



An  
Bord  
Pleanála

## Inspector's Report ABP-320441-24

---

**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**

Convent Road, Clare (Kilbeg) TD,  
Claremorris, Co. Mayo

**Planning Authority**

Mayo County Council

**Planning Authority Reg. Ref.**

RZLT 24-004

**Appellant(s)**

Rita Cleary

**Inspector**

John Duffy

## **1.0 Site Location and Description**

- 1.1. The subject lands are located on the eastern side of Convent Road in Claremorris, Co. Mayo. Land Parcel ID MOLA00002132 on the RZLT Final Map refers.

## **2.0 Zoning**

- 2.1. The subject lands are zoned 'New Residential' in the Mayo County Development Plan 2022-2028, with the zoning objective 'To provide for high quality new residential development and other services incidental to residential development.'
- 2.2. The lands are regarded as a priority location for the delivery of new residential development in Claremorris town.

## **3.0 Planning History**

### RZLT Appeal

An Bord Pleanála Reference ABP-316684-23 / Planning Authority Reference RZL-007 refers to an August 2023 decision which notes that the subject lands meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, and therefore the subject lands are to be included on the RZLT map.

### Other relevant applications

Planning Authority Reg. Ref. 033324 – Planning permission granted on 9<sup>th</sup> August 2004 for housing development of 44 no. semi-detached houses including the demolition of existing dwelling house and construction of new access road.

Planning Authority Reg. Ref. 09837 – Planning permission granted on 11<sup>th</sup> March 2010 for 51 no. houses, connection to local authority sewers, landscaping and all

associated works. An appeal (ABP Ref. 236462) was subsequently made concerning financial contribution.

#### **4.0 Submission to the Local Authority**

4.1. The appellant made a submission to the Local Authority seeking to have the subject lands removed from the RZLT map on the following grounds:

- Lands are located 65 m off the public road and to the rear of houses and gardens at Convent Road.
- Access from these lands is via a 3.3 m wide laneway.
- The lands are land-locked and require the agreement of third party landowners to facilitate access for dwellings to be developed.
- The lands do not have access to public roads, footpaths and services necessary for development.
- Sufficient road access and connection to services require access over third party lands in private ownership. As such, the RZLT Guidelines state that the lands should be considered out of scope.
- The lands were part of a wider joint planning application (PA Ref. 09/837) with adjoining landowners.

On foot of the submission the Local Authority sought further information from the landowner as follows; no response was received;

*(i) Please provide the folio details of your landholding – including full folio(s) and associated map(s) for the subject land and any adjoining landholding in your ownership (held jointly or otherwise). Also, please specify the nature of the relationship – if any, with the stated 3<sup>rd</sup> parties whose land, as stated in your submission is required for access to roads and services.*

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

5.1. The Local Authority determined that the site is in scope for RZLT for the following reasons:

- Sufficient proof of landownership has not been provided.
- From the details provided in the submission, the full extent of lands in sole or joint ownership at this location is not clear.
- The planning history associated with the subject land together with adjoining land (Ref Parcel MOLA00002130) has had the benefit of two previous permissions granted under 03/3324 and 09/837, which consists of a holding in the stated ownership of Mr Sean and Henry Cleary, and as such would appear to be, or have been, more than capable connecting to the necessary services, and therefore meets the scoping criteria for inclusion on the RZLT map as per Section 653B of the Finance Act 2021.

## **6.0 The Appeal**

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

The following points are made in support of the appeal:

- The laneway is not sufficiently wide to facilitate residential development on the lands. The lands cannot facilitate a footpath and a road.
- The Local Authority's assessment erroneously assumed the entirety of the lands referred to in previous grants of permission were in joint ownership. The applications were made by the appellant's late husband Mr. Henry Cleary and an adjoining landowner, Mr. Sean Cleary.
- Two land parcels belonging to Mr. Sean Cleary provided access to the public road. The appellant cannot compel an adjoining landowner to sell lands to facilitate an acceptable entrance / road access for a housing scheme.
- Sufficient road access and connection to services require access over third party lands in private ownership. As such the RZLT Guidelines state that the land should be considered out of scope.
- The subject lands do not meet the criteria to be included in the RZLT map.

The appeal includes the following attachments:

- Photos of Convent Road and access laneway.
- A letter and associated map from the appellant's solicitors confirming her ownership of the subject land parcel and also that she does not own or have any entitlement to own any adjoining lands.
- A letter from Chartered Building Engineers engaged by the appellant confirming, inter alia, that the subject lands have no public road access suitable for the development of housing and therefore cannot be developed on its own.
- A copy of the Local Authority's determination.

## **7.0 Assessment**

- 7.1. Section 653B of the Taxes Consolidation Act, as amended, sets out the criteria for inclusion in the map, and states that the first consideration for inclusion in the map is land which in subsection (a) 'is included in a development plan' or 'local area plan' zoned solely or primarily for residential use, or for a mixture of uses including residential. The appeal lands are zoned residential in the Mayo County Development Plan 2022-2028 and therefore within scope of section 653B(a). The Planning Authority determined that the site remain on the RZLT map.
- 7.2 I note that parts of the appeal lands bound existing residential estates to the south and east. I am satisfied that there is the ability to connect into and provide access from the adjacent Elm Park and / or Barr Na H-Áille residential estates.
- 7.3 In my opinion it is reasonable to consider that the provision of footpaths, public lighting and water connections may be provided where land is in the control of the landowner or local authority. Such connectivity would be progressed through the development management process. On this basis the land, therefore, does satisfy the criteria cited in section 653B(b) of the Taxes Consolidation Act 1997, as amended.
- 7.4 I note that the planning application form for Planning Authority Reg. Ref. 09/837 stated that the application was made by the owner of the site. Separate legal ownership interests were not identified therein. However, I accept that the appellant

has provided confirmation that their legal interest extends to landownership of RZLT Parcel ID MOLA00002132 only. Matters relating to land ownership as raised in the appeal do not fall within the criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, for exclusion from the final RZLT map.

## **8.0 Recommendation**

- 8.1. Having regard to the foregoing, I consider that the lands identified as Land Parcel ID MOLA00002132 on the RZLT Final Map 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**

In the assessment of this appeal, regard was had to the content of the Residential Zoned Land Tax – Guidelines for Planning Authorities (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 Land Parcel ID MOLA00002132 on the RZLT Final Map zoned New Residential are considered to be within scope of Section 653B(a). The lands are located within an established urban area. Parts of the appeal lands bound existing residential estates to the south and east and there is the ability to connect into and provide access from the adjacent Elm Park and / or Barr Na H-Áille residential estates. As such, 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: Mayo County Council**

**Local Authority Reference Number: RZLT24-004**

**Appeal** by Rita Cleary 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 Mayo County Council on the 10<sup>th</sup> day of June 2024 in respect of the site described below.

**Lands at:** Convent Road, Clare (Kilbeg) TD, Claremorris, Co. Mayo

### **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 Parcel ID MOLA00002132 on the final map.

### **Reasons and Considerations**

The lands identified as Land Parcel ID MOLA00002132 on the RZLT Final Map zoned New Residential are considered to be within scope of Section 653B(a). The lands are located within an established urban area. Parts of the appeal lands bound existing residential estates to the south and east and there is the ability to connect into and provide access from the adjacent Elm Park and / or Barr Na H-Áille residential estates. As such, 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 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.

---

John Duffy  
Planning Inspector

19<sup>th</sup> September 2024