



An
Bord
Pleanála

Inspector's Report

ABP-316672-23

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 Park Road, Waterford City.
Local Authority	Waterford and City County Council
Local Authority Reg. Ref.	WFD-C15-21
Appellant(s)	Pineview Construction Company Limited
Inspector	Frank O'Donnell

1.0 Site Location and Description

1.1. The subject site is located on the western bank of the River Suir c. 360 metres to the south-east of the edge of the centre of Waterford City. The site is positioned to the east/ rear of an existing 4 Storey Apartment Block and to the north-east of an existing petrol service station. Lands to the north-west are in use as a public car park with further Apartments and associated car parking located to the immediate north. There are no structures on the site at present. The site has an estimated area of c. 0.7 hectares, see Land Parcel ID WDLA000206.

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.'*

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 'Regeneration and Opportunity Site' which includes the adjacent lands to the immediate south-west. The stated vision for this site (Brooks Site, Newtown Road) in the Waterford City and County Development Plan, 2022 to 2028, is as follows:

'Development on this brownfield site should create a mixed use high-density development with an emphasis on residential, tourism and commercial development; Provide a strong architectural response for the site addressing both the People's Park and the River Suir as well as providing pedestrian and green infrastructure links to and along the river; Any development on this site must be designed to an exceptional standard with a desirable street edge while maximising the riverside location; The site has potential to accommodate taller building(s) and has a potential yield of c. 50 units.'

2.4. The south-eastern quadrant of the appeal site together with the northeastern site boundary along the River Suir are located within Flood Zone B.

3.0 Planning History

3.1. Planning History

3.2. 10500032 (Appeal Ref. No. PL 31.236799): Mc Aleer & Rushe Group. Permission for Hotel, offices, 53 apartments, car parking, new entrance, raised walkways, landscaping and associated development works. Permission was Refused on 10/11/2010 for the following reasons:

- 1. Having regard to the design and layout of the proposed development and the close proximity of the apartment blocks to the boundaries of the neighbouring site to the south, it is considered that the proposed development would constitute overdevelopment, would be prejudicial to the development potential of adjoining lands, would result in overlooking from the apartment blocks of adjoining property and would result in overshadowing to the adjoining property. Furthermore, by reason of the separation distance between Block C and Block D, the proposal would result in primarily north-facing apartments which would be contrary to the 'Sustainable Urban Housing: Design Standards for New Apartments' Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in September, 2007, and would set an undesirable precedent for similar type of development in the area. The proposed development would seriously injure the amenities of property in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.*
- 2. The proposed development is on a visually prominent site located on the edge of the River Suir. It is considered that the proposed development, by reason of its design, which includes an eight storey block in very close proximity to site boundaries, and riverside development in very close proximity to and partially overhanging the riverside boardwalk, would fail to adequately respond to its context or integrate successfully with the immediate and surrounding environment and would seriously injure the visual amenities of the area and result in a visually incongruous riverside development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

3. *The proposed development is situated on a site in a riverside location that is considered a Zone A - High Probability of Flooding in accordance with 'The Planning System and Flood Risk Management' Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in November 2009. Having regard to the submissions made in connection with the application and appeal, and notwithstanding the flood risk mitigation measures proposed, the Board is not satisfied that the flood risk assessment comprehensively assesses the flood risk in accordance with the said guidelines. The proposed development would, therefore, be contrary to the guidelines on flood risk management, and to the proper planning and sustainable development of the area.*

3.3. 09500102 (Appeal Ref. no. PL.31.236158): Mc Aleer & Rushe Group. Retention of temporary use of land for temporary parking of motor vehicles and associated site works. Permission was REFUSED on 01/06/2010 for the following reasons:

1. *The temporary and piecemeal nature of the development proposed for retention would be contrary to the objectives set down under section 10.10 of the Waterford City Development Plan, 2007-2013 relating to sites zoned 'Opportunity Site'. The development proposed for retention would also set an undesirable precedent for further such development within Waterford City Centre and its environs and mitigate against the long term and appropriate development of such sites. The development proposed for retention would, therefore, be contrary to the proper planning and sustainable development of the area.*
2. *The development proposed for retention is contrary to the objectives of the Waterford Planning and Land Use Transportation Study (PLUTS) which seeks the development of a high-quality bus-based public transport system in the city supported by park and ride facilities located north and south of the river. The cumulative impact of such development through the precedent which would be set for further such development, would undermine the objective of the Waterford Planning and Land Use Transportation Study. The development proposed for retention would, therefore, be contrary to the proper planning and sustainable development of the area.*

- 3.4. 08500399 (Appeal Ref. no. PL 31.234799): McAleer & Rushe Group. Permission to demolish existing Industrial Sheds and construct a mixed-use development comprising hotel, commercial/retail and residential use on a site. Application WITHDRAWN (S.140(1)(a)) on 02/02/2010.
- 3.5. 08500396: McAleer & Rushe Group. INCOMPLETE APPLICATION.
- 3.6. 00507927: Mattenbury Dev. Limited. Permission to refurbish builder's providers and service station. Decision not specified on IPlan Planning Register.
- 3.7. 00507107: Columbia Investments. Permission for completion of partly built store. Permission was GRANTED on 05/07/1988.
- 3.8. 05500294: John Murray. Permission for a change of use from Hustler Pool Hall to Shamrock Private Members Card Club. Permission was GRANTED on 27/09/2005 subject to 2 no. conditions.

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 main points of the submission are summarised below.
- 4.3. The land is zoned mixed use and are identified as a regeneration and opportunity site OPS09.
- 4.4. This site is located in flood zone as outlined by the flood maps in the Waterford City & County Development Plan (Figure 2 Appendix).
- 4.5. The submitted considers that residential development on this site is unfeasible in the immediate term given the major flood risk concerns. As demonstrated by the other development in the area, any development would have to be piled given the very poor ground conditions.
- 4.6. It is requested that the lands be removed from the draft maps based on it being out of scope, with reference to the below point in the Residential Zones Land Tax Guidelines.

'Land affected in physical condition by considerations which may impact the ability to provide housing on the land.'

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 where 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. 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

6.2. The Grounds of Appeal are summarised as follows:

- Serious Flood Risk issues at the site.
- The lands are zoned mixed use and area identified as a regeneration and opportunity site OPS09.
- The site is located in a flood zone as outlined by the flood maps in the Waterford City & County Development Plan (Figure 2 Appendix).
- The Appellant considers that residential development on this site is unfeasible in the immediate term given the major flood risk concerns. As demonstrated by

the other development in the area, any development would have to be piled given the very poor ground conditions.

- The Appellant requests that the WCCC decision be refused, and the lands be removed from the draft maps based on it being out of scope, with reference to the below point in the below point in the Residential Zones Land Tax Guidelines.

'Land affected in physical condition by considerations which may impact the ability to provide housing on the land.'

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.
- 7.3. The stated vacant and idle status of the lands is not disputed.
- 7.4. The south-eastern quadrant of the appeal site together with the north-eastern site boundary along the River Suir are located within Flood Zone B. This, in of itself, is not considered to preclude residential development on the overall landholding.
- 7.5. 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.

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-C15-21 (RZLT Map Parcel ID: WDLA000206), 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

7th September 2023