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## Inspector's Report VV0016

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<b>Type of Appeal</b>	Section 9 Appeal against section 7(3) Notice.
<b>Location</b>	Lands at Former Candlelight Inn, Dock Road, Dunmore East, Co Waterford.
<b>Planning Authority</b>	Waterford City and County Council.
<b>Planning Authority VSL Reg. Ref.</b>	41.
<b>Site Owner</b>	Richard and Yvonne Dore.
<b>Date of Site Visit</b>	13 December 2017.
<b>Inspector</b>	Stephen Rhys Thomas.

## 1.0 Introduction

- 1.1. This appeal refers to a section 7(3) notice issued by Waterford City and County Council, stating their intention to enter the site at Lands at Former Candlelight Inn, Dock Road, Dunmore East, Co Waterford 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 along Dock Road in the town of Dunmore East, County Waterford and is accessed directly from the public road. The site is situated between a large residence set on its own grounds to the south and a hotel set back from the road to the north. Private dwellings are located to the west of the site.
- 2.2. The boundaries of the site comprise stone walls. The site interior is uneven and slopes upwards from Dock Road. The western portion of the site is covered in vegetation, with the appearance of having been sprayed off. The eastern portion of the site nearest the public road is flat and laid out with hard-core fill. There are no buildings on the site.

## 3.0 Planning Authority Decision

- 3.1. **Planning Authority Notice:** Waterford City and County Council advised the site owner that the subject site (Planning Authority site ref. 41) had been identified as a vacant site. The notice, issued pursuant to section 7 of the Act and dated 27<sup>th</sup> July 2017, stated that particulars of the site have been entered on the Vacant Sites Register. The notice was accompanied by a map outlining the site boundary.
- 3.2. **Register of Vacant Sites Report:** Site is zoned 'residential - medium' and subject to Development Objective DO10 – potential housing yield 10 units. The planning history of the site is outlined – permission granted in 2009 for 10 apartments. The site is suitable for inclusion on the VSR. The report includes a detailed criteria to be assessed for suitability for the VSR and comprises the following:
  - The site is a residential site and has been vacant/idle for previous 12 months.
  - The site accords with section 5(1)(a) of the 2015 Act.

- The site accords with housing need as outlined in section 6(4) of the 2015 Act, section 6(4)(d) is not applicable.
- The site accords with site suitability for housing as outlined in section 6(5) of the 2015 Act, section 6(5)(c) is not applicable.

A site inspection was carried out on the 3<sup>rd</sup> February 2017.

It should be noted that the planning authority have compiled a report entitled – *Report on Submissions Received and Final Site Selection for Entry on Vacant Sites Register*. The report outlines the methodology and approach to the identification and assessment criteria of vacant sites leading to the selection of 21 priority sites. The report is signed and dated 21<sup>st</sup> July 2017.

#### 4.0 Development Plan / Planning History

- 4.1. The Waterford County Development Plan 2011-2017 is the operative development plan. The site is located on lands that are subject to zoning objective R1 – ‘Protect amenity of existing residential development and provide new residential development – medium density’. Scenic Views towards the sea are detailed in the vicinity of the site.
- 4.2. The site is located within an area that has defined development objective (DO10), as follows - It is an objective of the Council to facilitate the redevelopment of this central site. Development of the site shall ensure a high quality of architectural design of a scale appropriate to the special character of the village.
- 4.3. With regards to the Urban Regeneration and Housing Act 2015, variation 3a of Waterford County Development Plan 2011-2017 states the following:

To be included in Chapter 3 Core Strategy immediately after Section 3.6 Urban Settlement Hierarchy.

##### 3.6a Urban Regeneration

The Urban Regeneration and Housing Act 2015 introduced a vacant site levy in order to incentivise the development of vacant sites in urban areas for housing and regeneration purposes. The application of the levy

is intended to bring underutilised and vacant sites and buildings in urban areas into beneficial use.

