



An
Bord
Pleanála

Inspector's Report VV29E.RVV0012

Type of Appeal	Section 9 Appeal against section 7(3) Notice
Location	31-32A Gloucester Street South and Bracken's Lane, Dublin 2
Planning Authority	Dublin City Council
Planning Authority VSL Reg. Ref.	VS0129
Site Owner	Brigante Investments 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 at No's. 31-32A Gloucester Street South and Bracken's Lane, Dublin 2 has been entered on the Vacant Sites Register.

2.0 Site Location and Description

- 2.1. The appeal site is located on Gloucester Street South in Dublin city centre on the southern side of the river and to the east of the main commercial core. Gloucester Street South continues on an east to west alignment from Dowling's Court residential estate to Moss Street. The site sits on the southern side of the road opposite City Quay National School.
- 2.2. Bracken's Lane provides access to the southern side of the site from Moss Street. There is a vacant plot to the west of the site beside derelict corner buildings, and the 4-storey George's Court commercial building occupies the eastern side of the city block. There are warehouses on the southern side of Bracken's Lane fronting onto Townsend Street.
- 2.3. The site is roughly square shaped, flat and overgrown. The stated area of the site is 0.052 hectare. The front boundary onto Gloucester Street South comprises palisade fencing. There is a sold sign erected on this fencing.

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 No's. 31-32A Gloucester Street South and Bracken's Lane, Dublin 2 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 28th July 2017.

3.2. Register of Vacant Sites Report

3.2.1. The Planner's Report notes the following:

- Site is overgrown and littered and is currently for sale.
- It is considered that the site is vacant and idle and it has an adverse effect on the character of the area and therefore should be included on the register.
- As per update on 9th January 2017, there appears to be no change to the site since the previous inspection and it is recommended to retain the site on the Register.

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."* The site is also within the area covered by the George's Quay Local Area Plan.

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: 3622/08

- 5.1. Permission granted in January 2009 for the construction of an 8-storey over basement mixed use building comprising 1 no. retail unit at ground floor level; offices at ground floor level to 6th floor level; and 3 no. 2-bed apartments at 7th floor level.
- 5.2. An extension of duration of this permission was approved until 4th March 2019.

Dublin City Council Reg. Ref: 2711/17 (PL29S.249415)

- 5.3. Notification of decision to grant permission issued to Brigante Investments Ltd. on 21st September 2017 for demolition of all building on site and construction of an 8-storey hotel comprising 393 bedrooms, 8-storey aparthotel buildings comprising 202 no. studios/ suites, and an 8-storey apartment block (21 no. units).
- 5.4. The development would occupy the western side of the city block fronting Townsend Street, Moss Street and Gloucester Street South, and includes all of the appeal site.
- 5.5. This case is due to be decided by the Board on 1st March 2018.

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 by Brigante Investments Limited.
- 6.1.2. It is confirmed that the site forms part of a planning application which, at the time of writing, was being assessed by Dublin City Council (Reg. Ref: 2711/17). Based on this information, the appellant asks the Board to reconsider the site's inclusion on the Vacant Sites Register.

6.2. Planning Authority Response

- 6.2.1. No response.

7.0 Assessment

- 7.1. The appeal site at No's. 31-32A Gloucester Street South and Bracken's Lane, Dublin 2 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 affects 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. The site owner, Brigante Investments Limited, has appealed the decision of Dublin City Council to place the site on the Vacant Sites Register.
- 7.5. The only argument put forward by the appellant is that the site forms part of a planning application (Reg. Ref: 2711/17), which is currently being assessed by Dublin City Council. Based on this information, the appellant asks the Board to reconsider the site's inclusion on the Vacant Sites Register.
- 7.6. Since notice of entry of the site on the Vacant Sites Register dated 28th July 2017 and submission of the appeal, notification of decision to grant permission has been issued to Brigante Investments Ltd. for demolition of all buildings on the adjoining sites to the south and west and construction of an 8-storey hotel comprising 393 bedrooms, 8-storey aparthotel buildings comprising 202 no. studios/ suites, and an 8-storey apartment block (21 no. units). The subject site would be mostly occupied by the apartment block. This case is due to be decided by the Board on 1st March 2018.
- 7.7. It should also be noted that there is a live permission on the appeal site itself (Reg. Ref: 3622/08) for construction of an 8-storey over basement mixed use building. An extension of duration of this permission was approved until 4th March 2019.
- 7.8. Notwithstanding the above, the vacant sites 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"*.
- 7.9. 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 28th July 2017. The site has been in an overgrown condition for some time and this adversely affects the existing amenities and reduces the amenity provided by existing public infrastructure and facilities. The vacant site also has adverse effects on the character of the area.

7.10. In conclusion, whilst the site forms part of planning application Reg. Ref: Ref: 2711/17 (PL29S.249415) for the redevelopment of part of the wider block and there is a live permission on the site itself, 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 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.

8.0 Recommendation

8.1. I recommend that the Board should determine that the site at No's. 31-32A Gloucester Street South and Bracken's Lane, Dublin 2 was vacant or idle for the duration of the 12 months preceding the date of entry on the Vacant Sites Register on the 28th July 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

21st November 2017