



An
Bord
Pleanála

Inspector's Report ABP-300617-18

Type of Appeal	Section 9 Appeal against section 7(3) Notice
Location	Lands at Cross Roads, Killincarrig, Greystones, Co. Wicklow
Planning Authority	Wicklow County Council.
Planning Authority VSL Reg. Ref.	VS/GD/09
Site Owner	Targeted Investment Opportunities PLC/Glenveagh Homes 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 at Cross Roads, Killincarrig, 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 Targeted Investment Opportunities PLC. However the appeal has been made by A&L Goodbody on behalf of Glenveagh Homes Limited who state that they have recently acquired the site from Targeted Investment Opportunities PLC.

2.0 Site Location and Description

The site comprises part of a larger holding but includes a large detached dwelling known as Killincarrig House/Killincarrig Lodge located close to the road and a large number of trees within the site. The site is adjoined by recently constructed residential development to the southwest and the village centre of Killincarrig to the north. There are a number of dwellings in close proximity to and effectively surrounded by the site.

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/09**) 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 7 parties including the Secretary and Directors of Targeted Investment Opportunities PLC.

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 greenfield and while the site is not registered that a planning application was made on the site by Targeted Investment Opportunities PLC.
- Site is noted as being zoned small local centre, with the type (of notice) referred to as regeneration;
- It is stated that the site 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 located in prominent location and undeveloped condition presents a poor first impression on this charming traditional village. Site is not well maintained and while mature trees around boundaries the fields are in a somewhat natural wild condition;
 - Under-developed condition of the site impacts on the ability to deliver on the objectives in the LAP particularly Objective RT10 with the site the only one in the village centre with the capacity (in terms of size) to deliver additional commercial services in the village and its regeneration is key to the vitality of the village;
- 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 lands in vicinity are not in ruinous condition with no anti-social behaviour and no reduction in number of habitable houses in the area. Reference is also made to a planning application (Reg. Ref. 17/338) which is currently on appeal (PL27.249280). The PA acknowledge the live application but note it does not negate inclusion. They state that the site is deemed to be in ruinous condition with an old house on the site that is boarded up, derelict, has holes in the roof and is surrounded by overgrown vegetation. The site boundaries are unkempt and vegetation is not being maintained with graffiti on the gate and evidence of waste on the grounds of the site.

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

Killincarrig Village is identified as one of a number of designated small local centres which are similar to neighbourhood centres but not appropriate for the provision of a supermarket – size of units not to exceed 150 m² – RT10. Map A indicates that the site zoning is SLC – small local centre. There is a road improvement objective along the road at the site boundary. Map B outlines the heritage designations with part of

the site adjoining the road within the Killincarrig ACA. Map B also identifies T22 a tree preservation objective, which is described in Appendix B as 'trees on grounds of private dwelling'.

6.0 Planning History

Ref. 17/338 (PL27.249280) current appeal on the site for demolition of Killincarrig House/Killincarrig Lodge and construction of apartments and dwellinghouses. I would note that the proposal was revised as part of a further information request to incorporate the refurbishment of Killincarrig Lodge to provide 2 ground-floor commercial units with an apartment at first floor level and construction of a three-storey 22 unit apartment block and construction of 9 no. two-storey dwelling houses. I would note that the current appeal site is stated to have an area of 0.95 hectares.

Ref. 15/994 permission refused by Wicklow County Council for demolition of Killincarrig House, development of 2 apartment blocks of three-storey height over basement car park with a four-storey penthouse level, 10, two-storey houses, a two-storey mixed-use building. The main reason was that it would result in creation of substandard development for future residents, would be injurious to the visual amenities of the area and would be contrary to proper planning and sustainable development.

7.0 The Appeal

7.1. Grounds of Appeal

An appeal was received on behalf of the owner and the grounds are summarised as follows:

- Requirements of Section 5(1)(b)(ii) have not been satisfied;
- Accepted no development has been carried out for the last 12 months site cannot be classified as a vacant site as it has no adverse effects on the existing amenities in the area, has not reduced the amenity provided by existing public infrastructure and facilities and has no adverse effects on the character of the area;

- Section 6(6) requires the Board to determine the above by reference to three particular considerations;
- The first is that land or structures in the vicinity of the site are in a ruinous or neglected condition which is not the case in this instance with surrounding land and structures well preserved and in good condition;
- Anti-social behaviour taking place in the area with appellant advising no such anti-social behaviour taking place in the area,
- In relation to a reduction in the number of habitable houses or number of people living in the area, it is stated that no such reduction has taken place in the area with an increase in housing in the area.
- Legal tests in Section 5(1)(b)(ii) and Section 6(6) have not been satisfied and site cannot be classified as 'regeneration land', is not a vacant site and should not be entered on the VSR;
- Site zoned Small Local Centre (SLC) and current application on site for the redevelopment of the site which if granted would commence within 6 months and site should not be entered on the Register pending a grant of permission;

