



An
Bord
Pleanála

Inspector's Report

ABP-316667-23

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 Kilrush, Dungarvan, Co. Waterford
Local Authority	Waterford and City County Council
Local Authority Reg. Ref.	WFD-C15-3
Appellant(s)	Colin Quarry
Inspector	Frank O'Donnell

1.0 Site Location and Description

- 1.1. The subject site is located c. 1.17 km to the north-west of the centre of Dungarvan and fronts directly onto the R672 Regional Road. The site is an infill site positioned between 2 no. existing dwellings and has an estimated site area of 0.35 hectares. The site is surrounded by established residential development to the north, east and west.
- 1.2. 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. 137 metres to the south-east of the subject site.
 - Appeal Ref. No. 316654-23: Donal & Karen Dempsey. Lands located c. 209 metres to the north-east of the subject site.

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.*'
- 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 RS (Existing Residential).

3.0 Planning History

- 3.1. Planning History
- 3.2. There is no recent planning history relating to the subject site.

4.0 Submission to the Local Authority

- 4.1. The Appellant made a submission to the Local Authority seeking to have their land removed from the draft map.

- 4.2. The Appellant refers to the lands at Kilrush identified as WDLA00020390 and WDLA00019670. The Appellant states that the plots of land are both owned by [redacted name], owner and occupier of house on plot WDLA0009864 which is adjacent to these lands.
- 4.3. The Appellant states that neither of these plots should be classified as RS as both form part of and provide the roadside access to the agricultural lands which are part of the same field (in fact somebody appears to have just decided that the front part of the field should be zoned without any regard to the remainder of the field which can only be accessed from this location). The Appellant contends that as such they should be treated as part of the one field NOT as potential residential zoned lands on their own.
- 4.4. The Appellant states that a further point is that these plots could never be developed as residential without developing the remainder of the field.

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:

- The absurdity of the decision to treat this parcel of land as subject to the RZT is that the categorised piece is only the roadside frontage and sole access to the whole field directly behind it (and in the same ownership). The land has always been used as farmland NOT as development land and that remains the intention. If, in the future, it were to be developed it would need to be the whole field NOT the parcel identified as developing just that parcel removes access to the remainder of the land. Given this fact how can this piece be treated differently?
- The Appellant considers this to be a punitive decision.

7.0 Assessment

- 7.1. The comments raised in the appeal are noted.
- 7.2. The subject site is zoned 'RS – Existing Residential' in the Waterford City and County Development Plan 2022 to 2028. The lands to the rear south-east of the subject site, to which the Appellant refers, are zoned 'SRR - Strategic Residential Reserve' in the Waterford City and County Development Plan 2022 to 2028 and are therefore not available for residential development, at this time.
- 7.3. Uisce Eireann confirm that a watermain exists on the public road in close proximity to the site. Available GIS data indicates that the watermain is accessible (c. 10m distance away) via the road (R672) adjoining the land parcel.
- 7.4. 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').

- 7.5. 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.
- 7.6. Uisce Eireann (UE) further confirm that a sewer exists on the public road in close proximity to the site and that available GIS data indicates that the sewer is accessible (c. 10m distance away) via the road (R672) adjoining the land parcel.
- 7.7. It is noted 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.*'
- 7.8. 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.
- 7.9. The Appellant and the Local Authority do not raise any issue in respect of surface water capacity or the presence/ availability of such infrastructure. There is existing surface water infrastructure on the public road fronting the subject site. Having regard to guidance provided in Section 4.1.1 of the Guidelines (Residential Zoned Land Tax - Guidelines for Planning Authorities, June 2022) in relation to Surface Water, I am satisfied that the lands should remain in scope.
- 7.10. Having regard to the provisions of Section 653B b), it reasonable to conclude, in my opinion, that the site may have access, or be connected, to public infrastructure and facilities, including roads and footpaths.
- 7.11. The Grounds of Appeal do not support a different conclusion in relation to the matter.

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-C15-3 (RZLT Map Parcel ID: WDLA00020390 & WDLA00019670), 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. Having regard to the provisions of Section 653B b), it reasonable to conclude that the site may have access, or be connected, to public infrastructure and facilities, including roads and footpaths, public lighting, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed and with sufficient service capacity available for such development.
- 10.3. The Grounds of Appeal do not support a different conclusion in relation to this matter.
- 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

25th August 2023