



An  
Bord  
Pleanála

## Inspector's Report ABP-303528-19

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<b>Type of Appeal</b>	Section 9 Appeal against section 7(3) Notice
<b>Location</b>	Notice of entry on vacant site register
<b>Planning Authority</b>	South Dublin County Council
<b>Planning Authority VSL Reg. Ref.</b>	315
<b>Site Owner</b>	Phoenix Croft Ltd.
<b>Planning Authority Decision</b>	Place on Register
<b>Date of Site Visit</b>	27 July 2019
<b>Inspector</b>	Una Crosse

## 1.0 Introduction

- 1.1. This appeal refers to a section 7(3) notice issued by South Dublin County Council in respect of a site at Ardeevin Avenue, Lucan, Co. Dublin. The subject site was entered on the Vacant Site Register on 18<sup>th</sup> December 2018 on the basis that the site was vacant under Section 5(1)(a) of the Act. The Notice was issued to Phoenix Croft Ltd. The relevant folio number for the site is DN199741F.

## 2.0 Site Location and Description

- 2.1. The site comprises an area of 0.97 hectares of greenfield located at the end of an existing cul-de-sac known as Ardeevin Avenue which is to the west of the site. The area is located to the south of Lucan village. The site addresses the N4 Lucan bypass on its southern boundary and greenfields to the east and north. The site is inaccessible with fencing preventing access to the site from Ardeevin Ave.

## 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), and 5(2) of the Act. The Notice is dated 18<sup>th</sup> December 2018 and is accompanied by a map outlining the extent of the site to which the Notice relates.
- 3.1.2. It is noted that the definition of vacant or idle has been amended by Section 63 of the Planning and Development (Amendment) Act 2018 which commenced upon coming into effect of the Act. 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*".

### **3.2. Development Plan Policy – South Dublin County Development Plan 2016-2022**

3.2.1. The site is zoned RES in the CDP the objective of which is to protect and/or improve residential amenity.

3.2.2. The South Dublin County Council Development Plan 2016-2022 was varied (Variation 1 & 2) on 21<sup>st</sup> May 2018 with Chapter 11 varied to include Section 11.1.2 which provides that lands zoned Objective RES and RES-N are included for the purposes of Residential as defined in the 2015 Act.

## **4.0 Planning History**

4.1. **Ref. SD18A/0310 (ABP-304659-19 – Live appeal)** permission granted by SDCC for 25 unit housing development on a site extending to 0.96 hectares to the north of the N4 Lucan by-pass and to the east (end of) Ardeevin Avenue. This decision was appealed on 11 June 2019.

## **5.0 Planning Authority Decision**

### **5.1. Planning Authority Reports**

5.1.1. An initial site inspection report which is dated 30 October 2018 responds to a series of questions and outlines that site is in an area where there is a need for housing, that the site has been vacant or idle for last 12 months. That site is adequately serviced and that there is not anything affecting the physical condition of the land to make it unsuitable for housing. It is stated that the site is a residential site. It is stated that it is proposed for entry onto the VSR and photos of the site are attached. A Section 7(1) Notice dated 31<sup>st</sup> October 2018 was then served on the owner.

5.1.2. A response to same was submitted on behalf of the owner and states that the owners are in the process of obtaining permission to develop the lands with an

application lodged on 30 August 2018 and additional information sought and being responded to forthwith.

- 5.1.3. A second PA report, entitled Register of Vacant Sites Planning Report and which is dated 18<sup>th</sup> December 2018 refers to inspection dates of 13 September 2016 and 30 October 2018. It outlines the site details, location, planning history, zoning and ownership and the response to the Section 7(1) Notice received. It comments that the site comprises of undeveloped greenfield lands to the back of an existing housing estate in an established residential area to the southwest of Lucan Village. It notes that fencing has been erected between the site and the cul-de-sac of Ardeevin Avenue. It stated that there was no evidence of recent activity on site at the time of the site visit with the site appearing to be overgrown and unkempt.
- 5.1.4. It states that the submission received has been considered by the PA and that the proposals to develop the site for housing are welcomed. It qualifies this by stating that development proposals alone are not sufficient to determine that a site is no longer vacant or idle. It is stated that the details submitted and site inspection undertaken has not demonstrated to the satisfaction of the PA that majority of site is not vacant or idle for the preceding 12 months.
- 5.1.5. In relation to housing need reference is made to the core strategy and likely need for 32,132 units in SDC between 2015-2022 with the interim housing strategy forecasting that 8,303 social housing units will be required for the period 2016-2022. The average rent in SDC in 2018 including year on year change according to the Daft.ie rental price report Q3 2018 for South County Dublin is €2,156 (10.3% increase) and West Dublin €1,745 (12.5% increase) with combined average €1,950. The median purchase price for a dwelling in South Dublin, according to the CSO market-based household purchases of residential dwelling has risen from €249,700 in 2014 to €320,000 in 2017. The number of household on the housing list at year end in South Dublin was 8,944 in 2015 and 8,040 in 2018. 621 persons were on the homeless register in September 2018. There are 98,387 existing residential units in the County, based on CSO Census 2016 figures. An analysis of daft.ie on 13 December 2018 reveal 782 properties available for sale and 128 properties available for rent in the County (margin of error included where areas are shared with other local authorities). The proportion of properties that are available for sale and/or to rent as a percentage of the overall housing stock in the County is 0.9%. It is

