

CUNNANE STRATTON REYNOLDS

Our Ref: EMP/96601

Administrative Officer,
Planning Department,
Wicklow County Council,
County Buildings,
Whitegates,
Wicklow Town,
A67 FW96,

27th December 2022

Dear Sir/Madam,

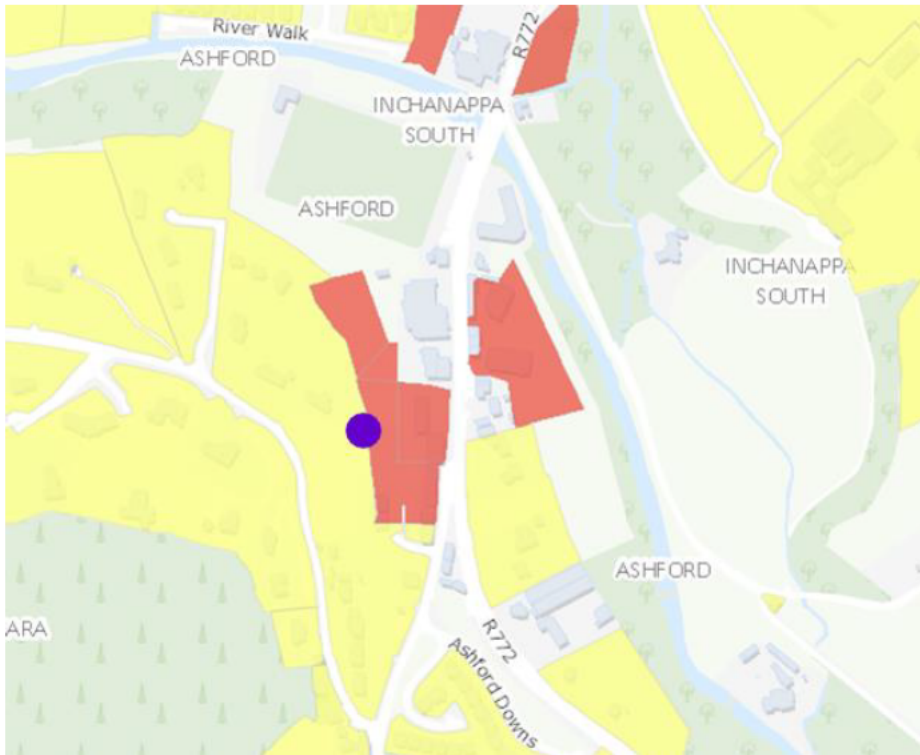
Through Email

**RE: 'RZLT' within Wicklow County
Site at Mount Usher, Ashford, County Wicklow
Parcel ID: WW36 and WW37**

Cunnane Stratton Reynolds has been appointed by [REDACTED]
[REDACTED] who own lands at Mount Usher, Ashford County Wicklow.

The land the subject of this submission is shown in Figure 1 below which is an excerpt of the Draft Map of lands considered by Wicklow County Council to be 'in scope' of the Residential Zoned Land Tax ('RZLT').

Figure 1: Excerpt of Draft Map showing lands at Mount Usher currently identified for Residential Zoned Land Tax (RZLT)



DUBLIN OFFICE
3 MOLESWORTH PLACE, DUBLIN 2
TEL: 01 661 0419
EMAIL: info@csrlandplan.ie

OFFICES ALSO AT:
COPLEY HALL, COTTERS STREET, CORK
TEL: 021 496 9224
EMAIL: corkinfo@csrlandplan.ie

DIRECTORS
Declan O'Leary BAg Sc (Land-Hort) Dip LA MILI MLI: ARDACONG, BALLYTRASNA, TUAM
Eamonn Prenter BA (Hons) Dip TP MSc MRTPI MIPI: CO GALWAY
TEL: 01 661 0419
Jim Kelly BAg Sc (Landscape-Hort) Dip LA MILI CMLI: EMAIL: galwayinfo@csrlandplan.ie
Keith Mitchell MA (Hons) LA Dip EIA Dip Arb MILI CMLI: WWW.CSRLANDPLAN.IE

The above shows a variety of lands captured within the Draft RZLT map within Ashford and which are either zoned 'residential' or mixed use'. Please be aware that our client has a further landholding that is the subject of a separate submission at Inchanappa South also within Ashford, and partially shown above in Figure 1.

