



An
Bord
Pleanála

Inspector's Report

ABP-316639-23

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	Strand Hill, Old Waterford Road, Tramore, Co. Waterford
Local Authority	Waterford and City County Council
Local Authority Reg. Ref.	WFD-C15-32
Appellant(s)	Quest Retirement Solutions Limited
Inspector	Frank O'Donnell

1.0 Site Location and Description

- 1.1. The subject site is located at Strand Hill, c. 1 km north of the centre of Tramore on the northern side of Tramore Ring Road and to the west of the R675 Regional Road (Waterford Road). The overall site (Land Parcel ID WDLA00028818) has an estimated overall site area of c. 3.96 hectares. The site which is subject to this appeal has a stated site area of 1.82 hectares and is positioned to the immediate south-east of the remainder of the overall site.
- 1.2. The site which is the subject of this appeal does not have any existing direct access to the R675 Regional Road to the south-west. There is a narrow strip of ground at this location which forms part of the road corridor and is the subject of a separate folio.
- 1.3. There is a Protected Structure on the adjacent site to the immediate west of the subject site, as follows:
 - RPS No: WA750265. RPS 265. Building Type: Thatched House. Description: Seven-bay single storey cottage ornee-style house, c. 1820, on a cranked plan with outbuildings. Painted lime rendered boundary wall to perimeter of site.
- 1.4. There is a Recorded Monument, Ref. WA026-094 (Enclosure), located c. 85 metres to the east of the subject site. There Archaeological Zone of Notification for this monument extends to a radius of 60 metres from the said monument and does not extend into the site which is the subject of this appeal.
- 1.5. There are other separate Recorded Monuments, Ref. WA026-095 and WA026-096 (both Pit-Burials) located c. 94 metres to the east of the subject site.
- 1.6. There are no recorded monuments within the site which is the subject of this appeal nor indeed does the site encroach into any defined Zone of Archaeological Notification.

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. The relevant zoning objective is to '*Provide for new residential development in tandem with the provision of the necessary social and physical infrastructure.*' The site is identified as being within Residential Phase 1.

- 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. 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 the overall land parcel, Site no. 3 Corbally Upper.
- 2.4. Site no. 3 Corbally Upper is appraised in Table 6A: Tramore Phase 1 Site-Specific Infrastructure Assessment. The site is zoned 'R1 - New Residential' (Residential Phase 1) and scores 1¹ in relation to Roads, Footpath, Water Supply and Wastewater. It is further indicated that the site falls within the definition for lands qualifying as necessitating Compact Growth², where Public Transport³ is available and where the development of the lands will lead to a Coordinated Approach⁴ to development.

3.0 Planning History

3.1. Relevant Planning History

- 3.2. 23107: Digital Pigeons Limited. Permission for a Change of House Type of 8 no. House Type D, 4 Bed semi-detached unit (Previously Granted Planning Permission under Planning ref. No: 20/270), to 8 no. House Type G, 4 Bed semi-detached unit. A Request for FURTHER INFORMATION was issued on 24/05/2023 on 1 no. main point relating to the issue of Archaeological Impact Assessment. The Request is informed by a submission from the Department of Housing, Local Government and Heritage.
- 3.3. 23101: Digital Pigeons Limited. INCOMPLETE APPLICATION.

¹ 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.

² 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.

³ 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.

⁴ Coordinated Approach: That the development of the land will contribute to or complete the strategic development of the wider area.

- 3.4. 2391: Digital Pigeons Limited. Permission for Changes to 4 No. permitted but not constructed Type D houses (Planning Ref. 20/270). Permission was GRANTED on 13/06/2023 subject to 3 no. conditions.
- 3.5. 22116: Fewer Harrington & Partners. Permission for 2 no. double sided advertisement signs. Permission was GRANTED on 24/05/2022 subject to 2 no. conditions.
- 3.6. 20270 (ABP-309262-21): Fewer Harrington & Partners. Permission for the construction of 91 no. residential units. A notification of decision to REFUSE permission was issued on 17/12/2020 for 3 no. reasons relating to absence of a Natura Impact Statement/ potential adverse impacts on the Tramore Dunes & Black Strand Special Area of Conservation (SAC), proposed layout and design/ parking layout/ visually obtrusive/ detracting from the amenities of the area and overlooking/ overbearing impact/ detract from existing residential amenities/ value of property in the vicinity. This decision was APPEALED to An Bord Pleanála who decided to GRANT permission on 15/11/2021 subject to 21 no. conditions.

