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MACCABE DURNEY BARNES

PLANNING | ENVIRONMENT | ECONOMICS

Our Ref: 2198

Administrative Officer,
Planning Department,
Wicklow County Council,
County Buildings,
Whitegates,
Wicklow Town,
Co. Wicklow,

19/12/2022



Re: Residential Zoned Land Tax Submissions in relation to lands at Coolagad, Greystones, Co. Wicklow and Blessington, Co. Wicklow

Dear Administrative Officer,

On behalf of our client [REDACTED] we, MacCabe Durney Barnes of the above address, hereby submit submissions in response to Wicklow County Council's draft Residential Land Zone Tax map. Submissions have been prepared in respect of lands at the following locations:

- 3 no. separate submissions regarding lands at Blessington Demesne, Blessington, Co. Wicklow.
- 1 no. submission regarding lands at Coolagad, Greystones, Co. Wicklow.

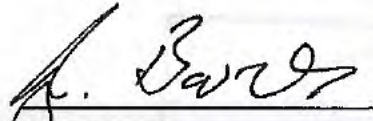
We respectfully submit that the inclusion of our client's lands on the RZLT map be reconsidered in light of the enclosed submissions due to constraints of accessing public infrastructure at these subject sites and did not come within scope of the criteria on the 1st January 2022.

Please see enclosed the following documentation:

- 1 no. copy RZLT Submission for Coolagad, Greystones, Co. Wicklow
- 1 no. copies Site Location Map for Coolagad, Greystones, Co. Wicklow
- 1 no. copies Confirming [REDACTED] land ownership at Coolagad, Greystones, Co. Wicklow
- 1 no. copies Confirming [REDACTED] land ownership at Blessington, Co. Wicklow
- 1 no. copy RZLT Submission for Blessington Area 1, Co. Wicklow
- 1 no. copies Site Location Map for Blessington Area 1, Co. Wicklow
- 1 no. copy RZLT Submission for Blessington Area 2, Co. Wicklow
- 1 no. copies Site Location Map for Blessington Area 2, Co. Wicklow
- 1 no. copy RZLT Submission for Blessington Area 3, Co. Wicklow
- 1 no. copies Site Location Map for Blessington Area 3, Co. Wicklow

In accordance with the Taxes Consolidation Act 1997, the Local Authority in the course of considering submissions, can request further information from our client. We trust this is in order. Please do not hesitate to contact us if you require any further information.

Yours sincerely



Jerry Barnes
MACCABE DURNEY BARNES

WW-RZLT-21

Area 2 Blessington Demesne

RZLT Submission on Behalf of



19 December 2022



MACCABE DURNEY
BARNES
Planning Environment Economics

Wicklow County Council
 21 DEC 2022
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1	Revisions following comments from Client	MB	JB	JB	19/12/22

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1. SUBMISSION DETAILS

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1.1 Details of person/ agent making submission

Name	Jerry Barnes, MacCabe Durney Barnes
Address	20 Fitzwilliam Place Dublin 2 D02 YV58
Phone No.	01 6762594
Email Address	jbarnes@mdb.ie

1.2 Landowner and Landholding Details

Town	Blessington
Landowner name	[REDACTED]
Landowner address	
Landowner phone	
Landowner email	
Address of site	
Site description	Lands located within the settlement area of Blessington Town to the west of the town centre area and west of N81.
Site Area	2.34 ha

1.3 Information Supplied with Submission

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 1:5000 in rural area, clearly identifying the map in question?	Yes (1:2,500)
Have you included proof of ownership?	Yes

2. CONTEXT

2.1 Blessington Local Area Plan 2013-2019

This Plan sets out the statutory zoning and land use provisions for the town. Objectives in relation to the Blessington Inner Relief Road (BIRR) are also contained in the Plan. The figure below illustrates the zoning and road objectives. The lands are zoned *Proposed Residential* and the BIRR is identified as a 6 year road objective (S7).

