



An  
Bord  
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## Inspector's Report ABP-302872-18

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<b>Type of Appeal</b>	Section 9 Appeal against section 7(3) Notice
<b>Location</b>	Montgomery Street, Carlow Town, Co. Carlow.
<b>Planning Authority</b>	Carlow County Council
<b>Planning Authority VSL Reg. Ref.</b>	VS 18-21
<b>Site Owner</b>	M.B Homes Ltd.
<b>Planning Authority Decision</b>	Place on Register
<b>Date of Site Visit</b>	22 February 2019
<b>Inspector</b>	Una Crosse

## 1.0 Introduction

- 1.1. This appeal refers to a section 7(3) notice issued by Carlow County Council on 28<sup>h</sup> September 2018 under Reference VS-18-21, stating their intention to enter the site at Montgomery Street, Carlow on to the Vacant Sites Register (VSR) in accordance with the provisions of section 6(2) of the Urban Regeneration and Housing Act 2015.
- 1.2. The Notice is issued in respect of the provisions of Section 5(1)(b) and 5(2) of the Act.

## 2.0 Site Location and Description

Site has a stated area of 0.46 hectares and is located at the western end of Montgomery Street in Carlow Town and comprises a plot of land with frontage to Montgomery Street to the north and the Barrow Track to the west, beyond which is the Barrow River. To the south the site is adjoined by Andy Murphy Road. To the east the site is adjoined by a residential property and attendant rear garden which is in a derelict state of repair. The site itself accommodates a large industrial building which occupies most of the site and the site is bounded by a fence.

## 3.0 Statutory Context

### 3.1. URH ACT

- 3.1.1. Section 5(1)(b) of the Urban Regeneration and Housing Act 2015 states that in the case of a site consisting of regeneration land -
  - (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.

### 3.2. Development Plan Policy

- 3.2.1. Site located on lands zoned Town Centre in the Joint Spatial Plan for the Greater Carlow Graiguecullen Urban Area 2012-2018 which incorporates the Carlow Town

Development Plan 2012-2018 (as extended). The site is located in the 'River Quarter' as outlined in Part 4 of the Plan which outlines a sub-area spatial strategy and is identified as Opportunity Site 11 (former Celtic Linen Site) with a design brief for same included at page 261 of the Plan.

- 3.2.2. The Carlow County Development 2015-2021 was varied (Variation No. 1(a) to incorporate the provisions of the Urban Regeneration and Housing Act 2015 with ED-Policy 22 stating it is Council policy to utilise all available tools and mechanisms including the VSL in order to facilitate and encourage appropriate development of vacant sites on lands designated as 'regeneration areas' in the relevant statutory land use plans.

## 4.0 Planning History

**Ref. 09/6247 (ABP-236312)** – permission granted for 38 apartments, medical centre and convenience retailing.

**Ref. 09/6420 (ABP-234743)** – permission granted for the demolition of the former Celtic Linen laundry buildings.

**Ref. 08/6108 (ABP-231595)** - permission refused for demolition of industrial building and construction of 82 apartments and medical centre.

**Ref. 06/5796 (ABP-224012)** – Permission refused for demolition of industrial building and condition of a 202 unit apartment development.

## 5.0 Planning Authority Decision

### 5.1. Planning Authority Reports and Responses

- 5.1.1. An initial report entitled referral report for internal departments and Irish Water outlines the site location, land use zoning and photographs of the site. A report was received from Irish Water (14/05/18) and notes that the site is serviced by water infrastructure and facilitated to enable development with no known physical issues which may affect development with limited spare capacity currently available for all nominated sites.

