



An
Bord
Pleanála

Inspector's Report ABP-300893-18

Type of Appeal	Section 9 Appeal against section 7(3) Notice
Location	Glen Ri Estate, Bunniconlon Road, Ballina, Co. Mayo.
Planning Authority	Mayo County Council
Planning Authority VSL Reg. Ref.	VSL BA 8
Site Owner & Appellant	Judge Bros Ltd.
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 Glen Ri Estate, Bunniconlon 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 8, has one stated registered owner, Judge Bros Ltd., with two folios pertaining to the site – MY323363 & 64224F both of which are owned by Judge Bros. Ltd.

2.0 Site Location and Description

The site comprises a small area of ground at the rear of the residential development known as Glen Ri to the southeast of Ballina town centre. The site is effectively an unfinished part or an extension of the estate and is divided from the completed area by a timber hoarding which includes a gate to access the site. The site includes two partially complete dwelling units, one having a structure to ground floor and the other to first floor. The site is currently a building site.

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. 16-388 – permission granted for 10 dwelling units on 1 December 2016.

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 (notwithstanding an unauthorised use of the lands as a builders yard/compound) 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 Judge Bros Ltd.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

An appeal has been submitted on behalf of the site owner (Judge Bros Ltd) and is summarised as follows:

- Site was not vacant or idle for the duration of 12 months commencing on 1st January 2017;
- Valid commencement notice served on Mayo County Council on 10 August 2017 with acknowledgment of same received;
- Site forms an extension to an already complete estate and ground works consisting of the extension of the previously completed estate services into the site commenced in September 2017 consisting of site service infrastructure;
- Marketing of development commenced March 2017 with letter from agent enclosed and photo of advertising sign;
- Sale contracts issued and signed for site 31 by December 2017 with contracts issued and proceeding or declined on a number of other sites;

- Price competition from existing stock of second hand houses in the Ballina market make it difficult for builders of new house in this area to compete with effective competition achieved by tailoring specification and finish for each house which is time consuming;
- Bank finance only available when minimum guaranteed number of sales achieved with developer required to use own resources;
- Therefore given works commenced in 2017 that site was not a vacant or idle site for the 12 month period commencing on 1 January 2017;

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 would note that while the site contains two folios both are in the ownership of the one owner, the appellant.

7.1. **Site Not Vacant or Idle**

The appellants state that the site was not vacant or idle for the duration of 12 months commencing on 1st January 2017. They state that a valid commencement notice was served on Mayo County Council on 10 August 2017 with acknowledgment of same received and that the site forms an extension of an already complete estate and ground works consisting of the extension of the previously completed estate services into the site commenced in September 2017 consisting of site service infrastructure. They also reference marketing of the development which commenced in March 2017 with a letter from agent enclosed and photo of advertising sign. They state that sale contracts were issued and signed for 'site 31' by December 2017 with contracts issued and proceeding or declined on a number of other sites.

I would note that the photographs included with the Planning Authority assessment were taken in May 2017. The photos do not include the partially complete structures which were on site on the day of my visit and which I note are not on the aerial photography available for the site. It is clear from the appellants grounds that units are being developed to specification on a house by house basis given as they state that price competition from existing stock of second hand houses in the Ballina market make it difficult for builders of new houses in this area to compete. This requires that they tailor the specification and finish for each house which they state is time consuming. This I would note would also indicate an absence of housing need in the area which I discuss separately below. I would however note that on the basis of the evidence on site from the time of the Planning Authority inspection and my recent visit that the site is not vacant or idle.

7.2. **Need for Housing in the Area**

While the appellant does not specifically state that there is no need for housing in the area, they do indicate the challenges around selling housing units in the area and the need to tailor specification and finish and the banks reluctance to provide finance other than when minimum guaranteed number of sales are achieved with the developer required to use own resources. This would not indicate a flourishing housing market or a market where there is demand for new houses.

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 cannot be considered a vacant site as to be deemed suitable a 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 fact the site is an extension of an existing estate 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 and the evidence presented in the appeal by the appellant.

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 (up to 2020), 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. These values are for County Mayo as a whole with 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. I would refer the Board to the grounds of appeal submitted in respect of ABP-301034 (for another site in Ballina) where it is stated 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 for the Ballina Urban and Rural Environs. I would note that the appellant would not be in a position to dispute these figures.

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 commencement of work on the 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 8) at Glen Ri Estate, Bunniconlon 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 works on the site since the site was inspected in May 2017, 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