



An  
Coimisiún  
Pleanála

## Inspector's Report ACP-323319-25

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### 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

Pound Street, Stranorlar, Co. Donegal.

### Local Authority

Donegal County Council.

### Local Authority Reg. Ref.

DNCC-C92-RZLT-1

### Appellant

Martin & Teresa Maguire.

### Inspector

Fergal Ó Bric.

## 1.0 Site Description

The lands identified as DNCC-C92-RZLT-1 (land parcel ID DLLA0002658) are located in the north-eastern quadrant of the settlement of Ballybofey/Stranorlar and within the designated settlement boundary. The lands are located north of Pound Street to the rear of a commercial premises, stated to be in the ownership of the appellants. The parcel of land has a stated area of 1.72 hectares and forms part of a larger land holding located further to its south.

## 2.0 Zoning and other Provisions

The subject lands are located within the designated settlement boundary for Ballybofey/Stranorlar as set out within Part B, Section 19 of the current Donegal County Development Plan 2024-2030. Stranorlar-Ballybofey is identified as a Tier 2-County Growth driver within the Settlement Strategy for the county.

The lands are zoned as New Residential-Phase 1 and are specifically identified as being part of site NR 1.8 in the current Development Plan.

## 3.0 Planning History

### On site:

I am not aware of any relevant or recent planning history pertaining to the subject lands.

## 4.0 Submission to the Local Authority

The appellants made a submission to the local authority setting out the following:

- The subject lands are located behind their existing commercial businesses.
- The landowners requested that his lands be excluded from the RZLT map and be rezoned from 'new residential' to being an 'opportunity site' to allow for a mixed-use development.
- Car parking space is limited in this part of the town especially when it comes to service deliveries.

- The subject lands are not serviced nor serviceable. There is no mains sewerage available to these lands or adjoining lands.
- There is presently no vehicular access to these lands.
- The subject lands form part of a larger portion of lands which are in third party ownership.
- The only scope to service the subject lands is to develop an extension to their existing commercial premises to provide additional car parking and compatible mixed uses.
- It would not be physically possible to develop the subject lands for housing due to the lack of services and access and limited control over all of the lands.

## **5.0 Determination by the Local Authority**

The Local Authority determined by order dated the 30<sup>th</sup> day of May 2025 determined that the site fulfils the qualifying criteria to be included in the Final Map for the Residential Zoned Land Tax for the following reason:

1. The subject lands comprise part of an area zoned as 'New Residential Site NR 1.8' in the Donegal County Development Plan 2024-2030 and are capable of being connected to public infrastructure and facilities necessary for the provision of residential development. The lands are, therefore, considered to be in scope for RZLT and shall be included on the final RZLT Map for 2026

## **6.0 The Appeal**

### **6.1 Grounds of Appeal**

The grounds of appeal are summarised as follows:

- The subject lands are not serviced nor is it reasonable to consider that the land have access to services.

- The properties in the immediate vicinity of the lands are serviced with individual septic tank treatment systems and have been since they were originally developed due to the absence of public foul effluent infrastructure.
- There is a public foul sewer within two hundred metres of the subject lands, however this is an old sewer line, and no new connections are being accepted by the Local Authority due to its antiquated nature.
- The antiquated foul sewer is not capable of accepting any additional loadings from new development.
- The foul sewer pipework is located on third-party land and is, therefore, not accessible.
- The local Authority sewerage system is located 350 metres south of the lands which ultimately discharges to the Stranorlar Wastewater treatment plant, located approximately 1km south of the subject lands.
- The appellants have been advised that any new connection to the public foul sewer system should be directed to the eastern side of the town at St Joseph's hospital, located in excess of one kilometre from the subject lands.
- There is a trunk watermain which traverse the lands. Direct access to this trunk main is not possible, Connections to the public water supply must be taken from the local street network, and the subject lands are set back from the local street network.
- The only option to service the subject land is with the installation of a site-specific foul effluent treatment system,
- The proposal for an onsite wastewater treatment system to serve a residential development would be contrary to policy objective WW4 within the Donegal Development Plan.
- The development of the overall land holding would require agreement with third party landowners in relation to access and layout and for these reasons, the appellants have no intention of developing the lands for residential purposes.

