



An
Bord
Pleanála

Inspector's Report ABP-307525-20

Type of Appeal	Section 9 Appeal against section 7(3) Notice.
Location	Lands at Weavers Row, Clonsilla Road, Dublin 15.
Planning Authority	Fingal County Council.
Planning Authority VSL Reg. Ref.	VS/0123.
Site Owner	Aldi Stores Limited.
Date of Site Visit	30 September 2020.
Inspector	Stephen Rhys Thomas.

1.0 Introduction

- 1.1. This appeal refers to a section 7(3) notice issued by Fingal County Council, stating their intention to enter the site at Weavers Row, Clonsilla Road, Dublin 15 on to the Vacant Sites Register (VSR) in accordance with the provisions of section 6(2) of the Urban Regeneration and Housing Act 2015.

2.0 Site Location and Description

- 2.1. The subject site is located in Clonsilla village to the south of Blanchardstown in west Dublin. It is a rectangular shaped site, on a strip of land in an area, known as Weaver's Row. The site covers an area of 1.4 hectares. It is currently vacant and relatively flat. There is a 2 metre high wire mesh fence and gated entrance along the site frontage with the Clonsilla Road (R121), screened with plastic construction netting. The site is subdivided further by a more centrally located fenced off area. There were horses grazing the northern part of the site on the day of the site visit. There are trees and hedgerows along the western and southern site boundaries. The Royal Canal and tow path runs in close proximity to the southern boundary of the site.
- 2.2. Lands to the immediate west of the site are undeveloped and cordoned off by walls and fencing, with an old derelict single-storey structure located to the front of the site. Lands to the rear of this building are undeveloped. Lambourn housing estate is further to the west.
- 2.3. Lands to the east of the site accommodate a number of late 19th century/early 20th century single storey rural type cottages together with outbuildings fronting directly onto the Clonsilla Road, including a single storey cottage in close proximity to the north eastern boundary. Lands to the rear of these cottages and adjacent to the eastern boundary of the site accommodate a newer suburban residential development called "The Village". Lands directly opposite the site comprise a public open space associated with the suburban residential development of Castlefield Woods. The Clonsilla Road is a relatively narrow single carriageway with footpaths on both sides. It links up with the Blanchardstown Road via a roundabout further east of the site.

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)(b) of the Act. The Notice is dated 16 June 2020 and is accompanied by a map outlining the extent of the site to which the Notice relates.

4.0 Development Plan Policy

- 4.1. The **Fingal County Development Plan 2017 – 2023** is the operative development plan. As shown on Sheet 13 Blanchardstown South, the site is shown within the TC – Town and District Centre land use zoning where the objective is to: Protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities. The vision for this land use is to maintain and build on the accessibility, vitality and viability of the existing Urban Centres in the County. Develop and consolidate these Centres with an appropriate mix of commercial, recreational, cultural, leisure and residential uses, and to enhance and develop the urban fabric of these Centres in accordance with the principles of urban design, conservation and sustainable development. Retail provision will be in accordance with the County Retail Strategy, enhance and develop the existing urban fabric, emphasise urban conservation, and ensure priority for public transport, pedestrians and cyclists while minimising the impact of private car based traffic. In order to deliver this vision and to provide a framework for sustainable development, Urban Centre Strategies will be prepared for centres in accordance with the Urban Fingal Chapter objectives. The site is within an ‘Urban Framework Plan’ area.

- 4.2. Chapter 3 of the Development Plan sets out the Council’s objective in relation to Vacant Sites. Relevant objectives include:
- Objective PM24 - Identify and secure the redevelopment and regeneration of areas in need of renewal.
 - Objective PM25 - Implement the Vacant Sites Levy for all vacant development sites in the County and prepare and make available a Register of Vacant

Sites, as per the requirements of the Urban Regeneration and Housing Act 2015.

4.3. Land Use Zoning Objectives - 11.7 Vacant Land Levy – Residential and Regeneration Lands:

The Urban Regeneration and Housing Act 2015 sets out two broad categories of vacant land that the levy may apply to:

- Lands zoned primarily for residential purposes
- Lands in need of regeneration

The following lands zoned for residential or primarily residential purposes are included for the purposes as set out in the Urban Regeneration and Housing Act 2015 in relation to the vacant land levy:

RS and RA zoned lands as they have capacity to provide residential accommodation.

