



An  
Bord  
Pleanála

## Inspector's Report ABP-320320-24.

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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

### Location

The Paddocks, Williamstown Road, Grantstown, Co. Waterford.

### Local Authority

Waterford City and County Council.

### Local Authority Reg. Ref.

WFD-C30-10

### Appellant

Glenveagh Homes Ltd.

### Inspector

Fergal Ó Bric

## 1.0 **Site Description**

The lands identified as WFD-C30-10 (Parcel ID numbers WDLA00028817, WDLA00028913, WDLA00028946, WDLA00028824 and WDLA00028863) are located at The Paddocks, Grantstown, off the Williamstown Road in Waterford city. The lands are bounded by established residential estates and are presented in two land parcels separated by the access road to The Paddocks residential development.

The lands comprise a stated area of c. 7.68 hectares of land.

## 2.0 **Zoning**

The relevant plan is the Waterford City and County Development Plan 2022-2028.

Vol. 1 Written Statement

Vol. 3, Appendix 17-Tiered Approach to Zoning.

Volume 4, Map 2 Zoning and Flooding Map.

The lands are zoned R1-New Residential with a stated objective 'provide for new residential development in tandem with provision of new social and physical infrastructure'.

The lands are identified as Residential Phase 1 lands.

## 3.0 **Planning History**

### 3.1. Site

There is extensive planning history associated with The Paddocks; these include inter alia:

Planning reference WFD-C15-7 (Parcel ID WDLA00028817, WDLA00028913, WDLA00028946, WDLA00028824 and WDLA00028863), in 2023, Waterford City and County Council determined that the lands should be included within the RZLT map. ABP reference 316422-23-, in 2023, the Board confirmed the determination of the Planning Authority.

**Planning reference 21833** refers to a grant of permission (February 2022) for Phase 1 of a residential development consisting of the construction of 99 no. residential units, 1 no. childcare facility, 2 no. ESB substations and all ancillary development works including access, footpaths, cycle paths, parking, drainage, landscaping, lighting and amenity areas. The proposed development will allow for the laying of all roads and services for the Phase 1 and Phase 2 located primarily to the east of the existing access road. Access to the site will be via the existing entrance onto Williamstown Road to the south of the site. A Natura Impact Statement (NIS) has been submitted to the Planning Authority with the planning application.

**Planning reference 21/976** refers to a May 2022 decision to refuse permission for Phase 2 of a residential development consisting of the construction of 99 no. residential units and all ancillary development works including access, footpaths, cycle paths, parking, drainage, landscaping, lighting and amenity areas. The proposed development will allow for the laying of roads and services for a portion of Phase 1 and all of Phase 2 located to the east and west of the existing access road. Access to the site will be via the existing entrance onto Williamstown Road to the south of the site. A Natura Impact Statement (NIS) has been submitted to the Planning Authority with the planning application.

**Planning reference 22/653** refers to a July 2022 grant of permission for Phase 2 of a residential development consisting of the construction of 99 no. residential units and all ancillary development works including access, footpaths, cycle paths, parking, drainage, landscaping, lighting and amenity areas. The proposed development will allow for the laying of roads and services for all of Phase 1 and Phase 2 located to the east and west of the existing access road. The proposed development works include a connection to and the construction of a new storm water sewer on the Dunmore Road which is associated with Island View pumping station. Access to the site will be via the existing entrance onto Williamstown Road to the south of the site. A Natura Impact Statement (NIS) has been submitted to the planning authority with the application.

**Planning reference 22/466** refers to a May 2022 grant of permission for Phase 3 of a residential development consisting of the construction of 14 no. residential units, 1 no. childcare facility, 1 no. ESB substation and all ancillary development works including access, footpaths, cycle paths, parking, drainage, landscaping, lighting and

amenity areas. The proposed development works include a connection to and the construction of a new storm water sewer on the Dunmore Road which is associated with Island View pumping station. Access to the site will be via the existing entrance onto Williamstown Road to the south of the site. A Natura Impact Statement (NIS) has been submitted to the planning authority with the application.

**Planning reference 2360056** In April 2023 grant of permission for the construction of 14 no. residential units, 1 no. ESB substation and all associated site development and landscaping works including boundary fencing at The Paddocks, Williamstown Road, Grantstown, Co. Waterford. The proposed development will result in modifications to the Phase 1 residential scheme permitted by Waterford City and County Council Ref. No. 21/833. The alterations will reduce the total number of residential units for Phase 1 from 99 to 89 units.

