



An  
Bord  
Pleanála

## Inspector's Report ABP-303004-18

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<b>Type of Appeal</b>	Section 9 Appeal against section 7(3) Notice.
<b>Location</b>	The former Coco Cola Site, Carrigrohane, County Cork.
<b>Planning Authority</b>	Cork City Council.
<b>Planning Authority VSL Reg. Ref.</b>	VS-0005.
<b>Site Owner</b>	Garinstar Limited Partnership L.P.
<b>Planning Authority Decision</b>	Place on Register.
<b>Date of Site Visit</b>	30 January 2019.
<b>Inspector</b>	Stephen Rhys Thomas.

## **1.0 Introduction**

- 1.1. This appeal refers to a section 7(3) notice issued by Cork City Council, stating their intention to enter a site at The former Coco Cola Site, Carrigrohane, County Cork on to the Vacant Sites Register (VSR) in accordance with the provisions of section 6(2) of the Urban Regeneration and Housing (URH) 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) and 5(2) of the URH Act 2015

## **2.0 Site Location and Description**

- 2.1. The appeal site is located on the N22 (Carrigrohane Road) on a site in close proximity to the existing County Hall. The River Lee runs to the north of the N22 while the Curragheen River runs along the southern boundary of the site.
- 2.2. The site is L-shaped site wrapping around the site of a petrol station. Immediately adjoining to the east is a single-storey printing works is followed by the new library building. Further east is the County Hall building. Directly opposite the site on the northern side of the road and adjoining the River Lee is an open space.
- 2.3. The overall site comprises a large expanse of level ground composed of hardstanding and concrete footings and aprons. The site is secured by 2 metre high fencing and hoarding.

## **3.0 Statutory Context**

### **3.1. Urban Regeneration and Housing Act 2015 (as amended)**

- 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) of the Act. The Notice is dated 25 October 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 clarified by Section 63 of the Planning and Development (Amendment) Act 2018 which commenced upon coming into effect of the Act.

## 3.2. Development Plan Policy

3.2.1. The site is zoned ZO 4 – Residential, Local Services and Institutional Uses; to protect and provide for residential uses, local services, institutional uses and civic uses, having regard to employment policies in Chapter 3 – Cork City Council Development Plan 2015-2021.

### 3.2.2. Variation 3 Vacant Sites

Promoting regeneration and redevelopment of vacant land.

#### Paragraph 2.30

Part of the development and regeneration strategy of the Plan is to engage in the active land management of vacant sites. This will promote and facilitate the rejuvenation of regeneration areas, increase housing supply and create more opportunity for employment. The Urban Regeneration and Housing Act 2015 introduced the vacant site levy initiative as a site activation measure to ensure that vacant and underutilised land in urban areas is brought into beneficial use, while also ensuring a more effective return on State investment in enabling infrastructure and helping to counter unsustainable urban sprawl. Action under the Urban Regeneration and Housing Act 2015 will be complemented by action taken to tackle dereliction under the Derelict Sites Act 1990.

#### Vacant Sites Register

The City Council will establish a vacant sites register for sites in excess of 0.05 hectares, (500sq.m.) in designated areas, effective from 01 January 2017. Where a site is on the register for a period of 12 months, the City Council may apply a levy at a rate of 3% of the market valuation of the vacant site.

The levy may be applied to all identified 'Regeneration' land and 'Residential' land in existing land use zonings of the City Plan.

"Residential" land is identified and applied to the following zonings:

Inner City Residential Neighbourhoods (ZO3 Land-use zoning objective)

Residential, Local Services and Institutional Uses (ZO 4)

Mixed Use Zoning Jacob's Island (ZO 20)

Regeneration of land and buildings in need of development and renewal throughout the city is a central objective of this Plan. In addition, 'Regeneration land' as defined under the 2015 Act is applied to the zoning objectives listed below

#### Objective 2.2: Regeneration and Renewal

Cork City Council will seek to develop and improve areas in need of development and renewal. In particular, the areas covered by the following zoning objectives are areas where the objective for regeneration and renewal will apply and are considered to constitute regeneration land.