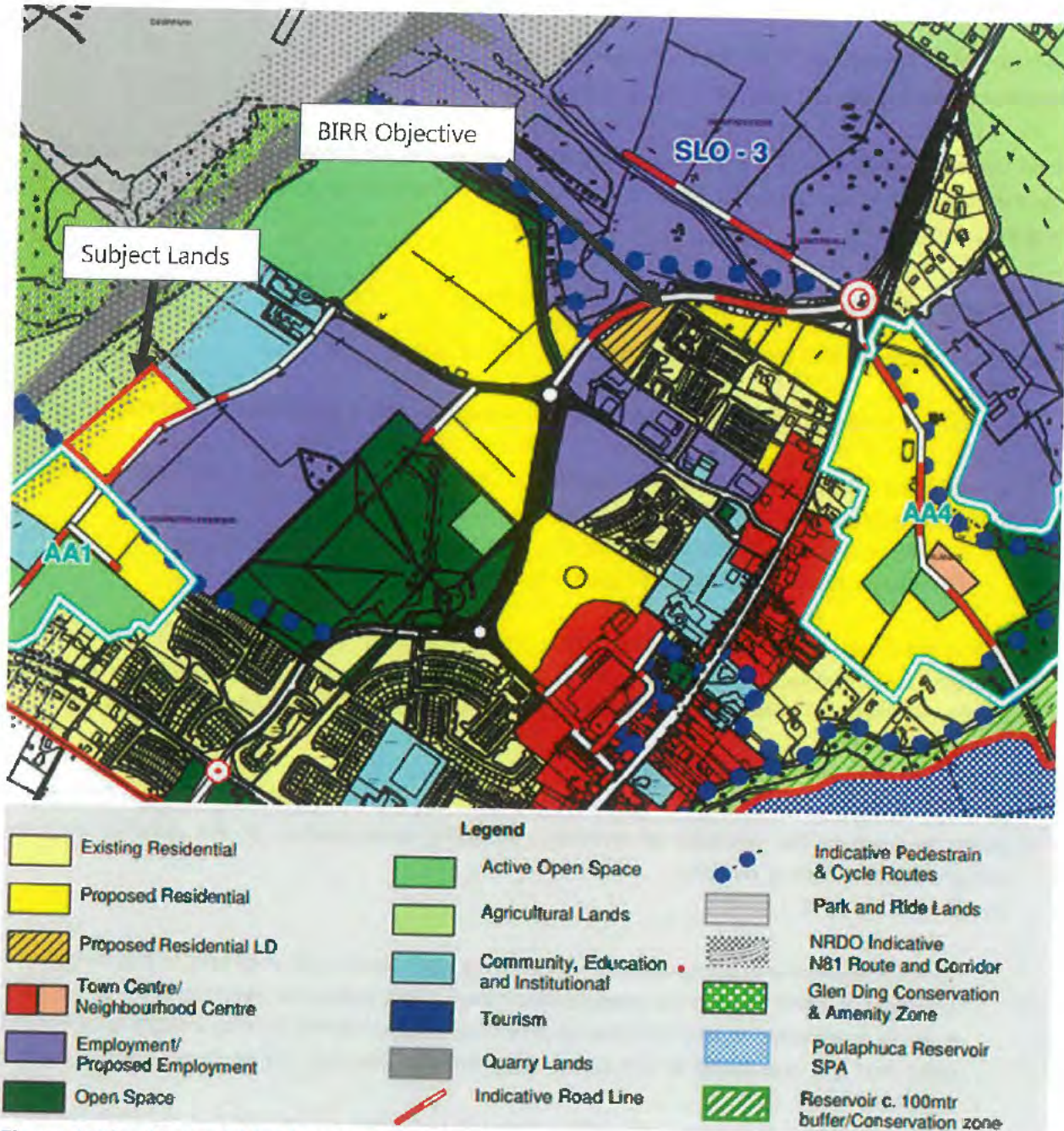


Figure 1: Blessington LAP Objectives Map

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2.2 Residential Zoned Land Tax

A Residential Zoned Land Tax (RZLT) has been introduced by the Finance Act 2021. Details of the RZLT are inserted as Part 22A of the Taxes Consolidation Act 1997, as amended. In summary, an owner of land which is zoned as suitable for residential development and serviced on 1st January 2022, and on which development has not commenced before 1st February 2024, will be liable to file a return and pay the tax.

A draft Map was issued for public consultation on the 1st November 2022. Submissions in writing can be received by the Council no later than Sunday 1st January 2023 on the following;

- (a) the inclusion in, or exclusion from, the final map of a site, or
- (b) the date on which a site first satisfied the relevant criteria.

The local authority will consider the submission and make a written determination on whether the land should stay on the map or be removed from it. If the landowner disagrees with the determination, they can appeal to An Bord Pleanála.

2.3 Legislation and Criteria for Inclusion on Map

Section 653B was inserted into the Tax Consolidation Act 1997. It states:

"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 local area plan, in accordance with section 19(2)(a) of the Act of 2000, zoned—*
 - (i) solely or primarily for residential use, or*
 - (ii) for a mixture of uses, including residential use,*
- (b) it is reasonable to consider may have access, or be connected, to public infrastructure and facilities, including roads and footpaths, public lighting, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed and with sufficient service capacity available for such development, and*
- (c) it is reasonable to consider 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 known archaeological or historic remains, but which is not land—*
 - (i) that is referred to in paragraph (a)(i) and, 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 in use as premises, in which a trade or profession is being carried on, that is liable to commercial rates, that it is reasonable to consider is being used to provides services to residents of adjacent residential areas,*
 - (ii) that is referred to in paragraph (a)(ii), unless it is reasonable to consider that the land is vacant or idle,*
 - (iii) that it is reasonable to consider is required for, or is integral to, occupation by—*
 - (i) social, community or governmental infrastructure and facilities, including infrastructure and facilities used for the purposes of public administration or the provision of education or healthcare,*

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- (II) transport facilities and infrastructure,
- (III) energy infrastructure and facilities,
- (IV) telecommunications infrastructure and facilities,
- (V) water and wastewater infrastructure and facilities,
- (VI) waste management and disposal infrastructure, or
- (VII) recreational infrastructure, including sports facilities and playgrounds,
- (iv) that is subject to a statutory designation that may preclude development, or
- (v) on which the derelict sites levy is payable in accordance with the Derelict Sites Act 1990.