- 5.1.2. A site report which is dated 1 June 2018 outlines the date of inspection (24 April & 29 May 2018), notes land is regeneration, outlines that the western boundary of the site adjoins the Barrow Track and is 6m from River Barrow and River Nore SAC. Stated that as per the Strategic Flood Risk Assessment in Appendix 2 of the Joint Spatial Plan for the Greater Carlow Graiguecullen Urban Area 2012-2018 the site is within Flood Zone A (pg. 67) and further stated that site benefits from flood defences along the River Barrow. In relation to anti-social behaviour it states that the site was previously the subject of illegal trespass, squatting, vandalism and fire damage. Noted that the site was subject of a Derelict Site Notice (Ref. DS127A) with letter dated 21 February 2018 advising the landowner that site was removed from the Derelict Sites Register. It is further stated that the site is subject of a Dangerous Structures file (Ref. DST14/03).
- 5.1.3. The site is described and is noted as previously being occupied by Celtic Linen (laundry facility) and has been unoccupied and not in use for some time now with commercial rates last paid in 2007. Windows and doors are stated to be boarded up in places with visible structural damage to the roof. It is noted that the boundaries of the site are fenced to prevent unauthorised access. It continues by stating that the vacant condition and overall run-down nature and appearance of this site, including boarded up windows and doors and damaged roof section, detracts from the residential and visual amenity of the area. Reference is made to Internal reports and Irish Water observations.
- 5.1.4. Reference is made to the town centre zoning of the site, the identification of the site as an Opportunity Site in part 11, Section of the Joint Spatial Plan as Opportunity Site 17 – former greenvale sites. Reference is also made to policies and objectives in the Plan and to Policy CTP33 which seeks to encourage the redevelopment or intensification of uses within employment opportunity sites including (ii) former Celtic linen site (opportunity site 11). The planning history of the site is outlined as is the ownership with land registry folio detailed.
- 5.1.5. The conclusion and recommendation refer to Section 5, regeneration and outlined subsections (i)&(ii) of 5(1)(b) noting site is vacant and idle, referring to the fact that the site is an opportunity site, the vacant condition and overall run-down nature and appearance of the site including boarded up windows and doors, damaged roof section has adverse effect on the character of the area with reference to previous

illegal trespass, squatting, vandalism and fire damage and recommend that a Section 7(1) Notice is issued with same issued on 25<sup>th</sup> June 2018.

- 5.1.6. A response was received from Michael Brennan on behalf of MB Homes Limited and refers to the derelict site notice on the site, the requirements in respect of a Notice to be issued by 1 June, reference to Section 5(1)(a) of the Act and the requirement to demonstrate a need for housing with no demand for apartments or commercial units in the area noted and not economically viable to develop the site, lack of demand in private housing market in the greater Carlow Town area, cost of site clearance at in excess of €300,000, actively seeking a tenant for the unit but advised that given condition of the property including proximity to residential development that it may take time.
- 5.1.7. A report entitled Site Report No. 2 dated 17 August and co-signed on 20 August 2018 outlines some of information in the first report but also noted that a further inspection was undertaken on 17 August 2018. The response received from the owner to the Section 7(1) Notice is outlined and summarised and stated in response to same that site no longer on Derelict Site Register, site continues to be vacant and has been so for the preceding 12 months, commercial rates last paid in 2007, vacant condition has adverse effects on the character of the area and site previously subject of illegal trespass, squatting, vandalism and fire damage, water and wastewater capacity, analysis attached as Appendix 1 states there is a need for housing in the area with core strategy noting a total requirement of 1434 units, house prices and rent has increased and demand for social housing and planning policy set out.
- 5.1.8. Conclusion and recommendation outlined is as per the conclusion and recommendation for the Section 7(1) notice outlined above with recommendation that site included on the Register and a Section 7(3) notice is issued with a note to state that the Section 7(3) Notice should be issued for regeneration land.

## 5.2. **Planning Authority Notice**

- 5.2.1. A Section 7(3) notice was issued by Carlow County Council on 28<sup>th</sup> September 2018, stating their intention to the site at Montgomery Street, Carlow on to the Vacant Sites Register (VSR) in accordance with the provisions of section 6(2) of the Urban

Regeneration and Housing Act 2015. The Notice of entry states that the site is being entered on the Register in accordance with Section 5(1)(b) and 5(2) of the Act.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of appeal are summarised as follows:

