



An
Bord
Pleanála

Inspector's Report PL29E.VV0027

Type of Appeal	Section 9 Appeal against section 7(3) Notice.
Location	Rear of 165-182 Sheriff Street Upper, Dublin 1.
Planning Authority	Dublin City Council.
Planning Authority VSL Reg. Ref.	VS-0146.
Site Owner	Chinook Investments (in receivership).
Date of Site Visit	14 November 2017.
Inspector	Stephen Rhys Thomas.

1.0 Introduction

- 1.1. This appeal refers to a section 7(3) notice issued by Dublin City Council, stating their intention to enter the site at the rear of 165-182 Sheriff Street Upper, Dublin 1 on to the Vacant Sites Register (VSR) in accordance with the provisions of section 6(1) of the Urban Regeneration and Housing Act 2015.

2.0 Site Location and Description

- 2.1. The subject site is located to the rear of terraced houses at 165-182 Sheriff Street Upper, Dublin 1, in the north docklands area of Dublin. The site can be accessed directly from Mayor Street Upper to the south and New Wapping Street to the west.
- 2.2. The site is bound to the west by the rear yards of terraced housing and construction hoarding to the east. There are no defined boundaries to the north of the site as it forms part of a much larger urban block.
- 2.3. The site incorporates the partial remains of a single storey pitched roof warehouse building. The overall site is flat and has been cleared to leave a combination of concrete hardstanding and levelled rubble.

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-0146) had been identified as a vacant site by reference to section 5(1)(a) and 5(2) of the Urban Regeneration and Housing Act 2015. The notice, issued in accordance with section 7(3) of the Act, stated that particulars of the site have been entered on the Vacant Sites Register, dated 28th July 2017. The notice was accompanied by a map outlining the site boundary.
- 3.2. **Register of Vacant Sites Report:** Site is zoned '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). The site is vacant and with reference to section 5(1)(b) of the 2015 Act is having an adverse effect on the character of the area. The site is considered vacant or idle and should be included on the VSR. A second site inspection took place on the 5th January, however, a date for the initial site inspection was not provided.

4.0 Development Plan / Planning History

- 4.1. The Dublin City Development Plan 2016-2022 is the operative development plan. The site is located on lands that are subject to zoning objective 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' and within lands identified as Strategic Development and Regeneration Areas (SDRA 6) Docklands – including SDZ area and Poolbeg West.
- 4.2. One of the key strategies of the plan, as set out in section 4.4 is the creation of a consolidated city, whereby infill sites are sustainably developed and new urban environments are created, by actively promoting active land management, a key component of which is the vacant site levy.
- 4.3. **Section 2.2.8.4** of the plan states that in accordance with the Urban Regeneration and Housing Act 2015, it is a key pillar of the development plan to promote the development and renewal of areas, identified having regard to the core strategy, that

are in need of regeneration, in order to prevent: (i) adverse effects on existing amenities in such areas, in particular as a result of the ruinous or neglected condition of any land, (ii) urban blight and decay, (iii) anti-social behaviour or (iv) a shortage of habitable houses or of land suitable for residential use or a mixture of residential and other uses

- 4.4. **Section 14.9** of the Development Plan 2016-2022 states that the VSL will apply to lands zoned Z1, Z2, Z3, Z4, Z5, Z6, Z7, Z8, Z10, Z12 and Z14.
- 4.5. **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.
- 4.6. **Policy QH3** states that it is policy of the Council (i) To secure the implementation of the Dublin City Council Housing Strategy` in accordance with the provision of national legislation. In this regard, 10% of the land zoned for residential uses, or for a mixture of residential and other uses, shall be reserved for the provision of social and/or affordable housing in order to promote tenure diversity and a socially inclusive city. (ii) To engage in active land management including the implementation of the vacant levy on all vacant residential and regeneration lands as set out in the Urban Regeneration and Housing Act 2015.

4.7. **Planning History**

PA reference **DSDZ2242/16**. Permission for demolition of buildings. April 2016.

PA reference **DSDZ3357/17**. Residential development of 360 units, crèche, café, car parking and new streets. No decision.

