



An
Bord
Pleanála

Inspector's Report ABP-301061-18

Type of Appeal	Section 9 Appeal against section 7(3) Notice
Location	Site Adjacent to Central Bank Currency Centre, Sandyford.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority VSL Reg. Ref.	VS-0006
Site Owner	The Central Bank of Ireland
Planning Authority Decision	Place on Register
Date of Site Visit	16 August 2018
Inspector	Una Crosse

1.0 Introduction

- 1.1. This appeal refers to a section 7(3) notice issued by Dun Laoghaire Rathdown County Council, stating their intention to enter a site referred to as adjacent to central Bank Currency Centre, Sandyford, Dublin 18 on to 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(a)) and 5(2) of the URH Act 2015
- 1.2. The appeal site registered under VSL reference VS - 0006, has one stated registered owner, Banc Ceannais na hEireann/Central Bank of Ireland.

2.0 Site Location and Description

The site which is irregular in configuration and relatively flat is stated to have an area of c.4.67 hectares. The site is bounded to the north by sports pitches to the south by the M50 slip road. To the west, the site is adjoined by existing residential development and to the east by the main complex of the Central Bank Currency Centre. While there is an area of hardstanding on the site there are no structures. The site falls in level from east to west.

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)(a) and 5(2) of the Act. The Notice is dated 26th January 2018 and is accompanied by a map outlining the extent of the site to which the Notice relates.
- 3.1.2. It is noted that the definition of vacant or idle has been amended by Section 63 of the Planning and Development (Amendment) Act 2018 which commenced upon coming into effect of the Act. This section of the Act amends Section 5 of the Act of 2015 by substituting Section 5(1)(a)(iii) for the following:

the site, or the majority of the site is—

(I) vacant or idle, or

(II) being used for a purpose that does not consist solely or primarily of the provision of housing or the development of the site for the purpose of such provision, provided that the most recent purchase of the site occurred—

(A) after it became residential land, and

(B) before, on or after the commencement of *section 63* of the *Planning and Development (Amendment) Act 2018*.”.

3.2. **Development Plan Policy**

- 3.2.1. The site is zoned objective A' to protect and/or improve residential amenity in the Dun Laoghaire Rathdown County Development Plan 2016-2022.

4.0 **Planning History**

D17A/0312 - Permission granted for alterations to the facades of two buildings (Block A and Block B). The alterations involve changing areas of the glazed facades of Block A and Block B to brick-finished facades.

D03A/0705 – Permission granted for security screen, 99m long and 6m high, between lands at the Currency Centre and the adjoining lands of the Irish Management Institute

5.0 **Planning Authority Decision**

5.1. **Planning Authority Reports**

- A Vacant Sites report was prepared for the site outlining the dates of the visits to the site, the area, zoning and the type of site for the purposes of the Act which in this case is Residential. It is noted that while part of the site accommodates a single storey structure, tennis court and carpark the uses are limited to a small section of the site with the remainder a greenfield. It is stated that the subject site is not in residential use and is not being used for the purpose for which it was zoned.

- In terms of need for housing (tests outlined in Section 6(4)) it is stated that in terms of (a) any site zoned for residential development implies that there is a need for housing in accordance with Section 5(1)(a)(i); (b) for 3-bed house average monthly rent is €2,687 (Sept 2017) and average purchase price is approx. €492,217 (2017); (c) approx. 4,927 households qualified for social housing support (October 2017); (d) 422 properties for sale (295) or rent (127) (Sept. 2016) which is 0.5% of the 88,500 housing stock with the assessment noting that having regard to the criteria that it is considered there is a need for housing in accordance with Section 6(4) of the Act.
- In terms of suitability for housing (tests outlined in Section 6(5)) in terms of (a) as site is zoned for housing it is considered suitable for housing; (b) site is served by public infrastructure and facilities; and (c) there does not appear to be any physical condition or constraint impacting the site which might affect the provision of housing and in conclusion it is stated that the site does appear suitable for the provision of housing.
- In relation to the majority of the site being vacant or idle for the last 12 months, it is stated that access to the subject site is limited but based on external inspections (October 2016) and aerial photography (June 2013, December 2013, June 2014 and April 2015) that it is considered that the site is vacant and has been vacant and idle for a significant period of time.
- Site does not have an active use. Reference is made to the Circular (PL07/2016) which references to temporary uses and development appropriate to the zoning and concludes that the site is a vacant site as it is situated in an area where there is a need for housing, the site is suitable for the provision of housing and the site or the majority of the site is vacant or idle.

5.2. Planning Authority Notice

Planning Authority decided under section 7(3) to issue a notice on 26th January 2018 referencing sections 5(1)(a) 5(2) of the Act and stating that the site has been entered onto the Vacant Sites Register. The notice was issued to Banc Ceannais na hEireann.

