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## Active Land Management

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### Introduction

There are 10,000 hectares (24,700 acres) of land within the boundary of Dublin City Council. For the most part this land is in active use for a variety of purposes, residential, commercial and recreational. However, some of this land is under-utilised, vacant or derelict. To date the Planning and Property Development Department have addressed the challenges arising from vacancy and underutilisation of derelict sites, through a variety of measures i.e. Derelict Sites, Property Management and Planning & Development Regulations. Property Management, Disposals and Acquisitions are part of the core business of the department and in 2015, 103 disposals took place while 5 compulsory purchase orders (CPO's) are actively being managed, while a further 4 CPO's are planned for 2016 and approximately 20 sites are in the process of being disposed of or their disposal will take place this year.

However, there is a need for the department to carry out its functions in a more co-ordinated manner and become more pro-active in targeting underutilised, vacant and derelict lands and buildings and to this end an Active Land Management Unit has been established. The unit which will be headed up by the Executive Manager of the Planning and Property Development Department will consist of a multidisciplinary team drawing from the existing established expertise of a number of different units within the department; Property Management, Derelict Sites, Valuers, Development Management, Conservation and Architecture. An Inter – Departmental Group chaired by the Chief Executive, which includes the Assistant Chief Executives, City Planner, City Architect and the Chief Valuer, will oversee the work of the unit.

This change in direction for the City Council, has in part been influenced by the advent of the Vacant Land levy legislation and the statutory requirements that will be imposed on the Council under this legislation.

### Urban Regeneration and Housing Act 2015

The Urban Regeneration and Housing Act 2015 makes provision for a vacant sites levy in areas in which housing is required and in areas in need of renewal.

We are awaiting guidelines from the department but each Planning Authority is to establish and maintain a vacant sites register from 01<sup>st</sup> January 2017 and owners are to be notified before 01<sup>st</sup> June 2018 that their site is on the register and the levy is payable in arrears.

The Act outlines the procedure for sites on the register, appropriate notices, market value, appeals, the amount of the levy etc.

## **Vacant Site Levy - Definitions**

“regeneration land” means land identified by a planning authority in its development plan or local area plan, after the coming into operation of *section 28*, in accordance with section 10(2)(h) of the Act of 2000 with the objective of development and renewal of areas in need of regeneration, and includes any structures on such land;

“residential land” means land included by a planning authority in its development plan or local area plan in accordance with section 10(2)(a) of the Act of 2000 with the objective of zoning for use solely or primarily for residential purposes, and includes any structures on such land.

### **Vacant site**

- (1) In this Part, a site is a vacant site if –
- (a) In the case of a site consisting of residential land –
    - (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,

and

- (b) In the case of a site consisting of regeneration land –
  - (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.

- (2) In this section –

“site” means any area of land exceeding 0.05 hectares identified by a planning authority in its functional area but does not include any structure that is a person’s home;

“home”, in relation to a person, means a dwelling in which the person ordinarily resides (notwithstanding any periods during which the dwelling is vacant) and includes any garden or portion of ground attached to and usually occupied with the dwelling or otherwise required for the amenity or convenience of the dwelling.

## **Steps to be taken for implementation of levy**

The draft Development Plan includes a new section which identifies the areas where the vacant land levy will apply.

The following is a short summary of the initial main steps that need to be taken for the purposes of applying the levy:

- (a) discussion and decision by Councils on the application of the levy provisions in their functional areas;
- (b) inclusion of objective in development plan or local area plan (by way of new plan or variation of existing plan) for the development and renewal of identified areas in need of regeneration or residential development;
- (c) incorporation of designated areas in which the levy can be applied in the development plan or local area plan;
- (d) identification of individual vacant sites in designated areas which in the planning authority’s opinion were vacant during the previous year;
- (e) establishment and maintenance of a register of vacant sites (entitled the vacant sites register) in the identified areas from 1 January 2017;

- (f) before 1 June 2018, issuing notices to the owners of vacant sites included in their vacant sites register indicating that such site owners shall be charged levy in respect of 2018 in January 2019;
- (g) with effect from 1 January 2019 and every year thereafter, charging in respect of the previous year a levy on each owner of a vacant site included in the vacant site register.

