



An
Bord
Pleanála

Inspector's Report ABP-320463-24

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

Barrack Street, Charlestown, Co. Mayo

Planning Authority

Mayo County Council

Planning Authority Reg. Ref.

RZLT 24-002

Appellant(s)

Luke Dunleavy

Inspector

John Duffy

1.0 Site Location and Description

- 1.1. The subject lands are located on the northern side of Barrack Street, Charlestown, Co. Mayo. Land Parcel ID MOLA000089 on the RZLT Final Map refers.

2.0 Zoning

- 2.1. Charlestown is identified as a Self-Sustaining Town (Tier III) in the Core Strategy of the Mayo Development Plan 2022-2028. Charlestown is designated a Tier 3 Self-Sustaining Consolidation Zone. The location of the subject land is zoned 'Town Centre – Outer Core' in the settlement plan for Charlestown, in accordance with the Mayo County Development Plan 2022-2028. The zoning classification of the Self-Sustaining Consolidation Zoning is a mixed-use classification providing for a range of uses including residential. The zoning objective relating to Self-Sustaining Consolidation Zoning (Tier III) is as follows: 'To provide for, protect and strengthen the vitality and viability of Tier III Self-Sustaining towns, through consolidating development, and encouraging a mix of uses, including but not restricted to commercial, residential, industry, enterprise and employment.'

3.0 Planning History

There are no recent or relevant planning applications relating to the subject lands. The Local Authority note the following historic planning applications pertaining to the lands:

Planning Authority Reference P.69/504 received by Mayo County Council in July 1969. Permission was granted for a service station and petrol pumps.

Planning Authority Reference P.76/475 refers to a grant of permission for Luke Dunleavy in 1976 for a house at Lavy Beg, Charlestown.

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 comprising the house and ancillary buildings should be zoned residential.
- Remaining mixed-use zoned lands do not abut a public road and therefore they should be removed from that zoning objective.

On foot of the submission, the Local Authority sought further information from the landowner as follows: (i) Full land registry folio details for the lands and associated landholding map, and (ii) Planning details for the warehouse unit on the lands. A response was received and included folio details / landholding map and a cover letter indicating plans for the structure were lodged in 1969 and that the structure had the benefit of planning permission.

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:

- The land meets the criteria set out in Section 653B of the Finance Act 2021 as amended.
- The small warehouse-type garage / shed structure on the subject land does not appear to accord with the planning history associated with the landholding, and as such it has not been demonstrated that the said development accords with planning permission.

6.0 The Appeal

6.1. Grounds of Appeal

The following points are made in support of the appeal:

- While the lands meet the criteria there are irregularities with the planning status of developments on the site. RZLT should not be imposed without time being afforded to the appellant to regularise these matters.
- The appellant and registered owner is not in a position to carry out transfers of property.

A letter is appended to the appeal from the solicitor acting on behalf of the appellant's family which sets out the appellant's personal circumstances. This correspondence also states the following:

- There is no water or electricity connection to the lands
- Most of the lands are not serviced by a public road

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 within the Self-Sustaining Consolidation Zone (Tier III) and located within 'Town Centre – Outer Core' according to the Mayo County Development Plan 2022-2028 where a mixture of uses are permissible including residential use, and therefore within scope of section 653B(a). The Planning Authority determined that the site remain on the RZLT map.
- 7.2. The grounds of appeal consider that there are no water or electricity connections to the lands and that most of the lands are not served by a public road. It is evident from existing development in the immediate area that there is existing water infrastructure in the immediate vicinity of the lands and, indeed, such infrastructure would appear to serve the existing houses adjoining the lands. Uisce Éireann's (UÉs) Water Supply Capacity Register for Charlestown confirms there is water supply capacity available to meet 2032 population targets. UÉ's Wastewater Treatment Capacity Register for Charlestown confirms that there is spare capacity available. I am satisfied that the subject lands can be served by the existing public road which partly adjoins the lands. There is existing electricity infrastructure in the immediate vicinity of the lands which serves properties adjoining the appeal lands.
- 7.3. I note Section 3.2.3 of the Guidelines (Residential Zoned Land Tax - Guidelines for Planning Authorities, June 2022) which 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. Furthermore*

the size of the landholding, ownership of the land by private, public or semi-state bodies, lack of knowledge of ownership or transfer of ownership should not be considered.

The grounds of appeal relating to planning irregularities, unauthorised development on the lands and the appellant's personal circumstances are not matters which fall within the criteria for exclusion from the RZLT map as per Section 653B and as such these matters cannot be considered in the appeals process.

8.0 Recommendation

- 8.1. Having regard to the foregoing, I consider that the lands identified as part of Land Parcel ID MOLA000089 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

The lands identified as part of Land Parcel ID MOLA000089 on the RZLT Final Map zoned 'Self-Sustaining Consolidation Zoning' are considered to be within scope of Section 653B(a). The lands are located within an established urban area and Uisce Éireann capacity registers confirm capacity to serve the lands. The lands have access onto existing road infrastructure or access could be provided. There is existing electricity infrastructure in the immediate vicinity of the lands. 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 mixed 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: RZLT24-002

Appeal by Luke Dunleavy 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 15th day of May 2024 in respect of the site described below.

Lands at: Barrack Street, Charlestown, 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 part of Parcel ID MOLA000089 on the final map.

Reasons and Considerations

The lands identified as part of Land Parcel ID MOLA000089 on the RZLT Final Map zoned 'Self-Sustaining Consolidation Zoning' are considered to be within scope of Section 653B(a). The lands are located within an established urban area and Uisce Éireann capacity registers confirm capacity to serve the lands. The lands have access onto existing road infrastructure or access could be provided. There is existing electricity infrastructure in the immediate vicinity of the lands. 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 mixed 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

19th September 2024