



An  
Coimisiún  
Pleanála

## Inspector's Report

### ACP- 324052-26

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<b>Type of Appeal</b>	Appeal against a Section 18 Demand for Payment
<b>Location</b>	Carrignafoy, Cobh, Co. Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority VSL Reg. Ref.</b>	VS-0019
<b>Site Owner</b>	Wayleaf Limited,
<b>Date of Site Visit</b>	No site inspection
<b>Inspector</b>	Erika Casey

## 1.0 Introduction

- 1.1. This appeal refers to a Section 15 Notice of Demand for Payment of the Vacant Site Levy issued by Cork County Council, stating their demand for a vacant site levy for the year 2022 amounting to €241,500 for a vacant site at Carrignafoy, Cobh, Co. Cork and identified as VS-0019. The notice was issued to Wayleaf Limited and dated the 7<sup>th</sup> January 2026. The owner has appealed the Demand for Payment Notice issued pursuant to Section 15 of the Urban Regeneration and Housing Act 2015. Cork County Council have clarified that the Demand for Levy for the 2022 period was re-issued by the Council in January 2026 to reflect a change in the owners/debtors name and address.
- 1.2. A Notice of Proposed Entry on the Vacant Sites Register was issued to Aceville Developments Limited on the 21<sup>st</sup> of November 2017. A Section 7(3) Notice of Entry to the Vacant Sites Register was issued dated the 9<sup>th</sup> of January 2018. This section 7(3) notice was not appealed to the Commission. A Notice to Owner of Valuation of Site on Vacant Site register 2021 and Notice of Market Value 2021 pertaining to the site was issued by Cork County Council on the 7<sup>th</sup> January 2026. The value of the subject site is stated to be €3,450,000. This is accompanied by an Advisory Report prepared by Avison Young which confirms the valuation date as the 15<sup>th</sup> of October 2021. There is no evidence that this was appealed to the Valuation Tribunal.

## 2.0 Site Location and Description

- 2.1. The site with a stated area of 5.8 hectares is located on the Inis Alainn Road, Cobh, Co. Cork c. 1.9km from the town centre. It is bound by Willmount Park and The Spires to the west. Recent aerial photography indicates the site is under development for housing.

## 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) and 5(2) of the Act. A Section 7(3) Notice of Entry on the Vacant Sites Register was issued on the 9<sup>th</sup> January 2018.

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 18(3) of the Act states:

*“Where the Board determines that a site was no longer a vacant site on 1 January in the year concerned, or is no longer a vacant site on the date on which the appeal under this section is made, it shall give written notice to the planning authority who shall cancel the entry on the register in respect of that site and shall cancel the demand made in respect of that year”.*

## 3.2. **Development Plan Policy**

3.2.1 The operative plan is the Cork County Development Plan 2022 – 2028 (effective from 6<sup>th</sup> June 2022). Chapter 2 of Volume 4 of the Development Plan includes the Cobh Municipal District. The subject lands are zoned ‘Residential’ with the CH-R-12 objective - Medium A density residential development to include a mix of house types and sizes.

3.2.2 It is detailed that within the Cork Metropolitan Area, and most notably along the existing rail corridor, that the long term planned population will be prioritised in the following locations, Midleton, Carrigtwohill, **Cobh** and Little Island. The strategy for Cobh provides for the population of the town to grow to 15,836, from the Census 2016 population figure of 12,800. In order to accommodate this level of population growth, an additional 1,316 housing units will be required with approximately 872 housing units delivered on residentially zoned land.

3.2.3 With regard to the vacant site levy, the plan states in section 18.2.6 that the Planning Authority will proactively engage to identify suitable vacant sites on lands zoned residential and on lands designated as regeneration areas in this Plan, which meet the criteria for inclusion in the vacant site register. This will be achieved through a focused application of the levy, facilitating sustainable urban development and bring vacant sites and buildings in urban areas into beneficial use.

