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Bord  
Pleanála

## Inspector's Report

### ABP-316618-23

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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>	The Brook, Mountfield, Tramore, Co. Waterford
<b>Local Authority</b>	Waterford and City County Council
<b>Local Authority Reg. Ref.</b>	WFD-C15-66
<b>Appellant(s)</b>	Middlethird Estates Limited
<b>Inspector</b>	Frank O'Donnell

## 1.0 Site Location and Description

- 1.1. The subject site is located on the north-east side of the R675 Regional Road (Ring Road) to the rear/ north-west of established medium density residential development, c. 1.7 km north-east of the centre of Tramore. The site is the subject of Land Parcel WDLA00028967 and has an estimated site area of c. 2.78 hectares.

## 2.0 Zoning and other provisions

- 2.1. The subject site is zoned 'SRR – Strategic Reserve' in the Waterford City and County Development Plan 2022 to 2028. The relevant zoning objective is *'To provide for the long-term strategic expansion of residential development.'*
- 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 is identified as a use which is 'Open for Consideration' on lands zoned SRR – Strategic Reserve. A Residential Scheme is identified as a use which is 'Permitted in Principle' on lands zoned SRR – Strategic Reserve with the following proviso:

*'In the interest of delivering Housing for All and other programs seeking to provide social and affordable housing, the development of social and affordable housing by an Approved Housing Body, State Agency/Body or the Housing Authority on lands zoned for Strategic Residential Reserve (SRR) may be considered acceptable subject to compliance with the policy objectives and development management standards of the Development Plan. Similarly, social and affordable housing schemes on land zoned Rural Village (RV) may also be facilitated in addition to the requirements of the respective settlement class as set out in the settlement hierarchy (Section 2.9) of the Plan.'*

## 3.0 Relevant Planning History

- 3.1. Relevant Planning History
- 3.2. 2360077: John, Eddie and Pat McDonald. Permission for a new 2 storey detached houses at site no's 01,23,30 and 44. This application is a modification to previously approved residential development planning reference 22/275. Permission was GRANTED on 24/05/2023 subject to 3 no. conditions.

- 3.3. 2360015: John, Eddie and Pat McDonald. Planning permission for alterations to front elevations of previously approved House types as per 22/275. Permission was GRANTED on 17/04/2023 subject to 1 no. condition.
- 3.4. 2360008: John Eddie and Pat McDonald. INCOMPLETE APPLICATION.
- 3.5. 22275: Eddie, John & Pat McDonald. Permission for 1 no. single storey creche and 95 dwellings. An NIS accompanies this application. Permission was GRANTED on 11/08/2022 subject to 22 no. conditions.
- 3.6. 22218: Eddie, John and Pat McDonald. INCOMPLETE APPLICATION.
- 3.7. 21371: Eddie, John and Pat McDonald. Permission for 1 no. single storey creche and 89 dwelling units. Permission was REFUSED on 24/06/2021 for 3 no. reasons, as follows:

1. *Having regard to the location of the proposed development within and adjoining lands identified as being of high and moderate risk of flooding as outlined in the OPW/ CFRAM programme, and the Flood Risk Assessment carried out by Waterford City & County Council, and in the absence of a Flood Risk Assessment supporting the proposed development clearly demonstrating that the proposed development will not result in an increased risk of flooding of adjoining lands, or pose a risk to existing residential development, the Planning Authority is not satisfied that the proposed development would comply with the provisions of The Planning System and Flood Risk Management Guidelines for Planning Authorities issue by the Department of the Environment, Heritage and Local Government in November, 2009. It is therefore considered that the proposed development would exacerbate the risk of flooding within the site and/ or increase the risk and consequences of flooding elsewhere. The proposed development would therefore be contrary to Ministerial Guidance and compromise the objectives of the Development Plan and would be prejudicial to public health and safety, contrary to the proper planning and sustainable development of the area.*
2. *The proposed development is considered premature in the absence of the identified infrastructural works necessary to address the existing*

*instances of flooding at Pichardstown and the risk of potential flooding of existing residential lands adjoining the Garraun stream and situated both within and closely adjacent to lands identified as being of high risk and moderate risk to flooding as outlined in the Office of Public Works CFRAM programme as such the proposed development would pose a serious flood risk and is considered premature until such a time as the capital or other approved infrastructural works have been completed.*

3. *The lands are identified as M4 Masterplan lands in the Tramore Local Area Plan and form part of the a substantial land mass, in the absence of a phased masterplan for the overall development of these residential lands to which this subject site forms a part, identifying a sequential approach to development and substantial transport infrastructure which will not negatively impact on the existing surrounding road network which is already experiencing traffic congestion, the proposed development is considered premature pending the preparation and approval of a master plan for the entirety of the lands zoned M4 at this location.*

- 3.8. 17894: Middlethird Estates Ltd. Permission for 33 no. houses and associated site works. This is a modification to previously approved residential development, planning ref. no. 08/626. Permission was GRANTED on 19/07/2018 subject to 20 no. conditions.
- 3.9. 13188: Archdale Construction. Extension of Duration of PD 07/1288. EOD GRANTED on 09/07/2013 subject to 2 no. conditions.
- 3.10. 08626: Middlethird Estates Ltd. Permission for a total development of 74 dwellings and siteworks. Permission was GRANTED on 30/06/2009 subject to 28 no. conditions.
- 3.11. 071288: Monvoy Developments Ltd. Permission for a residential development of 72 Permission was GRANTED on 15/05/2008 subject to 28 no. conditions.
- 3.12. 071110: Monvoy Developments Ltd. INCOMPLETE APPLICATION.
- 3.13. 05/797: Monvoy Developments Ltd. Permission for a petrol station with retail and two industrial units. Permission was GRANTED on 07/06/2006 subject to 21 no. conditions.

