



An
Bord
Pleanála

Inspector's Report ABP-304720-19

Type of Appeal	Section 9 Appeal against Section 7(3) Notice
Location	Lands at Crossneen, Springhill Road, Graiguecullen, Co. Laois
Planning Authority	Laois County Council
Planning Authority VSL Reg. Ref.	VSL/G/2016/11a
Site Owner	Bruce and Barbara Fennell
Planning Authority Decision	Place on Register
Date of Site Visit	27 th September 2019
Inspector	Erika Casey

1.0 Introduction

- 1.1. This appeal refers to a Section 7(3) Notice issued by Laois County Council, stating their intention to enter a site referred to as lands at Crosneen, Springhill Road, Graiguecullen, Co. Laois onto the Vacant Sites Register (VSR) in accordance with the provisions of Section 6(2) of the Urban Regeneration and Housing Act 2015. The Notice states that the Planning Authority is of the opinion that the site is a vacant site within the meaning set out in Sections 5(1)(a) of the URH Act 2015.
- 1.2 The appeal site registered under VSL reference VSL/G/2016/11a has a two registered owners: Bruce and Barbara Fennell.

2.0 Site Location and Description

- 2.1 The subject site has an area of 0.17ha located at Meadows Way in Graiguecullen. Access to the site is from the Numbers Road. The site forms part of an unfinished housing estate and development in the vicinity of the site is low density residential and suburban in character. The site itself is grassed and is bound by concrete posts. There is a partially constructed access road located to the north.

3.0 Statutory Context

3.1. URH ACT

- 3.1.1. The Notice issued under Section 7(3) of the Act states that the PA is of the opinion that the site referenced is a vacant site within the meaning of Section 5(1)(a) of the Act. The Notice is dated the 10th of June 2019 and is accompanied by a map outlining the extent of the site to which the Notice relates. Prior to this, a Notice of Proposed Entry on Laois County Council's Vacant Site Register was issued to the landowners on the 13th March 2018.

- 3.1.2. Section 5(1)(a) of the Act states that a site is a vacant site if, in the case of a site consisting of residential land:-

- (i) the site is situated in an area in which there is a need for housing,
- (ii) the site is suitable for housing, and

(iii) the site, or the majority of the site, is vacant or idle.

3.1.3. It is noted that Section 5(1)(a)(iii) has been amended by Section 63 of the Planning and Development (Amendment) Act 2018 which commenced upon coming into effect of the Act (19 July 2018). This section of the Act amends Section 5 of the Act of 2015 by substituting Section 5(1)(a)(iii) for the following:

“the site, or the majority of the site is—

(I) vacant or idle, or

(II) being used for a purpose that does not consist solely or primarily of the provision of housing or the development of the site for the purpose of such provision, provided that the most recent purchase of the site occurred—

(a) after it became residential land, and

(b) before, on or after the commencement of section 63 of the Planning and Development (Amendment) Act 2018”.

3.1.4 The Act defines ‘residential’ land in Section 3 as follows:

“residential land” means land included by a planning authority in its development plan or local area plan in accordance with section 10(2) of the Act of 2000 with the objective of zoning for use solely or primarily for residential purposes, and includes any structures on such land.”

3.2. Development Plan Policy

Laois County Development Plan 2017-2023

3.2.1 Section 3.3 of the County Plan sets out policy regarding the implementation of the Urban Regeneration and Housing Act 2015. Under section 3.3.1, it is detailed that Laois County Council has determined that a need for housing exists in the Towns of Portlaoise, Portarlington, Mountmellick and **Graigucullen**.

3.2.2 It is further detailed that:

(a) The projected increase in the number of households as per Core Strategy and Housing Strategy during the period 2017-2023 is significant – Portlaoise (1,824), Portarlington (271), Mountmellick (257), **Graigucullen (215)**.

(b) The cost of house prices and the cost of renting are increasing indicating increased housing need. A table is set out where it is detailed that according to the PRTB, rents in Graiguecullen increased from €584.98 in 2014 to €600.26 in 2015.

(c) Cited area of choice on social housing waiting list (September 2016) indicate housing need in these Towns – Portlaoise (944), Portarlinton (377), Mountmellick (322), **Graiguecullen (63)**.

(d) The number of habitable houses available for purchase and for rent is less than 5% of the total number of habitable houses in the area, indicating housing need. A table is set out that details that in Graiguecullen there were only 4 units available for sale or rent which is less than 5% of the total number of habitable houses in the area.

