



An
Bord
Pleanála

Inspector's Report ABP-320439-24

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 Map.

Location

Stranorlar Meenglass Church of Ireland Parish, Co Donegal

Local Authority

Donegal County Council

Planning Authority Reg. Ref.

DNCC-C44-6

Appellant

Stranorlar Meenglass Church of Ireland Parish

Inspector

Sinéad O'Connor

1.0 Site Location and Description

The lands identified as Site A and B at Stranorlar Meenglass Church of Ireland Parish are located in the east of Stranorlar. Site A is located on the east side of the Golf Course Road and Site B is located on the west side of the Golf Course Road. Site A accommodates the church, graveyard and ancillary car park of St. Mary's Church of Ireland. Site B appears to be in agricultural use.

Site A and Site B are identified in the map accompanying the local authority (LA) decision. I note that no parcel identification numbers are provided for either site. The Appeal Statement provides greater detail in respect of the appellants landownership at Site B, such that only the field to the immediate west of Roberston National School forms part of this assessment. This is discussed further in Section 7.0 below.

2.0 Zoning and Other Provisions

The subject sites are zoned under both the Seven Strategic Towns Local Area Plan 2018-2024 (the LAP) and the County Donegal Development Plan 2024-2030. The LA determination on the subject sites was made 25 June 2024, while the County Development Plan came into effect on the 26 June 2024. As the LA determination was made under the LAP, this assessment is similarly based in the LAP.

Relevant provisions of the LAP are summarised below as follows:

- The Seven Strategic Towns Local Area Plan 2018-2024 (the LAP), as amended, was extended by 2 years at the Council meeting 24 July 2023.
- Under the LAP, Site A is zoned 'Established Development' – 'To conserve and enhance the quality and character of the area, to protect residential amenity and to allow for development appropriate to the sustainable growth of the settlement'.
- St. Mary's Church of Ireland at Site A is identified as a Monument and included on the Record of Protected Structures.
- Subject Site B is zoned 'LDR2 – Low Density Residential'. Table 5.1 of the LAP states that the full extent of LDR2 is to accommodate 8 no. dwellings.
- Subject Site B is traversed by the NorthWest Trail Cyclepath. The written statement of the LAP makes no specific reference to this cycle path.

- Section 5.7.1 of the LAP states that the wastewater treatment plan serving Ballybofey-Stranorlar is overloaded, and that upgrade works are scheduled for completion in Q2 of 2020.
- Section 5.9 states that the River Finn Special Area of Conservation (SAC) is located within the LAP boundary. Policy GEN-EH-2 seeks to ensure that development proposals do not damage or destroy designated sites.
- Section 5.9 outlines that there are 19 no. structures on the Record of Protected Structures, 54 no. structures on the NIAMH list, and 12 National Monuments in the LAP area. Policy GEN-EH-4 states that the Council will seek to conserve and protect structures of special architectural, historic, archaeological, artistic, cultural, scientific, social or technical interest.

3.0 Planning History

The mapped planning register does not show any recent or relevant planning applications at the subject site.

4.0 Submission to the Local Authority

The appellant made a submission to the local authority seeking to have their land removed from the final map on the basis that Site A accommodates a church that is classified as a National Monument and has been in use since the 17th century, and that Subject Site B has been allocated for use as a cemetery on the basis that the existing graveyard is approaching capacity.

5.0 Determination by the Local Authority

On the 25 June 2024, the local authority determined that:

The property to the east of the Golf Course Road and identified on the attached Council map as Site A is within an area zoned as 'Established Development' in the Seven Strategic Towns Local Area Plan, 2018-2024 and is occupied by St. Mary's Church of Ireland and associated cemetery and attendant grounds. Having regard to:

- (i.) Section 3.1.2 wherein it is provided that '*it is reasonable to exclude land required*

for the provision of community serviced and infrastructure which will sustain existing and future residential communities’,

the lands are not considered to be in scope and should therefore be removed from Donegal County Council's RZLT Map.