### **Vacant Land Study**

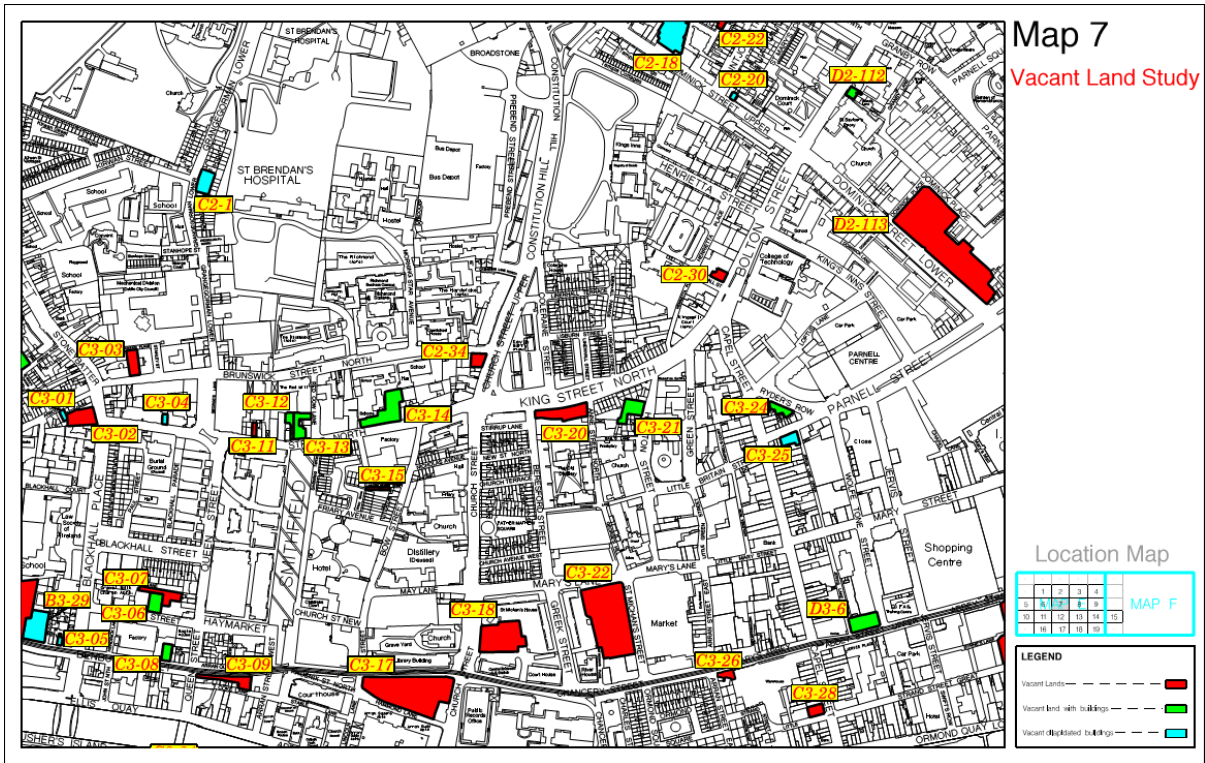
An audit of vacant land was commenced by the City Council in autumn 2013 and its findings were published in a report dated February 2015 which defined vacant land and buildings as follows:

- a. Vacant Land – a cleared site with no physical evidence of any structures.
- b. Vacant Land and building(s) – a vacant site which could not be identified on its own without including associated secondary building(s) which area vacant and appear to be dilapidated and therefore unlikely to be capable of occupation.
- c. Vacant Building – a site comprising almost entirely of a vacant dilapidated building.

