



An
Bord
Pleanála

Inspector's Report VV0020

Type of Appeal	Section 9 Appeal against section 7(3) Notice.
Location	Lands at Carrickphierish, Gracedieu, Co Waterford.
Planning Authority	Waterford City and County Council.
Planning Authority VSL Reg. Ref.	16.2.
Site Owner	Noel Frisby Construction Ltd.
Date of Site Visit	14 December 2017.
Inspector	Stephen Rhys Thomas.

1.0 Introduction

- 1.1. This appeal refers to a section 7(3) notice issued by Waterford City and County Council, stating their intention to enter the site at Lands at Carrickphierish, Gracedieu, Co Waterford on to the Vacant Sites Register (VSR) in accordance with the provisions of section 6(2) of the Urban Regeneration and Housing Act 2015.

2.0 Site Location and Description

- 2.1. The subject site is located along the Carrickphierish Road, a relatively new road that provides a link from the north part of Waterford City to the R170 inner link road. The site comprises a large undulating arable field that slopes upwards from the public road. The site boundaries comprise mature hedgerows, with a wooden post and rail fence to the roadside boundary. The site can also be accessed from a minor country road to the north. Powerlines cross the site and there are no buildings.

3.0 Planning Authority Decision

- 3.1. **Planning Authority Notice:** Waterford City and County Council advised the site owner that the subject site (Planning Authority site ref. 16.2) had been identified as a vacant site. The notice, issued pursuant to section 7 of the Act and dated 27th July 2017, stated that particulars of the site have been entered on the Vacant Sites Register. The notice was accompanied by a map outlining the site boundary.
- 3.2. **Register of Vacant Sites Report:** Site is zoned 'New residential (Phase 1)', potential housing yield 362 units. The planning history of the site is outlined – permission granted to extend the appropriate period of permission 08/500087 (362 units) until 2019. The site is suitable for inclusion on the VSR. The report is accompanied by a location map and colour photographs of the site. The report includes a detailed site criteria and was assessed for suitability for the VSR and comprises the following:
- The site is a residential site and has been vacant/idle for previous 12 months.
 - The site accords with section 5(1)(a) of the 2015 Act.
 - The site accords with housing need and suitability for housing as outlined in section 6(4) and 6(5) of the 2015 Act.

A site inspection was carried out on the 27th January 2017.

4.0 Development Plan / Planning History

4.1. The **Waterford City Development Plan 2013 – 2019** is the operative development plan. The site is located on lands that are subject to zoning objective – ‘Undeveloped Residential (Subject to Phasing)’. The lands are identified as Phase 1 on the Residential Phasing map of the Development Plan. Section 7.3.1 North West Suburbs Carrickphierish/Gracedieu provides broad objectives for the area.

Section 2.6a Urban Regeneration, states:

The Urban Regeneration and Housing Act 2015 introduced a vacant site levy in order to incentivise the development of vacant sites in urban areas for housing and regeneration purposes. The application of the levy is intended to bring underutilised and vacant sites and buildings in urban areas into beneficial use.

Waterford City & County Council will examine lands within the City, as appropriate, for the purposes as set out in the Urban Regeneration and Housing Act 2015, in relation to the vacant site levy.

It is an objective of this Plan to promote the appropriate development and renewal of urban sites and areas, identified having regard to the core strategy, that are in need of regeneration, in order to ensure there is no -

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

4.2. Planning History

PA reference **13/500094**. Permission to extend the duration of 08/500087, for 362 residential units, shop and crèche. December 2013.

PA reference **08/500087**. Permission for 362 residential units, shop and crèche. September 2008.

Other planning applications relate to housing development either refused permission or that can no longer be implemented.

5.0 The Appeal

5.1. Grounds of Appeal

5.1.1. The landowner has submitted an appeal to the Board, against the decision of Waterford City and County Council to enter the subject site on the Register. The grounds of the appeal can be summarised as follows:

- The appellant does not dispute that the site is suitable for housing. The site is zoned residential and has planning permission for housing.
- The site is currently in use as farmland and is not idle or vacant.
- The appellant contends that there is not a housing need in Waterford City and suburbs. Calculations are provided that suggest only 125 houses per annum are needed as opposed to the Core Strategy of the Development Plan which predicts 322 units per annum. The appellant considers that the Council Housing Strategy should be reviewed in line with realistic population projections based on the most recent census data.
- The appellant refers to a confidential survey prepared by the Irish Homebuilders Association and the Daft Report – An analysis of recent trends in the Irish residential sales market for 2017 Q2. A comparison is made between the cost of construction and the selling price of housing in Waterford City and suburbs. The appellant concludes that the supply of housing currently meets demand and that the cost of construction matches actual selling prices.
- In terms of social housing the appellant states that the number of people on the Council housing list has decreased recently as tenants take up new accommodation with the HAP scheme.
- The appellant concludes that they are currently constructing enough housing to satisfy demand for new housing in Waterford City – Foxwood, Kilbarry.