## 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 'Strategic Reserve' in the current Waterford City and County Development Plan, 2022 to 2028.
- Planning permission was granted for housing and a creche on the site under planning permission ref: 22/275 for 95 houses and a creche. The development is under construction on a phased basis, with a completion date of 2025 anticipated. This permission was granted under the previous Development plan and previous zoning.
- Notwithstanding the granting of planning permission, it is considered the legislation does not envisage Strategic Reserve lands being the subject of the RZLT and none of the other Strategic Reserve lands are included on the RZLT map.
- The land being developed will only become serviceable as the owner incrementally provides services as the phases of development progress.
- 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

The background to the appeal as submitted by the Appellant is summarised as follows:

- The property is zoned ‘Strategic Reserve’ in the current Waterford City and County Development Plan, 2022 to 2028.
- Planning permission was granted for housing and a creche on the site under planning permission ref: 22/275 for 95 houses and a creche. The development is under construction on a phased basis, with a completion date of 2025 anticipated.
- This permission was granted under the previous Tramore Local Area Plan 2014 to 2020 (as extended) and previous zoning. This LAP was superseded by the current Development Plan.

The Grounds of Appeal are summarised as follows:

- Item no. 1:
  - The Council has included the land because it has the benefit of planning permission and not because of the zoning.
  - There are extensive lands in Tramore zoned for Strategic Reserve. The only parcel of Strategic Reserve land included on the RZLT map is the

site which is the subject of this appeal. This confirms the Council as not included the site because of its zoning, but as it has the benefit of planning permission.

- Item no. 2:
  - The Evaluation Report by Waterford City and County Council, ref: WFD-C15-66 in respect of the subject lands states that the land can be connected or is able to be connected to services.
  - There is no evidence in the Council's assessment that there was any communication with Irish Water or the Roads Department. The assessment is therefore incomplete.

## 7.0 Assessment

7.1. The comments raised in the appeal are noted.

7.2. The Elected Members of Waterford City and County Council adopted the Waterford City and County Development Plan 2022-2028 at the Full Council Meeting held on 07/06/2022 and it came into effect on 19/07/2022.

7.3. A Notification of Decision to Grant planning permission was issued on 05/07/2022 in respect of planning reg. ref. no. 22275 and a Final Grant was issued on 11/08/2022. The decision on this said application was therefore made prior to the current development plan coming into effect.

7.4. Uisce Eireann, as per the email dated 14/02/2023, refer to WFD-C15-66 (Land Parcel ID: WDLA00028967) and state the following:

- A) The sites 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 on a phased approach.
- B) The submission made by the agent does not make specific reference to the absence of public water services infrastructure in his appeals.

7.5. It is noted the Tramore (East Waterford Water Supply Scheme) (WRZ ID: 3100SC0033) 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').

- 7.6. It is considered therefore that 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.
- 7.7. It is noted the Tramore Wastewater Treatment Plant (WWTP) (Ref. D0015) has a Green status on the Uisce Eireann Wastewater Treatment Capacity Register. Green status is stated to mean that there is spare capacity available.
- 7.8. It is considered therefore that 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.
- 7.9. The subject site is zoned 'Strategic Reserve' in the current Waterford City and County Development Plan, 2022 to 2028. Although a Residential Scheme is identified as a use which is 'Permitted in Principle' on land zoned 'Strategic Reserve, there is a proviso to same as quoted above in Section 2.2 of this Report. This proviso restricts the type of residential development which may be considered acceptable on the lands, to the development of social and affordable housing by an Approved housing Body, State Agency/ Body or the Housing Authority, subject to compliance with the policy objectives and development management standards of the Development Plan.
- 7.10. This restriction does not include the prospective developer in this case.
- 7.11. I am satisfied therefore that the subject lands, by reason of the Strategic Reserve zoning, do not satisfy the provisions of Section 653B a) of the Act.

## 8.0 Conclusion

- 8.1. The site is located within an established urban area with services available and no capacity issues have been identified that would prevent the development of these lands for residential purposes.



8.2. The site, which is zoned 'Strategic Reserve' in the Waterford City and County Development Plan, 2022 to 2028, does not satisfy the criterion for inclusion on the map set out in Section 653B(a) of the Taxes Consolidation Act 1997, as amended as the said Strategic Reserve zoning restricts the type of residential development which may be considered acceptable on the lands, to the development of social and affordable housing by an Approved Housing Body, State Agency/ Body or the Housing Authority, subject to compliance with the policy objectives and development management standards of the Development Plan.

8.3. This restriction does not include the prospective developer in this case.

## 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-C15-66 (RZLT Map Land Parcel ID: WDLA00028967), do meet the qualifying criteria set out in Section 653B (a) of the Taxes Consolidation Act 1997, as amended.

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

4<sup>th</sup> September 2023