



An
Bord
Pleanála

Inspector's Report ABP-300554-18

Type of Appeal	Section 9 Appeal against section 7(3) Notice
Location	Lands at Trafalgar Road, Greystones, Co. Wicklow
Planning Authority	Wicklow County Council.
Planning Authority VSL Reg. Ref.	VS/GD/01
Site Owner	Crimson Lane Limited
Date of Site Visit	12 April 2018
Inspector	Una Crosse

1.0 Introduction

- 1.1. This appeal refers to a section 7(3) notice issued by Wicklow County Council, stating their intention to enter a site measuring 0.78ha at Trafalgar Road, Greystones, Co. Wicklow on to the Vacant Sites Register (VSR) in accordance with the provisions of section 6(2) of the Urban Regeneration and Housing Act 2015. It is noted that the notice was issued to Crimson Lane Limited. It is noted that a letter of consent is included with the appeal on behalf of Kavcre La Touche Limited to Crimson Lane Limited to make the appeal.

2.0 Site Location and Description

The site which has an area of 0.78 hectares comprises a considerable block of land which addresses Trafalgar Road, Marine Terrace and Cliff Road and which has a prominent position overlooking the Harbour in Greystones. The site currently accommodates a number of structures most prominent of which is the former La Touche Hotel which is large 4 storey 'L' shaped structure. There are other ancillary structures within the site boundary.

3.0 Planning Authority Decision

3.1. Planning Authority Notice

Planning Authority Notice: Wicklow County Council advised the site owner that the subject site (Planning Authority site ref. **VS/GD/01**) had been identified as a vacant site. The notice, issued pursuant to section 6 of the Act and dated 1st December 2017, stated that the particulars of the site have been entered on the Vacant Sites Register. The notice was accompanied by a map outlining the site boundary. It is also noted that the notice was served on 4 parties including the Secretary and Directors of Crimson Lane Limited.

3.2. Register of Vacant Sites Report

A report prepared by the Planning Authority, entitled 'Phase 1 - Vacant Site Levy Investigations' in relation to the site which is presented in tabular format is summarised as follows:

- Site described as the buildings and site formerly occupied by the La Touche Hotel and noted that site owners are stated as Crimson Lane Ltd.
- Site is noted as being zoned town centre, with the type (of notice) referred to as regeneration;
- It is stated that the site which has an area of 0.78 hectares has been vacant for 12 months and does not form part of a persons home nor is it subject to a derelict sites levy.
- In relation to adverse effects on existing amenities it is stated:
 - Site being vacant has adverse effects on the visual amenities and the character of the Victorian seafront zone of Greystones with this the most prominent building in the area and specifically listed in the LAP as a building of special interest in the Greystones Harbour ACA. The redevelopment of the site is an objective of the LAP (Objective OP3);
 - Notwithstanding good condition of the hoarding erected, the poor condition of the overall site causes a visual blight on the seafront.
 - Anti-social behaviour has taken place on the site in the past and its vacancy may act as a magnet/target for future such behaviour;
 - Lack of activity on the site presents unsupervised areas surrounding the site, particularly along Cliff Road which may have general public safety implications;
- I would also note the response of the PA to the submission received from the owner prior to the issuing of the notice which states that short form commencement notice has been submitted with developer currently awaiting approval for compliance on planning conditions. The PA acknowledge the live application but note that such an application does not negate inclusion under the Act.

4.0 Development Plan Policy

4.1. Wicklow County Development Plan 2016-2022

The current County Development Plan refers to Urban Regeneration and Housing in Chapter 4 of the Plan and specifically at Policy HD19 where it states:

In many settlements in the County, there are sites and areas in need of development and renewal, in order to prevent:

- a. adverse effects on existing amenities in such areas, in particular as a result of the ruinous or neglected condition of any land,*
- b. urban blight and decay,*
- c. anti-social behaviour, or*
- d. a shortage of habitable houses or of land suitable for residential use or a mixture of residential and other uses*

It is an objective of this plan to encourage and facilitate the appropriate development of such sites /lands and all available tools and mechanisms, including the Vacant Site levy, may be utilised to stimulate such development.

In this regard, it is considered that all lands zoned 'Town Centre' in this plan (this refers to Level 5 settlements) as well as the following zones in larger towns (with standalone plans) may include sites that are in need of renewal and regeneration, and these areas will be examined in detail to determine if there are sites where the Vacant Site Levy should be applied.

In terms of Greystones, Delgany and Kilcoole the following zones are included: TC, VC.

5.0 Greystones-Delgany and Kilcoole Local Area Plan 2013 – 2019

The site is zoned: 'Town Centre' with the stated objective "to protect, provide for, and improve the development of a mix of 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. To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen

and promote urban design concepts and linkages between town centre activity areas.'

