



An
Coimisiún
Pleanála

Inspector's Report ACP-323744-25

Type of Appeal	Appeal against a Section 18 Demand for Payment.
Location	Lands at Former Paper Mills, Clonskeagh Road, Clonskeagh, Dublin 6.
Planning Authority	Dublin City Council
Planning Authority VSL Reg. Ref.	VS-0800
Site Owner	Harley Issuer DAC.
Date of Site Inspection	Not Applicable
Inspector	Mary Kennelly

1.0 Introduction

- 1.1.1. This appeal refers to a Section 15 Notice of Demand for Payment of Vacant Site Levy issued by Dublin City Council, stating their demand for a vacant site levy for the year 2024 amounting to €700,000 for a vacant site at the Former Paper Mills, Clonskeagh Road, Clonskeagh, Dublin 6 and identified as VS-0800. The appeal site has one stated registered owner, Harley Issuer DAC.
- 1.1.2. A **Notice of Proposed Entry on the Vacant Sites Register** was issued to Harley Issuer DAC on **10th January 2022**. On the **5th April 2022**, a **Notice of Entry on the Vacant Sites Register** was issued to Harley Issuer DAC under section 7(3) of the Act.
- 1.1.3. The S 7(3) Notice of Entry on the Register was appealed to the Commission under reference **ABP-313460-22**. It was determined, on the 1st November 2023, that the site *was* a vacant site within the meaning of the Urban Regeneration and Housing Act, 2015 (as amended), for the period concerned, as set out in the Vacant Sites Register for the following reasons and considerations: -
- 1.1.4. 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 and recommendation of the Inspector, and
 - (d) That the site was and is a vacant site as demonstrated by its idle or not in use condition during the relevant period, 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 extant planning permissions, and that insufficient reason is put forward to cancel entry on the Vacant Sites Register,

The Board considered that it was appropriate that a notice be issued to the planning authority to confirm the entry on the Vacant Sites Register.

- 1.1.5. A **Section 12(4) Notice of Determination of Market Value** pertaining to the site was issued by Dublin City Council on **25th August 2025** to Harley Issuer DAC. The value of the subject site is stated to be €10,000,000.00.
- 1.1.6. A **Notice of Demand for Payment of Vacant Site Levy** under **Section 15** of the Urban Regeneration and Housing Act 2015 (as amended) was issued to Harley Issuer DAC on the **25th August 2025** for the value of €700,000.00 for 2024, which is 7% of market value. The appellant (Harley Issuer DAC) appealed the Demand for Payment Notice issued pursuant to Section 15 of the Urban Regeneration and Housing Act 2015 (as amended) which forms the current appeal before the Commission.

2.0 Site Location and Description

- 2.1.1. The site with a stated area of c. 0.788ha is located at Clonskeagh. It is a former industrial site (paper mills) located on the eastern side of Clonskeagh Road, along the banks of the River Dodder. It is essentially a backland site with road frontage at two points along Clonskeagh Road to the west, with the remainder of the western boundary formed by the rear gardens/yards of three sets of terraced properties that front onto Clonskeagh Road.
- 2.1.2. The site is bounded to the north by Ashton's Public House and to the east and south by the River Dodder. The terraced properties at the northern end comprise a mix of single-storey and 2-3 storey houses, the middle terrace comprises a row of 16 no. 2-storey houses and the southern-most terrace comprises a row of shops with accommodation overhead. There is an Applegreen service station immediately to the south of the row of shops.
- 2.1.3. The Dodder flows in a northerly direction alongside the subject site with a weir (Clonskeagh Weir) mid-way along the eastern site boundary. Clonskeagh Bridge is located to the south of the Applegreen site. Beech Hill Road follows the river along the eastern bank. On the opposite (western) side of Clonskeagh Road, the lands are primarily occupied by Clonskeagh Hospital and Farmer Brown's Public house (at the southern end).

2.1.4. The buildings on the site have been demolished, and a hoarding has been erected along the frontage with Clonskeagh Road. There is a high wall along the eastern boundary with the River Dodder.

