



An
Bord
Pleanála

Inspector's Report ABP-300863-18

Type of Appeal	Section 9 Appeal against section 7(3) Notice
Location	Ardglas, Ardoughan, Ballina, Co. Mayo.
Planning Authority	Mayo County Council
Planning Authority VSL Reg. Ref.	VSL BA-4
Site Owner & Appellant	John Timlin
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 known as greenfield site, Ardglass, Ardoughan, Old Crossmolina Road, Ballina, Co. Mayo on to 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 registered under VSL reference VSL BA 4, has one stated registered owner, John Timlin, (folio MY7836F).

2.0 Site Location and Description

The site which has a stated area of 2.7 hectares is a greenfield to the west of the town centre. It is undulating in nature and has frontage along the Old Crossmolina Road and a side road which leads to property within the Local Authority's ownership. There are single one-houses to the west with the roundabout for the N59 further west. The site appears to be for sale having regard to the for sale sign on the lands.

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 relates 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.
- 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. 06-2808 – permission granted for 71 dwellings with permission to modify house type under Ref. 08-2959 – permission expired 29-9-2013

5.0 Planning Authority Decision

5.1. Planning Authority Reports

5.1.1. Planning Reports

- A Draft Vacant Sites Assessment report was prepared which outlines the site, ownership, planning history and states that the undeveloped lands are vacant and idle and are suitable for inclusion on the Register. Consideration of Parts 5(1)(a)(i) & (ii) are outlined in an appended report and 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;

5.2. **Planning Authority Notice**

5.3. Planning Authority decided under section 7(3) to issue a notice on 15 January 2018 stating that the site has been entered onto the Vacant Sites Register as of 1 January 2018. The notice was issued to Mr. John Timlin.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

An appeal has been submitted on behalf of the site owner (Mr. John Timlin) and is summarised as follows:

- Site has and is being actively farmed with no submission made following initial notice as did not understand what was being proposed;
- Appellant was approached by a developer with permission granted in 2007/2008 but for financial reasons sale of property did not proceed with appellant having nothing to do with same and continued to farm lands;
- Appellant has never worked other than on family farm and does not have resources to develop the land with only prospect of development if land sold;
- Unreasonable that appellant face levies in respect of agricultural land forming part of the family farm;
- Dispute finding that site falls within definition of vacant residential land as defined by the Act;
- Not accepted that site is situated in an area which there is a need for housing;

- Land is not nor has it ever been idle as historically and currently it is used for agricultural purposes with other sites in Ballina owned by developers that can be developed without any need to enter appellants agricultural lands on the register;
- Builder not yet commenced but may start in coming year and unfair to impose levy as out of control (of appellant) at present and if building does commence can then make a decision to build or sell to the builder;
- No works undertaken on the lands other than related to agriculture;
- There are phase 2 greenfield sites in town and surrounding area more suitable for housing than the lands being farmed;
- Appellant has a right to fair procedure under Constitution and while no issue on part of appellant with Mayo County Council determining that site is suitable for residential development but different matter to impose a levy;

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.

7.1. Site Not Vacant or Idle

The appellants state that the site has and is being actively farmed and while a permission was granted on the lands to a developer it did not proceed and site remains part of the farm. While the site is part of a farm I would refer the Board to Circular Letter PL7/2016, Appendix 3 where it is stated that: *“pending development appropriate to its zoning, the land may currently or on an interim basis have an agricultural use. Given the purpose of the levy, particularly in the context of the provision of housing, in such cases the levy may be applied, as the site concerned is not being used for the purpose for which it was zoned”*. In this regard the agricultural use does not negate vacancy under the meaning of the Act.

7.2. Need for Housing in the Area

The appellants state that it is not accepted that the site is situated in an area within which there is a need for housing and while they address the matter they do not provide any further information. However having regard to other current appeals in the Ballina 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. I would like to address the matter of housing need as I would suggest given the zoning and the stated intention 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 and in particular 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 4) at Ardglass, Ardoughan, 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 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