6.0 The Appeal

6.1. Grounds of Appeal

An appeal was received on behalf of the Central Bank of Ireland which is summarised as follows:

- Lands form an integral part of the Central Bank of Ireland's currency centre which is the only one of its kind in the state and is a nationally strategic installation with very significant and specific security considerations;
- Security provided by Gardai, Army and security personal at all times in addition to technological measures and physical barriers with high security deliveries taking place to and from the centre with security risks and measures of paramount importance in any assessment of current and future uses of the holding with security at national and local level of paramount importance;
- Risks arise associated with the specific physical context of the site and the number of residential developments in proximity of the site which is not considered best practice with current security requirements dictating that any further residential development in proximity and in particular contiguous should be avoided;
- Bank has altered its own use of the lands due to security concerns with the area previously forming a staff sports facility but this use has ceased as security measures increased and the site now serves as a security buffer for the Currency Centre forming an integral part of the overall installation;
- The site creates a security buffer enabling surveillance particularly of adjoining public roads and therefore are not vacant or idle but serve a very clear and critically important purpose and rationale for treating this part of the holding in a different manner to other undeveloped parts of the landholding which also form security buffers is unclear.
- Wall that separates the part of the landholding referred to in the notice of Entry from the remainder of the holding was constructed during the late 1990's and is one of a number of physical barriers including walls and fences.
- The wall does indicate that the land is unused with the construction of this security measure appearing to have had the unintended consequence of

demarcating the landholding such that the Council has interpreted this additional internal security measure as a formal demarcation of the ownership of the holding;

- Lands are not suitable for housing as per section 5(1)(a)(ii) of the Act which is determined by Section 6(5) of the Act which references the core strategy, public infrastructure and facilitates and anything affecting the physical condition of the land;
- In terms of core strategy it is noted that entire Currency Centre site is zoned for residential use with rationale for zoning unclear given lands used by Central Bank since 1970's;
- Lands not included in public national Residential Land Availability Survey in 2014 where it appears in 2014 accepted by the PA that the lands were not available for primarily residential purposes;
- Wider area is served by public infrastructure and facilities to enable housing however there are difficulties connecting the lands to this infrastructure with the lands accessed principally from the Sandyford Road to the east which is highly secured;
- Access onto the R113 to the south of the holding which needs to be retained by the Currency Centre and is not available for residential use and unlikely that a second junction would be permissible given length of boundary and level difference and permission unlikely for a new residential development served by a single entrance onto a 80kmph road;
- Site is landlocked and in the absence of a road connection or any obvious solution the ability to develop the lands is constrained with the site not served by public infrastructure in terms of roads.
- The Central Bank of Ireland would not facilitate any third party connection to the existing foul water/surface water piped services within the landholding as any such connection would create an unacceptable security risk;
- Main reason preventing provision of housing on these lands relates to the critically important security requirements of the Currency Centre and while existing residential development in proximity, these buildings pre-exist current

security standards and requirements and if the use of the subject site was to change the security measures for the main campus would need to be adapted significantly reducing the subject sites suitability for housing resulting in negative impacts for existing and future residents (higher boundary treatment, lighting, surveillance);

- Any potential future resident within the site could be at increased risk as may be interpreted that these residents are living on campus at the facility;
- Site is not vacant or idle as forms part of the larger landholding (15 hectares) and is not separate from the Currency Centre and given the site subject of the Notice is less than one third of the holding then the site or the majority of the site is not vacant or idle;
- If Board do not accept that site is part of the holding, still contend it is not vacant or idle as site functions to provide an additional defence and security buffer for the Currency Centre and as they have a use and serve a function associated with the overall landholding they cannot be considered idle;
- Notice does not relate to land surrounding the inner defence perimeters which also serve as security buffers and enable critical surveillance suggesting the PA have recognised that the use of the land as a security buffer and for surveillance associated with the facility does not render the land vacant;

6.2. Planning Authority Response

A response received from the Planning Authority to the grounds of appeal are summarised as follows:

- PA acknowledges security risk is of primary importance and any changes to the existing built environment may be undesirable from a security perspective, residential land is a finite resource and shared interest in ensuring most efficient use and the site is not being used in the most efficient and effective manner;
- Draw ABP attention to the Vacant site report and report on submission received which informed decision to enter land;
- Relevant criteria for assessment of suitability for housing is set out in section 6(5);

