



An
Bord
Pleanála

Inspector's Report ABP-302102-18

Type of Appeal	Section 9 Appeal against section 7(3) Notice
Location	Monksland/Bellanamullia, Co. Roscommon
Planning Authority	Roscommon County Council
Planning Authority VSL Reg. Ref.	VS/MB/18/5
Site Owner	Pat Donoghue
Planning Authority Decision	Place on Register
Date of Site Visit	30 September 2018
Inspector	Una Crosse

1.0 Introduction

- 1.1. This appeal refers to a section 7(3) notice issued by Roscommon County Council, stating their intention to enter a site at Monksland on to the Vacant Sites Register (VSR) in accordance with the provisions of section 6(2) of the Urban Regeneration and Housing Act 2015. The notice states that the Planning Authority is of the opinion that the site is a vacant site within the meaning set out in Sections 5(1)(a), 5(1)(b) and 5(2) of the URH Act 2015.
- 1.2. I would note that both the provisions relating to residential 5(1)(a) and regeneration 5(1)(b) have been included in the Section 7(3) notice however the assessment undertaken by the Planning Authority as set out in the Vacant Site Assessment Report examines the site under the tests set out in Section 6(4) of the Act which relates to the need for housing which is a test set out in Section 5(1)(a).
- 1.3. The site has one owner Pat Donoghue with Folio Number RN34412F stating that as of 18 October 2006 that Pat Donoghue was full owner.

2.0 Site Location and Description

The site has a stated area of 3 hectares and is located in the townland of Monksland. The site is a rectangular area of ground which is undulating in levels. The site adjoined to the north by a residential development known as Sli na Coiste and to the south by a residential development known as Mount William Court and to the east by an estate road which provides access to further residential development to the north and terminates at same. To the west there are open undeveloped lands. The site is undulating rising from the roadside boundary plateauing in the centre of the site.

3.0 Statutory Context

3.1. URH ACT

- 3.1.1. The Notice issued under Section 7(3) of the Act states that the PA is of the opinion that the site referenced is a vacant site within the meaning of Section 5(1)(a), 5(1)(b)

and 5(2) of the Act. The Notice is dated 20th June 2018 and is accompanied by a map outlining the extent of the site to which the Notice relates.

- 3.1.2. It is noted that the definition of vacant or idle has been amended by Section 63 of the Planning and Development (Amendment) Act 2018 which commenced upon coming into effect of the Act. This section of the Act amends Section 5 of the Act of 2015 by substituting Section 5(1)(a)(iii) for the following:

the site, or the majority of the site is—

(I) vacant or idle, or

(II) being used for a purpose that does not consist solely or primarily of the provision of housing or the development of the site for the purpose of such provision, provided that the most recent purchase of the site occurred—

(A) after it became residential land, and

(B) before, on or after the commencement of *section 63* of the *Planning and Development (Amendment) Act 2018*.”.

3.2. Development Plan Policy

- 3.2.1. The site is zoned New Residential in the Monksland/Bellanamullia (Athlone West) Local Area Plan 2016-2022 (Variation Number 1). The Core Strategy is included at Section 2.3.1 of the Plan noting a population allocation of 538 persons for Monksland, 215 housing units required and a residential land requirement of 24.2 hectares (including 50% overzoning).
- 3.2.2. Section 5.2.1 of the LAP refers to the VSL and notes that the Council will maintain a Vacant Site Register and implement the Vacant Site Levy as required by the Urban Regeneration and Housing Act, 2015, as a mechanism to stimulate site activation in urban areas, which is intended to “bring underutilised vacant sites and buildings into beneficial use, ensuring more sustainable urban development and an efficient return on state investment in enabling infrastructure.” The site activation measure aims to encourage the release of zoned lands at key locations in order to stimulate development, deliver housing at appropriate locations, and, stimulate the regeneration of vacant urban sites. Therefore, the DECLG’s ‘sequential approach’,

as outlined earlier in this section, has been used to identify suitable lands for new residential development in this Local Area Plan.

3.2.3. The following specific residential zonings are identified in Development Strategy 3 (see Table 1 of Chapter 6 and Map 13 Land Use Zoning):

(1) New Residential

(2) Strategic Residential Reserve

3.2.4. The Roscommon County Development Plan 2014-2020 was varied in July 2017 (Variation No. 1) which included updates to the core strategy.

4.0 Planning History

4.1. **Ref. 18/442** – Permission sought on 31 August 2018 for a residential development of 78 units and a crèche.

4.2. **Ref. 17/280** – Application withdrawn – Permission was sought for a development of 79 houses and 2 apartments and crèche and all associated services.

4.3. **Ref. 07/988** – Permission granted for 52 houses, crèche and 2 apartments (noted application was made for 75 houses, crèche and 2 apartments)

4.4. **Ref. 06/1276** – Permission refused for 75 dwellings houses.

