



An  
Bord  
Pleanála

## Inspector's Report

### ABP-317013-23

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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>	Ardchicken, Donegal Town, Co. Donegal.
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	DNCC-C3-DCC-100
<b>Appellant(s)</b>	Lynn Temple
<b>Inspector</b>	Rachel Gleave O'Connor

## 1.0 Site Location and Description

- 1.1. The site is situated to the east of the R267 and south of Brookdale House. The site immediately adjoins residential curtilage, greenfield and wooded areas, with access via a laneway.

## 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 site, and along the southern boundary. Furthermore, the eastern and northern edges of the site are zoned Recreational and Amenity land.

## 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.

- This plot is land-locked and cannot be developed without gaining access through 3<sup>rd</sup> party lands, which is not available.

## **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 public road network adjoins the subject site. It is located to the south of Donegal Town, and there is a public footpath in place.
- The public sewer network adjoins the site immediately to the west, along the public road. An Irish Water main adjoins the site immediately to the west, along the public road.

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**

- The land was planted with native hardwood species trees in the 1990s and was grant funded by the Dept. of Agriculture. A felling licence will be required to remove the trees to enable housing development.
- The land is unsuitable for housing. The north-west section is subject to flooding; there is no access available to the land and it does not adjoin a public road or footpath. The only access is over a narrow agricultural laneway which is in the ownership of a 3<sup>rd</sup> party; and the land is forested with semi-mature hardwood trees and these trees cannot be felled without planting an equivalent of area of land elsewhere.

## 7.0 Assessment

- 7.1. 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).
- 7.2. While the plan expressly prohibits development of Strategic Residential 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.

- 7.3. With respect to flooding, OPW flood mapping data illustrates a low probability of flooding associated with fluvial / river water, to the north of the site. This would not prohibit the ability to deliver residential use on the site.
- 7.4. In relation to serving and access, an Indicative Strategic Road Line transverses the site and is situated to its southern boundary, as detailed in the zoning map for the area. The site is currently accessed via a laneway which the appellant states is in third party ownership. The lands are not immediately adjacent to the main road and are separated from that road by other land parcels. The RZLT Guidelines are clear in Section 4.1.1 (iii) Services, that where connections to services require access to 3rd party lands or 3rd party development to take place, land may be out of scope.
- 7.5. In conclusion, and with reference to the Strategic Residential Reserve zoning of the site which restricts multiple housing development; the site is not currently zoned for residential development, and therefore is not in scope for inclusion on the RZLT map. In addition, the subject site is situated adjacent to lands, which lie between the subject site and the public road. In this sense, the site is landlocked and access would be required across third party controlled lands to achieve connection to the public road.

## **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. In addition, with reference to Section 4.1.1 (iii) of the RZLT Guidelines, the site is not served by existing services and would require the provision of new road and footpath infrastructure that would cross lands in third party ownership, 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.

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Rachel Gleave O'Connor  
Senior Planning Inspector

15 August 2023