Land Within Our Client's Ownership and that is contained within the Draft RZLT Zoning Map

Please see below Figure 2 showing the extent of our client's ownership of land in this location.

Figure 2: Extent of land in our client's ownership

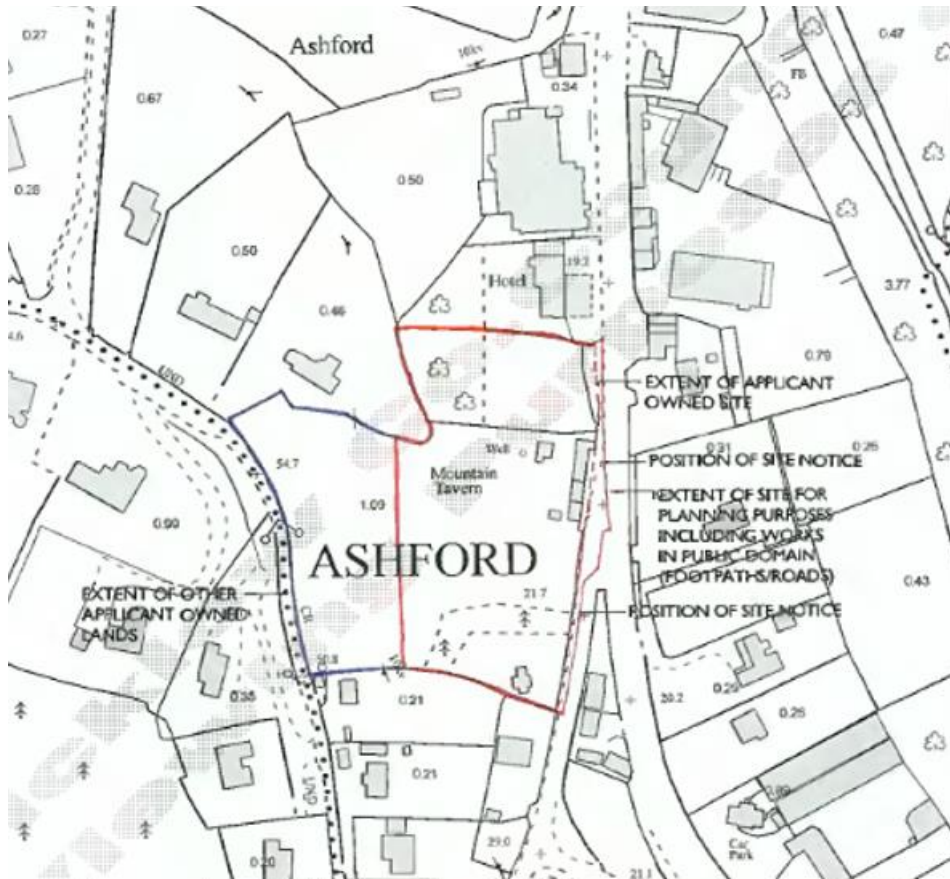
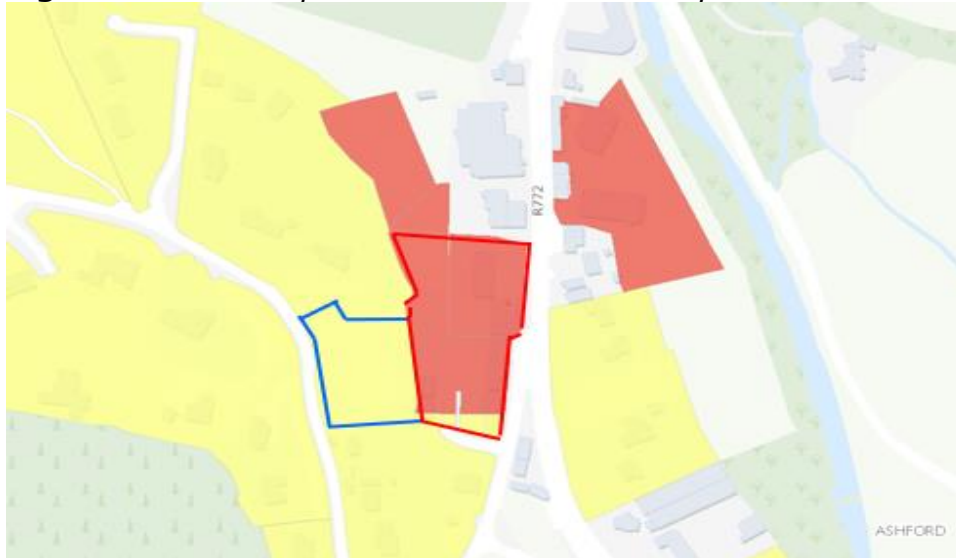


