



An
Bord
Pleanála

Inspector's Report ABP-303382-19

Type of Appeal	Section 9 Appeal against section 7(3) Notice.
Location	Lynns Dock, Rathedmond, Sligo.
Planning Authority	Sligo County Council.
Planning Authority VSL Reg. Ref.	SL-VS-25.
Site Owner	D P (Sligo) Ltd.
Planning Authority Decision	Place on Register.
Date of Site Visit	7 February 2019.
Inspector	Stephen Rhys Thomas.

1.0 Introduction

- 1.1. This appeal refers to a section 7(3) notice issued by Sligo County Council, stating their intention to enter a site at Lynns Dock, Rathedmond, Sligo on to the Vacant Sites Register (VSR) in accordance with the provisions of section 6(2) of the Urban Regeneration and Housing (URH) 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) and 5(2) of the URH Act 2015.

2.0 Site Location and Description

- 2.1. The site is located at Ballast Quay, also known as Lynn's Dock adjacent to the Garvoge River. The Michael Conlon Road and Pirn Mill Road adjoin the site on its western and eastern boundaries. The rear of the site adjoins a commercial premises. The site is level and comprises a combination of hardstanding and loose gravel. Palisade fencing forms the boundary of the site to the back of the footpath. In some areas of the site, litter has accumulated. An advertising sign is located at the junction of Michael Conlon Road with Ballast Quay

3.0 Statutory Context

3.1. Urban Regeneration and Housing Act 2015 (as amended)

- 3.1.1. The Notice issued in relation to residential lands and the accompanying report has assessed the site on the basis of the tests outlined in Section 5(1)(a) and 5(2) of the Act. The Notice is dated 11 December 2018 and is accompanied by a map outlining the extent of the site to which the Notice relates.

3.2. Development Plan Policy

The Sligo and Environs Development Plan 2010-2016 (SEDP) was adopted in November 2009 and was due to expire in 2015. When Sligo Borough Council was abolished in 2014, the lifetime of the SEDP was automatically extended in accordance with the provisions of section 11A of the Planning and Development Act 2000 (as amended). In August 2017, the provisions of the SEDP were further extended through incorporation into the Sligo County Development Plan 2017-2023

(CDP). The CDP states that the policies and objectives of the SEDP will continue to apply until the adoption of a Local Area Plan for Sligo and Environs.

The site is zoned **C2 – Commercial and Mixed Uses**. Objective: Promote the development of a mix of uses centred on retail, office space, high-density housing, high amenity open space and compatible uses.

A roads objective is located to the north east of the site, Objective T1-6 Inner Relief Road Corridor, upgrade junctions at Lynns Place and Hughes Bridge.

A Green Corridors Objective is located to the north of the site, O-OS-18 Hyde Bridge to Hughes Bridge and Ballast Quay.

There is a Tall Building Objective 'C' of at least five storeys, for the site.

3.2.1. **Section 3.7.4 Vacant site levy**

The Urban Regeneration and Housing Act 2015 introduced the vacant site levy as a site activation measure, to ensure that vacant or underutilised land in urban areas is brought into beneficial use, while also ensuring a more efficient return on State investment in enabling infrastructure and helping to counter unsustainable urban sprawl.

The vacant site levy can be imposed by planning authorities under certain conditions in designated areas, i.e. where sites remain vacant and site owners/ developers fail to bring forward reasonable proposals, without good reason, for the development/reuse of such property in line with the provisions of the relevant local area or development plan.

For the purpose of the application of the vacant site levy, a site means “any area of land exceeding 0.05 hectares identified by a planning authority in its functional area but does not include any structure that is a person’s home.”

The levy shall be applied annually by a local authority at a rate of 3% of the market valuation of the vacant sites, exceeding 0.05 hectares in area, with reduced and zero rates applying in certain circumstances (0.05 hectares roughly equates to one-eighth of an acre or 500m²). The market valuation shall be determined by the local authority by authorising a suitably qualified person to estimate the price which the unencumbered fee simple of the site would fetch if sold on the open market. The levy shall be payable by the registered owner(s) of the site. Sligo County Council will

implement the vacant site levy as provided for in the Urban Regeneration and Housing Act 2015 and in accordance with the requirements set out in the Department's Circular Letter PL 7/2016.

It is an objective of Sligo County Council to: **Objective O-REG-1** Identify areas in need of regeneration in Sligo City and, if appropriate, in the Key Support Towns of Ballymote, Enniscrone and Tobercurry, as part of the process of review or preparation of the respective local area plans.

4.0 Planning History

4.1. Subject Site:

None. An application for a mixed use development on this site was withdrawn.

