



An
Bord
Pleanála

Inspector's Report

ABP-316984-23

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	Old Waterford Road, Tramore, Co. Waterford
Local Authority	Waterford and City County Council
Local Authority Reg. Ref.	WFD-C15-13
Appellant(s)	Carey Homes
Inspector	Frank O'Donnell

1.0 Site Location and Description

- 1.1. The subject site is located on the southern side of the R675 Regional Road (Ring Road) approximately 750 metres to the north-east of the centre of Tramore. The site is located adjacent to the immediate south/ south-west of Gaelscoil Philib Barun. Residential development has commenced on the site. The site is estimated to measure 1.6 hectares in area.

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. Relevant Planning History

- 3.2. 221034: S + K Carey. Permission for alterations to 21/807 from 9no. two-storey detached units to 21no. dwelling units and all associated site works. A notification of decision to GRANT planning permission was issued by the Local Authority on 08/08/2023 subject to 24 no. conditions.
- 3.3. 21807: S and K Carey Ltd. Planning Permission for 9 no. dwellings and all associated site works (As per previous planning ref. 15/727 and 20/692). Permission was GRANTED on 11/01/2018 subject to 18 no. conditions.
- 3.4. 21791: S & K Carey Limited. INCOMPLETE APPLICATION.
- 3.5. 20760: S & K Carey Limited. Permission for alterations to previously granted permission as per ref no. 15/771. The alterations include the changing of existing house types for the five houses which includes 2 number type E and 3 number type F

house types, both two storey. Permission was GRANTED on 07/04/2021 subject to 3 no. conditions.

- 3.6. 20526: S & K Carey. EXTENSION OF DURATION of planning reg. ref. no. 1577. EOD GRANTED on 22/09/2020 subject to 1 no. condition.
- 3.7. 15727: Gillen Joyce. Permission for nine serviced house sites, landscaping and boundary treatment, access road and lighting layouts, drainage and associated site works. Permission was GRANTED on 02/09/2016 subject to 20 no. conditions.
- 3.8. 15771: Gillen Joyce. Permission for five houses, house types A (two storey over basement) and B (two storey), a preschool (Naoinra), access roads, lighting, drainage, landscaping and boundary treatment, and associated siteworks. Permission was GRANTED on 29/07/2021 subject to 21 no. conditions.
- 3.9. 15726: Gillen Joyce. INCOMPLETE APPLICATION.

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:
 - We would like to request that our lands highlight be exclude from the Residential Zoned Land Tax draft map as these lands are subject to a Planning Application submitted for alterations to an existing Planning Granted (Planning Authority Ref. No. 21/807) and as such we cannot develop this land at present. It would be our intention to commence works on this site once planning is granted as we have already put in the services which service this site.
 - Also, on lands Planning Permission has been granted (Planning Authority Ref. No.: 15/771) for 5 no. houses. These have all been constructed and sold. 3 of these have completed while the remaining 2 will be completed in Qtr 1 2023. As such these unsold houses (2 No.) need to be removed from the draft 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 Grounds of Appeal are summarised as follows:

- Assessment checklist: The Council in assessing the checklist use the phrase *'land connected to or able to connected to services.'* This is fundamentally incorrect and the criteria that follows is therefore not in accordance with the Act. For example, every piece of land in Ireland would be able to be connected to services (not withstanding at enormous cost). The Act says *'it is reasonable to consider may have access, or be connected, to public infrastructure and facilities.'* This is significantly different to being able to be connected to services.
- Lands Serviced: Under Section 653B of the Finance Act one of the criteria for inclusion on the draft map is *'is the land connected or able to be connected to*

services.' The Council are incorrect in their assessment checklist as these lands do not satisfy all these criteria.

- They are not readily connectable to the water or waste-water network as there is a requirement for the Irish Water network to be upgraded.
- Build Pipeline: In order to sustain a functioning business developers need to hold 3 – 5 years build worth of land to ensure delivery pipeline to account for planning delays, local level, preplanning meetings, objections & An Bord Pleanála. From acquisition of a green field site to achieving full planning can take 2 – 3 years.
- Based on the points above the Appellants request the Board to overturn the Council's decision to include these lands on the draft map indicating lands considered in-scope for the purposes of the Residential Zoned Land Tax.

7.0 Assessment

7.1. The comments raised in the appeal are noted.

7.2. Uisce Eireann, as per the Confirmation of Feasibility dated 21/12/2022 and stamped received by the Local Authority on 2/06/2023, attached to planning reg. ref. no. 221034, state that a Water Connection and a Wastewater Connection are both feasible without infrastructure upgrade by Irish Water. The submission relates to a proposed Housing Development of 21 units at Crobally Upper, Tramore, Co. Waterford. No water or wastewater capacity issues are raised by Uisce Eireann/ Irish Water in the submission letter.

7.3. As per the current Uisce Eireann 10 Year Water Supply Capacity Register, the Tramore water resource zone (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*').

- Source: (<https://www.water.ie/connections/developer-services/capacity-registers/water-supply-capacity-register/waterford/>)

7.4. It is noted the Tramore Wastewater Treatment Plant (WWTP) (Ref. D0015) has a Green status on the current Uisce Eireann Wastewater Treatment Capacity Register. Green status is stated to mean that there is spare capacity available.

- Source: (<https://www.water.ie/connections/developer-services/capacity-registers/wastewater-treatment-capacity-register/waterford/>)

7.5. I am satisfied therefore that there is a viable water supply connection available and a viable wastewater connection available in proximity to the site and that the site can be reasonably serviced in terms of water and wastewater.

7.6. 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 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-C15-13 (RZLT Map Parcel ID: WDLA00015684), 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

18th August 2023