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Bord  
Pleanála

## Inspector's Report ABP-303473-19

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<b>Type of Appeal</b>	Section 9 Appeal against section 7(3) Notice.
<b>Location</b>	Lands at Hunters Lane, Ashbourne, Co. Meath.
<b>Planning Authority</b>	Meath County Council.
<b>Planning Authority VSL Reg. Ref.</b>	VS-MH-0022.
<b>Site Owner</b>	Ardglen Property Holdings Ltd.
<b>Planning Authority Decision</b>	Place on Register.
<b>Date of Site Visit</b>	14 March 2019.
<b>Inspector</b>	Stephen Rhys Thomas.

## 1.0 Introduction

- 1.1. This appeal refers to a section 7(3) notice issued by Meath County Council, stating their intention to enter a site at Hunters Lane, Ashbourne, County Meath, on to the Vacant Sites Register (VSR) in accordance with the provisions of section 6(2) of the Urban Regeneration and Housing (URH) 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) and 5(2) of the URH Act 2015.

## 2.0 Site Location and Description

- 2.1. The subject site is located on lands adjacent to the rear of commercial development along Frederick Street in Ashbourne, County Meath. The site is accessed from Hunters Lane and shares boundaries with the Ashbourne House Hotel, Ashbourne Garda Station and a telephone exchange building. The site is mostly level with some ponding on lower lying areas and a large number of semi-mature trees and shrubs.

## 3.0 Statutory Context

### 3.1. Urban Regeneration and Housing Act 2015 (as amended)

- 3.1.1. The Notice issued under Section 7(3) of the Act states that the planning authority is of the opinion that the site referenced is a vacant site within the meaning of Section 5(1)(a) and 5(2) of the Act. The Notice is dated 14 December 2018 and is accompanied by a map outlining the extent of the site to which the Notice relates.

### 3.2. Development Plan Policy

- 3.2.1. The site is zoned objective B1 – Commercial/Town or Village Centre - 'To protect, provide for and/or improve town and village centre facilities and uses' in the **Ashbourne Local Area Plan 2009-2015**.
- 3.2.2. This LAP has been amended following the adoption of the **Meath County Development Plan 2013 – 2019**. Variation No. 2 includes land use zoning objectives and an order of priority for these settlements, including Ashbourne. Specifically, the application of land use zoning objectives contained in the Core Strategy of the Meath County Development Plan 2013 – 2019 to the land use zoning

objectives map for Ashbourne which are incorporated into the Meath County Development Plan 2013 – 2019.

3.2.3. All relevant policies and objectives now included in Volume V of the County Development Plan have been integrated into the amended LAP to ensure that the complete policy framework as applicable to Ashbourne is presented in this LAP.

3.2.4. Variation 4 of the County Development Plan December 2017

The purpose of Variation No. 4 of the County Development Plan was to facilitate the implementation of the requirements arising from the Urban Regeneration and Housing Act 2015.

### **Chapter 3 – Settlement Strategy and Housing**

#### **Section 3.6.2 Housing Strategy Vision and Aim:**

The Urban Regeneration and Housing Act 2015 aims to incentivise urban regeneration and facilitate increased activity in the housing construction sector. Under the Urban Regeneration and Housing Act 2015, the Planning Authority is required to identify vacant sites that fall within the definition set by the Act, maintain a register of vacant sites and apply a levy in respect of such sites. The sustainable development of vacant sites in Meath will be promoted through the targeted application of the Urban Regeneration and Housing Act, 2015 (Vacant Site Levy) in the following areas: Navan, Southern Environs of Drogheda, Maynooth Environs, Kilcock Environs, Dunboyne, Ashbourne, Kells, Trim and Dunshaughlin. It is proposed to optimise the impact of this initiative, by adopting a focused approach in these identified centres in Meath.

**Objective HS OBJ6** - To promote the sustainable development of vacant residential and regeneration sites in Navan, Southern Environs of Drogheda, Maynooth Environs, Kilcock Environs, Dunboyne, Ashbourne, Kells, Trim and Dunshaughlin through the application of the Urban Regeneration and Housing Act 2015, Vacant Site Levy, on lands zoned for Town Centre, Regeneration and Residential uses.

