



An  
Bord  
Pleanála

## Inspector's Report 29E.VV0014

---

<b>Type of Appeal</b>	Section 9 Appeal against section 7(3) Notice
<b>Location</b>	West of Camden Avenue & Royal Canal Park, north of Royal Canal Avenue, south of River Road, Pelletstown, Dublin 15
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority VSL Reg. Ref.</b>	VS0336
<b>Site Owner</b>	Ballymore
<b>Date of Site Visit</b>	17 <sup>th</sup> November 2017
<b>Inspector</b>	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 to the west of Camden Avenue and Royal Canal Park, north of Royal Canal Avenue and south of River Road, Pelletstown, Dublin 15 has been entered on the Vacant Sites Register.

## **2.0 Site Location and Description**

- 2.1. The appeal site is located in Pelletstown approximately 5.5km north-west of Dublin City Centre. Pelletstown is an extensive new outer-city mixed-use neighbourhood located between the Royal Canal and Tolka Valley Park. There are a number of large undeveloped sites within Pelletstown, including the appeal site, and completed development is generally mid-rise, comprising 4-8 storey buildings.
- 2.2. The site is situated centrally within Pelletstown and extends for the full width of the LAP lands from the Royal Canal to the south to River Road to the north. Camden Avenue extends along the eastern boundary of the site and there are more undeveloped lands further to the west.
- 2.3. The site was fenced off at the time of my site visit. There are a number of storage containers located towards the southern end of the site. Construction materials were also present on site and some construction haul roads had been laid out; however, no construction work had officially commenced. The stated area of the site is 1.8134 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 located to the west of Camden Avenue and Royal Canal Park, north of Royal Canal Avenue and south of River Road, Pelletstown, Dublin 15 is a Vacant Site within the meaning of the Urban Regeneration and Housing Act, 2015, Sections 5(1(a)) & 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 28<sup>th</sup> July 2017.

### 3.2. Register of Vacant Sites Report

- 3.2.1. The Planner's Report states that the site is vacant and is having an adverse effect on the character of the area. It is therefore considered that the site should be entered on the Register.

## 4.0 Development Plan Policy

- 4.1. The site is zoned *"Z14 – to seek the social, economic and physical development and/ or rejuvenation of an area with mixed use of which residential and 'Z6' would be the predominant uses."*

- 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. Policy CEE16 sets out 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: 3069/14/ (PL29N.244222)

5.1. Permission granted in February 2015 for 152 no. houses, 91 apartments, an anchor supermarket, 4 no. retail units, café/ kiosk, car parking, children's playground and associated works. This site is located further to the east of the appeal site.

5.2. An appeal against this decision was withdrawn.

Dublin City Council Reg. Ref: 2217/15 (PL29N.244844)

5.3. Permission granted in October 2015 on the site in question for 71 no. houses, 122 no. car parking spaces, associated open space, infrastructure and landscaping, as well as permission for retention and completion of existing road to the west of the proposed housing.

5.4. An appeal against this decision was also withdrawn.

Dublin City Council Reg. Ref: 2721/17

5.5. Permission granted in July 2017 for change of use for a vacant ground floor unit previously approved for use as a residents' fitness centre to use as a pastoral centre at Meridian Court, Royal Canal Park.

## 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 by the site owners, Ballymore. The grounds of appeal are summarised as follows:

- Permission was granted in 2015 and Ballymore has been actively engaged in preparing the site for construction. It is intended that construction will commence in October 2017.
- Lands the subject of the appeal were envisaged to be the last portion of the 2001 Action Plan lands to be developed.
- Build out of Phase 1b, 2 and 3 lands, as identified in Figure 5.1 of the 2014 Ashtown Pelletstown Local Area Plan, is progressing in an orderly and speedy

manner. Site comprises Phase 1a lands and acquisition of all these lands by Ballymore was not completed until January 2016.

- Before development commences on Phase 1a lands, agreement must be reached on a number of planning conditions, site investigations must be carried out, and a pastoral centre on site must be relocated.
- Owner awaits response to compliance submission from Council and commencement notices cannot be lodged until compliance is agreed.
- Ballymore is required to satisfy itself on the condition of road infrastructure and associated sewers, water supply and drainage built on site by another developer before development commences – these works have now been completed.
- Planning permission for a new pastoral centre in a vacant unit in Phase 2 of Royal Canal Park was secured in June 2017 and work has now commenced on the fit out of that centre (Reg. Ref: 2721/17).
- Subject lands cannot be considered in isolation, but as a final phase of a larger scheme that is currently being built out.

