



An
Bord
Pleanála

Inspector's Report ABP-307450-20

Type of Appeal	Appeal against a Section 18 Demand for Payment.
Location	Site off the Old Bray Road, Foxrock, Dublin 18.
Planning Authority	Dun Laoghaire Rathdown County Council.
Planning Authority VSL Reg. Ref.	VS/0011.
Site Owner	Cornel Living Limited.
Date of Site Visit	24 March 2021.
Inspector	Stephen Rhys Thomas.

1.0 Introduction

- 1.1. This appeal refers to a Section 15 Notice of Demand for Payment of Vacant Site Levy issued by Dun Laoghaire Rathdown County Council, stating their demand for a vacant site levy for the year 2019 amounting to €840,000 for vacant site lands off the Old Bray Road, Foxrock, Dublin 18 and identified as VS0011.
- 1.2. The appeal site has one stated registered owner Cornel Living Limited.
- 1.3. A Notice of Proposed Entry on the Vacant Sites Register was issued to Fellhurst Limited on the 8 August 2017. On the 14 February 2018, the Notice of Entry on the Vacant Sites Register was issued to Fellhurst Limited. This section 7(3) notice was appealed to the Board on the 14 March 2018. On the 27 September 2018, the Board confirmed the notice and determined that the site is a vacant site within the meaning of the Act. A section 11(1) Notice to Owner of Site Entered on Vacant Sites Register and Levy to be Charged was issued to Cornel Living Limited on the 29 April 2019.
- 1.4. A valuation pertaining to the site was issued to Fellhurst Limited by Dun Laoghaire Rathdown County Council on the 28 June 2018. The value of the subject site is stated to be €12,000,000. A Notice of Demand for Payment of Vacant Site Levy under Section 15 of the Urban Regeneration and Housing Act was issued to Cornel Living Limited on the 2 June 2020 for the value of €840,000. The appellant (Cornel Living Limited) has appealed the Demand for Payment Notice issued pursuant to Section 15 of the Urban Regeneration and Housing Act.

2.0 Site Location and Description

- 2.1. The site, with a stated area of 1.89 Hectares, is located in Cornelscourt Village, County Dublin. The site bounds the N11 dual carriageway (Stillorgan Road) and takes access from the Old Bray Road between the AIB bank building and Texaco petrol station. The remainder of the site bounds the rear of existing housing along the Old Bray Road and Willow Grove.
- 2.2. The site slopes downwards from south west to the north west. The majority of the site is overgrown with grass and other vegetation. To the north western portion of the site an area has been levelled and surrounded by a high earthen berm and is surfaced with hardcore/gravel. No cars were parked on this area. No sporting activity was taking place and no playing pitches were marked out.

3.0 Statutory Context

3.1. Urban Regeneration and Housing Act 2015 (as amended).

3.1.1. The site was entered onto the register subsequent to a Notice issued under Section 7(1) of the Act that stated the PA was of the opinion that the site referenced was a vacant site within the meaning of Section 5(1)(a) of the Act. A section 7(3) Notice was issued 14 February 2018 and the site was subsequently entered onto the register on that date.

3.1.2. Section 18 of the Act states that the owner of a site who receives a demand for payment of a vacant site levy under section 15, may appeal against the demand to the Board within 28 days. The burden of showing that:

(a) the site was no longer a vacant site on 1st January in the year concerned,
or

(b) the amount of the levy has been incorrectly calculated in respect of the site by the Planning Authority,

is on the owner of the site.

3.1.3. Section 17 of the Act states

(1) Notwithstanding sections 15 and 16, where in any year there is a change in ownership of a vacant site the amount of vacant site levy to be charged in respect of that site for that year, and for the preceding year, shall be zero.

Subsections set the detail and exceptions in relation to change of ownership.

4.0 Development Plan / Planning History

4.1. The site is zoned objective A 'To protect and/or improve residential amenity' in the Dun Laoghaire Rathdown County Development Plan 2016-2022.

5.0 Planning History

5.1. Subject site VSL History

ABP-301161-18 - Vacant Site Levy - Appeal S.9. Notice Confirmed on the 27 September 2018 because of the majority of the site was and is vacant or idle, there

is a need for housing in the area, the site is suitable for the provision of housing as demonstrated by the residential land use zoning for the area, and that insufficient reason is put forward to cancel the entry on the Vacant Sites Register.

