



An
Bord
Pleanála

Inspector's Report

ABP-316414-23

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 Map
Location	Moil and Choirnigh, Ring, Dungarvan, Co. Waterford
Local Authority	Waterford and City County Council
Local Authority Reg. Ref.	WFD-C15-56
Appellant(s)	Patrick Cullinan
Inspector	Frank O'Donnell

1.0 Site Location and Description

- 1.1. The subject site is located on the western side of Ring (An Rinn Gaeltacht) and comprises of an existing single storey dwelling, associated front and rear amenity and circulation space and an associated undeveloped field to the immediate south-west of the said dwelling site.
- 1.2. The dwelling is served via an existing vehicular entrance off the public road. The overall site frontage is estimated to be c.35 metres in length. The site has a stated area of 0.22 hectares and is surrounded by established residential development to the north, south and west.

2.0 Zoning and other provisions

- 2.1. The subject site is zoned 'RS – Existing Residential' in the Waterford City and County Development Plan 2022 to 2028. The relevant zoning objective is '*Provide for residential development and protect and improve residential amenity.*'
- 2.2. As per the Zoning Matrix (Table 11.2) set out in Section 11.0 Zoning and Land Use of Volume 2 – Development Management Standards, a Dwelling / Principal Private Residence and a Residential scheme are identified as uses which are 'Permitted in Principle' on lands zoned RS (Existing Residential).

3.0 Planning History

- 3.1. Planning History
- 3.2. 93185: Brendan Cullinane. Outline Planning Permission for a dwelling house. Outline Planning Permission was GRANTED on 14/07/1993.
- 3.3. 91268: Caitlin Nic Gearailt. Permission for retain dwelling and entrance. Retention Permission was GRANTED on 21/06/1991.
- 3.4. 82114: C. Fitzgerald. Planning Permission for a bungalow. Permission was GRANTED on 02/12/1982.

4.0 Submission to the Local Authority

- 4.1. The Appellant made a submission to the Local Authority seeking to have their land removed from the draft map.
- 4.2. The Appellant states that it was one of his son's intentions to build a house in this field and that it is his hope that his son will develop the site.
- 4.3. The Appellant refers to a recent Pre-Planning Meeting, Ref. No. PP2022/339, with the Planning Department. The Appellant states that: *'The entrance design shall be in accordance with DMURS standards and shall be removed from the junction with the R674.'*
- 4.4. The Appellant contends that sightlines at the entrance to the site cannot be provided in accordance with the Design Manual for Urban Roads and Streets (DMURS) at this time.
- 4.5. The Appellant states that it is his hope that the site can be developed into the future but that it is currently not 'serviced' as an entrance in accordance with the development standards. It is states that based on the current speed limit of the public road, the entrance cannot be provided.

5.0 Determination by the Local Authority

- 5.1. Having evaluated the submission and all relevant information relating to the land(s), it is considered that the land(s) DOES satisfy the qualifying criteria as per Section 653E (1) (a) (ii) (I) of the Finance Act 2021, as amended, for the reasons set out below, and therefore it is recommended that the land(s) at the above location should be INCLUDED in the final map.
- 5.2. Reasons
- 5.3. 1. The lands have been assessed in a manner consistent to Appendix 4 & 5 of the Residential Zoned Land Tax – Guidelines for Planning Authorities (June 2022), as amended, and are duly considered to be in-scope for the tax.
- 5.4. 2. The lands are zoned for residential development where a residential use is permitted on principle in the development plan.

- 5.5. 3. The lands have access to services including, water supply, foul and surface water sewers, roads, footpaths and public lighting and there is sufficient capacity to accommodate development of the lands.
- 5.6. 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 Grounds of Appeal are summarised as follows:

- The site identified in the decision is inaccurate and includes a residential property adjacent to my field. I do not own or have any relationship with the owner of the residential property. The field in my ownership is outlined in red on the details I submitted to Waterford City & County Council and the map I have submitted to An Bord Pleanála.
- The Appellant refers to Pre-Planning Consultation and to advice provided in relation to same, Meeting, Ref. No. PQ2022/339. The Appellant states that Pre-Planning Advice given was that *'The site entrance shall be in accordance with DMURS standards and shall be removed from the junction with the R674.'*
- The Appellant states that a 60 kph speed limit applies long the road fronting the site and refers to Section 4.4.4 (Table 4.2) of DMURS regarding a sightline of 59 metres at a set back of 2.4 metres within such a speed zone. The Appellant refers to a distance of 45 metres from the furthest site boundary for the junction of the local road and the regional road to the south of the field. The Appellant states that therefore the centre point of the entrance would be located closer to the junction which further reduces the distance to the junction. Therefore, the Appellant contends that sightlines at the entrance to the site cannot be provided in accordance with the DMURS and Development Management Standards contained in the Waterford City & County Development Plan 2022 to 2028 at this time.
- The Appellant states that it is his hope that the site can be developed in the future however at this time his field is not serviced as an entrance in accordance

with the Waterford City & County Development Plan, 2022 to 2028. Based on the current speed limit of the public road such an entrance cannot be provided.

