



An
Bord
Pleanála

Inspector's Report 29E.VV0011

Type of Appeal	Section 9 Appeal against section 7(3)
Location	Vacant site at Tara Street (adjacent to Apollo House)
Planning Authority	Dublin City Council
Planning Authority VSL Reg. Ref.	VS0109
Site Owner	Cuprum Properties Limited
Date of Site Visit	17 th November 2017
Inspector	Donal Donnelly

1.0 Introduction

- 1.1. This appeal relates to a notice issued by Dublin City Council under s.7(3) of the Urban Regeneration and Housing Act, 2015 stating that a site located on Tara Street, Dublin 2, (adjacent to Apollo House) has been entered on the Vacant Sites Register.

2.0 Site Location and Description

- 2.1. The appeal site is a former surface level car park located within a city centre block surrounded by Poolbeg Street to the north, Tara Street to the east, Townsend Street to the south and Hawkins Street to the west. The block consists mainly of high rise modernist buildings previously or currently in office use and including College House, Hawkins House and Apollo House.
- 2.2. The site lies to the south of Apollo House which is currently vacant having previously accommodated the Department of Social Welfare. There is double storey parking to the west and north of the site and to the south is the Longstone public house and associated outbuildings. Access to the site is available from Tara Street and through under-croft parking from Poolbeg Street. The stated site area is 0.054 hectare.

3.0 Planning Authority Decision

3.1. Planning Authority Notice

- 3.1.1. Dublin City Council issued Notice of Entry on the Vacant Sites Register to the site owner stating that the site at Tara Street (adjacent to Apollo House) is a Vacant Site within the meaning of the Urban Regeneration and Housing Act, 2015, Sections 5(1(b)) & 5(2) and that the particulars of the said site have been entered on the Vacant Sites Register in accordance with the provisions of Section 6(2) of the Urban Regeneration and Housing Act, 2015. The site boundary is outlined on an accompanying map and the Notice is dated 12th April 2017.

3.2. Register of Vacant Sites Report

- 3.2.1. The Planner's Report notes the following:

- Site is currently vacant but was formerly occupied by a car park and is beside the Apollo House complex – permission refused for retention of car park (2071/15).
- Subject site is lying idle and having regard to its presentation is considered to have a negative effect on the character of the area.
- The site should be included in the register for immediate action due to its highly visible and prominent location within the city, and the serious adverse effects its condition has on the amenity and character of the area.

4.0 Development Plan Policy

4.1. Site is zoned “Z5 – to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity.”

4.2. Section 2.2.8.4 notes that active land management including the implementation of the vacant land levy are key planning policies to implement the vision and core strategy of the Development Plan. The Development Plan will promote the development and renewal of areas in need of regeneration to prevent:

- adverse effects on existing amenities in such areas, in particular as a result of the ruinous or neglected condition of any land,
- urban blight and decay,
- anti-social behavior, or
- a shortage of habitable houses or of land suitable for residential use or a mixture of residential and other uses.

4.3. It is a policy of the Council (QH5) “to promote residential development addressing any shortfall in housing provision through active land management and a coordinated planned approach to developing appropriately zoned lands at key locations including regeneration areas, vacant sites and under-utilised sites.”

4.4. It is recognised in Section 6.5.4 that the speedy re-development of extensive vacant/under-utilised sites, especially in the city centre zoned area, is critical to sustainable development. In this regard Policy CEE15 seeks “to promote and

facilitate the transformation of regeneration areas, especially inner city areas, as a key policy priority and opportunity to improve the attractiveness and competitiveness of the city, including by promoting high-quality private and public investment and by seeking European Union funding to support regeneration initiatives, for the benefit of residents, employees and visitors.” Policy CEE16 also includes the Council’s general aims for active land management and the implementation of the vacant land levy.

- 4.5. Section 14.9 sets out the land use zonings for both residential or primarily residential purposes and for development and renewal of areas in need of regeneration.

5.0 Planning History

Dublin City Council Reg. Ref: 3036/16 (PL29S.247907)

- 5.1. Permission granted on 14th June 2017 for demolition of Apollo House and Longstone Pub and construction of a 5-12 storey commercial office building on a 0.2925 hectare site.

Dublin City Council Reg. Ref: 2071/15

- 5.2. Permission refused in April 2015 for a temporary period of 18 months for the existing surface commercial public car park, comprising of 60 no. car parking spaces and a 6.25 sq.m ticket booth. The development was considered contrary to policies which seek to discourage commuter car parking and private car use.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. An appeal against the decision of the Council to place the site on the Vacant Sites Register was submitted to the Board on behalf of the joint receivers and managers of Cuprum Properties Limited. The grounds of appeal are summarised as follows:
- Site is not fenced off or separated in any way from the wider Apollo House site and should not be considered in isolation.