## **4.0 Planning History**

PA reference AA160993. 4 dwellings.

PA reference DA100112. Amendments to an apartment block granted under DA800504 and DA901319, 3 additional units.

PA reference DA901319. Amendments to an apartment block under DA800504.

PA reference DA800504. 28 apartments.

PA reference DA60646. 35 apartments refused permission.

## 5.0 Planning Authority Decision

### 5.1. Planning Authority Reports

- A **Vacant Sites report** outlining the date of the visit to the site (27 July 2018), the site area (0.3 Hectares), zoning and the type of site for the purposes of the Act which in this case is Residential. It is stated that the subject site is in an area in which there is a need for housing, the housing stock has increased from 2011-2016 by 3.7% and the in the same time population has increased by 11.7%. 637 housing units are identified as necessary for Ashbourne in the core strategy of the CDP. 431 persons are on the housing list for Ashbourne. 'Daft.ie' data for the period indicates house prices have increased by 3.9%. Residential Tenancy Board data shows an increase in rents of 6.3%.
- The principle of housing on the site is accepted by the Council, evidenced by an extant permission for four houses. The site can be serviced with water services and there is no physical thing that affects the provision of housing.
- In relation to the majority of the site being vacant or idle for the last 12 months, it is stated that the site was vacant on the date of the site inspection in July 2018 and has been vacant for in excess of 12 months. Google Earth images from 05 July 2017 are cited.

The planning authority's submission is accompanied by maps, colour photographs, the Notice of intent to place the site on the register, land registry details, the VSR table, copies of the research papers used (Daft and RTB) and a record of the chief executive's order.

## 5.2. **Planning Authority Notice**

Planning Authority decided under section 7(3) to issue a notice on 14 December 2018 referencing sections 5(1)(a) 5(2) of the Act and stating that the site has been entered onto the Vacant Sites Register.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

6.1.1. The landowner has submitted an appeal to the Board, against the decision of Meath County Council to place the subject site on the Register. The grounds of the appeal can be summarised as follows:

- The lands in question have been identified by Meath County Council as a suitable site for a compound associated with proposed works on the Ashbourne Flood Alleviation Scheme. The landowner has given permission to Meath County Council/OPW to use said lands as such.

The grounds of appeal include an email correspondence from David Keyes, Senior Executive Engineer Meath County Council dated 9 May 2018, enquiring about the use of the lands for a site compound. Other email correspondence follows on and includes maps and drawings.

### 6.2. **Planning Authority Response**

A response received from the Planning Authority to the grounds of appeal are summarised as follows:

- Works that form part of the Ashbourne Flood Alleviation Scheme are due to commence nearby in the first quarter of 2019. The appeal site has been identified as the best location for a compound to store materials and machinery securely.
- The applicant will be unable to develop the site for permitted housing because if the site is in use as a compound the works could last 12 months.
- Given that the flood alleviation works will address flooding issues and release residentially zoned lands, the works are considered important and necessary.
- The planning authority consider the site not appropriate for inclusion on the register at this time.

### 6.3. Further Submissions

None.

## 7.0 Assessment

### 7.1. Introduction

- 7.1.1. An appeal under section 9 of the Act, requires that the burden of showing that the site was not a vacant site 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 a vacant site 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 Meath County Council VSR on the 14 December 2018.
- 7.1.2. The Notice has been issued under the provisions of Section 5(1)(a) and (2) of the Act. The assessment undertaken by the Planning Authority to inform the placement of the site on the Register, which I outline in section 5.1, refers to the tests included for residential lands under section 5(1)(a) and by reference to Section 6(4) and (5) of the Act as is required for lands zoned for residential purposes.
- 7.1.3. The appellant states that the lands are to be used for a site compound for materials and machinery associated with a nearby flood alleviation scheme. The planning authority agree with this and consider that the lands would not be in a position to be developed for 12 months and so the site is not appropriate for inclusion on the register at this time.