The figure below is taken from the Revenue Tax Guidance document and illustrates the decision tree in relation to determining whether land is liable for the tax.

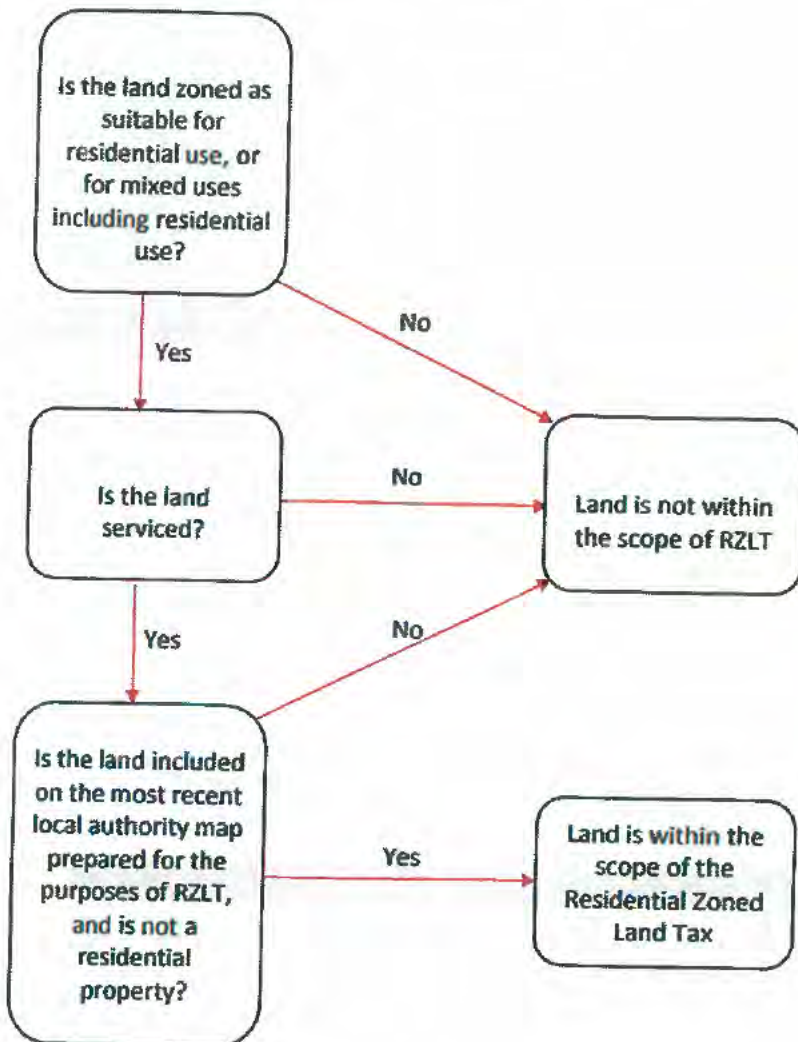


Figure 2: Decision Tree for RZLT

2.4 Draft RZLT Map

Wicklow County Council has prepared a draft map of the land considered to be in scope for the RZLT. The total area of land identified on these maps is 2,146.3ha. The map was published on the 1st November 2022. The extract that is of relevance to this submission is detailed in the figure below.

