



An
Bord
Pleanála

Inspector's Report ABP-310130-21

Type of Appeal	Appeal against a Section 18 Demand for Payment.
Location	58-61 Flower Hill, Navan, Co. Meath.
Planning Authority	Meath County Council.
Planning Authority VSL Reg. Ref.	VS-MH-0007.
Site Owner	EGG PT Properties Ltd.
Planning Authority Decision	Charge Levy.
Date of Site Visit	22 December 2021.
Inspector	Stephen Rhys Thomas.

Contents

1.0 Introduction	3
2.0 Site Location and Description.....	3
3.0 Statutory Context	3
4.0 Development Plan Policy.....	4
5.0 Planning History.....	6
6.0 Planning Authority Decision	7
6.1. Planning Authority Reports.....	7
6.2. Planning Authority Notice	7
7.0 The Appeal.....	8
7.1. Grounds of Appeal	8
7.2. Planning Authority Response	8
8.0 Assessment.....	8
9.0 Recommendation.....	12
10.0 Reasons and Considerations	12

1.0 Introduction

- 1.1. This appeal refers to a Section 15 Notice of Demand for Payment of Vacant Site Levy issued by Meath County Council, stating their demand for a vacant site levy for the year 2020 amounting to €28,000 for a vacant site at 58-61 Flower Hill, Navan, County Meath, and identified as reference number VS-MH-0007. The notice was issued to EGG PT Properties Limited and dated 13 April 2021. The owner EGG PT Properties Limited has appealed the Demand for Payment Notice issued pursuant to Section 15 of the Urban Regeneration and Housing Act.
- 1.2. A valuation pertaining to the site was issued by Meath County Council on the 30 July 2019. The value of the subject site is stated to be €400,000.
- 1.3. A Notice of Proposed Entry on the Vacant Sites Register was issued to EGG PT Properties Limited on the 13 July 2018. On the 21 August 2018, the Notice of Entry on the Vacant Sites Register was issued to EGG PT Properties Limited. This section 7(3) notice was not appealed to the Board.

2.0 Site Location and Description

- 2.1. The application site consists of a parcel of land (area c. 0.2 ha) in the Flower Hill area of Navan. The site is to the east side of the public road and consists of 4 terraced properties along the road frontage which appear vacant and in poor condition. To the rear of these properties is an area of overgrown land that is accessed via a surfaced access road off Flower Hill. The access road also serves three single storey dwellings. To the rear (east) of the site is a development of duplex apartment units at 'Blackcastle Lodge' Flower Hill. These are generally three storey blocks. There is a 2m high rendered wall along the boundary of the site with these apartments. The houses on the west side of Flower Hill and opposite the site are of mainly traditional town house stock and appear vacant and in poor condition.

3.0 Statutory Context

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

3.1.1. The site was entered onto the register subsequent to a Notice issued under Section 7(1) of the Act that stated the planning authority was of the opinion that the site referenced was a vacant site within the meaning of Section 5(1)(b) of the Act. A section 7(3) Notice was issued 21 August 2018 and the site was subsequently entered onto the register on that date.

3.1.2. Section 18 of the Act states that the owner of a site who receives a demand for payment of a vacant site levy under section 15, may appeal against the demand to the Board within 28 days. The burden of showing that:

(a) the site was no longer a vacant site on 1st January in the year concerned,
or

(b) the amount of the levy has been incorrectly calculated in respect of the site by the Planning Authority,
is on the owner of the site.

4.0 Development Plan Policy

4.1. Meath County Development Plan 2013 – 2019.

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.

4.2. **Navan Development Plan 2009-2015**

According to the Navan Development Plan 2009-2015, the subject site is located on lands zoned C1 Mixed Use – ‘to provide for and facilitate mixed use residential and business uses’.

4.3. **Meath County Development Plan 2021-2027**

Core Strategy OBJ 19

To implement an Active Land Management Strategy in relation to vacant land in settlements within County Meath and to maintain and update as required a Vacant Sites Register to ensure efficient and sustainable use of the County’s land resources in accordance with the provisions of the Urban Regeneration and Housing Act 2015 as well as the Planning and Development Act 2000, as amended.

Volume 2 Written Statement and Maps for Settlements.