Figure 2 above shows our clients ownership within both blue and red line whereby the area in red is the subject of a live Substitute Consent application currently with An Bord Pleanála under ABP ref. 312283-21. The remainder of their holding is outlined in blue and is currently not the subject of an extant planning permission, any planning appeal or substitute consent application to the Board.

Figure 3 below transfers our landownership in Figure 2 onto the Draft RZLP Map of Figure 1. It shows that the client's land outlined in red is predominantly zoned mixed use in the Ashford Town Plan 2016-2022 at the time the substitute consent was lodged with a relatively small area to the south zoned as residential to the south. That zoning has been carried forward into the recently adopted Ashford Town Plan 2022-2028. The town centre zoning objective is 'To provide for the development and improvement of appropriate town centre uses including retail, commercial, office and civic use, and to provide for 'Living Over the Shop', residential accommodation or other ancillary residential accommodation'. The site is also partially zoned RE Residential where the objective is 'To protect, provide and improve

residential amenities of existing residential areas.’ The RE zoning is located on the southern extremity of the site.

Figure 3: Ownership within the RZLT Draft Map



Planning History

Leave to make a substitute consent application directly to An Bord Pleanála was applied for by this Practice in December 2020 and granted under ABP Ref. ABP-309566-20 in July 2021. That application for leave to apply for substitute consent being successful precipitated a substitute consent application being lodged with An Bord Pleanála on 17th December 2021 – a full year ago. The development the subject of that substitute consent application was to retain and complete the mixed use development (residential and retail) in 5 no. existing three storey blocks currently within the red line boundary.

An initial due date for a decision being given by the Board of 29th April 2022. That due decision date was pushed back further to 3rd December 2022. Since then no decision has been issued and no indication of when a decision is due has been given since by An Bord Pleanála despite constant chasing of a decision by the company. What we do know by way of a decision is that the file remains with the Planning Inspectorate and therefore a decision from the Board on this matter remains some way off in our opinion and is certainly not imminent given existing backlogs etc. The County Council will be aware that there is no time limit within which ABP must make decision (and they have a right to ask for FI).

It should be pointed out that WCC indicate within their response under 177I (2) (e) (i) of the Planning and Development Act 2000 as amended when commenting on the application that they are of the opinion that substitute consent should be granted in this case. Our client and ourselves are confident that substitute consent will indeed be granted. The delays are highly regrettable but are beyond our client's control as they relatively recently acquired the site and proceeded with the substitute consent application as soon as they could.

The application for substitute consent was for what was originally permitted on this site under Reg. Ref. 081704 consisting of mixed use development (24 no. residential units, some with offices and retail space). Planning permission was granted for a part complete mixed use residential scheme, originally under Reg. Ref. 081704, and subsequently extended by an extension of duration permission under Reg. Ref. 14118. Following that original grant of planning permission the site was managed/held by a series of administrators and receivers and their managers.

