



An
Bord
Pleanála

Inspector's Report ABP-300865-18

Type of Appeal	Section 9 Appeal against section 7(3) Notice
Location	Lands at Knockranny, Westport, Co. Mayo.
Planning Authority	Mayo County Council
Planning Authority VSL Reg. Ref.	VSL WT 12
Site Owner	John Laurence Gerard Conway
Planning Authority Decision	
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 at Knockranny, Westport, Co. Mayo (VSL WT 12) 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 site has one owner registered within one folio (MY27436) the area of which includes lands not within the notice. One notice issued in relation to the site.

2.0 Site Location and Description

The overall site to which the Notice relates comprises a number of adjoining fields located to the rear of a residential property which addresses the N5 main entrance road into Westport from Castlebar. It is adjoined to the west and south by residential development which adjoins the Knockranny Hotel and by greenfields to the east.

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 Westport Town and Environs Development Plan 2010-2016.
- 3.2.2. Housing Objective – HO-10 Westport Town Development Plan 2010-2016
Objective HO-10 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. 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

No history on the lands in question but adjoined by a recent housing development

5.0 Planning Authority Decision

5.1. Planning Authority Reports

- A Draft Vacant Sites Assessment report was prepared which outlines the site and states that the site is a greenfield site and that the lands are vacant and idle
- The conclusion states that the lands are vacant and idle. It notes that the lands are zoned residential phase 1, the site is in excess of 0.5 hectares in compliance with the Act (section 5(1)(a) subsections (i) & (ii)). It is stated that the site is deemed to be suitable for inclusion on the register.
- Need for Housing – (a) core strategy outlines need for 330 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 – 203; (d) % of houses available for purchase or rent is 3.3% 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 330 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**

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 John Laurence Gerard Conway.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

An appeal was received from James Hanley & Company Solicitors on behalf of John Laurence Gerard Conway which is summarised as follows:

- Site or majority of site is not vacant or idle and has not been vacant or idle in living memory or during the 12 months concerned;
- Entry on register is not in accordance with the Act and the identification of the site as a vacant site is in error;
- There is no need for housing in the area concerned and no need for housing in the area has been established;
- Any proper consideration of the matters included in Section 6(6) will show no valid reason for entry on the Register with nothing objectionable or neglected about the use and occupation of the lands and no adverse impact of any description with existing amenities enhanced and no reduction in the amenities provided with current use complementary to and enhances such amenities as exist and provided in the area;
- To permit entry would amount to an unjust attack on appellant's right to the private ownership of property under the Constitution;
- Attempted use of the 2015 Act in respect of appellants lands is fundamentally flawed and falls outside ambit of and spirit of legislation;

- Appellant also relies on affidavit included from Mr. Peter Heraty who states that he has been farming this holding since 2007 on a continuous basis with the property rented from the appellant since that time with stock grazing the land with the lands not vacant or idle since 2007 or before.

6.2. **Planning Authority Response**

No response received.

7.0 **Assessment**

7.1. **Introduction**

This notice has been issued under the provisions of Section 5(1)(a) of the Act which relates to residential although the Section 7(3) Notice does not specifically state this fact. The assessment undertaken which I outline in section 5.1 refers to the tests included for residential under section 5(1)(a) and by reference to Section 6(4) of the Act as is required for lands zoned for residential purposes. I would note that the appellant refers to Section 6(6) of the Act in respect of the amenities of the site however these are the tests referenced for Section 5(1)(b) sites as determined by reference to Section 6(6) which refers to sites designated for regeneration. Therefore I do not intend to address these grounds as they are not relevant to the Notice issued which relates to residential given the site is zoned for residential purposes and outlined in Map 5 of Development Plan for such purposes. I would note that in determining that the site is not vacant or idle the appellant refers to the absence of a need of housing in the area which they consider has not been established and to the ongoing use of the site for farming purposes. I will address each in turn.

7.2. **Use of Site as a Farm**

I note the grounds of appeal on behalf of the site owner which refers to the use of the lands for agriculture. I refer in this regard 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".

7.3. Need for Housing

7.3.1. While the appellant does not provide any detail to support their contention that there is no need for housing in the area they state that no need for housing in the area has been established. I would refer the Board to the tests outlined in Section 5(1)(a) of the Act which specifies the tests for residential land:

- (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.

Therefore in order to determine that the site is vacant or idle the Planning Authority must establish that there is a need for housing in the area. I would note that the suitability of the site for housing has not been raised and given its zoning for same I do not intend to address the matter of suitability.

In terms of need for housing, the Act states at Section 6(4) that the need for housing in an area is to be determined 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.

7.3.2. The Planning Authority in their assessment therefore must address each of these matters. The assessment submitted by the Planning Authority includes a document entitled draft Vacant Sties Assessment report and appended to that is a document which seeks to respond to the questions put forward by Section 6(4) of the Act and I will address each in turn.

- 7.3.3. The first matter (a) relates to the housing strategy and the core strategy of the planning authority. The PA as summarised above refer to the Core Strategy whereby a projected population increase of 825 persons between 2014 and 2020 would require an additional 330 housing units. In relation to the housing strategy reference is made to the interim housing strategy included in Variation No. 1 of the County Development Plan which estimated that 2,823 households will be in need of support in obtaining a house at the start of 2020. It is not stated how many of these household are in Westport.
- 7.3.4. While the appellant does not reference the specific elements related to need for housing, I would refer the Board to Table 1A from the core strategy set out in the Mayo County Development Plan which, as the PA states, shows that Westport requires 330 units to meet population targets from 2011-2020. However what the PA do not outline in their assessment is that Table 1A shows an excess in housing provision in Westport of c.885 units given that 1415 units could be provided immediately with 533 vacant units, 145 unfinished housing estates (I assume that is the figure of units within unfinished housing estates) and 737 permitted units that have yet to be constructed. 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 Westport, given the excess in housing stock both existing and permitted.
- 7.3.5. The second matter (b) refers to house prices and the cost of renting houses in the area. While the appellant does not address this specific section I note that 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 Westport which effectively negates the information as evidence of housing need.
- 7.3.6. 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 for Westport showed a total of 203. I

would note that the appellant would not be expected to have access to such figures for the Westport area and in this regard the figures from the Planning Authority would appear to indicate the requirement for 203 social housing units.

- 7.3.7. 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 Westport and its Environs that 111 units were available for sale and 10 available for rent and that this figure comprise 3.3% of the total housing stock of 3584.
- 7.3.8. The appellants do not specifically address this matter in their appeal, as their grounds relate to housing need in general. Notwithstanding, as 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 where within the Westport and Westport Quay area there were 192 properties available for Sale and 4 properties available to Rent. I would suggest to the Board that the number of vacant units in the town referenced in the Core Strategy and the amount of units permitted but not yet constructed would further indicate the absence of a housing need in the area.
- 7.3.9. In conclusion it is clear from the evidence outlined above that the Planning Authority have not determined a housing need in the area.

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 WT 12) at Knockranny, Westport, 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, and
 - (d) the evidence outlined in relation to 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