determined that from the information outlined that there is a need for housing in the area.

- 5.1.6. In relation to suitability for housing, site is zoned for residential use and located within designated 'Metropolitan Consolidation Town' of Lucan in the core strategy of the SDCC Development Plan 2016-2022. Site is within the established residential area and is adequately serviced by public infrastructure and facilities. It is stated that there is no evidence of anything affecting the physical condition of the land comprising the site which would affect the provision of housing and site therefore considered suitable for housing.
- 5.1.7. Site or majority of site is stated to be vacant or idle and has been vacant or idle for the last 12 months. The recommendation outlines that the site comprises of undeveloped lands in an established residential area to the southwest of Lucan Village which is served by public services and facilities. It is noted that permission is currently being sought. It concludes that the site satisfies criteria of Section 5(1)(a) and is a vacant site which is suitable for residential and should be entered on the Register.

## 5.2. **Planning Authority Notice**

- 5.3. Planning Authority decided under section 7(3), dated 18 December 2018 to issue a notice stating that the PA is of the opinion that the site is a vacant site within the meaning of Section 5(1)(a) of the Act.

## 6.0 **The Appeal**

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

The appellant's grounds of appeal are summarised as follows:

- Owners of site recently applied for planning permission with such use in compliance with zoning objective for the site.
- Proposed use also in line with vacant site policy which seeks to bring vacant and under-utilised land into beneficial use in areas in need of housing or renewal.

- Application for planning lodged on 30 August 2018 (Ref. SD18A/0310) and additional information request being responded to at present time (Jan 2019).
- Intention is to secure permission and ensure site is developed as soon as possible;
- Request site is not placed in register and that appellant not penalised with such a punitive levy for a site they intend to develop for much needed housing.

## 6.2. Planning Authority Response

6.2.1. No response received.

## 7.0 Assessment

### 7.1. Vacant or Idle/Purpose of the Lands

7.1.1. In relation to the vacancy or otherwise of the site or part thereof, there are a number of considerations. Firstly, as outlined in Section 3.1 above, Section 5(1)(a)(iii) has been amended by Section 63 of the Planning and Development (Amendment) Act, 2018 which provides that it states that 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.*”.

I will address both (I) and (II) in turn.

### 7.2. Vacant or Idle

7.2.1. The appellants request that the site is not placed on the register and that the appellant should not be penalised with such a punitive levy for a site they intend to develop for much needed housing. They outline the details of the current planning application on the lands which I would note is currently (July 2019) on appeal.

Permission was granted by SDCC for development of the lands and it was appealed to the Board on 11 June 2019. While it is acknowledged that the appellant is striving to seek permission to develop the site, this planning phase is not considered to comply with the spirit of the legislation which seeks to activate sites. The permission sought, while essential to activate same, is not an activation in itself and therefore it cannot be construed as providing that the site was not vacant or idle as provided for in the Act. Therefore the site would appear to comply with this section of the Act and can be considered to be vacant or idle for the relevant 12 month period.

### **7.3. Purpose of the Lands**

7.3.1. Section 63 of the Planning and Development (Amendment) Act, 2018 provides a revised definition of Section 5(1)(a)(iii) of the Act with subsection (II) included and referring to sites which are 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.*”.

7.3.2. I note that the appellant does not claim that the site is being used for any specific purpose outside of the intended development. I do not therefore consider that this section of the Act is relevant to the subject site.

## **8.0 Recommendation**

8.1.1. I recommend that in accordance with section 9(5) of the Urban Regeneration and Housing Act 2015, the Board should confirm the entry on the register that the site (Site ID 315) at Ardeevin Avenue, Lucan, Co. Dublin was vacant or idle for the 12 months concerned. Therefore, the entry on the Vacant Sites Register on the 18th December 2018 shall be confirmed.

## **9.0 Reasons and Considerations**

9.1. 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, and

(c) the report of the Inspector

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

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Una Crosse  
Senior Planning Inspector

July 2019