



An  
Bord  
Pleanála

## Inspector's Report ABP-304003-19

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<b>Type of Appeal</b>	Section 9 Appeal against Section 7(3) Notice
<b>Location</b>	Lands at Former Centrepoint Building, Mountrath Road, Portlaoise, Co. Laois
<b>Planning Authority</b>	Laois County Council
<b>Planning Authority VSL Reg. Ref.</b>	VSL/PL/2016/10
<b>Site Owner</b>	Kyle Estates Ltd.
<b>Planning Authority Decision</b>	Place on Register
<b>Date of Site Visit</b>	18 <sup>th</sup> July 2019
<b>Inspector</b>	Erika Casey

## 1.0 Introduction

- 1.1. This appeal refers to a Section 7(3) Notice issued by Laois County Council, stating their intention to enter a site referred to as Centrepont, Mountrath Road, Portlaoise onto the Vacant Sites Register (VSR) in accordance with the provisions of Section 6(2) of the Urban Regeneration and Housing 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(b) of the URH Act 2015.
- 1.2. The appeal site registered under VSL reference VSL/PL/2016/10, has a number of registered owners: Mervyn V. Shaw, George T. Shaw, Norman Shaw, Johnathon Victor Shaw, Clive Victor Shaw, Eamonn Doyle, Sidney Perry Finlay and Kyle Estates Ltd.
- 1.3. There is a concurrent appeal on the adjacent site - appeal reference 304001-19.

## 2.0 Site Location and Description

- 2.1 The subject site has an area of c. 2.31 ha and is associated with the former Centrepont development. The lands are bound to the north by Harpur's Lane which is characterised by ribbon residential development. Access to the site is provided from Harpur's Lane and there is a palisade fence running along the northern boundary. A site access road is provided along the western boundary of the site from Harpur's Lane through to Mountrath Road to the south, where vehicular access is also provided. The northern part of the site is greenfield in character and comprises a grassed area.
- 2.2 To the south of the site there is a large derelict warehouse structure as well as extensive areas of hard standing and surface parking. There is a disused petrol filling station to the south of the site. To the east, are further lands associated with the former use which also accommodate an obsolete warehouse building. The site is in dilapidated condition and has a poor visual appearance.

## 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)(b) of the Act. The Notice is dated 21<sup>st</sup> February 2019.

3.1.2. Prior to this, a Notice of Proposed Entry was issued to all of the landowners on the 11<sup>th</sup> April 2018 and 26<sup>th</sup> March 2018. This was accompanied by a Planning Report and map outlining the extent of the site to which the Notice relates.

3.1.3. Section 5(1)(b) of the Act stated that a site is a vacant site if, 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 2000) in the area in which the site is situated or has adverse effects on the character of the area.

3.1.4 With regard to adverse effects, Section 6(6) of the Act sets out a number of criteria including:

- (a) land or structure in the area were, or are, in a ruinous or neglected condition;
- (b) antisocial behaviour was or is taking place in the area;
- (c) there has been a reduction in the number of habitable houses, or the number of people living in the area;
- (d) and whether or not these matters were affected by the existence of such vacant or idle land.

3.1.4 The Act defines regeneration land at Section 3 as follows:

*“regeneration land means land identified by a Planning Authority in its development plan or local area plan, after the coming onto 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 incudes any structure on such land.”*

### **3.2. Development Plan Policy**

#### **Portlaoise Local Area Plan 2018-2024**

3.2.1 The subject site is within the administrative area of Laois County Council and the relevant statutory plan is the Portlaoise LAP 2018-2024. Under the plan, the site is zoned Mixed Use: *To provide for a mixture of residential and compatible commercial uses.*

3.2.2 It is further stated that the purpose of these lands is:

*“To facilitate the use of land for a mix of uses, making provisions, where appropriate for “primary” uses i.e. residential and combined with other compatible uses e.g. offices as “secondary”. These secondary uses will be considered by the Local Authority, having regard to the particular character of the area. A diversity of uses for both day and evening is encouraged. These areas require high levels of accessibility, including pedestrian, cyclists and public transport (where feasible). Compatible uses within this zone include: residential, community buildings, civic buildings, entertainment, hotels, leisure and recreation, offices, professional/ specialist services, restaurants etc.”*

3.2.3 Section 8.1 of the plan sets out key objectives including:

- *To support and facilitate sustainable intensification and consolidation of the town centre and in established residential areas.*
- *To focus new residential development into brownfield sites.*

3.2.4 Section 10.2 of the plan identifies a number of opportunity sites. It is stated:

*“Five potential opportunity sites for re-development have been identified which would contribute to the renewal, enhancement and regeneration of the particular areas of the town in which they are located. These areas have been identified for various reasons such as dereliction, under utilisation of land and lands that would be readily adaptable for new uses.”*

3.2.5 The subject lands for part of the site identified as Opportunity Site 3 – Centrepont, Mountrath Road. A number of specific development objectives are set out for this

area and it is identified as a prime location for redevelopment.

