



An  
Bord  
Pleanála

## Inspector's Report

### ABP-317002-23

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<b>Type of Appeal</b>	Appeal under section 653J(1) of the Taxes Consolidation Act 1997, as amended, against the inclusion of land on the Residential Zoned Land Tax
<b>Location</b>	Fairhill, Dungloe, Co. Donegal
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	DNCC-C3-DCC-117
<b>Appellant(s)</b>	Frank Boyle and Others
<b>Inspector</b>	Rachel Gleave O'Connor

## **1.0 Site Location and Description**

- 1.1. The subject site comprises two land parcels situated to the north and south of the R259 on Mill Road, east of Dungloe Pier. The area is characterised by residential and commercial uses. The site itself is occupied by a number of properties which appear residential in nature.

## **2.0 Zoning and other provisions**

- 2.1. The site is zoned 'Established Development' in the Seven Strategic Towns Local Area Plan (Dungloe) 2018-2024. The land use zoning objective for 'Established Development' areas allows for residential development.

## **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 relevant properties identified on the RZLT map include dwelling houses and integral amenities such as yards, gardens, driveways, garage/storage, sheds and other connected facilities. It is intended to continue the current established residential use of the relevant properties and do not plan to develop except for private enjoyment. Local Property Tax is paid in respect of the relevant properties. None of the individual relevant properties have grounds in excess of 0.4047ha.

## **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 'Established Development' in the Seven Strategic Towns LAP.

- The public road network adjoins the subject site. It is located in the centre of Dungloe, and there is public lighting and footpath facilities in place.
- The public sewer network adjoins the site. An Irish Water main runs immediately to the north of the site along the public road.
- The lands in scope form part of the curtilage of several properties in an existing residential area.

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

- Request An Bord Pleanála consider the submission to DCC.
- It appears that DCC's decision is based on the assumption that the lands are vacant or idle. This assumption is not correct. Properties are occupied and utilised by members of the family or in the process of renovation in preparation for occupation.
- Local Property Tax is being paid with respect to the properties.
- Part of the site is occupied by a former fire station which is currently being used as a garage and storage for an associated residential property.

## 7.0 Assessment

7.1. The appeal grounds state that the lands are not vacant or idle. The Council does not raise this matter in their assessment as set out in section 5 above. The site comprises a number of residential properties and ancillary buildings, garden and yard areas. However, a single land ownership extends across the site over an extent exceeding 0.4047 hectares.

7.2. The residential properties on the site are liable for local property tax (LPT) and the appellant confirms that LPT is paid with respect to the properties. The RZLT Guidance states on page 6 that:

*Land which is zoned residential and contains existing residential development such as estates or individual houses are also considered 'in scope' from a zoning perspective and therefore must be included on the maps, however owners of residential properties within these areas will not be liable for the tax (See section 653O(1)(a) of the legislation). While **residential properties, the associated curtilage of which exceeds 0.4047 ha are also not liable for the tax** (see section 653O(2) of the legislation), **owners of such properties must register for the RZLT and provide certain information to the Revenue Commissioners.** This does not require any action on the part of the Planning Authority. (emphasis added).*

- 7.3. As the appeal site comprises a number of residential properties and their associated curtilage including outbuildings, these would not individually be considered a 'site' for the purposes of the RZLT, however this does not mean that the lands are removed from the map and no action is required of the Planning Authority. As the overall landholding exceeds 0.4047 hectares, the landowner (appellant) must register for the RZLT and provide information to the Revenue Commission, to demonstrate that the tax will not be payable.

## 8.0 Recommendation

- 8.1. I recommend that the Board confirm the determination of the local authority and direct the local authority to include the site on the map.

## 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 should remain on the RZLT map. The site comprises residential properties and their associated curtilage (including outbuildings) that are under a single landownership that exceeds 0.4047ha. The landowner (appellant) must register for the RZLT and provide information to the Revenue Commission, to demonstrate that the tax will not be payable under section 653O(2) of the Taxation Consolidation Act 1997, as amended by the Finance Act 2021.

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.

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Rachel Gleave O'Connor  
Senior Planning Inspector

15 August 2023