The following zoned lands are included as lands with the objective of development and renewal of areas in need of **regeneration**:

LC & TC mixed use zonings as they offer great potential for the significant supply of housing and employment space, as set out in their Zoning Objectives. Furthermore, the local and town centre zoned lands are included given their critical role for sustainable neighbourhoods and wider communities.

MC zoned lands are included as there are significant vacant lands in this zone which provide an opportunity for the County and given the Zoning Objective: “protect, provide for and/or improve major town centre facilities.”

GE zoned lands are included because the Objective is “provide opportunities for the general enterprise and employment.” The primary objective is to facilitate long-term economic development in the region.

5.0 Planning History

5.1. Subject site:

PA reference FW19A/0122 - An Bord Pleanála reference PL06F.305478. Permission refused for the construction of a mixed use residential and retail scheme. 27 February 2020.

PA reference FW14A/0144 - An Bord Pleanála reference PL06F.245446. Permission refused for a mixed use residential and retail development including foodstore, off-licence, crèche and 20 houses.

PA reference F07A/1075 - An Bord Pleanála reference PL06F.226486. Permission refused for the demolition of three houses and the construction of a mixed use residential and retail scheme comprising a discount foodstore, four retail units and 60 apartments in blocks on the subject site. The overall layout involved a large retail store to the front of the subject site and six apartment blocks to the rear.

PA reference F06A/0038 - An Bord Pleanála reference PL06F.217020. Permission refused for a mixed use residential and retail scheme comprising foodstore, 3 retail units, signage, 100 apartments and parking.

5.2. Vacant Site Levy History

None for the subject site, adjacent site:

PL06F.306273 - Notice of Entry on the Vacant Sites Register confirmed. 8 April 2020.

6.0 Planning Authority Decision

6.1. Register of Vacant Sites Report:

- 6.1.1. Report 1 - Site is zoned 'TC Town and District Centre' and must be assessed as regeneration lands. Site inspections took place on 5 April 2019, 23 September 2019 and 26 November 2019. The roadside boundary comprises a wire mesh fence, the western boundary is made up of a wall, overgrown and with graffiti in places. The eastern boundary comprises a wall and to the south mature trees and hedgerows. The site is not in active use, there is graffiti and littering. No extant planning permissions on site, FW19A/0112 currently on appeal to the Board. No planning enforcement on site. Site inspection photographs beginning on the 17 April 2019 and BlueSky Orthos photographic survey (for FCC) dated 27 June 2018, and site photographs from earlier site visits show the condition of the site. The site is in a

neglected state, antisocial behaviour has or is taking place (graffiti and litter), two structures (one of which was a dwelling house) have been removed from the site and so there has been a reduction in habitable dwellings. The site accords with section 5(1)(b) of the 2015 Act, issue section 7(1) Notice. The report includes a photographic survey, proprietary aerial photograph (BlueSky Orthos) and map.

- 6.1.2. Report 2 – acknowledges the submission made by the owner in relation to the section 7(1) Notice. The planning history of the site is updated, with the refusal on appeal of reference number FW19A/0112. The submission is summarised and each point is addressed and refuted by the planning authority, place on register recommended.

6.2. Planning Authority Notices

- 6.2.1. A section 7(3) Notice issued on the 16 June 2020 referencing sections 5(1) and 5(2) of the Act, advising the owner that their site had been placed on the register, accompanied by a covering letter detailing section 5(1)(b) of the 2015 Act and a site map. The Notice was sent to six individuals all care of Aldi Stores Limited, in addition to the Secretary of Aldi Stores (Ireland) Limited.
- 6.2.2. A section 7(1) Notice issued on the 17 December 2019, advising the owner that their site had been identified as a vacant site and invited submissions, also accompanied by a site map. The covering letter refers to section 5(1)(a) of the 2015 Act and Notice refers to section 5(1) and 5(2).