5.2. Planning history on the site.

An Bord Pleanála reference **ABP-306225-20** – Permission refused for 468 residential units (16 houses, 452 apartments) and associated site works, 16 April 2020. Reasons as follows:

1. The proportion of single aspect apartments in the proposed development would contravene Specific Planning Policy Requirement 4 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of the Housing, Planning and Local Government in March 2018. In addition, the level of communal open space provision is below the minimum standard set out in Appendix 1 of the guidelines. The proposed development would, therefore, fail to provide an adequate level of residential amenity for future occupants of the scheme and would be contrary to Ministerial guidelines issued to planning authorities under section 28 of the Planning and Development Act 2000, as amended.
2. The proposed development would be premature having regard to the existing deficiencies in the wastewater sewerage network in the area and the period within which this constraint may reasonably be expected to cease.

6.0 Planning Authority Decision

6.1. Register of Vacant Sites Report:

As summarised for section 9 appeal reference ABP-301161-18 refers, details as follows:

- A Vacant Sites report outlining the date of the visit to the site (3 November 2016), the site area, zoning and the type of site for the purposes of the Act which in this case is Residential. It is noted that a part of the site is in use as a car park and that this activity may be unauthorised, a pending planning application is noted – pa reference D17A/0597 refers. The remainder of the site is a greenfield and not in use.

It is stated that the subject site is not in residential use and is not being used for the purpose for which it was zoned.

- In terms of need for housing (tests outlined in Section 6(4)) it is stated that in terms of (a) any site zoned for residential development implies that there is a need for housing in accordance with Section 5(1)(a)(i); (b) for 3-bed house average monthly rent is €2,687 (Sept 2017) and average purchase price is approx. €492,217 (2017); (c) approx. 4,927 households qualified for social housing support (October 2017); (d) 422 properties for sale (295) or rent (127) (Sept. 2016) which is 0.5% of the 88,500 housing stock with the assessment noting that having regard to the criteria that it is considered there is a need for housing in accordance with Section 6(4) of the Act.
- In terms of suitability for housing (tests outlined in Section 6(5)) in terms of (a) as site is zoned for housing it is considered suitable for housing; (b) site is served by public infrastructure and facilities; and (c) there does not appear to be any physical condition or constraint impacting the site which might affect the provision of housing and in conclusion it is stated that the site appears suitable for the provision of housing.
- In relation to the majority of the site being vacant or idle for the last 12 months, it is stated that the site was vacant on the date of site inspection November 2016 and was considered to be in the same condition for the preceding time periods (aerial photography) June/December 2013 and April 2015. It is considered that the site is vacant and has been vacant for a period beyond twelve months.
- Site does not have an active use. Reference is made to the Circular (PL07/2016) which references temporary uses and development appropriate to the zoning and concludes that the site is a vacant site as it is situated in an area where there is a need for housing, the site is suitable for the provision of housing and the site or the majority of the site is vacant or idle.
- The planning authority's submission is accompanied by a Report on the Submissions received in relation to the establishment of the register, a record of the chief executive's order, the initial submission from Dunnes Stores on behalf of Fellhurst Ltd (landowner) in relation of the intention to place the site on the register.

6.2. **Planning Authority Notices:**

- 6.2.1. Dun Laoghaire Rathdown County Council advised the site owner that the subject site (Planning Authority site ref. VS0011) is now liable for a payment of 7% of its valuation and hence the levy for 2019 is €840,000, dated 2 June 2020. Payment terms and methods are outlined.
- 6.2.2. A Notice of Determination of Market Value was issued to Fellhurst Limited on the 28 June 2018 stating that the valuation placed on the site is €12,000,000 (twelve million euro) and instructions to make an appeal to the Valuations Tribunal, accompanied by a map with the site outlined.
- 6.2.3. A section 11(1) Notice to Owner of Site Entered on Vacant Sites Register and Levy to be Charged was issued to Fellhurst Limited on the 29 April 2019.
- 6.2.4. A section 7(3) Notice issued on the 14 February 2018, advising the owner that their site had been placed on the register.
- 6.2.5. A section 7(1) Notice issued on the 8 August 2017, advising the owner that their site had been identified as a vacant site and invited submissions, accompanied by a site map.

