



An  
Bord  
Pleanála

## Inspector's Report ABP-300897-18

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<b>Type of Appeal</b>	Section 9 Appeal against section 7(3) Notice
<b>Location</b>	Carrowbaun, Leenane Road, Westport, Co Mayo
<b>Planning Authority</b>	Mayo County Council
<b>Planning Authority VSL Reg. Ref.</b>	VSL WT 8
<b>Site Owner</b>	Michael Flanagan
<b>Planning Authority Decision</b>	Place on Register
<b>Date of Site Visit</b>	5 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 Carrowbaun, Leenane Road, Westport, Co. Mayo (VSL WT 8) 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 registered owner, Michael Flanagan with two folios (MY43031F & MY49578) with one notice issued in relation to the site.

## **2.0 Site Location and Description**

The overall site to which the Notice relates has a stated area of c1.59 hectares and comprises a greenfield site with frontage onto the N59 and a local road. The site is quite remote from the urban area with a number of one-off houses in the vicinity of the site with clusters of dwellings located in the vicinity particularly to the west.

## **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 – Low Density Residential 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 recent history on the lands in question.

#### **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 suitable for inclusion as a vacant site in compliance with the Act.
- 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 Michael Flanagan.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A very lengthy appeal was received from John M. Gallagher on behalf of Michael Flanagan which is summarised as follows:

- Appeal accompanied by report on housing demand in the area from Tuohy O'Toole Auctioneers which notes the following:
  - Noted that lands zoned for low density residential of 4 units per acre which would provide a development potential of 15-16 units;
  - Residential market in and around Westport has recovered particularly over last 3 years fuelled by wider economic improvement with majority in demand is focused in the urban areas of Westport or on fringes with demand in outlying rural areas far weaker;
  - Property prices have risen steadily over last 3 years reflecting greater demand but prices in Westport remain well below peak levels of 2006-2007 and expect to see steady price growth of c.5-8% per annum over short to medium term;
  - Westport has a compelling lifestyle appeal and some significant local employers which help to underpin demand with Westport remaining one of the most expensive locations in County Mayo in which to purchase a home;
  - Carrowbaun is a popular mature residential location which benefits from national primary road access and close proximity to Westport town centre and greenway;

- House sales within Carrowbaun makes up a small percentage of overall residential property market in Westport accounting for under 3% of sales;
- While popular area, given most houses are detached on large sites they tend to be at higher end of market with likely sales value c.€450/500,000 with only 6 properties in Westport selling for more than €450,000 in 2017 suggesting demand for housing of this nature is modest and likely to take 4/5 years to sell with not many developers able to undertake such a development;
- Currently 4 houses and 2 sites for sale in Carrowbaun of some 171 listed on daft.ie for Westport c. 3.5% of stock for sale;
- Population decrease in County Mayo between 2011-2016 despite population target for 2020 projecting an increase of c.17,776 persons with population of Westport settlement estimated at c.304 persons or 1% per annum;
- Development Plan variations provided an estimation of population for Westport of 7,359 by 2016;
- Reference is made to Table 3.3 which shows consents for housing development with 424 housing units vacant in the town which can accommodate a population increase of 3,265 persons;
- Based on actual population increases the number of residential units required to 2016 is 122 units allowing 50% headroom this is 183 units with Table 3.5 of the Plan showing potential housing yield of 1306 consisting of 424 vacant units and 882 units permitted but not yet developed;
- Projected population increase for the Westport settlement area from 2011-2020 is 877 persons which would require 351 units or 229 units from 2016-2022 adding 50% headroom would increase requirement to 526 units and given existing vacant and consented units the excess of residential units up to 2022 is 780 units or 2.2 times the expected demand of 351 units;
- Lands on same road closer to the town zoned Phase 2 or Phase 3 and in accordance with principle of sequential development would require areas close to the centre of Westport should be developed first;
- Reference is made to current permission Ref. 09/14 for development of 39 units on 8.9 acres at Carrowbaun (lands included on Register under VSL WT9);

