

Residential Zoned Land Tax,
Administrative Officer,
Planning Department
Wicklow County Council,
County Buildings,
Whitegates,
Wicklow Town,
A67 FW96.

RZLT@wicklowcoco.ie

Date: 22/12/2022
Our Ref: PT - VR 22124

Dear Sir/Madam,

**RE: RESIDENTIAL ZONED LAND TAX SUBMISSION IN RESPECT OF LANDS AT
VEVAY ROAD AND BOGHALL ROAD (THE FORMER DELL SITE), BRAY, CO.
WICKLOW**

1.0 INTRODUCTION

[REDACTED] has instructed John Spain Associates, 39 Fitzwilliam Place, Dublin 2, to prepare a submission in respect of lands in their ownership at Vevay Road and Boghall Road (the former Dell site), Bray, Co. Wicklow, and the proposal to include same on the draft mapping for lands subject to the Residential Zoned Land Tax.

This submission is made in accordance with Section 653D (1)(a) of the Taxes Consolidation Act 1997 (as amended by the Finance Act 2021):

“653D. (1) A person may, not later than 1 January 2023, make a submission in writing, on a draft map published in accordance with section 653C (2), regarding–
(a) the inclusion in, or exclusion from, the final map of a site, or
by sending the submission, together with the person’s name and address, to the local authority concerned.”

As set out herein, this submission seeks that the lands in our client’s ownership (as illustrated in the Site Location Map included as Appendix 1) are removed from the draft RZLT map, having regard to the relevant criteria provided under Section 653B(a) of the Act which is addressed in Section 5 of this submission. The submission notes in Section 5, without prejudice to the entire site being removed from the draft RZLT map, that at the very least the southern portion of the overall landholding should be excluded, as the LAP / extant permissions excludes residential development being delivered on this portion of the site.

Managing Director: John P. Spain BBS MRUP MRICS ASCS MRTPI MIPi
Executive Directors: Paul Turley BA MRUP Dip Environmental & Planning Law MIPi Rory Kunz BA (MOD) MScERM MAT&CP Dip EIA Mgmt. MIPi
Stephen Blair BA (Mod) MRUP MIPi MRTPI Blaine Cregan B Eng BSc MSc

Senior Associate Directors: Luke Wymer BA MRUP Dip Plg & Env Law Dip PM Prof Cert Env Mgmt MIPi

Meadhbh Nolan BA MRUP MRTPI Kate Kerrigan BA MSc MRTPI

Associate Director: Ian Livingstone MA (Hons) Town & Regional Planning, MSc. Spatial Regeneration. MRTPI

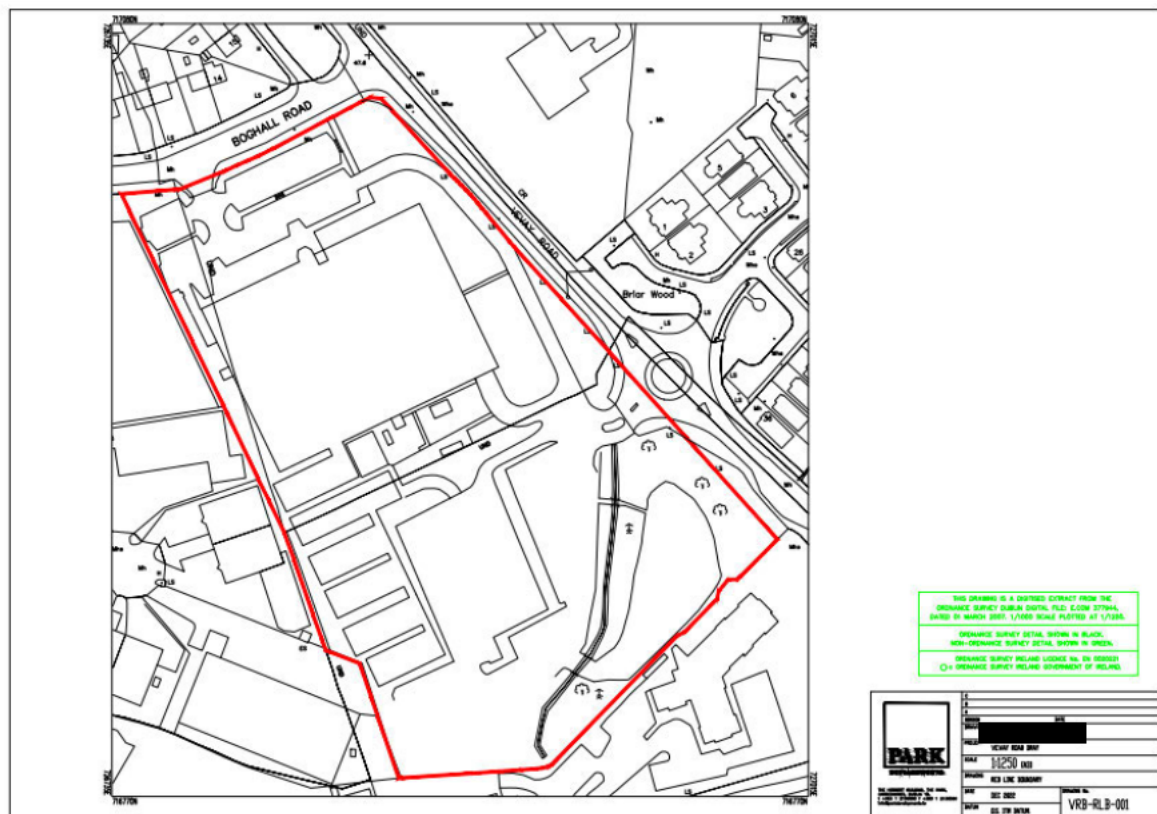
John Spain Associates Ltd. trading as John Spain Associates. Directors: J. Spain, S. Spain.
Registered in Ireland No. 396306. Registered Office: 39, Fitzwilliam Place, Dublin 2 D02 ND61. VAT No. IE 6416306U

In accordance with Section 653D (3), an Ordnance Survey Ireland based map is included in Appendix 1 identifying the location of the lands the subject of this submission. In accordance with Section 653D (4), Appendix 2 includes details of the landowner and the folios relating to the lands, which confirms that the subject lands are in [REDACTED] ownership.

2.0 LOCATION OF SUBJECT SITE

The subject site is located to the south of Boghall Road and west of Vevay Road and has an area of c. 3.75 hectares. It is occupied by the former Dell factory which is vacant. The site has remained derelict since the early 2000's following the closure of the Dell factory. Access to the site is currently provided via Boghall Road and Vevay Road.