4.0 Submission to the Local Authority

- 4.1. The Appellant made a submission to the Local Authority seeking to have the land removed from the draft map.
- 4.2. The following is a summary of the submission:
- The site is inaccessible and incapable of being developed in its current state.
 - The site was zoned 'Strategic Residential Reserve' in the Tramore Local Area Plan, 2014 to 2020. The site was zoned R1 New Residential in the Waterford Draft Development Plan 2022 to 2028, which came into effect on the 19th July 2022. According to the Guidelines for Planning Authorities (June 2022) this circumstance gives the landowner a 3-year lead in before they are liable to make any tax payments (March 2025).
 - Reference is made to Site A and Site B in the submission. Site A is stated to relate to the northern portion of the overall site and is stated to be a working construction site with an area of c.7.01 acres (c. 2.84 hectares). Site B is under separate ownership and has a stated area of c. 4.51 acres (1.83 hectares). The

Appellant states that Site B is not accessible through Site A, nor can it be accessed from the bounding road, as the Council has refused their request on a number of occasions. There is no agreement between the two parties involved to allow access.

- The decision to exclude Site B from the draft, supplemental and final maps and include it in the review period commencing 1st February 2025, is in the Council's best interest, due to the fact that the RZLT was introduced to activate residential zoned sites. Site B is currently in the process of being activated by the owner but is not accessible for development at present as it is essentially landlocked. Further to this, Site B does not currently satisfy the relevant criteria to be included in the draft, supplemental or final maps, according to TCA 1997 653B, and it would be in the Council's best interest to implement the guidelines consistently and exclude Site B from the RZLT until the site is deemed to be accessible.

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 below.
- The statement that the lands are serviced or may have access to services and the arguments set out in the Planners Report surrounding this, are strongly refuted.
- Planning History Context:
 - Consideration must be given to the exclusion of sites, where necessary infrastructure is not yet in place.
 - Over the course of the planning process for development of the neighbouring site (Site A), the Planning Authority was resolutely clear that access to the subject lands must be from an overall upgraded point on the Old Waterford Road. The potential for any access off the R675 was explicitly not supported by the Council's planners or transport engineers. In this regard, the permitted scheme for 'Site A' has made provision for access to the subject lands and any future development will tie into the permitted layout. The Appellant refers the Board to an enclosed letter from Civil and Structural Consulting Engineers regarding access to Site B through Site A, including access to services. For the relevant assessment point for RZLT purposes, the subject site is landlocked and there is no viable means of providing access for residential purposes.
- Relevant Provisions of the Taxes and Consolidation Act 1997. Reference is made to Section 653B of the Act.
 - The Appellant confirms that the lands subject of the submission, are zoned for residential development by virtue of their zoning designation under the Waterford City and County Development Plan. On this basis, the lands the subject of this appeal fulfil the requirements of 653 B (a).

- The residential zoned lands subject of this submission do not have access to or can be connected to public infrastructure and facilities at present. As access to the public road network does not exist, the subject site cannot be developed for residential use. The site is also not serviced and is reliant on the future development of the Site A permission (see enclosed letter from Consulting Engineer). The Appellant considers therefore, on this basis, the lands subject of this submission do not fulfil the requirements of 653 B (b).
- Rationale for Exclusion:
 - The subject site currently does not have access to road infrastructure as required under Section 653 B (b) necessary for dwellings to be developed.
 - The subject site does not have access to drainage services as required under Section 653 B (b) necessary for dwellings to be developed.
 - The Appellant was extremely disappointed by the inclusion of the lands on the RZLT draft maps published given the clear position of the Planning Authority on access and drainage requirements for this site established in the permission granted for the neighbouring development.
 - It is acknowledged that the site may fall into scope once the appropriate time for the review of mapping occurs. The landowner will have a period of '3 years' thereafter to bring the site forward for development before liability is applied. This is considered a reasonable approach and we trust that due consideration will be given to this point with a subsequent removal of the lands from the maps until the site is readily available for delivery.
- The Board is requested to overturn the decision of the Planning Authority and omit the Appellants lands from the RZLT mapping on the basis that these lands fall out of the scope of the relevant provision of the Taxes Consolidation Act 1997 (as introduced by the Finance Act 2021).