#### *Principle Findings*

The survey database currently contains 282 records of vacant lands in the inner city. These 282 sites occupy 61 hectares – approximately 4% of the zoned land area of Dublin’s Inner City. This is similar to vacancy and dereliction levels recorded in other cities such as Glasgow (4%) and Greater Manchester (5%), although it should be noted that definitions of vacancy vary, making direct comparison difficult.

| <b>Category</b>                  | <b>Description</b>  | <b>No. of sites identified in survey</b> | <b>Area hectares</b> |
|----------------------------------|---|--|----------------------|
| <b>Vacant Land</b>               | Site is clear of structures and has no evidence of a permanent use  | 151                                      | 33.01                |
| <b>Vacant Land and Buildings</b> | Classification used if plot of vacant land cannot be identified on its own without including some associated dilapidated vacant building(s) | 91                                       | 26.38                |
| <b>Vacant Building</b>           | Site comprising of a building in such a state of disrepair that it is unlikely to be capable of use   | 40                                       | 1.7                  |
| <b>Total</b>                     |   | 282                                      | 61.13                |



An initial assessment of the identified sites has indicated that 143 of the 282 are greater than 0.05 Ha and are potentially subject to the Vacant Land levy. It is an objective that these sites will be surveyed and mapped in the next two months and will identify how many of these sites are still vacant.

This vacant land audit will form the initial basis for the surveys which are required to implement the vacant land levy and will then be extended to the rest of the city.

### Dereliction

There are many challenges facing the City Council in its endeavors to prevent and eradicate dereliction in the City. The Derelict Sites Section is currently dealing with approximately 450 live files. Dealing with dereliction though is not straightforward. Dereliction occurs through the neglect of a property and arises in the majority of cases where there are title difficulties, probate issues, owners with personal difficulties, companies in liquidation and unfinished developments. The economic collapse has exacerbated the situation leaving in its wake unfinished developments, derelict sites and protected structures which are in need of either clean-up, maintenance or both. The number of stakeholders who find themselves potentially affected by the application of the Derelict Sites Act 1990 has expanded beyond developers/owners of a derelict site to include financial institutions, NAMA, receivers and liquidators.

These are signs that the economic recovery may be having a beneficial impact on the derelict sites front. Twenty sites were removed from the Derelict Sites Register during 2015, six of which have been on the register since 2010/2011, and included development sites. This compares to thirteen sites in 2014 and five sites in 2013.

### What is a Derelict Site?

The public's view on what constitutes a derelict site can be very varied and not always in accordance with the legislative definition.

The definition of a 'derelict site' as set out in the Derelict Sites Act 1990 (the 1990 Act) is:

*‘any land which detracts, or is likely to detract, to a material degree from the amenity, character or appearance of land in the neighborhood of the land in question because of:*

- (a) The existence on the land in question of structures which are in a ruinous, derelict or dangerous condition, of*
- (b) The neglected, unsightly or objectionable condition of the land or any structures on the land in question, or*
- (c) The presence, deposit or collection on the land in question of any litter, rubbish, debris or waste, except where the presence, deposit or collection of such litter, rubbish, debris or waste results from the exercise of a right conferred by statute or common law.’*

## Enforcement Powers

The 1990 Act provides a range of enforcement mechanisms to local authorities to tackle derelict sites. The major powers contained in the act are the following:

1. Informal action (S.10)
2. Notice of Intention to enter on the Derelict Sites Register (S.8(2))
3. Entry on the Derelict Sites Register (S.8(2)) with resultant imposition of a levy equating to 3% of market value of the derelict site. Unpaid levies attract interest of 1.25% per month.
4. Service of a Notice requiring specified works to be carried out (S.11).
5. Compulsory acquisition of a Derelict Site (S.14 & S.17)

