



An
Bord
Pleanála

Inspector's Report ABP-316732-23

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

Location

Fermanagh Street, Clones, County Monaghan

Planning Authority

Monaghan County Council

Planning Authority Reg. Ref.

DMS31

Appellant(s)

Tamac Sales Limited

Inspector

Paul O'Brien

1.0 Site Location and Description

- 1.1. The subject lands, of approximately 0.18 hectares, are located on the north eastern side of Fermanagh Street in the centre of Clones town centre. The site includes a number of three storey buildings that are vacant and a yard area to the south east of the site. The landholding here is divided into Areas A, B and C. B (0.04 hectares) includes the buildings on site; A (0.13 hectares) is the yard to the rear and C (0.01 hectares) is the yard space that is on the corner of Fermanagh Street and the street to the side.
- 1.2. The street to the south east of the site provides access to backland and car park sites and on to 98 Avenue. The three storey buildings provide retail units at ground floor level and adjoining buildings are similar with a mix of residential and commercial overhead on the upper levels.

2.0 Zoning and Other Provisions

- 2.1. The site is located within the Clones Town Settlement Envelope, forming part of the Monaghan County Development Plan 2019 – 2025. The site is zoned 'Town Centre' with an objective 'To provide, protect and enhance town centre facilities and promote town centre strengthening.'

Under the description the following is stated:

'Principal permitted land use will be town centre related uses including retail, residential, commercial, social uses, cultural uses, medical/health uses, hotels, pubs, restaurants and other similar type uses.'

3.0 Planning History

- PA Ref. 0220015 refers to a September 2002 decision to grant permission for internal alterations to existing commercial building and two storey extension to the rear to incorporate office and retail space to ground floor and basement, connection to existing services and associated site works, at the subject site.

The Planning Authority have provided a more detailed planning history in their report.

4.0 Submission to the Local Authority

- 4.1. The appellant made a submission to the Local Authority seeking to have their lands removed from the draft map for a number of reasons. Reference that there are three parcels of land. Queries if the lands were included in a development plan in accordance with the Act, and the RZLT should only apply to lands zoned for residential use. There is a lack of available services for the development of these lands. The lands in parcel A are in use as a premises and the lands in parcel C are to be used as a community amenity area, a licence dated 14th October 2021 exists between the landowner and Monaghan County Council.

5.0 Determination by the Local Authority

- 5.1. The Local Authority, following the receipt of further information, assessed each of the sites as follows:

- Parcel A: Remain on map except for a small section which is related to use by the adjacent business.
- Parcel B: Remain on map.
- Parcel C: Remove from map due to the use of these lands in accordance with Section 653B(iii)(I) – Lands have a social, community or governmental infrastructure and facilities use.

The lands are all on suitably zoned lands and no issues in relation to services were foreseen.

- 5.2. In relation to the Determination as issued by the Planning Authority, Parcel A was to be removed from the map and Parcels B and C were to be retained. There is a clear conflict here between the Planning Authority assessment and the determination as issued.

6.0 The Appeal

6.1. Grounds of Appeal

The following points were made in support of the appeal:

- The lands that form Parcel C should not be included on the maps and this appeal only refers to these lands.
- Queries how the lands were zoned and the RZLT process should only refer to residential zoned lands only.
- It appears that the Planning Authority made an error by including these lands on the maps. The lands were considered to be vacant and idle, but that it is the function of the licence holder, Monaghan County Council to use these lands.
- The fee paid in respect of the licence by Monaghan County Council would not cover the cost of the tax on these lands.

6.2. Planning Authority Response

- No further comment.

7.0 Assessment

- 7.1. The comments raised in the appeal are noted and the report of the Planning Authority with supporting reports are noted.
- 7.2. From the submitted information, I consider that Monaghan County Council have made an error between their assessment of the lands and the final determination as issued. They stated in their assessment that the lands should be excluded from inclusion on the maps on the basis of Section 653B(iii)(I) of the Act as the lands have a social, community or governmental infrastructure and facilities use. A licence agreement between the landowner and Monaghan County Council has transferred the use of the lands for amenity use to be developed by the local authority. The determination states otherwise. I therefore consider that these lands that are located within Parcel C should be removed from the map.
- 7.3. I note further in the Planning Authority report that Parcel A was to be removed from the map, in the determination, but was recommended to be included in the assessment. I cannot comment any further on this as this parcel of land does not form part of the submitted appeal.

8.0 Recommendation

- 8.1. I recommend that the board reject the determination of the Local Authority and that the indicated lands be removed from the map.

9.0 Reasons and Considerations

- 9.1. The appellant requested that their site be removed from the map due to the fact that the lands have a social, community or governmental infrastructure and facilities use under Section 653B(iii)(I) of the Act.
- 9.2. The lands are assessed in accordance with the details provided in the appeal. The submitted information demonstrates that a licence agreement has been made between the landowner and Monaghan County Council and the lands which form Parcel C are therefore under the temporary control of the Local Authority. These lands can be considered to have a function in accordance with Section 653B(iii)(I) and they should be removed from the maps.

I confirm that the report represents my profession 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.

Paul O'Brien
Planning Inspector

24th August 2023