Figure 0.1: OS Map with extent of land ownership outlined in red (see Appendix 1 also)



3.0 RELEVANT RECENT PLANNING HISTORY

The following provides an overview of the relevant planning history for the subject lands.

WCC Reg. Ref.: 18/1181 and ABP Ref.: 304425-19 – Phase 1 Nursing Home and Office Building

On the 24th October 2019, an Order to grant permission, subject to 18 no. conditions, was issued by An Bord Pleanála for the Phase 1 office and nursing development, on the southern part of the subject lands. The Board's Order to grant permission followed from the Planning Authority's notification to grant permission, which was subject to first party and third party appeals.

An indicative Masterplan was submitted with the application, and amended as part of the FI Response, to demonstrate consistency with the criteria of SLO 4 of the LAP. This indicated

the potential to provide 151 no. residential units and 9,480 sq.m of office space on the northern portion of the landholding, i.e. through a Phase 2 development, and subject to a separate future planning application.

The Phase 2 application has been on hold due to the unviability and lack of market demand for the scale of office / employment accommodation required on the site under the SLO 4 objective of the LAP.

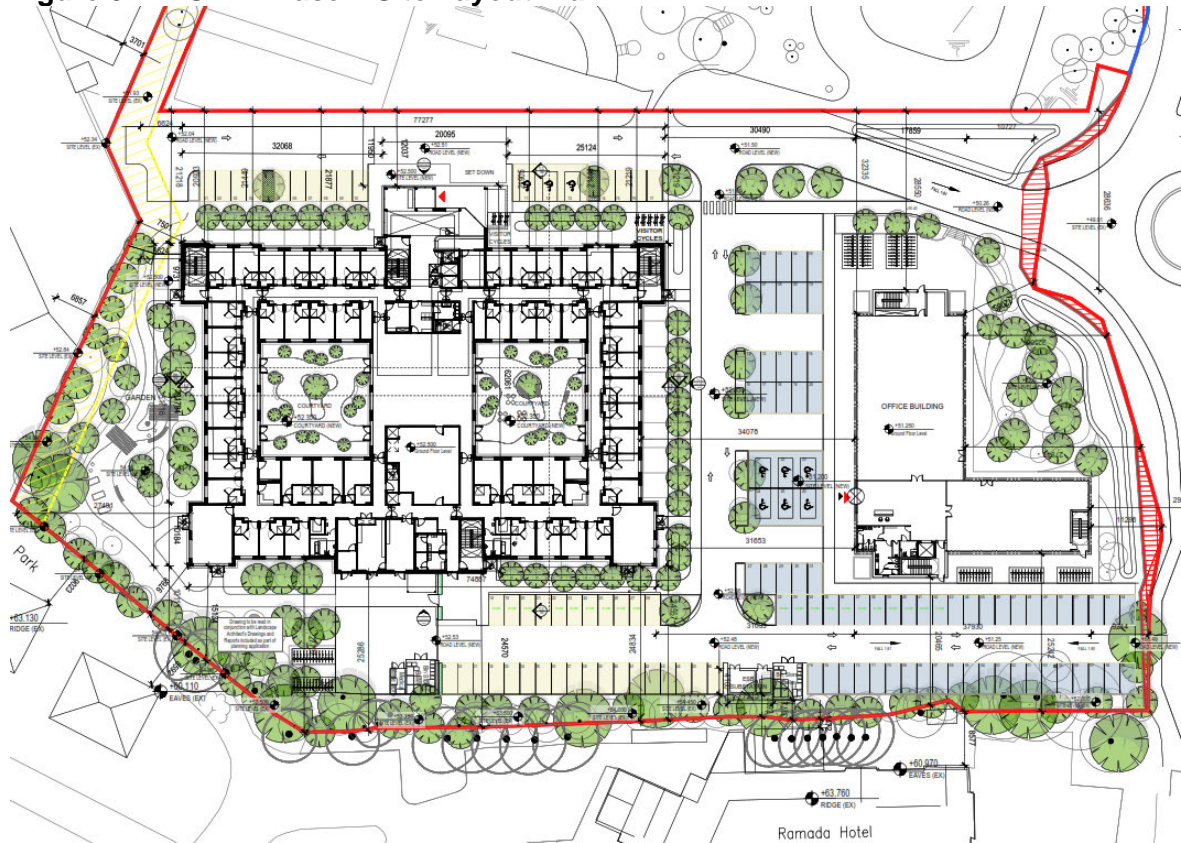
Figure 3.1: Phase 1 and Phase 2 Proposals as Per TOTA Masterplan Submitted at FI Stage masterplan



Source: TOTA Architectural Drawings

WCC Reg. Ref.: 22/823 – Phase 1 Nursing Home and Office Building

A final grant of permission was issued by WCC on the 20th October 2022, subject to 17 no. conditions for a revised Phase 1 office and nursing development, on the southern part of the subject lands. This application was brought forward to improve the commercial viability of the Phase 1 application for employment uses on the subject lands.

Figure 3.2: TOTA Phase 1 Site Layout Plan

Source: TOTA Architectural Drawings

The key changes proposed from the original grant of planning permission, under WCC Reg. Ref.: 18/1181 / ABP Ref.: 304425-19, related to a reduction in the number of bed spaces / floor area in the Nursing Home (including a reduction in height from 4 no. to 3 no. storeys), removal of the basement, revised parking, and all associated site and infrastructural works.

The part three storey, part four-storey office building, with plant area at roof level, retained the same building design and layout as the permitted scheme, under Reg. Ref.: 18/1181 and ABP Ref.: 304425-19.

The proposed changes to the previously permitted development reflected the specific requirements of the nursing home sector, which has significantly changed over the intervening years, with the scale of the original proposal not in line with current best practice for new nursing homes in Ireland and proving to be problematic in respect to the commercial viability of the development in this location. The omission of the basement was necessary to ensure the viability of the scheme and to kickstart the redevelopment of the overall site.

As part of this revised Phase 1 planning application for the southern portion of the site, a masterplan for the overall SLO 4 landholding was included with the application. The masterplan illustrated how the revised Phase 1 proposals and updated Phase 2 proposals remain fully consistent with the SLO 4 criteria. The loss of commercial floorspace in the nursing home part of the Phase 1 site (noting the reduction from that permitted in the previous permission) was compensated for in the overall masterplan through an increase in office floorspace on the Phase 2 part of the site, thereby retaining the required mix of office / commercial to residential use on the overall landholding as required by the Planning Authority to comply with SLO 4.

