



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316555-23

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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 Map
<b>Location</b>	Lands at Monang, Dungarvan, Co. Waterford
<b>Local Authority</b>	Waterford and City County Council
<b>Local Authority Reg. Ref.</b>	WFD-C15-61
<b>Appellant(s)</b>	Thomas Moloney
<b>Inspector</b>	Frank O'Donnell

## 1.0 Site Location and Description

- 1.1. The subject site is located on eastern side of the Old Hospital Road, to the east and south-east of the established medium density residential developments of Pinewood Lawns and Cruachàn respectively and c. 1.3 km to the north-west of the centre of Dungarvan. The site has a general L shape, has frontage onto the Old Hospital Road to the west and is currently in agricultural use. The appeal site includes land parcel, Ref. WDLA00028932 and additional lands and has an estimated area of c. 3.4 hectares.
- 1.2. There are existing low voltage overhead powerlines throughout the site. One line transects the site from east to west and another from north to south with both intersecting in the north-eastern part of the appeal site.
- 1.3. It should be noted that there are 1 no. other concurrent RZLT Appeal in the general locality of the subject site, as follows:
  - Appeal Ref. No. 316542-23: John Queally. Lands located c. 150 metres to the south of the subject site.

## 2.0 Zoning and other provisions

- 2.1. The subject site is zoned 'R1 – New Residential' in the Waterford City and County Development Plan 2022 to 2028 and is included within Residential Phase 2. The relevant zoning objective is '*Provide for new residential development in tandem with the provision of the necessary social and physical infrastructure.*'
- 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 R1 (New Residential).
- 2.3. In respect of the Tiered Approach to Zoning, the following is stated in Section 2.11.2 of the Waterford City and County Development Plan, 2022 to 2028, Volume 1 - Written Statement in relation to lands identified as Residential Phase 2:

*'The method of land use zoning employed in this Development Plan focuses on delivering the strategic outcomes and priorities of the NPF for Waterford City*

*and County. The approach taken considers the provisions of NPO 72(a), (b) & (c) of the NPF4, paying particular attention to the infrastructural services available, thereby adopting a Tier 1 and Tier 2 approach to the release of land for residential development during the life of the plan. This has avoided the inappropriate zoning of land for development where such land cannot be serviced during the life of the plan. Appendix 14 of the Development Plan sets out the notional cost of addressing infrastructural deficits which will be required to be addressed prior to Tier 2 lands being available for development during the life of this Development Plan.*

*Section 6 and SPPR DPG 7 of the consultation draft Development Plans: Guidelines for Planning Authorities (August 2021) identifies how lands which are suitable for residential development can be tiered/ phased or prioritised in the Development Plan. This sequential approach develops further the Tiered Approach to Zoning and gives due cognisance to the principles of compact growth and utilisation of existing infrastructure as set out in the NPF and RSES.*

*In a manner consistent with SPPR DPG 7, the new residential land use zoning (R1 GZT) provisions of the Plan are defined as either phase 1 or phase 2 lands as per the series of maps below. Generally, save for the phase 2 lands identified in the maps, all other R1 zoned lands can be taken as being phase 1.*

*In addition to the provisions of the Guidelines and the sequential approach to development, the phasing approach set out in the Plan also takes cognisance of the unique pattern of land ownership across our larger urban settlements, the likelihood of development lands coming to market, the availability of services and development activity in the area. The phasing approach seeks to ensure that development on larger land holdings follows a sequential pattern and in this regard the following should be noted:*

- All lands zoned for new residential development (R1) are considered to be developable during the lifetime of the Development Plan.*
- R1 zoned lands not specifically identified as phase 2 shall be considered phase 1.*

- *Within any landholding all phase 1 lands shall be developed or committed to development prior to any development being proposed/permitted on phase 2 lands within that landholding.*
- *All planning applications for development on phase 2 lands shall be supported by documentation to clearly identify that phase 1 lands within the landholding have been developed out, are committed to development and that the implementation of any such permitted development is imminent, or that phase 1 lands are not available within the landholding.'*

2.4. Appendix 17 of the Waterford City and County Development Plan, 2022 to 2028 relates to a Tiered Approach to Zoning. This includes a site-specific Infrastructure Assessment for relevant lands. The site which is the subject of this appeal forms part of Site 1 (Monag), see Table 5B: Dungarvan/ Ballinroad Phase 2 Site Specific Infrastructure Assessment. The site (Site 1) scores 1<sup>1</sup> in relation to Roads, Water Supply and Wastewater and scores 2<sup>2</sup> in relation to Footpaths. It is further indicated that the overall site does not fall within the definition for lands qualifying as necessitating Compact Growth<sup>3</sup> or where Public Transport<sup>4</sup> is available. The lands are identified as lands where a Coordinated Approach<sup>5</sup> to development is required.

2.5. Specific Objective DO22 relates to the lands and reads as follows:

*'To secure the sustainable and sequential longer-term development of lands at Monang, located between the Old Hospital Road and the N25, development of tier 2 residential lands shall be informed by and consistent with a masterplan, the scope and detail of which shall be agreed in writing with the planning authority prior to the masterplan being prepared.'*

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<sup>1</sup> Score 1: Existing infrastructure can support the development of the site, subject to on-site works, some minor works at access points or linking into available existing systems.