The Derelict Sites Section adopts a two-pronged approach to dealing with complaints. In the first instance the reputed owner is advised of his/her obligations under the 1990 Act, and requested to carry out the required improvement works. This approach is quite successful, resulting in the vast majority of sites being remedied. When this approach does not yield the desired results the formal procedures under the Derelict Sites Act are invoked. The section carried out 744 inspections in 2015 which culminated in 245 warning letters to property owners. As a result of the persistent endeavors of the section through correspondence and phone calls to owners, further action was required in the case of 33 sites only. Despite all endeavors of the section 21 sites eventually ended up being placed on the Derelict Sites Register in 2015. At the same time twenty sites were removed from the Derelict Sites Register, having been rendered non-derelict. Currently there are 54 sites on the Register.

The fact that a site is on the Derelict Sites Register does not mean an end to the problem. Sites can, and do, remain on the Derelict Sites Register for quite some time despite the imposition of a levy and interest. €509,000 was collected in levies between 2013 and 2015 and there is €1,817,521 outstanding in levies. Where a levy remains unpaid a charge is placed on the land. It should be remembered that the primary purpose of the derelict sites levy is to eradicate dereliction and not to create additional revenues for local authorities.

While a local authority has the power to acquire compulsorily any derelict site, the acquisition by agreement is always favored, but when this is not practicable or possible (for a variety of reasons such as, refusal to sell, unknown ownership of land or impossibility of agreement as to price) then the use of compulsory purchase is available but should only be used as a last resort. Because the acquisition of private land raises many sensitive issues and requires careful consideration and justification, there are strict statutory procedures governing the exercise of compulsory purchase powers.

If a local authority intends to compulsorily acquire a derelict site, it must first serve a notice of its intention to do so on every owner, lessee and occupier (except a tenant who has been in situ for one month or less). If an objection is submitted a local authority is not entitled to proceed to compulsorily acquire a derelict site unless it secures the consent of an Bord Pleanála (the Board), which is not always guaranteed. The Board may grant or refuse consent to the compulsory acquisition of all, or part of, the derelict site in question.

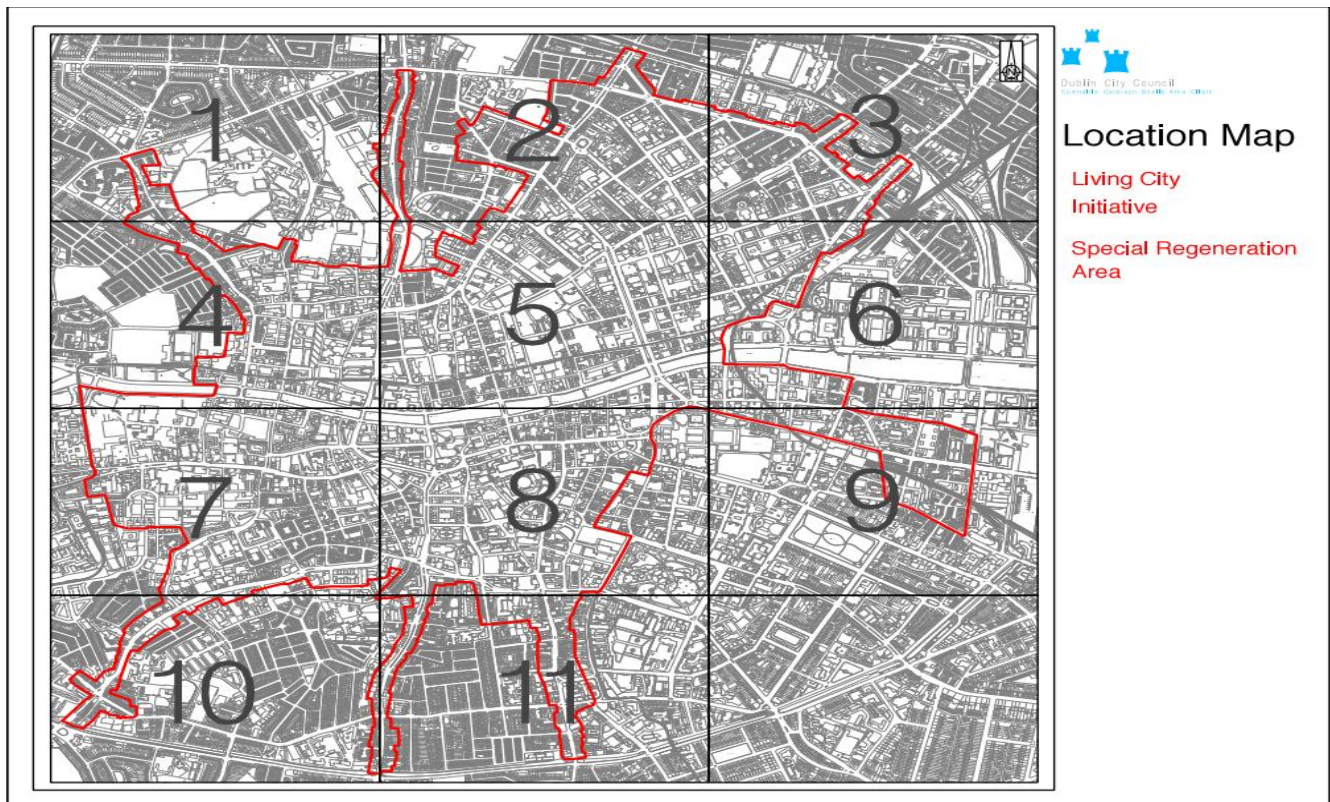
The aggregate valuation of the 54 sites on the Derelict Sites Register is €15m approx. A cost benefit analysis (CBA) will be carried out on sites on the register to establish potential sites for compulsory purchase.

