



An  
Bord  
Pleanála

## Inspector's Report ABP-320349-24

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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 Map

**Location**

Land at Vevay Road & Boghall Road  
(former Dell Site) Bray, Co. Wicklow

**Land Parcel ID**

313465

**Planning Authority**

Wicklow County Council

**Planning Authority Reg. Ref.**

WW-RZLT-05-2024

**Appellant(s)**

Avonvard Limited

**Inspector**

Paul O'Brien

## **1.0 Site Location and Description**

- 1.1. The appeal lands with an area of 3.75 hectares, identified as Parcel ID 313465 on the RZLT Final Map, are located to the west of Vevay Road to the north west of the Southern Cross roundabout to the south of Bray, Co. Wicklow. The site contains the former Dell site. In addition to the main building, there are extensive areas of hardstanding that was in use as car parking on this site.

## **2.0 Zoning and Other Provisions**

- 2.1. The subject lands are included within the Settlement Boundary of the Bray Municipal District Local Area Plan 2018. The site is located within lands zoned for 'Mixed Use' with an objective 'To provide for mixed use development' and this zoning objective allows for residential development.

- 2.2. The site is also included within SLO 4 and the following is stated (as relevant):

'This site was formerly occupied by computer company Dell and has been vacant for some years. The site is occupied by a large manufacturing building and surrounding grounds and car parking, measuring c. 3.75 ha. While there is a demand for additional housing in Bray, it is not considered appropriate that any and every vacant employment site should be considered for solely residential redevelopment as it is not sustainable to only deliver significant new housing at the expense of employment opportunities. Given that this site is surrounded by both residential and employment uses, it is considered that a mixed, high intensity employment and residential scheme would be suitable on these lands, in accordance with the following criteria:

- The development shall be delivered a high-density format and in particular, shall have a plot ratio of not less than 1:1. Development of up to 4 storeys may be considered on the western and southern parts of the site, with heights on the northern and eastern parts of the site being more consistent with and respecting the existing amenity of existing residential areas surrounding the site;
- Not more than 40% of total floor space shall be devoted to residential use; depending on the range of unit sizes and formats, at least 150 units is desired (c. 15,000sqm)

- Any planning application shall include a detailed phasing programme that ensures the timely delivery of all elements of the SLO. In order to ‘kick start’ the development, a first phase of housing, comprising not more than 50% of the total housing programme, may be developed as a ‘Phase 1’ of the overall development, strictly on the basis of the remaining housing being delivered in tandem with the employment element.’

2.3. The ‘Bray Municipal District Local Area Plan 2018 – 2024’ expires in September 2024.

### **3.0 Planning History**

- 3.1. ABP Ref. 316351-23, RZLT File, refers to an October 2023 decision to confirm the determination of the Local Authority.
- 3.2. PA Ref. 22/823 refers to an October 2022 decision to grant permission for the construction of a first phase of development on the overall landholding consisting of the following: a) A three storey Nursing Home building, b) A part three and part four storey office building, c) Internal access roads and parking, comprising 121 no. surface car parking spaces and 115 no. cycle spaces to serve both uses. Vehicular access will be via the existing entrance from Vevay Road; d) An ESB substation, all associated site and infrastructural works.
- 3.3. PA Ref. 23/60043 refers to an August 2023 decision to grant permission for the demolition of the existing vacant manufacturing building on the site, erection of temporary boundary fencing and gates, and all associated site works.
- 3.4. PA Ref. 24/46/ ABP Ref. 319474-24 refers to a July 2024 decision to grant permission for a large-scale residential development which includes the demolition of vacant manufacturing building on site, all associated site clearance and enabling works and the construction of 178 no. apartments and a childcare facility and all associated site works, on part of the subject lands.

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

- 4.1. The appellant made a submission to the Local Authority seeking to have their lands removed from the Final Map on the basis that:

- The lands are zoned for mixed use development and although housing is permitted, there is a requirement for employment uses to be provided also in accordance with SLO4. The planning history demonstrates that the site is to be developed for mix use and not just for residential uses.
- If the Planning Authority decide to retain the lands on the map, then the southern portion, 1.2 hectares should be removed as they are to be developed for non-residential use.

## 5.0 Determination by the Local Authority

5.1. The Planning Authority determined that the site 'fulfils the qualifying criteria set out in Part 22A of the Taxes Consolidation Act 1997' for inclusion on the RZLT map for the following reasons:

'1. The lands in question are included in a development plan or local area plan and is zoned for a mixture of uses, that includes residential development.

2. The lands are serviced, or it is reasonable to consider may have access to services. Serviced means 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.

3. The lands are not affected in terms of its physical condition, by matters to a sufficient extent to preclude the provision of dwellings, including contamination or the presence of archaeological or historic remains.

4. It is considered that the lands that are the subject of the submission are vacant or idle, as provided in the guidelines 'vacant or idle land' means land which, having regard only to development (within the meaning of the Act of 2000) which is not unauthorised development (within the meaning of the Act of 2000) is not required for, or integral to, the operation of a trade or profession being carried out on, or adjacent to, the land.