3.2.4 County Development Plan Objective ZU 18-8 states:

*“Vacant Site Levy-Residential Regeneration Areas: Encourage the development and renewal of areas, on lands zoned as residential that meet the criteria as set out in the Urban Regeneration and Housing Act, 2015, as amended, and on lands designated as regeneration areas, identified in the Plan, having regard to the Core Strategy, that are in need of regeneration, in order to prevent:*

- (i) Adverse effects on existing amenities in such areas, in particular as a result of the ruinous or neglected condition of any land,*
- (ii) Urban blight and decay,*
- (iii) Anti-social behaviour or*
- (iv) A shortage of habitable houses or of land suitable for residential use or a mixture of residential and other uses.”*

3.2.5 The subject appeal relates to the demand for Payment Notice for 2022. Given that the current County Plan was adopted in June of that year, it is pertinent to consider the policy framework prior to that.

3.2.6 In this context, the relevant plan is the Cobh Municipal District LAP which was adopted on the 21<sup>st</sup> of August 2017. The LAP provided for the population of the town to grow to 14,543 persons with a projected 1,778 housing units required. The subject lands were zoned CH-R-06 - Medium A density residential development to include a mix of house types and sizes with provision for a nursing home. Objective ZU 5-1 Vacant Site Levy-Residential and Regeneration Areas was adopted by way of Variation 1 of the Cork County Development Plan 2014. This stated: *“Encourage the development and renewal of areas, identified in Municipal District Local Area Plans, having regard to the Core Strategy, that are in need of regeneration, in order to prevent – (i) adverse effects on existing amenities in such areas, in particular as a*

*result of the ruinous or neglected condition of any land, (ii) urban blight and decay, (iii) anti-social behaviour or (iv) a shortage of habitable houses or of land suitable for residential use or a mixture of residential and other uses”.*

#### **4.0 Relevant Planning History**

4.1.1 The key relevant planning history is set out below:

##### **P.A Reg. Ref. No. 21/05240/Appeal Reference ABP-313634-22**

Permission granted on the 24<sup>th</sup> of January 2024 for a development comprising of 71 no. dwellings and a creche facility.

##### **P.A. Reg. Ref. No. 19/04376**

Permission granted on the 25<sup>th</sup> September 2019 for a development comprising the construction of 76 no. dwelling houses and all ancillary site development works. Access to the proposed development was proposed via the estate entrance and internal road network of the existing Inis Álainn residential development.

##### **P.A. Reg. Ref. 05/4216**

Permission granted 20<sup>th</sup> October 2005 for a development comprising 213 no. dwellinghouses, retirement home, creche, new vehicle access, foul sewerage treatment and pumping station, children’s playground and associated site works. This permission was extended under 12/6395.

#### **5.0 Planning Authority Decision**

##### **5.1. Register of Vacant Sites Reports**

5.1.1 There are no copies of site investigations, reports or photographs on the file. The following are provided and are included on file:

- Notice of Proposed Entry (Section 7(1)) – dated 21<sup>st</sup> November 2017.
- Notice of Entry (Section 7(3)) – dated 9<sup>th</sup> January 2018.
- Vacant Site Register – dated December 2022.

- Notice to Owner of Valuation of Site on Vacant Sites Register 2021 –dated 7<sup>th</sup> January 2026.
- Advisory Report Avison and Young – dated October 2021.
- Demand for Payment for the 2022 period – dated 7<sup>th</sup> January 2026.

5.1.2 The Commission should note that no evidence of any other Demand for Payment Notice for any other year other than 2022 has been submitted by the Council.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1 The grounds of appeal set out the detailed planning history of the site. It is detailed that on the 25<sup>th</sup> of September 2019, Cork County Council granted permission for a development comprising 69 no. dwellings on the subject site (application reference 19/4376).

6.1.2 The development permitted is the second phase of an unfinished residential estate granted in 2005 (with permission extended in 2012). The original scheme comprised 213 dwellings, of which 59 were constructed. It is noted that, the intent of the current landowner was to develop the lands on a phased basis whereby permission would be sought for the development of the southern areas of the land holding and the northern areas would be subject to a separate application.

6.1.3 With respect to application 19/4376, condition no. 41 was attached which stated:

*The developer shall contact Irish Water and secure agreement in writing, permission to connect to the public watermain and/or public foul sewer. This permission should be submitted to the planning authority once received.*

It is detailed that following the grant of permission, storm and foul surveys were undertaken and considerable site clearance and enabling works were carried out.