The La Touche Hotel site is designated an Opportunity site in the LAP - **OP3: La Touche Hotel, Trafalgar Road** which seeks to facilitate the redevelopment of the site for a mix of uses, including commercial, tourist, leisure, office and residential uses, in accordance with the TC zoning objective. It is required that any development on the site shall be in accordance with the objective to preserve the character of the Harbour ACA. Of note is policy HER12 – which seeks to protect the character of Architectural Conservation Areas in accordance with Appendix B and Map B. It is stated that proposals involving the demolition of buildings and other structures that contribute to the Special Interest of ACAs will not be permitted. It is stated that the original structure of the La Touche Hotel contributes to the Special Interest of this ACA.

6.0 Planning History

Ref. 17/1323 (withdrawn) an application on the site for amendment to Ref. 15/114 to consist of the removal of the 4-storey former main La Touche building in its entirety and its replacement with a replica building – Further information sought January 2018 and the application was withdrawn on 6 February 2018.

Ref. 15/114 (PL.27.245501) permission granted 26 dwellings.

There are other applications on site before this which were refused, related to the previous use on the site or are now expired.

7.0 The Appeal

7.1. Grounds of Appeal

An appeal was received on behalf of Crimson Lane Limited and the grounds are summarised as follows:

- Planning permission granted under Reg. Ref. 15/114(PL27.245501) for 26 townhouses in February 2016;
- Received a short form commencement notice with work commencing on 26 June 2017;

- PA have asked that hold off on demolition and ground works until all compliance submissions on conditions are agreed by the Council with building team waiting to commence demolition upon agreement of these conditions;
- Awaiting approval of planning compliance submissions and unable to commence until all of the conditions are signed off with emails attached indicating works permitted to be carried out prior to compliance approval;
- No statutory timeframe for approval compliance and unsure as to when will be able to commence works on the site although eager to do so;
- Therefore site is not idle and building works have commenced with the approved short form notice and request site is removed from the Register;

7.2. Planning Authority Response

A response from the Planning Authority to the appeal was received on 31 January 2018 and is summarised as follows:

- Long planning history on the site with most pertinent Ref. 15/114 (PL27.245501);
- Since then, short commencement notice received in June 2017 for demolition works only even though such a notice not required for demolition only;
- Applicant advised of what works could be carried out prior to the pre-development compliance and the PA position was that Ref. 15/114 had not been invoked notwithstanding submission of short commencement notice;
- PA did not ask the developer to 'hold off' on demolition until compliance received, they advised that the applicant not entitled to carry out works until compliance matters were in order;
- Compliance submissions received between June 2017-Jan 2018 with compliance with a number of conditions still outstanding and to date no commencement notice has been received for any new building works and PA position remains that Ref. 15/114 has not been invoked;
- Noted that Condition 9 relating to phasing of development is being sought to be altered relating to the timing of works to the older building and advised that this would not be agreed by the PA with stalemate reached and PA refute any

suggestion that it is dragging its heels but has made its position clear to developer;

- Noted that a new planning application submitted in November 2017 (Ref. 17/1323) for the demolition of the older Victorian Hotel and its replacement with a replica building with no decision made as yet with further information sought on 2 January 2018;
- Development has therefore not commenced on foot of Ref. 15/114 and in light of most recent application the PA satisfied that it is not intended to commence on foot of Ref. 15/114 as most recent application entails significant alteration to the proposal;

8.0 **Assessment**

- 8.1. While not specifically stated in the notice issued by Wicklow County Council the lands in question appear from the accompanying documentation including the Planners Report to be included on the Vacant Site register in accordance with Section 5(1)(b) of the Urban Regeneration and Housing Act 2015.
- 8.2. Section 5(1)(b) refers to lands considered to come within the meaning included for Regeneration Land and the tests for such sites are as follows:
- (i) the site, or the majority of the site, is vacant or idle, and
 - (ii) the site being vacant or idle has adverse effects on existing amenities or reduces the amenity provided by existing public infrastructure and facilities (within the meaning of section 48 of the Act of 2000) in the area in which the site is situated or has adverse effects on the character of the area.
- 8.3. The determination of what is meant by adverse effects on existing amenities as addressed in Section 5(1)(b)(ii) is provided by Section 6(6) of the Act which states that ‘a planning authority, or the Board on appeal, shall determine whether or not the site being vacant or idle has adverse affects on existing amenities or reduces the amenity provided by existing public infrastructure and facilities (within the meaning of section 48 of the Act of 2000) in the area in which the site is situated or has adverse effects on the character of the area for the purposes of this Part by reference to whether—
- (a) land or structures in the area were, or are, in a ruinous or neglected condition,*

(b) anti-social behaviour was or is taking place in the area, or

(c) there has been a reduction in the number of habitable houses, or the number of people living, in the area, and whether or not these matters were affected by the existence of such vacant or idle land.