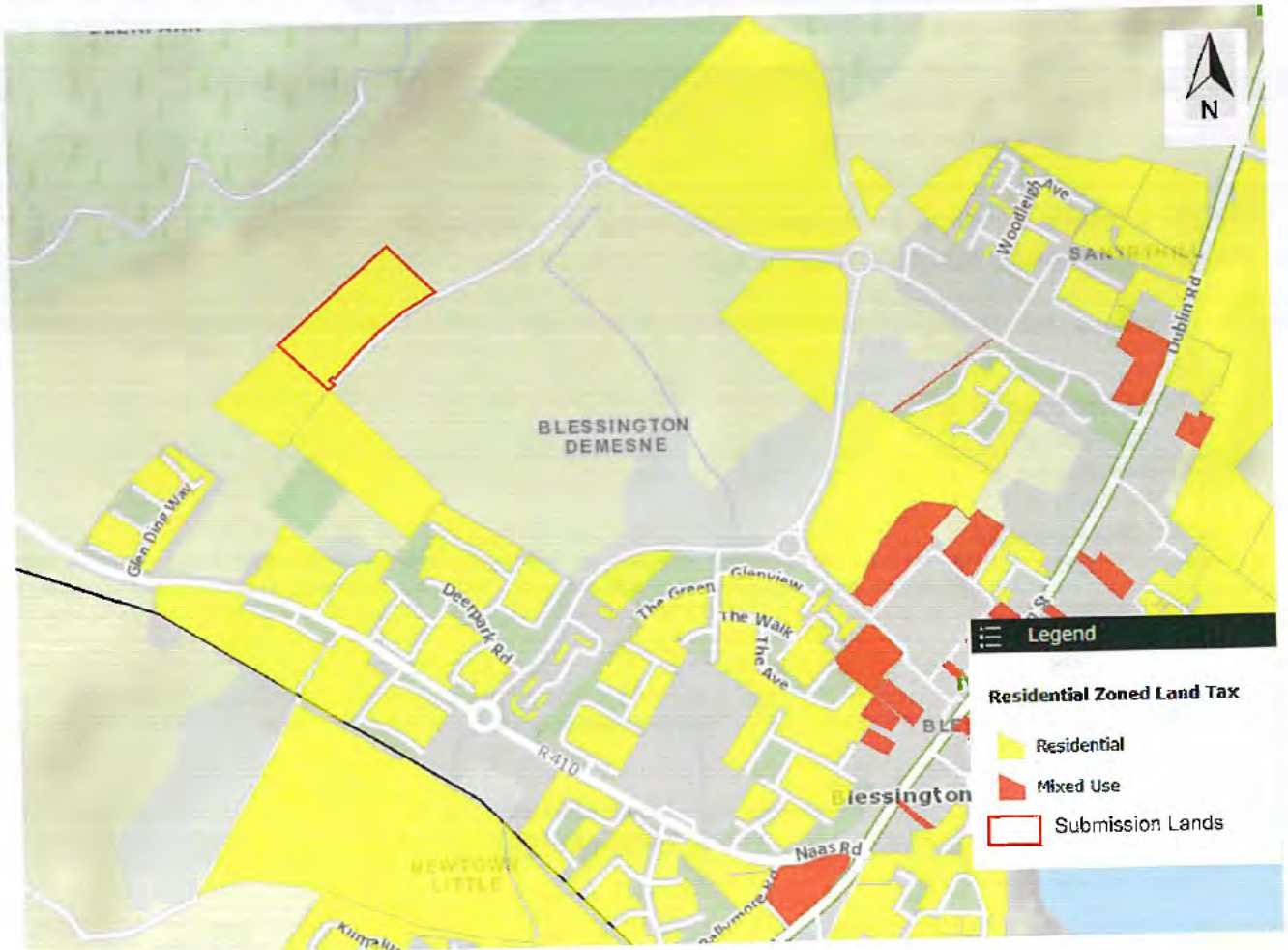


Figure 3: RZLT Map Extract with submission lands outlined

2.5 Description of the Lands

The subject lands total 2.34 ha. The details from the map are outlined in the table below.

Table 1: Wicklow County Council: WW300

Parcel ID	WW300
Local Authority	WWLA
Local Authority Name	Wicklow County Council
Date Added	
Land Use Zoning	RN
Land Use Zoning Description	New Residential
GZT Zoning	R1.6
GZT Zoning Description	New/proposed residential, No density specification possible
Site Area	2.34
Status of Map	Draft