5. It is considered that the lands that are the subject of the submission are not subject to a statutory designation that may preclude development.'

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The following points were made in support of the appeal:

- The site is zoned for mixed use that allows for residential development. There are restrictions on the development of the site through SLO 4 of the Bray Municipal District LAP 2018. This phases development/ requires that the site be developed for mixed uses including residential and employment uses. This restricts the viability of the development of this site for residential use at not more than 40%.
- It is requested that the lands to the south of the site be removed from the maps as they are proposed for non-residential use in accordance with a submitted masterplan for the development of these lands.

### **6.2. Planning Authority Response**

By letter dated 9<sup>th</sup> August 2024, no further comments are made.

## **7.0 Assessment**

- 7.1. The grounds of appeal have been fully considered. Under section 653J of the Taxes Consolidation Act 1997 as amended, the Board's role in the current appeal is to review the determination of the local authority under section 653E which is based on the application of the relevant criteria set out in section 653B of the Act for inclusion on the RZLT map. This position is consistent with the Residential Zoned Land Tax-Guidelines for Planning Authorities June 2022 which clearly sets out in section 3.3.2 that:

"in considering appeals, An Bord Pleanála is restricted to considering the grounds of appeal, the determination of the local authority on the submission made during public

display period, and any additional information on the servicing or use of the land which the Board may seek from the landowner, Local Authority or stakeholders identified in article 28 of the 2001 regulations. In assessing any appeal, the Board is restricted to considering whether the lands meet the qualifying criteria set out in section 653B only”.

- 7.2. Section 653B of the Taxes Consolidation Act, as amended, sets out the criteria for inclusion in the map, and states that the first consideration for inclusion in the map is land which in subsection (a) ‘is included in a development plan’ or ‘local area plan’ zoned solely or primarily for residential use, or for a mixture of uses including residential. The comments raised in the appeal are noted and I also note the report of the Planning Authority. The appeal lands are zoned for mixed use but which allows for residential development and therefore is within scope of section 653B(a). The Planning Authority determined that the site remain on the RZLT map.
- 7.3. I note the issues raised in relation to SLO4, however it is clear that the lands can be developed for mixed uses including residential development. The format of development is not clearly provided for in the local area plan but a mixed-use scheme where commercial uses on the ground floor and residential over could allow for a suitable development of the site, thereby meeting the specified quantum of residential and employment uses.
- 7.4. The subject lands, zoned for mixed-use, are vacant and this is emphasised in the Bray Municipal Local Area Plan. Under Section 653B(ii) lands zoned for mixed use are exempt unless they can be considered to be ‘vacant or idle land’. I consider it reasonable to define these lands as vacant as no development has taken place and the former use has ceased some time ago. The lands are not required/ or integral to the operation of a trade/ profession on or adjacent to the site, no operation is in place at present.
- 7.5. The exclusion of part of the land on foot of a grant of permission, is not appropriate as the lands may not be developed for the permitted purposes under such a permission. I note the request made to omit part of the lands; however, this is not appropriate in this case and should be rejected at this time. The Development Management process is the proper system for determining the development of these lands.

## 8.0 Recommendation

- 8.1. Having regard to the foregoing, I consider that the lands identified as Parcel ID 313465 on the RZLT Final Map meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended. The grounds of appeal have not raised other matters under section 653B of the Taxes Consolidation Act 1997, as amended and there are no matters arising that warrant exclusion of the subject lands from the final map.

## 9.0 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 land identified as Parcel ID 313465 on the RZLT Final Map are considered in scope of section 653B(a). The lands are located within an established urban area and they can be considered to be vacant within the meaning of Section 653B(ii) of the Act. 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.

## 10.0 Recommended Draft Board Order

**Taxes Consolidation Act 1997 as amended**

**Planning Authority: Wicklow County Council**

**Local Authority Reference Number: WW-RZLT-05-2024**

**Appeal** by Avonvard Limited 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 Wicklow County Council on the 26<sup>th</sup> day of June 2024 in respect of the site described below.

**Lands at:** Land at Vevay Road & Boghall Road (former Dell Site) Bray, Co. Wicklow

## **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 confirm the determination of the local authority and direct the local authority to retain the lands identified as Parcel ID 313465 on the final 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.

The lands identified as Parcel ID 313465 are zoned for mixed use development and although Objective SLO4 limits the amount of residential development to no more than 40% of the site, the layout and nature of development is a matter for the Development Management process to assess, and to determine how much of the lands are required for residential purposes. The lands are located within an established urban area. They can be considered to be vacant within the meaning of Section 653B(ii) of the Act, as there is no activity in operation at present and they are not required for a trade or profession being carried out on, or adjacent to the land.

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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Paul O'Brien

Inspectorate

17<sup>th</sup> September 2024