3.2.3 The plan sets out a number of policies regarding vacant sites including:

***HP12** Maintain the Laois Register of Vacant Sites, entering or deleting Sites from the Register in accordance with the Urban Regeneration and Housing Act 2015 and related Departmental Guidance;*

***HP 14** Implement the provisions of the Urban Regeneration and Housing Act 2015 by entering vacant housing sites on the Laois Register of Vacant Sites and thereafter imposing levies in accordance with the Act within lands zoned Residential 1 or Residential 2 in Portlaoise, Portarlinton, Mountmellick, **Graiguecullen** and any other Laois towns with an identified housing need, as appropriate;*

Joint Spatial Plan for the Greater Carlow Graiguecullen Urban Area 2012-2018

3.2.4 The site is located within the administrative area of the Joint Spatial Plan for the Greater Carlow Graiguecullen Urban Area. The plan was extended until the 22nd of October 2022. Under the core strategy (revised in 2017 when plan was extended) it is stated that the population of the area is anticipated to grow to 4,590 persons by 2023. The projected increase in housing is 218 units.

3.2.5 In terms of social housing need, it is stated that there are 1,153 persons on the social housing list, of which 95 are in the environs of Carlow.

3.2.6 Under the plan, the site is zoned Residential 2: *“To provide for new residential development, residential services and community facilities within the Plan period 2012-2018.”* It is stated:

“This zone is intended primarily for housing development but may include a range of other uses particularly those that have the potential to foster the development of new residential communities such as schools, crèches, small shops, doctors surgeries, playing fields etc. It is an objective, on land zoned for residential 2 to promote development mainly for housing, associated open space, community uses and where an acceptable standard of amenity can be maintained, a limited range of other uses that support the overall residential function of the area

Within this zoning category the improved quality of residential areas and the servicing of orderly development will be the Council’s priority. New housing and infill developments should be of sensitive design, which are complimentary to their surroundings. No piecemeal development can take place unless it does not conflict with the possible future development of the reserved development areas of the town. Adequate undeveloped lands have been zoned in the Plan for residential use to meet the requirements for both public and private house building over the Plan period.”

4.0 Planning History

Planning Authority Reference 04/890

- 4.1 Permission granted in November 2004 for a development comprising 102 residential units, retail facilities and a crèche. An application for amendments to this permission was granted under application reference 07/939. Two extension of duration permissions were permitted under application references 09/597 and 12/220. The latter extended the permission until 2017.

5.0 Planning Authority Decision

5.1. Planning Authority Reports

- 5.1.1 A Vacant Site Report (20.12.2017) was prepared for the site outlining the dates of the visit to the site, description of the area, zoning, planning history and the type of site for the purposes of the Act which in this case is Residential. The following key points are noted:

- Site visits were undertaken on the 14.02.2017 and the 30.11.2017.
- The subject lands comprise an undeveloped parcel of land.
- The lands have been the subject of a previous planning permissions for residential development.
- The Laois County Plan 2017-2023 provides an assessment of the areas of the county where there is a need for housing and determines that such a need exists in Graiguecullen.
- The lands are suitable for the provision of housing in accordance with the zoning objective pertaining to the site. Permission has previously been granted for residential development on the site.
- The lands comprise a vacant or idle parcel of land and it is recommended that the site be included on the Vacant Site Register.

5.1.4 A further Planning Report (05.11.2018) was prepared in relation to the lands noting that they are zoned Residential, are situated in an area in which there is a need for housing, are suitable for the provision of housing and are vacant or idle. It recommended that the lands should be included on the Vacant Sites Register and that a section 7(3) Notice be issued.