- 8.4. In terms of part (i), that the **site, or the majority of the site, is vacant or idle**, I note the grounds of appeal on behalf of the site owner who states that some works have been carried out on foot of a 'short form' commencement notice while awaiting the discharge of some compliance conditions. It is stated that work commenced on 26 June 2017 on this basis. The PA dispute same stating that the short commencement notice was received in June 2017 for demolition works only even though such a notice was not required for demolition only. They state that the applicant was advised of what works could be carried out prior to the pre-development compliance and the PA position is that Ref. 15/114 had not been invoked notwithstanding submission of short commencement notice. They also note that a new planning application was submitted in November 2017 (Ref. 17/1323) for the demolition of the older Victorian Hotel and its replacement with a replica building with no decision made as yet with further information sought on 2 January 2018. I would note that this application was withdrawn on 6 February 2018. The PA position in this regard is that development has not commenced on foot of Ref. 15/114 and this is further justified by the recent application which seeks to alter the permitted development significantly.
- 8.5. I would note that neither a permission, intention to seek permission or the existence of a commencement notice negate the application of the levy on the site. I refer to Circular Letter PL7/2016, Appendix 3 where it is stated that where a vacant site has an extant planning permission associated with it, this should not be a consideration in determining whether to apply the levy. It continues that if such a site meets the criteria for a vacant site in respect of either residential or regeneration land, then the levy may be applied. The site, on my visit, remains vacant and in poor repair and in this regard I consider that the site is vacant.
- 8.6. In order to comply with the requirements of section 5(1)(b), the site must also meet part (ii) of the section which provides that the site being vacant or idle has adverse effects on existing amenities or reduces the amenity provided by existing public

infrastructure and facilities (within the meaning of section 48 of the Act of 2000) in the area in which the site is situated or has adverse effects on the character of the area.

- 8.7. I would note that the matter of adverse effects on existing amenities or the character of the area is not specifically addressed in the grounds of appeal. It is however addressed by the Planning Authority in the Planners Report, outlined in Section 3.2 of this report, which informed the inclusion of the site on the Register. Site being vacant has adverse effects on the visual amenities and the character of the Victorian seafront zone of Greystones with this the most prominent building in the area and specifically listed in the LAP as a building of special interest in the Greystones Harbour ACA. The redevelopment of the site is an objective of the LAP (Objective OP3) and they consider that the poor condition of the overall site causes a visual blight on the seafront. It is stated that anti-social behaviour has taken place on the site in the past and its vacancy may act as a magnet/target for future such behaviour. They also state that the lack of activity on the site presents unsupervised areas surrounding the site, particularly along Cliff Road which may have general public safety implications. I would agree. The site is in poor repair and detracts from the character and amenities of the area by reason of its neglected state. However the Act requires specific consideration of same having regard to the parameters set out in Section 6(6).
- 8.8. Section 6(6) of the Act provides the parameters by which the planning authority, or the Board on appeal, shall determine whether or not the site being vacant or idle has adverse effects on existing amenities or reduces the amenity provided by existing public infrastructure and facilities (within the meaning of section 48 of the Act of 2000) in the area in which the site is situated or has adverse effects on the character of the area for the purposes of this Part by reference to whether—
- (a) land or structures in the area were, or are, in a ruinous or neglected condition,*
 - (b) anti-social behaviour was or is taking place in the area, or*
 - (c) there has been a reduction in the number of habitable houses, or the number of people living, in the area, and whether or not these matters were affected by the existence of such vacant or idle land.*

In relation to subsection (a) the structures on the appeal site are in a neglected condition as is evidenced by the photos of the site. I would also note that there is evidence of graffiti on the walls of the structure, the site is unkempt and therefore would meet with part (b) above. There is no evidence to address part (c) however given the site is not required to meet each of the three tests, the necessary parameters of Section 6(6) (a) and (b) have been met and in this regard the site is a vacant site as defined by Section 5(1)(b).

9.0 Recommendation

9.1. I recommend that in accordance with section 9(5) of the Urban Regeneration and Housing Act 2015, the Board should confirm that the site measuring 0.78ha at Trafalgar Road, Greystones Co. Wicklow was vacant or idle for the 12 months concerned. Therefore, the entry on the Vacant Sites Register on the 27th July 2017 shall be deemed to take effect from that date.

10.0 Reasons and Considerations

10.1. Having regard to

(a) the information submitted to the Board by the planning authority in relation to the entry of the site on the Vacant Sites Register,

(b) the grounds of appeal submitted by the appellant,

(c) the report of the Inspector, and

(d) the neglected condition of the site, which it is considered has adverse effects on exiting amenities and on the character of the area,

the Board considered that it is appropriate that a notice be issued to the planning authority to confirm the entry on the Vacant Sites Register.

Una Crosse
Senior Planning Inspector

May 2018