



An
Bord
Pleanála

Inspector's Report

ABP-316668-23

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 Kilbarry, Co. Waterford
Local Authority	Waterford and City County Council
Local Authority Reg. Ref.	WFD-C15-19
Appellant(s)	Ryakea Limited
Inspector	Frank O'Donnell

1.0 Site Location and Description

- 1.1. The site which is the subject of this appeal is located c. 1.61 km south-west of the centre of Waterford City. The site forms part of Land Parcel ID WDLA000213 and together they have an overall estimated site area of 2.43 hectares. The site which is subject to this appeal relates to the southern portion of the overall land parcel and has an approximate site area of 1.07 hectares. The site has frontage onto a local minor road to the west. John's River lies along the southern site boundary. Kilbarry Civic Amenity centre located further to the south.
- 1.2. The site to the immediate north, which does not form part of the abovementioned Land Parcel, comprises of an underutilised light industrial unit.
- 1.3. The remainder of the overall Land Parcel is focused further to the north and includes a narrow piece of ground to the rear (south-east) of the aforementioned underutilised light industrial unit, some backlands and lands which front directly onto the R680 (Cork Road) further to the north.

2.0 Zoning and other provisions

- 2.1. The site which is the subject of this appeal is zoned 'RE Regeneration' in the Waterford City and County Development Plan 2022 to 2028. The relevant zoning objective is to *'Provide for enterprise and/or residential led regeneration.'* The balance of Land Parcel ID ref. WDLA000213 is also ascribed the same zoning.
- 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/ Principle Private Residence and a Residential scheme are identified uses which are 'Permitted in Principle' on lands zoned RE Regeneration.
- 2.3. The site which is the subject of this appeal forms part of a larger site which is identified as a 'Regeneration and Opportunity Site' in the Waterford City and County Development Plan 2022 to 2028. The stated vision for this site (Yellow house, Kilbarry) is as follows:

'Development on this infill site should provide strong architectural design as a key landmark/ gateway to Waterford City; Create a mixed use medium/ high density development on the site with an emphasis on apartments and

residential city living; Any development on the site must adhere to the specific objectives highlighted in the Appendix 6 City South West Design Framework: Any development on this site must provide for adequate open space and facilitate the development of a walkway/ cycle route and green infrastructure links connecting the TUSE with Kilbarry Nature Park. Provide a strong architectural response and be designed to an exceptional standard with a desirable street edge addressing the Cork Road, Nature Park and the Kilbarry/ Lacken; The site has potential to accommodate taller buildings(s) and has a potential yield of c. 170 units.'

- 2.4. A significant portion of the site, which is the subject of this appeal, is identified within Flood Zone A.

3.0 Planning History

3.1. Relevant Planning History

- 3.2. 02500336: William O'Brien. Permission for demolition of office & warehouse & construction of 9 No. Industrial/warehouse units. Permission was GRANTED on 16/07/2002.

- 3.3. 00508387: M Moloney. Planning permission for an Entrance to Premises. No decision shown on the EPlan Planning Register.

- 3.4. 02500211: William O'Brien. Incomplete Application.

- 3.5. 00504246: S. O'Callaghane. Permission for Offices. Permission was GRANTED on 06/11/1979.

- 3.6. 00502470: Munster United Merchants Ltd. Permission for a Warehouse Development. Permission was GRANTED on 12/05/1974.

- 3.7. 00501796: O'Brien Plant Hire Limited. Permission for a Depot. Permission was GRANTED on 12/07/1970.

3.8. Vacant Sites Register Appeal

- 3.9. VV0023: Appeal by Ryakea Limited care of Noel Frisby Construction Limited of 1-2 Canada Street, Waterford in accordance with section 9(1) of the Urban Regeneration and Housing Act 2015 against the entry on the Vacant Sites Register by Waterford

City and County Council on the 27th day of July, 2017. Decision: The Board in accordance with section 9(3) of the Urban Regeneration and Housing Act 2015, and based on the reasons and considerations set out below, hereby determines that the above site is not a vacant site within the meaning of that Act.