Waterford City & County Council will examine lands within the towns and villages, as appropriate, for the purposes as set out in the Urban Regeneration and Housing Act 2015 in relation to the vacant site levy.

It is an objective of this Plan to promote the appropriate development and renewal of urban sites and areas, identified having regard to the core strategy, that are in need of regeneration, in order to ensure there is no -

(i) adverse effects on existing amenities in such areas, in particular as a result of the ruinous or neglected condition of any land,

(ii) urban blight and decay,

(iii) anti-social behaviour, or

(iv) shortage of habitable houses or of land suitable for residential use or a mixture of residential and other uses.

4.4. Dunmore East is designated as a District Service Centre in the County Settlement Strategy with a projected population of 2,324 in 2017. The core strategy of the Development Plan is aligned with the National Spatial Strategy and the concept of gateways and hubs in the Regional Planning Guidelines.

#### 4.5. **Planning History**

PA reference **08/1176** and ABP reference **PL24.233766**. Permission for 10 apartment units. April 2009.

PA reference **06/516** and ABP reference **PL24 .220636**. Permission refused for 14 apartments. April 2007.

PA reference **04/1815** and ABP reference **PL24 .210829**. Permission for demolition of buildings and site clearance. June 2005.

PA reference **00/1365** and ABP reference **PL24.127674**. Permission refused to demolish the existing hotel and construct a new hotel. July 2002.

There are also additional planning applications that relate to the previous hotel use of the site.

## **5.0 The Appeal**

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

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

- The site was purchased on the 28<sup>th</sup> April 2016. The previous hotel building on the site was demolished under planning reference 04/1815 as part of a future proposal to develop housing, planning reference 08/1176. The site was sold to the appellants without a current planning permission and in its cleared format.
- At the time of the site sale, the site was in use for the storage of materials for pipe laying work, carried out by Waterford County Council.
- In May 2016, the site was used for a number of months by a TV production company and after that the site was in use by the Dunmore East Food Festival.
- In February 2017 (without consent) Waterford County Council used the site for the storage of machinery and materials.
- During the Council's use of the site, the appellant was informed that the site was contaminated by a notifiable invasive species – Japanese Knotweed. The appellants are still continuing to treat the site until it is declared free from contamination. The existence of Japanese Knotweed has delayed the appellant's intention to develop the site for a family home. It is the appellant's contention that development of the site cannot proceed until Japanese Knotweed is removed from the site.
- The site has been in continual use for the previous 12 months and it is the intention of the applicant to apply for permission for a house once the site is declared free from Japanese Knotweed contamination.

The appeal is supported by the report of a Landscape Consultant, that outlines the spraying regime applied to the site in order to eliminate Japanese Knotweed. Spraying started in August 2016, again in April 2017, June 2017 and will take place again in 2018 as necessary. Other accompanying documents include: OS site location map, solicitor's initial submission and section 7 Notice.

## 5.2. Planning Authority Response

5.2.1. The Planning Authority responded to the appeal, requesting that the following observations be noted by the Board:

- The Councils report sets out why the site was included on the VSR.
- Planning permission and intentions to develop a site are not sufficient in preventing sites being placed on the register. Vacant sites can be reassessed and removed from the register at any time.
- The Planning Authority will accept any determination with regard to the site and VSR.

## 6.0 Assessment

6.1. An appeal under section 9 of the Act, requires that the burden of showing that the site or a majority of the site was not vacant or idle 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 vacant or idle 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 Waterford City and County Council VSR on the 27<sup>th</sup> July 2017.

6.2. The subject site is located in an area zoned R1 in the current Waterford County Development Plan. Section 3.6a *Urban Regeneration* of the Development Plan states that the vacant site levy applies to lands suitable for housing and regeneration purposes. The site is considered residential lands for the purposes of the 2015 Act.