The property to the west of the Golf Course Road and identified on the attached Council map as Site B is within an area zoned as ‘Low Density Residential’ in the Seven Strategic Towns Local Area Plan, 2018-2024. Having regard to:

- (i.) The proximity of the subject lands to public services including the public road, water and wastewater networks

the lands are considered to be in scope and should therefore remain on Donegal County Council’s RZLT Map.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are summarised as follows:

- Appeal the decision of the LA to retain Site B in the RZLT map.
- Confirmation that the Appellant controls just part of Site B shown in the Council’s map accompanying the LA determination.
- Subject Site B is required for the expansion of Robertson School, on that basis that the number of pupils at the school has doubled since 2019.

7.0 Assessment

The grounds of appeal have been fully considered. Under section 653J of the Taxes Consolidation Act 1997 as amended, the Board’s role in the current appeal is to review the determination of the local authority under section 653E which is based on the application of the relevant criteria set out in section 653B of the Act for inclusion on the RZLT map. This position is consistent with the Residential Zoned Land Tax-Guidelines for Planning Authorities June 2022 which clearly sets out in section 3.3.2 that:

“in considering appeals, An Bord Pleanála is restricted to considering the grounds of appeal, the determination of the local authority on the submission made during public display period, and any additional information on the servicing or use of the land which the Board may seek from the landowner, Local Authority or stakeholders identified in article 28 of the 2001 regulations. In assessing any appeal, the Board is restricted to considering whether the lands meet the qualifying criteria set out in section 653B only”.

The Appeal lodged against the LA decision of 25 June 2024 indicates that the lands owned by Stranorlar Meenglass Church of Ireland Parish at Site B differ from those indicated in the original submission to the LA. The area of the land at Site B that is under the control of the Appellant comprises Robertson National School and the adjoining field to the immediate west of the school, rather than the full extent of Site B as was initially indicated. On the basis that this Appeal is made against the LA determination, I note that only those areas directly referred to in the determination are the subject of this assessment.

As per Section 653J(1) of the Taxes Consolidation Act 1997 as amended, only the land owner is entitled to make an appeal against a LA determination. In this regard, I consider it appropriate that this assessment is limited to the areas stated to be under the control of the Appellant, as per the Appeal statement, which comprise the southern section of Site B to the west of Roberston National School (Subject Site B).

The LA assessment considers Site B to be in scope for inclusion on the RZLT map on the basis that this site has a residential land use zoning and is serviceable by existing road and public water infrastructure.

Subject Site B is zoned LDR2 – Low Density Residential’. In the absence of a land use matrix or list of appropriate land uses in the LAP, I consider that the inclusion of LDR 2 in Section 5.1 ‘Total Lands Identified to Meet Residential Housing Need in An Ballybofey-Stranorlar’ of the LAP sufficient to conclude that the site is zoned primarily for residential uses.

Subject Site B does not immediately adjoin the public road, which is located circa 80 metres to the east. Page 24 of the Residential Zoned Land Tax - Guidelines for Planning Authority, June 2022 (RZLT Guidelines) states that lands may be in-scope where the works to connect to public services occur on lands that are available to the LA or the landowner. As per the land ownership map submitted with the Appeal, the

Appellant owns all of the lands between the subject site and the public road. There are existing vehicular and pedestrian entrances onto the Golf Course Road from the Appellants land and, therefore, no Third-Party consent is required to provide access. It is therefore reasonable to consider that access to the public road can be provided.

The Uisce Éireann (UE) Wastewater Treatment Capacity Register published June 2023 (accessed 2 September 2024) indicates that there is spare capacity available at the Ballybofey/Stranorlar WWTP. The UE 10-Year Water Supply Capacity Register Published June 2023 (accessed 2 September 2024) indicates that there is potential capacity available at the Lough Mourne Water Resource Zone however, Level of Service (LoS) improvements are required to meet 2032 population targets. Page 8 of the RZLT Guidelines sets out that a need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist. I consider that based on this information, it is reasonable to consider that a connection can be facilitated to sewer and water connections on land that is under the control of the landowner and that there is capacity in the systems to serve development.