- It is the appellants intention to develop the subject lands for additional car parking and additional mixed uses, similar to within their existing adjacent commercial premises.

## **7.0 Local Authority Submission**

The Local Authority did not make a submission to the Coimisiún.

## **8.0 Assessment**

The grounds of appeal have been fully considered. Under Section 653J of the Taxes Consolidation Act 1997 (as amended) the role of the Coimisiún in the current appeal is to review the determination of the local authority under section 653E of the Act which is based on the application of the relevant criteria set out in section 653B of the Act for inclusion on the RZLT map. 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 Comisiún 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 Commission may seek from the landowner, Local Authority or stakeholders identified in Article 28 of the 2001 regulations. In assessing any appeal, the Comisiún is restricted to considering whether the lands meet the qualifying criteria set out in Section 653B of the Taxes Consolidation Act 1997 (as amended) only”.

Section 653B of the Taxes Consolidation Act 1997 as amended, sets out the criteria for inclusion in the map, and states that the first consideration for inclusion in the map is land which in subsection (a) ‘is included in a development plan’ or ‘local area plan’ zoned (i) solely or primarily for residential use, (ii) or for a mixture of uses including residential. The lands included within the RZLT map by the Local Authority

are zoned New Residential-phase 1 and, therefore, are within scope of Section 653B (a) (i) of the Taxes Consolidation Act 1997 as amended.

Section 653B (b) of the Taxes Consolidation Act 1997 as amended, specifically addresses the issue of connection to public infrastructure and states 'It is reasonable to consider may have access, or be connected, to public infrastructure and facilities, including roads and footpaths, public lighting, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed and with sufficient service capacity for such development'.

The appellant has raised the issue of access to piped services and states that their commercial premises and the adjoining commercial buildings are all served by individual wastewater treatment systems. They also state that the nearest foul sewer network is located approximately two hundred metres removed from the subject lands and has no capacity for additional development due to its antiquated state. The appellants state that the nearest public sewer is located approximately 350 metres removed from the lands. They also state that they have been advised that the nearest accessible public foul sewer is located within the eastern part of the settlement, in excess of one kilometre from the subject lands.

I note that the local Authority within the Local Authority RZLT report they state that 'there are existing mains sewer lines in the vicinity of the subject lands and that the premises to the east and west are connected to the public sewer'. This is contrary to what the appellants are saying in relation to site servicing. The Local Authority also state that the subject lands adjoin a car park that serves the appellants existing commercial premises and that a local access road, the L27045-0 is located in close proximity to the subject lands. The local Authority deemed that 'it is reasonable to consider that access could be provided to the subject lands and that connections to nearby services could also be provided'.

I note from an examination on the 31<sup>st</sup> day of October 2025 of the Uisce Éireann capacity registers (published August 2025) [Donegal | Water Supply Capacity Register | Uisce Éireann \(formerly Irish Water\)](#) confirms that the subject lands are serviceable, which indicates no capacity issues for either water supply or wastewater. I note that the water supply is subject to a level of service (LoS) improvement works. Wastewater capacity is 'Green' and therefore capacity is available within the local wastewater treatment plant. On this basis, it is reasonable to consider that there is capacity in the wastewater network to cater for development.

I acknowledge what the appellants state in terms of the need for the upgrade of the local public foul sewer network. However, I also note that the Local Authority state that public watermains are available in close proximity to the subject lands and that the subject lands are accessible via a car park which is stated to be in the ownership of the appellants and serves their existing commercial premises. Under Section 653B (b) of the taxes Consolidation Act, 1997, land is considered in scope for RZLT if it is either currently connected to, or capable of being connected to essential services, including foul sewer drainage. In this case, while the subject lands may not presently be connected to the public piped water services, they are located within an area where connection is feasible, and Local Authority have confirmed that there is access to the watermains and foul sewer networks in close proximity to the subject lands. Therefore, the land meets the statutory criteria as set out with Section 653B (b) of the taxes Consolidation Act 1997, as amended where the consideration is as follows 'is it reasonable to consider that the lands may have access, or be connected, to public infrastructure and facilities, including roads and footpaths, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed and with sufficient service capacity available for such development'. and is accordingly liable for the tax.