- The notice does not specify which section of the Act under which it was entered on the Register and is therefore defective and should be declared null and void;
- Lands are presently being used for agricultural purposes and are not vacant or idle as they are leased and used for agricultural purposes which is a form of open space permissible under the existing zoning;
- No evidence provided to show that they placed the lands on the Register because there was a shortage of sites for detached houses on 0.25 acre sites, no evidence to show lands placed on register because this type of site was excessive or that the cost of renting detached houses on 0.25 acres is excessive;
- No evidence to show there is an established need for additional lands for detached houses on 0.25 acre sites incorrectly relying on population targets on which core strategy based with the strategy based on incorrect and grossly optimistic population targets with actual increase much less;
- Core strategy shows there is little or no need for additional units in Westport, no shortage of serviced land or sites for which permission has been granted;
- Problem is not one of availability of sites it is one of lack of availability of demand for housing due to less than anticipated population growth;
- Already an adequate supply of detached houses with permission for 39 detached units on individual sites permitted under Ref. 09/14 which has been extended until May 2020 with development not yet started indicating lack of demand and noted that development of 4 detached houses came onto market in September 2017 and not yet fully sold;
- Current Westport Plan is outdated and in need of urgent review and no entries on the Vacant Sites register should be made pending a review where a greater density on the site could be examined to allow for a more efficient use of serviced land;
- Placing of site on register will not contribute to increasing demand for houses in Westport with economic boom in Dublin not felt in west of Ireland with plenty of lands available in Westport with permission granted for housing;
- Placing sites on Register will not contribute to increasing supply of houses in Westport with a major constraint to development sourcing finance with the levy

resulting in a punitive annual levy on the owner of the site increasing difficulty in obtaining finance;

- Areas of lands entered on the Register is excessive and not justified with the purpose of the Act to ensure an adequate supply of available lands for housing with placing unfinished housing estates on the Register appearing understandable but none of Westport sites qualify under this heading;
- Estimated that the lands placed on the Register would yield 383 units but Council have not established any need for housing to justify this amount of land as no scarcity of land and a modest demand for housing;
- Likely to take up to 2 years to prepare a housing scheme with applicant entitled to benefit of any doubt if Council cannot conclusively show that there is a clear and immediate need for the lands in question to be made available for large detached units;

## 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 need for housing in this area of Westport in particular. They also address other matters which I will address in section 7.3 below.

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

The appellants state that no evidence has been produced by the PA that the lands were placed on the register because of a shortage of units for which this site has been zoned – that being detached housing on 0.25 hectare site. In terms of housing need, a site is required to meet all the tests outlined in Section 5(1)(a) of the Act whereby it 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.*

Therefore, a site cannot be considered a vacant site as to be deemed suitable a site it must meet each of the three tests.

The Act specifies the tests required to determine the need for housing in an area which I note is 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 note that while the appellant references the need for sites of 0.25 hectares for detached dwellings the Act does not specify the type of units rather the tests are specific as outlined above in terms of Section 6(4) of the Act which I will address in turn. I would also note that the appellant has included in their appeal a report from a local estate agent.

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

The first matter set out in Section 6(4) 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 Westport in 2011 was 6063, that the population target for the plan period (County Development Plan up to 2020) is 6888, a projected increase of 825 persons which requires an increase of housing units of 330. 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 and there is no specific figure for Westport.

The appellants reference the details on population targets and zoning for residential use in the Westport Town and Environs Development Plan 2010-2016 which incorporates a variation (No.2) made in March 2012 to incorporate the Core Strategy. They reference in particular the data set out in Tables 3.1-3.5. The PA's assessment references the Core Strategy in the County Development Plan which is 2014-2020 and in this regard there may be differences in the figures. The appellants estimate a demand of 351 units to meet expected demand and note that given the existing vacant and consented units the excess of residential units would be 780 units up to 2022. I would note that Table 3.5 of the Westport Plan includes an expected excess of 631 residential units by 2016 and an excess of 270 units by 2022. I would note that Table 1(A) of the County Development Plan estimates an excess of 885 units in Westport. This is based on their figure of 1415 units having the potential to be provided which comprises 533 vacant units, 145 units in unfinished housing estates and 737 units which are permitted but have not been constructed.

