



An  
Coimisiún  
Pleanála

## Inspector's Report ACP-323228-25

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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**

Whiteshead Road, The Burnaby,  
Greystones, Co. Wicklow

**Planning Authority**

Wicklow County Council

**Planning Authority Reg. Ref.**

RZLT-2026-03

**Land Parcel ID:**

WW1310 (Part of)

**Appellant(s)**

Kasadale Limited

**Inspector**

Paul O'Brien

## **1.0 Site Location and Description**

- 1.1. The subject site contains an area of land located to the rear of 'Woodlands', which is a house located on Whitshead Road, The Burnaby, Greystones. This rectangular shaped site as stated is located to the rear of Woodlands but also to the rear of a number of other detached houses and as such the site does not have the benefit of street/ roadside frontage. The Planning Authority, through their report, give the subject site area as 0.146 hectares.

## **2.0 Zoning and Other Provisions**

- 2.1. The site is located on lands that were zoned 'Residential' under the Greystones Local Area Plan 2013 – 2019. The site is located within an area designated as R10 and which allows for a density of 10 units per hectare.
- 2.2. Wicklow County Council have commenced the process of preparing a new 'Greystones/ Delgany & Kilcoole Local Planning Framework (LPF) 2025'. This is under preparation through proposed Variation No.4 of the Wicklow County Development Plan 2022 – 2028. The Wicklow County Development Plan does not provide for any zoning for Greystones or the subject site. Map No.1 of the Draft Greystones - Delgany & Kilcoole Local Planning Framework indicates that the subject site is zoned 'RS: Special Residential'. Objective GDK20 states:  
  
'Any new development on lands zoned RS (Special Residential) at 'The Old Burnaby' ACA shall be restricted to a lower density (not exceeding 10 units per hectare), and a design and height that reflect the character of this existing historical residential area. All applications within this area shall include Architectural Heritage Impact Assessment in support of the development.'
- 2.3. Wicklow County Council prepared Proposed Variation No. 4 to the County Development Plan to integrate the draft and final Greystones-Delgany and Kilcoole Local Planning Framework (LPF) into the Wicklow County Development Plan 2022-2028. At the time of my report (23<sup>rd</sup> October 2025) the proposed material variations are on public display from the 24<sup>th</sup> of October to the 21<sup>st</sup> of November 2025.

- 2.4. The house to the north of the site, 'Moorlands' is indicated as on the Record of Protected Structures. The subject lands within the Burnaby are within an Architectural Conservation Area (ACA).

### 3.0 Planning History

- 3.1. **PA Ref. 21370/ ABP Ref. 310623** refers to a February 2022 decision to grant permission for the construction of a side and front single extension providing for 2 bedrooms and bathrooms, with ancillary space at Moorlands which is a protected structure. Note: The subject application address is given as Moorlands.
- 3.2. **PA Ref. 221403** refers to an April 2023 decision to grant retention permission for amendments to previously approved permission (PA Ref: 21/194) consisting of: (1) reduction in size of rooflight; retention of access door in lieu of window to roof terrace; omission of external wall insulation and solar panels to main house. (2) change of profile to hip roof and reduction to 2no. rooflights to coach house. (3) reduction in height and amendment to gable end profile of roof, with relocation of window; retention of loft storage area; 2no. conservation style rooflights to south-west elevation; additional external door and relocation of existing door to garage. (4) retention of tile capping to courtyard wall and omission of roof canopy link. (5) retention of sauna, reduction of ground floor terrace and amendments to external patio area. (6) 2m high x 2m wide freestanding utility wall adjacent to front entrance gate. This site is located to the east of the subject site.

### 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 site is landlocked and cannot be suitably serviced. There is no direct access to road frontage, footpaths, public lighting, drainage or water supply. Land may only be developed if access through an adjoining property is available in the future.

## 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.'

The following note is attached to the direction:

**'Note:** In relation to item 2, it is noted that the directors of Kasadale Ltd are **Michael and Berit Looney**, who appear to be the owners of the adjoining property 'The Gables' Whitshead Road, The Burnaby, Greystones, A63 TF84 having regard to the information submitted with Planning Register Reference 22/1403, and therefore it is **not accepted** that the lands are 'landlocked' and would not be possible to connect to

service sin (sic) the public road via a property within the same ownership. This assessment has taken particular cognisance of Ministerial guidance, in particular Section 4.1.1 (iii) of the Section 28 Ministerial Guidelines ‘Residential Zoned Land Tax – Guidelines for Planning Authorities’ (2022).’

## **6.0 The Appeal**

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

The following points were made in support of the appeal:

- The subject lands are landlocked and cannot be accessed/ serviced unless access is provided over third party lands. There are no services provided to this site, and the location of the site is indicated on an attached map outlined in red.
- The appellants accept that they own and live in the property to the east of the subject site. Significant works have been undertaken on this house, and which have resulted in the extended unit occupying almost the entire width of the adjoining site, thereby preventing access to the public street.
- Development of the site may be possible if one of the other properties becomes available and access can be provided through those lands. An aerial photograph has been provided indicating the area of the works undertaken.