Regeneration Land" is identified and applied to the following land-use zonings:

City Centre Retail Area, (ZO 1 Land-use zoning objective)

City Centre Commercial Core Area, (ZO 2)

Mixed Use Development, (ZO 16)

Light Industry and related Uses, (ZO 5)

Business & Technology, (ZO 7)

Retail Warehousing, (ZO 11)

District Centres, (ZO 8)

Neighbourhood Centres, (ZO 9)

Local Centres, (ZO 10)

Tivoli Local Area Plan lands (Objective 14.4 of Chapter 14)

Please refer to the specifics of each land uses zoning objective in Chapter 15 of the City Development Plan which should be read in association with the objective of active land management of vacant sites.

#### Objective 2.3 Active land management of vacant sites

Cork City Council will implement an Active Land Management Strategy in relation to vacant land in the City. A Vacant Sites Register will be established and maintained which will enable the City Council to pursue the efficient and sustainable use of the City's finite land resources.

## 4.0 Planning History

### 4.1. Subject Site:

**17/37329** – Permission granted for amendments to a previous permission 15/36663, student accommodation. June 2017.

**15/36663** – Permission for 92 apartments, student accommodation. May 2016.

**08/33159 ABP ref. PL28 .230486**– Permission refused for amendments to Reg. Ref. 07/32168 for increasing height of blocks, additional 23 no. apartments, ancillary services and site development works. March 2009.

**07/32168** - Permission granted for demolition of existing structures, removal of underground tanks, construction of 120 apartments, childcare facility, 206 car parking spaces and associated works. January 2008.

## 5.0 Planning Authority Decision

### 5.1. Planning Authority Reports

- A Vacant Sites report outlining the date of visit (initially 12 January 2017), the site area (0.8244 Hectares), zoning, planning history and the type of site for the purposes of the Act which in this case is Residential. The site is vacant.
- The planning authority's submission is accompanied by the Statement of Need for housing in Cork City, VSR listings, colour photographs and maps, Notices served under section 7 of the 2015 Act, a Report on the Submissions received in relation to the establishment of the register, the initial submissions from the appellant in relation to the intention to place the site on the register.

### 5.2. Planning Authority Notice

Planning Authority decided under section 7(3) to issue a notice on 25 October 2018 referencing sections 5(1) and 5(2) of the Act and stating that the site has been entered onto the Vacant Sites Register. The notice was issued to Shartar Ltd, Lissarda Business Park, Lissarda, Co Cork.

## **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 Cork City Council to place the subject site on the Register. The grounds of the appeal can be summarised as follows:

- The appellant states that the site is currently undergoing development and this takes time. Permission has been obtained 15/36663 refers, and the detail design, building regulations, tender and procurement work is ongoing. In addition to the five-year permission the developer is entitled to apply for an extension of time in order to complete development. Actions that have taken place to date include:

- A compliance submission, November 2016.
- Applications for Fire Safety Certificate (FSC) and Disability Access Certificate (DAC) in 2016, granted in the same year.
- The former bottle factory demolished, 2016.
- A subsequent planning application to make amendments to the previous scheme was granted in 2017. FSC and DAC certificates were granted in 2018 and 2017 respectively.
- Negotiations with a UK operator has forced further amendments to the permitted scheme (omission of the basement car park) and a planning application was lodged in October 2018.

Subject to the current delivery programme it is hoped that the development will be completed by June 2021. Finally, the owner is concerned that to remain on the register could damage their reputation and negatively impact on future investors.

The appeal is supported by documentation to support the various grants of permission and certificates, including drawings

### **6.2. Planning Authority Response**

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

- The aim of the 2015 Act is to deliver housing units, whilst possible to extend the period of permissions it is only a step in the process to housing delivery.

