



An
Bord
Pleanála

Inspector's Report ABP-300819-18

Type of Appeal	Section 9 Appeal against section 7(3) Notice
Location	Western aspect of Killala Road, Ballina, Co. Mayo.
Planning Authority	Mayo County Council
Planning Authority VSL Reg. Ref.	VSL BA 5
Site Owner	West and Central Land Limited
Planning Authority Decision	Place on Register
Date of Site Visit	4 June 2018
Inspector	Una Crosse

1.0 Introduction

- 1.1. This appeal refers to a section 7(3) notice issued by Mayo County Council, stating their intention to enter the site referred to as the western aspect of Killala Road, Ballina, Co. Mayo and described in the notice as site comprising of the Cheshire Homes/attendant buildings and undeveloped lands to the rear on the Vacant Sites Register (VSR) in accordance with the provisions of section 6(2) of the Urban Regeneration and Housing Act 2015.
- 1.2. The appeal site has one stated owner with two folios within the site registered under VSL reference VSL BA 5. Folio MY29247F and folio MY74143F.

2.0 Site Location and Description

This site which has a stated area of 3.3 hectares and includes a number of existing structures including a single storey structure which addresses the Killala Road which is boarded up, a larger single storey structure to the rear which is referenced as the Cheshire Home and their attendant grounds including separate access and egress from the Killala Road either side of the vacant single storey structure. The site also includes a substantial area to the rear of the Cheshire Home property which adjoins a number of existing housing developments.

3.0 Statutory Context

3.1. URH ACT

- 3.1.1. While not specifically mentioned in the Notice issued the accompanying report has assessed the site on the basis of the tests outlined in Section 5(1)(a) of the Act which relate to residential lands.

3.2. Development Plan Policy

- 3.2.1. The site is zoned residential Phase 1 in the Ballina Town and Environs Plan 2009-2015. The following is noted – Phase 1 lands shall also include residentially zoned

lands that have been left in an incomplete and derelict condition as a result of former construction activity and because this could not conceivably revert back to agricultural/amenity use.

3.2.1. Objective RD17 of Ballina & Environs Development Plan 2009-2015

Objective RD17 states that it is an objective of the Council to encourage and facilitate the development of vacant and undeveloped residential lands through the use of all available tools and mechanisms, including the Vacant Site Levy, in order to support implementation of the Core Strategy and Settlement Strategy and the Interim Housing Strategy.

In this regard, residential lands where the Vacant Site Levy may be applied include:

1. All Phase 1 Residential lands in the Key Towns and
2. Any other residential zoned lands on which there is planning permission in respect of which substantial works have not been carried out within 3 years of the date of permission. These areas are shown on the maps titled "Residential and Regeneration Lands" which accompany the Area Plans (Map 8). These areas will be examined in detail to determine if there are sites where the Vacant Site Levy is applicable under the provisions of the Urban Housing and Regeneration Act 2015.

4.0 Planning History

Ref. 08/70/2904 - Permission granted for a housing development of 73 units and the demolition of the Cheshire Home building and associated structures. Expired 4 May 2014.

5.0 Planning Authority Decision

- A Draft Vacant Sites Assessment report was prepared which outlines the site, ownership and notes that part of the site included in the previous application is omitted from the site identified as a vacant site. Reference is made to the Cheshire Home building which was previously proposed for demolition in order to provide access. It is noted that from local knowledge that the Cheshire Home has been vacated for a number of years and there is no evidence that the home or house is occupied. It continues by stating that in any event the majority of the site

is greenfield lands which are vacant. It is recommended that the site is deemed to be suitable for inclusion on the register.

- Need for Housing – (a) core strategy outlines need for 593 new units; (b) house prices and cost of renting houses in the area (Mayo) is outlined (source – daft.ie); (c) number of households on the waiting list – 310; (d) % of houses available for purchase or rent is 2.2% with assessment of (a) – (d) indicating that there is a need for housing in the area;
- Suitable for Housing - (a) core strategy outlines need for 593 new units; (b) site is serviced with public water and sewer and within zoned area; (c) nothing affecting physical condition of the land with an extant permission with site deemed suitable for provision of housing;
- Section 5(1)(a)(iii) – site or majority is vacant and idle;

5.1. Planning Authority Notice

5.2. Planning Authority decided under section 7(3) to issue a notice on 15th January 2018 stating that the site has been entered onto the Vacant Sites Register as of 1 January 2018. The notice was issued to West and Central Land Limited.

6.0 The Appeal

6.1. Grounds of Appeal

The appeal received on behalf of the site owner is summarised as follows:

- Currently working on behalf of the appellant on a planning application for the entirety of the lands which should be lodged in early 2018;
- Part of the site, the Cheshire Home building continues to be occupied.

6.2. Planning Authority Response

No response received.

7.0 Assessment

The site has been included on the register having regard to its residential zoning with the assessment from the Planning Authority including an assessment of the criteria outlined in Section 6(4) as outlined above in Section 5. I note that while the site has two folios they are both owned by the same company.

7.1. Site Not Vacant or Idle

The appellants state that they are currently working on a planning application for the entirety of the lands with the application to be lodged with the Council early in 2018. They also state that part of the site, the Cheshire Home building, continues to be occupied.

In relation to the first matter, that being the preparation of an application for the lands to be lodged with the Planning Authority, the presence of a proposal to develop or an extant permission does not negate vacancy. I would refer to Circular Letter PL7/2016, Appendix 3 where it is stated 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. It continues that 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. I would suggest that the same applies to an intent to apply for permission.