Unfortunately, the landowner has no plans to bring forward the Phase 2 planning application at present as the office / employment accommodation required on the overall site to comply with the SLO 4 objective of the LAP is not viable at present, and we understand the Planning Authority may not be willing to grant permission for the residential development without a commitment / phasing requirement on the delivery of the employment uses on the overall site.

Figure 3.3: Revised Phase 1 and Phase 2 Proposals Masterplan



Source: TOTA Architectural Drawings

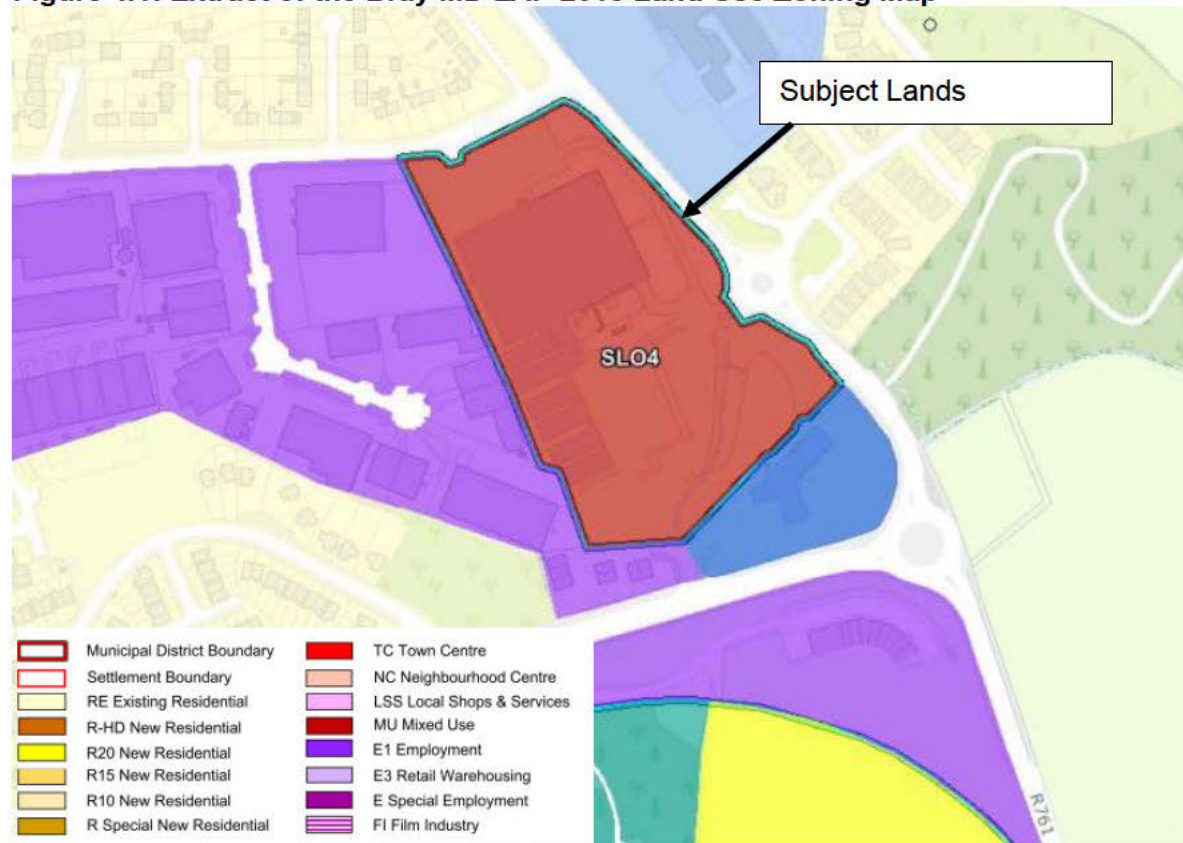
4.0 PLANNING POLICY CONTEXT

The LAP for Bray Town and Environs, which came into effect on the 10th of June 2018, provides the planning policy framework for the Bray and Environs area.

Land Use Zoning

The site is currently zoned for 'MU' Mixed Use development with the stated land use zoning objective '*to provide for mixed use development*', subject to Specific Local Objective 4, which provides for high intensity employment and a residential scheme as discussed further below.

Figure 4.1: Extract of the Bray MD LAP 2018 Land Use Zoning Map



Chapter 10 of the LAP which states that the purpose of the 'Site Specific Objectives', such as SLO 4, "is to guide developers as to the aspirations of the plan regarding the development of certain lands where more than one land use is proposed or the lands are zoned for 'mixed use', in a manner similar to Action Areas, but with the exception that no masterplan will be required to be agreed prior to the submission of a planning application."

Chapter 11 of the LAP outlines that 'The nature of the mixed use development envisaged for any particular site is set out in the text of the plan' and that 'uses generally appropriate for any mixed use area will be specified in the plan'.

Specific Local Objective 4 (SLO 4) states (emphasis added) "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 in 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;*
- *The employment element shall be in a high employment intensity format and low density manufacturing / warehousing will not be considered; on the basis of achievement of a 1:1 plot ratio, a total employment floor space yield of at least 20,000sqm is desired;*
- *A nursing home and / or health care facility will be considered subject to such use not comprising more than 50% of the employment floorspace requirement on site and being delivered in conjunction with the remaining employment elements;*

- **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.”

5.0 BASIS FOR REMOVAL OF THE SITE FROM THE DRAFT RZLT MAP

Section 653B of the Taxes Consolidation Act 1997 (as amended by the Finance Act 2021) sets out criteria for inclusion on the RZLT maps as follows:

“653B. In this Part, a reference to land which satisfies the relevant criteria is a reference to land that–

- (a) is included in a development plan, in accordance with section 10(2)(a) of the Act of 2000, or a local area plan, in accordance with section 19(2)(a) of the Act of 2000, zoned–*
 - (i) solely or primarily for residential use*
 - (ii) for a mixture of uses including residential use*

Our client’s lands included in the draft RZLT maps (See Figure 5.1) are zoned ‘Mixed Use’ which has an objective to ‘*to provide for mixed use development*’. Whilst it is accepted that the zoning allows for some residential use, it is clear from Section 4 above that the lands are required under the Bray Town and Environs LAP to provide for both employment and residential uses. It is considered unreasonable for the lands to be included within the draft RZLT maps, given only a portion of the site is envisaged for residential use, and that any residential use would only be permitted where the criteria of SLO4 are satisfactorily justified / addressed, including the provision of employment use on the remainder of the lands. In this context, we note the viability issues with delivering on the Phase 1 permission or bringing forward a Phase 2 application for employment and residential uses on the northern portion of the lands.