6.3. Previous Permissions

6.3.1. The appellant states that the site has a previous planning permission and that they intend to apply for a family home in the near future. The Act is clear: the test for inclusion is the past condition of the site from the date of entry on the Register. I

refer to Circular Letter PL7/2016, Appendix 3, that states: “where a vacant site has an extant planning permission associated with it, this should not be a consideration in determining whether to apply the levy. If such a site meets the criteria for a vacant site in respect of either residential or regeneration land, then the levy may be applied”. If the site meets the criteria for inclusion on the register, the existence of a previous planning permission or an intent to apply for permission has no part to play in this instance.

#### 6.4. Ownership

6.4.1. The appellant states that they are the new owner of the site. Change of ownership has no impact upon the assessment of whether a site should be included on the register or not. Section 17 of the 2015 Act, sets out procedures in relation to the charging of the levy, change of ownership is relevant in that instance. Irrespective of any change of ownership, the burden of demonstrating whether a site is vacant or not lies with the owner, as set out in section 9(2) of the 2015 Act.

#### 6.5. Ad Hoc Uses

6.5.1. The appellant has stated that the site has been used in the past for the storage of materials and machinery used by the Council for pipe laying work in the area. There was no such use on the date of my site visit. I conclude such uses to be temporary short term, on a periodic or ad hoc basis. Circular Letter PL7/2016 sets out practical matters to note when identifying vacant sites, as follows:

- *In certain circumstances a site that is vacant may be used on a temporary short term or periodic ad hoc basis. For example, a site may be used to host a monthly event such as a farmers market etc. A site that is vacant and used for such temporary purposes would not be considered as being in full and active use. Therefore the levy can be applied.*

6.5.2. The previous short term uses for storage of machinery are not considered to render the site in full and active use as advised by Circular Letter. Therefore, the levy can be applied.

## 6.6. Local Community Initiatives

6.6.1. The appellant states that the site has been used for filming and for the Dunmore East Food Festival. I observed no evidence of filming or food festival paraphernalia on the site. Again, Circular Letter PL7/2016, sets out useful advice:

- *In addition, local authorities should also give consideration to local community initiatives already in existence on certain sites which are supporting the regeneration and improvement of an area, such as community gardens and therefore the levy should not be applied on such sites.*

6.6.2. At present, there are no local community initiative uses on the site that support the regeneration and improvement of the area. Therefore, the levy can be applied.

## 6.7. Site Condition

6.7.1. The appellant maintains that their intentions to develop the site have been delayed by the existence of Japanese Knotweed, an invasive species. The appearance of the site is one of vacancy and no apparent use is being carried out at present. Whilst the site appears to show evidence of ongoing invasive species control, this is not a beneficial use which addresses the issue of underutilised land in urban areas. The maintenance of the site and specifically weed control does not contribute to the provision of housing nor does it constitute a full and active use. There is no current planning permission for the site, no development can proceed on site irrespective of any constraints in relation to invasive species. In my view, development has not been delayed and does not prevent the entry of the site on to the register.

6.8. The site is zoned residential and this suggests there is a need for housing in the area. In addition, the site is suitable for the provision of housing as evidenced by a previous planning permission and the residential land use zoning. Given the foregoing, I conclude that the majority of the site is vacant or idle in accordance with Section 5(1)(a)(i)(ii) and (iii) of the 2015 Act.

6.9. I am satisfied that the entry of the subject site on the Vacant Sites Register of Waterford City and County Council should be confirmed.



## 7.0 Recommendation

- 7.1. I recommend that in accordance with section 9(5) of the Urban Regeneration and Housing Act 2015, the Board should confirm that the site at Lands at Former Candlelight Inn, Dock Road, Dunmore East, Co Waterford was vacant or idle for the 12 months concerned. Therefore, the entry on the Vacant Sites Register on the 27<sup>th</sup> July 2017 shall be deemed to take effect from that date.

## 8.0 Reasons and Considerations

- 8.1. Having regard to

- (a) the information submitted to 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, and
- (d) the need and suitability of the site for housing and the vacant or idle condition of the site

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

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Stephen Rhys Thomas  
Planning Inspector

20 February 2018