



An
Bord
Pleanála

Inspector's Report ABP-316752-23

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	13 Church Square, Monaghan, Co. Monaghan
Planning Authority	Monaghan County Council
Planning Authority Reg. Ref.	DMS84
Appellant(s)	Patrick McElvaney
Inspector	Paul O'Brien

1.0 Site Location and Description

- 1.1. The subject lands, of 0.35 hectares, consist of a site located to the east of Dawson Street, in the centre of Monaghan town. The site consists of a building facing onto the public street with lands to the rear/ east and which extend northwards to the east of a church. These lands are undeveloped and are overgrown.
- 1.2. To the south is Monaghan Shopping Centre, and to the east is a large area of surface car parking.

2.0 Zoning and Other Provisions

- 2.1. The site is located within the Monaghan 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

- 3.1. PA Ref. 09/30007/ ABP Ref. 233673 refers to a September 2009 decision to refuse permission for a house, garage, store, new boundary walls and railings, new vehicular entrance (this development forms part of the grounds of a protected structure). Three reasons for refusal were issued summarised as follows:
 - The location of the development is within a town centre with retail and commercial uses, and the site would provide poor residential amenity considering its proximity to late night sales of food, sources of noise and general disturbance.
 - Scale and layout of the development would provide for a substandard form of private amenity space.
 - Uncertainty as to the legal interest to carry out the development as proposed.

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 on the basis that the lands are used as a domestic garden, part of the site is a protected structure and permission was refused for a residential development under PA Ref. 09/30007.

5.0 Determination by the Local Authority

- 5.1. Further information was sought from the applicant to demonstrate if rates are paid, the nature of the site and legal issues.
- 5.2. The Local Authority determined that the site was in scope. The zoning allows for residential development, and the planning history on site was some ago. The issue of the type/ nature of development on site is a development management issue.

6.0 The Appeal

6.1. Grounds of Appeal

The following points were made in support of the appeal:

- The appeal refers to two separate plots of land, one is the former church hall and a small garden to the rear. The building is a protected structure and is not suitable for residential development. The other area of land is part of a domestic garden. Both areas of lands are therefore domestic gardens and have been in use as such for some time.
- These amenity spaces are 'wild gardens' and provide an important space for biodiversity.
- Note the reasons for refusal and the situation in relation to the public car park has not changed over these years.
- The property is not vacant.
- The garden at Church Square is not adjacent to services.

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. The lands may provide amenity use for two different buildings/ sites; however, they are attached to each other and may function as one area of land. They are located within the town centre and services are available in the area to serve the development. Town centre development may have reduced demand for car parking etc. The inclusion of a structure on the record of protected structures does not prevent the development of lands for residential uses.
- 7.3. The Planning History is noted, but I agree with the Planning Authority, that some time has passed since this decision was issued and the proper development of lands is a function for the development management process.
- 7.4. If the lands do form the garden areas of existing units, then the appellant can raise this issue with Revenue. The payment or not of the Local Property Tax (LPT) is not a function of this process.

8.0 **Recommendation**

- 8.1. I recommend that the board accept the determination of the Local Authority and that the indicated lands be included on the maps.

9.0 **Reasons and Considerations**

- 9.1. The appellant requested that their site be removed from the map due to the fact that these lands are in amenity use associated with existing units, there are protected structures on site/ adjacent lands, a planning history indicates that the sites are not developable and there are issues regarding services to the site.
- 9.2. The zoning of these lands allows for residential development and no reason has been provided as to why they cannot be serviced for such development. The use of lands for private amenity purposes does not exempt them from inclusion on the maps. The

lands as indicated should remain on the maps. The lands may be more appropriately be subject to the Local Property Tax, but that is not a matter of consideration for this process.

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

15th August 2023