<sup>2</sup> Score 2: Some off-site works are required but could be delivered as part of a planning application to develop the site or capital investment is identified to facilitate development over the course of the plan.

<sup>3</sup> Compact Growth: Proximity to the town centre and services – distance of no more than 1km or 5 min walk from the town and neighbourhood centre is desirable.

<sup>4</sup> Public Transport: Whether public transport modes are available within proximity of the site or connected walking & cycle routes provide easy access to public transport and services.

<sup>5</sup> Coordinated Approach: That the development of the land will contribute to or complete the strategic development of the wider area.

- 2.6. There is an Indicative Road Reservation shown on the Dungarvan Land Use Zoning Map which relates to the subject lands. The Indicative Road Reservation route relates to the majority of the roadside frontage to the west, traverses the centre of the overall site from west to east and is shown to connect to adjacent lands further to the east which are zoned ‘SRR – Residential: Strategic Reserve’ (Residential Phasing is not applicable for this land zoning).

### 3.0 **Planning History**

#### 3.1. Planning History

- 3.2. There is no recent planning history relating to the subject lands.

#### 3.3. Lands to the immediate south

- 3.4. Planning Reg. Ref. No. 21/684 (ABP Appeal Ref. 312822-22) (Site located c. 30 metres to the immediate south-west of the subject site): Applicant: John Deane & John Ruane. Permission for 6 detached two storey houses and 1 detached two/one storey house, access roads and ancillary site works. A Notification of Decision to GRANT permission was issued by the Local Authority on 27/01/2022 subject to 26 no. conditions. This decision is the subject of a current appeal to An Bord Pleanála. The Appeal case was due to be decided by 27/06/2022 and is now overdue.

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

- 4.1. The Appellant made a submission to the Local Authority seeking to have his land removed from the draft map.
- 4.2. The lands are currently in use as farmland. These lands have always been farmed and are an integral part of the Appellant’s farm. Without these lands the Appellant’s existing farm would not be viable.
- 4.3. These lands do not have sufficient services in terms of the Road network, water etc. The Appellant states that therefore the lands cannot be developed at present.

## 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:

- Section 653B c) (iii) (III) & (IV). The lands are required for occupation by energy infrastructure and facilities/ telecommunications infrastructure.
- Section 653B a) of the Act.
  - Lands are zoned R1 New Residential (Residential Phase 2). The Development Plan states that these lands can only be brought forward once the infrastructural deficits identified in Appendix 14 of the Plan are addressed. This infrastructure is many years away from being delivered.

- Lands are subject to 'Specific Objective DO22', which requires that their development is informed by and consistent with a Masterplan, the scope and detail of which shall be agreed in writing the planning authority prior to the masterplan being prepared.
- The development of the site is conditional upon significant infrastructure being in place and a Masterplan being prepared and agreed in writing with the Planning Authority.
- The Appellant owns but a small section of the lands to the east of the Old Hospital Road. It is not wholly within the gift of the Appellant to deliver the Masterplan, without which the development of the lands would be premature.
- Until such time as the Masterplan is prepared for these lands, any development would be contrary to the provisions of the Development Plan, including the Tier 2 residential zoning and premature, thus the lands should not be placed on the final RZLT Map at this time.
- The Act provides for instances where a Masterplan is required prior to the release of land for residential development by requiring that the RZLT maps are reviewed on a yearly basis. Once the Masterplan is prepared and the infrastructure in place to service land for residential development, they may at that point be added. Until such time the Appellant requests that the lands are removed from the RZLT map as at present they do not meet the requirement of Section 653B a) of the Act.
- Section 653B b) of the Act.
  - Road Infrastructure Capacity.
    - Access to lands is only available from Old Hospital Road, a narrow local road with a footpath along one side for part and with extensive ribbon development. The development of the lands for residential use would require extensive road infrastructure upgrades. The public road simply does not have the capacity to facilitate the additional vehicular traffic generated, public transport

required and pedestrian and cycle activity in the absence of significant upgrades.

- The Local Authority has already determined that the development of the lands would require extensive works and would entail the upgrading and widening of the existing road as well as the provision of an internal distributor roads.
- The Appellant refers to a map extracts presented in figures 3 and 4 from the current Lands use zoning Map for Dungarvan and the previous Land Use Zoning Map from the Dungarvan Town Development Plan, 2012 to 2018. The Appellant states that both extracts show an extensive road reservation on the lands to the east of the Old Hospital Road, including a new road junction within the Appellants' holding.
- The Appellant questions the appropriateness of zoning land for residential development that is out of town and requires significant upgrades to facilitate car borne access, notwithstanding the fact the Tier 2 status of these lands tie their development to the delivery of this infrastructure. The Appellant anticipates that this will be dealt with in the Local Transport Plan that will accompany the new Dungarvan Local Area Plan. The Appellant considers that until this exercise is complete the full extent of the upgrades remains unknown as does the ability of the Local Authority to fund these.
- The Appellant refers to a recent planning decision for residential development in the area, see planning reg. ref. no. 21684 (Board Ref. 312822-22). The Appellant states that while this application only sought permission for 7 no. dwellings, upgrade works to facilitate this small residential development included the upgrade of a 165m section of the road to deliver a wider carriageway. The Appellant states that in addition, the Local Authority through on-going engagements with the owners of these lands confirmed the



significant road upgrades required for Old Hospital Road to facilitate the further development of the remainder of their lands.