Page 8 of the Residential Zoned Land Tax - Guidelines for Planning Authority, June 2022 (RZLT Guidelines) sets out that a need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist. Issues relating to access to the public watermain and foul sewer networks were raised by the appellants. The appellants have not submitted any documentary or other technical information to support this contention. I note that the Local Authority are

satisfied that there is access to the piped water networks in proximity to the subject lands.

The provision of infrastructure to the subject lands is considered to be in the control of Donegal County Council or Uisce Eireann and the local authority determined that that the subject lands are in scope and, therefore, retained within the RZLT Final Map. For the purposes of falling within the scope of RZLT, among the criteria as set out within Section 653B (b) of the Taxes Consolidation Act 1997 as amended, is whether it 'is reasonable to consider'. In my opinion it is reasonable to consider that the provision of access, footpaths, public lighting, surface water drainage, sewer, and water connections may be provided on lands under the control of the landowner and/or the Local Authority. Consideration has also been had to the provisions of the Residential Zoned Land Tax- Guidelines for Planning Authorities June 2022. On this basis, the land, therefore, does satisfy the criteria cited in section 653B(b) of the Taxes Consolidation Act 1997, as amended.

I note that the land parcel has direct access onto Pound Street to the south of the subject lands and also indirectly onto Meetinghouse Road located further west of the subject lands via a car park stated to be in the ownership of the appellants.

Therefore, I am satisfied that it is reasonable to consider that the subject lands parcels have access to public infrastructure and facilities, including roads, footpaths and public lighting necessary for dwellings to be developed. On this basis, the land, therefore, satisfies the criteria cited in section 653B(b) of the Taxes Consolidation Act 1997, as amended.



In addition to the above, the Commission will note the provisions contained in section 114(b) of the Finance Act 2024, which amends section 653I of the Taxes Consolidation Act 1997 provided a mechanism for landowners to seek to amend the zoning of lands which are subject to existing economic activity, by virtue of requests to amend the zoning, submitted to the relevant local authority in accordance with section 653I of the Taxes Consolidation Act 1997 (as amended). The requests were to be made to the relevant local authority between 1 February and 1 April 2025, inclusive, with a requirement for the local authority to provide written acknowledgement of the request to the landowner by 30 April 2025. The intention of this legislation was to provide a recourse for landowners to identify land needed for a particular use type including agriculture and for the LA to evaluate the submission and review the zoning accordingly with a view to varying the relevant Plan in accordance with Section 13 of the Planning and Development Act, where a rezoning would be considered appropriate. It appears the applicants in this instance made a request to the local authority (correspondence from the appellants to the Local Authority dated 4<sup>th</sup> March 2025). The New Residential zoning NR1.8 remains the defined land use zoning for these lands. On this basis, it is reasonable to assume that the lands are in-scope.

Having regard to the foregoing I consider that the lands zoned New residential identified as land parcel ID number DLLA0002658 under DNCC-C92-RZLT-1 meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, and that there are no matters arising that warrant exclusion from the map.

## **9.0 Conclusion & Recommendation**

The lands identified as land parcel ID number DLLA0002658 under DNCC-C92-RZLT-1 are located within an established urban area on residentially zoned lands and meet the qualifying criteria set out in Section 653B (a) (i) of the Taxes Consolidation Act 1997, as amended with services available and no capacity or other reasons have been identified that would prevent the development of these lands in principle for residential purposes. The lands are accessible and there is no reason why they cannot be developed in principle in accordance with the residential zoning objective that applies to these lands. The lands identified as parcel ID

number DLLA0002658 under DNCC-C92-RZLT-1 meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, and that there are no matters arising that warrant exclusion from the map. I recommend that the Coimisiún confirm the determination of the local authority and direct the local authority to retain the lands identified as parcel ID number DLLA0002658 under DNCC-C92-RZLT-1 on the map.