Source: <https://housinggovie.maps.arcgis.com/>

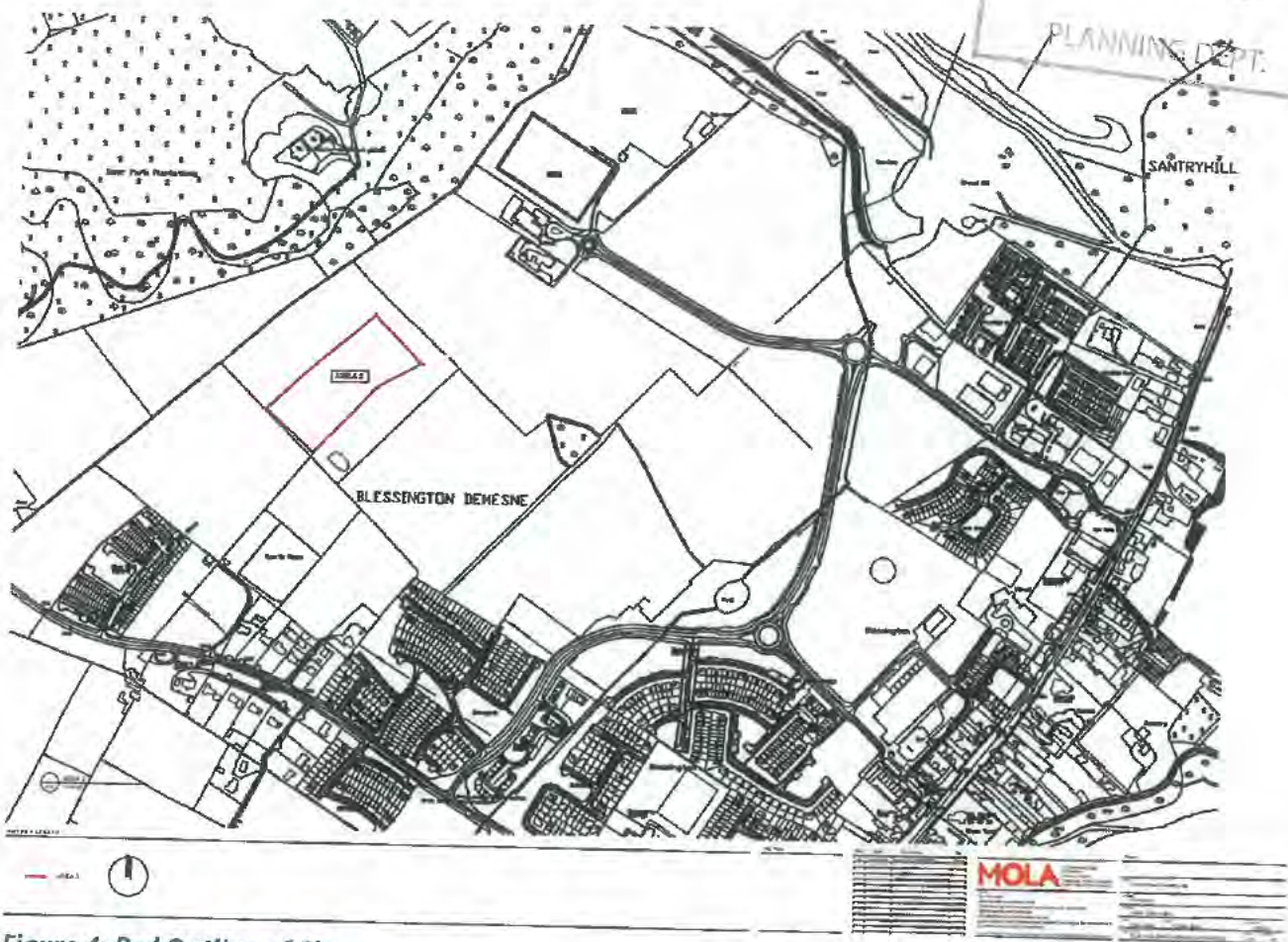


Figure 4: Red Outline of Site

2.6 Relevant Planning History

The following planning history is of relevance to this submission.

2.6.1 Site Planning History

PA. Reg. Ref. 22/483: A planning application was lodged on 04/05/2022. The proposed development consisted of a 15.36 ha Town Park consisting of play areas, a wetland and meadow, tree planting, landscaping, the enhancement of an existing pond and of a stream, a fitness trail, a large oval sports playing area, a walled garden, footpaths, two car parks with (22 no. spaces and 24 no. spaces), 20 cycle parking spaces; 57 no. 2 storey houses in a mix of semi-detached and terraced houses to include 45 no. 3-bed and 12 no. 4-bed units; 0.26 ha of associated public open space and play area to serve the housing development; Infrastructure works to serve the housing development to include the internal road network and part of the Blessington Inner Relief Road connecting to the Oak Drive Roundabout and a vehicular and pedestrian access off the Blessington Inner Relief Road to serve the southern Town Park carpark and access to the north Town Park car park via the access road permitted under P.A Reg. Ref. 20/1146; Boundary treatment, public lighting, site drainage works, 1 no. ESB substation (c. 10.99 sqm) and all ancillary site services and development works above and below ground; and Temporary permission is also sought for the erection of two marketing signs (4.55 m high and 13.73 sqm each).

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A planning report was prepared in respect of this application and reflected the concerns that the BIRR cannot cater for the development at this time, the current Wastewater Treatment plant in Blessington is overloaded and that the development is premature and contrary to the sequential approach to development in accordance with the LAP and CDP.

The planning report includes the following assessment in relation to the BIRR:

'There are overall concerns that the BIRR cannot cater for this development at this time. The permission recently granted on the adjoining site P.A Reg. Ref: 20/1146 was granted subject to a holding condition which stated that no development shall commence on site until the Road Authority has confirmed in writing that the construction of the northern section of the BIRR has commenced. A similar condition will apply to this development.'

While in the assessment for services for dwellings/ within housing estate, the planning report notes the following:

"Irish water has no objection. The current Wastewater Treatment plant in Blessington is overloaded, and the upgrade of this treatment plant is underway."

The Planners report concluded that

"based on the plans and particulars submitted, it is considered that the proposed development is premature pending the development of the employments and other residential lands which it adjoins, The site is dislocated from the developed areas to the east and it would create a footloose development which the CDP policies protect against."

4 no. reasons for refusal were provided by the Local Authority. Reason no. 2 for refusal is relevant in this case and states:

"Having regard to the location of the site and to Policy HD7 of the County Development Plan which sets out that 'the development of zoned land should generally be phased in accordance with the sequential approach', it is considered that the proposed development is disconnected from other developments in the area and represents leapfrogging and footloose non-sequential development. Therefore to permit this development would be contrary to the policies of the County Development Plan and contrary to the proper planning and sustainable development of the area".

