



An
Bord
Pleanála

Inspector's Report ABP-303540-19

Type of Appeal

Section 9 Appeal against section 7(3)
Notice.

Location

Lands at WH848F, WH10289F,
WH19651, WH10636, WH556 and
WH547, Lissywollen South, Athlone,
County Westmeath.

Planning Authority

Westmeath County Council.

Planning Authority VSL Reg. Ref.

ATH10.

Site Owner

Westmeath County Council.

Planning Authority Decision

Place on Register.

Date of Site Visit

2 August 2019.

Inspector

Stephen Rhys Thomas.

1.0 Introduction

- 1.1. This appeal refers to a section 7(3) notice issued by Westmeath County Council, stating their intention to enter Lands at WH848F, WH10289F, WH19651, WH10636, WH556 and WH547, Lissywollen South, Athlone, County Westmeath, 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 south of the N6 and north of the Old Rail Trail greenway in the eastern suburbs of Athlone in County Westmeath. The site is broken up into three large land parcels containing a number of land registry folio numbers. The smallest site and situated alongside Brawney Road (WH848F) is an area of waste ground and overgrown. The large site (WH10289F) is easily accessed from the public road and adjoins public open space, the site is used for pedestrian short cuts and is reminiscent of a wild flower meadow. Land parcels (WH19651, WH10636, WH556 and WH547) are not so easily accessed by the public and are characteristic of agricultural lands with mature field boundaries and currently in grass, much overgrown. All the land parcels are mostly flat with no severe changes in level.

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 20 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. **Athlone Town Local Area Plan 2014-2020** - The site comprises 6 parcels of land in the one ownership. Land parcels WH848F, WH10289F, WH19651, WH10636, WH556 and WH547 are located on lands zoned 'Residential' either Proposed Residential or Proposed Residential – Low Density – 'To provide for residential development, associated services and to protect and improve residential amenity'. The planning authority state that a part of one parcel (WH848F) is located on lands zoned Mixed Use – 'To provide for, protect and strengthen the vitality and viability of town centres, through consolidating development, encouraging a mix of uses and maximising the use of land, to ensure the efficient use of infrastructure and services.'
- 3.2.2. The Athlone Town Local Area Plan 2014-2020 was amended by Variation 2 to incorporate the provisions of the Urban Regeneration & Housing Act 2015 regarding the Vacant Site Levy and urban renewal and regeneration into the plan. Of most relevance is Objective O-PM3: To facilitate in the implementation of the Urban Regeneration and Housing Act 2015, in particular, by way of utilising site activation measures, including the provision of the Vacant Site Levy, as appropriate to assist in bringing forward vacant and/or underutilised 'residential' and 'regeneration' land into beneficial use within lands identified in the Athlone Town Development Plan 2014-2020. For the purposes of clarity, 'residential' and 'regeneration lands' as identified in the Urban Regeneration and Housing Act 2015 to be interpreted within the Athlone Town Development Plan 2014-2020 as follows:
- 3.2.3. Residential: Includes all lands zoned 'Proposed Residential', 'Proposed Residential - Low Density', 'Existing Residential' and 'Existing Residential - Low Density', sited within the Development Plan boundary for Athlone (Refer Volume 2, Map Reference ATC15).
- 3.2.4. All 'mixed use' zoned lands within the Development Plan boundary for Athlone town is subject to consideration under the provisions of the Urban Regeneration and Housing Act 2015 with respect to the application of the Vacant Site Levy for 'residential' purposes.
- 3.2.5. Variation 3 - The **Lissywollen South Framework Plan 2018-2024** also applies to the land parcels in question, and all have been identified for residential uses. Relevant sections of the framework plan include:

Section 2.4 Water & Wastewater Infrastructure

The water supply for Athlone is sourced from the River Shannon. Currently the water treatment plant in Athlone abstracts approximately 500m³/hr, or 3 million gallons per day (MGD) which is distributed to the four main reservoirs at Annagh, Ardnaglug, Battery Heights and Coosan. Current demand is approximately 2MGD. Permission has been sought for a new water treatment plant at Killinure, which would abstract up to 15 MGD to serve the South Westmeath Water Supply Scheme, which includes the town of Athlone, including Lissywollen South and a large area of South Westmeath. It is anticipated that this new water treatment plant will be operational by 2021.

In terms of wastewater, the Athlone Wastewater Treatment Plant has been recently upgraded to provide for a capacity of 40,000 population equivalent (pe) and therefore will adequately supply the Lissywollen South area.

The Council shall continue to collaborate closely with Irish Water to ensure development is closely aligned with the provision of adequate and appropriate critical service infrastructure.

Section 2.5 Transport & Connectivity

The Lissywollen South area is strategically linked to the Athlone Town Centre via the Ballymahon Road to the east of the plan area and is bounded to the north by the N6 (Athlone bypass – M6). To the east lies the R916 serving Garrycastle. The Old Rail Trail greenway, which forms part of the Dublin Galway National Cycle Network extends along the entire length of Lissywollen South. It terminates at the White Gates on the Ballymahon Road at the western end of the plan area. Planning permission has been granted to extend the greenway from the White Gates to the town centre. In terms of the local road network, the Brawny Road serves existing residential scheme, the Regional Sports Centre, Athlone FC and the Gaelscoil. There is an existing pedestrian/cycle route located to the east of the existing Gaelscoil which connects to the Old Rail Trail. Notwithstanding same, permeability within the plan area is limited and needs to be strengthened.