Section 5.1.2 Urban Regeneration and Active Land Management

Through the implementation of the Active Land Management Strategy and the progression of projects funded by the Urban Regeneration and Development Fund the Council is taking a proactive approach to urban regeneration. Part of this Active Land Management Strategy is to regularly monitor vacant sites and support the regeneration of areas in the town that have experienced decline and a lack of investment.

An example of this is Flowerhill, where there is a high level of vacancy which resulted in an increase in anti-social activity. The Council received funding to tackle these issues under the Urban Regeneration and Development Fund. This funding

was used to prepare a Public Realm Plan for the area, which will set out the improvements required to create a more attractive and safe environment.

5.0 Planning History

5.1. Subject site

PA ref: **NA190678** – An Board Pleanála ref: ABP-**306328**-20. Permission refused for the demolition of 4 derelict dwellings and construction and replacement of the 4 dwellings ,and construction of a 3 storey apartment block with 12 apartments. Single reason as follows:

1. Having regard to the Sustainable Urban Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in March, 2018, the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in May, 2009 and the Design Manual for Urban Roads and Streets issued by the Department of the Environment, Community and Local Government and the Department of Transport, Tourism and Sport in 2019, the policies and objectives in the Meath County Development Plan 2013-2019 and the Navan Development Plan 2009-2015 (as extended), it is considered that, by reason of the response to the site context, the proposed development and in particular the design, scale, massing and positioning of the apartment block would result in a poorly designed, substandard and unsustainable form of urban development that would cause overlooking, result in a deficit of communal open space and would detract from the character and amenities of the area. Furthermore, the proposed four houses would be provided with inadequate private open space. The proposed development would, therefore, be contrary to policies HS POL 1 and HS POL 2 of the Meath County Development Plan 2013-2019, would set an undesirable precedent for the Flowerhill Regeneration Area and would seriously injure the amenities of the area including the residential amenity of nearby dwellings and of future occupants of the proposed development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

6.0 Planning Authority Decision

6.1. Planning Authority Reports

- A **Vacant Sites report** outlining the date of the visit to the site (14 May 2018), the site area (0.2 Hectares), zoning and the type of site for the purposes of the Act which in this case is C1 Mixed Use – ‘to provide for and facilitate mixed residential and business uses’. It is considered that the lands qualify as regeneration lands in accordance with the 2015 Act. The site has been vacant for the last 12 months. The buildings illustrate graffiti, this detracts from the character of the area and shows that antisocial behaviour is taking place. Census figures show that there has been a reduction in the number of households in the area and this is a result of the site and its condition.
- A **Vacant Sites report** dated 17 August 2018, that states no submission was received, the site is confirmed to be vacant for twelve months and that the site should be placed on the register.

The planning authority’s submission is accompanied by maps, colour photographs, all relevant notices issued to the owner, land registry details, the VSR table, copies of the valuation report and a record of the chief executive’s orders.

6.2. Planning Authority Notice

- 6.2.1. Meath County Council advised the site owner that the subject site (Planning Authority site ref. VS-MH-0007) is now liable for a payment of the levy for 2020 of €28,000.00 Payment terms and methods are outlined, dated 13 April 2021.
- 6.2.2. In addition, a second notice is included on the file as follows: *Meath County Council advised the site owner that the subject site (Planning Authority site ref. VS-MH-0007) is now liable for a payment of the levy for 2019 of €28,000.00 Payment terms and methods are outlined, dated 24 April 2020.*
- 6.2.3. A Notice of Determination of Market Value was issued to EGG PT Properties Limited on the 30 July 2019 stating that the valuation placed on the site is €400,000 and instructions to make an appeal to the Valuations Tribunal.

- 6.2.4. A section 7(3) Notice issued on the 21 August 2018, advising the owner EGG PT Properties Limited on that their site had been placed on the register.
- 6.2.5. A section 7(1) Notice issued on the 13 July 2018, advising the owner EGG PT Properties Limited that their site had been identified as a vacant site and invited submissions.