**Policy HO5** states:

*“To utilise the provisions of the Urban Regeneration and Housing Act 2015 (Vacant Site Levy) to facilitate the appropriate development of vacant sites (residential zoned lands) that are in need of renewal or regeneration.”*

### **Laois County Development Plan**

3.2.6 Section 3.3 of the County Plan sets out further policy regarding the Implementation of the Urban Regeneration and Housing Act 2015. Under section 3.3.2 it is detailed that Laois County Council has identified a Regeneration Area in Portlaoise as being in need of renewal. The subject site is located within the area identified as a regeneration area.

3.2.7 The plan states:

*“Due to its location, the area benefits from extensive existing public infrastructure including roads, water infrastructure, Portlaoise train station and schools (primary, secondary, further education), existing facilities include a running track, public park, family resource centre in the vicinity, as well as the commercial and civic services available in the Town Centre. Appropriate development of sites in this Regeneration Area has the potential to make efficient use of public infrastructure and facilities, deliver homes, enable smarter travel and sustainable communities as well as contribute to the implementation of the Council’s Core Strategy, Housing Strategy and Retail Strategy in Portlaoise, as set out in this Plan.*

*The Regeneration Area currently includes disused lands in neglected condition; its streetscapes are marred by inactive gap sites or derelict buildings that detract from its character, appearance and amenity. There are indications of anti-social behaviour in the Area and its vicinity, especially along Harpur’s Lane with a number of derelict houses a long that Street. In the opinion of the Planning Authority the existence of vacant sites within the Regeneration Area exacerbates anti-social behaviour in the area. Appropriate development of sites in this Regeneration Area has the potential to provide passive surveillance and active land uses, enlivening and enhancing the character, appearance and amenity of the area.”*

3.2.8 The plan sets out a number of policies regarding vacant sites including:

**HP12** *Maintain the Laois Register of Vacant Sites, entering or deleting Sites from the Register in accordance with the Urban Regeneration and Housing Act 2015 and related Departmental Guidance;*

**HP13** *Identify additional Regeneration Area(s) and/or make determinations that a need for housing exists in additional Laois Towns during the Plan period as appropriate;*

**HP 14** *Implement the provisions of the Urban Regeneration and Housing Act 2015 by entering vacant housing sites on the Laois Register of Vacant Sites and thereafter imposing levies in accordance with the Act within lands zoned Residential 1 or Residential 2 in Portlaoise, Portarlinton, Mountmellick, Graiguecullen and any other Laois towns with an identified housing need, as appropriate;*

**HP15** *Implement the provisions of the Urban Regeneration and Housing Act 2015 by entering vacant regeneration sites, located within the Portlaoise Regeneration Area identified herein, or within any other identified Regeneration Area, on the Laois Register of Vacant Sites and thereafter impose levies in accordance with the Urban Regeneration and Housing Act 2015;*

**HP16** *Facilitate the development of all classes of dwelling units within the Regeneration Area identified herein in Portlaoise notwithstanding zoning restrictions relating to some classes of dwelling units set out in the zoning matrix of the Portlaoise Local Area Plan 2012-2018, this policy shall become defunct once the Portlaoise Local Area Plan 2012-2018 is superseded.*

## **4.0 Planning History**

4.1 No recent planning history.

## **5.0 Planning Authority Decision**

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

5.1.1 A Vacant Site Report (29.11.2017) was prepared for the site outlining the dates of the visits to the site, description of the area, zoning, planning history and the type of site for the purposes of the Act which in this case is Regeneration. The following key

points are noted:

- Site visits were undertaken on the 26.09.2016 and 09.10.2017.
- The site forms part of the single regeneration site identified in Portlaoise.
- Due to their location, the lands benefit from existing public infrastructure, access to Portlaoise train station, schools, other local amenities as well as the commercial and civic services available in the Town Centre.
- The regeneration of the lands will assist in making efficient use of public infrastructure and facilities and deliver homes to meet identified needs.

5.1.2 In terms of criteria set out in section 5(1) (b) it is detailed that:

- The lands are vacant and idle and have been abandoned following the closure of the previous use.
- The lands have a negative impact on the character of the area, due to their derelict appearance.
- The lands benefit from access to extensive existing public infrastructure and their lying vacant reduces the amenity provided by such infrastructure.

5.1.4 A further Planning Report was prepared in response to a submission received opposing the proposed entry onto the VSL register. This noted that the site is zoned Mixed Use in the Portlaoise Local Area Plan 2018-2024. It further states that the site is situated in an area in which there is a need for housing, that the site is suitable for the provision of housing and the site is vacant or idle. It recommended that the lands should be included on the Vacant Sites Register and that a section 7(3) Notice be issued.