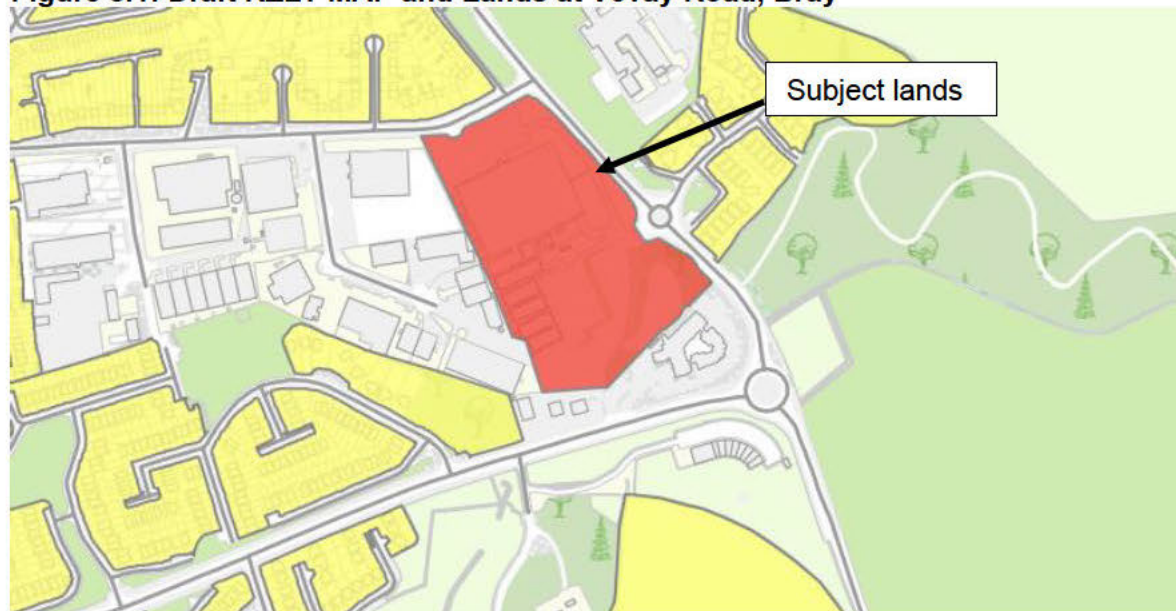
The LAP and SLO4 are clear on the scale of employment uses (i.e. employment floor space yield of at least 20,000 sq.m is desired, and not more than 40% of total floor space shall be devoted to residential use) required on the subject lands. Any planning application is also subject to consideration of the phasing requirements set out in SLO4, where the first phase of housing cannot comprise of wholly residential in any event, as SLO4 states the Phase 1 ‘*cannot comprise more than 50% of the total housing programme*’, with the remaining housing being delivered in tandem with the employment element.

The Planning Authority’s requirements in respect to the redevelopment of the subject site is apparent from the extant permissions (WCC Reg. Ref.: 18/1181 / ABP Ref.: 304425-19 and more recently WCC Reg. Ref.: 22/823) for the Phase 1 nursing home and office building on the southern portion of the subject lands. As part of these applications, it was necessary to include a masterplan for the entire landholding to demonstrate how the overall redevelopment of the site would comply with the SLO4 criteria and indicated that residential development and additional office use would form part of the Phase 2 proposals for the lands, i.e. residential development could not be brought forward as a first independent phase of development.

Thus, given the viability issues with bringing forward the Phase 1 development and additional employment uses on the Phase 2 lands, as required under SLO4, it is not considered appropriate to include the subject Mixed Use zoned lands on the RZLT maps.

Overall, having regard to the extant permission for an office and nursing home development and the requirements of Specific Local Objective 4 (SLO4) of the Bray and Environs LAP, it is respectfully requested that the subject lands be excluded from the draft RZLT maps.

Figure 5.1: Draft RZLT MAP and Lands at Vevay Road, Bray



Source: RZLT Draft Map – Bray South Extract

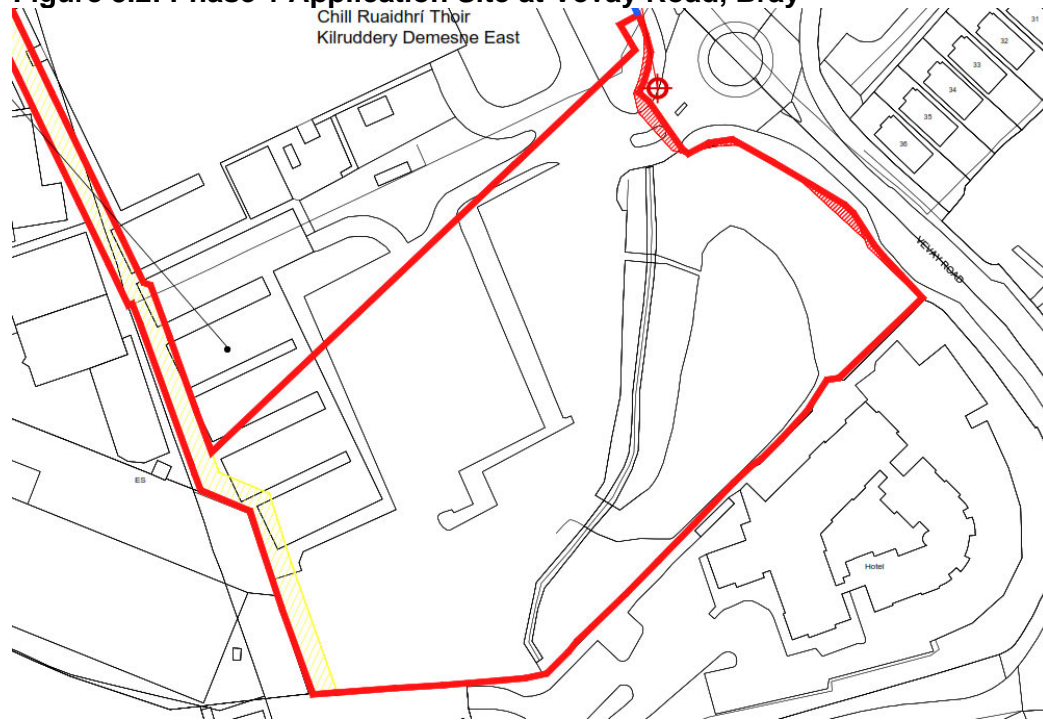
Alternative Request

Without prejudice to the above and should the Planning Authority not agree that the lands should be removed in their entirety from the draft RZLT maps, as a minimum the draft RZLT maps should be revised to omit the southern portion of the lands (c. 1.2ha), as indicated in Figure 5.2 below. This accords with the extant permission for the lands which provides for a nursing home and office building, i.e. non-residential development, which are excluded uses from the tax, which have been permitted on these Mixed-Use zoned lands and are required to satisfy the employment floorspace requirements under SLO 4 of the LAP. Therefore, the exclusion of at least the southern portion of the lands would reflect the specific provisions of the LAP and SLO4 which only envisages residential development occurring on part of the site. This was illustrated in the masterplan submitted with the extant permission (see Figure 3.3 above), which indicates the residential element on the northern portion of the site.

