



An  
Bord  
Pleanála

## Inspector's Report ABP-305025-19

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<b>Type of Appeal</b>	Section 9 Appeal against Section 7(3) Notice
<b>Location</b>	Lands adjacent to Silveracre Bungalow, Whitechurch Road, Rathfarnham, Dublin 14
<b>Planning Authority</b>	South Dublin County Council
<b>Planning Authority VSL Reg. Ref.</b>	SD/VS374
<b>Site Owner</b>	Joan Maloney
<b>Planning Authority Decision</b>	Place on Register
<b>Date of Site Visit</b>	23 <sup>rd</sup> of October 2019
<b>Inspector</b>	Erika Casey

## 1.0 Introduction

- 1.1. This appeal refers to a Section 7(3) Notice issued by South Dublin County Council, stating their intention to enter a site referred to as lands adjacent to Silveracre Bungalow, Whitechurch Road, Rathfarnham, Dublin 14 onto the Vacant Sites Register (VSR) in accordance with the provisions of Section 6(2) of the Urban Regeneration and Housing Act 2015. The notice states that the Planning Authority is of the opinion that the site is a vacant site within the meaning set out in Sections 5(1(a)) and 5(2) of the URH Act 2015.
- 1.2. The appeal site registered under VSL reference SD/VS374, has two stated registered owners, Vincent and Joan Moloney. The appeal documentation submitted noted that Mr. Vincent Moloney is now deceased.

## 2.0 Site Location and Description

- 2.1 The subject site with an area of 0.35ha is located off Whitechurch Road close to the junction with Ballyboden Road. The site is bound by residential properties to the north and south and by an existing housing estate known as Tara Hill Crescent to the east. The site currently accommodates a number of ruined cottages, fronting onto Whitechurch Road. There are some further singles storey cottages located to the south of the site. The general character of development in the vicinity is low density residential.
- 2.2 Silveracre Cottage is located to the immediate north of the identified vacant site. It is a single storey bungalow accessed via a driveway from the Whitechurch Road. The dwelling is served by an existing landscaped lawn to the west. There is a patio area and some outhouses located to the rear of the dwelling (east). There is mature hedgerow that runs along the access driveway for part of the boundary with the vacant site. The vacant site predominantly comprises a landscaped lawn. The remnants of a hard surfaced pathway are also evident. The site is generally well maintained.

## 3.0 Statutory Context

### 3.1. URH ACT

3.1.1. The Notice issued under Section 7(3) of the Act states that the PA is of the opinion that the site referenced is a vacant site within the meaning of Section 5(1)(a) and 5(2) of the Act. The Notice is dated the 5th July 2019 and is accompanied by a map outlining the extent of the site to which the Notice relates. The site is identified as two separate land parcels.

3.1.2. Section 5(1)(a) of the Act stated that a site is a vacant site if, 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 housing, and
- (iii) the site, or the majority of the site, is vacant or idle.

3.1.3. It is noted that Section 5(1)(a)(iii) has been amended by Section 63 of the Planning and Development (Amendment) Act 2018 which commenced upon coming into effect of the Act (19 July 2018). This section of the Act amends Section 5 of the Act of 2015 by substituting Section 5(1)(a)(iii) for the following:

*“the site, or the majority of the site is—*

*(I) vacant or idle, or*

*(II) being used for a purpose that does not consist solely or primarily of the provision of housing or the development of the site for the purpose of such provision, provided that the most recent purchase of the site occurred—*

*(a) after it became residential land, and*

*(b) before, on or after the commencement of Section 63 of the Planning and Development (Amendment) Act 2018”.*

3.1.4 The Act defines ‘residential’ land at Section 3 as follows:

*“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 2000 with the*

*objective of zoning for use solely or primarily for residential purposes, and includes any structures on such land.”*

3.1.5 Section 5 of the Act defines a site for the purpose of the application of the vacant site levy as:

*“any area of land exceeding 0.05ha identified by a planning authority in its functional area but does not include any structure that is a person’s home.”*

‘Home’ is defined as:

*“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 a usually occupied with the dwelling or otherwise required for the amenity of convenience of the dwelling.”*

This applies whether the property is owner occupied or rented i.e. tenure neutral.