5.0 Planning Authority Decision

5.1. Planning Authority Reports

- A Vacant Sites report (1 and 2) outlining the date of visit (initially 7 October 2016, then again 26 October 2017), zoning, planning history, site description, that the site is in an area of flood risk, and the type of site for the purposes of the Act which in this case is Residential. The site is deemed to be vacant.
- Report on Submissions Received – that states the site is suitable for taller buildings, there is a need for housing including high density and smaller units, future development intentions for the site area noted.

The planning authority's submission is accompanied by Appendix 1 of the Sligo VSR - Assessment of Housing Need, colour photographs, maps and Notices served under section 7 of the 2015 Act.

5.2. Planning Authority Notice

Planning Authority decided under section 7(3) to issue a notice on 11 December 2018 referencing sections 5(1)(a) and 5(2) of the Act and stating that the site has been entered onto the Vacant Sites Register. The notice was issued to DP (Sligo) Ltd, Brian and Martin Sherlock, as the reputed owners.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The landowner has submitted an appeal to the Board, against the decision of Sligo County Council to place the subject site on the Register. The grounds of the appeal can be summarised as follows:

- The site is not suitable for housing. It is bounded on three sides by roads, creating an unsuitable environment for housing. Only high rise buildings are supported by the planning authority at this location and there is no market in Sligo for apartment development. Previous permissions on the site were for retail/office and hotel developments.
- There is no need for housing in Sligo. Homeless figures show 36 people in County Sligo as homeless and the housing list in Sligo of 420 will be accommodated within 2-3 years. Sligo has the largest number of vacant houses in the country at 1,365 units.
- There are two other vacant sites in the vicinity and they are not included on the register. A site with 77 almost complete apartments is also not on the register.
- The appellant owns 12 three bedroom houses and now for sale, twenty minutes from the site for €100,000 each, they have been for sale since 2008.

The appeal is supported by a Department of the Environment Homeless Report October 2018, Press clippings and a copy of the initial submission to Sligo County Council.

6.2. Planning Authority Response

A response received from the Planning Authority to the grounds of appeal are summarised as follows:

- The planning authority acknowledge that the site is zoned C2-Commerical and mixed uses, however, residential use is the primary use envisaged for the site and could be provided by a tall building at this attractive riverfront location.
- The need for housing is addressed in the 'Assessment of Housing Need' prepared by the planning authority and clearly shows a need for additional residential development in the Sligo Urban area.

The planning authority's response lists out a number of documents that accompany their submission.

6.3. Further Submissions

The appellant has submitted additional information to substantiate their original grounds of appeal, and can be summarised as follows:

The site is located in the inner docks area, where there are warehouses and yards in the vicinity, the area does not yet have the amenities for residential development.

The initial hotel project was delayed by a CPO process and the economic downturn, but it is hoped that a similar proposal could be progressed soon.

There is no need for housing in Sligo and no demand for housing. Census figures from 2011 and 2016 are provided and show that in 2011 there were 22.2% of all permanent housing units in County Sligo as vacant and the population of Sligo has fallen from 2011 to 2016 by 255 persons.

The submission is supported by Census 2016 figures, reports from the Draft Sligo Development Plan 2017-2023 – Unfinished Housing Developments, Vacancy Rates and Housing Needs Assessment.

7.0 Assessment

7.1. Introduction

- 7.1.1. An appeal under the amended section 9 of the Act, requires that the burden of showing that the site was not a vacant site for the 12 months preceding the date of entry on the Register is on the owner of the site. Section 9(3) of the Act states that the Board shall determine whether the site was a vacant site for the duration of the 12 months concerned or was no longer a vacant site on the date on which the site was entered on the register. The subject site was entered onto the Sligo County Council VSR on the 11 December 2018.
- 7.1.2. The Notice has been issued under the provisions of Section 5(1)(a) and (2) of the Act. The assessment undertaken by the Planning Authority to inform the placement of the site on the Register, which I outline in section 5.1 above, refers to the tests included for residential lands under section 5(1)(a) and by reference to Section 6(4) and (5) of the Act as is required for lands zoned for mixed use that includes residential purposes.
- 7.1.3. The main concerns of the appellant are that the site is not suitable for housing as it is close to a busy main road, the docks area and lacks amenities to support residential development. In addition, the appellant considers that there is not a housing need in Sligo and details housing unit vacancy and a slow housing market. The appellant does not dispute the condition or use of the site in terms of being vacant or idle for the period concerned and hopes to develop the site for a hotel use in the future. The planning authority welcome the appellant's plans to develop the site for a hotel, however, the site remains suitable for housing and there is a need for housing in the area.