The appeal is supported by the following: an extract from the Property Services Regulatory Authority, that shows house sales (various locations Waterford City) for the years 2016 and 2017; a letter from Halley Grace Auctioneers concerning the sale of the lands; a letter from S and K Carey Building Contractors that declines the opportunity of a joint venture on sites at Gracedieu on account of a lack of housing demand and a letter and layout plan that shows a housing scheme suitable for social housing opposite the appeal site.

5.2. Planning Authority Response

5.2.1. The Planning Authority responded to the appeal, requesting that the following observations be noted by the Board:

- The substantive matters raised by the appellant were raised previously on foot of the Section 7(1) Notice, the planning authority will accept any determination with regard to the site and VSR.
- Houses prices continue to rise in Waterford and the number of houses for sale or rent have reduced, leading to pressure regarding prices and availability of suitable housing.
- Reference is made to the site selection process that has already been forwarded to the Board. Attached to ABP reference VV0016.

6.0 Assessment

- 6.1. An appeal under section 9 of the Act, requires that the burden of showing that the site or a majority of the site was not vacant or idle for the 12 months preceding the date of entry on the Register is on the owner of the site. Section 9(3) of the Act states that the Board shall determine whether the site was vacant or idle for the duration of the 12 months concerned or was no longer a vacant site on the date on which the site was entered on the register. The subject site was entered onto the Waterford City and Council the 27th July 2017.
- 6.2. The subject site is located in an area zoned residential in the current City Development Plan. Section 2.6a of the Plan states that the vacant site levy applies to lands zoned in urban areas for housing and regeneration purposes as they have capacity to provide residential accommodation. The site is considered residential lands for the purposes of the 2015 Act.
- 6.3. The Council's planning report states that a site visit was undertaken on the 27th January 2017 and the site was found to be vacant/idle. Colour photographs detail the condition of the site as viewed from the roadside. The Planner's report goes on to state that the site accords with section 5(1)(a) of the Urban and Regeneration and Housing Act 2015. In addition, the report also addresses the need for housing in the context of Section 6(4) of the 2015 Act and the suitability of the site for the provision of housing in the context of Section 6(5) of the 2015 Act.
- 6.4. The appellant has raised issues such as; the housing strategy and core strategy of the Development Plan, house and rental prices and social housing in their grounds of appeal. In addition to section 5(1) of the 2015 Act, I have found it necessary to consider the appeal in the context of sections 6(4) and 6(5) of the Act as they relate to residential land.
- 6.5. The appellant contends that there is no housing need in Waterford City and that the Council should amend the Housing Strategy and Core Strategy of the Development Plan to take account of realistic population projections. The Housing Strategy 2011 - 2018 is integrated into the City Development Plan and is consistent with the core strategy of the planning authority. Both strategies identify that the need for housing is anticipated to rise as a function of an increase in households. In addition, I note that the review of the current Plan has been held over in accordance with section 11A of

the Planning and Development Act 2000 (as amended) in order to take into account regional plans. The appellant can be involved in framing both the housing strategy and core strategy of the planning authority which may in turn lead to a revision of policy and the removal of sites from the VSR under section 10(2) of the Act. However, at present, the current Development Plan and consequently the core strategy is the operative planning context in which to assess the entry of a site on the register. In my opinion, there is a need for housing in Waterford City as illustrated by land use zoning, the core strategy of the Plan and the Council's Housing Strategy. In this regard site accords with section 6(4)(a) of the 2015 Act and can be considered for inclusion on the register.

- 6.6. The appellant has provided their assessment of house prices and house building costs in the context of the Waterford City market. The appellant contends that given the high fixed costs of construction, high site costs, low number of purchasers and the low selling price that there is little demand for housing at present. In addition, as one of the leading house builders in Waterford City, the appellant claims to be knowledgeable of the housing demand in the city. In relation to the need for housing, section 6(4)(b) of the 2015 Act states:

'the Board on appeal, shall determine whether or not there was a need for housing in an area within the planning authority's functional area for the purposes of this Part by reference to — (b) house prices and the cost of renting houses in the area'

- 6.7. I note the planning authority's response regarding house price increases in Waterford and nationally, and that houses available for sale and rent have reduced resulting in more pressures on prices and availability. I also note the appellant's detailed housing demand and supply analysis. The housing market in terms of house price and house rental costs is a complex area driven by economic considerations at national, regional and at the householder level. The central theme of the Vacant Site Levy is to augment behavioural change and release sites for development. Such changes are needed so that urban land is used in the most efficient and effective manner possible and is put into the most productive and appropriate use in the interests of the common good. The levy is intended to act as a site activation and release mechanism.