7.0 Assessment

- 7.1. The comments raised in the appeal are noted.
- 7.2. The Appellant refers to Site A and Site B. Site B relates to the south-eastern part of the overall site (Land Parcel ID WDLA00028818) and this is the focus of the Appeal submission.
- 7.3. Site A, as referred to by the Appellants in the initial submission, is currently under construction. The relevant parent permission is planning reg. ref. no. 20270 (ABP-309262-21). The permitted site layout, received by the Local Authority on 12/05/2020, includes a 6-metre-wide link road which traverses both Site A and Site B. On this said site layout plan, and with the exception of the said access/ link road, it is stated that *'Site B is not part of planning application'*.
- 7.4. Drainage Plans DP/01, DP/02 and DP/03 received by the Local Authority on 12/05/2020 on planning reg. ref. no. 20270 (ABP-309262-21) (Consented Development) indicate both a foul and surface water sewer traversing the site which is the subject of this appeal. The foul and surface water sewer are shown within the abovementioned consented access/ link road.
- 7.5. The proposed surface water sewer is shown to connect with an existing Local Authority surface water sewer at the existing roundabout located adjacent to the southern appeal site boundary. In addition, as shown on Drainage Plan DP/03, there is an attenuation tank shown in the consented area of public open space within the appeal site. The consented access road is proposed to serve an area of public open space within Site B. It is noted that condition no. 1 of the An Bord Pleanála decision, planning reg. ref. no. 20270 (ABP-309262-21), refers to the plans and particulars lodged with the application on 12th May 2020.
- 7.6. I am satisfied that there is a viable surface water connection available in proximity to the site and that therefore the site can be reasonably serviced in terms of surface water.
- 7.7. The proposed foul sewer is shown on the abovementioned Drainage Plans to connect with an existing Uisce Eireann foul sewer at the existing round about located adjacent to the southern appeal site boundary. The existing foul sewer is shown to run along Waterford Road, close to the south-eastern site boundary.

- 7.8. Uisce Eireann confirm in relation to Wastewater Networks that a sewer exists in close proximity to the site. It is further stated that available GIS data, indicates that the sewer is accessible (c. 10m distance away) via the Waterford Road adjoining the land parcel. It is stated that it may be noted that a 230m upgrade to the wastewater network is required downstream to cater for the entire development. No wastewater capacity issues are raised by Uisce Eireann.
- 7.9. 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.
- 7.10. I am satisfied therefore that there is a viable foul sewer connection available in proximity to the site and that therefore the site can be reasonably serviced in terms of wastewater treatment/ disposal.
- 7.11. Uisce Eireann, as per the letter dated 02/02/2023, state in relation to Water Networks that a water main exists on the public road in close proximity to the site. It is further stated that available GIS data indicates that the watermain is accessible (c. 10m distance away), via the Waterford Road, adjoining the land parcel. No water supply capacity issues are raised by Uisce Eireann.
- 7.12. 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').
- 7.13. I am satisfied 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.
- 7.14. The Appeal site is positioned to the immediate west of the R675 (Waterford Road) road corridor. There is a narrow strip of ground along the south-western site boundary and the near edge of the said road. A vehicular access at this location is, in my opinion, technically feasible although it is noted, as referenced by the Appellant, that discussions with officials of the Local Authority in relation to such a proposal have not

been successful and that it is their preference to have a shared/ combined entrance via the consented access to the north.

- 7.15. Having regard to the access road, services and open space which have been consented within the appeal site, it is clear that both sites are interdependent and that the consented development cannot be completed without essential infrastructural development taking place on the appeal site, including a service road. Having regard to the above and the location of the lands adjacent to an existing road corridor (R675 – Waterford Road), I am of the opinion that it is reasonable to conclude that the appeal site can be suitably accessed for the purposes of residential development.
- 7.16. There is an existing footpath located along the southwestern site boundary along the R675 Waterford Road. The consented development includes a proposed new footpath along the Old Waterford Road. Condition no. 3 a) of planning reg. ref. no. 20270 (ABP-309262-21) requires that the dwellings fronting the Old Waterford Road be repositioned to accommodate footpath and cycle lanes. It is noted that there is also an existing footpath on the opposite/ north-east side of the Old Waterford Road.
- 7.17. I am satisfied that there is a footpath connection available in proximity to the site.
- 7.18. Having regard to recommendations contained in Section 3.1.2 of the Guidelines in relation to Exclusions from the Map on the basis of Significant Archaeology, I am satisfied that the site, which is the subject of this appeal, should remain in scope.

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-C15-32 (RZLT Map Parcel ID: WDLA000288818), which includes the lands which are the subject of this appeal, 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. 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

1st September 2023