## **6.0 The Appeal**

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

6.1.1 An appeal was received from BMA Planning on behalf of the land owners on the 20<sup>th</sup> of March 2019 which can be summarised as follows:

- States that in March 2018 when the Notice of Entry onto the Vacant Site

Register was first received, the subject lands were zoned “Town Centre Secondary”. Under the draft plan at this time, it was proposed to rezone the lands to “New Proposed Residential”. Submits that there has not been a reasonable amount of time for potential development to be progressed since the Portlaoise Local Area Plan 2018-2024 came into effect.

- Note that the lands are on the market, but there is a weak commercial property market.
- States that the Notice provides no commentary, rationale or evidence of site specific reasons as to what the decision has been taken to include these lands on the Register. Notes that Circular PL7/2016 requires the carrying out of a preliminary assessment and that the rationale to include the site on the Register should be set down in the interests of fairness, equity and transparency. The rationale in this instance is not clear and is contradictory.
- Dispute that the lands in question have any adverse effects on existing amenities or reduces that amenity of the area or has adverse effects on the character of the area.
- Refers to 3 areas within the site – Area A, B and C. States that area A comprises an undeveloped grassland area with no structures. It is stated that landscaping works are carried out regularly and it could not objectively be classified as ruinous or neglected. Area B comprises the former Centrepoint building and associated car park and service area. Notes that although the building is vacant, it is maintained and regularly tidied and repaired. It is connected to an alarm system. The site could not be considered ruinous or neglected. With reference to Area C, this comprises the former filling station on the Mountrath Road. It is also maintained and there is no evidence of dilapidation on the site.
- There is no recent evidence that there is any issues with antisocial behaviour associated with the subject site. The boundaries of the site are closed off to ensure the site cannot be accessed by trespassers.
- States that the site is located on Maryborough UED where the population has



increased by 13% over the last census period. There is no evidence to suggest any reduction in the number of houses/people on the area.

- States that the Notice of Proposed Entry should provide information on the market valuation of the site which will be the basis on which the Vacant Site Levy will be calculated. This information is not on file.

## 6.2. Planning Authority Response

6.2.1 No response received.

## 7.0 Assessment

### 7.1. Introduction

7.1.1. This Notice has been issued under the provisions of Section 5(1)(b) of the Act which relates to 'regeneration lands'.

7.1.2. Section 5(1)(b) of the Act states that a site is a vacant site if, in the case of a site consisting of 'regeneration' land:-

- (iii) The site, or the majority of the site, is vacant or idle, and
- (iv) 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 2000) in the area in which the site is situated or has adverse affects on the character of the area.

7.1.3. I would note that the appellants do not question that the site is vacant or idle and, therefore, I do not intend to address this matter further. The appellant's main contention is that the whilst vacant, the site does not give rise to adverse effects on existing amenities or reduce the amenity provided by existing public infrastructure and facilities. My assessment will, therefore, address specifically assess this issue having regard to the specific criteria set out section 6(6) of the Act.

#### **(a) land or structure in the area were, or are, in a ruinous or neglected condition**

7.1.4 The subject site forms part of a larger area of land that has been specifically

identified in both the Laois County Development Plan and Portlaoise Local Area Plan as being in need of regeneration.

- 7.1.5 The site accommodates a number of obsolete structures including a disused petrol filling station and the former Centrepoint building. There are also large areas of hardstanding and surface car parking. To the north of the Centrepoint building, there is an undeveloped area under grass. This is bound to the north by palisade fencing and is bound by Harpur's Lane. During the site visit, it was noted that the existing structures on the site have a very dilapidated appearance. They have been vacant for some time and have a poor visual appearance, considerably detracting from the amenities of the area. Notwithstanding the contention of the appellants that the structures are regularly maintained, I consider that the site accommodates structures that have a neglected and ruinous condition.
- 7.1.6 It is set out by the appellant, that part of the site (area A) comprises a greenfield site, that it is regularly maintained and is not in a neglected condition. I consider however, that this part of the site is intrinsically and functionally linked to the wider brownfield lands. This portion of the land forms part of one of the primary vehicular access points to the site from Harpur's Lane. It clearly formed part of the larger Centrepoint complex when it was previously operational. It forms part of the same land ownership. It does not form a separate entity and is not physically separated from the site. In this regard, I consider that the site must be considered as a whole and notwithstanding the fact that this part of the site is undeveloped, it forms part of a larger landholding, the majority of which is clearly idle and accommodates structures that are in a neglected and ruinous condition.
- 7.1.7 In conclusion, I am satisfied that the neglected and derelict condition of these vacant lands has an adverse effect on existing amenities and reduces the amenity provided by existing public infrastructure and facilities (within the meaning of Section 48 of the Act 2000) in the area in which the site is situated, particularly due to the strategic location of the lands in proximity to the train station and other physical and social infrastructure. The site has an adverse affect on the character of the area.