### 7.2. Planning Authority Request

- 7.2.1. Given the information submitted by the appellant with regard to the impending use of the lands for a site compound for flood alleviation works, the planning authority conceded that it is inappropriate to place the site on the register at this time. I acknowledge the forthrightness of the planning authority to accept it may not be appropriate at this time for the site to be included on the register. The Board may wish to remove the site on this point alone, however, I think it is necessary to consider the merits of the appeal such as they are. In that regard, the assessment of the appeal is set out below.

### 7.3. Vacant/Idle

- 7.3.1. The 2015 Act (as amended) requires the Board on appeal to look back in time at the site and determine if the site was vacant or idle, section 9(1) states.

*(2) On an appeal under this section the burden of showing that the site was not a vacant site for the duration of the 12 months concerned is on the owner of the site.*

*(3) Where the Board determines that a site was not a vacant site 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 in accordance with section 6 (2) it shall give written notice to the planning authority who shall cancel the entry on the register in respect of that site.*

- 7.3.2. The relevant time period for this appeal extends 12 months from the date on which the site was entered on the register, in this instance 14 December 2018. This would mean that give or take several days, the very first site visit by the planning authority should have taken place at the start of December 2017. Instead, the planning authority have relied on Google Earth images from July 2017 and a site visit in July 2018. It appears to me that the required time period of 12 months upon which to base a decision to place the site on the register had not elapsed. I am hesitant to rely on photographic evidence such as online mapping data that cannot be stood over by the planning authority, useful though it may be. I would also advise the Board not to rely on online data upon which to base their determination either. For these reasons, I am not satisfied that the relevant time period had elapsed and the site should not have been placed on the register.

- 7.3.3. The appellant has not put forward any use for the site over the relevant period. My observations of the site would agree with the planning authority's conclusion that the site has been vacant for some time. However, I am not entirely satisfied that the site was vacant or idle, because I cannot be certain that it was so for the required time period. The site cannot therefore have been a vacant site in full accordance with section 6(2) of the 2015 Act.

### 7.4. Housing need and suitability

- 7.4.1. The appellant has not appealed the need for housing in the area or if the site is suitable for housing. I am satisfied that the information presented by the planning

authority in relation to sections 6(4) and 6(5) of the 2015 Act is evidence based and a fair assessment of the need for and suitability of the site for housing. I am also mindful of the planning status of the site; it is zoned for town centre uses of which residential purposes are acceptable and there is an extant permission for housing on the site.

7.4.2. I am satisfied that the site meets the criteria for inclusion on the register as referenced by section 6(4) and 6(5) of the 2015 Act and consequently fulfils the requirements of 5(1)(a)(i) and (ii) for land upon which residential uses are permitted.

7.5. The placement of a site on the register requires three criteria to be fulfilled under section 5(1)(a)(i), (ii) and (iii) of the 2015 Act. However, as outlined above, I am not satisfied that the site has been entered on the register in an appropriate manner. The landowner may have been disadvantaged in making their appeal because the required period of 12 months had not elapsed before the site was placed on the register. An issue that can be easily rectified should the planning authority wish to pursue the matter and begin the process of registration again. It is this procedural error that in my mind requires the site to be removed from the register.

## 8.0 Recommendation

8.1. I recommend that in accordance with section 9(5) of the Urban Regeneration and Housing Act 2015, the Board should cancel the Notice stating that the site at Hunters Lane, Ashbourne, County Meath was a vacant site for the 12 months concerned. Therefore, the entry on the Vacant Sites Register on the 14 December 2018 shall be removed.

## 9.0 Reasons and Considerations

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 site could not have been a vacant site within the meaning of section 5(1)(a) of the Urban Regeneration and Housing Act 2015 as amended, for the reason that the assessment of the site did not account for the duration of the 12 months preceding the date of entry on the register in accordance with section 6(2) of the 2015 Act,

the Board is not satisfied that the site was a vacant site for the relevant period.

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Stephen Rhys Thomas  
Planning Inspector

19 March 2019