6.1.4 In 2021, permission was sought for a further development of 76 additional residential units (application reference 21/5240). This was subsequently appealed and was granted in January 2024 (appeal reference ABP-313634-22). It is stated that due to the interdependencies of both phases of residential development, that it was not possible to finalise the service agreement required by condition no. 41 (required under 19/4376) until this appeal was determined. Notwithstanding this, construction on both developments is now underway.

6.1.5 The appellant contends that the subject lands were not vacant on the 1<sup>st</sup> of January 2022 as initial enabling works had commenced on foot of application reference 19/4376 in late 2019 and into 2020. Documentary evidence of the CCTV surveys undertaken during this period are submitted with the appeal documentation. It is stated that further development was delayed due to matters outside the control of the landowner as the associated development was under appeal.

6.1.6 Reference is made to a precedent decision of the Commission in relation to appeal reference ABP 310626-21. In this case, the inspector had regard to significant amount of development works that had occurred on the site including that a number of houses were near completion. It is submitted that the circumstances of the current appeal site are similar.

## 6.2 Planning Authority Response

6.2.1 Response received on the 4<sup>th</sup> of March 2026. This notes the Notice of Entry was issued to the landowner on the 21<sup>st</sup> November 2017 and that the site was placed on the register on the 29<sup>th</sup> of December 2017. A Notice of Entry was issued on the 9<sup>th</sup> of January 2018.

6.2.2 A Demand for Payment of the Vacant Site Levy for the 2022 period was issued on the 6<sup>th</sup> of November 2023. Following the annual review in October 2024, the Council became aware of a change of ownership with the vacant site register updated accordingly in December 2024. It is the Council's position that there is no legislative time limit specified in the 2015 Act in respect of issuing demand for Payment of Vacant Site levies.

6.2.3 Note that market valuation was issued to Wayleaf Limited on the 7<sup>th</sup> of January 2026 in conjunction with the demand for payment.

6.2.4 The response sets out that commencement notices were submitted on the 10/09/24 in relation to permission reference 19/4376 and on the 23/10/24 in relation to permission reference 21/5240.

6.2.5 The submission advises that the Council have cancelled the site entry on the Vacant Site Register on the 19<sup>th</sup> of December 2005 in accordance with Section 10(2) of the Urban Regeneration and Housing Act 2015, as amended, on the ground of observed construction activity on site.

### 6.3 **Appellants Further Response**

6.3.1 The submission by Cork County Council was circulated to the appellant and a further response was submitted on the 27<sup>th</sup> of March 2026. This noted that the submission by Cork Co. Co did not address the fact that enabling works had been undertaken in 2022 and that the site was not vacant. States that the council have not addressed the planning history of the site since 2019 and the fact that the applicants have been actively seeking the delivery of housing at the lands.

## 7.0 **Assessment**

### 7.1 **Introduction**

7.1.1 The appeal on hand 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.

### 7.2 **The site is no longer vacant**

7.2.1 The Commission 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) or 5(1)(b) 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 the period specified is the 1<sup>st</sup> of January 2022 to the 31<sup>st</sup> of December 2022.

### **7.3 Is it a Vacant Site?**

7.3.1 A Section 7(3) Notice of Entry on the Vacant Sites Register was issued on the 9<sup>th</sup> January 2018. No Section 9 appeal was made to the Commission. An assessment was carried out by the planning authority as to whether the site constituted a vacant site under section 5(1)(a). Following an assessment, the site was placed on the register. I am satisfied that no new information has come to the fore since the Section 7(3) Notice was issued and that the matter of the initial vacancy of the site and its qualification to be included on the register is correct.

7.3.2 Section 18(3) requires the Commission to also consider the vacant status of the site on the 1 January in the year concerned which in this case is 2022 or is no longer a vacant site on the date on which the appeal under this section is made, which in this case is the 3<sup>rd</sup> of February 2026.