#### **Antisocial behaviour was or is taking place in the area**

- 7.1.8 It is detailed in the Planner's Report accompanying the Notice of Proposed Entry to the Vacant Site Register that there is evidence of antisocial behaviour on the site

with graffiti evident.

7.1.9 It is further detailed in the County Plan that:

*“There are indications of anti social behaviour in the Area and its vicinity, especially along Harpur’s Lane with a number of derelict houses a long that Street. In the opinion of the Planning Authority the existence of vacant sites within the Regeneration Area exacerbates anti-social behaviour in the area.*

7.1.10 At the time of the site visit, it was noted that there is clear evidence of anti-social behaviour taking place on the subject site. There was clear evidence of graffiti on a number of structures including the main Centrepoint building and the disused petrol; station. The site was strewn with litter and there was evidence of alcohol cans and bottles smashed and discarded across the grounds. I am satisfied that there is clear evidence of antisocial behaviour taking place on the site and in the general area and that the neglected and vacant condition of the subject lands contribute to this.

**There has been a reduction in the number of habitable houses, or the number of people living in the area**

7.1.11 There is no evidence to suggest that as a result of the vacant site that there has been a reduction in the number of habitable houses, or the number of people living in the area.

7.1.12 In conclusion, I consider that 2 of the tests in Section 6(6) are met and that site has an adverse effect on existing amenities and has been subject to anti-social behaviour and thus can be categorised as a vacant site as defined by Section 5(1)(b).

### **Other Issues**

#### Reasons for Proposed Vacant Site Levey are Inadequate

7.1.13 It is stated by the appellant that there is inadequate commentary, rationale or evidence of site specific reasons as to why the decision has been taken to include these lands on the Vacant Site Register.

7.1.14 As detailed above the subject site forms part of a larger site specifically identified in both the Laois County Development Plan and Portlaoise LAP as in need of regeneration. The County Plan notes the strategic location of the lands, their proximity to existing physical and social infrastructure and the fact that the current

neglected condition of the lands is detracting from the character and amenity of the area and resulting in antisocial behaviour in the area. The LAP also identifies the site as forming part of a larger opportunity site and sets out specific objectives for its future development noting its potential to contribute to the renewal, enhancement and regeneration of the area.

7.1.15 In addition to the specific designations set out at plan level, a report accompanies the Notice of Proposed Entry to the Vacant Site Register setting out further the rationale for the inclusion of the site on the VSR. This summarised in section 5 above.

7.1.6 In this regard, I consider that the rationale for including the site on the VSR is robust and that a full assessment and evaluation for the inclusion of the lands on the register has been carried out by the Planning Authority.

#### Market Valuation

7.1.7 It is stated that the Proposed Notice of Entry does not provide any particulars of market valuation. I refer to the Board to Appendix 2 of Circular PL7/2016 which states that a

*“A Planning Authority shall, as soon as possible after the entry on the vacant site register and at least every 3 years thereafter, determine the market value of a vacant site and serve notice on the owner of the site of the valuation, or revised valuation – of the site in question”* (my emphasis).

7.1.8 In this regard, it is clear that whilst the register must include particulars of the market value of the site as determined by the planning authority, this can occur after the entry has occurred on the Vacant Site Register and the Planning Authority are not obligated to include this information on the Proposed Notice of Entry.

## **8.0 Recommendation**

8.1. I recommend that in accordance with Section 9(5) of the Urban Regeneration and Housing Act 2015 (as amended), the Board should confirm the entry on the register of site (VSL/PL/2016/11) as it was a vacant site for the 12 months concerned. Therefore, the entry on the Vacant Sites Register on the 21<sup>st</sup> of February 2019 shall be deemed to take effect from that date.

## 9.0 Reasons and Considerations

9.1 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 provisions of the Laois County Development Plan 2017-2023 regarding these regeneration lands and the identification of the site as an opportunity site under the Portlaoise LAP 2018-2024;
- (e) That the neglected and derelict condition of these vacant lands which accommodate an obsolete dilapidated warehouse and petrol filling station has an adverse effect on existing amenities; reduces the amenity provided by existing public infrastructure and facilities (within the meaning of Section 48 of the Act 2000) in the area in which the site is situated, particularly due to the strategic location of the lands in proximity to the train station and other physical and social infrastructure; has an adverse affect on the character of the area and and that insufficient reason is put forward to cancel entry on the Vacant Sites Register.
- (f) The evidence that antisocial behaviour has taken place on the site.

The Board is satisfied that the site was a vacant site for the relevant period.

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**Erika Casey**  
**Senior Planning Inspector**

**13<sup>th</sup> August 2019**