Note: Reference is made in the appeal to Fingal County Council, I am taking this as an error, and which should be replaced with Wicklow County Council.

Considers the subject lands not to be liable for RZLT and should not be included on the RZLT map for 2026.

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

None received.

## **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<sup>1</sup> 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.
- 7.3. The site is subject to zoning under the Greystones Local Area Plan 2013 – 2019. The Planning Authority have confirmed that a new local planning framework (LPF) is under preparation but effectively there is no zoning objective on this site; I have provided full details of Variation No.4 of the Wicklow County Development Plan 2022 – 2028 in Section 2.0 of this report.
- 7.4. Section 653B(a) of the Taxes Consolidation Act, 1997 provides for the inclusion of lands on the RZLT maps and as the site is considered to not be zoned, the subject lands are therefore not zoned, and the lands cannot be considered to be suitable for inclusion on the RZLT maps.
- 7.5. 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 appeal refers to the lack of access to this site through its landlocked layout and in turn services cannot be provided here to enable the development of the site. The Planning Authority have investigated the landownership of the site and adjoining

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<sup>1</sup> Now An Coimisiún Pleanála

lands and have found that the landowner owns a site to the east and from which access to the public road could be provided and which in turn would allow for the servicing of this site.

- 7.6. Taking the current situation into account, access is not easily possible to/ from this site as the redevelopment of the landowners house prevents the provision of such an access. It is possible to demolish part or all of this house in order to allow for services to reach this site, however that may not be practical and could negatively impact on this house. The legislation is clear and under Section 653B(c) it states 'it is reasonable to consider may have access..'. At present, there is no such access and whilst the Planning Authority have demonstrated a common ownership between the site and adjoining lands, such a case may not continue until such a time as to allow for the site development for residential purposes.
- 7.7. The site is located in an established urban area of Greystones and the Uisce Éireann Capacity registers, dated August 2025, for this area, were checked on the 23<sup>rd</sup> of October 2025. In terms of Water Supply it states that there is 'Potential Capacity Available - LoS improvement required' and in terms of 'Wastewater treatment capacity' there is a 'Green' capacity available for the 'Greystones WWTP'. I am satisfied that adequate services are available to facilitate the development of these lands.
- 7.8. There is no indication of contamination of the subject site and no known archaeology or historic remains that would prevent the development of housing on this site.
- 7.9. Conclusion: The site is not suitably zoned for residential development at present, and it is not reasonable to consider that the land 'may have access to' necessary services in the form of a connection to the public road network. On this basis, the land, therefore, does not satisfy the criteria cited in section 653B(a)(ii) of the Taxes Consolidation Act 1997, as amended and the grounds of appeal should be upheld.

## 8.0 Recommendation

Having regard to the foregoing, I consider that the land identified under Land Parcel ID WW1310 (part of) on the RZLT Final Map does not meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, as the site is

not zoned in accordance with the County Development Plan and there is no Local Area Plan in place for these lands that would provide for a suitable zoning. In addition, it is reasonable to consider that the subject site is not accessible through its landlocked layout.

## **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 under ID WW1310 (part of) 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 the site is not zoned in accordance with the County Development Plan and there is no Local Area Plan in place for these lands that would provide for a suitable zoning for the development of housing. In addition, it is reasonable to consider that the subject site is not accessible through its landlocked layout, and which would prevent the development of housing here. The site does not satisfy the criterion for inclusion on the map set out in section 653B of the Taxes Consolidation Act 1997, as amended.

## **10.0 Recommended Draft Commission Order**

**Taxes Consolidation Act 1997 as amended**

**Planning Authority: Wicklow County Council**

**Local Authority Reference Number: RZLT-2026-03**

**Appeal** by Kasadale 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 30<sup>th</sup> day of July 2025 in respect of the site described below.



**Lands at:** 'Moorlands', Whiteshead Road, The Burnaby, Greystones, 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:

The Commission set aside the determination of the Local Authority and allow the appeal in relation to the lands identified as Land Parcel ID WW1310 (part of).

### **Reasons and Considerations**

The lands identified under ID WW1310 (part of) 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 the site is not zoned in accordance with the County Development Plan and there is no Local Area Plan in place for these lands that would provide for a suitable zoning for the development of housing. In addition, it is reasonable to consider that the subject site is not accessible through its landlocked layout, and which would prevent the development of housing here. The site does not satisfy the criterion for inclusion on the map set out in section 653B of the Taxes Consolidation Act 1997, as amended.

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.

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Paul O'Brien  
Inspectorate

23<sup>rd</sup> October 2025