### Living City Initiative

The Living City Initiative is a scheme of property based tax incentives designed to regenerate certain types of residential and commercial property in a defined Special Regeneration Area ('SRA') of Dublin, Cork, Limerick, Galway, Waterford and Kilkenny. The Living City Initiative location maps for Dublin City can be found on the Dublin City Council website. The tax relief applies to both residential and commercial refurbishment and conversion work that is carried out during the qualifying period only. It does not apply to new build.

"The aim of The Living City Initiative is to bring life back into the heart of these cities by offering tax relief for qualifying expenditure incurred on the refurbishment or conversion of certain building where conditions are met. This is a targeted initiative at areas which are most in need of attention".

To date there has been limited take up of the incentive. However, as result of a recent workshop held by the City Council a number of initiatives are now being proposed that will be implemented through the Active Land Management Unit. These initiatives will involve the publication of architectural templates for Georgian buildings for their re-adaptation, re-use and reconfiguration for residential purposes or mixed residential/ commercial use. The establishment of a one-stop-shop to advice owners, occupiers and investors of existing properties in the city on compliance with fire regulations, conservation requirements and building control regulations.



### Housing Task Force

In May 2014, the Government published Construction 2020 – A Strategy for a Renewed Construction Sector. This strategy sets out Government policy to increase the capacity of the Sector to create and sustain jobs and to grow the sector to a sustainable level consistent with the demands of a modern economy.

Action 2 of the Strategy commits to the establishment of a *Housing Supply Coordination Taskforce for Dublin with an immediate focus on addressing supply-related issues. It will work closely with industry and other parties, including those responsible for key infrastructure such as schools, to identify and address any obstacles to viable and appropriate development.*

In the context of measuring short term viable supply, the four Dublin local authorities and NAMA reviewed all planning applications for 20 units or more and categorised them as follows:

Tier 1 sites:

This relates to sites where planning permission has been granted and the permission can be implemented immediately. Tier 1 sites include developments that have commenced and are currently under construction, and in some cases may include developments which contain completed units.

Tier 2(a)

Sites where a planning application has been lodged with a planning authority, and a final decision on that application is pending, are recorded as Tier 2(a) sites.