**Planning reference 2360345** In April 2023 grant of permission for Phase 4A the construction of 79 no. residential units, a creche and an ESB substation and all associated site development and landscaping works including boundary fencing at The Paddocks, Williamstown Road, Grantstown, Co. Waterford. The proposed development will result in modifications to the Phase 1 residential scheme permitted by Waterford City and County Council Ref. No. 21/833. The alterations will reduce the total number of residential units for Phase 1 from 99 to 89 units. This decision is under appeal to An Bord Pleanála under reference number 318284-24 and a decision remains outstanding.

#### **4.0 Submission to the Local Authority**

The appellants made a submission to the local authority seeking to have their land removed from the draft map on the basis that the lands in their entirety are dependent upon significant upgrading of the Uisce Eireann (UE) wastewater drainage infrastructure in the vicinity of the lands, with UE confirming that there are no plans to deliver this upgrade. This consequently precludes the residential development of the lands and as such, the subject lands are considered out of scope as they do not satisfy the qualifying criteria.

## **5.0 Determination by the Local Authority**

The local authority determined that the site fulfils the qualifying criteria to be included in the Final Map for the Residential Zoned Land Tax for the following reasons:

Reasons:

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.
2. The lands are zoned for residential development where a residential use is permitted in principle in the development plan.
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.
4. The lands meet the criteria of Section 653B of the Finance act 2021, as amended.

## **6.0 The Appeal**

### **6.1 Grounds of Appeal**

- The subject lands do not meet the qualifying criteria set out under Section 653B of the Finance Act 2021 for inclusion on the residential zoned land tax annual map.
- The development of the subject lands is dependent upon the delivery of significant upgrades to the wastewater drainage infrastructure in the locality, namely the upsizing of approximately a 520-metre section of sewer from 225 mm to 375 mm by Uisce Eireann (UE). This correspondence is dated May 2023.
- UE have set out that a connection to the wastewater network is only feasible subject to upgrades.

- Correspondence from UE has confirmed that there are currently no plans to carry out the upgrade works required.
- To have these works progressed to facilitate a connection to the wastewater network, a significant cost would have to be borne by the appellants. Therefore, the land should be considered, out of scope.

## 7.0 Local Authority submission

The local authority made no comment in relation to this appeal.

## 8.0 Assessment

8.1 The comments raised in the appeal submission are noted. The lands identified for inclusion on the RZLT map are zoned New Residential within the Waterford City Zoning Map included within the Waterford City and County Development Plan 2022-2028. The local Authority determined that the lands are in scope and that they remain on the RZLT map. The local authority set out that the lands are located within a designated urban settlement with services available and no capacity or other reasons have been identified that would prevent the development of these lands for residential purposes.

8.2 The legislation clearly sets out that land in scope will be zoned for residential development or a mixture of uses including residential; be serviced or have access to servicing by water, wastewater, road, footpath and public lighting; and not be affected by contamination or significant archaeological remains which would preclude development taking place. Section 4.1.1 of the RZLT Guidelines set out the following:

iii) Services to be considered of the guidelines state that *“in assessing whether land or landbanks are able to connect to services, Planning Authorities should take into account the following:- In the first instance, where the infrastructure is located adjoining, intersecting, at a boundary or corner of a landbank, in a nearby public road, or is connected to an existing development adjoining the landbank, the lands should be considered to be ‘connected’ or ‘able to connect’ and therefore are in-scope”*.

8.3 Section 4.1.1 ii) Review of land with planning permission of the guidelines states that *where development for housing or housing and a mix of other uses has been permitted*

*on land which falls into the scope of the tax as set out within the legislation, then default presumption should be given to considering all such lands with permissions to be within scope....Significant works by the applicant to undertake the development which are a part of the plans and particulars lodged as a part of the permitted development should be given careful consideration in light of Section 4.1.1.(iii) of these Guidelines.*

8.4 Of relevance, I note that the lands have been the subject to a number of recent grants of planning permission, as referenced within Section 3 of this report and relate to phases 1,2,3 and 4A of the wider Paddocks residential development.

