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Bord  
Pleanála

## Inspector's Report PL06S.VV0009

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<b>Type of Appeal</b>	Section 9 Appeal against section 7(3) Notice.
<b>Location</b>	Site at junction of Hazelhatch Road and Newcastle Main Street (former McEvoy's Public House), Newcastle, Co. Dublin.
<b>Planning Authority</b>	South Dublin County Council.
<b>Planning Authority VSL Reg. Ref.</b>	No. 304
<b>Site Owner</b>	Ms Aislinn Van Lonkhuyzen
<b>Date of Site Visit</b>	7 <sup>th</sup> September, 2017
<b>Inspector</b>	Stephen Kay

## **1.0 Introduction**

This appeal relates to a notice issued by South Dublin County Council under s.7(3) of the Urban Regeneration and Housing Act, 2015 stating that a site located at the junction of Hazelhatch Road and Newcastle Main Street (former McEvoy's Public House), Newcastle, Co. Dublin had been entered on the vacant sites register.

## **2.0 Site Location and Description**

The site the subject of this appeal is located at the western end of Newcastle village at the junction of the R405 north to Hazelhatch and Celbridge and east in the direction of Rathcoole and the N7. The site is a corner location with road frontage to the south and west and was formerly occupied by a public house.

The original pub building was a thatched structure and was destroyed by fire in 2004. The existing condition of the site is poor with the pub building being in a derelict condition and the rear part of the pub having a tarpaulin over the roof. There are a number of smaller outbuildings in poor condition and at the eastern side of the site is a derelict cottage.

The site is currently fenced off from public areas by fencing.

## **3.0 Planning Authority Decision**

### **3.1. Planning Authority Notice**

The Planning Authority issued a notice dated 19<sup>th</sup> May, 2017 which advised the site owner that the subject site had been identified as a vacant site by reference to section 5(1)(a) and 5(2) of the Urban Regeneration and Housing Act 2015. The notice, issued in accordance with section 7(1) of the Act, stated that particulars of the site would be entered on the Vacant Sites Register. The notice was accompanied by a map outlining the site boundary.

### **3.2. Register of Vacant Sites Reports**

The reports of two site inspections undertaken in September, 2016 and May 2017 are presented on file. These reports conclude that the majority of the site is vacant or idle, that this has been the case for the previous 12 month period, that the site is adequately serviced and there is nothing that affects the lands to make it unsuitable for housing. The reports indicate that the site does not include a person's home or any part of a garden. The reports conclude by recommending that the site be included on the vacant sites register.

## **4.0 Development Plan Policy / Planning History**

### **4.1. Land Use Zoning**

The site is zoned Objective RES under the provisions of the South Dublin County Development Plan 2016-2022. The stated objective is '*to protect and / or improve residential amenity*'.

### **4.2. Other Relevant Policies and Objectives**

Section 1.2.0 of the plan sets out the Overarching considerations that underpin the policies and objectives of the plan. These include sustainability with an emphasis on making better use of key resources such as land, buildings and infrastructure.

Section 1.4 identifies the aim of the NSS to consolidate the Dublin Metropolitan area and states that the county development plan has been drawn up to be consistent with the NSS.

The plan makes provision to accommodate the future population growth allocations as set out in the Regional Planning Guidelines for the GDA. Within Newcastle, the Plan (Table 1.8) identifies that there is a total of 28 ha. of available lands and capacity for c. 701 residential units. No additional residentially zoned lands in Newcastle were added in the 2016 County Development Plan.

The Plan (Table 1.10) identifies that some infrastructural improvements are required to facilitate future residential development and the Saggart/Rathcoole/Newcastle Sewerage Scheme is required to support long term development in the west of the County.

**CS2 Objective 5:** states it is an objective *‘To promote and support high quality infill development in existing built-up areas.’*

**CS2 Objective 6:** states it is an objective *‘To promote higher residential densities at appropriate locations, adjacent to town centres or high capacity public transport nodes (Luas/Rail).’*

Newcastle is identified in the Plan as a small town (section 1.7.4) and the following objectives are presented in the plan to implement the core strategy:

It is the policy of the Council to support the sustainable long term growth of Small Towns based on local demand and the ability of local services to cater for growth.