5.0 Planning Authority Decision

5.1. Planning Authority Reports

- A Vacant Site Assessment Report was prepared for the site which outlines the ownership, dates of the visits to the site, the area, zoning and the planning history as well as providing photographs taken on two site visits over a year apart;
- It is stated that the site is residential, that there is a need for housing, which is elaborated on below and that the site is suitable for housing;
- In a section entitled RCC criteria which outlines a list of questions to be answered which include: the LAP area has a residential vacancy of 15% or less, there are not a large number of unfinished housing estates in the LAP area, the site would not be a better candidate for the Derelict Sites Register, the site can

accommodate a multiple unit development, there are not multiple owners of the site, that the site has not been on the market in the last 12 months and states that the site is not in active agricultural use;

- In terms of need for housing (tests outlined in Section 6(4)) the report examines each of the 4 criteria outlined;
- In relation to the housing strategy and core strategy reference is made to the Housing Strategy statement that no more than 11.6% of households will meet the eligibility criteria specified under the legislation. Table 2.1 – core strategy population allocations is included noting that Monksland/Bellanamullia is Tier 2 SC in the settlement hierarchy. This is stated as a special category within Tier 2 to be developed in the context of the larger settlement of Athlone. It also notes in the footnote that the population allocation of 845 (stated in the Table as 538) does not include 50% overzoning or residential reserve which will facilitate significantly higher population growth should the requirement arise. The table itself indicates a population allocation of 538 with the number of houses required at 215 based on a density per hectare of 20 necessitating a residential land requirement of 16.1 hectares (I would note that reference is made in the LAP to 24.2hectares which includes 50% overzoning).
- In terms of house prices and cost of renting, it is stated that Auctioneers were contacted in Oct/Nov of 2017 to establish the average cost of renting in each of the zoned areas with the average cost in Athlone including Monksland €900 per month for a three bed detached bungalow. Average cost of a house was examined using property websites with the average house price for Athlone including Monksland €189,195.
- The number of households qualifying for social housing support who identified Monksland as their preferred area in January 2017 was 1.
- The final test is the number of habitable houses available for purchase or rent in the area with the Council seeking the information from Auctioneers working in the County. For Athlone including Monksland, the number of houses in the area was 1759, 5% of which is 88. The total number of houses for sale is 26 and total number of houses for rent is 1 both of which are less than 5%. It states that the total number of vacant houses is 92.

- I would also note that in relation to suitability for provision of housing the Planning Authority include a 'Y' to respond to the question of suitability in the assessment report but do not outline any detail as specifically set out in Section 6(5) of the URH Act 2015.

5.2. **Planning Authority Notice**

Planning Authority decided under section 7(3) to issue a notice on 20th June 2018 referencing sections 5(1)(a), 5(1)(b) and 5(2) of the Act and stating that the site has been entered onto the Vacant Sites Register. The notice was issued to Pat Donoghue.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

An appeal was received from Mark Fahy & Associates on behalf of Pat Donoghue which is summarised as follows:

- Site has not been vacant as it has been used for agricultural purposes since first acquired by the appellant who is a part-time farmer using the land for the last number of years;
- Used for agricultural purposes and not for its primary purpose as appellant's agent has not been able to reach agreement with Council on nature and type of development for the site;
- Permission granted for 52 houses in 2008 with potential to accommodate 80+ units but number reduced to accommodate a proposed access road to serve local community;
- Access road was only an indicative road on the then LAP and in absence of any design details a greater area of land was frozen for the proposed road than was otherwise needed with Council given flexibility in design of the road but a later LAP relocated the road away from the site;
- Permission for only 52 houses made the development of the site unviable with finance not available to develop the site with permission renewed on two occasions and expired in March 2018;

- Meeting was held with officials of the Council in April 2017 with a view to starting work on the site and told that extra houses facilitated by removal of the road which would make the development viable could not be guaranteed as Council had reservations about layout and house types granted;
- Decided to seek a new permission (Ref. 17/280) which was lodged in June 2017 which was withdrawn in August 2017 because the Council were not satisfied with the proposed layout;
- Area in which site is located has a well known style and pattern of housing with the appellant having a long history of building in the area and knows the market with no agreement reached since then on the layout of the site despite numerous design proposals with no feedback provided other than the proposals did not conform to current urban design guidelines and principles;
- It is this disagreement that has prevented progress on the site with appellant seeking desperately to obtain permission with method of operation of the Council hindering progress with a recent meeting seeing some progress and hoped to lodge an application in August 2018;
- Unless appellant is permitted to build houses that will sell the site will not be viable with the appellant building six houses close to the site and while demand may be high in large urban areas it is not as acute in rural towns with the six houses on the market for 3 months with only one sold.

6.2. Planning Authority Response

A response received from the Planning Authority was received on 8 August 2018:

- Attaches planning report which sets out why the site was included on the Register (outlined at Section 5.1 above);
- Site has been inspected a number of times most recently on 25/7/2018 (photos attached) and the PA have seen no evidence of any agricultural practices on the site;
- Planning history is a matter of record and documented in the planning report with the most recent application withdrawn and any proposed development on the site required to comply with the principles outlined in the Guidelines for Planning

Authorities on Sustainable Residential Development in Urban Areas which has been communicated on numerous occasions to the Landowners agent;

7.0 Assessment

7.1. Introduction

7.1.1. This notice has been issued under the provisions of Section 5(1)(a) and 5(1)(b) of the Act however it is clear from the assessment that residential lands come within the parameters of 5(1)(a). The assessment undertaken by the Planning Authority to inform the placing of the site on the Register, which I outline in section 5.1 above, refers to the tests included for residential under section 5(1)(a) by reference to Sections 6(4) of the Act as is required for lands zoned for residential purposes.