3.1.6 Section 6(4) provides that a planning authority, or the Board on appeal, shall determine whether or not there was a need for housing in an area within the planning authority’s functional area for the purposes of this Part by reference to—

(a) the housing strategy and the core strategy of the planning authority,

(b) house prices and the cost of renting houses in the area,

(c) the number of households qualified for social housing support in accordance with section 20 of the Housing (Miscellaneous Provisions) Act 2009 that have specified the area as an area of choice for the receipt of such support and any changes to that number since the adoption of the planning authority’s development plan, and

(d) whether the number of habitable houses available for purchase or rent was less than 5 per cent of the total number of houses in the area.

3.1.7 Section 6(5) provides that a planning authority, or the Board on appeal, shall determine whether or not a site was suitable for the provision of housing for the purposes of this Part by reference to—

(a) the core strategy,

(b) whether the site was served by the public infrastructure and facilities (within the meaning of section 48 of the Act of 2000) necessary to enable housing to be provided and serviced, and

(c) whether there was anything affecting the physical condition of the land comprising the site which might affect the provision of housing.

3.1.8 Section 9 relates to appeals against entry on the register of vacant sites. Section 9(2) provides:

*“On an appeal under this section 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 on the owner of the site.”*

## 3.2. Development Plan Policy

3.2.1. The subject site is located in the administrative area of South Dublin County Council and the statutory plan is the South Dublin County Development Plan 2016-2022. The site is zoned RES: *To protect and/or improve residential amenity.*

3.2.2 Section 1.2.0 of the plan sets out the overarching considerations that underpin the policies and objectives of the plan. These include sustainability with an emphasis on making better use of key resources such as land, buildings and infrastructure.

3.2.3 Section 1.4 identifies the aim of the NSS to consolidate the Dublin Metropolitan area and states that the County Development Plan has been drawn up to be consistent with the NSS.

3.2.4 Section 1.8.1 of the plan addresses vacant sites. It is detailed that active land management, including the implementation of the vacant site levy is key to realising the vision and objectives of the Core Strategy. The following objectives are set out:

### **H2 Objective 2:**

*‘To promote residential development through active land management and a co-ordinated planned approach to developing appropriately zoned lands at key locations, including regeneration areas, vacant sites and under-utilised areas.’*

### **H2 Objective 3:**

*‘To implement the Vacant Site Levy for all vacant development sites, as appropriate, in the County and to prepare and make publicly available a register of vacant sites, as set out in the Urban Regeneration and Housing Act 2015 (or any superseding Act).’*

3.2.5 It is further detailed under section 11.1.2 of the plan:

*'The following lands zoned for residential or primarily residential purposes are included for the purposes as set out in the Urban Regeneration and Housing Act 2015 in relation to the vacant land levy:*

*Objective RES and RES-N zoned lands as they have capacity to provide for residential accommodation.'*

## 4.0 Planning History

4.1 There has been one previous application on the site.

### **SD12B/0315**

4.1.1 Permission granted in June 2013 by South Dublin County Council for the construction of a 215mm thick boundary wall to the rear to run along the entire rear boundary of the property, 91m long and will have an average height of 2.49m with a maximum height of 2.97m. to the rear of the site.

## 5.0 Planning Authority Decision

### 5.1. Planning Authority Reports

5.1.1 A Vacant Site Report was prepared for the site outlining the dates of the visits to the site which were the 15<sup>th</sup> September 2016 and the 19<sup>th</sup> November 2018, description of the area, zoning, planning history and the type of site for the purposes of the Act which in this case is 'Residential'.

5.1.2 In terms of need for housing (tests outlined in Section 6(4)), it is stated that the Core Strategy projects a likely need for 32,132 additional housing units in South Dublin County Council over the 7 year period from 2015-2022. The Housing Strategy forecasts that 8,303 social housing units will be required during the period 2016-2022.

5.1.3 The average rent in South Dublin in 2019 (including year on year change) according to the Daft.ie Rental Price Report Q1 2019 is as follows:

- South County Dublin: €2,190 (6.7% increase)
- West Dublin: €1,778 (7.7% increase)
- Combined average: €1,984

5.1.4 The median purchase price for a dwelling in South Dublin, according to the CSO *'Market Based Household Purchases of Residential Dwellings'* has risen from €249,700 in 2014 to €330,000 in 2018.

5.1.5 The numbers on the housing list were 7,215 in 2019 and 624 persons were registered as homeless.

5.1.6 It is detailed that there are 98,387 existing residential units in the County, based on CSO Census 2016 figures. An analysis of daft.ie 2019 reveal that there were 854 no. properties available for sale and 103 no. properties available for rent in the County. As such, the proportion of properties available for sale/and or rent as a percentage of the overall housing stock in the County is 0.97%. It is considered, therefore, that there is a need for housing in the area.