Road Design Assessment Report

5.1.5 Laois County Council also prepared a road design assessment report dated November 2017. With regard the subject site, the report stated that Road Design have no objection to the development of the site. Connection points to the road network, surface water outfalls and sightlines can be looked into in more detail at planning stage.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 An appeal was received from the landowners on the 19th of June 2019. The grounds of appeal can be summarised as follows:

- State that site has been part of the family farm for over 100 years. Jackie Green Construction Ltd. was engaged to develop part of the farm lands, including the subject site. Construction commenced in 2006 but ceased shortly thereafter due to the economic crash.
- Note that substantial ground works have been carried out and 18 houses have been completed. It is intended that construction will commence again when it is economically viable to do so.
- Prior to 2006, the land was actively farmed. It is now however, isolated from the working farm. As an access roadway and manholes run through the site, it is not suitable for productive farming.
- Correspondence from Jackie Green Construction Ltd. also included in the appeal submission. Notes that in 2005, permission was granted for 102 units on the site. By April 2006 significant work had been undertaken including roads, cable TV, telephone, electricity and foul drainage and surface water drainage. Provide details of infrastructural works completed as well as boundary wall, landscaping, public lighting and footpath works. 18 houses were constructed.
- In 2006, a financial contribution was made to Laois Co. Co in lieu of Part V on site provision. Due to the economic climate in 2006, there was very little interest in the houses. An extension of duration permission has been applied for on two occasions. It is submitted however, that the building of houses is not viable as the construction cost is above the market price available.
- Substantial investment (€3.5million) has been made in the site and it is intended to build housing units on the site when it becomes a viable proposition. Open space and landscaping is being maintained on the part of the site that is completed.
- Consider it unreasonable that the site has been placed on the vacant site register when it is not economically viable to commence construction of housing units.
- Correspondence from Clanmil Housing Association of Ireland submitted stating that it is unlikely that social housing would be considered favourably on the site.

- Correspondence from DNG and Circle stating that there is currently no market in Carlow for such units.

6.2. Planning Authority Response

6.2.1 No response received.

7.0 Assessment

7.1. Introduction

7.1.1. This notice has been issued under the provisions of Section 5(1)(a) of the Act which relates to 'residential' lands. The appellant's principal grounds of appeal are that it is economically unviable to construct residential development on the site and there is no demand for residential development on the site.

7.1.2. Section 5(1)(a) of the Act states that a site is a vacant site if, in the case of a site consisting of residential land:-

- (i) the site is situated in an area in which there is a need for housing,
- (ii) the site is suitable for housing, and
- (iii) the site, or the majority of the site, is vacant or idle.

7.1.3. As I note above, Section 5(1)(a)(iii) has been amended by Section 63 of the Planning and Development (Amendment) Act 2018 which commenced upon coming into effect of the Act (19 July 2018). This section of the Act amends Section 5 of the Act of 2015 by substituting Section 5(1)(a)(iii) for the following:

"the site, or the majority of the site is—

(I) vacant or idle, or

(II) being used for a purpose that does not consist solely or primarily of the provision of housing or the development of the site for the purpose of such provision, provided that the most recent purchase of the site occurred—

(a) after it became residential land, and

(b) before, on or after the commencement of Section 63 of the Planning and

Development (Amendment) Act 2018”.

7.1.4 Section 6 (4) determines whether or not there was a need for housing in an area within the Planning Authority’s function area by reference to:

(a) the housing strategy and the core strategy of the planning authority

(b) house prices and the cost of renting in the area

(c) The number of households qualified for social housing support in accordance with section 20 of the Housing (Miscellaneous Provisions) Act 2009 that have specified the area as an area of choice for the receipt of such support and any changes to that number since the adoption of the planning authority’s development plan and

(d) whether the number of habitable houses available for purchase or rent was less than 5% of the total number of houses in the area.

7.1.5 Section 6(5) of the Act determines the suitability of a site for housing having regard to:

(a) the core strategy

(b) whether the site was served by the public infrastructure and facilities (within the meaning of section 48 of the Act 2000) necessary to enable housing to be provided and serviced, and

(c) whether there was anything affecting the physical condition of the land comprising the site which might affect the provision of housing.

7.1.6 I would note that the appellants do not question that the majority of the site is vacant or idle. Whilst it is outlined that the site once formed part of the family farm, it is clearly detailed that in 2004 permission was granted for its development for residential use. It is stated that the site is now functionally isolated from the main working farm and is no longer suitable for farming. I am satisfied, therefore, having regard to the information on file and observations on site that the site is vacant and is not being used for a purpose. I, therefore, do not intend to address this matter further. My assessment will, therefore, address specifically section 5(1) (i) and (ii) as to whether there is a need for housing and as to whether the site is suitable for housing.

The need for housing

7.1.8 The appellant's main contention is that there is no need for housing in the Graiguecullen area and that it is economically unviable to re-commence construction on the site. No quantitative information is submitted to support this contention and although letters from local estate agents have been submitted, the information in these is somewhat anecdotal.