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 Dublin City Council to enter the subject site on the Register. The grounds of the appeal can be summarised as follows:

- The appellant states the site is neither vacant or idle in the context of both residential and regeneration land. Firstly, in relation to section 5(1)(a) the site is suitable for housing, as evidenced by a valid planning application for residential development. Secondly, in relation to section 5(1)(b), the implementation of a planning permission (DSDZ2242/16) has comprised the removal of dilapidated buildings and this improves the appearance of the area and removes the opportunity for anti-social behaviour.
- A large scale residential planning application, DSDZ3357/17 refers, has been lodged for a substantial portion of the overall site. In addition, works have been carried out as part of the implementation of planning permission PA reference DSDZ2242/16.

The appeal is accompanied by a report that sets out the development works that have been carried out to date. These include the demolition of various structures to slab level, asbestos removal and isolation of services. Photographs and maps have also been provided.

5.2. **Planning Authority Response**

5.2.1. The Planning Authority responded to the appeal, requesting that the following observations be noted by the Board:

- The Councils report sets out why the site was included on the VSR.
- Site visits were conducted on 5th January 2017 and 6th September 2017 and it was noted that works have taken place. Not all buildings have been

demolished and hoarding has been erected. No activity was observed at the time of the most recent site visit.

- A planning application has been lodged (DSDZ3357/17), no decision has issued. The North Lotts and Grand Canal SDZ specifies a mix of 70% residential and 30% commercial.
- In accordance with section 5(1)(a) of the 2015 Act, the site is situated in a location where housing is needed, the site is suitable for housing and the site is vacant/idle.

6.0 **Assessment**

- 6.1. An appeal under section 9 of the Act, requires that the burden of showing that the site or a majority of the site was not vacant or idle 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 vacant or idle 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 Dublin City Council VSR on the 28th July 2017.
- 6.2. The subject site is located in an area 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' in the current City Development Plan. Section 14.9 of the Development Plan states that the vacant site levy applies to lands zoned Z14 as they have capacity to provide residential accommodation. The site is considered to comprise residential lands for the purposes of the 2015 Act.
- 6.3. The Board should note that I have two concerns with regard to the entry of the site on the register. Firstly, I note that the Council's planning report refers to section 5(1)(b) of the 2015 Act, that relates to regeneration lands. The site is not regeneration land; it is residential land for the purposes of the VSR and as detailed in the Council's Notice. I also note that this error was corrected by the submission of the planning authority in response to the grounds of appeal. I therefore consider that this issue has been settled without affecting the appellant's grounds of appeal.

6.4. The second issue is more difficult to overcome as it concerns the date of entry of the site on the register. The 2015 Act under section 6(2) states that 12 months should elapse before a site is entered on the register, as follows:

A planning authority shall enter on the register a description, including a map, of any site in its functional area which was, in the opinion of the planning authority, a vacant site for the duration of the 12 months preceding the date of entry.

6.5. According to the information before me, it appears that there have been three site visits, however, the only dates mentioned are 5th January and 6th September 2017. The site was entered on the register on the 28th July 2017. According to the dates to hand, the appropriate period of 12 months has not elapsed. Given that I am uncertain that the appropriate period has elapsed prior to the placement of the site on the register, I am concerned that the land owner may have been disadvantaged in the preparation of their appeal. In addition, if the appeal against entry on the register was to be unsuccessful, there may be uncertainty as to when the entry on the register shall be deemed to have effect. Therefore, all information to support the Council's finding that the site was vacant for the necessary period should be requested.

7.0 Recommendation

7.1. I recommend that the Council should be requested to furnish all appropriate records including photographic evidence, as necessary, to support their finding that the site was vacant for the necessary period, for the reasons and considerations set out below:

8.0 Reasons and Considerations

8.1. Having regard to

(a) The entry of the site on the Vacant Site Register on the 28th July 2017 and

(b) The date of the planning authority report, 5th January 2017

the Board is not satisfied that the appropriate period of 12 months had elapsed prior to the entry of the site onto the register.

Stephen Rhys Thomas
Planning Inspector

21 November 2017