



An
Bord
Pleanála

Inspector's Report

ABP-316654-23

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	Lands at Shandon, Dungarvan, Co. Waterford
Local Authority	Waterford and City County Council
Local Authority Reg. Ref.	WFD-C15-46
Appellant(s)	Donal & Karen Dempsey
Inspector	Frank O'Donnell

1.0 Site Location and Description

- 1.1. The subject site is located to the north-west Dungarvan, c. 1.16 km from the town centre. The lands comprise of open farmland. The site, which relates to 2 no. land parcels (WDLA00028857 & WDLA00028887) has an estimated combined area of 11.75 hectares. Established surrounding uses include residential development to the south-west (Gaelgue and the Paddocks), Business Park/ Light Industrial uses to the south and east (Westgate Business Park/ Dungarvan Business Park) and agricultural lands to the north and west.
- 1.2. A High Voltage overhead powerline traverses the site from east to west. There is an existing substation located along the north-eastern site boundary. There is also an existing lower voltage overhead powerline which traverses the site from east to west.
- 1.3. It should be noted that there are 2 no. other concurrent RZLT Appeals in the general locality of the subject site, as follows:
 - Appeal Ref. No. 316643-23: Brendan Sheridan. Lands located c. 172 metres to the south of the subject site.
 - Appeal Ref. No. 316667-23: Colin Quarry. Lands located c. 191 metres to the south-west 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 1. 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. There is a Site-Specific Zoning Objective relating to the lands, Ref. DGDO15, which reads as follows:

‘The development of the lands at Pairc na gCapall will be informed by a masterplan for the entire landholding to be agreed in writing with the planning authority, providing for appropriate housing phasing, mix and layout, an infrastructure and service delivery plan, enhanced access to Dungarvan town centre, augmentation of biodiversity value across the lands and incorporation of the former line of the railway and masonry bridge for active transport modes across the site as part of broader amenity strategy and provision of lands for a future school campus.’

- 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 subject lands, Site no. 1 Shandon (South) and Site no. 6 Shandon (North).
- 2.5. Both Site no. 1 Shandon (South) and Site no. 6 Shandon (North) are appraised in Table 5A: Dungarvan/ Ballinroad Phase 1 Site-Specific Infrastructure Assessment. Both sites are zoned 'R1 - New Residential' (Residential Phase 1) and score 1¹ in relation to Roads, Footpath, Water Supply and Wastewater. It is further indicated that both sites fall 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. Recent Planning History

- 3.2. There is no recent planning history on the subject site.

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.

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 lands do not meet the criteria as there are no surface water services in this area. The land, at present, does not have access to surface water drainage services.
- 4.3. The Appellants, together with their consultants, have met with the Local Authority. The Local Authority has agreed to engage with the Appellants and their consultants to create a plan to facilitate storm/ surface water drainage.
- 4.4. The Appellants refer to the date of 1st January 2022. This land will not be fully serviced by that date.
- 4.5. The lands do not satisfy the criteria set out at 653B(b) of the Taxes consolidation Act 1997 (as amended).
- 4.6. A specific query is raised in relation to the scale of the map for RZLT.

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:

- Reference is made to the previous submission lodged with the Local Authority, to subsequent correspondence from the Local Authority and to the reasoning provided for inclusion of the lands on the RZLT Maps.
- At the date of the letters from the Local Authority the lands did not have access to surface water sewers with capacity to accommodate development and still do not.
- Reference is made to Section 653B of the Finance Act, 2021 and to the qualifying criteria for inclusion on the map. A specific emphasis is made in relation to surface water drainage. The land does not have access to and is not connected to public infrastructure for surface water drainage with sufficient service capacity available for such development.
- Reference is made to the Tax and Duty Manual – Guidance on the Residential Zoned Land Tax – Part 22A-01-01, page 7 and has included the said extract is attached as Attachment no. 3 of the Appeal. Specific reference is made to Example no. 2, a 5 hectare farm on the outskirts of Dungarvan.
- The Appellants state that the land was de-zoned from Residential to Strategic Reserve in the Dungarvan Town Plan 2012 to 2018 due to the lack of surface water drainage.
- A submission was made to the Draft Waterford City and County Development Plan, 2022 to 2028 to have the land re-zoned Residential with the intention of having any future developer on the land install the stormwater drainage system.
- Reference is made to a Report from Consulting Engineers, attached as appendix no. 6 of the Appeal. The Appellants state that this Report was commissioned by Waterford City and County Council and was carried out by

appointed Consulting Engineers. It is further stated that this Report is the first time the lands have been shown to be able to be serviced sustainably into the future.

- The Appellants state that they are not hoarding development land and that the lands are for sale. Attachment 7 of the Appeal relates to a signed Property Services Agreement between the Appellants and a Real Estate Agent to sell the lands dated 28/03/2021 and 29/03/2021 respectively. Feedback received from any potential purchaser is that they require clarity on what will be required to solve the surface water drainage issue. The Appellants state that they have been in contact with the Local Authority and their appointed Consulting Engineers and that they are now waiting on finalisation of the Consultants Report. The Appellants also need to consult with the Local Authority regarding wayleaves for the storm drain so that they can present a roadmap on how the project can be completed sustainably, in consultation with the Local Authority, to a potential developer.

7.0 Assessment

- 7.1. The comments raised in the appeal including the supporting DRAFT Consulting Engineers Report are noted.
- 7.2. Uisce Eireann confirm that a watermain exists on the public road in close proximity to the site and that available GIS data indicates that the watermain is accessible (c. 10m distance away) via the road (Shandon Road) adjoining the land parcel. It is further stated that all land parcels can be accessed via each land parcel.
- 7.3. 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').
- 7.4. 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.

- 7.5. Uisce Eireann further confirm that available GIS data indicates that the sewer is accessible (640 m distance away) via the road (Shandon Road) adjoining the land parcel and onto the N25. It is further stated that Local knowledge may identify a close connection point as there are significant development along the Shandon Road, however, infrastructure is not mapped servicing this development.
- 7.6. It is noted the Dungarvan Waste-Water 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.'
- 7.7. In my opinion 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.
- 7.8. There is no surface water sewer in place on or immediately adjoining the subject lands. The DRAFT Consulting Engineers Report, which has evaluated the subject lands in addition to adjacent lands to the west, proposes 2 no. route options (Option C1 and C2) for a new surface water sewer discharging to the Colligan River, further to the south-east. Option C1 has a stated approximate length of 761 metres in length and traverses third party lands at the Park Hotel and Option C2 has a stated approximate length of 792 metres. Both Options C1 & C2 also traverse a Local Authority Machinery Depot.
- 7.9. The Appeal submission includes a letter from the Local Authority dated 2006 which references the then intention of the Local Authority to design, tender and construct a new surface water pipeline on the Fire Station Road. This pipeline was due to have been completed by June 2008. The said letter relates to lands at Kilrush in the ownership of the Appellants.
- 7.10. Having regard to the fact that the lands do not have access to an existing public surface water drainage system proximate to the subject site together with the contents of the appeal submission, I am satisfied that the lands meet the qualifying exemption criteria set out in Section 653B of the Act, in relation to surface water (Section 653B b) and should therefore be deemed to be out of scope for the purposes of the tax.

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-C15-46 (Land Parcel IDs: WDLA00028857 & WDLA00028887), do not meet the qualifying criteria set out in Section 653B of the Taxes Consolidation Act 1997, as amended. 8.1. The site is not proximate to 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.

Frank O'Donnell
Planning Inspector

25th August 2023