- The Appellant respectfully requests that his field be excluded from the RZLT Map as it does not fulfil the relevant criteria at this time.

7.0 Assessment

- 7.1. The comments raised in the appeal are noted.
- 7.2. Regarding the ownership/ control of the lands, the Local Authority state in its determination that while the property consists of your own private residence, the provisions of Section 653O of the Act are applicable and while you may not be liable for the payment of the tax, you should engage directly with Revenue on this matter. The Appellant disputes the ownership of a residential property adjacent to his field and states that he does not own or have any relationship to the owner of the property.
- 7.3. The presence of a dwelling house on the map or the ownership of same is not a relevant point of exclusion under Section 653B. Similarly, liability for tax is not a relevant consideration.
- 7.4. The assessment of the Local Authority is based on the relevant land parcel. In this case the relevant Land Parcel ID (Ref. WDLA0007906) extends to an area of 0.22 hectares. This includes an existing dwelling and an associated field positioned to the south-west of same. The overall Land Parcel is estimated to have a site frontage of c. 35 metres. The centre of the existing site vehicular entrance serving the existing dwelling is estimated to be c. 61 metres from the near edge of the public road at the intersection of same with the R674 Regional Road further to the south.
- 7.5. Having regard to the provisions of Section 653B b), it reasonable to conclude, in my opinion, that the site may have access, or be connected, to public infrastructure and facilities, including roads and footpaths.
- 7.6. Uisce Eireann confirm that a watermain exists on the public road in close proximity to the site and that available GIS data indicates that the watermain is accessible (c. 10m distance away) via the road adjoining the land parcel.
- 7.7. It is noted the An Rinn water resource zone (WRZ ID: 3100SC0001) is stated to have Capacity Available - LoS improvement required (Capacity Available - LoS

improvement required means *'Capacity Available to meet 2032 population targets - Level of service (LoS) improvement required. Leakage reduction and/or capital investment will be required to maintain/improve levels of service as demand increases. These proposals will be developed & prioritised through the National Water Resources Plan and investment planning process'*).

7.8. In my opinion there is a viable water supply/ connection available in proximity to the site and that therefore the site can be reasonably serviced in terms of water supply.

7.9. Uisce Eireann further confirm that a sewer exists on the public road in close proximity to the site and that available GIS data indicates that the sewer is accessible (c. 28m distance away) via the road (R674) adjoining the land parcel.

7.10. It is noted the An Rinn (Baile Na nGall WWTP) (Ref. D0035) has an Amber Status on the Uisce Eireann Wastewater Treatment Capacity Register published in June 2023. Amber status is stated to mean *'potential spare capacity, applications to be considered on an individual basis considering their specific load requirements.'*

7.11. In my opinion there is a viable wastewater connection available in proximity to the site and that therefore the site can be reasonably serviced in terms of wastewater.

8.0 Conclusion

8.1. The site is within an established urban area with services available and no capacity or other reasons have been identified that would prevent the development of these lands for residential purposes. The site does satisfy the criterion for inclusion on the map set out in section 653B(c) of the Taxes Consolidation Act 1997, as amended.

9.0 Recommendation

9.1. I recommend that the Board confirm the determination of the Local Authority and that the indicated site be retained on the map.

10.0 Reasons and Considerations

- 10.1. The lands identified as WFD-C15-56 (RZLT Map Parcel ID: WDLA0007906), 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.
- 10.2. Having regard to the provisions of Section 653B b), it reasonable to conclude that the site 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 available for such development.
- 10.3. The presence of a dwelling house on the map or the ownership of same is not a relevant point of exclusion under Section 653B. Similarly, liability for tax is not a relevant consideration.
- 10.4. The Grounds of Appeal do not support a different conclusion in relation to this matter.
- 10.5. 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.

Frank O'Donnell
Planning Inspector

9th August 2023