



An
Bord
Pleanála

Inspector's Report

ABP-316836-23

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	Turkey Road/ Strand Street, Tramore, Co. Waterford
Local Authority	Waterford and City County Council
Local Authority Reg. Ref.	WFD-C15-67
Appellant(s)	Edward & Moria McDonald
Inspector	Frank O'Donnell

1.0 Site Location and Description

- 1.1. The subject site is located in the centre of Tramore and has frontage onto Turkey Road to the east and Strand Street/ Lower Strand Street to the west. The site has an estimated overall site area of 0.095 hectares. The eastern portion of the site contains an existing two storey detached hipped roof dwelling and associated amenity/ circulation space. The western portion of the site contains a number of disused structures which are in a poor state of repair. The site falls in a general west to east direction. There is an existing pedestrian laneway located along the northern site boundary which is shown to link Turkey Road to the east to Strand Street to the west.

2.0 Zoning and other provisions

- 2.1. The subject site has 2 no. zonings. The eastern portion is zoned 'RS Existing Residential' in the Waterford City and County Development Plan 2022 to 2028. The relevant zoning objective is to *'Provide for residential development and protect and improve residential amenity.'* This area of the site relates to Land Parcel ID refs. WDLA00016684, WDLA00017388 and WDLA00027670 and has an estimated combined area of 0.05 hectares.
- 2.2. The western portion of the site is zoned 'TC Town Centre', the relevant zoning objective for which is to *'Provide for the development and enhancement of town core uses including retail, residential, commercial, civic and other uses.'* This area of the site relates to Land Parcel ID refs. WDLA000290, WDLA000300, WDLA000428 and WDLA000454, and has an estimated combined area of 0.04 hectares.
- 2.3. 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 RS (Existing Residential) and TC (Town Centre).
- 2.4. The majority of the overall site, excluding the existing two storey detached dwelling which faces east on to Turkey Road, 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 is as follows:

‘Development on this town centre site should provide strong architectural design and a mix of uses; the development should address Turkey Road and Lower Strand Street and be designed to an exceptional standard with a desirable street edge. Passive surveillance should be provided onto Old Lane; Adjoining private amenity spaces of neighbouring residential properties should be protected through the design and layout of any proposal; Potential Housing Yield.’

- 2.5. The subject site, with the exception of Land Parcel ID WDLA00016684, is listed on the Vacant Sites Register, ref. no. 31.
- 2.6. The site is listed on the Derelict Sites Register, as follows: Derelict Site Ref. no. DS23022, Address: 11 Strand Street, Tramore, Co. Waterford. (Action Taken: Section 11 issued: 07/06/2005. Section 8 (2) issued: 07/06/2005. Section 8 (7) issued 19/12/2005. The existing two storey dwelling and its’ associated immediate curtilage is not considered to be derelict in nature.
- 2.7. The Derelict Sites Register for Waterford City and County Council, which lists a total of 54 Derelict Properties.

3.0 Planning History

3.1. Relevant Planning History

- 3.2. 2360178: Edward McDonald. Permission for the subdivision of the existing site, the demolition of existing buildings on site, and the construction of five houses, consisting of 2 two story semi-detached houses, and 3 two/three story terraced houses, and associated works. A Request for Further Information was issued on 26/06/2023 on 7 no. main points relating to revised design/ layout/ amenity, visual impact, landscaping/ boundary treatments, minimum internal floorspace requirements, overlooking, bin storage, third party consent/ development work within the public realm.
- 3.3. 2360152: Edward MacDonal. INCOMPLETE APPLICATION.
- 3.4. 071818: Eddie McDonald. Permission for the demolition of two on site buildings and the subsequent erection of 16 number apartments in total, consisting of 8 No. 1 bedroom apartments and 8 No. 2 bedroom apartments, together with all associated

site development works. Permission was GRANTED on 06/01/2009 subject to 21 no. conditions.

- 3.5. 001516: E McDonald. Demolish Existing Restaurant, Change of Use Part Existing Dwelling to Restaurant & Construct 12 Bed Hotel & Anc. Accom. Car Park, 2 No. Retail Units, Stores, 15 No. 2 Bed Apartments. Permission was GRANTED on 07/01/2002 subject to 10 no. conditions. Permission GRANTED.
- 3.6. 98679: K O'Keefe. Permission for Shop Unit & Ancillary Accommodation Including 4 No. Apartments. Permission GRANTED.
- 3.7. 98648: Suvedara Limited. Permission for erection of Two Storey Apartment & Restaurant. Permission was GRANTED.
- 3.8. 98585: Maxime Properties Limited. Demolition of Existing Restaurant & Construction of New Shop Unit & 9 No. Maisonette Apartments & Ancillary Accommodation. No record of decision on EPlan Planning Register.

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:
 - The property is zoned 'Existing Residential and Town Centre' in the current Development Plan.
 - The owner is in the process of applying for planning permission for the entire landholding.
 - The property is entered on the Vacant Site Register (site R31) and therefore, the RZLT should not apply.
 - Confirmation is requested that the property will not be the subject of RZLT and that it will be removed from the RZLT map.

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 property forms part of a wider 13ha landholding. The remaining land is to the east and is not zoned for residential or mixed-use development.

The Grounds of Appeal are summarised as follows:

- The property is entered on the Vacant Site Register (site R31) and therefore, the RZLT should not apply. The Council failed to acknowledge this.
- The applicant was not Middlethird Estates Limited as stated on the Council's determination. The applicants were Edward and Maria McDonald, Newtown, Tramore and did, themselves, not receive a determination. The following grounds of appeal are, therefore, without prejudice to the Council determination being fatally flawed.