The permitted development was begun in 2015 and by 2018 became the subject of a planning application by the builder for retention of the development begun and proposal for alteration of the remaining parts of the development under Reg. Ref. 18603. This was granted permission by Wicklow County Council but was subject to a third party appeal. In the course of consideration of the appeal, it was determined by An Bord Pleanála that the proposed surface water discharge to be separate from the existing combined sewer ought to have progressed to Stage 2 Appropriate Assessment. This sequence of events occurred before our client acquired the site. In view of the retention element of the proposal and the requirement for Appropriate Assessment, the appeal was incapable of being determined by the Board but were it not for this we believe that planning permission would have been granted by the Board. This outcome however required obtaining substitute consent for works done but in the meantime the builder went into receivership and the property was bought by Vartry Developments who had to lodge such an application.

The area outside the red line and within the blue line has the benefit of no planning permission and there is no planning decision awaited and is also within the ownership of Vartry developments to the west of the substitute consent application site.

It should be noted that there was an enforcement file opened on the site under WCC reg. Ref. UD 4470 and an Enforcement Notice was issued back in 2015 to a previous owner of the site. The current owner, our client, has sought to regularise planning on the site through the substitute consent application that we have lodged on their behalf. The substitute consent application is a means of regularising what has been built only or what has been built and what has been originally granted planning permission.

The split of floorspace of the development coming under the Substitute Consent comprises a total of some 4,128.1sqm with the residential component of that proposed/retrospective development amounting to some 3,621.7sqm and the retail comprising 506.4sqm and just over 12% of the subject development.

The above planning history relates to the area of our client's landholding that is contained within the above red line of Figure 2 and Figure 3. We have researched the planning history for that area within blue line on the Council's web site but can see no significant planning decision.

Our Request Under S653 of the Finance Act 2021

Provision is available under Section 653AF of the principal act for the aforementioned tax to be deferred pending the outcome of an appeal against the grant of planning permission as long as that appeal is not made by the landowner or someone associated with that landowner (in other words a third party). Section 653AF (1)(c) (i) and (ii) refers. Section (2) of 653AF states that this section applies where a planning permission has been granted, but the development concerned cannot commence because the decision to grant the planning permission is subject to a relevant (third party) appeal which has not been determined at the liability date.

Whilst this section refers expressly to appeals it does refer to decisions to grant planning permission and in these circumstances Section 653A under the sub title Interpretation 'planning permission' means a permission granted under sections 34, 37, 37G, 170, or 177K of the Act of 2000 as amended. In this instance S177K refers to the decision of An Bord Pleanála in respect of determining substitute consents and therefore in this case we believe that any RZLT on the site within the red line indicated above and which relates to a pending determination of a substitute consent ABP Ref. 312283-21 should be deferred until such time as that decision is reached by the Board. We would also point out that the application

for substitute consent was lodged on 17th December 2021 before the effective date of 1st January 2021.

Apart from having the RZLT deferred for the reasons identified above we would ask that the calculation of the tax due on the development the subject of the substitute consent before the Board be reduced by 12% as that represents the percentage of the gross floorspace before the Board currently and as of 1st January 2022 that is non-residential use as indicated above.

We trust you will be in a position to favourably consider our request at this stage of the RZLT process.

Yours Faithfully,



CUNNANE STRATTON REYNOLDS
LAND PLANNING & DESIGN
www.csrlandplan.ie



County Wicklow Residential Zoned Land Tax (RZLT)

Submission Template

A: Details of person / representative / agent making submission

Name	CUNNANE STRATTON REYNOLDS
Address	3 MOLESWORTH PLACE DUBLIN 02 D02 EP97 (include Eircode please)
Phone No.	01-661-0491
Email Address	eprenter@csrlandplan.ie

If you are the landowner of the lands that are the subject of this submission, or making the submission on behalf of the landowner, please complete Part (B) of this form.

If you are not the landowner of the lands that are the subject of this submission or making the submission on behalf of the landowner, (i.e. you are a 'third party') please complete Part (C) of this form.