- Site stated to be vacant and idle for the preceding 12 month period although period not defined with the report replete with hearsay and unsubstantiated findings, vague and uncertain as to time and ownership within period which report refers;
- Site is neither vacant or idle as it is occupied by a substantial commercial building which is in good condition, weatherproof, good structural condition, secure and available for letting with a suitable tenant being actively sought;
- Site cannot be deemed vacant within definition of the term contained in section 5 of the Act as substantive part of the site occupied by a building in good condition;
- Existing and substantive use established under a grant of permission for commercial use on the site which has been implemented and no question of unauthorised development;
- Permission establishes a use which runs with the land and cannot be removed other than by revocation of the permission with the building maintained and not in an unsightly condition, has over last few months been subject to major refurbishment which were exempted and upgrading works carried out to satisfaction of Council such that site removed from Derelict Sites Register;
- Only included because of unsightly condition, alleged anti-social activities which relate to a much earlier date and applied to clients predecessors in title which have now been resolved sufficient that derelict site notice removed;
- Site cannot be deemed vacant given site is occupied by a building in good condition and not idle given existing established lawful use which can be resumed at any time and unreasonable to suggest that while a tenant awaited to resume the use that site could be subject matter of the levy;

- Appellant purchased property on 4 October 2017 with site subject to Derelict Site Notice at time with steps taken after acquisition to deal with issues with notice discharged and unreasonable to characterise the building as Council have when accepted notices related to appearance of the building no longer apply;
- Since purchase no illegal trespass, squatting, vandalism or any fire damage that might have occurred historically with any such incidents taking place prior to appellants acquiring property with appellant paying rates and complied with obligations since date acquired;
- Appears fundamental basis relied on was not current state of building or lands but state of lands during duration of Derelict Site Notice with regard not had to works undertaken to discharge the Notice with issues arising by appellants predecessors;
- Notice does not specify basis upon which the site is included in respect of residential or regeneration;
- In report while planner accepts not residential lands, they proceed to consider housing need with entire basis of decision predicated on a mistake of fact and law by the Council with Board not dealing with determination predicated on a mistake of law with two categories of site mutually exclusive and conflated by the Council such that impossible to separate;
- Council cannot now correct the error nor can the board on appeal and board have complete jurisdiction but only to extent that decision of Council was validly made in first instance;
- Without prejudice to above site does not fall within category of regeneration as not vacant or idle as outlined above, nor does it have an adverse affect on existing amenities with entire basis of assessment by Council based on historical events which are not related to appellants who insisted as a condition of its purchase that all issues of concern to Council be resolved;
- Unfair if at date of notice the statutory tests were not met with property not in a ruinous or neglected condition, anti-social behaviour is not taking place and lands do not have an adverse affect on existing amenity of the area;
- Criteria in Section 5 cannot be reconciled with the obligations in the Act as set out in Section 5(1)(b)(ii) and Notice cannot be confirmed;

- Site acquired on 4 October 2017, site placed on Register on 28 September 2017 but not clear when 12 month period commences but period less than 12 months required by the Act as appellant could not and did not enter into occupation of property until 4 October 2017 and while insisted that certain measures put in place to remove Derelict Site Notice and informed Council of same with provisions of the Act should not have been applied for full 12 month period of appellants ownership.

## 6.2. **Planning Authority Response**

The response from the Planning Authority to the Appeal Submission is summarised as follows:

- Fact site is occupied by a building does not preclude the PA from considering it as a vacant site with definition of residential land in Section 3 including land and structures on such land;
- Site formerly occupied by Celtic Linen which has been closed since mid-2000's with commercial rates last paid in 2007;
- Vacant condition and overall run-down nature of the site has adverse effects on the character of the area with decision of vacant site in case of residential land set out in Section 5(1)(b)(ii) referring;
- Section 7(3) notices issued by the PA and cover letter included with same identified that the site is considered to be a vacant site having regard to Section 5(1)(b) and 5(2) of the Act;
- Appeal refers to consideration of housing need in planners report with Board advised that in this instance the matter of housing need was only referred to as a point of response to the details of the submission received to the Section 7(1) Notice with report including conclusion and recommendation not grounded on issue of housing need and Board will note that conclusion and recommendation based on provisions of Section 5(1)(b) which applies to regeneration land;

## 6.3. **Appellant Response to Planning Authority Response to Appeal**

The response from the Appellant to the Planning Authority's Response to the Appeal Submission is summarised as follows:



- Issues raised in appeal are more extensive than those referred to in PA response and not intended to deal with matter not referred to by the PA as would appear that no dispute as to the position adopted by the Appellant in relation to matters not raised;
- On this basis alone appeal should succeed as Board has no discretion in relation to matters not denied and accordingly must find in favour of the appellant;
- Reiterated that site neither vacant nor idle as it is occupied by a substantial commercial building which is in good condition and for which a suitable tenant is actively sought;
- Not sufficient for the PA to state that they believe that the site is vacant without detailing any basis for assertion and where no justification sought for their decision to categorise it as such with ABP having no basis for finding the premises to be vacant;
- PA assertion that property last occupied until mid-2000's with such submission relates to use but is not a justification for the determination of vacancy and reference to rates not being paid but cannot be used as it a different statutory scheme and unconscionable behaviour on part of Council to seek to now do so;
- Many commercial uses do not attract rates and date rates last paid in relation to premises irrelevant;
- What happened from 2007 to date of Notice not relevant as appellant site owner since 4 October 2017 with entire basis of assessment based upon historic events with ABP only have regard to events during appellants period of ownership as any alternative action of ABP would be ultra vires and not relevant or appropriate for PA to raise these issues and ABP should have no regard to same;
- When site purchased Derelict Site Notice on site with steps taken to carry out works to deal with issues in relation to appearance of building with works sufficient to discharge the notice issued;
- Since purchase of property, no illegal trespass, squatting, vandalism or fire damage and any such acts that occurred historically should not be regarded and PA cannot maintain position that at date of appeal premises was run down and appearance of building has adverse effects on character of the area;

- PA have provided no evidence that premises has adverse effects on the area and in absence of evidence as to their assertion as to condition of building and effect on the area and not a matter where ABP can level draconian levies on appellant;
- Property is not residential land as acknowledged;
- PA have not considered housing need in letter of 26/11/18 and failure to do so is fatal to their application given whole basis of the Act is to provide housing in an area of need and establish that property is within an area which such housing need exists;
- Lands cannot be considered vacant or idle which is first test to be satisfied and cannot be asserted that land have an adverse effect which is second test with PA failing to establish and prove same;
- Lands have never been categorised as regeneration lands and given history of use and PA submitted it is not now so categorised;
- Request oral hearing if Board considers matters further and gives credence to PA responses and if ABP find merit in PA submissions would like opportunity to submit Counsel's opinion which has been obtained on a range of issues which shows the stance of the PA is at odds with the statutory scheme;

#### **6.4. Response from PA to Section 132 Notice issued by ABP**

6.4.1. By way of a Section 132 Notice dated 13 March 2019, the PA was requested, by the Board, to provide documentary evidence of where in the current statutory plan for the area, the subject site has been identified for regeneration as per the definition of regeneration land set out in Section 3 of the Urban Regeneration and Housing Act 2015.

6.4.2. No response was received.

### **7.0 Assessment**

#### **7.1. Introduction**

7.1.1. 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.

7.1.2. The site must meet both tests and I will address each in turn in Sections 7.3 & 7.4 below but prior to addressing same I consider it necessary to address a number of matters of process.

## 7.2. **Process**

### Regeneration Lands

7.2.1. The notice issued in respect of the subject site was issued under the provisions of Section 5(1)(b) of the Act which refers to regeneration land. Section 3 of the Urban Regeneration and Housing Act 2015 defines regeneration land as meaning land identified by a planning authority in its development plan or local area plan, after the coming into operation of *section 28*, in accordance with section 10(2)(h) of the Act of 2000 with the objective of development and renewal of areas in need of regeneration, and includes any structures on such land. Therefore, the Act amended Section 10(2) of the 2000 Act (as itself amended), adding regeneration as an objective, and requiring Development Plans and Local Area Plans include this provision in the identification of such objectives in their Plans or vary existing Plans to incorporate same. The current Plan for Carlow is the Joint Spatial Plan for the Greater Carlow Graiguecullen Urban Area 2012-2018 which incorporates the Carlow Town Development Plan 2012-2018 (as extended). The site is included an an opportunity site (opportunity site 11) with a design brief for same at page 261 of the Plan. Having reviewed all the available documentation I cannot locate a provision in the Plan or variation to same which identifies the site for regeneration.

