



An
Bord
Pleanála

Inspector's Report

ABP-316422-23

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 The Paddocks, Williamstown Road, Waterford City.
Local Authority	Waterford City & County Council.
Planning Authority Reg. Ref.	WFD-C15-7.
Appellant(s)	Glenvegh Homes Limited.
Inspector	Daire McDevitt

1.0 Site Location and Description

The lands identified as WFD-C15-7 (Parcel ID WDLA00028817, WDLA00028913, WDLA00028946, WDLA00028824 and WDLA00028863) are located at The Paddocks, Grantstown off the Williamstown Road in Waterford city. The lands are bounded by established residential estates and are presented in two parcels separated by the access road to The Paddocks.

2.0 Zoning and other provisions

The relevant plan is the Waterford City and County Development Plan 2022-2028.

Vol. 1 Written Statement

Vol. 3, Appendix 17 Tiered Approach to Zoning.

Volume 4, Map 2 Zoning and Flooding Map.

The lands are zoned R1 New Residential with a stated objective 'provide for new residential development in tandem with provision of new social and physical infrastructure'.

The lands are identified as Residential Phase 1 lands.

3.0 Planning History

There is extensive planning history associated with The Paddocks, these include inter alia:

PA Ref. 21833 refers to a grant of permission (February 2022) for Phase 1 of a residential development consisting of the construction of 99 no. residential units, 1 no. childcare facility, 2 no. ESB substations and all ancillary development works including access, footpaths, cycle paths, parking, drainage, landscaping, lighting and amenity areas. The proposed development will allow for the laying of all roads and services for the Phase 1 and Phase 2 located primarily to the east of the existing access road. Access to the site will be via the existing entrance onto Williamstown Road to the south of the site. A Natura Impact Statement (NIS) has been submitted to the Planning Authority with the planning application.

PA Ref. 21/976 refers to a May 2022 decision to refuse permission for Phase 2 of a residential development consisting of the construction of 99 no. residential units and all ancillary development works including access, footpaths, cycle paths, parking, drainage, landscaping, lighting and amenity areas. The proposed development will allow for the laying of roads and services for a portion of Phase 1 and all of Phase 2 located to the east and west of the existing access road. Access to the site will be via the existing entrance onto Williamstown Road to the south of the site. A Natura Impact Statement (NIS) has been submitted to the Planning Authority with the planning application.

PA Ref.22/653 refers to a July 2022 grant of permission for Phase 2 of a residential development consisting of the construction of 99 no. residential units and all ancillary development works including access, footpaths, cycle paths, parking, drainage, landscaping, lighting and amenity areas. The proposed development will allow for the laying of roads and services for all of Phase 1 and Phase 2 located to the east and west of the existing access road. The proposed development works include a connection to and the construction of a new storm water sewer on the Dunmore Road which is associated with Island View pumping station. Access to the site will be via the existing entrance onto Williamstown Road to the south of the site. A Natura Impact Statement (NIS) has been submitted to the planning authority with the application.

PA Ref. 22/466 refers to a May 2022 grant of permission for Phase 3 of a residential development consisting of the construction of 14 no. residential units, 1 no. childcare facility, 1 no. ESB substation and all ancillary development works including access, footpaths, cycle paths, parking, drainage, landscaping, lighting and amenity areas. The proposed development works include a connection to and the construction of a new storm water sewer on the Dunmore Road which is associated with Island View pumping station. Access to the site will be via the existing entrance onto Williamstown Road to the south of the site. A Natura Impact Statement (NIS) has been submitted to the planning authority with the application.

PA Ref. 22694 refers to an application that was deemed withdrawn for Phase 4 of a residential development consisting of the construction of 94 no. residential units, 1 no. ESB substation and all ancillary site development works including access, footpaths, cycle paths, parking, drainage, landscaping, lighting, bin stores and amenity areas. The proposed development works include a connection to and the construction of a new storm water sewer on the Dunmore Road which is associated with Island View pumping station. Access to the site will be via the existing entrance onto Williamstown Road to the south of the site. An Environmental Impact Assessment Report (EIAR) and Natura Impact Statement (NIS) have been prepared and will be submitted to the planning authority with the application.

PA Ref. 2360056 for a April 2023 grant of permission for the construction of 14 no. residential units, 1 no. ESB substation and all associated site development and landscaping works including boundary fencing at The Paddocks, Williamstown Road, Grantstown, Co. Waterford. The proposed development will result in modifications to the Phase 1 residential scheme permitted by Waterford City and County Council Ref. No. 21/833. The alterations will reduce the total number of residential units for Phase 1 from 99 to 89 units.

4.0 Submission to the Local Authority

The appellants made a submission to the local authority seeking to have their land removed from the draft map on the basis that the lands in their entirety are dependent upon significant upgrading of the Irish Water drainage infrastructure in the vicinity of the lands, with Irish Water confirming that there are no plans to deliver this upgrade. This consequently precludes the residential development of the lands and as such the subject lands are considered out of scope as they do not satisfy the qualifying criteria.