- Receivers in tandem with the OPW commenced a masterplan process in late 2015 for the development of Apollo House and Hawkins House and two concurrent planning applications were lodged in June 2016.
- As of January 2017, Receivers were actively seeking the achievement of planning permission for the overall Apollo House development to include the area of the site now placed on the Register – placing of a small area of the wider site which is actively in the process of seeking permission for redevelopment is not considered the intent of the Vacant Sites Register.
- Receivers are not ‘sitting on’ or ‘hoarding’ development land and are being penalised as if they are – submission of planning application was clearly to ensure the active redevelopment of the site in accordance with the George’s Quay LAP.
- Site is zoned and supported in the George’s Quay LAP for employment and would not be appropriate to housing given the adjoining proposed and current uses.
- Site will be sold with full planning permission, which given the current market, it is anticipated would be commenced in the short term.
- Board requested to acknowledge the commitment to seeking a high quality redevelopment of the site by the Receiver and direct the Council to remove the site from the Vacant Sites Register.

6.2. Planning Authority Response

6.2.1. Dublin City Council responded to the appeal with the following comments:

- At the time of the site inspection, the site appeared to be separate from the remainder of the Apollo House/ Hawkins House site.
- Remainder of the city block, which appears to be in separate units, is subject to several other reports and these sites are also progressing through the vacant site register process.
- An extant planning permission does not disregard a site for inclusion on the Vacant Sites Register.

- Site is zoned Z5 and is considered regeneration land for the purposes of the Vacant Sites Register.
- Site is lying idle and presents a negative effect on the character of the area.

7.0 Assessment

7.1. The appeal site on Tara Street, Dublin 2 (adjacent to Apollo House) has been entered onto the Vacant Sites Register in accordance with the provisions of Section 6(2) of the Urban Regeneration and Housing Act, 2015. It was considered by Dublin City Council that the site is a Vacant Site within the meaning of the Urban Regeneration and Housing Act, 2015, Sections 5(1(b)) & 5(2).

7.2. Under Section 5(1)(b) of the Urban Regeneration and Housing Act, 2015, a site is vacant in the case of regeneration land if:

(i) the site, or the majority of the site, is vacant or idle, and

(ii) the site being vacant or idle has adverse effects on existing amenities or reduces the amenity provided by existing public infrastructure and facilities (within the meaning of section 48 of the Act of 2000) in the area in which the site is situated or has adverse effects on the character of the area.

7.3. The site is zoned “Z5 – to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity.” Z5 zoned lands are included in the Dublin City Development Plan, 2016-2022 as lands with the objective of development and renewal of areas in need of regeneration.

7.4. The burden of showing that the site, or a majority of the site, was not vacant or idle for the duration of the 12 months concerned is with the owner of the site. In this case, the joint receivers and manager of Cuprum Properties Limited have appealed the decision of Dublin City Council to place the site on the Vacant Sites Register.

7.5. The main argument put forward by the appellant is that the site forms part of the wider Apollo House site and should not be considered in isolation. It is highlighted that two concurrent planning applications were lodged for the redevelopment of the

Apollo House and Hawkins House sites following a master-planning process which commenced in 2015. As of January 2017, the Receivers were actively seeking planning permission for the overall Apollo House development to include the area of the site now placed on the Register. It is submitted that the placing of a small area of the wider site, which was actively in the process of seeking permission for redevelopment, is not considered the intent of the Vacant Sites Register.

- 7.6. Planning permission has since been granted for the demolition of Apollo House and the Longstone Pub and construction of a 5-12 storey commercial office building on a 0.2925 hectare site that includes the appeal site. Notwithstanding this, the levy can be applied even where there is a current planning permission that has not been activated. Circular Letter PL7/2016, Appendix 3 states that *“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”*. It has also been pointed out by the Planning Authority in response to the appeal that the site appeared to be separate from the Apollo House/ Hawkins House site but that the remainder of the city block is also progressing through the vacant sites registry process.
- 7.7. Having regard to the above and based on the information contained on file and my inspection of the site, I would be satisfied that the site, or majority of the site, has been vacant or idle for the duration of the 12 months preceding its entry on the Register on 12th April 2017. The site forms part of planning permission Reg. Ref: 3036/16 (PL29S.247907) for the redevelopment of the wider Apollo House site. However, a non-activated planning permission does not prevent the site from entering the Vacant Sites Register whether the appeal site is considered in isolation or as part of the wider Apollo House redevelopment site. The site has adverse effects on existing amenities and on the character of the area and its entry onto Dublin City Council’s Vacant Sites Register should be confirmed by the Board.
- 7.8. Finally, any temporary short term or periodic ad hoc use, or any unauthorised use shall not be considered a full or active use. It should be noted that permission was refused in April 2015 for a temporary period of 18 months for the existing surface

commercial public car park, comprising of 60 no. car parking spaces and a 6.25 sq.m ticket booth.

8.0 Recommendation

8.1. I recommend that the Board should determine that the site on Tara Street, Dublin 1 (adjacent to Apollo House) was vacant or idle for the duration of the 12 months preceding the date of entry on the Vacant Sites Register on the 12th April 2017. Therefore, the entry on the Register should be confirmed.

9.0 Reasons and Considerations

9.1. Having regard to

(a) The evidence placed before the Board by the Planning Authority in relation to the condition and use of the site over the relevant period;

(b) The evidence in the appellant's submission; and

(c) The report of the Planning Inspector,

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

Donal Donnelly
Planning Inspector

20th November 2017