



An
Bord
Pleanála

Inspector's Report ABP-316931-23

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

Ballymacarry, Buncrana, Co. Donegal.

Planning Authority

Donegal County Council

Planning Authority Reg. Ref.

DNCC-C3-DCC-93

Appellant(s)

Tony Doherty

Inspector

Rachel Gleave O'Connor

1.0 Site Location and Description

- 1.1. The site is situated to the west of existing residential estates at Burwood and south of Summerhill road in Ballymacarry Co. Donegal. The site is situated north of Magherinture Road, where there are houses and a small wooded area. The west of the site is marked by an informal road. The site itself is formed of agricultural lands, and the wider area is also characterised by agricultural lands.

2.0 Zoning and other provisions

- 2.1. The site is zoned 'Strategic Residential Reserve' under Map 13.1: Buncrana Land Use Zoning in the County Donegal Development Plan 2018-2024. Section 1.6 'Local Area Plan Programme' page 8 of the Plan, states that *"This CDP is the first consolidated County Development Plan for the entire of County Donegal, (including the former Town Council areas of Letterkenny, Buncrana and Bundoran). It therefore continues the current land use and zoning frameworks in respect of Letterkenny, Buncrana and Bundoran and consolidates their associated written texts."*
- 2.2. Table 6: Land Use Zoning Objectives on page 28 of the Buncrana & Environs Development Plan 2014-2020 states the Objective for Strategic Residential Reserve *"To reserve lands as Strategic Residential Reserve, that may be considered for primarily residential growth over the longer-term period (i.e. beyond the life of this plan)"*.

3.0 Planning History

- 3.1. No records of any relevant planning history.

4.0 Submission to the Local Authority

- 4.1. The appellant made a submission to the Local Authority seeking to have its land removed from the draft map. The submission stated that the lands have been farmed since the 1850s. They are used for suckler cows/sheep and the growing of forage/silage for the same suckler cows/sheep. There are no footpaths on the lands. Farming is the landowners only source of income. Herd profile attached to the submission. No ambition to develop the lands for non-agricultural purposes.

5.0 Determination by the Local Authority

5.1. The local authority provided an assessment of the site with reference to the RZLT Guidelines, confirming the following:

- The site is zoned as 'Strategic Residential Reserve' in the County Development Plan Part C 2018-2024 (As Varied) and is therefore in scope.
- The site adjoins the public road network to the south. There is public lighting at the entrance to the site along the road, however the footpath network does not adjoin the side of the road adjoining the site, and minor works would be required to provide this. The site adjoins the public sewer network along the public road. An Irish Water main runs along the public road network to the south of the site.
- The submission notes that the land is used for agricultural purposes, however this is not a consideration.

5.2. The local authority determined that the site was in scope and should remain on the map.

6.0 The Appeal

6.1. Grounds of Appeal

6.2. The submitted grounds of appeal repeats the submission to the Local Authority as outlined in section 4 above.

7.0 Assessment

7.1. The RZLT Guidelines confirm that use of land for agricultural or horticultural purposes are not considered to be exempted from scope as they are not subject to rates. As a result, the fact that the lands are in active and established agricultural use does not qualify for omitting the lands from the map under section 653B.

7.2. With respect to footpaths, I note that the Appellant states that there is no footpath adjacent to the site, and the Council acknowledges that there is no existing footpath fronting the site, however states that minor works could rectify this. The submitted materials including maps, evidence that there is a footpath along sections of the road

to the south of the site on Magherinture Road and opposite the site on Pairc Na hAlúine. It would be within the normal scope of any development proposition to include footpaths along the site frontage, within the landholding ownership, which would then be opposite existing provision on Magherinture Road and therefore connecting into the wider pedestrian network.

- 7.3. To satisfy the criteria as identified in section 653B of the Taxes Consolidation Act 1997 (as amended) land must be zoned residential use or for mixed uses including residential. The site is zoned 'Strategic Residential Reserve' under Map 13.1: Buncrana Land Use Zoning in the County Donegal Development Plan 2018-2024. Section 1.6 'Local Area Plan Programme' page 8 of the Plan, states that *"This CDP is the first consolidated County Development Plan for the entire of County Donegal, (including the former Town Council areas of Letterkenny, Buncrana and Bundoran). It therefore continues the current land use and zoning frameworks in respect of Letterkenny, Buncrana and Bundoran and consolidates their associated written texts."* Page 26 of the Buncrana & Environs Development Plan 2014-2020 states in relation to 'Strategic Residential Reserve' that *"Proposals for the development of the 'Strategic Residential Reserve' lands for housing will not be considered during this plan period as these lands are surplus at present."* Table 6: Land Use Zoning Objectives on page 28 of the Buncrana Plan confirms this, stating an Objective for Strategic Residential Reserve *"To reserve lands as Strategic Residential Reserve, that may be considered for primarily residential growth over the longer-term period (i.e. beyond the life of this plan)"*. While the Buncrana & Environs Development Plan 2014-2020 has expired, the current County Donegal Development Plan 2018-2024 incorporates the land use zoning frameworks and associated texts of the Buncrana Plan as detailed above.
- 7.4. As a result, the site is not currently zoned for residential development, and therefore is not in scope for inclusion on the RZLT map.

8.0 Recommendation

- 8.1. I recommend that the board set aside the determination of the local authority and allow the appeal.

9.0 Reasons and Considerations

- 9.1. Having regard to the determination by the local authority, the submitted grounds of appeal, the provisions of the section 653B of the Taxes Consolidation Act 1997, as amended, and the advice in section 3.1.2 of the Guidelines for Planning Authorities on the Residential Zoned Land Tax, the site is zoned 'Strategic Residential Reserve' under Map 13.1: Buncrana Land Use Zoning in the County Donegal Development Plan 2018-2024. The County Development Plan incorporates the land use zoning frameworks and associated texts of the Buncrana & Environs Development Plan 2014-2020 (page 8 of the County Plan). The Buncrana & Environs Development Plan confirms in Table 6 that lands for Strategic Residential Reserve will be considered for residential growth over the longer-term period, beyond the life of the plan. As such, the site is not currently available for residential development within the lifetime of the County Donegal Development Plan 2018-2024, and as such cannot be considered in-scope for the RZLT.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Rachel Gleave O'Connor
Senior Planning Inspector

15 August 2023