7.2. Vacant/Idle

- 7.2.1. Section 5(1)(a)(iii) states the following:

In this Part, a site is a vacant site if—

(a)(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.

7.2.2. This section of the 2015 Act seeks to clarify the purpose or use of a site in connection with any change in ownership. In this instance, the appellant has not raised any issues in terms of a change of ownership and has not detailed a specific use for the site. Based upon my observations of the site, I could determine no use ongoing or readily visible evidence that the site had accommodated a use in the recent past. I note the report prepared by the planning authority for the site prior to the placement on the register that drew the same conclusions, I am satisfied that the site was and still is vacant or idle and was a vacant site for the purposes of section 5(1)(a)(I) of the 2015 Act as amended.

7.3. Housing need and suitability of the site for housing

7.3.1. The appellant disagrees that the site is in an area in which there is a need for housing, especially high-density apartments envisaged for the site by the planning authority. It is added by the appellant that the site is not conducive to residential units because of its location close to the docks and busy roads in the vicinity. In addition, the appellant disputes the need for housing and cites a lack of demand and marketability of apartment units and housing in general.

7.3.2. Firstly, with reference to section 5(1)(a)(i) the need for housing in the area, I am guided by the Assessment of Housing Need for the Sligo and Environs Area prepared by Sligo County Council in January 2018. This document sets out to determine if there is a housing need in the area prior to the establishment of the VSR. The report makes reference to all the criteria set out in section 6(4) of the 2015 Act, as follows:

(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.

7.3.3. Briefly, the report concludes that the Housing Strategy and Core Strategy both envisage growth in the area, house prices and rents have risen showing demand, the need for social housing has increased and the percentage of available housing stock in the area is less than 5%. The appellant has based their information on anecdotal evidence based on their own experiences in the housing market, broad census data and information used in the preparation of the draft Sligo Development Plan 2017-2023, to support their assertion that there is no need or demand for housing. I find that the more recent and focused research conducted by the planning authority provides a cogent rationale for housing need. I am satisfied that the analysis and conclusions of the planning authority are both reasonable and satisfactory to support the establishment of a VSR and consequently I find that there was and is a need for housing in the area in which the site is located.

7.3.4. Secondly, in relation to the suitability of the site for the provision of housing, section 6(5) of the 2015 Act, states the following:

A planning authority, or the Board on appeal, shall determine whether or not a site was suitable for the provision of housing for the purposes of this Part by reference to

(a) the core strategy,

(b) whether the site was served by the public infrastructure and facilities (within the meaning of section 48 of the Act of 2000) necessary to enable housing to be provided and serviced, and

(c) whether there was any thing affecting the physical condition of the land comprising the site which might affect the provision of housing.

- 7.3.5. I am not convinced by the appellant's haste to dismiss the site as suitable for housing based on the surrounding environment. The site is zoned for a variety of uses of which high density housing is specifically listed. In my view, an appropriate design strategy that takes advantage of the amenities of the area could be developed. There is no obvious physical attribute of the site that might affect the provision of housing. The site does not have the benefit of a planning permission, but I note that a mixed-use application was lodged for the site but withdrawn. However, I have observed that higher density development has occurred along Custom House Quay to the east along the river and south of the site at Lynn's Place, this would indicate an absence of physical obstacles to higher density development in the area. I am satisfied that with reference to the core strategy, the availability of site services and the lack of any thing affecting the physical condition of the site, that the site was and is suitable for housing.
- 7.4. The placement of a site on the register requires three criteria to be fulfilled under section 5(1)(a)(i), (ii) and (iii) of the 2015 Act. I am satisfied that the site was and is a vacant site and the site should remain on the register as all three requirements under section 5(1)(a) of the 2015 Act (as amended) have been met.

8.0 Recommendation

- 8.1. I recommend that in accordance with section 9(5) of the Urban Regeneration and Housing Act 2015, the Board should confirm the Notice stating that the site at Lynns Dock, Rathedmond, Sligo was a vacant site for the 12 months concerned. Therefore, the entry on the Vacant Sites Register on the 11 December 2018 shall be deemed to take effect from that date.

9.0 Reasons and Considerations

Having regard to

- (a) The information placed before 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 Planning Inspector,

(d) That the site was a vacant site by virtue of the lack of any discernible use having taken place during the period prior to the entry of the site onto the VSR, the need for housing in the area, the site was and is suitable for the provision of housing as demonstrated by the residential land use zoning for the area, and that insufficient reason is put forward to cancel entry on the Vacant Sites Register

the Board is satisfied that the site was a vacant site for the relevant period.

Stephen Rhys Thomas
Planning Inspector

1 April 2019