Please be advised that personal information will be redacted before publishing.

B: Landowner Submission

Town	Ashford
Landowner name	See cover letter
Landowner address	<p>████████████████████</p> <p>██████████████</p> <p>██████████</p> <p>██████</p> <p>██████</p> <p>(include Eircode if known)</p>
Landowner phone	██████████
Landowner email	████████████████████
Address of site	<p>Mount Usher View</p> <p>Mount Usher</p> <p>Ashford</p> <p>Co. Wicklow</p> <p>(include Eircode if known)</p>
Site description	Please see attached cover letter.
Site Area	1.19 ha

Maps / information to accompany submission	Check
Have you included the required Ordnance Survey map showing the lands at an appropriate scale i.e. 1:1000 in urban areas or 1:500 in rural area, clearly identifying the map in question?	✓
Have you included proof of ownership?	No

Are you:	Check
Challenging the inclusion of certain lands on the map?	No
Challenging the date that lands are considered to be 'in scope'?	✓
Requesting a change in zoning?	No
Identifying additional lands that you believe should be shown on the maps?	No

Grounds for your submission (please see advice at end of this document)

(you can set out grounds on this form, or attach a separate document)

See attached cover letter.

C: Third Party Submission : N/A

Town	
Landowner name	(if known)
Landowner address	(include Eircode if known)
Landowner phone	(if known)
Landowner email	(if known)
Address of site	(include Eircode if known)
Site description	(if address is unclear)
Site Area	(if known)

Please include a map if available

Please be advised that where we cannot identify the land we may not be able to take your submission into account.

Are you:	Check
Challenging the inclusion of certain lands on the map?	
Challenging the date that lands are considered to be 'in scope'?	
Identifying additional lands that you believe should be shown on the maps?	
Grounds for your submission (please see advice at end of this document) (you can set out grounds on this form, or attach a separate document)	

Criteria for inclusion on the map - any submission to exclude or include land should make reference to these criteria:

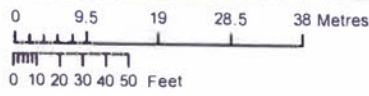
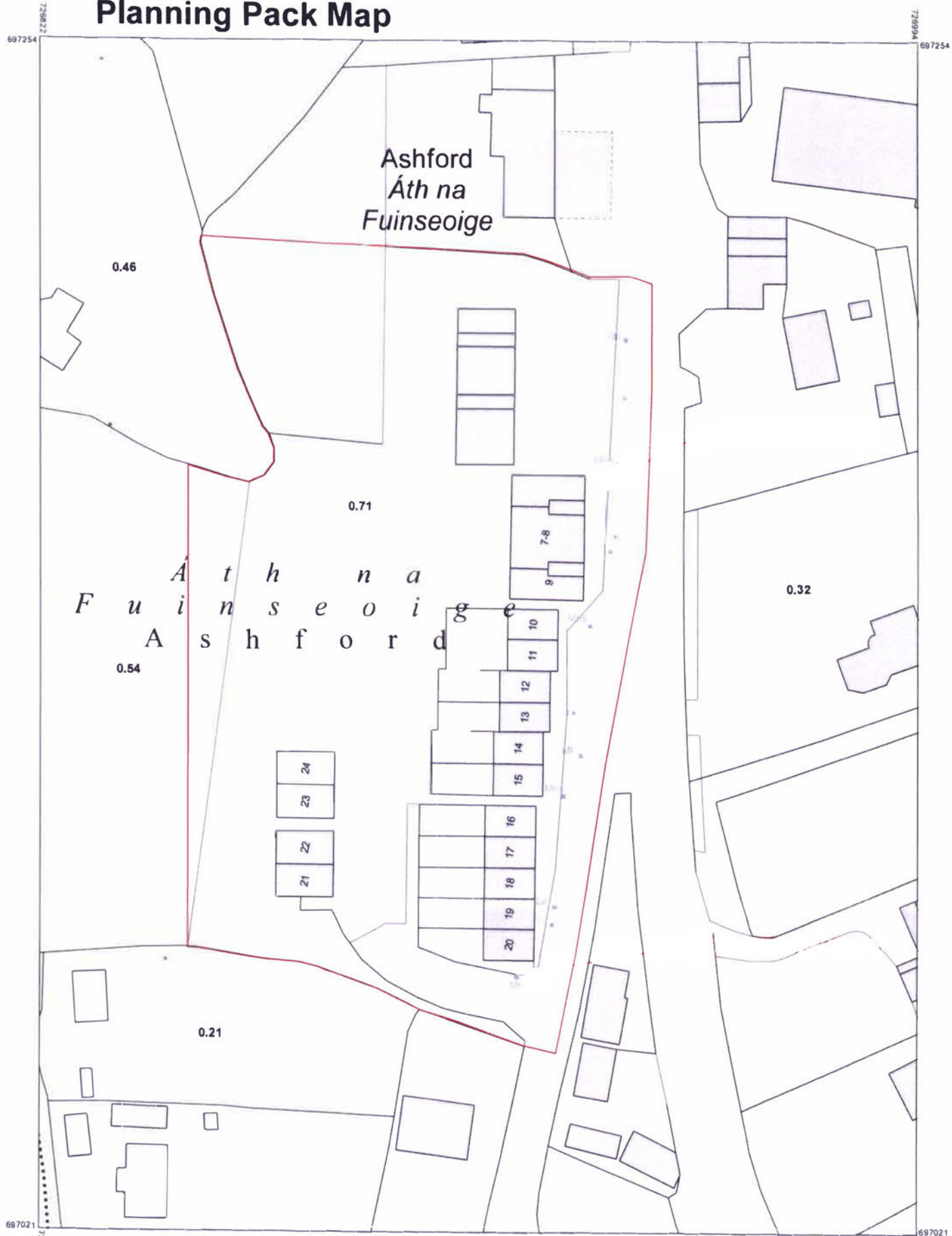
Land that meets the criteria for inclusion on the map, and therefore liable to the RZLT, is land that –

- is included in a development plan or local area plan and is zoned for residential development or zoned for a mixture of uses, that includes residential development.
- is 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.
- is 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.

but which is not –

- land that, while zoned residential, is an authorised development used to carry on a trade or profession by a business liable to pay commercial rates, and which provides services to residents of adjacent residential areas.
- land that is zoned for a mixed used purpose (including residential) unless it is reasonable to consider that such land is vacant or idle.
- land that is required for, or occupied by, other uses such as social, community or governmental infrastructure, including education and healthcare facilities, facilities used for the purposes of public administration, transport facilities and infrastructure, utilities, energy or telecommunications infrastructure and facilities; water and wastewater infrastructure and facilities, waste management and disposal infrastructure, recreational infrastructure including sports facilities and playgrounds.
- land that is subject to a statutory designation that may preclude development.
- land in respect of which the Derelict Sites Levy is payable.

Planning Pack Map



OUTPUT SCALE: 1:1,000



CENTRE COORDINATES:
ITM 726908,697138

PUBLISHED: 22/03/2018
MAP SERIES: 1:2,500

ORDER NO.: 50001373_1
MAP SHEETS: 3962-D

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McGroddy Brennan LLP

SOLICITORS

DUBLIN
33 Upper Merrion Street
Dublin 2
Eircode: DO2 ET28

TEL: +353 1 4404890
FAX: +353 1 4404891
DX: 176 Dublin

Email: info@mcgroddybrennan.ie
Web: www.mcgroddybrennan.ie

22 December 2022

Wicklow County Council
County Buildings,
Station Road,
Whitegates,
Wicklow,
A67 FW96

Re: Property at Mount Usher, Ashford, County Wicklow comprised in Folios 45062F and 450675F County Wicklow (the "Property")

Dear Sirs,

We confirm that [REDACTED] is the owner of the Property.

Yours faithfully,

McGroddy Brennan LLP
McGroddy Brennan LLP