I would note that while the PA reference the requirements for 330 units they do not acknowledge the number of units that could be provided and the excess which is outlined in the core strategy. In terms of the housing strategy the PA reference the interim housing strategy and the estimate of 2,823 households which will be in need of support in obtaining housing by 2020. As I note above this is a county wide figure and cannot be of any meaningful use when considering the needs of Westport.

I would suggest to the Board that the core strategy and housing strategy would not indicate that there is a need for housing in Westport, given the excess in housing stock both existing and permitted and in this regard the first test in Section 6(4) of the Act cannot be considered to be met.

#### **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. There are no details provided for Westport and in this regard it is of little benefit to the assessment of this matter.

The appellant has included a report from a local estate agent who notes that while the residential market in Westport has recovered that the majority of the demand is within the urban area with demand in the outlying rural areas far weaker. They note the steady increase in property prices in the last 3 years noting an expected growth of 5-8% per annum over the short to medium term and references the popularity of Westport and its standing as one of the most expensive locations in County Mayo. They then outline the considerations for this area of Westport, Carrowbaun, which they note accounts for c.3% of the sales in Westport and while popular, the market comprises mainly large detached properties with sales values in the €400-450,000 bracket which it appears is at the upper end of the market.

As I note above, the PA do not provide any details in relation to Westport but in terms of house prices I note the expected house prices within this area of the town. I have undertaken a search on [www.daft.ie](http://www.daft.ie) and found 192 properties for sale in Westport and surrounding areas with 4 properties to rent. Having regard to both the amount of available properties in the area and the type of unit which this site is specifically zoned to provide I do not consider that this test in Section 6(4) has been satisfactorily justified by the PA.

### **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 203. I would note that the appellant would not be in a position to refute this figure and in this regard the figures from the Planning Authority would appear to indicate the requirement for 203 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 and data from daft.ie where it is stated that the within Westport and its Environs that 111 units were available for sale and 10 were available for rent and that this figure comprise 3.3% of the total housing stock of 3584. I would note that the areas and sources are loosely defined.

As I note above my search on daft produced a figure of 192 units for sale and 4 for rent. This is a total of 196 which is 5.4% of the housing stock and which exceeds the 5% set out in Section 6(4)(d). However, given how arbitrary both the PA and my own data references are this figure may also be considered arbitrary.

In 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 and the number of units for sale in the area I do not consider that there is sufficient evidence to support a need for housing in Westport and therefore the site would not meet the test set out in Section 5(1)(a)(i) and therefore would not satisfy the requirements of Section 5(1)(a).

**7.3. Other Matters**

- 7.3.1. While the matter of housing need provides that the site, in my opinion, cannot be considered to be vacant or idle as defined by Section 5(1)(a) there are a number of other matters raised by the appellant which I consider should be addressed. Firstly, they state that the Notice issued does not specify which section of the Act is relevant to the entering of the site on the Register and consider that it should be declared null and void. This is a matter which I have addressed at Section 3.1 above, and while the appellant is quite right that the notice does not specify which section of the Act is relevant in the Notice, which I consider is an omission, I do not consider that it would automatically make the notice null and void as the Notice was issued following the

consideration of the PA as set out in the accompanying report which has assessed the site on the basis of the tests outlined in Section 5(1)(a) of the Act which relate to residential lands. It is also clear from the content of the appeal that the residential context of the site was a relevant consideration in the grounds of appeal.

The appellant has also highlighted how lands closer to the town than the appeal site are zoned residential Phase 2 & 3 and should be developed first having regard to the principles outlined in the sequential approach to development. Again, I would suggest that the appellant makes a good point in terms of sustainable development however, the Board's role is to confirm or cancel the Notices on the basis of the tests outlined in the Act. They also reference the need for a review of the Development Plan for Westport prior to placing sites on the Register and while not a matter which is included in the Act this is a reasonable argument.

The appellant also states that the lands are being used for agricultural purposes and therefore are not vacant or idle. In this regard 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.

## 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 8) at Carrowbaun, Leenane Road, Westport, 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