3.0 Statutory Context

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

3.1.1. The Urban Regeneration and Housing Act 2015, (as amended), was enacted to address housing shortages and to promote urban renewal by establishing a framework for managing vacant sites and encouraging development. It seeks to prevent land from lying idle in areas that require renewal. It established a register of vacant sites and introduced a vacant site levy to incentivise the development of vacant sites. The levy is charged annually and is based on the market value of the site. The local authority is required to maintain a register of vacant sites.

3.1.2. The site was entered onto the register subsequent to a Notice issued under Section 7(1) of the Urban Regeneration and Housing Act 2015 (as amended) which stated that the P.A. was of the opinion that the site referenced was a vacant site within the meaning of **Section 5(1)(a)** and **5(2)** of the Act. A section 7(3) Notice was issued on the 5th of April 2022, and the site was subsequently entered onto the register on that date.

3.1.3. A **Vacant site** is defined in **Section 5** of the Act. **Section 5(1)(a)** relates to a site consisting of residential land where –

- (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 –
 - (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 need for housing in a particular area and the suitability of the site for the provision of housing are addressed in **Sections 6(4) and 6(5)** respectively as follows:

6(4) 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.

6(5) 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.

3.1.5. **Section 15** of the Act entitles the local authority to charge a levy for each year that the site remains vacant. There are several opportunities during the process whereby the owner can appeal a decision of the local authority to the Commission (formerly the Board). **Section 9** allows for an appeal against entry of the site onto the register and **Section 13** allows for an appeal against the market valuation.

3.1.6. **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 Commission within 28 days. On appeal, the burden is on the owner of the site to show 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.

4.0 Development Plan

Dublin City Development Plan 2022-2028

4.1.1. The subject site is zoned as **Z1 'Sustainable Residential Neighbourhoods'**. The zoning objective is to protect, provide and improve residential amenities. The subject site is located within a built-up area outside the canal ring close to the UCD campus. The site, as well as lands along Clonskeagh Road, the Apple Green service station and Farmer Brown's pub are all within an area identified as Flood Zones A/B on Map H of Volume 7 (Strategic Flood Risk Assessment) of the Plan.

4.1.2. **The Core Strategy** (2.7.2) will be delivered by the implementation of an Active Land Management strategy, including the incentivisation of development through measures such as the Vacant Site Levy. Objectives

CS06 and **CS07** seek to develop a register of vacant and underutilised lands and to promote the delivery of residential development and compact growth. In addition, the following Objectives are relevant

CS08 To promote active land management including the vacant site levy and the Living city initiative as a means to encourage brownfield development and densification in the city.

CS09 To implement the vacant site levy for vacant development sites as appropriate in the city and to continue to make a publicly available register of vacant sites as set out in the Urban Regeneration and housing Act 2015, or any superseding Act.

- 4.1.3. One of the **key strategies** for the development of the city (**4.4**) is the creation of a consolidated city, whereby infill and brownfield sites are sustainably developed, regenerated and new urban environments are created, and where underutilised sites and buildings are actively repurposed and intensified. This will be facilitated by promoting '**Active Land Management**', including initiatives such as the **Vacant Site Levy**.
- 4.1.4. **Policy QHSN3(i)** (Chapter 5) seeks to secure the implementation of the **Dublin City Housing Strategy** (Appendix 1) in accordance with the provisions of national legislation. It is stated that the Vacant Site Levy will continue to be used as an effective Active Land Management mechanism to encourage infill development on key sites throughout the city (5.5.2).
- 4.1.5. **Chapter 14 (14.8)** sets out, for the purposes of the Urban Regeneration and Housing Act 2015 (as amended) and the implementation of provisions relating to the Vacant Site Levy, the land-use zones which are zoned primarily for residential purposes in accordance with section 10(2)(a) of the Act. Thus, the Vacant Site Levy will be applied to the following Zones – **Z1, Z2, Z8, Z10 and Z12** and **Residential Lands** identified in the city's **SDRA's**.

5.0 Planning History

P.A. Ref. 2620/14 – Planning permission granted for demolition of buildings on site and construction of 92 apartment in four blocks, four storeys in height over lower ground floor level. **P.A. Ref. 2620/14/X1** – Extension of duration granted in 2020 until 5th June 2025.

PL29S.247062 (PA. Ref. 2308/16) – Planning permission granted by the Board on appeal in 2016 for revisions to 2620/14 to increase no. of apartment units from 88 to 97 and associated works.

