



An
Bord
Pleanála

Inspector's Report ABP-301810-18

Type of Appeal	Section 9 Appeal against section 7(3) Notice.
Location	51-52 Charles Street Great, Dublin 1.
Planning Authority	Dublin City Council.
Planning Authority VSL Reg. Ref.	VS-1080.
Site Owner	St. Michael's House.
Date of Site Visit	23 July 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 at 51-52 Charles Street Great, Dublin 1 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 at 51-52 Charles Street Great, Dublin 1, in the northern inner city. The site also adjoins Charles Lane and Tyrrell Place and shares a boundary with the Pavee Point Travellers Centre to the east.
- 2.2. The site is level and comprises a grassed forecourt with a gravelled area to the side. There is a collection of buildings on the site and these comprise flat roof and pitched roofed commercial type buildings in very poor repair. The buildings front directly on to Tyrrell Place and comprise a flat roof and rendered structure, a gable fronted structure with brick surround semi-circular window and a half render/half red brick two storey domestic type building. All buildings on the site are in very poor condition, openings are closed up with roller shutters or wire grills, in some cases windows are blocked up. The side streets around the site are strewn with litter and discarded furniture.
- 2.3. A large advertising hoarding on poles has been erected on the site advertising Luas Cross City. There is also an electrical generator and a security camera array in the front forecourt of the site.

3.0 Statutory Context

- 3.1. Urban Regeneration and Housing Act 2015
 - 3.1.1. 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

- 3.2.1. 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'.
- 3.2.2. 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.
- 3.2.3. 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
- 3.2.4. 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.
- 3.2.5. 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.

- 3.2.6. 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

- 4.1. PA reference number 4104/10. Permission refused for the demolition of buildings and new boundary treatment.

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. The site was in use by St Michaels House as a training centre. 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-1080) had been identified as a vacant site. The notice, issued pursuant to section 7 of the Act and dated 17 May 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 appellant has provided an outline of their services for people with intellectual disabilities.
- It is stated that discussions have been advanced with a third party, to redevelop the site for sheltered housing for the elderly and people with disabilities. A design team will be appointed in June 2018 and a planning application will be submitted in early 2019.

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 planning authority note no planning applications have been made for the site in question and no construction has taken place since the original site inspection of 07 September 2017.
- The reasoning for placement of the site on the register has already been outlined in the vacant sites register report.
- The planning authority request that the decision to place the site on the register is upheld.

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 17 May 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 it is their intention to lodge a planning application in the near future for the redevelopment of the site for sheltered housing. The appellant raises no issues with regard to the need for housing in the area, the suitability of the site for housing or the vacant or idle nature of the site.
- 7.4. In response, I note that the Council state that no planning application has been lodged for the site and that construction activity has not taken place since the original site visit.
- 7.5. The site has all the characteristics of a vacant and idle site. Without exception, all the buildings show signs of neglect and lack of maintenance, all are in a very poor condition and show no signs of recent use. There were no cars parked on the site and all vehicular gates were chained up and locked. A single pedestrian gate was open from Tyrrell Place, but evidence of any recent use of this entrance were not observed by me. I do note the erection of a large advertising hoarding on a small portion of the site and an electricity generator and security camera array. This might indicate a use for the site, however, I can find no evidence of a planning permission for the structures. The Urban Regeneration and Housing Act 2015 is clear that no regard shall be had to any unauthorised development or unauthorised use, section 6(7) states:
- In determining for the purposes of this Part whether a site was vacant or idle for the duration of the 12 months concerned a planning authority, or the Board on appeal, shall not have regard to any unauthorised development or unauthorised use.*
- 7.6. The appellant has not supplied any evidence of a planning permission for the incidental uses on the site. In any case, even if the advertising hoarding structure,

electricity generator and security array were authorised structures, such uses would not constitute a majority of the site and would therefore have no bearing on the vacant or idle status of the site. From my observations of the site, I concur with the findings of the planning authority and I am satisfied that the site is vacant and idle.

- 7.7. The appellant states that a design team will be appointed and a planning application for sheltered housing will be made in early 2019. 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”. In this instance, to my knowledge a design proposal has not been prepared and no planning applications have been lodged with the planning authority. In my opinion, the site meets the criteria for inclusion on the VSR and the intention to lodge a planning application in the future has no weight in this assessment. I would remind the Board that the application of the 2015 Act is indicated by Part 2 section 4, that states:

This Part applies to residential land or regeneration land.

In my mind, it is the intention of the Act to apply to all residential or regeneration land irrespective of planning permission or not.

- 7.8. The appellant has not appealed whether there is a need for housing in the area or if the site is suitable for housing, nor is any information forthcoming in relation to the use of the site for the period concerned. The appellant has provided broad information about their work and services in the Greater Dublin and Meath Area, but none of the information submitted relates to the use of the appeal site. I note that the site is zoned for housing and that there is both older and recently completed 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. In addition, the site is not in use for any purpose at present and is both vacant and idle. 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 vacant or idle and the site should

remain on the register as all three requirements under section 5(1)(a) have been met.

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 confirm that the site at 51-52 Charles Street Great, Dublin 1, was vacant or idle for the 12 months concerned. Therefore, the entry on the Vacant Sites Register on the 17 May 2018 shall be deemed to take effect from that date.

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,
- (b) The grounds of appeal submitted by the appellant,
- (c) The report of the Planning Inspector and
- (d) That there is a need for housing in the area, the site is suitable for the provision of housing as demonstrated by the residential land use zoning for the area, and that insufficient reason is put forward to cancel entry on the Vacant Sites Register

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

Stephen Rhys Thomas
Planning Inspector

01 August 2018