5.1.7 In terms of suitability for housing (tests outlined in Section 6(5)) it is detailed:

- The subject site is zoned for residential use and is located within the designated 'Consolidation Areas within the Gateway' in the Core Strategy of the South Dublin County Development Plan 2016-2022.
- The site is within an established residential area and is adequately serviced by public transport infrastructure and facilities.
- There is no evidence of anything affecting the physical condition of the lands which would affect the provision of housing.

5.1.8 In relation to the majority of the site being vacant or idle for the last 12 months, it is stated that the site, or the majority of the site, is vacant or idle and has been vacant or idle for the last 12 months. Two site visits were undertaken in September 2016 and November 2018 and the lands were considered to be idle and vacant. There was no evidence of any recent activity and the site was clearly disused.

5.1.9 Report concludes that the subject site is a vacant site which is suitable for residential development and, therefore, the site should be entered on the Vacant Sites Register in accordance with the provisions of the Urban Regeneration and Housing Act, 2015

(as amended).

## 5.2 Planning Authority Notice

5.2.1 Planning Authority decided under Section 7(3) to issue a Notice on 5th July 2019 referencing Sections 5(1)(a) 5(2) of the Act and stating that the site has been entered onto the Vacant Sites Register. The notice was issued to Vincent and Joan Maloney. Prior to this a Notice of Proposed Entry on the Vacant Sites Register was issued on the 30<sup>th</sup> of November 2018.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1 An appeal was received from Mullany Walsh Maxwells Solicitors on behalf of Joan Maloney of Silveracre Bungalow, Whitechurch Road, Rathfarnham, Dublin 14 on the 31st of July 2019 which can be summarised as follows:

- State that the subject lands is and always has been an integral part of the lands at Silveracre Bungalow and is maintained as part of the garden and used for the amenity and convenience of the occupants of the property.
- The subject lands were originally purchased in 1946 and a bungalow was constructed on the site in 1947. The lands were inherited by the current owners in 1988.
- Between the mid 1960's to 1990 the subject lands were used to house a number of mobile homes for residential use. The business closed in 1990 and the lands reverted to being laid out in lawns.
- Notes that there is a tail race running through the property and whilst this is excluded from the subject site on the map attached to the Notice, the owner has been trying to obtain ownership of the tailrace by way of adverse possession.
- There are derelict cottages to the front of the site and they have been part and parcel of the lands for many decades.
- The subject lands have not been used for any other purpose other than a



source of income for the family, an amenity for the occupants of the dwelling and part of the garden of Silveracre Bungalow. The subject land is not physically or functionally separate from the dwelling at Silveracre Bungalow and is not fenced off from the rest of the garden.

- The owners maintain that the site does not meet the definition of a vacant site. As the subject site is part of the Silveracre Bungalow property and is not delineated or physically separate from the lawn and gardens of the dwelling, it is submitted that the subject land is part of the garden. As such, it is part of and within the physical boundaries of the owner's home but undefined on the ground as separate and apart from the rest of the owner's property and does not fall within the definition of a site as defined on the Act. The site is maintained as lawns and is continually used as an active recreational and functional amenity in connection with the owner's use of the subject lands.
- The owner acknowledges that the subject lands is being used for a purpose that does not consist solely or primarily of the provision of housing or the development of the site but submits that the most recent purchase of the site occurred before it became residential land (as defined by the 2015 Act and before the commencement of Section 63 of the Planning and Development (Amendment) Act 2018 and as such does not fall within the definition of a vacant site.
- In terms of the definition of a vacant site the owner disputes that the subject site is suitable for housing in its own right as there is a title issue that requires to be addressed to ensure the property has a good marketable title. States that there is a strip of land severing Silveracre which is not in the ownership of the applicant. The adverse possession claim currently underway requires the applicant to swear an Affidavit to show the necessary acts of ownership that have been performed by the Applicant and the use and enjoyment she has made of the land. The owner can verify same.
- The lands is adjacent to the Mill House Protected Structure and within an Architectural Conservation Area. The owner submits that this may constrain the

development of the subject land.

- Disputes that the subject lands were vacant or idle and states that no records or report have been furnished to the owner confirming when inspections were made in the last 12 months to support the contention that the subject lands were vacant or idle. Furthermore, contend that no measurement of the subject land has been entered on the Register to confirm the area exceeds the required 0.05ha.
- States that no market value has been attributed to the subject lands. The subject land was not valued at the time of entry on the Register and without a market value, no levy is payable in 2019.