- 6.8. The 2015 Act highlights the need for housing by reference to house prices and the cost of renting. Evidence provided by the appellant shows that selling prices of new houses does not exceed the actual construction cost. However, the appellant has stated that they are currently selling newly constructed houses at Foxwood, Kilbarry and another building firm is selling at Kill St. Lawrence, Waterford City. In addition, the appellant has stated that planning permission for a further 60 houses has been sought at Foxwood. The appellant has also detailed an agreement to construct 31 social housing units across from the appeal site. To my mind this illustrates a market demand for housing in Waterford City but it also demonstrates a need for housing. Combined with the planning authority's assertion that house prices and rents have risen in Waterford City I consider it appropriate to include the site on the register in accordance with section 6(4)(b) of the 2015 Act.
- 6.9. The appellant contends that numbers on the housing list have reduced in recent times. I note that the Council have indicated that there is a need for social housing in the area. The Council are well placed to identify if there is a need for social housing in the area, this appears to be the case. In addition, the appellant has stated a willingness to deliver social housing in the vicinity of the site. The subject site would therefore comply with the requirements of section 6(4)(c) of the 2015 Act. In this context, I am guided by and agree with the statements provided by the Council with regard to local social housing needs.
- 6.10. Neither the appellant or the planning authority have prepared information that outlines the number of habitable houses for purchase or rent as a percentage of the total number of houses in the area. However, the appellant has included reference to this aspect of the Act, section 6(4)(c) refers. The Board may wish to seek this information with a view to determining how the number of habitable dwellings for sale or rent as a proportion of the total number of houses in the area impacts upon housing need. However, in light of other factors which lead me to conclude that there is a compelling housing need in the area, I am satisfied to recommend the inclusion of the site on the register.
- 6.11. The Council state that there is a new wastewater treatment plant to service the area as well as other infrastructure such as schools, roads and a library in the area. The appellant does not dispute this. There is no obstacle to the provision of housing and

that such housing can be serviced. In addition, I note that there is no thing that affects the physical condition of the site so as to limit the provision of housing.

- 6.12. The site has a previous planning permission. The Act is clear: the test for inclusion is the past condition of the site from the date of entry on the Register. I refer to Circular Letter PL7/2016, Appendix 3, that states:

'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. 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'

If the site meets the criteria for inclusion on the register, the existence of a previous planning permission has no part to play in this instance.

- 6.13. The appellant states that the site is currently in use as farmland and is not therefore vacant or idle. The Act is supported by a circular letter that outlines practical matters to consider in the identification of vacant sites. With specific reference to agricultural lands, I refer to Circular Letter PL7/2016, Appendix 3, that states:

'Sites may be in areas where the land is zoned for a particular purpose, e.g. residential. However, pending development appropriate to its zoning, the land may currently or on an interim basis have an agricultural use. Given the purpose of the levy, particularly in the context of the provision of housing, in such cases the levy may be applied, as the site concerned is not being used for the purpose for which it was zoned.'

Even though the site may be in full agricultural use, this cannot be a factor to restrict inclusion on the register. The ongoing agricultural use has no part to play in this instance. The site, currently in agricultural use can therefore be included on the register.

- 6.14. The site is zoned residential and this suggests there is a need for housing in the area. In addition, the site is suitable for the provision of housing as evidenced by a current planning permission and the residential land use zoning. Given the foregoing, I conclude that the majority of the site is vacant or idle in accordance with section 5(1), 6(4) and (6)(5) of the 2015 Act.

6.15. I am satisfied that the entry of the subject site on the Vacant Sites Register of Waterford City and County Council should be confirmed.

7.0 Recommendation

7.1. I recommend that in accordance with section 9(5) of the Urban Regeneration and Housing Act 2015, the Board should confirm that the site at Lands at Carrickphierish, Gracedieu, Co Waterford 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.

8.0 Reasons and Considerations

8.1. Having regard to

- (a) The evidence placed before the Board by the Planning Authority in relation to the condition and use of the site over the relevant period,
- (b) The evidence in the appellant's submission,
- (c) The report of the Planning Inspector and
- (d) The housing need in the area, the suitability of the site for housing and that the site is not in use for which it was zoned

the Board is satisfied that the site was vacant or idle for the relevant period.

Stephen Rhys Thomas
Planning Inspector

20 February 2018