



An
Bord
Pleanála

Inspector's Report

ABP-317046-23

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	Lands at Priestown, Carndonagh, Co. Donegal.
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	DNCC-C3-123
Appellant(s)	Declan McLaughlin
Inspector	Rachel Gleave O'Connor

1.0 Site Location and Description

1.1. The site is situated to the east of Moss Road and is adjacent to agricultural lands/greenfield areas. Opposite the site on Moss Road there are residential estates at Cherry Avenue and Cedar Grove. The site fronts onto Moss Road.

2.0 Zoning and Other Provisions

2.1. The site is zoned 'Strategic Residential Reserve' in the Seven Strategic Towns Local Area Plan (Carndonagh) 2018-2024.

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 actively farmed for sheep and cattle, the tax would be a burden.
- The land has two zoning classifications, part zoned as strategic residential reserve and part zoned as Local Environment.
- The lands cannot be considered for multiple residential development.
- Request that the lands are not zoned for primary residential in future.
- The land is over 2km from the town centre and is not convenient to services.
- The land is not derelict or a speculative site. Planning permission has never been applied for.

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 public road network adjoins the subject site. It is located along the local road L1221-3 and there is public lighting and a footpath in place.
- The public sewer network adjoins the site immediately to the west. An Irish Water mains runs immediately to the west.
- The submission notes that the site is currently used as farmland. However previous permission for housing development was sought on the subject site albeit refused 2014.

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

5.3. PLANNING INSPECTOR NOTE: The determination by the Local Authority refers to a previous refusal of planning permission on the site in 2014, however this would appear to relate to the site to the north of the subject site and planning reference 1351452. There is no record of any planning applications on the subject site.

6.0 The Appeal

6.1. Grounds of Appeal

6.2. The grounds relate to appeal ABP ref. no.'s 316857 and 316861.

- The land is actively farmed.
- There are two zoning classifications, part zoned Strategic Residential Reserve and part Local Environment. Currently these lands cannot be considered for multiple residential development.
- Request that the land is not zoned primary residential.
- The land is used as a farm enterprise and this position will remain into the future.
- There was never planning permission sought on the land.
- The tax is unjust and a burden.

7.0 Assessment

- 7.1. I note that the appellant refers to two zoning classifications over the land. This appears to concern the appellants wider landholding, which includes land zoned Local Environment. This appeal concerns the land zoned Strategic Residential Reserve fronting Moss Road only.
- 7.2. 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. 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, nor does the question of viability as a consequence of the application of the RZLT to the lands.
- 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' in the Seven Strategic Towns Local Area Plan (Carndonagh) 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).
- 7.4. 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.

- 7.5. 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.

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 (Carndonagh) 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