## **6.2. Planning Authority Response**

6.2.1 No further comment.

## **7.0 Assessment**

### **7.1. Introduction**

7.1.1. This notice has been issued under the provisions of Section 5(1)(a) of the Act which relates to residential lands. The assessment undertaken by the Planning Authority to inform the placing of the site on the Register, which I outlined in section 5.1 above, refers to the tests included for 'Residential' under Section 5(1)(a) by reference to Sections 6(4) & 6(5) of the Act as is required for lands zoned for residential purposes.

7.1.2. Section 5(1)(a) of the Act states that a site is a vacant site if, 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 housing, and
- (iii) the site, or the majority of the site, is vacant or idle.

7.1.3. As I note above, Section 5(1)(a)(iii) has been amended by Section 63 of the Planning

and Development (Amendment) Act 2018 which commenced upon coming into effect of the Act (19 July 2018). This section of the Act amends Section 5 of the Act of 2015 by substituting Section 5(1)(a)(iii) for the following:

*“the site, or the majority of the site is—*

*(I) vacant or idle, or*

*(II) being used for a purpose that does not consist solely or primarily of the provision of housing or the development of the site for the purpose of such provision, provided that the most recent purchase of the site occurred—*

*(a) after it became residential land, and*

*(b) before, on or after the commencement of Section 63 of the Planning and Development (Amendment) Act 2018”.*

7.1.4 In terms of Section 5(1)(a) (i), I would note that the appellants do not question the need for housing in the area and, therefore, I do not intend to address this matter further. As set out above, the Planning Authority report accompanying the Notice of Entry to the Vacant Sites Register sets out detailed information regarding the housing and core strategy, the purchase price of dwellings, the number of households on the housing list and the availability of housing units to rent and buy in the South Dublin area. It is demonstrated clearly that there is a need for housing in the area.

7.1.5 My assessment will, therefore, address specifically Section 5(1) (a) (ii) as to whether the site is suitable for housing and (iii) that the site, or the majority of the site, is vacant or idle. In respect of the first provision, I shall have particular regard to Section 6 (5) of the Act which determines the suitability for housing having regard to:

(a) the core strategy

(b) whether the site was served by the public infrastructure and facilities (within the meaning of Section 48 of the Act 2000) necessary to enable housing to be provided and serviced, and

(c) whether there was anything affecting the physical condition of the land comprising the site which might affect the provision of housing.

Finally, my assessment will address the other matters raised by the appellant

particularly that the subject site is part of the gardens of the adjacent dwelling - Silveracre.

## 7.2 **Suitable for Housing**

### The Core Strategy

7.2.1 The subject site is zoned for residential development under the South Dublin County Development Plan. The Core Strategy projects a need for over 32,000 additional residential units over the period 2015-2022. The site is located in an established urban area in close proximity to good public transport connections. I consider the proposed site to be entirely consistent with the provisions of the core strategy set out in the County Development Plan.

### Whether the site was served by the public infrastructure and facilities (within the meaning of Section 48 of the Act 2000) necessary to enable housing to be provided and serviced

7.2.2 I am satisfied that the site is served by adequate public infrastructure necessary to enable housing to be provided and serviced. The site is located in an established urban area.

### Whether there was anything affecting the physical condition of the land comprising the site which might affect the provision of housing

7.2.3 There are no factors affecting the physical condition of the land which may affect the provision of housing.

7.2.4 I consider that the site complies with the criteria set out in Section 6(6) of the Act and that the site is suitable for housing. There are no demonstrable constraints that would inhibit its development for residential use in accordance with the zoning objective for the site.

### Other Matters

7.2.5 It is contended by the appellant that the subject site is unsuitable for housing as there is a title issue that requires to be addressed. From the documentation submitted, it is detailed that the subject site was used for the adjacent Paper Mill and that there is a tail race running through the site. It is stated that this tail race is excluded from the subject site but that the owner has been trying to obtain ownership as it cuts through the entire property.

7.2.6 Whilst the submission regarding these possible legal constraints are noted, the legislation only refers to 'anything affecting the physical condition of the lands' as the criteria for assessing the suitability of the site for housing. There is no provision to discount the suitability of the site for housing on any other grounds. Whilst legal arguments are relevant to the wider issues of the site, they are, in my opinion, outside the narrow focus of the Board's role in relation to Section 9 Appeals. Section 9(3) of the 2015 Act clearly states that the Board's role is to determine whether or not a site was vacant or idle for the relevant period. Any legal impediment to the development of this site is, therefore, outside this scope of this assessment. I would note however, notwithstanding the above that the vacant site as identified by South Dublin County Council has been split into two land parcels. This would imply that there is a strip of land that is outside the control of the applicant that severs the site. This may impose an impediment to the future development of the lands, particularly the larger eastern section as this portion of the site is landlocked and has no vehicular access.