Section 5(1)(a) of the Act states that in the case of a site consisting of residential land –

(i) the site is situated in an area in which there is a need for housing,

(ii) the site is suitable for the provision of housing, and

(iii) the site, or the majority of the site, is

(I) vacant or idle, or

(II) being used for a purpose that does not consist solely or primarily of the provision of housing or the development of the site for the purpose of such provision, provided that the most recent purchase of the site occurred—

(A) after it became residential land, and

(B) before, on or after the commencement of *section 63 of the Planning and Development (Amendment) Act 2018.*”.

7.1.2. I would note that the appellants do not question the suitability of the site for housing in the area and therefore I do not intend to address this matter. They do reference the need for housing in the area and the vacancy/purpose of the lands and in this regard I propose to deal with these two matters.

7.2. Need for Housing in the Area

Reference is made to the need by way of the appellant stating that they have constructed six houses in the area which have been on the market for 3 months with only one sold. However I would note that they do not address the 4 matters arising in Section 6(4) of the Act and in this regard looking at the core strategy it is clear that there is an identified need for housing units within this area which substantially exceeds the number of vacant units outlined. There are no figures provided by the Council of the amount of units for which extant permissions exist. Notwithstanding, on the basis of the information before the Board there appears to be a need for housing within this area.

7.3. Vacant or Idle/Purpose of the Lands

7.3.1. In relation to the vacancy or otherwise of the site or part thereof, there are a number of considerations. Firstly, as outlined in Section 3.1 above, Section 5(1)(a)(iii) has been amended by Section 63 of the Planning and Development (Amendment) Act, 2018 which provides that it states that the site, or the majority of the site is—

(I) vacant or idle, or

(II) being used for a purpose that does not consist solely or primarily of the provision of housing or the development of the site for the purpose of such provision, provided that the most recent purchase of the site occurred—

(A) after it became residential land, and

(B) before, on or after the commencement of *section 63 of the Planning and Development (Amendment) Act 2018.*”.

7.3.2. I will address both (I) and (II) in turn.

7.4. Vacant or Idle

7.4.1. The appellants state that the site is being used for agricultural purposes. However, there is no evidence on site or on file to substantiate this claim. The area of the site closest to the road boundary includes rubble and other materials. There is no evidence of any livestock on the site nor does it appear that the site is used for any

tillage purposes. While the appellant may claim to be a part time farmer it is not evident that the site in question is part of the farming operation undertaken.

7.5. Purpose of the Lands

7.5.1. Section 63 of the Planning and Development (Amendment) Act, 2018 provides a revised definition of Section 5(1)(a)(iii) of the Act with subsection (II) included and referring to sites which are being used for a purpose that does not consist solely or primarily of the provision of housing or the development of the site for the purpose of such provision, provided that the most recent purchase of the site occurred—

(A) after it became residential land, and

(B) before, on or after the commencement of *section 63 of the Planning and Development (Amendment) Act 2018.*”.

7.5.2. As I outline above, the appellants state that the site is being used for agricultural purposes. However, as I have addressed above, there is no evidence on site or on file to substantiate this claim. I note from the Folio reference that the site was acquired by the appellant in 2006. It is not clear when the lands were zoned for residential purposes. However permission was sought on the lands in 2006 by the appellant for a housing development which was refused because of the layout/residential amenity issues arising. The Planners report notes that the site is zoned C – primarily residential. Therefore it would appear that the site was acquired by the appellant after it became residential land, that being that the site was zoned residential when it was acquired by the appellant.

7.6. Other Matters

7.6.1. The appellant outlines in some detail the process by which permission was granted and now expired, the viability of same and attempts to obtain a new permission on the lands. The lands do not currently have the benefit of permission. An application for permission was submitted on 31 August 2018. Notwithstanding, the previous permission or proposals to obtain a new permission, permissions or proposals do not negate the matter of vacancy as outlined in the Act and supporting Circular.

8.0 Recommendation

I recommend that in accordance with section 9(5) of the Urban Regeneration and Housing Act 2015, the Board should confirm the entry on the register of site (VS/MB/18/5) site at Monksland Townland, Athlone was vacant or idle for the 12 months concerned. Therefore, the entry on the Vacant Sites Register on the 20th June 2018 shall be confirmed.

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 absence of any evidence to suggest that the site is being used for agricultural purposes.

(e) that while the site is being used for a purpose that does not consist solely or primarily of the provision of housing or the development of the site for the purpose of such provision, the most recent purchase of the site occurred after it became residential land, and before, on or after the commencement of section 63 of the Planning and Development (Amendment) Act 2018

the Board considered that it is appropriate that a notice be issued to the planning authority to confirm the entry on the Vacant Sites Register.

Una Crosse
Senior Planning Inspector

October 2018