- The Appellant refers to the RZLT submission made on behalf of the owners of the lands to the immediate south of their lands. This refers to consultations with the Engineering Department whereby they were advised of the requirement for significant road upgrades. It is stated that the Engineering Department considered that a Part 8 application and CPO would be required to undertake these road improvements and that it would be likely to be a couple of years before these upgrades would be delivered.
- The remainder of the Appeal submission under this heading relates to the issue of Road Infrastructure Capacity.
- Water, Wastewater and Surface Water Capacity.
  - The Appellant considers that significant upgrades to water, wastewater and surface water drainage will be required to facilitate the development of the lands for residential purposes.
  - The Appellant also raises capacity issues in terms of Water Capacity, Wastewater Capacity and Surface Water Capacity issues.

## 7.0 Assessment

7.1. The comments raised in the appeal are noted.

7.2. Land Parcel ID, Ref. WDLA00028932 has an approximate site area of 2.04 hectares. The Local Authority determination solely relates to this said Land Parcel. The Appeal relates to this Land Parcel and an area of land to the immediate north which together are estimated to have a combined site area of c. 3.4 hectares in area.

7.3. The subject lands are zoned for residential use, Residential Phase 2. There are no Residential Phase 1 lands within the landholding. An application for residential development on the lands can therefore be considered by the Planning Authority having regard to the Guidance provided in Section 2.11.2 of the Plan, as quoted above in Section 2.3 of this Report.

- 7.4. There is an existing public watermain in the public road located along the western site frontage. This watermain serves the adjacent residential developments of Pinewood Lawns and Cruachàn located to the west and north-west of the subject lands.
- 7.5. As per the Determination of the Local Authority and the associated RZLT Checklist/ Matrix, it is stated that the site is in scope under Step 2, Section 653 B b), Water Supply.
- 7.6. It is noted the Dungarvan 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').
- 7.7. 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.
- 7.8. There is an existing waste-water sewer in the public road located along the western site frontage. This waste-water sewer serves the adjacent residential developments of Pinewood Lawns and Cruachàn located to the west and north-west of the subject lands. This sewer may be a combined surface water and waste-water sewer.
- 7.9. As per the Determination of the Local Authority and the associated RZLT Checklist/ Matrix, it is stated that the site is in scope under Step 2, Section 653 B b), Wastewater.
- 7.10. It is noted that the Dungarvan Wastewater Treatment Plant (Ref. D0017) has a Green Status on the current Uisce Eireann Wastewater Treatment Capacity Register. Green status is stated to mean 'spare capacity available.'
- 7.11. In my opinion there is a viable wastewater supply/ connection available in proximity to the site and that therefore the site can be reasonably serviced in terms of wastewater.
- 7.12. There are existing public surface water gullies on the opposite side of the public road to the west of the western site frontage. The said gullies serve Pinewood Lawns residential development. The adjacent pending development to the south-west, as planning reg. ref. no. 21/684 (ABP Appeal Ref. 312822-22) refers, is proposing to install a surface water sewer along the public road and to connect same with the

existing public system at a point c. 312 metres further to the south from the southern site boundary of that said site.

- 7.13. As per the Determination of the Local Authority and the associated RZLT Checklist/ Matrix, it is stated that the site is in scope under Step 2, Section 653 B b), Surface Water Drainage.
- 7.14. In my opinion there is a no viable existing surface water connection available, at present, in proximity to the site and that therefore the site cannot be reasonably serviced in terms of surface water treatment/ disposal. In my opinion, the lands will need to be serviced via a dedicated surface water sewer and the nearest existing viable connection is located a considerable distance further to the south from the subject lands.
- 7.15. The lands therefore (Land Parcel ID WDLA00028932) should be removed in their entirety from scope and the determination of the Local Authority should be set aside in this regard.
- 7.16. The balance of the lands which are the subject of this appeal are not located on the Draft Map.

## **8.0 Conclusion**

- 8.1. The site is not proximate to existing surface water drainage, necessary for dwellings to be developed. The site does not satisfy the criterion for inclusion on the map set out in Section 653B(b) of the Taxes Consolidation Act 1997, as amended.

## **9.0 Recommendation**

- 9.1. I recommend that the Board set aside the determination of the Local Authority and that the indicated site be removed from the map.

## 10.0 Reasons and Considerations

- 10.1. The lands identified as WFD-C15-61 (Land Parcel ID: WDLA00028932), do not meet the qualifying criteria set out in Section 653B of the Taxes Consolidation Act 1997, as amended. The site is not proximate to viable existing surface water drainage, necessary for dwellings to be developed.
- 10.2. 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.

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Frank O'Donnell  
Planning Inspector

31<sup>st</sup> August 2023