**CS4 Objective 1:** states that it is an objective *‘To support and facilitate development on zoned lands on a phased basis subject to approved Local Area Plans.’*

**CS4 Objective 2:** states that it is an objective *‘To provide sufficient zoned land to accommodate services, facilities, retail and economic activity.’*

**Schedule 6** of the Plan relates to the interim housing strategy and there is reference at section 3.5 to the Urban Regeneration and Housing Act, 2015 and the principal aims of the act, namely to make provision for land in areas where housing is required and measures to prevent land lying idle or remaining vacant. .

#### 4.3. Planning History

South Dublin County Council Ref. SD06A/0026 – Permission granted by the Planning Authority and decision overturned on appeal for a mixed commercial and residential development at McEvoy's Public House, Main Street, Newcastle, Co. Dublin. The development was proposed to include the demolition of the remainder of existing fire damaged pub, ancillary outbuildings and derelict cottage, retention and enlargement of the existing basement (57sq.m.) and its enlargement by 18sq.m. to 75sq.m, and the redevelopment of the public house, off licence and restaurant at first

floor level; the development of 2 no. ground floor commercial units, 2 no. first floor office units and 2 no. 2 bedroom apartment units at ground floor level.

South Dublin County Council Ref. S01A/0243 – Permission granted for the retention of minor alterations to toilet block and retention and completion of conversion of ladies to lounge space of protected structure.

## **5.0 The Appeal**

### **5.1. Grounds of Appeal**

The following is a summary of the main points raised in the appeal submitted by the appellant:

- That the majority of the site is not vacant as there are a number of sheds and storerooms which are used as storage for items related to the adjoining dwelling. This adjacent dwelling was formerly part of the folio of the public house but was separated for technical reasons in 1987.
- That the Circular letter PL7/2016 to planning authorities regarding implementation of the act instructs planning authorities to provide for the development of vacant sites in designated areas as an explicit objective in their development plans. No such objective appears to be contained in the South Dublin County Development Plan.
- That Objective MSW12 of the 2012 LAP states that the redevelopment of the subject site with a cultural / tourist element is permissible subject to protection of views and adjacent archaeological sites and structures. This would preclude a residential development.

### **5.2. Planning Authority Response**

No submission received.

## 6.0 Assessment

- 6.1. By reference to the Planning Authority notice, it is noted that the site comprises residential land for the purposes of the Vacant Site Levy.
- 6.2. With regard to the issues raised by the appellant, it is contended that the majority of the site is not vacant as there are a number of sheds and storerooms which are used as storage for items related to the adjoining dwelling. The appellant states that this adjacent dwelling was formerly part of the folio of the public house but was separated for technical reasons in 1987. At the time of inspection of the site access to the shed structures on site was not possible. The extent of these sheds or outbuildings is however limited relative to the overall size of the site and it is my opinion that irrespective of any storage use of existing structures on the site that the majority of the site is vacant or idle.
- 6.3. The appellants are the owners of the adjoining residential property to the north west of the appeal site as well as lands located to the north west. The case presented is that the residential use of the adjoining property to the north west of the appeal site has extended into the appeal site such that it forms part of their home. As per the definitions contained in s.5 of the Act site for the purposes of the act excludes any structure that is a person's home. *'Home' is defined as 'a dwelling in which the person ordinarily resides and includes any garden or portion of ground attached to and usually occupied with the dwelling or otherwise required for the amenity or convenience of the dwelling'.*
- 6.4. In the circumstances of the appeal site and adjoining residential dwelling owned by the appellant I do not consider that the shed structures on the appeal site can reasonably be considered to be usually occupied with the dwelling or otherwise required for the amenity of the dwelling. As can be seen from aerial photographs of the site, the existing dwelling to the north west of the appeal site already has a significant rear garden / amenity area. Information submitted by the appellant and the planning history of the site indicates that the dwelling has been legally separated from the appeal site since 1987 and applications made on the appeal site in 2001 and 2006 indicate the dwelling site as being separate from the current appeal site with the established use of the appeal site as a public house. For these reasons, I do not consider that the case made by the appellant that the use of part of the site is

residential and that part of the site comes within the definition of 'home' as set out in the Act can be supported.