ABP.300024-17 (PA Ref. 3159/17) – Planning permission granted by the Board in 2018 for revisions to 2308/16 to increase the no. of apartment units from 96 to 116 and internal alterations to basement car park.

PA. Ref. 3774/21 – Permission sought for a residential (167 units) and aparthotel (24 units) in four blocks ranging in height from part 1 to part 7 storey over basement. This application was **withdrawn in 2022**. Issues had arisen relating to, inter alia, flood protection works outside the application boundary.

ABP:313460-22 (VSL Reg. VS-0800) refers to an appeal by Harley Issuer DAC under Section 9 of the Urban Regeneration and Housing Act against 2015 against the decision of Dublin City Council to enter the site on the Vacant Site Register. The Board determined that the site was a vacant site for the period concerned and that it was appropriate that a notice be issued to the Planning Authority to confirm the entry of the site on the Vacant Sites Register.

ABP.323142 (WEBLRD6063/25-S3) – the Commission granted planning permission on the 12th November 2025 for an **LRD on the site** comprising a **Purpose-Built Student Accommodation and residential development** including 439 PBSA bedspaces, 16 residential apartments, the extension and renovation of 14 houses and all associated site development and infrastructural works. It should be noted that the permission related to a larger site than the site the subject of the current appeal against the demand for payment of a levy. It should also be noted that the proposed LRD includes Flood Defence and Alleviation works including flood walls along the eastern site boundary, a catchment trench fronting Clonskeagh Road, a flood defence wall to replace an existing railing to the west side of Clonskeagh Bridge, a

flood defence wall and embankment to the south of Farmer Brown's public house. In addition, the proposal included the lowering of the sluice gates and provision of grade control structures to Smurfitt Weir along the eastern boundary.

It is further noted from the Inspector's Report that the wider Flood Alleviation Scheme will be subject to a separate planning consent process and that the LRD application is not dependent on the wider FAS, as the elements of the FAS required to protect the site are contained within the Farmer Brown site, which are included in the LRD proposals.

6.0 Planning Authority Decision

6.1. Register of Vacant Sites Report:

- 6.1.1. The Assessment for Vacant Sites Register Report on the file indicates that site inspections were carried out initially in September 2016, with follow-up visits in June 2017, February 2018, May 2019 and August 2021. Following the initial inspection, it was observed that construction works were underway to implement Planning Permission 2620/14. It was recommended that the site be revisited in 6 months to ensure that the development had been completed. A similar conclusion was drawn in June 2017, but in February 2018, it was observed that no construction activity was taking place. The site remained on a watch list until May 2019. At this point, it was noted that no further construction activity had taken place (since the initial demolition works), but that a new replacement hoarding had been erected. It was further noted (08/05/19) that the site was being used as a construction compound for the storage of materials/equipment for a drainage development across the road. It was concluded that the site was a vacant site in accordance with the criteria in the Act. The site was further inspected on the 6th August 2021, when a similar conclusion was drawn.
- 6.1.2. The assessment highlights that in August 2021, the site had been vacant for 12 months (since the previous inspection), it is over 0.05ha at 0.788ha, it is zoned residential and located in an area where there is a need for housing.

The majority of the site is noted as vacant or idle. As such, it was considered that the site complies with the criteria set out in Section 5(1)(a) of the Act : -

- (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.

6.2. Planning Authority Notices:

Notice of Proposed Entry on the Vacant Sites Register was issued to the owner, Harley Issuer DAC, on **10th January 2022** under Section 7(1) of the Urban Regeneration and Housing Act 2015.

Notice of Entry on the Vacant Sites Register was issued to the owner on the **5th April 2022**. This section 7(3) notice was appealed to the Board under reference **ABP-313460-22**. It was determined that the site was vacant and idle for the relevant period and that it was appropriate to confirm entry on the Register.

Notice of Determination of Market Value (section 12(4) pertaining to the site was issued by Dublin City Council on **25th August 2025** to Harley Issuer DAC. The value of the subject site is stated to be €10,000,000.00.

Notice of Demand for Payment of Vacant Site Levy under Section 15 of the Urban Regeneration and Housing Act 2015 was issued to Harley Issuer DAC on the **25th August 2025** for the value of €700,000.00 for 2024, 7% of market value.