However, the application was withdrawn by the applicant on 13/10/2022.

Pre-Planning PP21/92: During the pre-application discussions for the proposed development concerns that area 'C' is unconnected, footloose and not sequential. The development of this area should be justified and shown how it fits into overall plan and how it will work to overcome Planning Authority concerns having regard to the sequential approach that is set out in the CDP/ LAP.

In relation to the BIRR, concerns were noted due to all routes ultimately tying into the existing roundabout.

2.6.2 Overall Landholdings

P.A Reg. Ref: 20/1146: Planning permission was granted on the 15th June 2021 for the erection of 91 houses, with vehicular access off the Blessington Inner Relief Road and one off School Link Road, a 2.66 ha town park to



include play areas, a wetland meadow, enhancement of existing pond, a car park, and a 1,082 sqm greenway with possible future connection to Glending Woods, all infrastructural works and part of the Blessington Inner Relief Road connecting to the Oak Drive Roundabout.

Further information was requested on the 14th January 2021. There were 14 items of further information requested. Those items of note, which illustrate capacity constraints to both road and wastewater treatment are highlighted as follows:

"1. The Planning Authority has concerns in relation to the capacity of the N81/L4370 Blessington Inner Relief Road (BIRR) to cater for the additional traffic that would be generated by the proposed development and the concurrent proposed development (plan ref. 201362), having particular to the nature of the junction, the limited scope to upgrade it, the existing and anticipated level of traffic on the N81 and the extant permissions for development in this area that would, if effected, generate additional traffic at this junction. Therefore, the proposed development may be premature pending the completion of the BIRR. It is noted that the submitted TTA did not recommend an analysis of this junction as the proposed development traffic generation impact on the junction was less than 5%. The Planning Authority would have serious concerns with this, given the existing severe congestion resulting from the inadequate nature of this junction and the planning history relating to development of this area, which was seen as being dependent on the completion of the northern section of the BIRR.

In this regard you should submit a detailed traffic analysis of this junction and an accompanying report to support the contention as to why the Planning Authority should permit the proposed development in the absence of the completion of the northern section of the BIRR. Alternatively, you may wish to submit proposals to address the concerns of the Planning Authority.

2. The current Wastewater Treatment plant in Blessington is overloaded, and the upgrade of this treatment plant, which has permission, will be required to be operational prior to the connection of the development. You are requested to clarify that the proposed treatment plant upgrade has sufficient capacity to cater for this development given the existing development and extant planning permissions granted in the- area. you may wish to consult with Irish water prior to responding to this item.

Further information was submitted, and the Planning Authority issued a grant of planning permission. A total of 25 conditions were appended to the permission. However, there are two conditions which reflect the lack of access to road infrastructure and wastewater treatment services We highlight the following conditions:

*"8. a) **No development shall commence on site until** the Road Authority has confirmed in writing that the construction of the northern section of the Blessington Inner Relief Road, from the northern roundabout on the Blessington Inner Relief Road to the N81 at Santryhill has commenced.*

*b) **No occupation of any dwelling shall commence until** the Road Authority has confirmed in writing that the northern section of the Blessington Inner Relief Road, from the existing northern roundabout on the Blessington Inner Relief Road to the N81 at Santryhill, has been fully constructed **unless otherwise agreed in writing by the Planning Authority.***

Reason: To ensure that the road network serving the proposed development has been upgraded to cater for the traffic generated by the proposed development and in the interests of traffic safety."

"13. Prior to commencement of development.

a) the written agreement of Irish Water shall be obtained for the provision of water services necessary to serve the proposed development,

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b) the granting of permission by Wicklow County Council is in its role as a Planning Authority. It does not commit Wicklow County Council to the provision of any water services to serve the proposed development. Details of connections and the specification of materials to be used for the water services are a matter for Irish Water."

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3. GROUNDS FOR SUBMISSION

3.1 Introduction

This submission is made having regard to 653D of the TCA 1997. A person may 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,

In the first instance, and having regard to the decision tree outlined in the figure above, due consideration has to be given to whether the land is zoned for residential use. In this case it can be determined that it is zoned accordingly. The inclusion on the map must then consider:

- whether it is serviced and has access to public infrastructure including roads, foul sewerage and surface water drainage,
- if the lands are affected by some physical condition (e.g. contamination or archaeological remains) which precludes residential development

(b) the date on which a site first satisfied the relevant criteria,

A further consideration is whether the site satisfies the relevant criteria on the 1st January 2022 or one month prior to publication of the Draft Map.

3.2 Access to Public Infrastructure

To date it has not been possible to bring forward the site for development. This is due the public infrastructure capacity constraints.

