



An  
Bord  
Pleanála

## Inspector's Report ABP-316609-23

---

### 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

Newtown Glen, Tramore, Co. Waterford

### Local Authority

Waterford and City County Council

### Local Authority Reg. Ref.

WFD-C15-63

### Appellant(s)

Middlethird Estates Limited

### Inspector

Frank O'Donnell

## 1.0 Site Location and Description

1.1. The subject site is located on the east side of the Newtown Glen Road, c. 2.2 km south-west of the centre of Tramore. The site comprises of 2 no. land parcels, as follows:

- Land Parcel ID WDLA000566 (Western site)
- Land Parcel ID WDLA0004361 (Eastern Site)

1.2. The 2 no. Land parcels are located to the immediate south and south-east respectively of an established residential development (Newtown Glen). The sites have a stated site areas of 1.6 hectares (WDLA000566) and 1.82 hectares (WDLA0004361).

## 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.*'

## 3.0 Planning History

3.1. Planning History for the subject site (s)

3.2. 21836: Middlethird Estates Ltd. Permission for a residential development of 27 houses comprising 24 no. detached two storey houses and 3 no. single storey terraced houses and ancillary site works. This development is an extension of the already complete Newtown Glen housing development and the under-construction Cliffside housing development. Permission was GRANTED on 10/03/2022 subject to 29 no. conditions.

3.3. 21782: Middlethird Estates Ltd. Permission for change of house type (previously approved under planning reference 11/383 and PL. 24.241034) at site numbers 08, 11, 13, 14, 16 and 18. Permission was GRANTED on 10/11/2021 subject to 4 no. conditions.

3.4. 20878: Middlethird Estates Ltd. Permission for change of house type (previously approved under planning reference 11/383 and PL.24.241034). Permission was GRANTED on 08/03/2021 subject to 4 no. conditions.

- 3.5. 20784: Middlethird Estates Limited. Permission for additional window to side elevation of House Type A and front of House Type A1 and for optional sunroom to rear of House Types A, A1 and C all at. Permission was GRANTED on 28/01/2021 subject to 2 no. conditions.
- 3.6. 19866: Middlethird Estates Limited. Permission for single storey extension to rear of 11 no. previously approved House type A/A1, 2 storey houses at sites 04 to 07 inclusive, 33-35 inclusive and 37-40 inclusive. This application is a modification to previously approved residential development planning reference 11/383 and PL.24.241034. Permission was GRANTED on 24/02/2020 subject to 5 no. conditions.
- 3.7. 188: Middlethird Estates Ltd. EXTENSION OF DURATION of Planning file 11/383 for construction of 40 no. 2 storey detached dwelling houses and associated site works. EXTENSION OF DURATION GRANTED on 27/02/2018 subject to 2 no. conditions.
- 3.8. 11383 (ABP Appeal Ref. No. PL24.241034): Middlethird Estates Ltd. Permission for construction of 40 no. 2 storey detached dwelling houses and associated site works. Permission was GRANTED on 21/02/2013 subject to 18 no. conditions.
- 3.9. 80430: M.P. Keaveney. Permission for a house. Permission was REFUSED.
- 3.10. 80137: M.P. Keaveney. Permission for a house. Permission was REFUSED.

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

- 4.1. The Appellants made a submission to the Local Authority seeking to have their land removed from the draft map.
- 4.2. The following is a summary of the submission:
- The property is zoned 'Existing Residential' in the current Development Plan.
  - Both parcels of land have the benefit of planning permission. They are both being developed on a phased basis. The lands are, therefore, not residential zoned lands lying 'vacant or idle'. Services for one phase of housing will be extended to provide the services for the next.
  - A Commencement Notice for the first phase of housing (14 to 24 units) under planning permission ref: 21/836 has been lodged and the houses are under construction. The balance of the lands in that development site will not be

serviced to allow the remaining 10 houses to commencement until phase 1 is nearing completion. When it can be serviced, a further commencement Notice for the remaining 10 houses will be lodged and the units constructed. The completion of this particular development at Cliffside is expected within 2023.