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. The landowner has submitted an appeal under Section 18 of the Act against the decision of Dublin City Council to issue the Demand for Payment for 2024. The grounds of the appeal may be summarised as follows:

1. **The site was not suitable for the provision of housing as of 1st January 2024** for the following reasons -
 - **Section 18** of the Act provides that an appellant must show either:
 - (a) The site was not vacant on the 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.
 - **Section 5** of the Act provides that in order to be 'vacant', a site must be 'suitable for the provision of housing'.
 - **Section 6(5)** of the Act provides that a planning authority, or the Board on appeal, must determine whether or not a site was suitable for the provision of housing by reference to, inter alia, 'whether there was anything affecting the physical condition of the land comprising the site which might affect the provision of housing'.
 - **Request not to implement permission** - Dublin City Council, by email on the 19th July 2022 specifically requested the owner not to develop an extant permission on the site.
 - **Need for Flood Alleviation Scheme** - The construction of defences at Clonskeagh Bridge as part of the Dodder Flood Alleviation Scheme is necessary to avoid flood risk. There is no clearer example of 'something affecting the physical condition of the land comprising the site which might affect the provision of housing.' This is illustrated by the fact that DCC does not want the extant permission to be built. As such, the site was not suitable for the provision of housing on the 1st January 2024.
2. **Unfair request** - It is fundamentally unfair of the P.A. to request the owner not to build out an extant permission while simultaneously purporting to demand payment of a levy which can only be imposed on sites that are suitable for housing.
3. **Site not vacant** - It is submitted that the site was not vacant on the 1st January 2024 and therefore, no demand for payment of a levy for 2024

should have issued from the P.A. It is requested that the demand for payment be cancelled.

- 7.1.2. The Commission should note that **no further documentation** was submitted with the appeal to support the grounds of appeal as outlined above.

7.2. Planning Authority Response

The Planning Authority have not provided a response.

8.0 Assessment

8.1. Introduction

- 8.1.1. The appeal on hand relates to a Section 15 Demand for Payment of the levy for 2024. 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 levy has been incorrectly calculated in respect of the site by the Planning Authority.

- 8.1.2. I draw the Commission's attention to the Planning History associated with this site, and in particular, the recent LRD permission (ABP.323142-25) and the appeal under Section 9 against the Section 7(3) Notice (ABP.313460-22). The Commission determined on the 1st November 2023 that it was appropriate that a notice be issued to the Planning Authority to confirm the entry on the Vacant Sites Register for the period concerned, which commenced in April 2022.

- 8.1.3. Thus, the site was formally designated as a vacant site from 5th April 2022. However, as the S18 appeal relates specifically to the current demand for payment of a levy in respect of 2024, the relevant period in respect of the current appeal is for the year 2024, i.e. the Commission must determine whether or not the site was vacant from the 1st January 2024 for 12 months.

8.2. The site is no longer vacant

- 8.2.1. The essence of the grounds of appeal are that the site was not vacant for the required period as it had essentially been deemed to be unsuitable for housing by reason of a request from the planning authority, not to develop it, and therefore it fails to meet the criteria of section 6(5) of the Act.
- 8.2.2. The grounds of appeal are based on an email from Dublin City Council dated 19th July 2022, in which it is purported that the planning authority had specifically requested the appellant not to proceed with an extant permission. The Commission should note that a copy of the email did not accompany the appeal. Although the grounds do not specifically state why the appellant was requested not to proceed with the extant permission, nor does it specify which permission is being referenced, it is indicated that the issue may have related to the Dodder Flood Alleviation Scheme, which it is asserted is 'necessary to avoid flood risk'. On this basis, the appellant asserts that the lack of the flood alleviation scheme affected the physical condition of the site, which in turn affected its suitability for the provision of housing.
- 8.2.3. Having regard to the terms of Section 18 of the Act, which places the burden of proof on the owner to demonstrate that the site was no longer vacant at the period concerned, the vagueness of the foregoing is of some concern.
- 8.2.4. In the first instance, there is no evidence before the Commission that any of the planning permissions which were extant at the time (2024) have been revoked. In the absence of any evidence of such revocations and/or having sight of the said email from DCC, it is impossible to ascertain its veracity or the authority on which it was issued. Thus, it seems reasonable to assume that the owners would have been within their rights to implement any extant planning permissions that had remained valid at the time in question.
- 8.2.5. Notwithstanding this, **Circular Letter PL7/2016 'Implementation of the Vacant Site Levy as provided for in the Urban Regeneration and Housing Act 2015 (as amended)'**, Appendix 3, states that:

Where a vacant site has an extant planning permission associated with it, this should not be a consideration in determining whether to apply the levy. If such a site meets the criteria for a vacant site in respect of either residential or regeneration land, then the levy may be applied.