7.0 **The Appeal**

7.1. **Grounds of Appeal**

- 7.1.1. The landowner has submitted an appeal to the Board, against the decision of Dun Laoghaire County Council to retain the subject site on the Register and charge the levy. The grounds of the appeal can be summarised as follows:
 - The site is not a vacant site because the site is not served by the public infrastructure and facilities to enable housing to be provided. A decision to refuse permission for an SHD application 16 April 2020, was issued by the Board and one of the reasons for refusal related to prematurity and the deficiencies in the waste water sewerage network, APB-306225-20 refers. The site was and is not a vacant site in accordance with section 5(1)(a)(ii) and the placement on the register should be cancelled, legal case Navratil v ABP is highlighted as relevant.
 - The site is not a vacant site because there was something affecting the physical condition of the land comprising the site which might affect the

provision of housing, in this case invasive alien species (Japanese Knotweed, Three Cornered Garlic and Spanish Bluebell). A situation that can take time to resolve, an Invasive Plant Solutions plan has been prepared.

- The site is not a vacant site because it is being used for sporting activities. A licence to use the site was granted to Geraldine Morans GAA on the 2 November 2019, the site was in use until Covid restrictions came in to play. Sporting use does not require planning permission and the Council were written to in order to cancel the entry on the register (9 December 2019 and later 18 March 2020). The site was not removed from the register but remains in active use for sporting activities until housing can be provided on the lands. The appellant details two vacant site appeals that set out that sporting and recreation as a use for a site, ABP-303914-19 and ABP-303529-19 refer. In ongoing contact with the Council, the appellant sets out their theories in relation to Class 33 and exempted development.
- The appellant seeks clarity in relation to the terminology used in the 2015 Act (as amended) such as 'year concerned', in order to test if there was a gap in vacancy.

The appellant has attached a number of appendices that include; the demand notice, the decision that relates to ABP-306225-19, an Invasive Plant Solutions plan, the licence granted to Geraldine Morans GAA to use the site sporting activity, photographs showing sporting use, letter of 9 December 2019 requesting cancellation of entry on the register, the reply of the Council dated 12 February 2020 and a letter dated 18 March 2020 in response to the Council's letter.

7.2. Planning Authority Response

The planning authority have provided a response to the appellant's grounds of appeal that include:

The site was sold by Fellhurst Limited to Cornel Living Limited, after the decision on the section 9 appeal (November 2018).

A request was received by the current owner to remove the site from the register because it was in use for sporting activities and was subject to invasive species, December 2019. The site was not removed.

The planning authority's issues regarding the SHD application are outlined, but specifically, the report of Irish Water and downstream constraints is highlighted. The planning authority maintain that the site can be serviced, there is no local impediment to connection for a lower number of units.

With reference to invasive species, the p.a. note the appellant has been in control of the site since at least the end of 2018, with ample opportunity to deal with invasive species that only affects a small proportion of the overall site as an ongoing maintenance measure. Invasive species management cannot be considered as a means to the provision of housing in itself.

The use of the site for sporting activities is not considered a use that consists solely or primarily of the provision of housing or the development of the site for the purpose of such provision. The use of the site for a temporary sporting activity is not accepted and there is no clarity in relation to the need for planning permission.

7.3. Further Response

None sought.

8.0 Assessment

8.1. Introduction

8.2. This appeal relates to a Section 15 Demand for Payment. In accordance with the provisions of the legislation there are 2 key criteria to consider:

- (a) the site was no longer a vacant site on 1st January in the year concerned, or
- (b) the amount of the levy has been incorrectly calculated in respect of the site by the Planning Authority.

I will consider each of these in turn.

8.3. The site is no longer vacant

8.3.1. The Board should be aware that the provisions of Section 18(2) of the Act does not specify whether the applicant must demonstrate whether the site constitutes a vacant site as per the provisions of Section 5(1)(a) i.e. that the site constituted a vacant site in the first instance when the Section 7(3) Notice was issued or whether

they must just demonstrate that notwithstanding the Notice issued, that development has taken place on the site and it is no longer vacant as of the 1st of January in the year concerned, in this case 2019.