In relation to the use of part of the site, that being the Cheshire Home building which is located to the back of the site the PA report states that 'from local knowledge it appears that the Cheshire Homes has not been operational for a number of years'. However, I would note that the appellants state that the building continues to be occupied. They do not state whether the use is related to the Cheshire Home. They do not provide any detail other than that it continues to be occupied. While there was no activity there on the day of my visit the building appears to be in recent use. I do not consider that the PA's reference to local knowledge is sufficient to suggest that the building is not occupied and while there is little detail provided the building does appear to be occupied.

7.2. Need for Housing in the Area

While the appellant does not reference the matter of need for housing in the area, from other current appeals in the immediate area (including ABP-301034-18) it is apparent that there is little evidence of such a housing need.

I would refer the Board in this regard to Section 5(1)(a) of the Act which states that on Residential Land a site is a vacant site if:

(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.

In this regard the site to be considered a vacant site must meet each of the three tests. While I have already outlined above my considerations in respect of the site not being vacant or idle I would like to address the matter of housing need as I would suggest given the zoning and the stated intention of the developer to proceed with an application that it could be deemed suitable for housing.

The test related to need for housing in an area is to be determined by reference to section 6(4) of the Act which states:

(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.

I will address each in turn having regard to the evidence presented by the Planning Authority in their assessment to support its inclusion on the register.

7.2.1. The housing strategy and the core strategy of the planning authority

The first matter is the housing strategy and core strategy, of in this case, Mayo County Council. In the report appended to their assessment, the PA state, in relation

to the core strategy, that the site is located on residential zoned land, that the population for Ballina in 2011 is 11086, that the population target for the plan period is 12,510, a projected increase of 1424 which requires an increase of housing units of 593. They then reference the Interim housing strategy included as Variation No. 1 of the Current County Development Plan and which they state provides that it is estimated that 2,823 households will be in need of support in obtaining housing at the start of 2020. This appears to be a County wide figure.

Table 1A from the core strategy of the Development Plan shows that Ballina requires 593 units to meet population targets from 2011-2020 as outlined by the PA in their assessment. However Table 1A shows an excess in housing provision in Ballina of c.635 units given that 1,228 units could be provided immediately with 799 vacant units, 52 unfinished housing estates (I assume that is the figure of units within unfinished housing estates) and 377 permitted units. Therefore I would suggest to the Board that the housing strategy and core strategy would not indicate that there is a need for housing in this area that being Ballina, given the excess in housing stock both existing and permitted.

7.2.2. House prices and the cost of renting houses in the area

The second matter in Section 6(4) is house prices and the cost of renting houses in the area. In the report appended by the PA to their assessment prior to placing the site on the register the data provided, sourced from www.daft.ie outlines rental and house prices for County Mayo sourced from Daft's Rental Price Report for Q1 of 2017 and the House Price Report for the same period. Values are also provided for quarters 3 & 4 of 2016 which indicate a quarter on quarter increase in both rent and house price costs. There are no details provided for Ballina.

I have undertaken a search on the same website and found 129 properties for sale in Ballina with 8 properties to rent. The above referenced current appeal (ABP-301034-18) states that the average price of properties in Ballina is c. €176,000 which they state is significantly behind average prices in the State (excluding main cities) where the average house price according to the CSO was €277,837 for new houses and €207,253 for second hand properties which would indicate a lack of housing demand or need in the area. Having regard to both the amount of available properties and the average cost when compared to those in the rest of the State I do not consider that it

is reasonable to suggest that a housing need could be determined by reference to house prices and cost of renting.

7.2.3. The number of households qualified for social housing support

The third matter in Section 6(4) refers to the number of households qualified for social housing support. In the report appended by the PA to their assessment prior to placing the site on the register, the data is stated to be based on the data from the housing needs assessment carried out by Mayo County Council in 2016 where it is stated that the waiting list in September 2-16 showed a total of 310.

7.2.4. 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

The fourth matter in Section 6(4) refers to 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. In the report appended by the PA to their assessment prior to placing the site on the register, the data is stated to be based on the data from the housing needs assessment carried out by Mayo County Council in 2016 where it is stated that within Ballina and its Environs that 124 units were available for sale and 18 available for rent and that this figure comprise 2.2% of the total housing stock of 6303.

While the criteria in Section 6(4)(d) refers to properties available for purchase or rent which in this instance would refer more reasonably to the number available on the likes of daft rather than the number of vacant units, I would suggest to the Board that the number of vacant units outlined in Table 1A of the core strategy would further indicate the absence of a housing need in the area.

7.3. Conclusion

Having regard to the evidence presented by both the Planning Authority and the appellant, the continued occupation of the building on site would indicate that the site is not vacant or idle. Furthermore, having regard to the excess number of units in the town, the number of units for sale and house prices and rent costs in the area I do

not consider that there is sufficient evidence to support a need for housing in Ballina and therefore the site would not satisfy the requirements Section 5(1)(a).

8.0 Recommendation

I recommend that in accordance with section 9(5) of the Urban Regeneration and Housing Act 2015, the Board should cancel the entry on the register of site (VSL BA 5) at Western aspect of Killala Road, Ballina, Co. Mayo was vacant or idle for the 12 months concerned. Therefore, the entry on the Vacant Sites Register on the 1st January 2018 shall be removed.

9.0 Reasons and Considerations

9.1. Having regard to

(a) the information submitted to 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 Inspector,

(d) the continued occupation of the building on site, and

(e) the absence of evidence of a housing need in the area

the Board considered that it is appropriate that a notice be issued to the planning authority to cancel the entry on the Vacant Sites Register.

Una Crosse

Senior Planning Inspector

June 2018