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 Meath County Council to retain the subject site on the Register and charge the levy. The grounds of the appeal can be summarised as follows:

- Since the purchase of the site in December 2016, work has gone on to refurbish and occupy dwellings at 57 Flower Hill and 1-4 Flower Hill Grove.
- There have been many pre-planning discussions with Council officials concerning 58-61 Flower Hill, planning applications were made in 2018, 19, 20 and 21, and another is shortly due to follow.

7.2. Planning Authority Response

The planning authority note that where a site has an extant permission, the levy should still be charged.

8.0 Assessment

8.1. Introduction

8.2. The appeal on hand relates to a Section 15 Demand for Payment. In accordance with the provisions of the legislation there are 2 key criteria to consider:

- (a) the site was no longer a vacant site on 1st January in the year concerned, or
- (b) the amount of the levy has been incorrectly calculated in respect of the site by the Planning Authority.

I will consider each of these in turn.

8.3. The site is no longer vacant

- 8.3.1. The provisions of Section 18(2) of the Act does not specify whether the applicant must demonstrate whether the site constitutes a vacant site as per the provisions of Section 5(1)(a) or (b) i.e. that the site constituted a vacant site in the first instance when the Section 7(3) Notice was issued or whether they must just demonstrate that notwithstanding the Notice issued, that development has taken place on the site and it is no longer vacant as of the 1st of January in the year concerned, in this case 2020.
- 8.3.2. I note that a section 9 appeal was not made to the Board for these lands and so for the purposes of my assessment, I will consider both scenarios.

8.4. Is it a Vacant Site?

- 8.4.1. A Section 7(3) Notice of Entry on the Vacant Sites Register was issued on the 21 August 2018. A Section 9 appeal was not made to the Board. I note from the planning authority reports that no submission was made by the owner on foot of the section 7(1) notice of intention to place the site on the register.
- 8.4.2. The site was placed on the register under the criteria for regeneration lands, section 5(1)(b) of the 2015 Act. The lands were zoned C1 Mixed Use – ‘to provide for and facilitate mixed residential and business uses’, in the operative statutory plan at the time of registration and for the duration of the levy charge period 2020. A new development plan is effective from the 3 November 2021 and the site now stands on lands zoned A1 – Existing Residential. In my opinion this has no bearing on the appeal now before the Board, this is because the site stood on the register as regeneration lands for the levy period 2020 and at the time the appeal was made in May 2021, all before the new plan came into operation.
- 8.4.3. The grounds of appeal do not mention the condition of the properties the subject of the appeal but the owner does describe how they brought back in to occupation through refurbishment other properties in the immediate vicinity. The owner goes on to add that through these works the former vacant units now add to the housing stock of Navan. The owner explains how they are actively pursuing planning permission for the site.

- 8.4.4. According to the owner, they took possession of the site and wider lands in 2016 and set to work to refurbish and occupy units 1-4 Flower Hill Grove and 57 Flower Hill refer. This has been done and these units are occupied and are not included in the vacant site boundary. Permission was refused in May 2020 to demolish four units and replace with 16 dwelling units on the vacant site, ABP-306328-20 refers. The owner states that they have been in discussions with the planning authority and will again lodge a planning application to develop the lands in question.
- 8.4.5. It is evident from the information on file and from my own observations of the site that the buildings are not in use and that the overall lands are also not in use. The current situation of the lands is as they were when first inspected by the planning authority and placed on the register. The owner does not dispute any of these factors and instead hopes that the site will be removed from the register because they have made attempts in the past to obtain planning permission and will do so again in the future.
- 8.4.6. The site was initially placed on the register in August 2018 and the majority of the site was considered vacant for the period of twelve months prior to that date. The assessments provided by the planning authority provide the basis for the decision to place the site on the register and I find them to comply with the requirements of the 2015 Act in relation to regeneration land. The owner elected not to appeal this decision of the planning authority. I am satisfied that the site was correctly entered onto the register as a vacant site under the criteria of a regeneration site and the planning authority used the proper mechanisms to do so. The site is and was a vacant site for the period concerned and continues to be so.