- 8.2.6. Thus, the implication is that whether or not there is an extant permission for development of the site, this should not influence whether the levy should be applied. It is arguable that the reverse is also true, in that if a site does not have an extant permission, or as in this case, it is asserted that the owner is not permitted to implement it, neither should this be an influencing factor on whether to apply the levy. Notwithstanding the advice contained in Circular PL7/2016, however, it is clear that as the site has had the benefit of several planning permissions for residential development over the past decade, it has not been deemed to be entirely unsuitable for the provision of housing.
- 8.2.7. Furthermore, no evidence has been submitted to support the view that the site could not be developed due to flood risk which was taken as a clear example of something which would affect the physical condition of the site, thereby rendering it unsuitable for the provision of housing. It is clear from the planning history of the site that flood risk has been an ongoing issue. However, it is noted from the Inspector's Report regarding the most recent permission for the LRD, (ABP.323142-25) that it had been established that the development of the site was not dependent on the implementation of the Dodder Flood Alleviation Scheme. Furthermore, both the P.A. and the Commission, on appeal, were satisfied that the site could be developed for the provision of housing without a risk of flooding, as planning permission was granted subject to conditions.
- 8.2.8. **In conclusion**, there is insufficient evidence before the Commission to demonstrate that the site was no longer a vacant site as of the 1st January 2024 or for the subsequent 12 months. No evidence has been submitted that the circumstances on the ground had changed in terms of the implementation of a development on the site and the owner has not adequately demonstrated that they were prevented from implementing an extant permission.

8.2.9. The site remains zoned residential in the current City Development Plan. In addition, the area in which the site is situated is one where there is a need for housing as set out in the core strategy and housing strategy of the current Dublin City Development Plan 2022-2028. Furthermore, it is considered that the site is suitable for the provision of housing as demonstrated by the extant planning permissions as discussed above. Thus, it is clear that the site remains a vacant site, as defined in section 5 of the Act and as determined by the Board on the 1st of November 2023 (ABP.313460-22).

8.3. Levy Calculation

8.3.1. A Notice of Determination of Market Value was issued to the owner on the 25th August 2025 with a value of €10,000,000. The applicant is being invoiced for 2024 based on the valuation of €700,000, based on a rate of 7% of the value. The levy calculation appears to have been correctly calculated, and the Demand Notice issued under section 15 of the 2015 Act correctly states the levy due. The appellant has not queried the calculation of the levy and it is clear that the simple calculation of the levy demanded is correct.

9.0 Recommendation

I recommend that the Commission should confirm that

- the site was a vacant site as of the 1st of January 2024 within the meaning of the Urban Regeneration and Housing Act 2015 (as amended), and
- the amount of the levy has been calculated correctly in respect of the vacant site.

The demand for payment of the vacant site levy under Section 15 of the Urban Regeneration and Housing Act 2015 (as amended) should therefore be confirmed.

10.0 Reasons and Considerations

Having regard to:

- (a) The information placed before the Commission 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 and recommendation of the Planning Inspector,
- (d) That there is a need for housing in the area, that 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 entry on the Vacant Sites Register.
- (e) That the majority of the site is and was vacant for the period concerned.
- (f) That the amount of the levy has been correctly calculated at 7% of the site value in the relevant year.
- (g) That there has been no change in the ownership of the site during the period concerned, 2024,

The Commission is satisfied that the site was a vacant site on the 1st of January 2024 and for the subsequent 12 months and that the amount of the levy has been correctly calculated. The demand for payment of the vacant site levy under section 15 of the Urban Regeneration and Housing Act 2015, as amended, is therefore, confirmed.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Mary Kennelly

Senior Planning Inspector

2nd January 2026