7.0 The Appeal

7.1. Grounds of Appeal

- 7.1.1. The landowner has submitted an appeal to the Board, against the decision of Fingal County Council to enter the subject site on the Register. The grounds of the appeal can be summarised as follows:

- The site does not qualify as a Vacant Site, because the owner intends to develop the lands. The main purpose of the Vacant Site Levy is to incentivise owners to develop land, the owner has made a number of planning applications to develop the land and the site is simply unoccupied until a proposal is permitted. Each planning application, all refused permission, are identified in section 5.0 of my report above.

- No legal basis for placing the site on the register. The owner highlights that the initial notice that issued referred to section 5(1) and 5(2) and the notice referring to placement on the register references section 5(1)(b)(i) and (ii) of the 2015 Act. This means that the Council changed the criteria for inclusion on the register from residential to regeneration lands.
- The site is not regeneration lands as identified by the Act. Unlike Development Plans in other jurisdictions, regeneration lands are identified in the Plan, not so in Fingal.
- There are no adverse effects on amenities as defined by the Act. With reference to section 6(6) of the Act, the lands are well maintained, and have included demolition of ruinous structures, erection of secure fencing, management of on site trees and rubbish removal. No anti-social behaviour has occurred on the site for years, because of these maintenance activities. The site itself is not impacting upon the amenities of the area, repeated refusal of planning applications has achieved this.
- Fingal County Council failed to fully assess the vacancy of the site. The owner has attempted to develop the site on repeated occasions, hampered in part by a non-engaging neighbouring landowner.

The appeal is accompanied by photographs and the section 7(3) Notice.

7.2. Planning Authority Response

The Letter of Intent (section 7(1) Notice), rereferred to the subject lands as regeneration lands in accordance with section 5(1) and 5(2) of the Act. The appellant made a submission on foot of the correspondence dated 17 December 2019. Regeneration lands and section 5(1)(b) were rereferred to in the 16 June 2020 letter of entry on the register. Assessment of regeneration lands were used consistently throughout the process.

The subject lands are zoned TC, section 11.7 of the Development Plan lists which land use zonings would be attributed the designation – regeneration lands, Objective TC is listed in accordance with section 3 of the 2015 Act.

The planning authority reiterate their previous comments expressed in reports and urge placement on the register.

7.3. **Appellant Response**

The owner contends that the initial letter dated 17 December 2019, made no reference to section 5(1)(b), rather it references 5(1)(a) and submits a copy of same. In addition, the Planners report of 16 June 2020, does not mention section 5(1)(b) either. There cannot be a legal basis for stating one set of circumstances and then changing afterwards.

The owner goes on to reiterate previous comments and requests the Board to overturn Fingal's decision.

8.0 **Assessment**

8.1. **Introduction**

- 8.1.1. 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 Fingal County Council VSR on the 16 June 2020.
- 8.1.2. The Section 7(1) Notice was issued under the provisions of Section 7(1) of the Act, to which the owner responded. The Section 7(3) Notice was issued under the provisions of Section 5(1)(b) of the Act which relates to regeneration lands. The assessment undertaken by the Planning Authority to inform the placement of the site on the Register, which I outline in section 6.1 above, refers to the tests included for regeneration lands under section 5(1)(b) and by reference to Section 6(6) of the Act as is required for lands zoned for regeneration purposes. The lands are zoned TC-Town and District Centre, this TC zoning is identified by section *11.7 Vacant Land Levy* of the operative plan as lands that can be considered as regeneration for the purposes of the levy.
- 8.1.3. The main concerns of the appellant are that; the site is not vacant, numerous attempts have been made to secure planning permission for development; there are differences between the notices issued; the site is not a regeneration site; and the site has no adverse affects on the amenities of the area. The planning authority do

not agree and are satisfied that the lands do qualify as regeneration lands, the site has been vacant for some time, it is neglected and impacting on the character of the area.

8.2. Notices

8.2.1. The appellant has stated that there are differences between the section 7(1) notice of intent to enter the site on the register and the section 7(3) notice that states the site has been entered on the register. The appellant claims that because of differences in notices, there is no legal basis to place the site on the register. The planning authority disagree and outline that the site was always assessed for the purposes of a regeneration site and the lands should remain on the register.