Tier 2(b)

This relates to lands which are zoned and where there is an appropriate planning policy in place or being put in place, and that there is no insurmountable infrastructure constraint which cannot be resolved.

However, it should be noted that Tier 2(b) sites do not infer any presumption as to the likelihood or otherwise of a grant of permission for any particular development.

Please find set out below the statistics for Dublin City Council for Quarter 4 2015 under these headings:

| Breakdown of Tier Totals |               |                |  |            |                                       |            |           |                |              |        |
|--------------------------|---------------|----------------|--|------------|---------------------------------------|------------|-----------|----------------|--------------|--------|
|                          | Tier 1 Totals |                | Tier 1<br>(Units Permitted but<br>not commenced) |            | Tier 1<br>Units under<br>Construction |            | Tier 2(a) |                | Tier<br>2(b) | Totals |
|                          | Houses        | Apartment<br>s | Houses   | Apartments | Houses                                | Apartments | Houses    | Apartment<br>s | Units        |        |
| DCC                      | 1637          | 3678           | 1254   | 3313       | 383                                   | 365        | 671       | 1428           | 8789         | 16,203 |
| Tier 1<br>Total          | 5317          |                | -  | -          | -                                     | -          | -         | -              | -            | -      |

It will be a priority of the Active Land Management Unit to monitor Tier 1 Planning Permission Sites.

### Housing Land Initiative

This initiative which is in addition to the Social Housing Programme, (which targets the completion of 5357 social housing units by 2017) is an attempt by the council to use its strategic land bank as leverage to ensure housing supply both public and private. The Council is actively working on sites at Oscar Traynor Road, O'Devaney Gardens and St. Michaels Estate which combined have the potential to deliver over 1,300 units.

The Active Land Management is involved in a multidisciplinary team which is being established to seek the redevelopment of these sites.

## **Dublin City Council & DAHG Built Heritage Investment Scheme**

A total of 55 applications were received by the Conservation Unit in December last for funding in 2016 under the Built Heritage Investment Scheme of the Department of Arts, Heritage and the Gaeltacht (DAHG) <http://www.dublincity.ie/main-menu-services-planning-heritage-and-conservation-heritage/built-heritage-investment-scheme-2016>

53 projects were approved for funding totalling €298,000 by the Built Heritage Unit in the DAHG, many of which are either on the Building-at-Risk Register (these are buildings on the Record of Protected Structures which are deemed to be endangered) or would be suitable candidates for entry on review of the Register.

The implementation of the scheme and in particular targeting a uniformed portion of the overall plans for buildings that are on the buildings-at-risk register, is considered to be a significant contributor to preventing further endangerment and bringing about revitalisation and conservation of our built heritage.

The Active Land Management Unit will take overall responsibility for coordinating its work, particularly in relation to those buildings that are deemed to be on the Record of Protected Structures which are experiencing significant endangerment.

### **Objectives and Recommendations:**

- It is recommended that the City Council apply and make use of the vacant land levy provisions in its functional area.
- The Active Land Management Unit will survey and identify individual vacant sites , commencing with a survey of inner city sites.
- The Unit will establish and maintain a register of vacant sites and implement the processes and procedures as outlined in the Act (Awaiting guidelines from the Department)
- The Unit will carry out a cost benefit analysis on sites on the derelict sites register to establish potential sites for compulsory purchase.
- The Unit will develop a new standard for fencing / hoardings around DCC undeveloped sites.
- The Unit will establish a one- stop shop to assist applicants under the Living City Initiative.
- The Unit will monitor Tier 1 sites which have been granted planning permission and whose permission can be implemented immediately.
- The Unit will be involved as part of a team to develop the sites under the Housing Land Initiative.
- The Unit will co-ordinate the City Council's work in relation to those buildings on the record of Protected Structures.

**Jim Keogan**

**Assistant Chief Executive**

**29<sup>th</sup> April 2016**