7.1.9 As detailed above, Section 6 (4) determines whether or not there was a need for housing in an area within the Planning Authority's function area by reference to a number of specific criteria. These are considered further below:

The housing strategy and the core strategy of the Planning Authority

7.1.10 The projected increase in the number of households as per the Core Strategy and Housing Strategy during the period 2017-2023 in the County Development Plan is significant with an additional 215 dwellings required for the Graiguecullen area.

House prices and the cost of renting in the area

7.1.11 As detailed above, information is presented in the Laois County Development Plan regarding these criteria. The cost of house prices and the cost of renting are increasing indicating increased housing need. Rents in Graiguecullen increased from €584.98 in 2014 to €600.26 in 2015.

The number of households qualified for social housing support in accordance with section 20 of the Housing (Miscellaneous Provisions) Act 2009 that have specified the area as an area of choice for the receipt of such support and any changes to that number since the adoption of the planning authority's development plan

7.1.12 Cited area of choice on social housing waiting list (September 2016) indicate housing need in Graiguecullen as being 63 units.

Whether the number of habitable houses available for purchase or rent was less than 5% of the total number of houses in the area.

7.1.13 The number of habitable houses available for purchase and for rent is less than 5% of the total number of habitable houses in the area, indicating housing need. It is detailed in the County Plan that in Graiguecullen there were only 4 units available for

sale or rent which is less than 5% of the total number of habitable houses in the area.

The site is suitable for housing

7.1.14 The criteria for assessing the suitability for housing are set out under section 6(5) of the Act.

The Core Strategy

7.1.15 The subject site is zoned for residential development under the Graiguecullen LAP which has been extended until 2022. As detailed above, the core strategy in the LAP and County Development Plan sets out that there is a significant need for housing in Graiguecullen over the plan period. The site is located in an established urban area in close proximity to existing social and physical infrastructure and to Carlow Town Centre. I consider the proposed site to be entirely consistent with the provisions of the core strategy set out in the County Plan.

Whether the site was served by the public infrastructure and facilities (within the meaning of Section 48 of the Act 2000) necessary to enable housing to be provided and serviced

7.1.16 I note the planning history of the site and the extant permission for a significant residential development of over 100 units. The appellant has set out that significant infrastructure has already been installed to service the site including foul and surface water drainage. I am satisfied that the necessary infrastructure is in place to enable housing to be provided.

Whether there was anything affecting the physical condition of the land comprising the site which might affect the provision of housing

7.1.17 There are no factors affecting the physical condition of the land which may affect the provision of housing.

Conclusion

7.1.18 In conclusion, having regard to the provisions of the County Development Plan including the core strategy and housing strategy, I am satisfied that there is a need for housing in the Graiguecullen area. It is an established suburb in the environs of Carlow town and is an appropriate location for such residential development. Having

regard to the planning history of the subject lands and the fact that they are zoned and located within the existing urban area, I am satisfied that the site is served by adequate public infrastructure necessary to enable housing to be provided and serviced and are thus suitable for development.

8.0 Recommendation

8.1. I recommend that in accordance with Section 9(5) of the Urban Regeneration and Housing Act 2015 (as amended), the Board should confirm the entry on the register of site (VSL/G/2016/11a) that it was a vacant site for the 12 months concerned. Therefore, the entry on the Vacant Sites Register on the 10th of June 2019 shall be deemed to take effect from that date.

9.0 Reasons and Considerations

9.1 Having regard to

(a) The information placed before 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 Planning Inspector,

(d) The residential zoning objective pertaining to the site,

(e) that there is a need for housing in the area having regard to the provisions of the core strategy and the housing strategy and policies and objectives set out in the Laois County Development Plan 2017-2023 and the Joint Spatial Plan for the Greater Carlow Graiguecullen Urban Area 2012-2018,

(f) that the site is suitable for the provision of housing by reference to the provision of public infrastructure and facilities (within the meaning of section 48 of the Planning and Development Act, 2000, as amended) necessary to enable housing to be provided and serviced,

(g) That the majority of the site is vacant or idle, there is a need for housing in the area, the site is suitable for the provision of housing, and that insufficient reason is put forward to cancel entry on the Vacant Sites Register.

The Board is satisfied that the site was a vacant site for the relevant period.

Erika Casey
Senior Planning Inspector
30th September 2019