5.0 Determination by the Local Authority

The local authority determined that:

Section 653A and B of the Act clearly set out the relevant qualifying criteria for determining whether land is in-scope for the purposes of the RZLT. Further interpretation and guidance in this regard is provided in Residential Zoned Land Tax-Guidance for Planning Authorities (June 2022) issued under section 28 of the Planning and Development Act 2000, as amended. Taking cognisance of the relevant criteria and associated guidance, the details outlined in your submission and further comment made by relevant consultees, please be advised that the planning authority considered that the lands meet the relevant qualifying criteria as set out in the Act and as such are considered to be in-scope for the purposes of the Act and the tax.

Reasons:

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.
2. The lands are zoned for residential development where a residential use is permitted in principle in the development plan.
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.

6.0 The Appeal

6.1. Grounds of Appeal

Grounds of appeal are summarised as follows:

- The development of the lands subject to this appeal (phase 2 and later phases) is dependent on the significant upgrading to the wastewater drainage infrastructure located to the north of the lands subject to this appeal, which Irish Water have confirmed that they have no intention to deliver.
- IW COF relating to WCC Ref. 21/833 states “upgrade works are required to increase the capacity of the Irish Water network. Approximately 520m of existing 225mm sewer requires upsizing to 375mm diameter” and Irish water does not currently have any plans to carry out the works required to provide the necessary upgrade and capacity.

- On 1st January 2022, there was (and there continues to be) no wastewater infrastructure to serve the site and this, the site is clearly ‘out-of-scope’.

7.0 Assessment

The comments raised in the appeal are noted. The local authority assessment is checklist based and provides no specific commentary on the submission received the draft map.

Under section 653J 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”.

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 solely or primarily for residential use, or for a mixture of uses including residential. The portion of lands zoned R1 New Residential are considered within scope of section 653B(a)(i).

The appellant have submitted that the development of the lands subject to this appeal (phase 2 and later phases) are dependent on the significant upgrading to the wastewater drainage infrastructure located to the north of the lands subject to this appeal, which Irish Water have confirmed that they have no intention to deliver. The appellant has submitted a copy of a pre-connection enquiry dated 9th June 2022. Correspondence on file from Uisce Eireann confirms that a water main and sewer exit on the public road in close proximity to the site and is accessible c. 10m away onto the adjoining road. UE did not raise capacity as an issue. The local authority determined the lands to be in scope as it is reasonable to consider that the land has access to, or be connected to, services. I note that there is an extant permission on the lands under PA Ref.22/653 for phase 2 and under PA Ref. 22/466 for phase 3. For the purposes of falling within the scope of RZLT the criteria is whether it to 'is reasonable to consider'. The provision of infrastructure to the subject lands are considered to be in the control of Waterford City & 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.

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 capacity were raised by the appellants. Based on the information available I have no evidence that this is an issue.

The lands can be served in principle by the existing road network that is in place and are zoned residential. UE have confirmed that services are available. I consider it is reasonable to consider that the provision of access, footpaths, public lighting, surface water drainage, sewer and water connections may be provided where land is in the control of the landowner or local authority. On this basis the land, therefore, satisfies the criteria cited in section 653B(b) of the Taxes Consolidation Act 1997, as amended and the grounds of appeal should be dismissed.

Having regard to the foregoing I consider that the lands identified as WFD-C15-7 (Parcel ID WDLA00028817, WDLA00028913, WDLA00028946, WDLA00028824 and WDLA00028863) 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 this portion of the lands from the final map.

9.0 Conclusion & Recommendation

The lands identified as WFD-C15-7 (Parcel ID WDLA00028817, WDLA00028913, WDLA00028946, WDLA00028824 and WDLA00028863) located on lands zoned R1 are considered in scope of section 653B(a). The lands are located 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 in principle for residential purposes. The lands are accessible in principle 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 WFD-C15-7 (Parcel ID WDLA00028817, WDLA00028913, WDLA00028946, WDLA00028824 and WDLA00028863) 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. And I recommend that the board confirm the determination of the local authority and direct the local authority to retain the lands identified as WFD-C15-7 (Parcel ID WDLA00028817, WDLA00028913, WDLA00028946, WDLA00028824 and WDLA00028863) on the final map.

8.0 Reasons and Considerations

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 2022 Guidelines for Planning Authorities on the Residential Zoned Land Tax.

The lands identified as WFD-C15-7 (Parcel ID WDLA00028817, WDLA00028913, WDLA00028946, WDLA00028824 and WDLA00028863) are zoned R1 are located 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 in principle for residential purposes. The lands are accessible in principle 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 WFD-C15-7 (Parcel ID WDLA00028817, WDLA00028913, WDLA00028946, WDLA00028824 and WDLA00028863) 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 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.

Dáire McDevitt

Senior Planning Inspector

31st August 2023