8.3.2. For the purposes of this assessment, I will consider both scenarios.

8.4. **Is it a Vacant Site?**

8.4.1. A Section 7(3) Notice of Entry on the Vacant Sites Register was issued on the 14 February 2018. Subsequently a Section 9 appeal was made to the Board under appeal reference ABP-301161-18. An assessment as to whether the site constituted a vacant site was carried out by the Reporting Inspector. It was determined by the Board that given the need for housing in the area and the suitability of the site for the provision of housing as demonstrated by the residential land use zoning, the site could be placed on the register.

8.4.2. However, the appellant now challenges and disputes the previous decision of the Board in relation to the suitability of the site for housing and that for the period of the levy charge (2019) the site was in use for sporting activities and not vacant or idle. Taking this ground of appeal first, there are two questions to be asked, whether the use of the lands by a local sports club can be considered as a use to lift the site from the register. The 2015 Act does not define uses other than that the deciding authority shall not have regard to any unauthorised development or unauthorised use. I acknowledge that circulars issued by the department assist with definitions of use, but I rely on the 2015 Act alone. To my knowledge no enforcement action has occurred in relation to the sporting use on site. It follows that any permitted use could be considered as a legitimate use for the site. This would seem to be an illogical situation and a landowner could theoretically put lands to some kind of use that would not attract enforcement action and claim a site to be actively in use. However, the amendment Act of 2018 introduced new wording to remedy this type of situation, section 5(1)(a)(iii) as follows:

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.

8.4.3. The only information I have before me regarding ownership change is stated by the planning authority, that the site was sold by Fellhurst Limited to Cornell Living Limited after September 2018. This would mean that the current owners of the site came into ownership after the lands were zoned residential and put the land to use for something other than the provision of housing or the development of the site for the purpose of such provision. Therefore, even if the sporting use could be accepted, such a use was only initiated by the new owner after the land was already zoned and before, on or after the commencement of section 63 of the Planning and Development (Amendment) Act 2018. In addition, if ownership did change then the owner could take advantage of section 17 of the 2015 Act that states

(1) Notwithstanding sections 15 and 16, where in any year there is a change in ownership of a vacant site the amount of vacant site levy to be charged in respect of that site for that year, and for the preceding year, shall be zero.

Given the timeline of Notices issued by the planning authority I can see the following:

- A section 7(3) notice issued in February 2018 to Fellhurst Limited.
- A section 11(1) notice issued in April 2019 to Cornell Living Limited.

8.4.4. It therefore follows that ownership did change and that it is possible that ownership changed in 2018 or 2019 and theoretically section 17 of the 2015 Act could be invoked. The fact that the appellant has not raised this as a grounds of appeal, suggests that ownership changed in 2018 and therefore would offer no relief to the charge of 2019. However, this seems to clarify matters to a change of ownership and section 5(1)(a)(iii)(II)(A) and (B) of the 2015 Act, would mean that only the provision of housing on the site would lift it from the register.

8.4.5. To take another tack, the appeal site as a whole and the definition of vacant or idle, the 2015 Act takes a quantitative approach and states that assessments should take account of the majority of the site. In this instance and based upon my observations there is a minor portion of the sloping site that may have been used by the sporting club, the rest seems to be overgrown and unsuitable. Therefore, in terms of the use

of the site, if the training activities of a single sporting club are accepted as a use for the site (though failing to deliver housing), then this activity must take place over the majority of the lands and I find this likely not to be so. In any case and as explained at section 8.4.3 above, new ownership of the lands nullifies any kind of use other than the provision of housing. The lands are therefore vacant or idle within the ordinary meaning of the words. Section 5(1)(a) of the 2015 Act requires three criteria to be fulfilled, no-one disputes the need for housing, section 5(1)(a)(i) refers. I have stated that the site was vacant or idle for the period concerned and though not necessarily required, section 5(1)(a)(iii)(I) and (II) are met. A third requirement is needed, and this relates to section 5(1)(a)(ii) site suitability for housing.

8.4.6. In terms of the suitability of the site for housing the appellant raises two issues; that the site could not be served by water services and that invasive alien plant species were and are present on the lands. The appellant maintains that the lands did not and no longer fulfil the criteria for a vacant site under section 5(1)(a)(ii) as expanded by section 6(5)(b) and (c), of the 2015 Act (as amended).

8.4.7. Section 5(1)(a)(ii) refers to the suitability of the site for the provision of housing and is further refined by section 6(5)(a), (b) and (c), as follows:

(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 any thing affecting the physical condition of the land comprising the site which might affect the provision of housing

8.4.8. There are no differences in opinion between the appellant, the planning authority or me about the core strategy of the statutory plan that has planned for additional housing units. Section 6(5)(a) is met.