## **6.2. Planning Authority Response**

- 6.2.1. In response to the appeal, the Planning Authority welcomes the pace of development being carried out by the developer but highlights that the site in question is vacant at present and construction has not commenced. The Board is requested to uphold the decision of the Planning Authority and allow this site to remain on the Vacant Sites Register.

## **7.0 Assessment**

- 7.1. The appeal site to the west of Camden Avenue and Royal Canal Park, north of Royal Canal Avenue and south of River Road, Pelletstown, Dublin 15 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(a)) & 5(2).

- 7.2. Under Section 5(1)(a) of the Urban Regeneration and Housing Act, 2015, a site is vacant in the case of residential land if:
- (i) *the site is situated in an area in which there is a need for housing,*
  - (ii) *the site is suitable for the provision of housing, and*
  - (iii) *the site, or the majority of the site, is vacant or idle.*
- 7.3. The site is zoned “Z14 – to seek the social, economic and physical development and/ or rejuvenation of an area with mixed use of which residential and ‘Z6’ would be the predominant uses.” Z14 lands are included in the Dublin City Development Plan, 2016-2022 as lands for residential or primarily residential purposes included for the purposes as set out in the Urban Regeneration and Housing Act 2015 in relation to the vacant land levy. These lands are recognised as being crucial redevelopment and regeneration areas in the city.
- 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, Ballymore, has appealed the decision of Dublin City Council to place the site on the Vacant Sites Register.
- 7.5. There is a live permission on site for (Reg. Ref: 2217/15) for 71 no. houses and associated open space and infrastructure granted on 19<sup>th</sup> October 2015. Permission was also granted at this time for retention and completion of an existing road to the west of the proposed housing. It is submitted in the appeal that Ballymore has been actively engaged in preparing the site for construction but before development commences on these lands, agreement must be reached on a number of planning conditions; site investigations must be carried out; and a pastoral centre on site must be relocated. It is stated that Ballymore is awaiting a response to a compliance submission from the Council and commencement notices cannot be lodged until compliance is agreed.
- 7.6. In addition to the above, it is submitted that the subject lands cannot be considered in isolation, but as a final phase of a larger scheme that is currently being built out. The appeal site is indicated on the Phasing Strategy within the Ashtown Pelletstown Local Area Plan, 2014 as Phase 1A Ballymore and Adjoining Lands. However, it is

confirmed by the appellant that construction of Phases 1B to 3 further to the east is progressing in an orderly and speedy manner. It appears, therefore, that the subject site is being developed as a final phase rather than the first phase.

- 7.7. 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”*.
- 7.8. It was clear from the site visit that construction work relating to Reg. Ref: 2217/15 has yet to commence on site. There are construction materials stored on site and initial works having been carried out on road surfacing. However, there is no evidence that a commencement notice has been submitted to Dublin City Council and a construction site has not been officially laid out. The owner of the site is obliged to notify the planning authority if the site is no longer vacant or idle and if at any time the planning authority is satisfied that the site is no longer vacant, it shall cancel the entry.
- 7.9. The test for vacancy to be applied by the Board in determining the appeal is whether or not the site, or the majority of the site, was vacant for the duration of the 12 months preceding the date of entry on the Vacant Sites Register. The specific test for residential land is that the site is in an area in need of housing and is suitable for housing. Having regard to these factors, 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 28<sup>th</sup> July 2017. The site is suitable for housing and there is a live planning permission for housing development, which has yet to commence. There is evidence that the majority of the site has lain idle for some time and there has been no activation of construction works relating to the planning permission on site.
- 7.10. In conclusion, whilst the site forms part of planning application Reg. Ref: 2217/15, 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. Entry of the site onto Dublin City Council's Vacant Sites Register should therefore be confirmed by the Board.

## 8.0 Recommendation

8.1. I recommend that the Board should determine that the site located to the west of Camden Avenue and Royal Canal Park, north of Royal Canal Avenue and south of River Road, Pelletstown, Dublin 15 was vacant or idle for the duration of the 12 months preceding the date of entry on the Vacant Sites Register on the 28<sup>th</sup> 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

23<sup>rd</sup> November 2017