



An
Bord
Pleanála

Inspector's Report ABP-301181-18

Type of Appeal	Section 9 Appeal against section 7(3) Notice.
Location	Site between 70 St Canice's Road and Scoil Chiaran at St Canice's Road, Dublin 11.
Planning Authority	Dublin City Council.
Planning Authority VSL Reg. Ref.	VS-0370.
Site Owner	DCU Educational Trust.
Date of Site Visit	29 June 2018.
Inspector	Stephen Rhys Thomas.

1.0 Introduction

- 1.1. This appeal refers to a section 7(3) notice issued by Dublin City Council, stating their intention to enter the site between 70 St Canice's Road and Scoil Chiaran at St Canice's Road, Dublin 11 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 site is located along St Canice's Road in the northern part of Dublin City, close to the main Dublin City University campus and north of Glasnevin. The northern boundary of the site adjoins St Canice's Road and comprises a low concrete block wall topped with a palisade fence. The western boundary to the school comprises a steel green mesh railing and the eastern boundary a part residential property and electricity substation comprising a low block wall topped with a steel palisade fence.
- 2.2. The site interior is broadly flat and at a slightly raised level above the sports grounds to the south. There is no boundary between the site and the wider sports grounds to the south. The condition of the subject site is unkept and overgrown with summer growth (dock, thistle and ragwort).

3.0 Statutory Context

- 3.1. Urban Regeneration and Housing Act 2015

The Notice issued in relation to residential lands and the accompanying report has assessed the site on the basis of the tests outlined in Section 5(1)(a) of the Act.

- 3.2. Development Plan Policy

The Dublin City Development Plan 2016-2022 is the operative development plan. The site is located on lands that are subject to zoning objective Z1 'To protect, provide and improve residential amenities'.

One of the key strategies of the Development Plan, as set out in section 4.4 is the creation of a consolidated city, whereby infill sites are sustainably developed and

new urban environments are created, by actively promoting active land management, a key component of which is the vacant site levy.

Section 2.2.8.4 of the plan states that in accordance with the Urban Regeneration and Housing Act 2015, it is a key pillar of the development plan to promote the development and renewal of areas, identified having regard to the core strategy, that are in need of regeneration, in order to prevent: (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) a shortage of habitable houses or of land suitable for residential use or a mixture of residential and other uses

Section 14.9 of the City Development Plan 2016-2022 states that the Vacant Sites Levy will apply to lands zoned Z1, Z2, Z3, Z4, Z5, Z6, Z7, Z8, Z10, Z12 and Z14.

Policy CEE16 states that it is the policy of DCC to: (i) To engage in the 'active land management' of vacant sites and properties including those owned by Dublin City Council, as set out in the Government's Planning Policy Statement 2015; to engage proactively with land-owners, potential developers and investors with the objective of encouraging the early and high quality re-development of such vacant sites. (ii) To implement the Vacant Land Levy for all vacant development sites in the city and to prepare and make publicly available a Register of Vacant Sites in the city as set out in the Urban Regeneration and Housing Act 2015. (iii) To improve access to information on vacant land in the city including details such as location, area, zoning etc. via appropriate media/online resources and the keeping of a public register as a basis of a public dialogue in the public interest. (iv) To encourage and facilitate the rehabilitation and use of vacant and under-utilised buildings including their upper floors. (v) To promote and facilitate the use, including the temporary use, of vacant commercial space and vacant sites, for a wide range of enterprise including cultural uses, and which would comply with the proper planning and sustainable development of the area and the provisions of the Development Plan.

Policy QH3 states that it is policy of the Council (i) To secure the implementation of the Dublin City Council Housing Strategy` in accordance with the provision of national legislation. In this regard, 10% of the land zoned for residential uses, or for a mixture of residential and other uses, shall be reserved for the provision of social

and/or affordable housing in order to promote tenure diversity and a socially inclusive city. (ii) To engage in active land management including the implementation of the vacant levy on all vacant residential and regeneration lands as set out in the Urban Regeneration and Housing Act 2015.

4.0 Planning History

Subject site and wider area:

PA reference **5299/08**. Permission for a new single storey sports facility.

PA reference **4232/08**. Permission for 29 apartments.

PA reference **2155/97**. Permission refused for 9 townhouses because of deficiency in sewerage facilities.

PA reference **1927/97**. Permission for revised car park and vehicular access to St Clare's sports ground.

5.0 Planning Authority Decision

5.1. Planning Authority Reports

- 5.1.1. Register of Vacant Sites Report - The site is zoned under objective Z1. 'To protect, provide and improve residential amenities'. The site is classified as residential land and has been vacant or idle for the last 12 months. A planning history is outlined for the site and wider area of the site. The site does not appear to form a functional part of the sports grounds associated with DCU. The site is in an area where there is a need for housing, is suitable for housing and the majority of the site is vacant/idle. The report is supported by colour photographs.

