



An
Bord
Pleanála

Inspector's Report ABP-302205-18

Type of Appeal	Section 11(4) Appeal against a notice under section 11(3)
Location	1-5 Grangegorman Villas, Grangegorman Lower, Dublin 7
Planning Authority	Dublin City Council
Planning Authority VSL Reg. Ref.	VS-0051
Site Owner	The Health Service Executive
Planning Authority Decision	Placed on Register under Section 9
Date of Site Visit	21 December 2018
Inspector	Una Crosse

1.0 Introduction

- 1.1.1. This appeal refers to a section 11(3) notice issued by Dublin City Council in respect of a site at 1-5 Grangegorman Villas, Grangegorman Lower, Dublin 7. The Notice states that the site stands entered on the Vacant Sites Register on 1 January 2018 and that a levy is to be charged. The Notice is dated 31 May 2018.
- 1.1.2. The subject site was entered on the Vacant Site Register on 31st March 2017. The Section 7(3) Notice issued by DCC on that date was appealed to An Bord Pleanala (ref. PL29E.VV0001) with the Board confirming the Notice on 1 December 2017.

2.0 Site Location and Description

- 2.1. The site is referenced as 1-5 Grangegorman Villas and comprises a terrace of two storey dwellings with a range of out buildings to the rear. The site has a stated area of 0.0515 hectares. The buildings are currently boarded up, with no access. A 1m high stone wall has been secured with palisade fencing and gates, bounding the site to the front adjoining a pedestrian path. No's 1 and 5 have a gable fronted bay projection, forming a clear demarcation to the start and the end of the terrace. The site is overgrown with debris and litter accumulated at points throughout each plot.
- 2.2. The site is bound to the rear (east), north-west and west by the Grangegorman DIT campus. A terrace of 5 no. dwellings to the immediate north of the subject site is in occupation.

3.0 Planning Authority Decision

- 3.1. **Planning Authority Notice** Dublin City Council advised the site owner that the subject site (Planning Authority reg. ref. VS-0051), in accordance with section 11(1)(a) of the Urban Regeneration and Housing Act 2015, stands entered on the Vacant Site Register on 1st January 2018 and outlines particulars of same including market valuation and date of valuation. The notice, issued in accordance with section 11(1) of the Act, stated that particulars of the site would be entered on the Vacant Sites Register on the 31st of March 2017.
- 3.2. **Register of Vacant Sites Report**

- 3.2.1. The Notice dated 31st May 2018 was sent to the owner who was provided with 28 days to respond to same under Section 11(1)(d). A response to the submission outlines the timelines of relevance to the site including placing on the Register and dates of Section 11(1) notice and response to same which was received on 27th June 2018.
- 3.2.2. A letter dated 29 June 2018 from the Planning Authority notes that although there is an extant permission that the permission has not been enacted and remains vacant. It notes that delays in implementation of the permission is not a basis for removal from the Register and that in the event of construction commencing that the owner can contact the PA and an inspection can be made to examine if site qualifies for removal. 3-D image submitted to indicate works commencing relates to the removal of a rear wall in connection with the development of a hospital under Ref. GSDZ2730/14 or GSDZ2619/15 and no compliance submissions have been made under Ref. 2505/16 as required. Satisfied that any works that may have taken place on the site do not relate to the implementation of the extant permission. Also noted that the residential zoning for the site does not conflict with the Grangegorman SDZ planning scheme and therefore should not be removed on this basis. It is concluded that the site is considered vacant and that it is appropriate to retain the site on the Register. They state that an appeal can be made within 28 days of the date of the letter.

4.0 **Statutory Context**

4.1. **URH Act**

- 4.1.1. The Original Section 7(3) Notice for the site was issued under Section 5(1)(a) of the Act which refers to sites zoned for residential development.
- 4.1.1. Section 5(1)(a) of the Act stated that a site is a vacant site if, 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 housing, and
 - (iii) the site, or the majority of the site, is vacant or idle.

4.1.2. It is noted that Section 5(1)(a)(iii) has been amended by Section 63 of the Planning and Development (Amendment) Act 2018 which commenced upon coming into effect of the Act (19 July 2018). 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*".

4.2. **Dublin City Development Plan 2016-2022**

4.2.1. The site is zoned Z1 in the current City Plan.

4.2.2. **Section 14.9** of the DCC development plan states that the VSL will apply to lands zoned Z1, Z2, Z3, Z4, Z5, Z6, Z7, Z8, Z10, Z12 and Z14.

4.2.3. **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.

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 DCC to retain the entry on the Register. The grounds of the appeal can be summarised as follows:

- The buildings have been vacant for a considerable period of time and are in a poor state of repair and while not on RPS are on National Inventory of Architectural Heritage;
- Site immediately west of the defined SDRA area 8 set out in City Plan with SDZ approved in July 2012 with implementation of same ongoing;
- Intended to develop the appeal site in the near future with permission Ref. 2505/16 issued in June 2016 with the proposal to reuse the existing buildings on site.
- Delays in commencing work on site resulted due to issues of procurement, scheduling, tendering etc. associated with the HSE being a state body and the subject site being developed in conjunction with the broader DIT Grangegorman Campus.
- Site owned by HSE and residential uses on the appeal sites would conflict with the medical and educational uses proposed for the land immediately east of the site in conjunction with the SDZ Planning Scheme with the subject site providing for future expansion of medical/educational facilities;
- The Board is requested to direct the Council to remove the site from the register.

6.0 Assessment

6.1. This site is currently on the Register having been placed on the Register on 31 March 2017 which was confirmed by An Bord Pleanála on 1 December 2017. This Section 11(1) Notice proposes to retain the Site on the Register and this appeal relates to the intention to retain it on the Register.

- 6.2. For the Boards information the site owner in their appeal to the Section 7(3) Notice to include the site on the Register stated that the site owner notified the Council that it was their intention to develop the property; and that planning permission had been granted in addition to a Fire Safety Certificate and a Disability Access Certificate. It was also stated that the Design Team had been in contact with the Council due to the dangerous condition of the existing structures. They also stated that the 12 month construction period will run in excess of Jan 2018 and therefore the buildings will be unoccupied on that date. They concluded that it is not possible to expedite the development process outside of the statutory timeframes. I would note that the Board decided to confirm the Notice of Entry (Section 7(3)) on the Register and therefore did not accept the grounds of appeal in that instance.
- 6.3. In the current appeal the appellant refers again to their intention to develop, the delays in the commencement process and the conflicts considered to exist with the SDZ Planning Scheme. I would note that the appellants acknowledge in their appeal that the buildings have been vacant for a considerable period of time and are in a poor state of repair.
- 6.4. I would confirm to the Board that development has not begun on the site and therefore nothing appears to have changed since the Boards decision to confirm the Section 7(3) Notice. The intention to develop on foot of a permission and the delays outlined in commencing are not relevant to the application of the levy. The site was first placed on the Register more than 18 months ago and therefore the appellant has had considerable time to address the matters arising. The matters relating to residential use and the Grangegorman SDZ are not matters of relevance to the application of the levy.

7.0 Recommendation

I recommend that the Board should determine that the site at 1-5 Grangegorman Villas, Grangegorman Lower, Dublin 7 remains vacant and idle and that the entry on the Vacant Sites Register on the 31st March 2017 should stand.

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 of the site over the relevant period,
- (b) The absence of any substantive contrary evidence in the appellant's submission and
- (c) The report of the Planning Inspector

the Board is satisfied that the site should remain on the Vacant Site Register.

Una Crosse
Senior Planning Inspector

December 2018