- In terms of core strategy, site is zoned for housing and therefore suitable with housing land availability table 5 years old and not intended to be static or exhaustive;
- Site is served by public infrastructure and facilities with suitable design solution possible in relation to access, site services, design and residential amenity;
- Security risk acknowledged in physical condition of the land but noted that the boundary of the centres main facility abuts Clonard Housing estate, IMI centre, Sandyford Road and R113 with subject site only land adjacent to the centre which is not in active use;
- Distance from main facility to boundary wall of aforementioned adjoining users is less than that from the main facility with continual elevation fall across subject site from boundary with centre with potential to lessen security impacts and mitigation required;
- Permission granted in 2003 for a security screen between the centre and the IMI (100m long x 6m high) and while change to built environment may be undesirable considered sufficient evidence exists that centre can operate adjacent to adjoining land uses albeit with increased security measures;
- In relation to vacant or idle, consideration given to the arguments made following submission to section 7(1) notice but note that site separate from main facility with a significant wall and gate that runs the entire length of the eastern boundary which serves to separate the subject site from the main facility representing a formal demarcation on the holding;
- Most recent (2017) planning application for minor works at the site divides the overall holding into two distinct parcels with subject site not considered part of the application site;
- Use of entrance on R113 as a potential emergency access is a temporary short term use with reference to Appendix 3 of Circular where temporary short term uses are not considered to be full and active use;
- Area purported to be in use as a support compound is limited to a very small section of the site with remainder of site undeveloped with majority of the site vacant or idle;

- Criteria referenced in Section 6(6) of the Act not relevant as site is not a regeneration site (Section 5(1)(b));
- Acknowledged that landowner considers it necessary to retain ability to construct a direct link road between existing internal road and access point to R113 but noted that R113 access point was provided when the M50 was constructed and to date no permission sought for requisite connecting road and no provision in the Act for not entering site on the Register on basis of plans for the potential future use of the site;

7.0 Assessment

7.1. Introduction

- 7.1.1. This notice has been issued under the provisions of Section 5(1)(a) of the Act which relates to residential lands. The assessment undertaken by the Planning Authority to inform the placing of the site on the Register, which I outline in section 5.1 above, refers to the tests included for residential under section 5(1)(a) by reference to Sections 6(4) & 6(5) of the Act as is required for lands zoned for residential purposes.
- 7.1.2. Section 5(1)(a) of the Act states that in the case of a site consisting of residential land –
- (i) the site is situated in an area in which there is a need for housing,
 - (ii) the site is suitable for the provision of housing, and
 - (iii) the site, or the majority of the site, is
 - (I) vacant or idle, or
 - (II) being used for a purpose that does not consist solely or primarily of the provision of housing or the development of the site for the purpose of such provision, provided that the most recent purchase of the site occurred—
 - (A) after it became residential land, and
 - (B) before, on or after the commencement of *section 63 of the Planning and Development (Amendment) Act 2018.*”.

7.1.3. I would note that the appellants do not question the need for housing in the area and therefore I do not intend to address this matter. The appeal and my assessment below will address points (ii) and (iii) that being the suitability of the site for the provision of housing and the site being vacant or idle. I would however note that in order to comply with Section 5(1)(a) that a site must meet all of the three sections.

7.2. **Suitability for housing**

7.2.1. The appellants state in their appeal that the site is not suitable for the provision of housing. The tests to determine suitability for the provision of housing are set out in Section 6(5) of the Act as follows:

7.2.2. A planning authority, or the Board on appeal, shall determine whether or not a site was suitable for the provision of housing for the purposes of this Part by reference to—

(a) The core strategy,

(b) Whether the site was served by the public infrastructure and facilities (within the meaning of section 48 of the Act of 2000) necessary to enable housing to be provided and serviced, and

(c) Whether there was anything affecting the physical condition of the land comprising the site which might affect the provision of housing.

7.2.3. In relation to point (a) the rationale for zoning the lands is questioned given the use of the site since the 1970's however the site is zoned for residential purposes in the current Plan.

7.2.4. In relation to point (b) public infrastructure and facilities, the appellant notes that there is no available connection to the public road network currently or in the future. The access points from the Sandyford Road adjoin the main compound of the Centre and would not in my opinion be suitable access locations for the subject lands. There is an existing access to the appeal site from the R113 (M50 slip) and the PA suggest that the location of the boundary wall between the subject site and main compound delineates the site as a separate entity making it suitable and accessible. However, having regard to the appellants evidence as to the importance of this access to the operation of the Centre, the unique nature of the use on the site and from my inspection on site, I would concur that the site is not served by the necessary access

to enable housing be provided. I also note the appeal grounds relating to piped services.