5.2. Planning Authority Notice

- 5.2.1. Dublin City Council advised the site owner that the subject site (Planning Authority site ref. VS-0370) had been identified as a vacant site. The notice, issued pursuant to section 7 of the Act and dated 6 February 2018, 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.

6.0 The Appeal

6.1. Grounds of Appeal

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

- The site is an integral part of the wider sports grounds at this location. The use of which is shared between the university and local community, school and sports groups. As the university continues to grow, so too will the need for additional sports facilities and the site forms part of this strategy.
- The subject site is in use on a year round basis for cross country training and routes for competitions by Athletes.

6.2. Planning Authority Response

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

- The appellant appears to refer to the use of the overall site for sporting purposes and highlights the use of the subject site for athletic cross country purposes.
- The subject site is less well maintained when compared with the balance of the overall sports grounds. A mud track traversing the site was noted on the 27 March 2018 and confirms the use of the site for cross country running purposes.
- Though the site is higher than the surrounding sports grounds, there is no boundary between the subject site and the balance of the sports grounds.
- The information submitted by the appellant, and the updated site visit confirm the use of the subject site for sporting purposes, the site should be removed from the register.

6.3. Further Responses

The appellant submitted a response that reiterates earlier statements with regard to the existing use of the site and future intentions for the wider sports campus.

7.0 Assessment

- 7.1. 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 Dublin City Council VSR on the 6 February 2018.
- 7.2. By reference to the planning authority notice, it is stated that the subject site comprises residential land for the purposes of the Vacant Site Levy. The subject site is located in an area zoned Z1 'To protect, provide and improve residential amenities' in the current City Development Plan. Policy QH3 states that it is policy of the Council to engage in active land management including the implementation of the vacant levy on all vacant residential and regeneration lands as set out in the Urban Regeneration and Housing Act 2015. This assessment takes into account the characteristics of the site in the context of Section 5(1)(a) residential land.
- 7.3. The appellant states that the site forms an integral part of the wider Dublin City University (DCU) sports grounds and provides sporting and open space opportunities for local community, school and sports groups. Specifically, the appeal site is used as part of a cross country running route for both training and competition. The subject site also forms part of the university's sports strategy for the future and is a vital resource to ensure continuing space for planned sports facilities.
- 7.4. In response, I note that the Council conducted an additional site visit in March 2018 and noted the existence of a mud track, that would conform to a cross country route or track. In addition, the planning authority note that though the site is higher than the surrounding sports grounds, there is no boundary between them. Finally, the Council state that the site is in use by DCU for sporting purposes and it should be removed from the register.
- 7.5. From my observations of the site, I would agree that the subject site appears to operate as an integral part of the wider sporting facilities at this location. The less well maintained appearance and slightly higher level of the site would equate with suitable conditions for a cross country type of course, rather than more maintained

grassed areas that would facilitate ball sports. The lack of boundary also adds to the appearance of the site as an integral part of the wider grounds. Given the information submitted by the appellant and the statements made by the planning authority, I am satisfied that the site is neither vacant or idle and is in fact in use for sport and recreational purposes associated with the University.

- 7.6. The appellant has not appealed whether there is a need for housing in the area or if the site is suitable for housing. I note that the site is zoned for housing and there are planning permissions for residential development in the vicinity. This suggests that the site is suitable for housing and that there is a need for housing in the area. The placement of a site on the register requires three criteria to be fulfilled under section 5(1)(a)(i), (ii) and (ii) of the 2015 Act. I am satisfied that the site is neither vacant or idle and the site should be removed from the register as not all three requirements under section 5(1)(a) are met.

8.0 Recommendation

- 8.1. I recommend that, in accordance with section 9(3) of the Urban Regeneration and Housing Act 2015, the Board determine that the site between 70 St Canice's Road and Scoil Chiaran at St Canice's Road, Dublin 11 was not 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. Therefore, the entry on the Vacant Sites Register on the 6 February 2018 shall be cancelled.

9.0 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, including their consideration that the site be removed from the register,
- b) The grounds of appeal submitted by the appellant,
- c) The report of the Inspector,
- d) The lack of boundary walls or fences separating the site from the wider university sports grounds; that the site forms an integral part of the overall

sports facility and provides students, staff and the wider community with open space and sporting opportunities,

the Board is satisfied that the site was not vacant or idle for the relevant period.

Stephen Rhys Thomas
Planning Inspector

01 August 2018