



An  
Bord  
Pleanála

## Inspector's Report ABP-300896-18

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<b>Type of Appeal</b>	Section 9 Appeal against section 7(3) Notice
<b>Location</b>	Laghtadawannagh, Friars Court Site, Killala Road, Ballina, Co. Mayo.
<b>Planning Authority</b>	Mayo County Council
<b>Planning Authority VSL Reg. Ref.</b>	VSL BA 3
<b>Site Owner</b>	Vincent Ruane Construction Ltd.
<b>Planning Authority Decision</b>	Place on Register
<b>Date of Site Visit</b>	4 June 2018
<b>Inspector</b>	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 Laghtadawannagh, Friars Court Site, Killala 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 has one owner with one folio within the site registered under VSL reference VSL BA 3. Folio MY23161 registered to Vincent Ruane with the lands outlined in the maps submitted by the Planning Authority.

## **2.0 Site Location and Description**

Site is stated to have an area of 8.26 hectares and comprises an area of ground to the rear of an existing housing development known as Friars Court from where it can be accessed with this estate accessed from the Killala Road north of Ballina town centre. The site is also located to the rear of The Hawthorns which is an adjoining but unconnected housing development. The site is disturbed to varying degrees with evidence of setting out of roads and infrastructure.

## **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. 03 702432 – Permission granted for 145 dwellings which expired in May 2009.

## 5.0 Planning Authority Decision

### 5.1. Planning Authority Reports

- A Draft Vacant Sites Assessment report was prepared which outlines the site, ownership and states that lands are zoned for residential phase 1 and that no authorised use is currently taking place on the lands. It is deemed 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 Vincent Ruane Construction Ltd.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

An appeal has been submitted and is summarised as follows:

- Lands are not vacant under the meaning of Section 5(1)(a)(i) of the Act as they are not in an area where there is a need for housing.
- Regard is had to housing need as determined by reference to Section 6(4) which includes 4 considerations which are examined in turn;
- Table 1A from core strategy indicates 799 vacant units in Ballina from 2011-2020 which when compared to requirement of 593 units and figures provided for unfinished housing estates and 377 permitted units with estimate of an excess of 635 units indicating no need for housing in the Ballina area in the core strategy;
- While 2016 Census population increase of 276 persons in Ballina Urban area, Ballina Rural had a population decline of 435 persons with overall decline of 159 persons between 2011 and 2016 (population target of 12,510 by 2020);
- Projected population increase and actual decrease, estimated population decrease over period 2011-2020 would be 286 which contrasts with the

estimated growth of 1424 with an expected 1268 vacant units in the Ballina area by 2020.

- No shortage of supply in housing in Ballina with 22% vacancy rate of units in Co. Mayo.
- House prices decreased significantly during the economic crash and while some slight increase these are not akin to increases seen in east of the country where a different economic climate exists;
- Previously developed 40 units in Friarscourt (to east of appeal site) and ceased building with open market values for houses remaining very low (CSO residential price index shows a mean sale price of 125,482 for Mayo – November 2017);
- Cost of building houses in Ballina (and Mayo) is greater than the house price achievable and not economically viable to build houses on the site currently;
- Estimated sale price of a 3-bed semi-detached house on the lands would be c.€120,000 (attachments supporting included) with cost to build would be c.€200,000 before margins applied (attachments supporting included) with market prices achievable clearly lower than sales prices with commencement of development not reasonable as it would result in a financial loss and no funding would be forthcoming;
- Noted that 799 empty properties in Ballina with a falling population providing several available rental properties with average rent in Ballina for 1-3 bed house €566 per month and 4-bed €606 (quarter 3 2017) which is very low in comparison to national average of €1198 and unreasonable to add site to register on basis of cost of renting houses in the area;
- No evidence to any household which qualified for social housing specified the Killala Road in Ballina as their area of choice, site is remote from the town with no public transport with normal location of choice closer to town;
- Numerous houses for purchase and rent in Ballina with 118 available for sale on daft.ie at time of writing and given vacancy rate of 14.3% in Ballina evident that houses available for purchase or rent cannot be less than 5%.