7.2.7 With regard to the presence of an adjacent protected structure and that the site is located within an ACA, I am not satisfied that either would pose any constraint to the future development of the site. This is an infill brownfield site and is entirely suitable for development in planning terms.

### 7.3 **Vacant or Idle/Purpose of the Lands**

7.3.1 The third consideration of Section 5(1)(a) is whether the site, or the majority of the site, is vacant or idle or used for a purpose other than housing.

7.3.2 The 2015 Act (as amended) requires the Board on appeal to look at the past condition of the site and determine if the site was vacant or idle, section 9 states.

*(2) On an appeal under this section the burden of showing that the site was not a vacant site for the duration of the 12 months concerned is on the owner of the site.*

*(3) Where the Board determines that a site was not a vacant site 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 in accordance with section 6 (2) it shall give written notice to the planning authority who shall cancel the entry on the register in respect of that site.*

7.3.3 It is firstly contended by the appellant that no records or reports have been furnished

to the owner by South Dublin County Council confirming when inspections were made in the last 12 months to support the Local Authority's contention that the subject land was vacant or idle. I refer to the Board to the report from South Dublin County Council dated the 25<sup>th</sup> of June 2019 which clearly states that site inspections were carried out on the 15<sup>th</sup> of September 2016 and on the 19<sup>th</sup> of November 2018. There is also a site inspection report dated November 2018 which includes photographs of the subject site. On this basis, I am satisfied that due process was followed and that site visits were undertaken by the Planning Authority over an appropriate timeframe in which to determine that the subject site was vacant and idle for a period of 12 months prior to the entry of the site on the vacant sites register. I also note that the Act clearly states "*the burden of showing that the site was not a vacant site for the duration of the 12 months concerned is on the owner of the site*". No evidence has been submitted by the appellant to demonstrate that the site was not vacant for the duration of the 12 months concerned.

- 7.3.4 With regard to the contention that no measurement has been entered on the register to confirm the area exceeds the required 0.05 ha, I refer to the mapping and Inspection Report prepared by South Dublin County Council which confirms that the site has an area of 0.35ha, well in excess of the minimum threshold of 0.05ha.

#### 7.4 **Other Issues**

##### Definition of Site

- 7.4.1 It is set out by the appellant that the subject site does not meet the definition of a site under section 5 (2) of the Act as it is part of a person's home and it is not specifically a site. It is detailed that the site is part of the Silveracre residential property, is maintained as lawns and is continually used as an active recreational and functional amenity in connection with the owner's use of the subject land. It is noted that the subject lands are not delineated or physically separated from the lawn and gardens at the dwelling.
- 7.4.2 Having regard to the definitions set out in Section 5(2) of the Act, the subject site is clearly larger than 0.5ha and does not include a structure that is a person's 'home'. There is a terrace of derelict disused cottages along the front boundary of the site to Whitchurch Road, all of which have no roof. It was evident from the site visit that these structures have not been in use as habitable structures for many years.

- 7.4.3 The definition of 'home' however, states that this can include *“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”*.
- 7.4.4 The appellants existing property is located to the immediate north of the identified vacant site and comprises a single storey bungalow. The dwelling is accessed via a long driveway from Whitechurch Road. There is a mature hedgerow along part of the southern boundary between the driveway and the vacant site. There is a formal landscaped garden laid out to the west of the dwelling. To the rear (east) of the dwelling there are a number of shed structures, a patio and an area of open space which extends to the far eastern boundary of the site where a wall separates the property from the dwellings in Tara Hill Crescent. The rear portion of the garden serving the bungalow merges with the vacant site and is readily accessible from the existing dwelling.
- 7.4.5 The vacant site itself is laid out as lawns and is well maintained. Whilst it is a large area, it does in my view form part of the curtilage of the existing dwelling. Whilst I note the view of the Planning Authority that the vacant site is not required for the amenity or convenience of the dwelling and does not function as a garden to serve the dwelling, from my observations on site, I consider its status to be somewhat ambiguous. However, on balance, the site is clearly physically connected to the bungalow and accessible from it. It is reasonable in my view, to determine that it forms part of the amenity area serving the dwelling. I, therefore, consider that these lands come within the definition of a 'home' as per section 5(2) of the 2015 Act and cannot be considered a vacant site.
- 7.4.6 It is also stated that the most recent purchase of the site occurred before it became residential land (as defined in the 2015 Act) and before the commencement of Section 63 of the Planning and Development (Amendment) Act 2018 and as such does not fall within the definition of a vacant site.
- 7.4.7 Circular letter PL04/2018 provides further clarity on this matter and states:  
*“A site on residentially zoned land, provided it meets the other criteria in section 5(1)(a) shall be regarded as a vacant site for the purposes of the levy if it is “vacant or idle” or if it is not being used primarily for the purpose for which it has been zoned (i.e. for the provision of housing) where the most recent purchase of the land*