3.2.1 Road Infrastructure

From a review the planning history for the site and the applicant's overall landholdings, it is quite evident that the development is likely to be considered reliant upon the construction of the Blessington Inner Relief Road (BIRR). Condition no. 8 a) of P.A Reg. Ref: 20/1146 indicates that no development can commence on site until the Roads Authority has confirmed in writing that the construction of the northern section of the Blessington Inner Relief Road, from the northern roundabout on the Blessington Inner Relief Road to the N81 at Santryhill, has commenced. Currently, there is no planning permission for this section of road up to the N81. Consequently, this is a potential capacity constraint in the public infrastructure serving the lands. In P.A. Reg. Ref. 22/483 it was noted in the assessment a similar condition to P.A. Ref. Ref: 20/1146 would be attached to area 2.

The northern section of the BIRR traverses third party lands. Our client is in discussions with relevant landowners to secure the relevant consents and design work on the BIRR has been ongoing in conjunction with Wicklow County Council. However, this constraint still exists and moreover existed as of the 1st January 2022.

Page 24 of the RZLT Guidelines for Planning Authorities consider

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"As the tax does not require consideration of land ownership for the purpose of mapping, issues such as lack of consent for access to services across other 3rd party lands may only come to light through submissions during the public display period and may be considered at that stage, with revisions to the map being made prior to publication of the final map.

In appraising whether suitably zoned lands are connected, or able to be connected to services this assessment must consider the following infrastructure categories:

- Road access

In considering road access, the Planning Authority must take into account the ease of access to existing road infrastructure by the identified lands. Construction of significant sections of new road access across other landholdings, should be discounted with the exception of Local Authority owned lands, where use and access are a matter for the authority. Where provision has been made, but not yet constructed for road and pathway access through Local Authority consenting processes, then lands can be considered in-scope, where the process of tendering for construction of the permitted road or pathways has commenced."

This further reinforces the case that, with reference condition 8a), the development of the subject lands cannot come within scope, as they are not currently served by public infrastructure in the form of the section of the BIRR to the N81.

3.2.2 Wastewater Treatment

Similar considerations apply to access to public infrastructure in the form of the Blessington wastewater treatment plant. While the treatment plant is in the process of being upgraded, the Irish Water website, indicates that it is in progress and has not yet been commissioned.

The project will include the following works:

- Increase the capacity of the wastewater treatment plant to serve a population equivalent of 9,000
- Install a new Primary Treatment system, including pump station and two primary sedimentation tanks
- Upgrade the existing Aeration Tanks
- Install new Odour Control System and associated works

Page 25 of the RZLT Guidelines for Planning Authorities considers capacity constraints in relation to foul drainage. It states:

"The provision of connections to the public foul sewer network is a matter for Irish Water. Information from Irish Water, as well as the local authority water services section, on the ability to service the lands will inform whether land should be included in draft or supplemental maps. For lands which do not have the benefit of planning permission in particular, the ease of connecting to the existing network should be a determining factor"

The restraint is highlighted by the further information request and in condition 13 of P.A Reg. Ref: 20/1146, which indicates that the matter is for Irish Water to determine. It should be noted that a connection agreement has not been signed and Irish Water design acceptance has not issued for PA. Reg. Ref.20/1146. In terms of the subject site, while Irish Water had no objection to the proposed development of area 2 the planning report noted the current Wastewater Treatment plant in Blessington is overloaded. Therefore, having regard to the

criteria listed in the RZLT Guidelines, it can be concluded that there are prevailing capacity constraints in relation to foul drainage at area 2.

3.3 Sequential Development

At both the application stage concern was raised by Wicklow County Council regarding the asserted non-sequential development of area 2.

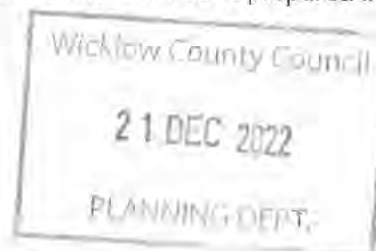
Consequently, it is unreasonable to contend that the subject site meets the criteria for inclusion on the RZLT register when there is a prevailing presumption against the development of the site by the LA. The fact that the subject site is not serviced by road infrastructure or wastewater services, it can be concluded that the site does not fall within the scope for inclusion on the RZLT register.

3.4 Date on Satisfying Relevant Criteria

The maps should indicate the zoning of each parcel of land proposed for inclusion, along with the date that the land is considered to fall into scope where that date is after 1 January 2022, being land 'satisfying the relevant criteria' as set out at section 653B.

The Draft Maps have been reviewed. 653C. specifies what should be contained on the draft map. Section 653B (1) (b) (i) indicates that the date on which, based on the information available to it, it considers that land first satisfied the relevant criteria where that date is after 1st January 2022. The draft maps do not specify the date, so it can be taken that they relevant date is the 1st January 2022. It is clear from the preceding section that the lands did not have access to public infrastructure in terms of road access and wastewater treatment capacity as of the 1st January 2022.

Section 653 Section 653B (1) (b) (ii) indicates that the map must specify the total are in hectares of land which satisfies the relevant criteria. This information is not provided on the map and there it has not been prepared in accordance with the legislative requirements.



