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Bord  
Pleanála

## Inspector's Report ABP-316917-23

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### 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, Waterford City.

### Local Authority

Waterford and City County Council

### Local Authority Reg. Ref.

WFD-C15-15

### Appellant(s)

Frisby Homes

### Inspector

Frank O'Donnell

## 1.0 Site Location and Description

- 1.1. The site which is the subject of this appeal is located in the townland of Kilbarry, on the western side of the Lacken Road, c.2.60 km to the southeast of the edge of the centre of Waterford City. The site, which includes Land Parcel ID (s) WDLA00028845, WDLA00028852, WDLA00028859, WDLA00028942, WDLA00028897 and WDLA00028924, has a stated area of 27.89 hectares.
- 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. 316553-23: MMM Ltd. Lands located to the immediate east of the subject site on the opposite/ east side of the public road.
  - Appeal Ref. No. 316647-23: Kilbarry Developments Ltd. Lands located to the immediate south-east and of the subject site on the opposite/ east/ south-east side of the public road.

## 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. The relevant zoning objective is to *'Provide for new residential development in tandem with the provision of the necessary social and physical infrastructure.'*
- 2.2. The lands are identified within Residential Phase 1.
- 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 / Principal Private Residence and a Residential scheme are identified as uses which are 'Permitted in Principle' on lands zoned R1 (New Residential).
- 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 relevant lands. The site which is the subject of this appeal forms part of Site 10 (Kilbarry Road), Site 13 (Kilbarry (LIHAF Road South) and Site 22 (Kilbarry (Lacken Road West), see Table 4A: Waterford City Phase 1 Site Specific Infrastructure

Assessment. All 3 no. sites (Sites 10, 13 and 22) score 1<sup>1</sup> in relation to Roads, Footpath, Water Supply and Wastewater. It is further indicated that the overall site falls within the definition for lands qualifying as necessitating Compact Growth<sup>2</sup>, where Public Transport<sup>3</sup> is available and where a Coordinated Approach<sup>4</sup> to development is required.

- 2.5. There is a Transport Objective shown to traverse the lands from west to east, as follows:

Transport Objectives:	4
Class:	4
Location:	Waterford City
Type:	Proposed Active Travel & / or Public Transport
Development Plan:	WCCC Development Plan, 2022 to 2028

### 3.0 Planning History

#### 3.1. Planning History on the subject site

- 3.2. 22385: Magna Construction Ltd. Permission for the construction of the Phase 1 area to comprise of 99 no. houses as part of overall masterplan development area. Permission was GRANTED on 22/11/2020 subject to 23 no. conditions.
- 3.3. VV0022: Noel Frisby Construction Ltd. Vacant Site Levy – Appeal S. 9. Decision issued on 12/04/2018 that the site is NOT A VACANT SITE.
- 3.4. P803/17: Part 8 Local Authority Development. Development of a Distributor Road at Kilbarry. Consented.

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<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> 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 Appellant made a submission to the Local Authority seeking to have their land removed from the draft map.
- 4.2. The submission is based on stated infrastructure deficiencies and the sequential development of the masterplan.

## **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**

- 6.2. The Grounds of Appeal are summarised as follows:
  - The Appellant Requests that:

- The Phase 2 portion of Parcel 3 (WDLA00028859) be removed from the draft maps as it is out of scope due to the infrastructure deficiencies.
- Parcel 4, 5 & 6 (WDLA00028897, WDLA00028907, WDLA00028942) are removed from the draft maps as they are out of scope due to the infrastructure deficiencies.
- Parcel 7 (WDLA0004849) is removed from the draft maps due to the infrastructure deficiencies and support the sequential development of the masterplan.

## **7.0 Assessment**

- 7.1. The comments raised in the appeal are noted.
- 7.2. Uisce Eireann, as per the letter dated 02/02/2023, confirm in relation to Water Networks that a water main 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 Carraig an Aird road adjoining the land parcel. It is stated that this connection facilitates all 7 land parcels through each land parcel.
- 7.3. Uisce Eireann, as per the letter dated 02/02/2023, confirm in relation to Wastewater Networks 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 Carraig an Aird road adjoining the land parcel. It is stated that this connection facilitates all 7 land parcels through each land parcel.
- 7.4. I am satisfied therefore that the lands can be suitably serviced in term of water supply and wastewater. No capacity issues are raised by Uisce Eireann.
- 7.5. In my opinion it is reasonable to considered that the subject lands satisfy the provisions of Section 653B b) of the Act in terms of access.
- 7.6. 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.

## **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-C15-15 (RZLT Land Parcel ID(s): WDLA00028897, WDLA00028907, WDLA00028942, WDLA00028845, WDLA00028852, WDLA00028859, and WDLA00028924), 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 is 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.

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Frank O'Donnell

Planning Inspector

14<sup>th</sup> September 2023