8.4.9. In terms of public infrastructure to enable the provision of housing the appellant references a recent Strategic Housing Development (SHD) application that was refused on the site by the Board, ABP-306225-20 refers. One of the reasons related to the prematurity of the development because of the existing deficiencies in the wastewater sewerage network in the area and the period within which this constraint may reasonably be expected to cease. The planning authority dispute that local

deficiencies are the problem, that the issues lie downstream and perhaps a lesser amount of housing development on the site would not have an impact on the infrastructural constraints. The appellant also highlights a legal judgement that concludes deficiencies that 'can or will be' addressed is not relevant to the legal test. This is because at the time of the SHD decision by the Board, the site could not be served and so it follows that such a deficiency would extend back in time to when the levy was charged, and when the site placed on the register. This the appellant contends, means that the lands could never have been considered to meet criteria 6(5)(b) of a vacant site.

- 8.4.10. Despite the previous confirmation and order issued by the Board, I am satisfied that new information has come to the fore since the Section 7(3) Notice was issued and that this matter though previously adjudicated on, should be re-examined. I am particularly sensitive to the issue of whether the site was served by the public infrastructure and facilities necessary to enable housing to be provided and serviced, as this forms a key component of section 6(5) of the 2015 Act criteria to accept a site on to the register. In addition, I am aware, and the Board will be too, of case law where the matter of the timing and delivery of public infrastructure, and its capacity to accept development, was explored. The appellant's premise in the current appeal now before the Board is that the site could not have been serviced during the relevant period.
- 8.4.11. For clarity, permission was also refused for not meeting residential amenity standards as well as for the water services deficiencies the appellant relies upon. The legal case quoted by the appellant is also relevant to the case in hand. It was judged that it was wrong to look to the future and in particular to the future completion of a statutory process, rather than the question that was required to be addressed, that of whether the site was served by the public infrastructure necessary to enable housing to be provided and serviced. With regard to the initial section 9 appeal, no infrastructural constraints were identified at the time and the deficiencies have only surfaced as part of a detailed SHD application.
- 8.4.12. As for the planning authority's contention that perhaps a lesser amount of housing would escape problems of serviceability, I do not intend to base a recommendation on imponderables. The Board have decided in the SHD application to hand, that

there are infrastructural problems with the lands and this naturally impacts upon the ability of the site to deliver housing.

- 8.4.13. The Board should note that I have relied on information contained in the SHD application reference ABP-306225-19. It is clear to me that the lands are hampered by network constraints, this is borne out by the submission made by Irish Water to the SHD application that highlighted ongoing survey work as part of the West Pier PS Drainage Area Plan due to be completed by the end of 2021. IW point out that until this survey work is complete, the scope of works required and whether statutory consents are needed are not known and this affects the ability of the network to facilitate the development proposed. Until these upgrades are at least known or completed, housing development on the site might well be refused. So, it follows that the site is and was not suitable for the provision of housing because it lacks 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, section 6(5)(b) is not met.
- 8.4.14. A third condition must be met with regard to section 6(5), and that is to do with any thing affecting the physical condition of the land comprising the site which might affect the provision of housing. In this case the appellant states that the presence of an invasive alien species (Japanese Knotweed, Three Cornered Garlic and Spanish Bluebell) on the site meant that the site could not be developed for housing. The planning authority suggest that the ordinary maintenance to remove or control an invasive alien plant species should have or be taking place on the site, I agree. Despite the owner's production of an Invasive Plant Solutions plan, I consider that the presence of an invasive alien plant species on the site is not such a thing that would stop the provision of housing as in many cases the removal of such a thing is part and parcel of site development works. I do not consider that there was any thing that affects or affected the site to prevent the delivery of housing, section 6(5)(c) is met.
- 8.4.15. I consider that the site was correctly placed on the register in the first place. The site was not in use before and at the time of registration and is still not in use. I do not accept that the sporting use can be made by the appellant for the charge period (2019) because that activity only occurred after new ownership. I do not accept that the presence of an invasive plant species has such an effect on the lands to prevent

housing being delivered. However, it has now transpired that new information is known about the ability of the site to deliver housing and this relates to infrastructural deficiencies. This has implications for whether the site can be charged a levy for the relevant period and I consider this next.