Whilst this particular scenario isn't envisaged in the Section 28 RZLT Guidelines, it does provide guidance on situations where LAP's include specific phasing requirements in Section 4.1.1 of the Guidelines. It states that in such instances and where plans "allow for a certain quantum of residential development prior to such projects being permitted or constructed, all of the land which may be able to access the infrastructure, or if specifically identified in the plan, the relevant phased area of land, should be considered in scope. Where development takes place and capacity no longer remains, then the annual review of the map should reflect this and lands may be removed from scope". It is respectfully submitted that in this instance where the LAP includes phasing requirements in respect to the delivery of employment floorspace in advance / concurrent to the residential development, that the subject lands should be considered outside the scope of the RZLT or

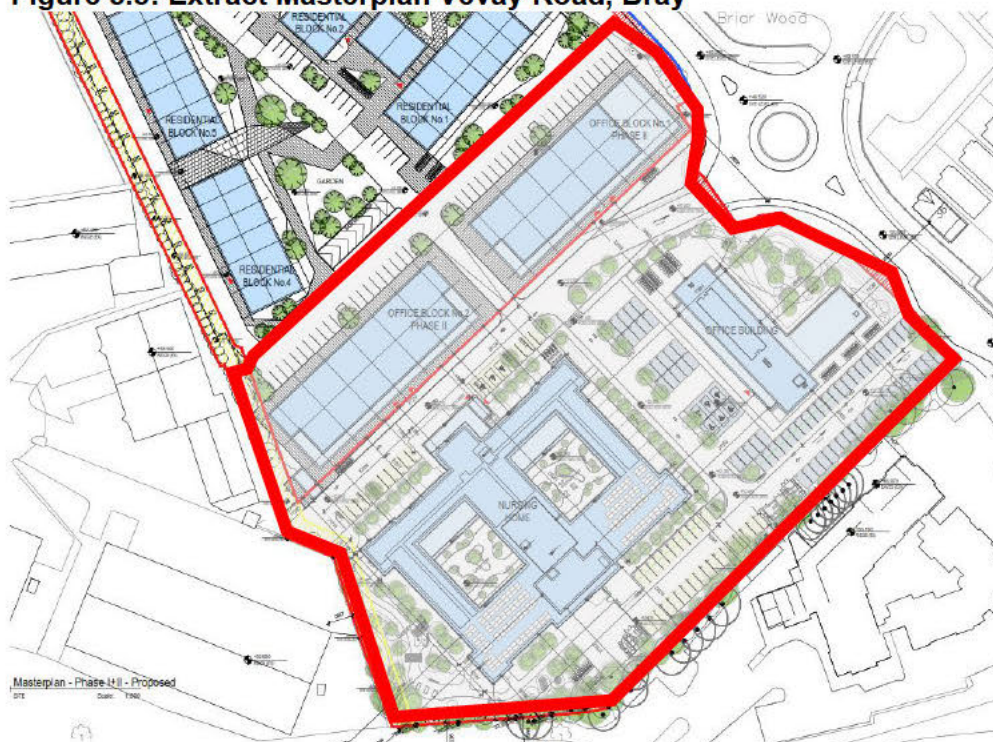
at the very least the southern portion, as identified in Figure 5.2, should be considered outside the scope of the tax.

Figure 5.2: Phase 1 Application Site at Vevay Road, Bray



As outlined above, the masterplan submitted with the Phase 1 planning application indicated the additional employment floorspace required under SLO 4 to be delivered to the immediate north of the Phase 1 application, as part of the future Phase 2 proposals. Should the Planning Authority agree that the southern portion of lands are considered out of scope, then it is also considered appropriate to omit the additional employment / office use within Phase 2 also, as illustrated in Figure 5.3 below, as it would also fall outside of the scope of the RZLT.

Figure 5.3: Extract Masterplan Vevay Road, Bray



6.0 SUMMARY AND CONCLUSIONS

██████████ respectfully request that the Planning Authority takes into account the content of this submission and it is respectfully request that the subject lands (as identified in the Land Ownership Map included in Appendix 1) are removed from the RZLT map.

Without prejudice to the above and should the Planning Authority not agree that the lands should be removed in their entirety from the draft RZLT maps, as a minimum the draft RZLT maps should be revised to remove the southern portion of the lands (c. 1.2ha), as indicated in Figure 5.2 above, and in turn the southern portion of the Phase 2 lands as indicated in Figure 5.3 above.