- Site should not have been added to register as it does not meet the four criteria for such an addition with excess of housing available and low market prices;

## 6.2. Planning Authority Response

No response received.

## 7.0 Assessment

### 7.1. Introduction

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. The appellant in this instance has challenged the placing of the site on the register on the basis of the need for housing in the area.

### 7.2. Need for Housing in the Area

The appellants state that the site is not a vacant site as the site does not meet all the tests outlined in Section 5(1)(a) whereby the Act states that on Residential Land a site is a vacant site if [s.5]:

- (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 particular, the appellants state that the test regarding need for housing has not been met and that in this regard the site cannot be considered a vacant site.

As outlined by the appellant the 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. I would also note that the presentation of Section 6(4) would require that all subsections would need to be met in order to identify a housing need.

#### **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.

The appellants outline Table 1A from the core strategy shows that Ballina requires 593 units to meet population targets from 2011-2020. They also point out that 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. They question the need for housing on this basis when the housing strategy shows more vacant units in the area than the total number of units required to meet projected demand. They further note that the 2016 Census notes a population decline of 159 persons between 2011 and 2016 in the Ballina Urban and Rural area.

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 and the falling population identified in the most recent intersensal period.

#### 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](http://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. This is a county wide figure with no details provided for Ballina.

The appellant states that there are currently 118 properties for sale in Ballina on [www.daft.ie](http://www.daft.ie). They state that house prices decreased significantly during the economic crash and while there has been some slight increase that these are not akin to increases seen in east of the country where a different economic climate exists. They outline that they previously developed 40 units in Friarscourt (to east of appeal site) and ceased building with open market values for houses remaining very low (CSO residential price index shows a mean sale price of 125,482 for Mayo – November 2017). They state that the cost of building houses in Ballina (and Mayo) is greater than the house price achievable and that it is not economically viable to build houses on the site currently. In this regard, they provide an estimated sale price for a 3-bed semi-detached house on the lands at c.€120,000 with the cost to build in the region of €200,000 before margins applied which clearly outlines that the market prices achievable clearly lower than sales prices with commencement of development not reasonable as it would result in a financial loss and no funding would be forthcoming;

It is further noted that there are 799 empty properties in Ballina with a falling population providing several available rental properties with average rent in Ballina for 1-3 bed house €566 per month and 4-bed €606 (quarter 3, 2017) which is very low in comparison to the national average of €1198 and it is considered



unreasonable to add the site to register on the basis of both the cost to sell/build and the cost of renting houses in the area.

I have undertaken a search on the same website referenced and found 129 properties for sale in Ballina with 8 properties to rent. The cost of buying a house as suggested by the appellant is borne out by the costs outlined on the sale portal. Having regard to both the amount of available properties, to the cost of building a house versus the likely sale price and the average cost of renting 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. The appellants state that no evidence has been provided that any household which qualified for social housing specified the Killala Road in Ballina as their area of choice. They state that the site is remote from the town with no public transport with normal location of choice closer to town. While no evidence has been provided to support this contention and while the appellant does not have figures for the Ballina area the figures from the Planning Authority would appear to indicate the requirement for 310 social housing units.

#### **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 the 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.

The appellants in their appeal state that Census 2016 states that the vacancy rate in Ballina in 2016 was 14.3% well above the 5% criteria set out in section 6(4)(d) with Census rate for Co. Mayo at 24%. 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 vacancy rate in the town referenced by the appellants at 14.3% 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, notwithstanding the number of households qualified for social housing support, one of the four determining considerations, having regard to the excess number of units in the town, the number of units for sale, house prices, particularly when compared to the price to build, and cost of renting I do not consider that there is evidence to support a need for the housing in Ballina and therefore the site would not meet the test set out in Section 5(1)(a) and therefore would not meet the tests required by 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 3) at Laghtadawannagh, Friars Court, Killala Road, Ballina, Co. Mayo was vacant or idle for the 12 months concerned. Therefore, the entry on the Vacant Sites Register on the 1<sup>st</sup> 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.

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Una Crosse

Senior Planning Inspector

June 2018