



An
Coimisiún
Pleanála

Inspector's Report ACP-323216-25

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

Vevay Road and Boghall Road (The former Dell Site), Bray, Co. Wicklow

Planning Authority

Wicklow County Council

Planning Authority Reg. Ref.

RZLT-2026-01

Parcel ID

WW308

Appellant(s)

Avonvard Limited

Inspector

Paul O'Brien

1.0 Site Location and Description

- 1.1. The subject site is located approximately 1.8km to the south east of the centre of Bray, Co. Wicklow. The subject lands are located to the south of the Boghall Road, south west of Vevay Road and to the north of, though not adjoining, the Southern Cross Road. A roundabout junction is located almost midway of the eastern side of the site along the Vevay Road. The lands are vacant and consist of former industrial units, surface car parking, associated buildings and other ancillary structures. To the south east is the Wilton Hotel and to the west is primarily light industrial/warehousing units. To the north and north east are residential units and Bray Golf Club is located to the south east.
- 1.2. The overall site area is approximately 3.7 hectares, though the lands subject to this appeal are 1.42 hectares.

2.0 Zoning and Other Provisions

- 2.1. The subject lands are included within the Settlement Boundary of the expired Bray Municipal District Local Area Plan 2018 - 2024. 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' expired in 2024. Preparation of the 'Bray Municipal District Local Area Plan (LAP)' is underway with the draft consultation phase now complete. Consultation took place between the 20th of November 2024 to the 18th of December 2024. There is no update on this on the Wicklow County Council website.
- 2.4. There are no protected structures, national monuments or any other item indicated on the development plan maps.

3.0 Planning History

ABP Ref. 320349-24 refers to a September 2024 decision to confirm the determination of the Local Authority to include these lands on the Residential Zoned Land Tax map.

ABP Ref. 316351-23 refers to an October 2023 decision to confirm the determination of the Local Authority to include these lands on the Residential Zoned Land Tax map.

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.

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.

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 its lands removed from the draft map on the basis that the Bray Local Area Plan has now expired and therefore there is no zoning on these lands, and the land cannot be left on the RZLT map.

5.0 Determination by the Local Authority

- 5.1. The Local Authority determined that the site was in scope and states:

In pursuance of the powers conferred upon them by the above Acts, Wicklow County Council has by Order dated 27/06/2025 it has been determined that the site in question fulfils the qualifying criteria set out in Part 22A of the Taxes Consolidation Act 1997 (as introduced by the Finance Act 2021 and as amended), the 2022 Section 28 Ministerial Guidelines 'Residential Zoned Land Tax – Guidelines for Planning Authorities', 2024 Section 28 Ministerial Guidelines 'Residential Zoned Land Tax – Change in zoning of lands subject to existing economic activity – Guidelines for Planning Authorities' and Ministerial Circulars NRUP 07/2022,

02/2023, 01/2024 and 03/2024 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 are 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.'

6.0 The Appeal

6.1. Grounds of Appeal

The appellant has appealed the decision of Wicklow County Council on the basis that these lands are not zoned as the Bray Local Area Plan 2018 – 2024 has now expired. Examples of decision issued by An Bord Pleanála in relation to developments in County Wicklow and County Kildare are provided, specifically to do with cases where the Local Area Plan having expired. The subject lands are not included in the Wicklow County Development Plan 2022 – 2028 and should only be included on the RZLT map when a suitable local area plan has been adopted by Wicklow County Council.

6.2. Planning Authority Response

- No comment.

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 Pleanála¹ 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 1997 as amended, sets out the criteria for inclusion on the map, and states that the first consideration for inclusion 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 RZLT Guidelines for Planning Authorities state under Section 3.1.1 ‘To satisfy the criteria as identified in section 653B, land must be zoned residential use or for mixed uses including residential within a Development Plan, Strategic Development Zone Planning Scheme or a Local Area Plan.’
- 7.3. I have provided the planning and RZLT history of this site and a key change from the determination under ABP Ref. 320349-24 is that the Bray Municipal District Local Area Plan 2018 – 2024 expired in 2024 and no replacement plan has been adopted to date. As there is no plan in place and hence there is applicable zoning on these lands, they should not be included on the RZLT map as they do not fall under Section 653B(a).

¹ Now An Coimisiun Pleanála

- 7.4. For the purposes of falling within the scope of the RZLT, the criteria is whether it 'is reasonable to consider that the land 'may have access to' or 'be connected to' public infrastructure facilities' necessary for the development of dwellings. The Local Authority determined the lands to be in scope as it is reasonable to consider that this site 'may have access to services' including road/ footpath access, public lighting, foul sewer/ surface water drainage and water supply necessary for the provision of housing. I consider it 'is reasonable to consider that the land 'may have access to' services necessary for the provision of housing on these lands.
- 7.5. Not raised in the appeal but for the benefit of the Commission, the Uisce Éireann Capacity Register, dated August 2025, indicates 'Potential Capacity Available - LoS improvement required' for Water Supply for the Bray area and a 'Green' capacity available for the Shanganagh WWTP, which serves Bray, in terms of wastewater treatment, this was checked on the 24th of October 2025.
- 7.6. There are no known restrictions on the development of housing here in terms of contamination or the presence of archaeological or historic remains.
- 7.7. I therefore consider that the subject lands should not be included on the Residential Land Tax Maps, as the lands do not demonstrate compliance with section 10(2)(a) of the Act of 2000 in terms of inclusion within a development plan or in terms of inclusion on a local area plan, in accordance with section 19(2)(a) of the Act of 2000, for lands zoned (i) solely or primarily for residential use, or (ii) for a mixture of uses, including residential use.

8.0 Recommendation

Having regard to the foregoing, I consider that the land identified under Land Parcel ID WW308 on the RZLT Final Map do not meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, as there is no local area plan in place on these lands and as such the site is not zoned, therefore is not compliant with Section 653B(a).

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 lands identified as Land Parcel ID WW308 on the RZLT Map are not within scope of Section 653B(a). The subject site is located on lands that no longer have the benefit of a zoning as the Bray Municipal Local Area Plan 2018 – 2024 expired in 2024 and has not been replaced to date. The lands are not zoned for residential development or for an appropriate mixed use that allows for the development of housing on these lands.

10.0 Recommended Draft Commission Order

Taxes Consolidation Act 1997 as amended

Planning Authority: Wicklow County Council

Local Authority Reference Number: RZLT-2026-01

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 24th day of July 2025 in respect of the site described below.

Lands at: Lands at Vevay Road and Boghall Road (former Dell site), Bray, Co. Wicklow.

Decision

The Commission 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:

Overturn the determination of the local authority and direct the local authority to remove the lands identified as Land Parcel ID WW308 from 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 Land Parcel ID WW308 on the RZLT Map are not within scope of Section 653B(a). The subject site is located on lands that no longer have the benefit of a zoning as the Bray Municipal Local Area Plan 2018 – 2024 expired in 2024 and has not been replaced to date. The lands are not zoned for residential development or for an appropriate mixed use that allows for the development of housing on these lands.

I confirm that the report represents my profession 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.

Paul O'Brien
Inspectorate

24th October 2025