7.2.2. On this basis, and as is outlined above at Section 6.4 above, ABP sent a Section 132 Notice to Carlow County Council on 13 March 2019 which requested that the Council provide documentary evidence of where in the current statutory plan for the area, the subject site has been identified for regeneration as per the definition of regeneration land set out in Section 3 of the Urban Regeneration and Housing Act 2015. No response was received. Therefore, in the absence of such evidence I do not consider that the Board can be satisfied that it is appropriate to include a site on

the Register which does not appear to have been identified for regeneration purposes as per Section 10(2)(h) of the Act as amended. For this reason I consider that the entry should be cancelled until this matter has been rectified.

### 12 Month Period

- 7.2.3. There are two issues pertaining in relation to the 12 month period prior to the placing of the site on the Register as per the Section 7(3) Notice currently appealed. Firstly, in respect of placing a site on the Register, Section 6(2) of the Act is very clear that a planning authority shall enter on the register a description including a map of any site in its functional area which was, in the opinion of the planning authority, a vacant site for the duration of the 12 months preceding the date of entry.
- 7.2.4. The subject site was placed on the Register on 28<sup>h</sup> September 2018 meaning that the relevant 12 month period commenced on 29<sup>th</sup> September 2017. The appellants state that they became owners of the site on 4<sup>th</sup> October 2017 which postdates the commencement of the 12 month period. While it is only a matter of days, the appellant and current owner did not have control of the site for the entire 12 months prior to the PA placing the site on the Register and I would therefore suggest that it is unreasonable to place the site they now own on the Register on the basis of the 12 month period arising.
- 7.2.5. I would also note that the reports prepared by the planning authority refer to site inspections which informed their placing of the site on the register. In relation to the subject site it is stated in the report prepared to support the inclusion of the site on the register (site report No. 2) that the site was inspected on 24 April 2018, 29 May 2018 (which are also referenced in report No. 1) and on 17 August 2018. Therefore, if the site was inspected for the first time on 24 April 2018, for the purposes of the Vacant Site Levy process notwithstanding what happened in respect of the Derelict Sites Notice, the planning authority cannot categorically state that in respect of the definition of vacant or idle in section 5(10(b) of the Act that the site was vacant and idle on 29<sup>th</sup> September 2017 which is the commencement of the 12-month period.
- 7.2.6. While this may appear to be a tedious approach to the matter at hand, particularly given the history of the site prior to the appellant's ownership, the Act is very clear that the relevant period for consideration is the 12 month period preceding the date

of entry. I would therefore suggest that it is incumbent on any planning authority to have details of inspections which can clearly indicate that in their opinion the site was vacant or idle for the 12 months preceding placing the site on the Register. I would therefore suggest that the Notice issued should be cancelled on the basis of these defects in the process and if appropriate, on the basis of the Boards decision, the process commenced again.

7.2.7. In relation to housing need which has been addressed in the appeal submission, the planning authority are correct when they state that it was in fact the site owner who raised the matter of housing need in their response to the planning authority in relation to the Section 7(1) notice and therefore was not raised by the planning authority. Furthermore, in response to the appellants assertions regarding the intent of the Notice, it is quite clear from the Notices issued under Section 7(3) subject of this appeal that said notice was issued under Section 5(1)(b) which applies to regeneration and where housing need is not one of the relevant criteria.

7.2.8. While it is my opinion that the Notice should be cancelled for the procedural reasons outlined above, if the board does not share this view, I will provide my opinion below in respect of the site in relation to the matters arising in Section 5(1)(b).

### 7.3. **Vacant or Idle**

7.3.1. In terms of subsection 5(1)(b)(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 which state that the site is neither vacant or idle as it is occupied by a substantial commercial building which is in good condition, weatherproof, good structural condition, secure and available for letting with a suitable tenant being actively sought. I would refer the Board to the definition of 'site' in Section 5(2) of the Act, which I would note is referenced in the Section 7(3) Notice subject of this appeal, wherein it is stated that 'site' means any area of land exceeding 0.05 hectares identified by a planning authority in its functional area but does not include any structure that is a person's home. Therefore it is clear that the Act provides that a site includes structures, other than a person's home. The structure on the subject site could not be described as a person's home and therefore it is reasonable to conclude in this regard that the use or otherwise of the structure on the land is relevant to the consideration of Section 5(1)(b)(i). In this regard I do not consider that the appellant's grounds in this regard are reasonable.