7.2.5. The final point (c) relates to anything which affects the physical condition of the land which might affect the provision of housing. As outlined by the appellant, the principle issue preventing the provision of housing on the lands relates to the critically important security requirements of site. The appellant acknowledges that there is existing residential development adjoining a number of boundaries but state that these pre-exist the current security standards. The PA in their response to the appeal state that while security risk is acknowledged, in relation to physical condition of the land that they note that the boundary of the centres main facility abuts Clonard Housing estate, IMI centre, Sandyford Road and R113 with subject site only land adjacent to the centre which is not in active use. From my inspection of the site I concur with the appellants that the pre-existing uses should not be the rationale for a reduction in security at what is a sensitive and nationally important site with unique requirements not replicated on any other residential site.

7.2.6. The physical condition of the land is imperative to the suitability or otherwise of housing and in this regard I consider that the use of the site affects the physical condition of the land providing it is not suitable for the provision of housing.

7.3. **Vacant/Idle/Purpose of the Site**

7.3.1. While as I outline above, I do not consider that the site is suitable for housing, I propose to also address the third consideration of Section 5(1)(a) which is that the site, or the majority of the site, is vacant or idle or used for a purpose other than housing. as outlined in Section 3.1 above, Section 5(1)(a)(iii) has been amended by Section 63 of the Planning and Development (Amendment) Act, 2018 which provides that it states that the site, or the majority of the site is—

(I) vacant or idle, or

(II) being used for a purpose that does not consist solely or primarily of the provision of housing or the development of the site for the purpose of such provision, provided that the most recent purchase of the site occurred—

(A) after it became residential land, and

(B) before, on or after the commencement of *section 63 of the Planning and Development (Amendment) Act 2018.*”.

This provides that there are two elements to this Section of the Act (I) which relates to Vacant or idle or part (II) which relates to the purpose and zoning of the land. I will address each in turn but I would note that the requirement is to meet one of the parts of this subsection rather than both.

Vacant or Idle

- 7.3.2. I would note in their report, the PA state that access to the subject site is limited but that based on external inspections (October 2016) and aerial photography (June 2013, December 2013, June 2014 and April 2015 that it is considered that the site is vacant and has been vacant and idle for a significant period of time. As I note above, the PA consider that the wall along the eastern boundary delineates the site from the main compound the basis of which is the landholding map submitted with the 2017 planning application which they state highlights the delineation between the elements. However I do not consider that a map included with a planning application can determine the use of a site in the context of security and I consider that while there is an acknowledgement by the PA of the security concerns on site that the intricacies of the overall operation of the site is not given sufficient consideration given the unique nature of the facility.
- 7.3.3. I would also note reference is made by the PA to the former sports facility on the site and I would note that such facilities no longer exist and from the submission of the appellant it is clear that the site has not been used for such purposes for a significant period of time. As outlined by the appellant in their appeal, the lands form an integral part of the Central Bank of Ireland’s currency centre which is the only one of its kind in the State and is a nationally strategic installation with very significant and specific security considerations. On the basis of the evidence on file and my inspection of the appeal site and overall compound, which I consider is a unique facility in the State, I am satisfied that the site in question, is an integral element of the operation of the overall Currency Centre site and therefore I do not consider that the site is vacant or idle.

Purpose/Zoning of the Site

- 7.3.4. It is clear from the documentation on file that the appellant has been located on these lands since the 1970's and therefore I would suggest to the Board that the appellant is not hoarding the land, the counteracting of which is the primary purpose of the Act. It is therefore not unreasonable to believe that the site was not zoned for residential purposes at the time of the occupation of the site by the appellant. The Board may wish to investigate this matter further however as I outline above in respect of Section 5(1)(a)(iii)(II) I do not consider that the site is vacant or idle.
- 7.3.5. In this regard the site does not meet the tests outlined in either Section 5(1)(a)(iii)(I) or (II) and the Notice should be cancelled.

8.0 Recommendation

- 8.1. I recommend that in accordance with section 9(5) of the Urban Regeneration and Housing Act 2015, the Board should cancel the entry on the register of site (VS-0006) site adjacent to Central Bank Currency Centre, Sandyford was vacant or idle for the 12 months concerned. Therefore, the entry on the Vacant Sites Register on the 26th January 2018 shall be removed.

9.0 Reasons and Considerations

- 9.1. 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,
 - (d) the evidence outlined in relation to the unsuitability of the site for the provision of housing,
 - (e) the evidence outlined in relation to the use of the site and its importance to the operation of the Central Bank of Ireland's Currency Centre, and
 - (f) that while the site is being used for a purpose that does not consist solely or primarily of the provision of housing or the development of the site for the purpose of such provision, the most recent purchase of the site occurred prior to its becoming

residential land, and before, on or after the commencement of section 63 of the Planning and Development (Amendment) Act 2018,
the Board considered that it is appropriate that a notice be issued to the planning authority to cancel the entry on the Vacant Sites Register.

Una Crosse
Senior Planning Inspector

August 2018