4.0 Planning History

4.1. Subject site:

None.

5.0 Planning Authority Decision

5.1. Planning Authority Reports

- A **Vacant Site Assessment Report** (first report) outlining the date of the visit to the site (26 September 2017), the total site area is greater than 0.05 Hectares, zoning is residential and the type of site for the purposes of the Act which in this case is Residential. The site has been vacant for 12 months. The site is served by public infrastructure and LIHAF (€1.83 million) has been approved for a new road. A small area of the site has been identified as prone to pluvial flooding. House prices and rental rates are increasing, and the number of houses for sale/rent are less than 5% of total available, figures are provided. 778 households have a stated preference for Athlone. There is some antisocial behaviour taking place and this affects the area. The site is recommended for inclusion on the register and a section 7(1) Notice should issue.

The report is accompanied by colour photographs, a map and the analytical research conducted in relation to the establishment of the VSR in Westmeath.

- A **Vacant Site Assessment Report** (second report), reiterates the initial report and states no submission from the landowner on foot of the section 7(1) Notice. A section 7(3) Notice was recommended.

5.2. Planning Authority Notice

Planning Authority decided under section 7(3) to issue a notice on 20 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 Westmeath County Council to place the subject site on the Register. The grounds of the appeal can be summarised as follows:

- The lands in question, are not served by public infrastructure and facilities as referenced by the 2015 Act. The lands are not served by public roads and if developed would place additional traffic on the existing road network. LIHAF of €1.83 million has been secured for the provision of a new 1km access road that could serve up to 670 housing units.
- The lands are in an area in need of housing and the lands are suitable for housing, however, there are no planning policies to develop the lands. It is acknowledged that the Lissywollen South Framework Plan 2018-2024 has been published, and a team has been assembled to make a SHD application to the Board soon.

The grounds of appeal include the section 7(3) Notice and map.

6.2. **Planning Authority Response**

None.

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 Westmeath County Council VSR on the 20 December 2018.
- 7.1.2. The Notice has been issued under the provisions of Section 5(1)(a) of the Act which relates to residential lands. The assessment undertaken by the Planning Authority to inform the placing of the site on the Register, which I outline in section 5.1 above, refers to the tests included for residential 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 main concern of the appellant is that the lands in question are not served by public infrastructure and facilities, namely road infrastructure. It is the appellant's view that even though there is a need for housing in the area and the lands are broadly suitable for housing, section 5(1)(a)(ii) of the Act is not fully met. The appellant makes no comment in relation to the use of the lands.

7.2. Vacant or Idle

- 7.2.1. The landowner has not presented any evidence to indicate a use for the lands over the relevant period. The planning authority have documented the relevant period and state that the site performed no use and was vacant. My observations of each land parcel confirm this. The road side site (WH848F) is little more than waste ground and overgrown. The large site (WH10289F) is easily accessed from the public road and adjoins public open space, the site is used for pedestrian short cuts and was reminiscent of a wild flower meadow during my visit. Land parcels (WH19651, WH10636, WH556 and WH547) are not so easily accessed by the public. These land parcels were at some point agricultural grazing lands but the overgrown condition would suggest inactivity, I am inclined to agree with the planning authority

at the lack of recent use. I am satisfied that the lands were vacant or idle for the relevant period and accord with section 5(1)(a)(iii) of the 2015 Act.

7.3. **Housing need and suitability**

- 7.3.1. The owner has not appealed the need for housing in the area and it is accepted by both parties that Athlone requires housing. The appellant also accepts that from a planning context the site is broadly suitable for housing, however, the site is not served by public infrastructure. I am satisfied that the information presented by the planning authority in relation to sections 6(4) and for the most part section 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 residential uses and there is a recently published framework plan for the area. However, I am slightly concerned that the analysis carried out by the planning authority in relation to section 6(5)(b) of the Act is lacking, the Act states:

A planning authority, or the Board on appeal, shall determine whether or not a site was suitable for the provision of housing for the purposes of this Part by reference to-

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

- 7.3.2. The appellant maintains the site is not served by public infrastructure, principally roads infrastructure, this is yet to be provided but has secured funding. The planning authority echo this but do not elaborate on the subject of other necessary infrastructure, such as water services. In this respect, I have consulted the Lissywollen South Framework Plan 2018-2024. The plan states that there is capacity in the waste water treatment system and plans are in place to increase the volume of water supply by the construction of a new water treatment plant. The lands are also well served by existing public roads and by the pedestrian/cyclist Old Rail Trail greenway. Based on these factors being so during the preparation of the plan, I am of the opinion that the lands could be developed and there was and is no significant infrastructural obstacle to development. The lands in question were and are served by the public infrastructure and facilities (within the meaning of section 48 of the Act of 2000) necessary to enable housing to be provided and serviced.

7.4. 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. 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 and I am also satisfied that this is the case.

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 confirm the Notice stating that the site at Lissywollen South, Athlone, Co Westmeath was a vacant site for the 12 months concerned. Therefore, the entry on the Vacant Sites Register on the 20 December 2018 shall be deemed to take effect from that date.

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) That the site was a vacant site by virtue of the lack of any discernible use having taken place during the period prior to the entry of the site onto the VSR, the need for housing in the area, the site was and is suitable for the provision of housing as demonstrated by the residential land use zoning for the area, 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.

Stephen Rhys Thomas
Senior Planning Inspector

29 October 2019