



An  
Bord  
Pleanála

## Inspector's Report

### ABP-317008-23

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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>	Carndonagh, Co. Donegal
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	DNCC-C3-DCC-91
<b>Appellant(s)</b>	Seamus Doherty
<b>Inspector</b>	Rachel Gleave O'Connor

## 1.0 Site Location and Description

- 1.1. The site is situated to the east of Moss Road, north of sports grounds and west of Glentogher River. The surrounding area is characterised by a mix of residential estates and agricultural lands. the site itself is formed of greenfield/agricultural lands. The more built-up-area for the town is to the east and south of the site.

## 2.0 Zoning and other provisions

- 2.1. The site is zoned 'Opportunity Site' 'Opp 5' in the Seven Strategic Towns Local Area Plan (Carndonagh) 2018-2024. An 'Indicative Route Relief Road' also traverses the site.

- 2.2. Table 3.1 Zoning Objectives in the Seven Strategic Towns LAP identifies an Objective for Opportunity Site 'To reserve land for specific economic developments that are appropriate in terms of mix of use and compatibility with the wider area whilst recognising features of importance that are specific to the site.'

- 2.3. Page 112 of the LAP states that:

*“Opportunity Site 5 (Map 5 refers) – Northwest of Town Centre This substantial site comprises approximately 9.3 hectares, located east of the Moss Road and to the northwest of the town centre. Subject to the provision of an Inner Relief Road in accordance with Policy CN-IS-1 of this Local Area Plan, this site may be suitable for residential development (2.5 hectares, located south of the relief road) and/or appropriate commercial/tourism related development (e.g. hotel premises). Any proposals for development on this site must otherwise comply with all relevant policies of this Local Area Plan. Policy CN-OPP-5 refers.”*

- 2.4. Policy CN-OPP-5 states *“It is a policy of the Council to consider proposals for residential development (over a maximum area of 2.5 hectares), commercial development or tourism related development on Opportunity Site 5; or for development providing for a combination of some, or all, of the aforementioned uses subject to compliance with the undernoted criteria, all other relevant policies of the LAP and taken in the context of the proper planning and sustainable development of the area. Any proposals for development on this site must include proposals for the provision of an Inner Relief Road in accordance with Policy CN-IS-1 and shall*

*include provisions for pedestrian connectivity to the town centre. Proposals for retail development on this site shall not be favourably considered unless it can be demonstrated that the proposal would comply with the County Retail Strategy.”*

- 2.5. Policy CN-IS-1 states *“It is a policy of the Council that any development proposals on Opportunity Site 5 must include proposals for the construction of that part of the Carndonagh inner relief road that passes through the Opportunity Site (see Map 5). The inner relief road shall be designed and constructed in strict accordance with the specifications provided by the Roads Department of Donegal County Council and the extent of road to be constructed shall be determined commensurate with the scale and nature of the proposed 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 land forms the majority of Opportunity Site 5. It has been farmed for at least 100 years. Section CN-IS-1 of the LAP states that it is an objective of the county council to construct an inner relief road on the northwest side of Carndonagh in order to alleviate traffic congestion and to allow for more efficient movement of traffic around the town centre. This relief road would run from Station Road in the town centre and regional road R238 (Ballyliffin Road) and would allow users to travel between Regional Roads R244 and R238 without entering the town centre, effectively bypassing the Church Road and Bridge Street thus easing traffic congestion. The route of this road goes the entire length of Opportunity Site 5. LAP Policy CN-OPP-5 notes that it is a prerequisite for any development on this Opportunity Site 5, that the inner relief road be in place first. Given that this inner relief road is not in place, the site is undevelopable and does not meet the criteria set out in the Finance Act 2021.

## 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 an 'Opportunity Site' in the Seven Strategic Towns Local Area Plan (2018-2024) and is therefore considered to be in scope.
- There is no previous planning permission on the lands.
- The site adjoins the public road network to the west. There is public lighting in place at the site, however the footpath network only runs along one side of the road. Minor works would be required to extend the footpath network along the entrance of the site.
- A public sewer network runs directly through the site. Irish Water mains connections run to the west and east of the site. The west connection runs along the public road network, and the east connection immediately adjoins the site.
- Submission states the land is used for agricultural purposes, however this is not a consideration (Section 3.1.2 of the RZLT Guidelines). Submission also states there is a Relief Road proposed to cut through the subject site. The owner seeks to make the case that the necessity for the link road should render the site as being not in scope. However, such a road would be required to service the subject lands and thus, on balance, it cannot be used as a reason to consider the lands as not being in scope.