4. REQUESTED AMENDMENT

We contend that the subject lands do not fall within the scope for the RZLT as they do not have access to public infrastructure in the form of roads and wastewater treatment facilities. They did not come within scope on the 1st January 2022. In addition, Wicklow County Council have previously declared that the development of Area 2 prior to adjoining residential and employment lands in Blessington would represent premature development and is contrary to its County Development Plan sequential development policies.

We request that the subject lands be removed from the RZLT Map.





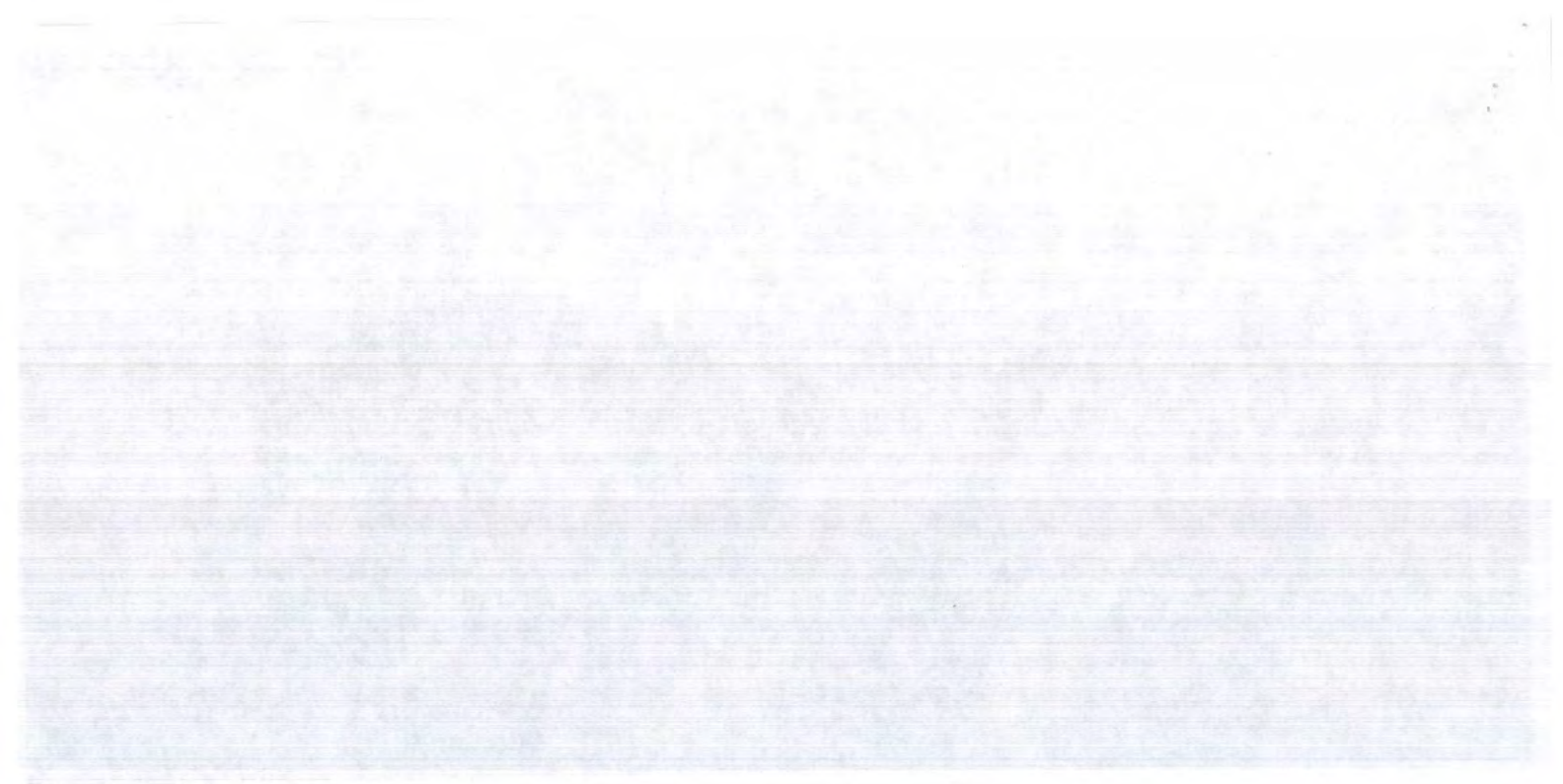
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Wicklow County Council
21 DEC 2022
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[REDACTED]

Planning Department
Wicklow County Council
County Buildings
Station Road,
Whitegates,
Wicklow

19th December 2022

RE: Residential Zoned Land Tax submission in relation to lands at Blessington, Co Wicklow

To whom it may concern,

On behalf of [REDACTED] I confirm that we are the registered owners for the lands at Blessington, Co Wicklow as indicated on the attached OSI map.

Yours Sincerely

Annas Duggan



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