- 6.5. The appellants raise an issue regarding the requirement for Planning Authorities to include provision in their development plans for the development of vacant sites in designated areas as an explicit objective. This requirement is set out in Circular letter PL7/2016 to planning authorities regarding implementation of the act. It is noted by the appellants that no such objective appears to be contained in the South Dublin County Development Plan. From an inspection of the development Plan I would agree that there is no specific objective relating to the implementation of the Urban Regeneration and Housing Act, 2015 and there does not appear to be any variation of the adopted plan that provides for such objectives. In my opinion however the absence of specific objectives in the Plan does not impact on the requirement under the Act for the Board to determine appeals against notices issued by the Planning Authority. The impact of the absence of specific objectives in the plan on the validity of the notice issued would appear to be an issue between the property owner and the Planning Authority in the first instance.
- 6.6. The appellants also highlight the fact that Objective MSW12 of the 2012 LAP states that the redevelopment of the subject site with a cultural / tourist element is permissible subject to protection of views and adjacent archaeological sites and structures. It is contended that compliance with this objective would preclude a residential development and that the site is not therefore suitable for the provision of housing and cannot therefore be considered to be vacant in accordance with s.5 of the Act. I note however that the site is zoned Objective RES, *'to protect and / or improve residential amenity'* under the provisions of the South Dublin County Development Plan, 2016-2022 and I do not therefore consider that there is a basis for stating that the site is not suitable for the provision of housing.
- 6.7. With regard to the issue as to whether the site is vacant within the meaning of s.5 of the Act, the planning authority have submitted a statement of housing need. This statement sets out the significant number of new residential units required for the South Dublin Area over the 2015-2022 period as set out in the Regional Planning Guidelines. The lack of housing supply as evidenced by rapidly rising prices and the significant numbers on the social housing list and homeless register are also highlighted. On the basis of the information presented I consider that there is a clear

need for housing in the area of the appeal site. The suitability of the site for housing is, in my opinion, apparent by its location within an established settlement and its zoning for residential use. From an inspection of the site it is my opinion that the site, or the majority of the site is vacant or idle. On the basis of the above, it is my opinion that the appeal site meets the requirements specified in s.5 of the Act for a vacant residential site.

- 6.8. In conclusion, based on the information contained on file and my inspection of the site I am satisfied that the subject site was vacant and idle on the date of my site visit and that no information has been submitted by the site owner to refute the findings of South Dublin County Council that the site or majority site has been vacant and idle in the 12 months preceding the date of entry of the site on the register. I am therefore satisfied that the majority of the overall site as identified is vacant or idle and that the requirements of s.5(1)(a)(iii) and s5(1)(b)(i) of the Urban Regeneration and Housing Act, 2015 are met in this case.

## **7.0 Recommendation**

I recommend that the Board should determine that the site at junction of Hazelhatch Road and Newcastle Main Street (former McEvoy's Public House), Newcastle, Co. Dublin was vacant or idle for the duration of the 12 months preceding the date of entry on the Vacant Sites Register on 19th May, 2017. It is therefore recommended that the entry of the site on the vacant Sites Register should be confirmed.

## **8.0 Reasons and Considerations**

- 8.1. Having regard to

- (a) The evidence placed before the Board by the Planning Authority in relation to the condition and use of the site over the relevant period,
- (b) The evidence in the appellant's submission and
- (c) The report of the Planning Inspector



the Board is satisfied that the majority of the site was vacant or idle for the relevant period.

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Stephen Kay  
Planning Inspector

12<sup>th</sup> September, 2017