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:

- PA satisfied site meets the requirements of Section 5(1)(b)(ii) and Section 6(6) with attention drawn to photographs and reports attached (16th November 2017);
- PA consider site is in a very poor condition, with derelict boarded up buildings, graffiti on external boundaries and extremely overgrown and unkempt vegetation over spilling out over boundaries onto the street with the overall impact of the condition of the site degrading to the character of this charming village;
- PA draw attention of Board to phrasing of Section 6(6) which does not require all three clauses are satisfied but rather a minimum of one of the clauses by reason of the inclusion of 'or' with the PA relying on section (a) & (b);

- Current application on site and welcome owners intention to commence the construction of the development, appeal on the site making it impossible to know outcome of the appeal and potential of site to be developed within the stated timeframe;
- Future development proposals do not negate application of the levy and if the site is no longer vacant and permitted development commences site would be removed from the Register;

8.0 Assessment

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.

- 8.1. At the outset I would note that the site is zoned SLC, small local centre in the Local Area Plan. As I have outlined in Section 4.1 above, objective HD19 in the County Development Plan outlines the zonings in each of the towns which are included for the purposes of regeneration. I would draw the Boards attention to the zonings included for Greystones – TC – town centre and VC – village centre. SLC small local centre is not included. In this regard I would suggest that given the zoning has not been included in objective HD19 of the CDP for the purposes of the Act that the subject site should not have been included on the Register and in this regard the Notice should be cancelled.
- 8.2. Notwithstanding my opinion outlined above if the Board do not concur I propose to address the appeal against the necessary criteria for the benefit of the Board should they wish to proceed with the appeal. 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.

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.

8.3. 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 do not challenge that the site has been vacant for idle for the 12 months preceding inclusion on the register. What they challenge is the second part of the requirement in relation to Section 5(1)(b) and that is that the site has adverse effects for which there are three parameters included within section 6(6) and consider that as they believe the site does not meet any of these requirements then it is not vacant.

8.4. The first matter is that the '*land or structures in the area were, or are, in a ruinous or neglected condition*'. In their appeal the appellants reference this subsection of the Act as stating: that land or structures in the vicinity of the site are in a ruinous or neglected condition which they consider is not the case in this instance with surrounding land and structures well preserved and in good condition. I would suggest that the appellant has misquoted and misinterpreted this section of the Act. The Act does not refer at section 6(6)(a) to '*in the vicinity of the site*'. The Act refers to land or structures in the area. The 'area' in this instance refers to the area of the site. Arguably if it were interpreted to be in the vicinity it would be somewhat ambiguous as the context of Section 5(1)(b)(ii) refers to the site and it is from this that the parameters in Section 6(6) are derived.

8.5. In relation to the consideration of Section 6(6)(a) there is a neglected residential dwelling on the site which is boarded up and the is surrounded by land, particularly

adjoining the public road which is overgrown and unkempt. In this regard I would suggest that the land and structure which comprise the site are in a neglected condition.

- 8.6. In relation to Section 6(6)(b) 'anti-social behaviour was or is taking place in the area' I note the graffiti on the site and the unkempt nature of the site. In relation to the final consideration Section 6(6)(c), while I note the response of the applicant regarding the development of residential development in the area the site meets the first and second parameter and given the inclusion of 'or' in the Act there is no requirement to meet all three.
- 8.7. Finally, I refer to the details outlined in terms of the proposal on the site which is the subject of a current appeal and the intention to carry out same expeditiously. I refer in this regard 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. Clearly the same would apply in relation to an intention to apply for/current application for permission given an intension would not negate vacancy.

9.0 Recommendation

- 9.1. Notwithstanding, my conclusions regarding the sites compliance with the tests outlined in Section 5(1)(b) above, having regard to my considerations regarding the exclusion of the SLC zoning from Objective HD19 in the Wicklow County Development Plan 2016-2022, I recommend that in accordance with section 9(5) of the Urban Regeneration and Housing Act 2015, the Board should cancel that the site measuring 0.5ha at Killincarrig, 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 removed.

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 zoning of the site objective as SLC – small local centre - which is not included in Objective HD19 of the Wicklow County Development Plan 2016-2022

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

Una Crosse
Senior Planning Inspector

May 2018