8.2.2. It is useful to point out the sequence of events in the context of the requirements of the 2015 Act. In relation to the procedure for entry on the register, section 7 of the Act requires the following:

(1) Before entering a site on the register a planning authority shall give written notice to the owner of the site setting out the reasons for the proposed entry and the owner may make submissions in respect of the proposed entry to the planning authority in writing within 28 days after the date of such notice.

(2) Where a planning authority receives submissions in accordance with subsection (1) it shall consider those submissions and if it is of the opinion that the site was a vacant site for the duration of the 12 months concerned and continues to be a vacant site it shall enter the site on the register in accordance with section 6(2) .

(3) The planning authority shall give written notice to the owner of a vacant site when it is entered on the register.

8.2.3. The planning authority followed this procedure by serving the section 7(1) notice on the 17 December 2019 and the section 7(3) notice on the 16 June 2020. The Act does not specify the content of notices, other than the notice shall set out the reasons for the proposed entry and the owner may make submissions. In this instance I note that the section 7(1) notice issued by the planning authority refers to sections 5(1) and (2) and this covers both residential and regeneration lands. However, the covering letter that accompanied the 7(1) notice provided more detail and referred to section 5(1)(a), but included the text and criteria for regeneration

lands. According to the Planner's reports for the site, it was assessed under the criteria for regeneration lands. The second notice served under section 7(3) is written in the same format and refers to section 5(1) and (2), the accompanying letter correctly refers to section 5(1)(b) of the 2015 Act. It is apparent that a drafting error has occurred in the correspondence sent to the owners, not the Notice, it has remained the same.

- 8.2.4. Has the owner been disadvantaged by such an error? I note that the owner made a submission to the planning authority after the section 7(1) notice was served. The owner goes over the same grounds for not putting the site on the register as are contained in the current appeal. In fact the initial submission made by the owner states that the site is neither residential or regeneration land. The planning authority considered the owners submission, but proceeded to place the site on the register in the context of regeneration lands.
- 8.2.5. The appeal before the Board is made by the owner under the criteria for regeneration lands. The Notices served by the planning authority simply stated sections 5(1) and (2) and did not specify either residential or regeneration, not ideal but not critical. The Act does not state a Notice must differentiate between one and the other set of circumstances. The planning authority did accompany their Notices with covering letters to further inform the owner and in this instance the criteria for regeneration lands was set out, this is useful and recommended. However, in the case of the first Notice, the criteria was mislabelled as 5(1)(a). Has the owner been disadvantaged by the planning authority's error, I think not. The initial submission made by the owner to the planning authority allowed a channel to raise their concerns, this they did and were alive to the fact that their site was being considered for entry. The site was subsequently placed on the register and the owner was positioned to appeal the decision of the planning authority, now with additional grounds for appeal in the matter of changed circumstances or 'switched horses'. In my view the planning authority always considered the site to be regeneration lands for the purposes of the Act, this is demonstrated by the Planner's reports and the text of the letters that accompanied the Notices. I am satisfied that the section 7(1) and 7(3) Notices were issued according to the correct procedure, contained the minimum information required by the 2015 Act and are therefore acceptable. I consider the drafting error that placed an '(a)' where there should have been a '(b)' as a non-fatal

flaw and one that did not prejudice the owner's right to appeal the planning authority's decision.

8.3. Regeneration Lands

8.3.1. The appellant questions the rationale for ascribing the site in question as regeneration lands and argues that the zoning objective is there to encourage development. The appellant goes on to explain that the Development Plan's land use zoning for the site (TC) does not fit the definition of regeneration lands. The planning authority refer to section 11.7 *Vacant Land Levy – Residential and Regeneration Lands*, of the Development Plan that states LC and TC zoned lands can be considered for the levy as regeneration lands. The appellant resists this view and states that as the site is greenfield and has not been specifically identified as a regeneration area, as other County Councils have done in their development plans, the site cannot be considered for regeneration purposes.