## **10.0 Reasons and Considerations**

In the assessment of this appeal. Regard was had to the content of the Residential Zoned land Tax-Guidelines for Planning Authority's June 2022 which are considered to be a helpful complement to understanding the spirit and intent of the primary legislation. However, the recommendation is made within the clear parameters of the applicable legislation.

The lands identified as land parcel ID number DLLA0002658 under DNCC-C92-RZLT-1 are located within an established urban area on residentially zoned lands and meet the qualifying criteria set out in Section 653B (a) (i) of the Taxes Consolidation Act 1997, as amended with services available and no capacity or other reasons have been identified that would prevent the development of these lands in principle for residential purposes. I recognise that there are local piped services network constraints but having regard to the provisions of the Residential Zoned Land Tax - Guidelines for Planning Authority, June 2022 (RZLT Guidelines) which sets out 'that a need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist'. The lands are accessible and there is no reason why they cannot be developed in principle in accordance with the residential zoning objective that applies to these lands. The lands identified as parcel ID number DLLA0002658 under DNCC-C92-RZLT-1 meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, and that there are no matters arising that warrant exclusion from the map. The lands are accessible and there is no reason why they cannot be developed in principle in accordance with the residential zoning objective that applies to these lands. The

subject lands meet the qualifying criteria set out in section 653B (b) of the Taxes Consolidation Act 1997, as amended, and that there are no matters arising that warrant exclusion from the map.

I recommend that the Coimisiún confirm the determination of the local authority and direct the local authority to retain the lands identified as parcel ID number DLLA0002658 under DNCC-C92-RZLT-1 on the map.

## **11.0 Recommended Draft Coimisiún Order**

### **Taxes Consolidation Act 1997 as amended.**

**Planning Authority:** Donegal County Council

**Local Authority Reference Number:** DNCC-C92-RZLT-1

**Appeal** by Martin and Teresa Maguire 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 30<sup>th</sup> day of May 2025 in respect of the site described below.

**Lands at:** Pound Street, Stranorlar, Co. Donegal

### **Decision**

The Coimisiún 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 Coimisiún confirms the determination of the local authority and direct the Local Authority to retain the lands identified as Parcel ID number DLLA0002658 under DNCC-C92-RZLT-1 should remain on the RZLT map.

### **Reasons and Considerations.**

In the assessment of this appeal. Regard was had to the content of the Residential Zoned land Tax-Guidelines for Planning Authority's June 2022 which are considered to be a helpful complement to understanding the spirit and intent of the primary legislation. However, the recommendation is made within the clear parameters of the applicable legislation.

The lands identified as land parcel ID number DLLA0002658 under DNCC-C92-RZLT-1 are located within an established urban area on residentially zoned lands and meet the qualifying criteria set out in Section 653B (a) (i) of the Taxes Consolidation Act 1997, as amended with services available and no capacity or other reasons have been identified that would prevent the development of these lands in principle for residential purposes. I recognise that there are local piped services network constraints but having regard to the provisions of the Residential Zoned Land Tax - Guidelines for Planning Authority, June 2022 (RZLT Guidelines) which sets out 'that a need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist'. The lands are accessible and there is no reason why they cannot be developed in principle in accordance with the residential zoning objective that applies to these lands. The lands identified as parcel ID number DLLA0002658 under DNCC-C92-RZLT-1 meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, and that there are no matters arising that warrant exclusion from the map. The lands are accessible and there is no reason why they cannot be developed in principle in accordance with the residential zoning objective that applies to these lands. The subject lands meet the qualifying criteria set out in section 653B (b) of the Taxes Consolidation Act 1997, as amended, and that there are no matters arising that warrant exclusion from the map.

I recommend that the Coimisiún confirm the determination of the local authority and direct the local authority to retain the lands identified as parcel ID number DLLA0002658 under ADRZLT708073504 on the map.

I confirm that the report represents my professional planning assessment, judgment and opinion on the matter assigned to me and that no person has influenced or tried to influence, directly or indirectly, the exercise of my professional judgment in an improper or inappropriate way.

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Fergal Ó Bric  
Planning Inspectorate  
31st day of October 2025