



**Report to the Planning & Urban Form
Strategic Policy Committee September 2022.
No. 5 on the Agenda**

Analysis on the use of the Derelict Sites Act 1990 in the Dublin City area and the application for listing as a derelict site to ensure that all derelict sites are captured.

Overview

Derelict sites visually impact negatively on the surrounding area, give out the impression of an area deteriorating and are a magnet for antisocial behaviour and take valuable housing stock out of circulation. The Council through the effective exercise of the legislative provisions in the Derelict Sites Act 1990, proactively strives to achieve the eradication of dereliction in the City and the return of derelict sites to active use. The implementation of an ongoing acquisition strategy since 2017 is a key part of the Council's Active Land Management Initiative which aims to eradicate underutilised lands and buildings in the city.

The Derelict Sites Act was introduced in 1990 and apart from two minor amendments the Act has remained unchanged since its introduction. The Planning Policy and Legislation Section in the Department of Housing, Local Government and Heritage has recently established a Derelict Sites Act Working Group to look at the functioning of the Derelict Sites Act in combatting dereliction. The Act may have deficiencies but there are many positive provisions in the Act also. We find that in the main the successful implementation of the provisions of the Derelict Sites Act 1990 is achievable. The availability of professional services such as legal, survey & mapping and valuers internally contributes greatly to this. We adopt a collaborative approach in the Council and work closely with 1) Area Offices to proactively identify derelict sites citywide, 2) Conservation Section to consider and determine the best course of action and best use of our respective legislative powers to address derelict sites which are protected structures and 3) Vacant Homes Unit with regard to the possible acquisition by them of residential properties that we find are not derelict but are vacant. The issues and challenges in the implementation of the Act are set out below along with the Council's experience of using the acquisition power provided in S.14 of the Act which is a key

part of the Council's strategy to eradicate underutilised, vacant and derelict lands and buildings in the city.

Issues and Challenges

Definition

The public's view of what constitutes a derelict site can be very varied and not always in accordance with the legislative definition set out in the Derelict Sites Act 1990. This can and does negatively impact on public perception of the Council's effectiveness in dealing with dereliction. It should be noted that a vacant site is not de facto derelict by virtue of it being vacant. For a site to be determined derelict it must meet the criteria set out in the Act.

The definition of a "derelict site" cited below is a broad one and does cover the range of derelict sites that come to our attention.

"any land which detracts, or is likely to detract, to a material degree from the amenity, character or appearance of land in the neighbourhood 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, or*
- (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."*

Activity Levels /Derelict Sites Notices / Derelict Sites Register (DSR) / Derelict Sites Levy

There are currently 77 sites on the Derelict Sites Register and the Derelict Sites Unit has circa 400 active case files.

2017 - 2022

No of sites inspected – 2384, average 433 p.a.

Section 10 Warning Letters – 591, average 107 p.a.

Section 8 (2) Notices of intention to enter on DSR – 159, average 28 p.a.

Section 8 (7) Notices of Entry on DSR – 72, average 13 p.a.

Sites removed from DSR – 74, average 13 p.a.

It is not the case that all owners of derelict sites willingly let their properties become derelict.

Dereliction arises in the majority of cases in our experience where there are title difficulties, probate issues, owners with personal difficulties, lack of finances, companies in liquidation etc. The entry of a site on the DSR does not mean an end to the problem. Sites can, and do, remain on the DSR for quite some time despite the imposition of a levy and interest, Properties remaining on the DSR will continue to deteriorate as inevitably long term derelict sites attract vandalism and anti-social

behaviour. High profile properties remaining on the register is another factor in terms of public disquiet.

The Act does provide for engagement with owners which is a very positive aspect of the legislation. The Council will always actively engage with owners with a view to agreeing with them what works are required to prevent the property becoming or remaining derelict and will work with owners and afford every opportunity to them to resolve matters. This will often produce the required outcomes without the need for the property to go on the register. In fact placing a property on the register is often a barrier to the property being developed as the levies are now based on 7% of the market value of the property and incur interest on unpaid levies at a rate of 1.25% per month which is quite punitive. It is interesting to note that there is no provision for the payment of interest in vacant sites legislation. 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.

The Act provides for the recovery of unpaid levies by way of a simple contract debt in court. In the past, debt collection proceedings for recovery of levies have been ineffective and costly. The Act provides that unpaid levies, including interest, automatically become a charge on the land and will remain a charge until the full amount is discharged. The Council has prepared a formal procedure for registering the charge in Land Registry / the Registry of Deeds. If and when a derelict site with a charge is subject to a sale, purchasers will require vendors to have the charge removed as part of the conveyance process. The Council has received a number of levy payments as a result of sales in recent years. The collection of levies is an issue that the Derelict Sites Act Working Group will be looking at.

Power to specify measures to be taken in relation to derelict sites.

The Act provides for the specification of required works to render a property non-derelict but this provision is used less by the Council than in the past as a result of advice from the Law Agent due to the considerable resources required to conduct a criminal prosecution in cases of non-compliance. In many of the problematic sites ownership is not clear. Also criminal prosecutions may not be appropriate in cases of elderly owners or owners already in difficult positions. In our experience owners will agree to take steps to alleviate dereliction if they have the means to do so. A local authority is entitled to carry out the specified works itself and to recover the costs of doing so from the owner or occupier. The Council does not have a workforce to undertake these works or to engage outside contractors and even if it did the chances are these sites would return to dereliction very quickly. The Council has been reluctant to exercise these powers, given both the lack of resources available and the lack of any certainty of being able to recover costs.

Acquisition of Derelict Sites

The implementation of an ongoing acquisition strategy since 2017 is a key part of the Council's Active Land Management Initiative and has yielded very positive results. The Council will only acquire compulsorily as a last resort in circumstances where all efforts to secure the carrying out of improvement works by property owners have been

exhausted. In determining what sites to acquire, the Council prioritises those properties which can be most readily reinstated to active residential use. All sites entered on the Derelict Sites Register can be considered for acquisition and sites do not have to have been entered on the Register for a particular time before they can be considered for acquisition.

Thirty five derelict sites have been acquired compulsorily since March 2017. One of these sites was an unfinished development which had planning permission for the construction of 48 apartments (14 x 1 bed & 34 x 2 bed). Housing & Community Services intend to develop the site and City Architects have carried out a capacity study examining the most efficient way of building on an existing site. Thirty four of the acquired derelict sites were retained by the Council under the control of the Housing & Community Services to be used for social housing purposes. Many of the properties have been completely refurbished and rendered non-derelict and are now occupied, or are currently undergoing refurbishment. A photo showing a derelict site before and after refurbishment is attached at Appendix A. As mentioned the Council is implementing an ongoing acquisitions strategy. So far this year the Council has acquired eleven sites which have been retained for use as social housing and identified a further six sites which are at varying stages in the acquisitions process.

The number of derelict sites acquired compulsorily is just part of the story, the Council has experienced that in the face of compulsory acquisition some sites have been 1) rendered non-derelict and removed from the Derelict Sites Register, 2) owners are actively seeking planning permission or have obtained planning permission for redevelopment, 3) derelict sites have been placed on the market and are at varying stages in the sales process, which offers the very real prospect that they will be redeveloped and returned to active use.

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Appendix A

A Derelict Site before Refurbishment by Housing & Community Services



After Refurbishment by Housing & Community Services



