



An
Bord
Pleanála

Inspector's Report

ABP-317012-23

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

Mountcharles, Co. Donegal

Planning Authority

Donegal County Council

Planning Authority Reg. Ref.

DNCC-C3-DCC-99

Appellant(s)

Lynn Temple

Inspector

Rachel Gleave O'Connor

1.0 Site Location and Description

- 1.1. The site is situated to the east of, and fronts, the R267 and west of Brookdale House. The lands for the site itself are currently greenfield in character and are surrounded by greenfield/agricultural areas as well as one-off housing. Further to the west are the residential estates for Old Golf Course Road.

2.0 Zoning and other provisions

- 2.1. The site is zoned 'Strategic Residential Reserve' in the Seven Strategic Towns Local Area Plan (Donegal Town) 2018-2024. In addition, an Indicative Strategic Road Line goes through the centre of the site, and a small parcel of Recreational and Amenity zoned land is shown to the south eastern edge of the site.

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 is not zoned for residential use within the current development plan, this land is a strategic reserve and will not be granted planning permission under the current Local Area Plan for Donegal Town.
 - This land is not included in the Local Area Plan table 9.1 which identifies the total lands zoned to meet residential housing need in Donegal Town, which includes 24.96 hectares of land with the potential to deliver over 299 housing units.
 - This land is not serviced, road access is not available into this land, the land is not bounded by a public footpath with public lighting and it is not serviced with mains water supply, drainage or sewerage.
 - It is a policy of the development plan that residential development should only be allowed from the town centre outwards and that all lands which are zoned

primarily residential shall be developed first. These lands are outside of that zoning and are at a distance from the town centre.

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 Seven Strategic Towns Local Area Plan 2018-2024 and is therefore in scope.
- There is no previous planning permissions on the site.
- The site adjoins the public road network to the west (R267). There is no public lighting along the road and the footpath network would require minor works to extend to both sides of the road. The nearest existing public sewer network is located approx. 28m to the south west of the site. An Irish Water mains adjoins the subject site to the west, along the public road.
- Clarifications received from the Revenue Commissioners to the effect that all lands that support the principle of residential development, including reserve lands such as the subject lands, are to be considered in scope from a zoning perspective and therefore must be included on the maps.

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

- Planning permission was previously sought for housing on the land and was refused due to i) insufficient vision lines and stopping distances at the proposed junction; ii) access road junction could not be achieved; iii) substantial level difference between the road and the field; iv) flooding potential along the entire south eastern boundary; and v) insufficient area to accommodate houses in compliance with the County development Plan standards.

- There is a steep drop of approx. 12 feet between the road level and the adjoining field therefore an access road is impossible to achieve from the public road down into this field due to the gradient requirements set out in the CDP and the Dept. of Environment site development works standards.
- The site is prone to flooding as identified on the OPW CFRAM flood maps. (Extracts of maps included).

7.0 Assessment

- 7.1. The appeal grounds reference a previous planning refusal on the site, however a planning reference number is not provided, the Council do not reference any planning history, and no records are available online to indicate such a refusal on the site. As such, I am unable to take the appellant's reference to a previous refusal into account.
- 7.2. 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' in the Seven Strategic Towns Local Area Plan (Donegal Town) 2018-2024. Table 3.1: Zoning Objectives on page 13 of the LAP gives an objective for Strategic Residential Reserve 'To reserve land for residential development as a long term strategic landbank'. Policy GEN-H-6 of the LAP states that *"It is a policy of the Council to secure an adequate supply of strategic landbanks for the purposes of housing provision beyond the life of this LAP through the identification of lands as a 'Strategic Residential Reserve.' The Council will examine and manage the appropriate release of 'Strategic Residential Reserve' lands on the basis of a continued assessment of need and levels of supply. The release of 'Strategic Residential Reserve' lands for multiple residential development (i.e. 2 or more dwellings) shall only be carried out in the context of a review or amendment of the LAP."* Policy GEN-H-8 goes on to confirm that proposals for multiple housing developments (2 or more) will not be considered on areas zoned Strategic Residential Reserve, and single dwellings will only be permitted where specific criteria are satisfied (as outlined in the policy and relating to amenity and compliance with other policies and objectives of the plan).

- 7.3. While the plan expressly prohibits development of Strategic Residential Reserve lands for multiple housing developments, a set of criteria are provided, which if satisfied, enable development of the lands for single dwelling housing. However, the RZLT Guidelines outline that the purpose of the RZLT *“is to activate existing planning permissions and zonings where housing is permitted and where the land is connected to, or has access to services, but remains undeveloped. It is primarily intended to influence behaviour towards increased housing output.”* This clearly relates to the delivery of multiple housing units on sites, and is not targeting the delivery of one-off housing. As such, the site cannot be considered zoned for residential development (for the purposes of the RZLT) during the lifetime of the plan.
- 7.4. With respect to footpaths, these exist on the opposite side of the R267 adjacent to the site. It would be within the normal parameters of any development proposal to include footpath along the site frontage and within the landowner demise. This would then connects into the wider pedestrian network which exists on the opposite side of the road. Public lighting can also be readily included as part of a proposition and follow the public road network adjacent to the site. Access to the site can be achieved given the large extent of frontage onto the R267. Development propositions will address changes in gradients across a site extent as part of proposals.
- 7.5. With respect to flooding, OPW flood mapping data illustrates a low probability of flooding associated with fluvial / river water, following the southeast boundary of the site. This would not prohibit the ability to deliver residential use on the site.
- 7.6. As a result of the foregoing, and with particular regard to the Strategic Residential Reserve zoning which restricts multiple housing development on the site; 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 Seven Strategic Towns Local Area Plan (Donegal Town) 2018-2024. Table 3.1: Zoning Objectives on page 13 of the LAP gives an objective for Strategic Residential Reserve 'To reserve land for residential development as a long term strategic landbank'. Policies GEN-H-6 and GEN-H-8 of the LAP also identify that the development of multiple housing developments (2 or more) will not be considered on areas zoned Strategic Residential Reserve. 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