Consolidation Act 1997 as amended

Planning Authority: Sligo County Council

Local Authority Reference Number: RZLT-24-12

Appeal by Better Value Unlimited Company 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 Sligo County Council on the 02 day of July 2024 in respect of the site described below.

Lands at: Lands South of Dunnes Car Park, Wine Street & East of Adelaide Street, Sligo.

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 to the south of Dunnes Car Park (Parcel IDs SOLA00000683 & SOLA00000684) on the final map.

Reasons and Considerations

The lands identified as lands to the south of Dunnes Car Park (Parcel IDs SOLA00000683 & SOLA00000684) located on lands zoned C1 under the Sligo and Environs Development Plan 2010-2016, which forms part of the Sligo County Development Plan 2017-2023, as extended, are considered in scope of section 653B(a). The lands, which are zoned for mixed-uses, are vacant and idle. The lands are located within an established urban area with confirmation from the UE Capacity Registers 2023 that services are available and that there is sufficient capacity to serve the lands. The location of the site within the Zone of Archaeological Potential for Sligo does not preclude development on this Brown Field Site. No capacity or other reasons have been identified that would prevent the development of these lands in principle for residential purposes in accordance with the residential zoning objective that applies to these lands.

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.

Sinead O'Connor

Planning Inspector

Date: 04 September 2024