8.3.2. The relevant development plan has already ascribed, by virtue of zoning objectives, where regeneration sites are to be found. To reinforce this point, I note the definition of regeneration lands in section 3 of the 2015 Act, as follows:

“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;

Accordingly, the site is located on 'TC' Town and District Centre zoned lands in the Fingal County Development Plan 2017 – 2023, the Plan expressly sets out that lands zoned TC can be considered as regeneration lands. The Plan states that the following zoned lands are included as lands with the objective of development and renewal of areas in need of **regeneration**:

- LC & TC mixed use zonings as they offer great potential for the significant supply of housing and employment space, as set out in their Zoning Objectives. Furthermore, the local and town centre zoned lands are included given their critical role for sustainable neighbourhoods and wider communities.

- MC zoned lands are included as there are significant vacant lands in this zone which provide an opportunity for the County and given the Zoning Objective: “protect, provide for and/or improve major town centre facilities.”
- GE zoned lands are included because the Objective is “provide opportunities for the general enterprise and employment.” The primary objective is to facilitate long-term economic development in the region.

I am satisfied that the site in question can be considered as regeneration lands, it is reasonable to expect that sites situated on lands so zoned would be considered for inclusion on the register, irrespective of their condition or characteristics.

8.4. Site Investigations – Relevant Period

- 8.4.1. The relevant time period for this appeal extends 12 months back from the date on which the site was entered on the register, in this instance the 16 June 2019. I note that the Planning Authority have stated that the site has been vacant for the duration of 12 months. Vacant Site Report 1 notes that three site visits were undertaken on the 5 April 2019, 23 September 2019 and 26 November 2019. At least one of these visits to the site was more than 12 months before the entry was made and this is satisfactory. Of note is that the only recent photographs submitted by the planning authority are for dates post 23 September 2019. Other site photographs relate to planning application site visits in 2014. In addition, the planning authority have also utilised Google Street view imagery and aerial photography undertaken in June 2018 (by Bluesky Orthos on behalf of FCC) as further evidence that the site is a vacant site. As Google Street View is undertaken by a third party, I am of the view that it cannot be relied on for the purposes of confirming that the site is a vacant site.
- 8.4.2. The Board should not that the adjacent site was also the subject of a section 9 appeal ABP reference 306273 refers, many of the survey procedures and dates of the case are similar to the case in hand. However, in this instance I am satisfied that the site was assessed by the planning authority in accordance with the Act and the relevant time period of twelve months was allowed to elapse. Notwithstanding the variance in dates submitted with respect to the site visits undertaken and dates corresponding to site photographs, at least one of the visits was more than 12 months preceding the entry of the site to the register and this is acceptable.

8.5. Vacant or Idle?

8.5.1. 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.

8.5.2. The site must meet both tests and I will address each in turn.

8.5.3. Vacant or Idle – The appellant advances no actual physical use for the site but rather that the action of repeated planning applications constitutes a use. The planning authority note the extensive planning history of the site. On the day of my site visit I observed that horses were grazing the subject lands, though there is no mention of this from either the appellant or planning authority for the period concerned. The 2015 Act does not list the types of uses that can be considered for regeneration lands, indeed the Act simply refers to lands that are vacant or idle. The burden of proving that the lands are not vacant or idle falls to the owner. The appellant has not stated a physical use for the site but claims that the action of repeated planning applications over the years should constitute a use for the site.

8.5.4. In my mind, the Act's references to development and use depends upon a close relationship with the meaning of these words in the Planning and Development Act 2000 (as amended). Consequently, the definitions of 'development' and 'use' are helpful and serve to illustrate how a site should be assessed in terms of the vacant or idle status. I am not satisfied that the design process leading to a planning application or even on-site survey work could be considered as development or use in terms of the 2015 Act. The appellant's case that the site is not vacant or idle because of the exercise of preparing planning applications cannot be considered as meaningful use for the site so as to remove it from the register.

8.5.5. For the purposes of Section 5(1)(b) of the 2015 Act that refers to the site, or the majority of the site, is vacant or idle, I am satisfied that this is the case and the lands concerned were vacant or idle for the period concerned. If circumstances change and development progresses on the site, this is a matter for the owner to take up with the planning authority under Section 10(1) of the Act, as follows:

The owner of a vacant site that stands entered on the register under section 6(2) shall notify the planning authority in whose functional area the site is located if it is no longer vacant or idle.