- The developer/owner is entitled to make as many applications as necessary, once works commence the placement of the site on the register can be revisited.
- The placement of a site on the register is to action use and development of sites, to influence the reputation or otherwise of landowners is not the intention of the Act or the planning authority.

### 6.3. **Further Submissions**

The appellant is disappointed that the planning authority have not added weight to the work already done to bring the site forward. The appellant refutes the claim that they are a land-hoarder as they are actively engaged in developing the site.

Discussions are currently ongoing and a recent pre-planning consultation with the planning authority (10 January 2019) will lead to a new planning application for further amendments to the permitted scheme.

## 7.0 Assessment

### 7.1. Introduction

- 7.1.1. An appeal under the amended section 9 of the Act, requires that the burden of showing that the site was not a vacant site 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 a vacant site 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 Cork City Council VSR on the 25 October 2018.
- 7.1.2. The Notice has been issued under the provisions of Section 5(1) and (2) of the Act. The assessment undertaken by the Planning Authority to inform the placement of the site on the Register, which I outline in section 5.1 above, refers to the tests included for residential lands under section 5(1)(a) and by reference to Section 6(4) and (5) of the Act as is required for lands zoned for residential purposes.
- 7.1.3. The main concerns of the appellant are that the Council have ignored the ongoing activity to bring the site forward for development. The appellant has not raised any issues with regard to the suitability of the site for housing or the need for housing in the area.

### 7.2. Vacant/Idle

- 7.2.1. The appellant has referenced numerous off site activity of an administrative nature to illustrate that the site has been in use. The last actual activity or works on the site occurred in 2016 when the former bottle factory was demolished. On the day of my site visit I observed that the site had been cleared of all structures, leaving areas of hardstanding and concrete footings in places. In addition, a small number of cars were parked inside the gateway to the entrance from the petrol station. Otherwise no actual activity or construction works were ongoing.
- 7.2.2. I can appreciate that the owner of the site has gone through a long and exhaustive process to bring the site forward for development and this has entailed a number of planning applications and various fire and disability access certificates. In addition, site clearance and demolition work was undertaken in 2016, to ready the site for



construction activity. The task of securing finance has also been ongoing and new investors require further amendments to the overall proposal and this necessitates a further planning application. Meanwhile, the site has stood vacant during all this time and remains so. This is important because the 2015 Act makes no provision whatsoever for the types of administrative activity that the appellant describes having taken place and continuing to occur. The 2015 Act is only concerned with the actual use on site and whether it is performing a specific purpose in order to determine if a site is vacant/idle. In this instance, the site is clearly vacant at present and this appears to have been the case during the intervening period. The appellant has not detailed any permitted on-site uses and relies solely on the administrative tasks of site planning, design and finance. The 2015 Act makes no allowance for such administrative tasks and I am satisfied that the site was a vacant site for the relevant time period and continues to be a vacant site.

### **7.3. Housing need and suitability of the site for housing**

- 7.3.1. The appellant does not challenge whether there is a housing need or that the site is suitable for housing. The planning authority have submitted their deliberations in respect of sections 6(4) and 6(5) of the 2015 Act and I am satisfied that they are adequate for the purposes of the Act. I am also mindful of the planning status of the site; it is zoned for residential purposes and there are numerous permissions for residential development on the site.
- 7.3.2. I am satisfied that the site meets the criteria for inclusion on the register as referenced by section 6(4) and 6(5) of the 2015 Act and consequently fulfils the requirements of 5(1)(a)(i) and (ii) for residential land.

## **8.0 Recommendation**

- 8.1. I recommend that in accordance with section 9(5) of the Urban Regeneration and Housing Act 2015 (as amended), the Board should confirm the entry on the register of site (VS-0005) The former Coco Cola Site, Carrigrohane, County Cork was a vacant site for the 12 months concerned. Therefore, the entry on the Vacant Sites Register on the 25 October 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,
- (d) That the site was a vacant site by virtue of the lack of any discernible use having taken place during the relevant time period,

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

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Stephen Rhys Thomas  
Planning Inspector

14 February 2019