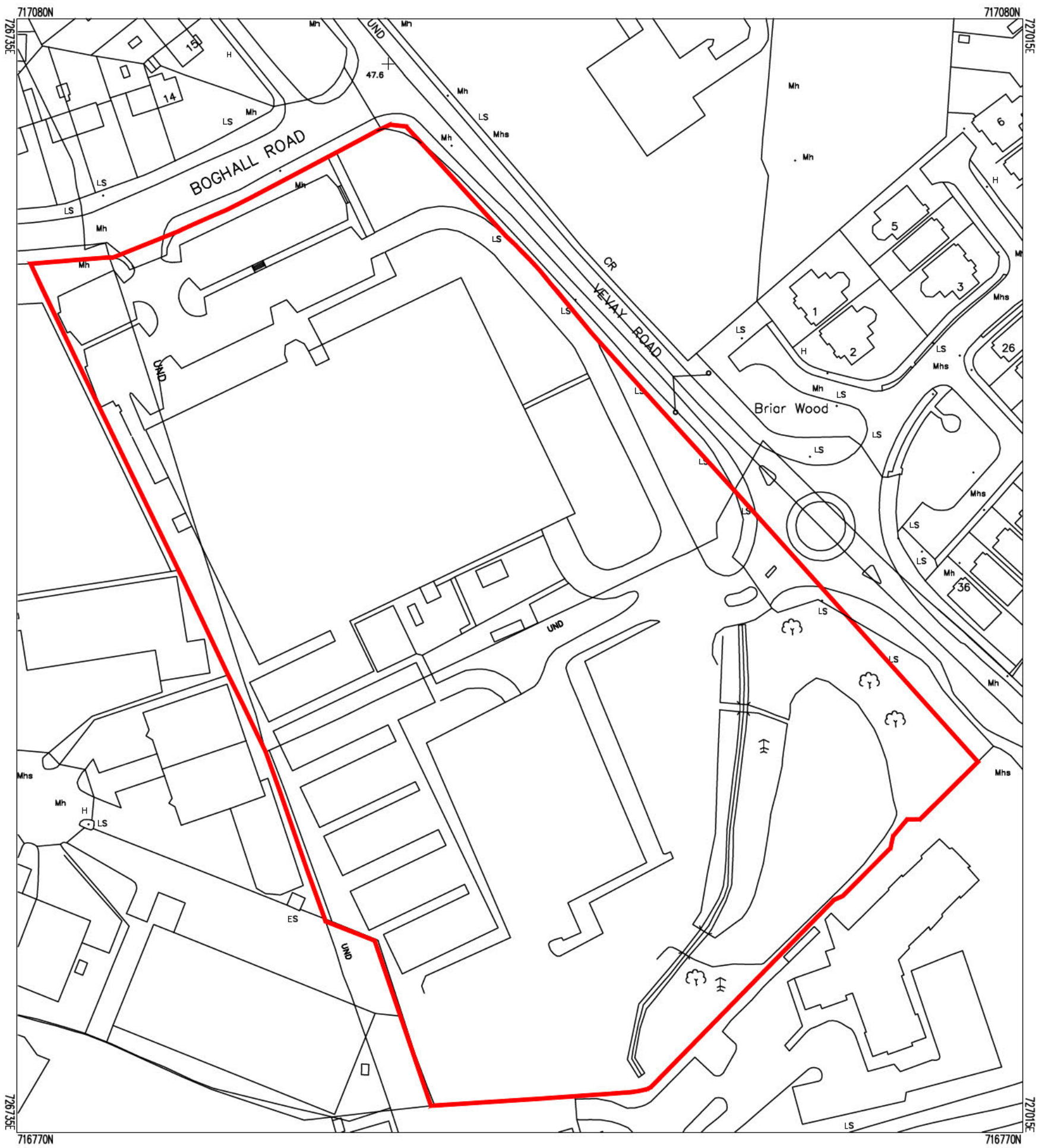
If you require any further information, please do not hesitate to contact us.

Yours sincerely,

John Spain

John Spain
 Managing Director John Spain Associates Ltd.


APPENDIX 1 – LAND OWNERSHIP MAP



THIS DRAWING IS A DIGITISED EXTRACT FROM THE
 ORDNANCE SURVEY DUBLIN DIGITAL FILE: E.COM 377944,
 DATED 01 MARCH 2007. 1/1000 SCALE PLOTTED AT 1/1250.

ORDNANCE SURVEY DETAIL SHOWN IN BLACK.
 NON-ORDNANCE SURVEY DETAIL SHOWN IN GREEN.

ORDNANCE SURVEY IRELAND LICENCE No. EN 0020221
 © ORDNANCE SURVEY IRELAND GOVERNMENT OF IRELAND.

	C		DRAWING No.
	B		VRB-RLB-001
A		DATE	
REVISION BY		CIARAN STEED, MCInstCES.	
PROJECT		VEVAY ROAD BRAY	
SCALE		1:1250 (A3)	
DRAWING		RED LINE BOUNDARY	
DATE	DEC 2022	DATUM	O.S. (TM DATUM).

THE HERBERT BUILDING, THE PARK,
 CARRICKMINES, DUBLIN 18
 T +353 1 2136000 F +353 1 2136009
 info@parkdevelopments.ie

Appendix 2- LAND OWNER DETAILS AND FOLIO'S

Town	Bray
Landowner name	██████████
Folios	WW3264L and WW19531F ██████████
Landowner address	██ ██████████
Landowner phone	██████████
Landowner email	██
Address of site	Site at Vevay Road and Boghall Road (the former Dell site), Bray, Co. Wicklow.
Site Area	3.75 ha

Land Registry

County Wicklow

Folio 19531F

Register of Ownership of Freehold Land

Part 1(A) - The Property

Note: Unless a note to the contrary appears, neither the description of land in the register nor its identification by reference to the Registry Map is conclusive as to boundaries or extent

No.	For parts transferred see Part 1(B) Description	Official Notes
1	A plot of ground being part of the Townland of KILRUDDERY DEMESNE EAST and Barony of RATHDOWN shown as Plan(s) 17 edged RED on the Registry Map (OS MAP Ref(s) 3617/4). The Registration does not extend to the mines and minerals	From Folio WW14235F

Land Registry

County Wicklow

Folio 19531F

**Part 1(B) - Property
Parts Transferred**

No.	Prop No:	Instrument:	Date:	Area (Hectares) :	Plan:	Folio No:

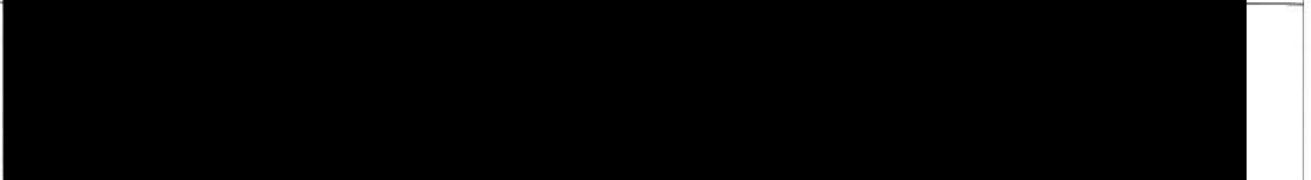


Land Registry

County Wicklow

Folio 19531F

Part 2 - Ownership

Title ABSOLUTE


No.	The devolution of the property is subject to the provisions of Part II of the Succession Act, 1965
1	
2	
3	21-AUG-2009 D2009LR147902X 

Land Registry

County Wicklow

Folio 19531F

Part 3 - Burdens and Notices of Burdens

No.	Particulars
<p>1</p>	<p>The property is subject to the provisions prohibiting letting, subletting or subdivision specified in Section 12 of the Land Act, 1965, and to the provisions restricting the vesting of interests specified in Section 45 of the said Act in so far as the said provisions affect same.</p> <p>Cancelled D2007KW004452E 22-FEB-2007</p>
<p>2</p>	