8.5.6. Adverse Effects – The appellant states that the site is not neglected, it is well fenced, secure and is periodically maintained, dumped material removed and trees/hedging cut. The appellant claims that none of Section 5(1)(b)(ii) as expanded by Section 6(6) are met. The planning authority disagree and specifically mention the neglected nature of the site and the presence of litter and graffiti as factors that indicate antisocial behaviour.

8.5.7. 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), such as 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. 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.

8.5.8. 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 provided by existing public infrastructure and facilities. The planning authority outlines in detail the condition of the site and examines the tests included in Section 6(6).

- 8.5.9. Firstly, the planning authority note the condition of the site boundaries, the existence of graffiti and the impact it is having on the amenities and character of the area. I note that the site boundary to the Clonsilla Road is more securely fastened now and a netted hoarding material prevents any view into the site. This differs from the presentation of the site to the road detailed by the planning authority's photographs dated 23 September 2019. The site certainly appears more neglected during the period concerned than it does now. The appellant also states that they maintain the site and periodically trim vegetation. This may be the case now but may not have been for the period concerned. There are no buildings on the site to be ruinous or neglected, however, the condition of the site is not comparable to other sites in the vicinity. The site interior cannot be readily viewed from the public road because of a temporary boundary treatment that restricts view, this temporary barrier has the potential to negatively influence the character of the area. The area is characterised by a number of elements: Clonsilla Road, shops and commercial units and houses in the vicinity, all well maintained and cared for. The exception is the site immediately to the west of the subject site, that happens to be a Vacant Site within the terms of the 2015 Act. It is because of the vacant nature of the subject site and its relatively neglected appearance, when compared with other property in the area, that I am satisfied that the site is neglected in accordance with Section 6(6)(a) of the 2015 Act.
- 8.5.10. The second matter 6(6)(b) refers to anti-social behaviour which was or is taking place in the area. I did not detect excessive or even obvious levels of litter on the street outside the site. This is a location along a route frequented by pedestrians to and from local facilities where a certain degree of litter may be expected and not necessarily a signal that anti-social behaviour is or has taken place. It is possible that litter accumulates within the site because it is vacant but this is not obvious from the street. I did not observe any obvious incidences of graffiti or vandalism, either from Clonsilla Road or the estate road of The Village. The site is not easily accessed or viewed from the Royal Canal to the south. I do not consider anti-social behaviour in terms of the Act referring to such behaviour which was or is taking place, is in fact taking place in the area. I do not consider that the site would meet this test.
- 8.5.11. The planning authority state that the removal of a structure, that was a house, demonstrates reduction in the number of habitable houses, or the number of people living, in the area. The appellant mentions the removal of structures on the site in

efforts to tidy the lands up, but does not state that they were residential units. I find that there is no hard evidence either way to suggest that there has been a reduction in the number of habitable houses, or the number of people living, in the area.

8.5.12. Because the Act includes commas and an 'or' between (a), (b) or (c), only one criteria is required to be met. In conclusion, I consider that 1 of the tests in Section 6(6) are met and that site has adverse effects on the character of the area and thus can be categorised as a vacant site as defined by Section 5(1)(b). In addition, I am satisfied that the neglected 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 the centre of Clonsilla village and its proximity to physical and social infrastructure.

8.6. Procedural Matter

8.6.1. The Board should note that the calculation of time limits was adjusted during a period of emergency in the first half of 2020, the Emergency Measures in the Public Interest (Covid-19) Act 2020 refers. This may impact upon any Order that the Board decide to make and the adjustment to any time periods should be duly considered in the context of Section 251A(1) and (2) of the Planning and Development Act 2000 (as amended).

9.0 Recommendation

9.1. I recommend that in accordance with section 9(5) of the Urban Regeneration and Housing Act 2015 (as amended), the Board should confirm the site (VS/0123), that was a vacant site for the 12 months concerned. Therefore, the entry on the Vacant Sites Register on the 16 June 2020 shall remain.

10.0 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 Inspector;

- (d) The neglected condition of the site in the context of the surrounding area, and the majority of the site being vacant or idle,

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

Stephen Rhys Thomas
Senior Planning Inspector

07 October 2020