*occurred after it was zoned residential, irrespective of when it was purchased.*

*This provision differentiates between lands purchased following a zoning change to residential and lands held in ownership regardless of zoning, such as those long held and operated as farms. Therefore, its aim is to focus on developers or speculators who have purchased residentially zoned lands and serviced lands but are not bringing those lands forward for development for that purpose. However, it confirms that lands owned and used prior to being rezoned to residential (i.e. for agricultural purposes) and which continue in such use shall not be regarded as vacant or idle for the purposes of the levy and are, therefore, not liable to the levy.”*

- 7.4.8 I consider that section 5(1)(a)(iii)(II) does not apply in this instance. The site is not vacant or idle and is being used for a purpose that does not consist of solely or primarily of the provision of housing. It provides an amenity function. The landowner states that the site has been in the ownership of the family since the 1940's prior to its zoning as residential land and before the commencement of section 63 of the 2018 Act. It is evident in this instance that the appellant is not a developer or speculator who has purchased the lands but is not bringing them forward for development. The site has been long held in the family's ownership and was in use prior to being rezoned residential. The site therefore, in my view does not come within the definition of a vacant site as per section 5(1)(a) of the 2015 Act.

#### Vacant Site Levy

- 7.4.9 It is stated by the appellant that the subject land was not valued at the time of entry on the Register and without a market value, no levy is payable in 2019.
- 7.4.10 I refer to the Board to Appendix 2 of Circular PL7/2016 which states that a:  
*“A Planning Authority shall, as soon as possible after the entry on the vacant site register and at least every 3 years thereafter, determine the market value of a vacant site and serve notice on the owner of the site of the valuation, or revised valuation – of the site in question” (my emphasis).*
- 7.4.11 In this regard, it is clear that whilst the register must include particulars of the market value of the site as determined by the planning authority, this can occur after the entry has occurred on the Vacant Site Register and the Planning Authority are not obligated to include this information on the Proposed Notice of Entry.



## 8.0 Recommendation

8.1 In conclusion, I am satisfied that there is a need for housing in the area of the subject site as per section 6(4) of the 2015 Act and that the site is suitable for the provision of houses as per section 6(5). However, as per the above assessment, it is considered that the subject site does not meet the definition of a 'site' as per section 5(2) and does not come within the scope of section 5(1)(a)(iii) (as amended), i.e. it is not vacant or idle. The site should, therefore, be removed from the register.

8.2 I recommend that in accordance with Section 9(5) of the Urban Regeneration and Housing Act 2015 (as amended), the Board should cancel the Notice stating that the lands adjacent to Silveracre Bungalow, Whitechurch Road, Rathfarnham, Dublin 14 (SD/VS374) was a vacant site for the 12 months concerned.

## 9.0 Reasons and Considerations

9.1 Having regard to:

(a) The information placed before the Board by the Planning Authority in relation to the entry of the site on the Vacant Sites Register,

(b) The grounds of appeal submitted by the appellant,

(c) The report of the Planning Inspector,

(d) That the site is used for amenity purposes associated with Silveracre Bungalow and is required for the amenity and convenience of that dwelling. It, therefore, meets the definition of a 'home' as per section 5(2) of the Urban Regeneration and Housing Act 2015 (as amended) and does not meet the definition of a 'site' which does not include any structure that is a person's home.

e) The most recent purchase of the site which occurred prior to it becoming residential land, and before, on or after the commencement of section 63 of the Planning and Development (Amendment) Act, 2018,

The Board considers that it is appropriate that a notice be issued to the Planning Authority who shall cancel the entry on the Vacant Sites Register.

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**Erika Casey**  
**Senior Planning Inspector**

**25th October 2019**