7.3.2. It is clear from a visit to the site that the unit on site is not in use and with the exception of one door is securely locked. There was no indication of any signage to indicate a user or use and no indication of any opening hours of the unit anywhere on the site. The appeal notes that a tenant is being sought for the unit thereby indicating that one is not currently in situ. Therefore, I consider, notwithstanding the stated intention to seek a tenant, which is not questioned, that the site can be considered vacant or idle for the purposes of Section 5(1)(b)(i).

#### 7.4. Adverse Effects

7.4.1. In order to be considered a vacant site under Section 5(1)(b) a site must also meet the test outlined in Section 5(1)(b)(ii) that being 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.

7.4.2. This test is considered by reference to 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.*

7.4.3. Therefore these are the tests which determine whether or not the site being vacant or idle has adverse affects on existing amenities or reduces the amenity etc. I would note that meeting any one of the tests is sufficient and I would refer the Board to the fact that there is no ‘and’ between subsections (a) and (b) and therefore if either part is met it should arguably suffice. There is I would note an ‘or’ between subsections (a), (b) and (c). I would note that the PA do not specifically refer to these tests

outlined in Section 6(6) but rather provide a number of statements in respect of the condition of the site.

- 7.4.4. The first matter 6(6)(a) is whether the land or structures in the area were, or are, in a ruinous or neglected condition. The PA state that windows and doors are boarded up in places with visible structural damage to the roof in places. It is noted that the boundaries of the site are fenced to prevent unauthorised access. It continues by stating that the vacant condition and overall run-down nature and appearance of this site, including boarded up windows and doors and damaged roof section, detracts from the residential and visual amenity of the area. The test outlined in the Act (section 6(6)(a)) relates to the land or structures being in a ruinous or neglected condition. The structure on site is not ruinous however, it is arguable that despite the concerted efforts outlined by the appellant to remedy the building, that it remains neglected. There are openings boarded up, a door opening is held up by a barrel. The building is in an unkempt state and in this regard I consider it would be reasonable to consider the structure neglected.
- 7.4.5. The second matter 6(6)(b) refers to anti-social behaviour which was or is taking place in the area. The planning authority report notes in relation to anti-social behaviour that the site was previously the subject of illegal trespass, squatting, vandalism and fire damage. I would note that the site is well secured with fencing and I do not consider that it could be easily accessed. Therefore while it may have been previously subject of illegal trespass I do not consider that sufficient evidence has been provided by the planning authority to support such assertion for the 12 months preceding placing the site on the register.
- 7.4.6. There is no evidence to address part (c).
- 7.4.7. Therefore, given that the first test in Section 6(6) has been met, the site is a vacant site as defined by Section 5(1)(b)(ii). However given my concerns regarding the process undertaken as outlined in Section 7.2 above that these matters are secondary to the procedural matters arising in this instance.

## 8.0 Recommendation

I recommend that in accordance with section 9(5) of the Urban Regeneration and Housing Act 2015, the Board should cancel that the site at Montgomery Street,

Carlow was vacant or idle for the 12 months concerned. Therefore, the entry on the Vacant Sites Register on the 28<sup>th</sup> September 2018 shall be cancelled.

## 9.0 Reasons and Considerations

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,

(d) the absence of sufficient evidence to support the contention of the planning authority that the site was vacant and idle for the period of 12 months preceding the date of placing the site on the register, and

(e) the Board is not satisfied that the site was specifically identified for regeneration as required by the definition of “regeneration land” as set out in Section 3 of the Urban Regeneration and Housing Act 2015 which states that regeneration land means land identified by a planning authority in its development plan or local area plan, after the coming into operation of *section 28*, in accordance with section 10(2)(h) of the Act of 2000 with the objective of development and renewal of areas in need of regeneration, and includes any structures on such land.

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.

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Una Crosse  
Senior Planning Inspector

April 2019