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:

- Ryakea Limited is the owner of the parcel of land in question and identified in the accompanying maps, and figures 1 & 2 on the next page. The lands are zoned mixed use and are part of the Kilbarry regeneration area.
- The land currently does not meet the scoping requirements set out in the Residential Zoned Land Guidelines as there are currently no footpaths, sufficient public lighting, sufficient water/ surface water infrastructure along the existing road adjoining the site.
- It is our understanding that there are plans to upgrade this road, as per Figure 3 attached in the Waterford City & County Development Plan, however it is outside the control of our ownership and there is no timeline for the delivery of the road or infrastructure to enable development of the site.
- The Appellants submission, as defined by the accompanying maps, relates to the southernmost part of the overall Land Parcel ID: WDLA000213 (See Land Registry Folio Ref. No. WD29676F).

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 a mix of uses where residential development is permitted in 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. 4. The lands are vacant and idle.
- 5.7. 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:

- WCCC indicate their reasoning for including this section of lands on the draft map, however we feel that their response to the overall submission was inadequate in addressing the infrastructure deficiencies at the site.
- Ryakea Limited is the owner of the parcel of land in question and identified in the accompanying maps, and figures 1 & 2 on the next page. The lands are zoned mixed use and are part of the Kilbarry regeneration area.
- The land currently does not meet the scoping requirements set out in the Residential Zoned Land Guidelines as there are currently no footpaths, sufficient public lighting, sufficient water/ surface water infrastructure along the existing road adjoining the site.
- It is our understanding that there are plans to upgrade this road, as per Figure 3 attached in the Waterford City & County Development Plan, however it is outside the control of our ownership and there is no timeline for the delivery of the road or infrastructure to enable development of the site.

- The Appellants submission, as defined by the accompanying maps, relates to the southernmost part of the overall Land Parcel ID: WDLA000213 (See Land Registry Folio Ref. No. WD29676F).

7.0 Assessment

- 7.1. The comments raised in the appeal 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. 30 m distance away) via the road adjoining the land parcel.
- 7.3. It is noted the 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*').
- 7.4. In my opinion there is a viable water supply/ connection available in proximity to the site and there is sufficient capacity available. Therefore, it is reasonable to conclude that the site can be serviced in terms of water supply.
- 7.5. 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. 150m distance away) via the road (R680) adjoining the land parcel.
- 7.6. It is noted the Waterford Wastewater Water Plant (Ref. D0022) 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 there is sufficient capacity available. Therefore, it is reasonable to conclude that the site can be serviced in terms of wastewater.
- 7.8. There is no footpath fronting the site which is the subject of this appeal. The nearest existing footpath is located c. 88 metres to the south-west of the site. A separate footpath is located c. 116 metres to the north of the site which is the subject of this

appeal. Having regard to the above and the provisions of Section 653B b), it is my opinion that it is reasonable to consider that the site, which is the subject of this appeal, does not have access, or can be connected, to public infrastructure and, in particular, the public footpath.

7.9. The lands therefore, which are the subject of this appeal, should be removed from scope. The determination of the Local Authority, in respect of the lands which are the subject of this appeal, should be set aside.

7.10. It is noted that the site was previously deemed by the Board not to be a vacant site in accordance with Section 9 (3) of the Urban Regeneration and Housing Act 2015, see Appeal Ref. no. VV0023.

7.11. It is further noted that the Local Authority, in its assessment of the overall Land Parcel ID WDLA000213, that the land is Vacant or Idle. The idle status of the lands is not disputed.

7.12. Parts of the site which is the subject of this appeal are shown to be within Flood Zones A & B. This, in of itself, is not considered to preclude residential development on the overall landholding.

8.0 Conclusion

8.1. The site is not proximate to existing public infrastructure, in the form of a public footpath, 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 in respect of the lands which are subject to this appeal and that the indicated site be removed from the map.

10.0 Reasons and Considerations

- 10.1. The lands subject to this appeal, do not meet the qualifying criteria set out in Section 653B of the Taxes Consolidation Act 1997, as amended. The site is not proximate to existing public infrastructure, in the form of a public footpath, 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

31st August 2023