



An  
Bord  
Pleanála

## Inspector's Report ABP-316346-23

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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>	Lands at Cookstown Road, Enniskerry, Co. Wicklow
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	WW-RZLT-10
<b>Appellant(s)</b>	Cairn Homes Properties
<b>Inspector</b>	Paul O'Brien

## 1.0 Site Location and Description

- 1.1. The subject site contains an area of land of 5.11 hectares, located to the south of the L1020 Cookstown Road, to the south east of Enniskerry village, Co. Wicklow. The subject land is located within a large field that is under grass and is in agricultural use.
- 1.2. Powerscourt National School is located to the north west of the site. The other adjoining lands are in either in agricultural use/ under forest or else contain detached houses on their own sites.

## 2.0 Zoning and Other Provisions

- 2.1. Enniskerry is included within the Bray Municipal District Local Area Plan 2018. The site is located within lands designated for Action Area Plan 2 and is zoned for a number of uses as follows:

Section to the east of the National School is zoned CE – Community & Educational.

Lands to the west of the site are zoned R10 – Residential with an objective ‘To protect, provide and improve residential amenities at a lower density not exceeding 10 units/ha.’

Lands to the east of the site are zoned R20 – Residential with an objective ‘To protect, provide and improve residential amenities at a density up to 20 units/ha.’

Lands to the southern boundary are zoned OS – Open Space with an objective ‘To protect and enhance existing and provide for recreational open space.’

## 3.0 Planning History

- 3.1. PA Ref. 21/1533/ ABP Ref. 314244-22 refers to an application for 74 houses and 10 Sheltered Housing units with associated site development works. No decision has been issued to date.
- 3.2. ABP Ref. 310078-21 refers to a decision to grant permission for a SHD development of 165 no. residential units (105 no. houses, 60 no. apartments), creche and associated site works.

## **4.0 Submission to the Local Authority**

- 4.1. The appellant made a submission to the Local Authority seeking to have their lands removed from the draft map on the basis that there are significant known archaeological remains on the site. Surveys were undertaken by Irish Archaeological Consultancy Ltd (IAC) and details of their findings are provided in support of the submission to the Planning Authority.
- 4.2. Judicial review of the grant of permission under ABP Ref. 310078-21, puts a level of uncertainty over the potential development of these lands.

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

- 5.1. The Local Authority determined that the site was in scope. A report from the National Monuments Services agrees that preservation by record is appropriate on this site. The finding of archaeological materials does not prevent development of a site in accordance with the applicable zoning objective.
- 5.2. Legal challenges are not listed as a criterion for removal from the map.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The following points were made in support of the appeal:

- The site contains significant known archaeological remains.
- The site is subject to legal proceedings and the development potential of the site is not known until these cases are decided.

### **6.2. Planning Authority Response**

- No further comment.

## **7.0 Assessment**

- 7.1. The comments raised in the appeal are noted and the report of the Planning Authority with supporting reports are noted.

7.2. The development of lands need not be restricted by the presence of archaeology. I note that permission was granted for development on these lands, albeit is now subject to judicial review, and the National Monuments Service have raised no issues of concern in relation to the development of these lands. I consider the presence of archaeology within the lands does not restrict the development potential of this area.

7.3. The issue of legal proceedings is not a consideration under this process.

## **8.0 Recommendation**

8.1. I recommend that the board accept the determination of the Local Authority and that the indicated site be kept on the map.

## **9.0 Reasons and Considerations**

9.1. The appellant requested that their site be removed from the map due to the fact that the development of these lands is restricted by potential archaeology and that legal proceedings were delaying the development of these lands.

9.2. The lands are suitably zoned and no restrictions in terms of service provision have been identified by the applicant and/ or the Planning Authority. The issue of legal proceedings is not a matter for a consideration under this process. The subject lands should therefore remain on the map in accordance with the recommendation of the Planning Authority.

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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Paul O'Brien  
Planning Inspector

1<sup>st</sup> September 2023