- The Council has incorrectly assessed the landholding as being a mixed-use site. Half of the site is zoned residential and should have been assessed as such.
- The Evaluation Report by the Local Authority, ref. WFD-C15-67 in respect of the subject lands states that the land can be connected or is able to be connected to services. roads, footpaths and public lighting. This is an inaccurate and incorrect statement.
- The Appellant references the Guidelines and states that for inclusion onto the RZLT map, the Council is required to obtain information from stakeholders such as Irish Water in identifying lands and providing confirmation of existing capacity in wastewater treatment plants and water treatment plants along with data informing the date of connection or ability to connect to services, where the date was after 1 January 2022. There is no evidence in the Council's assessment that there was any communication with Irish Water.
- The Appellant refers to a definition of Serviced land as per the Revenue Guidelines Tax and Duty Manual, Part 22A-01-01- Guidance on the Residential Zoned Land Tax – Part 22A-01-01, Part 22A of the Taxes Consolidation Act 1997 and the definition in 'Residential Zoned Land Tax – Your Questions Answered, DHLGH 2022. The definition provided by the Appellant is stated as *'having access to the necessary public infrastructure and facilities including road and footpath access, public lighting, foul sewer drainage, surface water drainage and water supply necessary for dwellings to be developed and for which there is service capacity available sufficient to enable housing to be developed. Only when land is zoned for residential use and has access to necessary infrastructural services to allow for development to proceed that it is within the scope of the tax.'*
- The Appellant states that there is no evidence in the Council's assessment that all of the necessary services are available for the land to be developed.
- The Board is requested to uphold this appeal and determine that the subject site should be excluded from the final RZLT map of lands to be subject of the tax.

7.0 Assessment

- 7.1. The comments raised in the appeal are noted.
- 7.2. The Determination of the Local Authority is addressed to Middlethird Estates Limited. It is stated in Section 3.2.3 of the Guidelines (Residential Zoned Land Tax - Guidelines for Planning Authorities, June 2022) states that:

'Matters which are unrelated to the criteria identified in section 653B such as planning permission, commencement on land in-scope, finance, or personal circumstances are not matters to be taken into account during consideration of submissions. Furthermore the size of the landholding, ownership of the land by private, public or semi-state bodies, lack of knowledge of ownership or transfer of ownership should not be considered.'

- 7.3. The ownership of the land is not a matter which falls within the criteria for exclusion from the Map as per Section 653B of the Act.
- 7.4. Uisce Eireann, as per the email dated 14/02/2023 confirm the following in respect of WFD-C15-67 (Parcel ID(s) WDLA000290 and associated land parcels):
- a. The site(s) in question are generally in built up areas and would all be in close proximity to water and wastewater infrastructure either in the public domain or within the sites currently under development in a phased approach.
 - b. The submission made by the agent does not make specific reference to the absence of public water services infrastructure in his appeals.
- 7.5. 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').

- 7.6. It is considered 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.
- 7.7. 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.
- 7.8. It is considered therefore that 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 fact that the majority of the site is entered on the Vacant Sites Register (site R31) is not disputed. The element of the overall site which is zoned for 'TC Town Centre' use, is considered to be in a vacant/ idle condition for the purposes of Section 653 B c) ii) of the Act.
- 7.10. The majority of the subject site is also listed on the Derelict Sites Register, Ref. No. DS23022. As per the details relating to same, it is stated on the Register that the actions taken to date include Sections 11, and Sections 8 (2) and 8 (7). Section 8 (7) of the Derelict Sites Act. As per the provisions of Section 653B c v) of the Act relating to criteria for exclusion from the map, it is stated that the exclusions include lands on which the Derelict Sites Levy is payable in accordance with the Derelict Sites Levy.
- 7.11. I am satisfied that the majority of the site qualifies as lands for which the annual derelict sites levy is payable. The majority of the site should therefore be excluded from the Map.
- 7.12. The balance of the lands relate to the existing residential property. The presence of a dwelling house on the map is not a relevant point of exclusion under Section 653B.
- 7.13. The remaining Grounds of Appeal do not relate to any of the relevant qualifying criteria set out in Section 653B of the Act.

8.0 Conclusion

- 8.1. The majority of the site, upon which the Derelict Sites Levy is payable, satisfies the criterion for exclusion from the map set out in Section 653B(c) v) of the Taxes Consolidation Act 1997, as amended.

8.2. The balance of the site, to which the residential property relates, satisfies 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 refuse to confirm the determination of the Local Authority in respect of the parts of the lands for which the Derelict Sites Levy is payable and that therefore the following Land Parcel IDs, pertaining to the Derelict Site, be removed from the map:

- Land Parcel IDs: WDLA00017388, WDLA00027670, WDLA000290, WDLA000300, WDLA000428 & WDLA000454.

9.2. I recommend that the board confirm the determination of the Local Authority and that the following Land Parcel ID, pertaining to the subject dwelling, be retained on the map:

- Land Parcel IDs: WDLA00016684

10.0 Reasons and Considerations

10.1. The portion lands identified as WFD-C15-67 (Land Parcel IDs WDLA00017388, WDLA00027670, WDLA000290, WDLA000300, WDLA000428 and WDLA000454) which relate to lands on the Derelict Sites Register for which the Derelict Sites Levy is payable do not fall within the scope of Section 653B c) v) of the Act and should therefore be excluded from the map.

10.2. The remainder of the lands identified as WFD-C15-67 (Land Parcel ID: WDLA00016684) meet the qualifying criteria set out in Section 653B of the Taxes Consolidation Act 1997, as amended, and there are no matters arising that warrant exclusion from the map.

10.3. The presence of a dwelling house on the map is not a relevant point of exclusion under Section 653B.

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

21st August 2023