The site is no longer vacant as of the 1st of January 2020

- 8.4.7. The owner makes the point that they have brought back in to use four other units close by and that they have tried to obtain planning permission for the subject site. The owner has not advanced any use for the site for the year concerned 2020, but hopes to lodge a new planning application in the near future.
- 8.4.8. The owner states that pre-planning discussions have taken place with the planning authority and that several planning applications have been lodged during 2018 to 2021. I note that the most recent application to develop the lands for residential purposes was refused by the Board, ABP 306328-20 refers. Even though attempts

have been made to secure permission, the 2015 Act does not indicate that administrative activity in relation to a site, such as preparing or obtaining planning permission, should be considered to deem a site not vacant or idle. Furthermore, the most recent planning application received a split decision from the planning authority and was refused in its entirety by the Board on appeal.

8.4.9. From my observations of the site, it is evident that the buildings and lands are vacant and not in use, their neglected condition is affecting the character of the area.

Nothing has changed in real terms since the site was placed on the register by the planning authority and it is therefore right to charge the levy. Incidentally, I note that similarly neglected properties along Flower Hill opposite the site are also vacant and boarded up but not registered on the VSR or DSR. The area as a whole is run down and the condition of many buildings along Flower Hill is a factor in the dilapidated character of the area.

8.4.10. Though the owner has improved the condition of adjacent properties in their ownership, and they are now in use, the buildings on the appeal site and the condition of the overall lands continue to meet the criteria for a vacant site as defined by the 2015 Act with reference to regeneration lands, section 5(1)(b) refers. The subject lands continue to be vacant, are in a neglected condition and it is likely that antisocial behaviour was or is taking place in the area and this is illustrated by the existence of graffiti on walls. In my view, the site was a vacant site for the period concerned (2020) and continues to be a vacant site within the terms of section 5(1)(b) of the 2015 Act at the time the appeal was made.

8.5. Procedural Matter

8.5.1. The documentation on file shows that the planning authority have notified the owner under the title of a section 15(4) Demand for Payment Notice, of a requirement for the payment of a levy for 2019, dated 24 June 2020. The time to appeal that section 15(4) Notice, concerning the levy period 2019 has passed. The current appeal relates to the levy year 2020 and I have not considered any matters that concern the levy charge year 2019, because there is no procedure for appealing a demand for payment after the relevant time period has elapsed. If the Board are minded to cancel the levy charge for the year 2020, in my opinion it does not mean that the levy

charge for 2019 is also cancelled and could still be pursued by the planning authority using the courts as allowed for by the 2015 Act.

8.6. Levy Calculation

- 8.6.1. A Notice of Determination of Market Value was issued to EGG PT Properties Limited on the 30 July 2019 stating that the valuation placed on the site is €400,000. No evidence from the appellant has been submitted to show that this valuation was appealed to the Valuation Tribunal.
- 8.6.2. A Notice of Demand for Payment of Vacant Site Levy under Section 15 of the Urban Regeneration and Housing Act was issued to EGG PT Properties Limited on the 13 April 2021 for the value of €28,000.
- 8.6.3. The applicable rate is 7% and it is evident, therefore, that the levy calculation has been correctly calculated. The Demand Notice issued under section 15 of the 2015 Act correctly states the levy due. The site should remain on the register and the charge confirmed.

9.0 Recommendation

- 9.1. I recommend that in accordance with Section 18 (3) of the Urban Regeneration and Housing Act 2015 (as amended), the Board should confirm that the site was a vacant site as of the 1 of January 2020 and was a vacant site on 5 May 2021, the date on which the appeal was made. In accordance with Section 18(4) of the Urban Regeneration and Housing Act 2015 (as amended), the Board confirm that the amount of the levy has been correctly calculated in respect of the vacant site. The demand for payment of the vacant site levy under Section 15 of the Urban Regeneration and Housing Act 2015 is, therefore, confirmed.

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 Planning Inspector,

- (d) The lack of information to show that the site was no longer a vacate site within the meaning of the Urban Regeneration and Housing Act 2015, as amended, on the 1 January 2020, or that the amount of the levy has been incorrectly calculated in respect of the site by the planning authority, and the site continued to be a vacant site on the day that the appeal was made.

The demand for payment of the vacant site levy as calculated by the planning authority under section 15 of the Urban Regeneration and Housing Act 2015, as amended, is, therefore, confirmed.

Stephen Rhys Thomas
Senior Planning Inspector

08 February 2022