The site is no longer vacant as of the 1st of January 2019

8.4.16. The appellant has submitted that the use of the site by a sports club is evidence enough to suggest that the subject site is no longer vacant/idle. A lease agreement is submitted and photographs show goal posts being moved around and white lines marked on the grass. The planning authority do not consider this to be a beneficial use and question whether permission is required, no enforcement action has been pursued on the site. I am not convinced that even the periodic use by a single sports club of part of the site can be considered a beneficial use. Specifically when taken together with a change of ownership or recent purchase that changes things in relation to 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, section 5(1)(a)(iii)(I) refers. I do not have sufficient information before me to categorically invoke this section of the 2015 Act.

8.4.17. However, as outlined above, I do have concerns about whether the site can or could have been served by public infrastructure, in this case wastewater services. In this context, I have relied on the recent decision of the Board, ABP-306225-19 refers, that refused permission because of such an infrastructural deficiency, amongst other things. I am satisfied that the lands concerned changed from being a vacant site within the meaning of the 2015 Act, to not a vacant site during the relevant period (2019) and beyond. The site should be removed from the register and the appropriate charge should not be levied.

8.5. Matter of Law

8.5.1. The appellant asks some fundamental questions about time periods, phrases and the interpretation of the Urban Regeneration and Housing Act 2015 (as amended). However, I am satisfied that both the planning authority and the Board have applied the correct interpretation of the 2015 Act, in terms of the appropriate time periods, phrases and grammar used in the Act. I see no value or benefit in any further action in this regard as it refers to the appeal in hand.

8.6. Procedural Matter

- 8.6.1. The Board should note that the calculation of time limits was adjusted during a period of emergency in the first half of 2020, the Emergency Measures in the Public Interest (Covid-19) Act 2020 refers. This may impact upon any Order that the Board decide to make and the adjustment to any time periods should be duly considered in the context of Section 251A(1) and (2) of the Planning and Development Act 2000 (as amended).

8.7. Levy Calculation

- 8.7.1. A Notice of Determination of Market Value was issued to Fellhurst Limited on the 28 June 2018 stating that the valuation placed on the site is €12,000,000 (twelve million euro). No evidence from the appellant has been submitted to show that this valuation was appealed to the Valuation Tribunal.
- 8.7.2. A Notice of Demand for Payment of Vacant Site Levy under Section 15 of the Urban Regeneration and Housing Act was issued to Cornel Living Limited on the 2 June 2020 for the value of €840,000.
- 8.7.3. The levy rate applicable in this instance is 7%. The rate of levy has been increased from 3% to 7% of the market valuation of relevant sites with effect from January 2020, to be applied in respect of sites that were included on vacant site registers in 2019.
- 8.7.4. The applicable rate is 7% and it is evident, therefore, that the levy calculation has been correctly calculated. The Demand Notice issued under section 15 of the 2015 Act correctly states the levy due.

9.0 Recommendation

- 9.1. I recommend that in accordance with Section 18 (3) of the Urban Regeneration and Housing Act 2015 (as amended), the Board should cancel the Notice of Demand for Payment of Vacant Site Levy as the site was not a vacant site as of the 1 of January 2019 and was not a vacant site on 29 June 2020, the date on which the appeal was made. The demand for payment of the vacant site levy under Section 15 of the Urban Regeneration and Housing Act 2015 is, therefore, cancelled. In accordance with Section 18(4) of the Urban Regeneration and Housing Act 2015 (as amended),

the Board confirm that the amount of the levy has been correctly calculated in respect of the vacant site.

10.0 Reasons and Considerations

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) The site was for the period of 2019 and continues to be unsuitable for the provision of housing, because the site was not 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, thus for the period concerned the site was not in accordance with section 5(1)(a)(ii) as defined by section 6(5)(b) of the 2015 Act (as amended), of the Urban Regeneration and Housing Act 2015 (as amended),

the Board is not satisfied that the site was a vacant site on the 1 of January 2019 and was a vacant site on 29 June 2020, the date on which the appeal was made. The demand for payment of the vacant site levy under Section 15 of the Urban Regeneration and Housing Act 2015 is, therefore, cancelled.

Stephen Rhys Thomas
Senior Planning Inspector

31 March 2020