8.5 Uisce Eireann have stated in their submission to the Planning Authority (dated 27<sup>th</sup> day of May 2024) that in relation to the land parcel to the east of the Paddocks internal service road (parcel id number WDLA00028863) that a watermain is accessible on the public road adjoining the land parcel (10 metres away) and that the public sewer is accessible 35 metres away via the paddocks estate adjoining the subject parcel to its north-west corner. In relation to the most northerly land parcel to the west of the Paddocks internal service road (parcel id number WDLA00028817) that a watermain is accessible within the adjoining Paddocks residential development adjoining the land parcel (10 metres away) and similarly that the public sewer is accessible 10 metres away via the Paddocks residential development adjoining the subject parcel to its north-west

8.6 The other three land parcels to are all located to the west of the Paddocks internal service road (parcel id number WDLA00028824, WDLA00028913, WDLA000288946) that a watermain is accessible within the adjoining public road or within the adjoining residential developments adjoining the land parcels cat distances between 10 metres and 35 metres away from the land parcels and similarly that the public sewer is accessible between 140 metres and 180 metres away, south of the site along the Williamstown Road or between 35 metres and 75 metres away via access to the sewer within the Paddocks estate adjoining the subject parcels to their north-west. I also note from the UE capacity register (dated June 2023) that there is capacity available within the watermain and foul sewer networks within Waterford City at present. On this basis,

it is reasonable to consider that there is some capacity in the wastewater network to cater for development.

8.7 I also note that the local authority reference in their RZLT assessment report that a public footpath and public lighting exists along the Paddocks internal service road service road, and three of the land parcels (parcels id numbers WDLA00028863, WDLA00028817 and WDLA00028824) have direct frontage onto this road and the other two parcels could access the roads and footpaths through the three parcels with direct road frontage, all within the appellants ownership. On this basis, it is reasonable to consider that the lands are accessible to public, roads, footpaths and street lighting.

8.8 The appellants raise the issue of the cost to complete the wastewater network upgrades. This is not a matter for consideration under Section 653B of the Taxes Consolidation Act, 1997, as amended.

8.9 Based on the information submitted and available, I am satisfied that the lands do not meet the criteria for exclusion set out in section 653B.

8.10 The appeal grounds do not raise any other matters that would apply to the subject lands and warrant its removal from the map, with reference to the Taxes Consolidation Act 1997 as amended and the RZLT Guidelines.

## 9.0 **Recommendation**

9.1. I recommend that the Board confirm the determination of the local authority and direct the local authority to include the site on the final RZLT map.

## 10.0 **Reasons and Considerations**

In the assessment of this appeal, regard was had to the content of the Residential Zoned Land Tax – Guidelines for Planning Authorities (June 2022) which are considered to be a helpful complement to understanding the spirit and intent of the primary legislation. However, the recommendation is made within the clear parameters of the applicable legislation.

The lands identified as WFD-C30-10 (Parcel ID numbers WDLA00028817,



WDLA00028913, WDLA00028946, WDLA00028824 and WDLA00028863) located on residentially zoned lands identified within the current Waterford City and County Development Plan are considered in scope of Section 653B of the Taxes Consolidation Act 1997, as amended. The issue of the cost to complete the wastewater network upgrades. This is not a matter for consideration under Section 653B of the Taxes Consolidation Act, 1997, as amended. The lands are located within an established urban area with documentary evidence from Uisce Eireann that services are available, and no capacity or other reasons have been identified that would prevent the development of these lands in principle for residential purposes in accordance with the residential zoning objective that applies to these lands.

#### **11.0 Recommended Draft Board Order**

**Taxes Consolidation Act 1997 as amended.**

**Planning Authority:** Waterford City and County Council

**Local Authority Reference Number:** WFD-C30-10

**Appeal** Glenveagh Homes Ltd. in accordance with section 653J of the Taxes Consolidation Act 1997 as amended, against the inclusion of the land on the Residential Zoned Land Tax Map by Waterford City and County Council on the 27<sup>th</sup> day of June 2024 in respect of the site described below.

**Lands at:** The Paddocks, Williamstown Road, Grantstown, Co. Waterford

#### **Decision**

The Board in accordance with section 653J of the Taxes Consolidation Act 1997 as amended, and based on the reasons and considerations set out below, hereby decided to:

The Board confirms the determination of the local authority and direct the Local Authority to retain the lands identified as Parcel ID numbers WDLA00028817, WDLA00028913, WDLA00028946, WDLA00028824 and WDLA00028863 under WFD-C30-10 should remain on the RZLT map.

## **Reasons and Considerations**

In the assessment of this appeal, regard was had to the content of the Residential Zoned Land Tax – Guidelines for Planning Authorities (June 2022) which are considered to be a helpful complement to understanding the spirit and intent of the primary legislation. However, the recommendation is made within the clear parameters of the applicable legislation.

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I confirm that the report represents my professional planning assessment, judgment and opinion on the matter assigned to me and that no person has influenced or tried to influence, directly or indirectly, the exercise of my professional judgment in an improper or inappropriate way.

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Fergal Ó Bric  
Planning Inspectorate

9th day of October 2024