I do not consider that there are any physical constraints at the site that would preclude residential development, with reference to Section 653B(c) of the Act.

The Appeal statement indicates that the area of Subject Site B is required for the future expansion of Robertson National School. Page 10 of the RZLT Guidelines indicates that statutory plans may identify areas for community facilities such as schools through mapped objectives or specific land use zoning, which may result in that area falling out of scope. In this regard, I note that the Written Statement and Map No. 3 of the LAP do not include any specific objective or policy to extend Roberston National School into the subject site. For completeness, I note that section 19.10 of the County Donegal Development Plan 2024-2030 indicates that the expansion of Robertson National School will occur on lands to the north of the existing school. This designation is reflected in Map 19.1 of the Plan, which zones those lands to the north of the school for 'Community Infrastructure'. In the absence of any mapped or written objectives for the provision of school facilities at Subject Site B under the LAP, I do not consider that Section 653B(iii) exclusions apply.

8.0 Recommendation

The Grounds of Appeal seeks to overturn the LA determination to include the appellants lands to the west of Roberston National School in the RZLT map. Having regard to the foregoing, I recommend that the Board confirm the determination of the local authority.

I consider that the lands that form part of Site B that are in the ownership of Stranorlar Meenglass Church of Ireland Parish, comprising just the field to the immediate west of Roberston National School, meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended. The grounds of appeal have not raised other matters under section 653B of the Taxes Consolidation Act 1997, as amended and there are no matters arising that warrant exclusion of the Subject Site B from the final map.

9.0 REASONS AND CONSIDERATIONS

The lands identified as subject site B that are under the ownership of Stranorlar Meenglass Church of Ireland Parish, comprising the field to the immediate west of Roberston National School, that are zoned LDR2 – Low Density Residential are considered in scope of Section 653(a). The lands are located contiguous to established urban development and can be accessed from the public road without Third-Party consent. The UE Capacity Register confirms that services are available and that there is sufficient capacity to serve the lands. No capacity or other reasons have been identified that would prevent the development of these lands in principle for residential purposes in accordance with the residential zoning objective that applies to these lands.

10.0 Recommended Draft Board Order

Taxes Consolidation Act 1997 as amended

Planning Authority: Donegal County Council

Local Authority Reference Number: DNCC-C3-DCC-6

Appeal by Stranorlar Meenglass Church of Ireland Parish care of Joy de Jong in

accordance with section 653J of the Taxes Consolidation Act 1997 as amended, against the inclusion of the land on the Residential Zoned Land Tax Map by Donegal County Council on the 25 day of June 2024 in respect of the site described below.

Lands at: Stranorlar Meenglass Church of Ireland Parish, Co Donegal

Decision

The Board in accordance with section 653J of the Taxes Consolidation Act 1997 as amended, and based on the reasons and considerations set out below, hereby decided to:

The Board confirm the determination of the local authority and direct the local authority to exclude the lands identified as Site A on the final Map and retain the lands identified as Site B on the final map.

Reasons and Considerations

The lands identified as subject site B that are under the ownership of Stranorlar Meenglass Church of Ireland Parish, comprising the field to the immediate west of Roberston National School, that are zoned LDR2 – Low Density Residential are considered in scope of Section 653(a). The lands are located contiguous to established urban development and can be accessed from the public road without Third-Party consent. The UE Capacity Register confirms that services are available and that there is sufficient capacity to serve the lands. No capacity or other reasons have been identified that would prevent the development of these lands in principle for residential purposes in accordance with the residential zoning objective that applies to these lands.

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.

Sinead O'Connor

Planning Inspector

Date: 04 September 2024