



An
Bord
Pleanála

Inspector's Report ABP-316850-23

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

Quiglough, Ballinode, County Monaghan

Planning Authority

Monaghan County Council

Planning Authority Reg. Ref.

DMS49

Appellant(s)

James Jamieson

Inspector

Paul O'Brien

1.0 Site Location and Description

- 1.1. The subject lands, of approximately 0.77 hectares, consist of an irregular shaped site located to the north of a local road and to the east of the centre of Ballinode. The River Blackwater flows to the north of the site and the lands are under trees/ grass. A timber post and rail fence provide the boundary along the public road with a grass verge between the fence and road.
- 1.2. There are detached houses to the south of the road and SPS Plumbing have a yard and associated buildings to the west of the site.

2.0 Zoning and Other Provisions

- 2.1. The site is located within the Ballinode Proposed Development Limit, forming part of the Monaghan County Development Plan 2019 – 2025. The lands within the development boundary are not zoned for different land uses. A flood risk area is indicated along the watercourse to the north of the subject site.

- 2.2. Section 9.19 Tier 4 Settlements of the plan states:

‘Ballinode, Emyvale, Glaslough, Inniskeen, Newbliss, Rockcorry, Scotshouse, Scotstown, Smithborough, Threemilehouse. The village envelopes are based on the existing established footprint with the aim to consolidate existing development and promote the regeneration of existing derelict and/or vacant sites. Lands are not zoned for specific uses within the village plans in order to provide for a less restrictive approach to the suitable expansion and growth of the villages.

Notwithstanding this, development constraints may exist which include protected structures, protected monuments and flood risk areas. Residential development within the village envelope will be considered on its merits in terms of quantum, location and in accordance with the relevant polices set out in this Plan including the Core Strategy. Section 15.7.8 and Policy RDP5 as set out in the Development Management Chapter is open to consideration in those Tier 4 settlements which have capacity in their public foul drainage systems. Otherwise, permitted development within these settlements will be on the basis of individual wastewater treatment systems, on minimum site areas of 0.2 hectares (0.5 acres). This is

considered necessary in order to protect the environment and preserve a degree of consistency in design and scale.'

3.0 Planning History

PA Ref. 03780 refers to a November 2003 decision to grant permission for 16 no. semi-detached two storey dwellings, 12 no. semi-detached storey and half dwellings, demolish existing agricultural sheds, erect retaining walls, connection to public sewerage and water and associated site works. This included part of the subject site and the adjoining lands now operated by SPS Plumbing.

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 were required for the future expansion of a business and rates were paid on these lands.
- 4.2. Request that the lands be rezoned.

5.0 Determination by the Local Authority

- 5.1. The Local Authority determined that the site was in scope. There is no planning permission in place for uses associated with the existing business on adjoining lands. The site is considered to be vacant and overgrown. The Planning Authority considered that the site could be suitably serviced.

6.0 The Appeal

6.1. Grounds of Appeal

The following points were made in support of the appeal:

- The topography of the site is such that the lands slope steeply down towards the River Blackwater to the north of the site. It is considered that the site could not be easily built upon.
- The lands are required for the future expansion of the business on the lands to the west of the site.

- Rates are paid on the existing business.

Photographs have been submitted in support of the appeal.

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 Tier 4 Settlements in County Monaghan, as per the Monaghan County Development Plan 2019 – 2025, ‘..are not zoned for specific uses within the village plans..’. Section 653B of the act provides a list of criteria of which lands should be:

(a)(i) ‘solely or primarily for residential use, or

(a)(ii) for a mixture of uses, including residential use,’

7.3. From the details provided in the development plan, there are no specific zonings provided and any type of development that may be considered appropriate would be assessed under the development management process. Residential development is therefore not assigned to any specific parts of the lands within the development limit of Ballinode.

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 maps.

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 were required for the future expansion of their business and the topography of the site did not allow for residential development. The Planning Authority considered that the lands were not in use associated with the business, could be suitably serviced, and therefore could be developed for residential uses.

9.2. The lands are assessed in accordance with the details provided in the appeal. The Tier 4 Settlements are not zoned for specific uses; therefore, the subject site does not demonstrate compliance with Section 653B. (a)(i) and (ii) in that the lands are not zoned solely or primarily for residential use or for a mixture of uses, including residential use. Development of these lands is assessed within the Development Management Process. In the absence of suitable zoning, the site should not be included on the maps.

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.

Paul O'Brien
Planning Inspector

18th August 2023