7.3.3 The appellants state that the lands were not vacant in 2022 as enabling site clearance work in conjunction with storm and foul surveys/CCTV took place. It is noted that due to circumstances beyond their control that development could not proceed as the decision on the adjacent related residential development was not determined by the Board for 18 months.

7.3.4 Whilst documentary evidence of the storm and foul surveys/CCTV undertaken is submitted, I do consider that this constitutes 'development' as per the statutory definition - the carrying out of any works in, on, over or under land, or the making of

any material change in the use of any land or structures situated on land. The survey works do not in my view alter the vacant status of the lands during this period.

- 7.3.5 With regard to the extent or nature of the enabling works carried out, there is no evidence provided regarding the extent or quantum of such works. Aerial photography dated the 23<sup>rd</sup> of June 2018 and the 28<sup>th</sup> of May 2020 is submitted with the appeal. There is no photographic evidence from 2022. Whilst the imagery from 2020 appears to indicate some site clearance, no development works are evident and the site clearly remains vacant.
- 7.3.6 Reference is made to a precedent decision of the Commission under ABP – 310626-21. The Commission should note that in that case there was clear evidence that extensive construction works had taken place on the site in the year concerned, that being 2020 and on the 23 June 2021, the date on which the appeal was made. The Inspector’s report noted that a significant amount of development works had occurred in pursuit of the provision of housing and that the appellant had submitted a detailed report which illustrated with dated photographs the extent of works that occurred up to and including 2021, when the appeal was lodged.
- 7.3.7 Section 18(2) of the Act clearly states that the burden of showing that the site, or a majority of the site, was no longer a vacant site on 1 January in the year concerned rest with the owner of the site. In this case however, there is no evidence that any development works of any significance that would negate the vacant status of the lands had occurred in 2022.
- 7.3.8 However, the Commission should note that section 18(3) of the Act also states: *“Where the Board determines that a site was no longer a vacant site on 1 January in the year concerned, **or is no longer a vacant site on the date on which the appeal under this section is made**, (my emphasis) it shall give written notice to the planning authority who shall cancel the entry on the register in respect of that site and shall cancel the demand made in respect of that year”*. The appellants have confirmed that construction on the site is underway. Aerial photographs of the site – see photo pack, clearly indicate that housing is under construction on the subject site. The submission from the planning authority (4<sup>th</sup> March 2026) also notes that

commencement notices in respect of the two planning permissions pertaining to the site for housing development were received in 2024 and also note that the site has now been removed from the register on the basis that construction activity has been observed on the site (see correspondence from Cork County Council dated 19<sup>th</sup> of December to Wayleaf Ltd.).

7.3.9 Therefore, I am satisfied that whilst no evidence is submitted to confirm the site was vacant for 2022, the site at the date of the appeal - 3<sup>rd</sup> of February 2026 is not vacant and construction of housing is evident. In this context, I consider that the entry on the register in respect of the subject site should be cancelled.

#### **7.4 Levy Calculation**

7.4.1 A Notice to owner of Valuation of Site on Vacant Sites Register 2021 was issued to Wayleaf Limited on the 7<sup>th</sup> January 2026 with a value of €3,450,000. A levy of €241,500 was served on the landowner for the year 2022.

7.4.2 The applicable rate for the period concerned is 7% and it is evident therefore, that the levy has been correctly calculated.

#### **8.0 Recommendation**

I recommend that in accordance with Section 18 (3) of the Urban Regeneration and Housing Act 2015 (as amended), the Commission should cancel the Notice of Demand for Payment of Vacant Site Levy as the site was no longer a vacant site on the 3<sup>rd</sup> of February 2026, 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.

#### **9.0 Reasons and Considerations**

Having regard to:

(a) The information placed before the Commission by the Planning Authority including commencement notices from 2024,

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

(c) The report of the Planning Inspector,

(d) The extent of construction works on the site on which the appeal was made, the Commission is not satisfied that the site was a vacant site on the date on which the appeal was made on the 3rd of February 2026. The demand for payment of the vacant site levy under Section 15 of the Urban Regeneration and Housing Act 2015 is, therefore, cancelled.

*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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.*

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**Erika Casey**

**Director of Planning**

31st March 2026