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

- Any residential development of the site is subject to an inner relief road being completed. It is the responsibility of Donegal County Council to construct this road, and also the bridge across the river on the east side of the lands to make a connection with the services in the town.

- Only a maximum of 2.5 hectares of the 9.3 hectare 'Opportunity 5' site is eligible for residential development, the rest is provisioned for commercial development, but both are subject to the provision of an inner relief road that does not exist and is only at a proposal stage.
- There is also the provision of a bridge to be included within the road to span the Donagh River and to allow the road to connect to the services of the town side. This river borders the entirety of the east side of the Opportunity 5 site and a bridge is the only way to connect to the services.
- The land has been prematurely zoned as it has been zoned on the basis of the provision of a road that has not been built and that does not appear to be planned for the immediate future. The land does not meet the criteria of serviced land as set out in the Finance Act 2021.
- Only a maximum of 2.5 hectares can be used for residential development, subject to the provision of a road, so if the land is deemed taxable in its current state the taxable area should be vastly reduced to account for the amount proposed for residential only.

## 7.0 **Assessment**

- 7.1. The grounds of appeal states that the site is not serviced. The Council state in their assessment that delivery of the inner relief road to service the site would be required to service the lands if proposed for development.
- 7.2. Provisions in the LAP expressly require the delivery of an inner relief road (as marked on the zoning map for Carndonagh under the LAP) for residential to be considered permissible on the site (refer to section 2 zoning above). Policy CN-OPP-5 states a maximum area of 2.5 hectares of residential development may be considered on Opportunity Site 5 and that any proposals for development on the site must include proposals for the provision of an Inner Relief Road in accordance with Policy CN-IS-1. Policy CN-IS-1 states that any development proposals on Opportunity Site 5 must include proposals for the construction of that part of the Carndonagh inner relief road that passes through the Opportunity Site.

- 7.3. In my view, the LAP outlines a clear approach to the delivery of the road that is envisaged to form part of development propositions for Opportunity Site 5. Policy CN-IS-1 states that development proposals should include proposals for construction of part of the road. Therefore, development of the subject site would be expected to incorporate parts of this inner relief road within a planning application extent, and therefore would not require complete delivery of the road, or extension of the road across third party lands or include delivery of a bridge across the river. A development proposition across the subject site could include an extent of the inner relief road and achieve connection to Moss Road, with remaining sections to be delivered in future by other parties. As such, the provision of this inner relief road does not represent an insurmountable constraint to delivery of the site for residential use.
- 7.4. Furthermore, the site fronts onto Moss Road where there are existing footpaths on the opposite side of the road. It would be within the normal parameters of any development proposition for the site that it include footpaths on the site extent along this road, and therefore this allows connection into the wider pedestrian network via existing provision, albeit opposite the site. Other services have been noted as available in the Councils assessment.
- 7.5. However, I note the appellants reference to Policy CN-OPP-5 which states that a maximum area of 2.5 hectares of residential development may be considered on Opportunity Site 5. I concur with the appellant, that in light of this provision, it would be inappropriate to identify the entirety of the landholding as within the scope of the RZLT.
- 7.6. As a result, in my opinion, the site should be considered partially in-scope, with respect to the extent of the maximum extent of 2.5 hectares where residential development would be deemed permissible under Policy CN-OPP-5 of the LAP.

## 8.0 Recommendation

- 8.1. I recommend that the Board confirm the determination of the local authority in part, by directing that 2.5 hectares of the landholding (situated to the south of the indicative location of the inner relief road as shown on the zoning map) be included on the map.

## 9.0 Reasons and Considerations

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 considered partially in scope for the purposes of the RZLT map. The site is zoned 'Opportunity Site 5' in the Seven Strategic Towns Local Area Plan (Carndonagh) 2018-2024 and an 'Indicative Route Relief Road' traverses the site as shown in the zoning map for Carndonagh. Policy CN-OPP-5 states that a maximum area of 2.5 hectares of residential development may be considered on Opportunity Site 5 located south of the relief road. Therefore only 2.5 hectares of the site is available for residential development, and the remainder of the site should be removed from the RZLT map.

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