Property Details

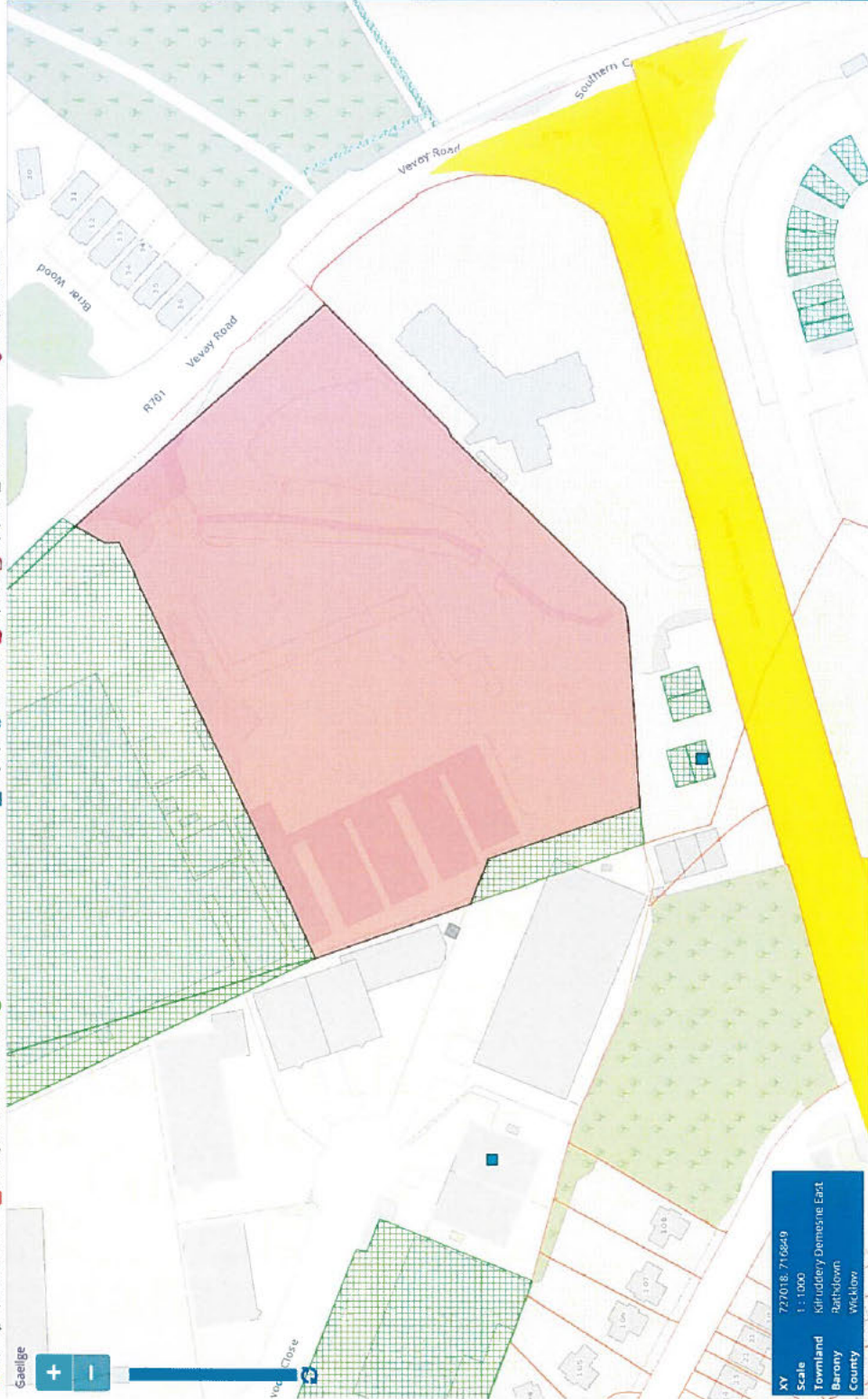
[Back](#)

Folio Number	WW19331F
Title Level	Freehold
Plan Number	17
Property Number	1
Area of selected plans	1.89 hectares
Number of Plans on this folio	1
Address	

[View Folio PDF](#)
[Request Certified Copy](#)

Each Borough and Plan Area are not conclusive See Section 62(2) of Registration of Title Act 2006 and Rule 6(2) of the Land Registration Rules 2012

[Print Current View](#)



XY 727018, 716649
 Scale 1 : 1000
 Townland Kildruidy Demesne Ept
 Barony Rathdown
 County Wicklow

Land Registry

County Wicklow

Folio 3264L

Register of Ownership of Leasehold Interest

Part 1(A) - The Property

Note: Unless a note to the contrary appears, neither the description of land in the register nor its identification by reference to the Registry Map is conclusive as to boundaries or extent

No.	For parts transferred see Part 1(B) Description	Official Notes
1		Instrument D93KW01748P

Land Registry

County Wicklow

Folio 3264L

**Part 1(B) - Property
Parts Transferred**

No.	Prop No:	Instrument:	Date:	Area (Hectares):	Plan:	Folio No:

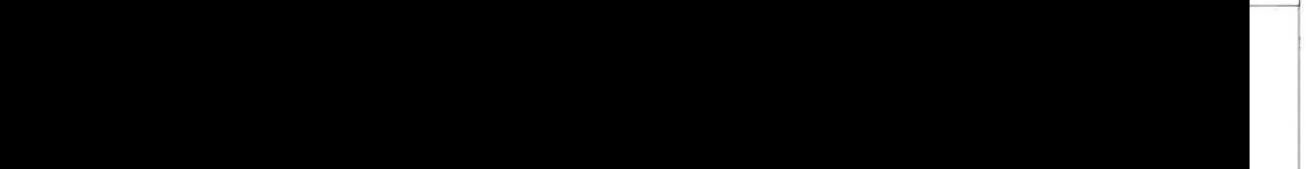
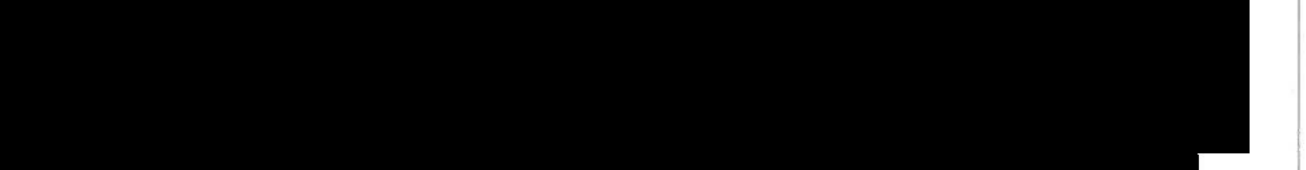
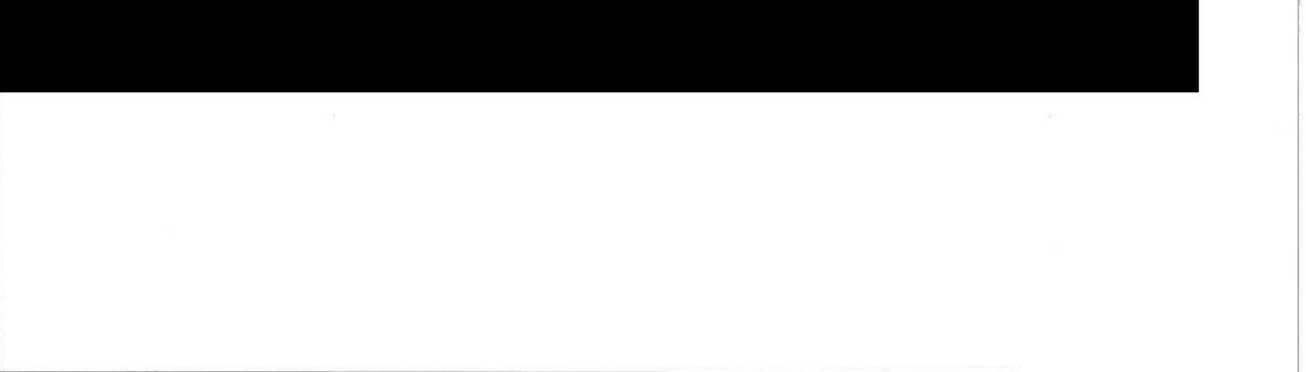
Land Registry

County Wicklow

Folio 3264L

Part 2 - Ownership

Title ABSOLUTE

No.	
1	
2	
3	

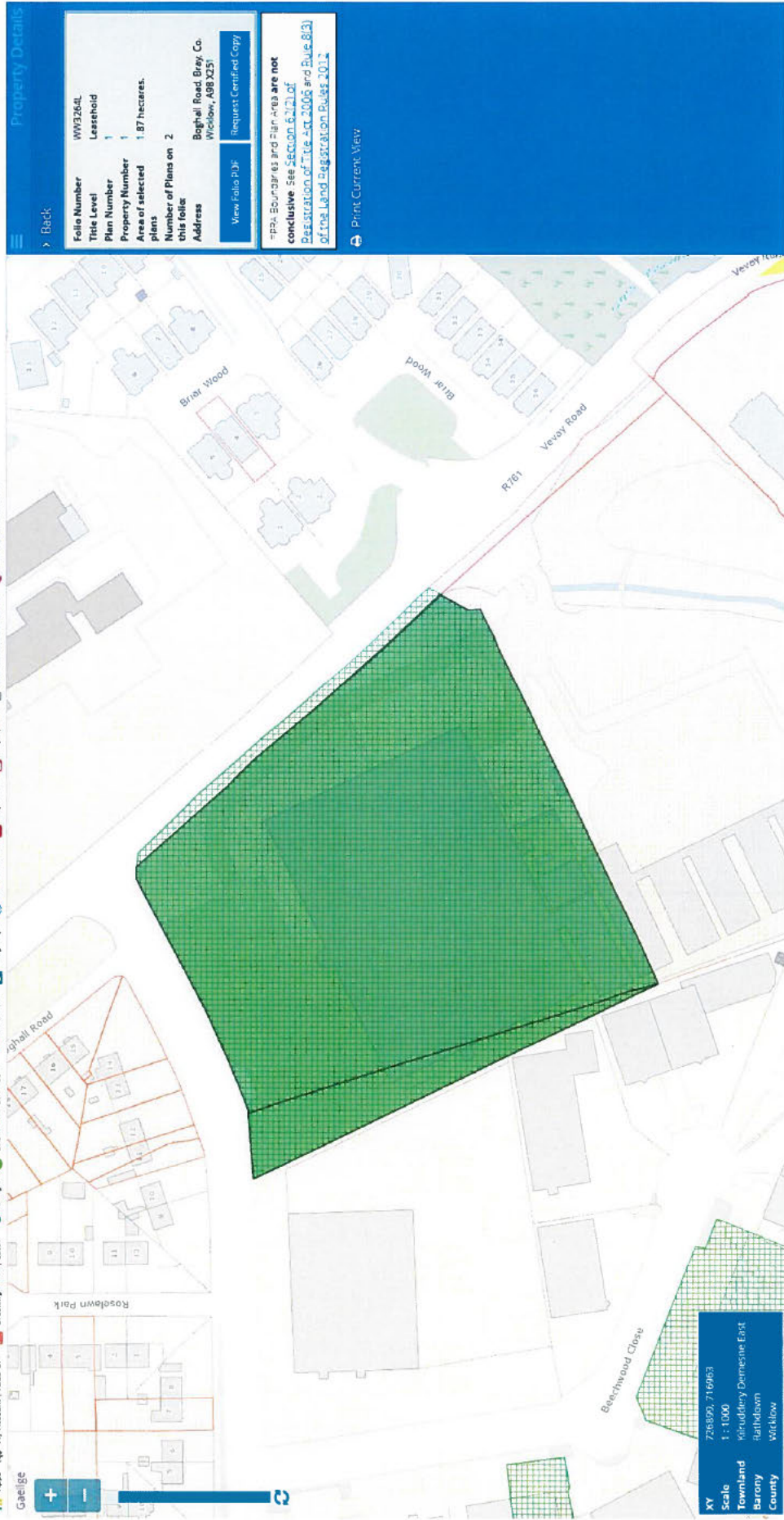
Land Registry

County Wicklow

Folio 3264L

Part 3 - Burdens and Notices of Burdens

No.	Particulars
1	 <hr data-bbox="683 1086 1369 1108"/>



Property Details

> Back

Folio Number	WV3264L
Title Level	Leasehold
Plan Number	1
Property Number	1
Area of selected plans	1.87 hectares.
Number of Plans on this folio	2
Address	Boghil Road, Bray, Co. Wicklow, A98 X251

[View Folio PDF](#) [Request Certified Copy](#)

PPA Boundaries and Plan Area are not conclusive. See Section 6.7(2) of Regulation of the Act 2006 and Rule 8(B) of the Land Registration Rules 2012.

[Print Current View](#)

XY
726899/716963
Scale
1 : 1000
Townland
Rosslawn Park
Barony
Blarney
County
Wicklow