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Bord  
Pleanála

## Inspector's Report ABP-300901-18

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<b>Type of Appeal</b>	Section 9 Appeal against section 7(3) Notice
<b>Location</b>	Lands at Deerpark East, Newport Road, Westport, Co. Mayo.
<b>Planning Authority</b>	Mayo County Council
<b>Planning Authority VSL Reg. Ref.</b>	VSL WT 4
<b>Site Owner</b>	Thomas M.E. Browne & Elizabeth Browne
<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 Deerpark East, Newport Road, Westport, Co. Mayo (VSL WT 4) 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 two registered owners Elizabeth Browne & Thomas M.E. Browne with two folios (MY16448 & MY20792) 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 c.3.9 hectares and comprises an area of ground which adjoins the Newport Road to the southwest of the site. The lands are adjoined by an existing residential development known as Cedar Wood to the east with a local road 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 – Medium Density 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.

#### **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 Thomas Browne and Elizabeth Browne.

## 6.0 **The Appeal**

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

An appeal was received from Oliver P. Morahan & Son Solicitors on behalf of Thomas M.E Browne and Elizabeth Browne which is summarised as follows:

- Lands have been actively farmed for upwards of 50 years and form an integral part of the overall holding of land and farming activities;
- Substantial portion of holding recently subject matter of a CPO by Mayo Co.Co. in connection with N5 & N59 road scheme with subject lands more important now than ever to viability of farming enterprise;
- Lands entered into various Dept. of Ag. Schemes including basic payment scheme, greening payment and other area based schemes with copies of most recent applications attached;
- Farming activities include mixed dry stock with silage cut each summer;
- Active farmers and passionate about farming in an environmentally friendly way with correspondence from agricultural advisor attached detailing activities including use for educational purposes and discussion groups;
- Clear and evident that lands do not come within definition of 'vacant site' and request notice is given to cancel;

### 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 above 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 also note that while there are two folios within the site in question the folios are within the ownership of the same people, the appellants and in this regard I would suggest it would be appropriate for the Board to consider the appeal.

### 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 and to the recent CPO of lands within the holding for road related improvements which they contend make the subject lands even more important to the viability of the farm. I 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 use of the site for agricultural purposes does not negate the application of the levy.

### 7.3. Need for Housing

While the appellant does reference the need for housing in their grounds of appeal, a number of other appeals on sites in Westport which are currently before the Board question the need for housing and the evidence to support such a need with the contention proposed by the appellants that no such need exists (e.g. ABP-300897). In this regard 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.

The Planning Authority in their assessment therefore must address and establish the need for housing by reference to each of these matters. The assessment submitted by the Planning Authority includes a document entitled draft Vacant Sites 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.

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 references 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 households are in Westport.

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 which as the PA states shows that Westport requires 330 units to meet population targets from 2011-2020. I would note, however, 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 are outlined in the core strategy. Table 1A which outlines the need for 330 units in Westport to cater for the projected population growth it also 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.

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 for 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 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.

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](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.

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.

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.

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 I found that within the Westport and Westport Quay area there were 192 properties available for Sale and 4 properties available to Rent which is c. 5.4% of available stock.

#### **7.4. Conclusion**

Notwithstanding the considerations set out regarding the use of the site for agriculture and that the appellant has not specifically referenced the need for housing in the area, it is clear from the assessment outlined above that the PA have not demonstrated a need for housing in the area. In fact it is clear from the Core Strategy contained within the County Development Plan that there is a considerable excess of housing units either constructed or permitted to facilitate the demand which may arise from the projected growth.

#### **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 4) lands at Deerpark East, Newport 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