



An  
Bord  
Pleanála

## Inspector's Report ABP-320418-24

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### 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 Gort 38kV Substation

### Local Authority

Galway County Council

### Planning Authority Reg. Ref.

GLW-C88-1

### Appellant

ESB

### Inspector

Sinéad O'Connor

## **1.0 Site Location and Description**

The lands identified as lands at Gort 38kV Substation (Parcel ID GALAGSST502\_RE) are located in the northwest of Gort. The lands accommodate an electricity substation that is securely fenced from the adjoining lands. To the north and east the site adjoins the Árd Ghuaire residential development and to the south are the dwellings fronting Glenbrack Road. The site adjoins the Glenbrack Road at its western boundary and beyond the road are agricultural lands.

## **2.0 Zoning and Other Provisions**

The Gort Local Area Plan 2013-2019 was extended up to, and including, 25 June 2023. There is no evidence that the Gort LAP has been extended, and the Galway County Development Plan 2022-2028 does not extend the lifetime of the LAP or include any zoning provision for Gort. In this way, I consider that the subject site is not currently zoned.

## **3.0 Planning History**

There is no recent of relevant planning history associated with this site.

## **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 the site is occupied by energy infrastructure and meets the criteria for exclusion under Section 653B(iii).

## **5.0 Determination by the Local Authority**

The local authority determined that:

By order dated 26<sup>th</sup> June 2024 it was decided to include the above land on the final map of the Residential Zoned Land tax, however:

While the Existing Residential Land parcel has been included in the Annual Draft Mapping, the land parcel is excluded from a liability and requirement for payment of the tax in accordance with the Finance (Local Property Tax) Act 2012.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The grounds of appeal are summarised as follows:

- The site accommodates the Gort 38kV Substation.
- This substation is a critical piece of electricity infrastructure and serves thousands of commercial and domestic customers in Gort.
- The site meets the criteria for exclusion under section 653B(iii)(III) and (IV) of the Act.

## **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 site occurs within the lands of the Gort LAP 2013-2019. This LAP was extended up to 25<sup>th</sup> June 2023 and has not been further extended. In this way, there was no LAP in place for Gort at the time the LA made their determination in respect of this site. I note that the site is not zoned under the County Development Plan. In this way, I consider that the site was not zoned at the time of the LA determination and, therefore, does not meet the criteria for inclusion on the RZLT map under Section 653B(a) of the Act.

The appellant states that the site accommodates electricity infrastructure and should, therefore, be excluded from the RZLT map.

The entirety of the site is occupied by the Gort 38kV Substation, which houses electricity infrastructure. As per the appeal statement, this substation forms a vital part of the electricity infrastructure serving Gort. In this way, it is reasonable to consider that the site is required for energy infrastructure. Drawing from the foregoing, I consider that the site meets the criteria for exclusion from the RZLT map under Section 653B(iii)(III).

## **8.0 Recommendation**

Having regard to the foregoing I consider that the lands identified as lands at Gort 38kV Substation (Parcel ID GALAGSST502\_RE) do not meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended for the following reasons.

- The site was not zoned under either the Gort LAP 2013-2019 or the Galway County Development Plan 2022-2028 and, therefore, does not meet the criteria under Section 653B(a) of the Act.
- The site is occupied by the Gort 38kV Substation and is, therefore, required for energy infrastructure and facilities. The site meets the criteria for exclusion from the RZLT map under Section 653B(iii)(III) of the Act.

I recommend that the determination of the local authority be set aside, and the lands excluded from the RZLT map.

## **9.0 REASONS AND CONSIDERATIONS**

The lands identified as lands at Gort 38kV Substation (Parcel ID GALAGSST502\_RE) were not zoned at the time of the LA determination and are not considered in scope of Section 653B(a). The full extent of the site is occupied by the Gort 38kV Substation, which is a vital piece of electricity infrastructure serving Gort. In this way, the site meets the criteria for exclusion from the RZLT map under Section 653B(iii)(III).

## **10.0 Recommended Draft Board Order**

### **Taxes Consolidation Act 1997 as amended**

**Planning Authority:** Galway County Council

**Local Authority Reference Number:** GLW-C88-1

**Appeal by** ESB 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 County Council on the 26 day of June 2024 in respect of the site described below.

**Lands at:** lands at Gort 38kV Substation (Parcel ID GALAGSST502\_RE)

### **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 set aside the determination of the local authority and allow the appeal in relation to the lands identified as lands at Gort 38kV Substation (Parcel ID GALAGSST502\_RE)

### **Reasons and Considerations**

The lands identified as lands at Gort 38kV Substation (Parcel ID GALAGSST502\_RE) were not zoned at the time of the LA determination and are not considered in scope of Section 653B(a). The full extent of the site is occupied by the Gort 38kV Substation, which is a vital piece of electricity infrastructure serving Gort. In this way, the site meets the criteria for exclusion from the RZLT map under Section 653B(iii)(III).

*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.*

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Sinéad O'Connor

Planning Inspector

Date: 26 September 2024