- As the lands is zoned as suitable for residential and other uses and is not laying 'vacant or idle' as it is being actively development, it is considered it does not fall within the scope of the tax.
- Confirmation is requested that the property will not be the subject of RZLT and that it will be removed from the RZLT map.

## **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

- Item 1: The Appellant quotes from the introduction of the RZLT Guidelines, as follows: *‘Action 15.2 of Housing for All specifically identifies the introduction of a new tax to activate vacant land for residential purposes (to replace the current Vacant Site Levy).’* The lands are at an advanced stage of development and therefore, cannot be ‘activated’. The lands are actively being developed towards completion.
- Item 2: The Appellant states that the site is not undeveloped and that it is actively being developed. The Appellant quotes from the Guidelines, as follows: *‘The purpose of the proposed measure is to activate existing planning permissions and zonings where housing is permitted and where the land is connected to, or has access to services, but remains undeveloped.’*
- Item 3: The Appellant refers to the list of Exclusions set out in Section 3.1.2 of the Guidelines and states that the list is not exhaustive. The Appellant submits that a zoned site with permission for housing which is at an advanced stage of construction, where housing is actively being built and which has some houses occupied, should have been excluded.
- The Appellant refers to Section 3.2.3 of the Guidelines which relates to Consideration of Submissions on Inclusion on Maps. The Appellant refers to ‘Commencement on Lands in Scope’ and considers that a reasonable interpretation would not include developments which are at an advanced stage of completion and where residential units are occupied.
- Item 4: The Appellant refers to the Evaluation Report prepared by the Local Authority, ref: WFD-C15-63 which states that the lands can be connected or are able to be connected to roads, footpaths, public lighting, surface water, wastewater and water supply/ wastewater services.
- The Appellant refers to the Guidelines and states that they provide that, for inclusion on the RZLT Map, the Council is required to obtain information from stakeholders such as Irish Water and Roads in identifying lands and providing confirmation of existing capacity in wastewater treatment plants and water

treatment plants along with date informing the date of connection or ability to connect to services, where this date was after 1 January 2022.

- The Appellant states that there is no evidence in the Council's assessment that there was any communication with its Roads section or Irish Water to confirm its findings.

## 7.0 Assessment

7.1. The comments raised in the appeal are noted.

7.2. Items 1 to 3 of the Grounds of Appeal do not relate to any of the relevant qualifying criteria set out in Section 653B of the Act. Section 3.2.3 of the Residential Zoned Land Tax - Guidelines for Planning Authorities, June 2022, relates to Consideration of Submissions on Inclusion on Maps and states that *'Matters which are unrelated to the criteria identified in section 653B such as planning permission, commencement on land in-scope, finance, or personal circumstances are not matters to be taken into account during consideration of submissions.'* Therefore, the fact that works may have commenced on the sites in scope is not a relevant consideration for the purposes of Section 653B of the Act.

7.3. Uisce Eireann, as per the email dated 14/02/2023 confirm the following in respect of WFD-C15-63 (Parcel ID(s) WDLA000566 & WDLA0004361):

- a. The site(s) in question are generally in built up areas and would all be in close proximity to water and waste water infrastructure either in the public domain or within the sites currently under development in a phased approach.
- b. The submission made by the agent does not make specific to the absence of public water services infrastructure in his appeals.

7.4. I am satisfied that there is a viable water supply/ connection available and a viable wastewater connection available in proximity to the site and that therefore the site can be reasonably serviced in terms of water supply and wastewater.

7.5. I am satisfied that the lands are accessible in terms of both pedestrian and vehicular access.

## **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-C15-63 (RZLT Land Parcel ID(s): WDLA000566 & WDLA0004361), 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. The Grounds of Appeal do not support a different conclusion in relation to this matter.
- 10.3. There is existing available Water and Wastewater infrastructure proximate to the subject lands and no capacity or supply issues have been raised by Uisce Eireann.
- 10.4. 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

3<sup>rd</sup> August 2023