



An  
Bord  
Pleanála

## Inspector's Report ABP-317641-23

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<b>Type of Appeal</b>	Appeal against a Section 18 Demand for Payment for 2021
<b>Location</b>	Newtownholmes Road, Sligo
<b>Planning Authority</b>	Sligo County Council.
<b>Planning Authority VSL Reg. Ref.</b>	SL-VS-16
<b>Site Owner</b>	Bernard Mullen
<b>Date of Site Visit</b>	29 <sup>th</sup> November 2023
<b>Inspector</b>	Paul O'Brien

## **1.0 Introduction**

This appeal refers to a Section 15 Notice of Demand for Payment of Vacant Site Levy issued by Sligo County Council, stating their demand for a vacant site levy for the year 2022, amounting to €32,500 for a vacant site at Newtownholmes Road Sligo and which is identified as SL-VS-16. The registered owner of the appeal site is Bernard Mullen, Ballincar, Sligo.

A Notice of Proposed Entry on the Vacant Sites Register was issued to Bernard Mullen on the 31<sup>st</sup> of January 2018 and notification of Entry on the Vacant Sites Register was issued on the 25<sup>th</sup> of October 2018.

A valuation pertaining to the site was issued by Sligo County Council on the 1<sup>st</sup> of August 2019. The value of the subject site is stated to be €450,000. The landowner proposed to appeal the Determination of Market Value to the Valuation Tribunal, by letter dated 20<sup>th</sup> February 2020. The landowner was notified by Sligo County Council that this was outside of the 28 days of the date of the notice.

A Notice of Demand for Payment of Vacant Site Levy for the year 2022 under Section 15 of the Urban Regeneration and Housing Act was issued to Bernard Mullen on the 30<sup>th</sup> of June 2023 for the value of €32,500. Bernard Mullen has appealed the Demand for Payment Notice issued pursuant to Section 15 of the Urban Regeneration and Housing Act and this forms the current appeal before the Board.

## **2.0 Site Location and Description**

The site, with a stated area of 0.6 hectares is located approximately 1.4 km to the south of Sligo town centre, in Caltragh. The site is located to the west of the Caltragh Road, approximately 170 m to the south of the Caltragh roundabout. A hedgerow/ treeline forms the boundary with the Caltragh Road. The site slopes from east to west. The subject lands are undeveloped, are under grass and are in agricultural use.

There are detached houses on the lands to the south and north of the subject site with housing in the form of residential estates to the east of the Caltragh Road.

### **3.0 Statutory Context**

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

The site was entered onto the register subsequent to a Notice issued under Section 7(1) of the Act that stated the PA was of the opinion that the site referenced was a vacant site within the meaning of Section 5(1)(a) and 5(2) of the Act. Section 7(3) Notices were issued on the 25<sup>th</sup> of October 2018 entering the site onto the register on that date.

Section 18 of the Act states that the owner of a site who receives a demand for payment of a vacant site levy under section 15, may appeal against the demand to the Board within 28 days. The burden of showing that:

‘(a) the site was no longer a vacant site on 1st January in the year concerned, or

(b) the amount of the levy has been incorrectly calculated in respect of the site by the Planning Authority,

is on the owner of the site.’

### **4.0 Development Plan**

4.1 **Sligo County Development Plan 2017 – 2023:** was adopted on the 31<sup>st</sup> of July 2017 and came into effect on the 28<sup>th</sup> of August 2017. By resolution of Sligo County Council, dated the 3<sup>rd</sup> of April 2023, the development plan was extended by one year to July 2024.

4.2 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 500m<sup>2</sup>). 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.’

4.3 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.

**4.4 Sligo and Environs Development Plan 2010-2016 (SEDP):**

The Sligo and Environs Development Plan 2010-2016 (SEDP) was adopted in November 2009 and was due to expire in 2015. Sligo Borough Council was abolished in 2014, and 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 subject site is zoned R2 – medium to low density residential areas. Objective: Promote the development of housing within a gross density range varying between 20 and 34 dwellings per hectare (8 to 13 dwellings per acre).

'In R2 zones, blanket construction of three- and four-bedroom houses will be discouraged. All new residential development will have to recognise and reflect the changing demographic structure in the house type and design, site layout and the additional facilities proposed. While housing is the primary use in these zones, recreational structures, crèches/playschools, educational facilities, community buildings, sheltered housing and corner shops will also be considered.'

## **5.0 Planning History**

### **Subject site:**

None recorded.

## **6.0 Planning Authority Decision**

### **6.1 Register of Vacant Sites Reports:**

Copies of the Planning Authority Vacant Sites Reports have been provided, and these include photographs of the site over a period of time. The following are provided and are included on file:

- Site Inspection dated 25<sup>th</sup> October 2017 in accordance with the Urban Regeneration and Housing Act 2015 as amended. The subject lands considered to constitute a residential site and also a vacant site.
- Memo dated 24<sup>th</sup> January 2018 reporting that the site was vacant and would constitute a residential site.
- Notice of Proposed entry on the vacant sites register was issued on the 31<sup>st</sup> of January 2018.
- Memo dated 27<sup>th</sup> March 2018 reporting that the site was vacant and would constitute a residential site.

- Chief Executive's Order dated 25<sup>th</sup> October 2018 confirming the inclusion of the site on the Vacant Sites Register.
- Report dated 25<sup>th</sup> July 2019 confirming the Market Valuation of the site at €450,000, as of the 5<sup>th</sup> of July 2019.
- Chief Executive's Order dated 1<sup>st</sup> August 2019 confirming the valuation of the site.
- Memo dated 20<sup>th</sup> September 2019 reporting that the site was vacant and was in use for pasture.
- Notification from the landowner's solicitor of intention to appeal the determination of market value dated, 20<sup>th</sup> February 2020. No appeal was lodged within the required 28 days.
- Memo dated 20<sup>th</sup> February 2020 reporting that the site was vacant and was in use for pasture.
- Notice of Demand for Payment of Vacant Site Levy dated 27<sup>th</sup> October 2020, for the year 2019.
- Notice of Demand for Payment of Vacant Site Levy dated 15<sup>th</sup> December 2021, for the year 2020.
- Notice of Demand for Payment of Vacant Site Levy dated 27<sup>th</sup> June 2023, for the year 2022.

## **6.2 Planning Authority Notices:**

A Notice of Determination of Market Value was issued to Bernard Mullen on the 30<sup>th</sup> of June 2023 stating that the valuation placed on the site is €450,000, and instructions as to make an appeal to the Valuations Tribunal, accompanied by a map with the site outlined. A Notice of Demand for Payment of Vacant Site Levy dated 27<sup>th</sup> June 2023, was issued for the year 2022.

## **7.0 The Appeal**

### **7.1 Grounds of Appeal**

The appeal refers to the following reasons as to why development has not taken place:

- The Planning Authority will not allow the development of these lands without the inclusion of adjoining lands in any scheme.
- A geophysical survey indicates that there is a significant presence of archaeology in these lands.
- Current build costs would not allow for the feasible development of these lands or the sale of these lands to a third party would not allow them to develop these lands.

## **7.2 Planning Authority Response**

The Planning Authority reported that the demand should not have been issued and this was a clerical error.

## **8.0 Assessment**

### **8.1 Introduction**

The appeal on hand relates to a Section 15 Demand for Payment. In accordance with the provisions of the legislation there are 2 key criteria to consider:

- (a) the site was no longer a vacant site on 1st January in the year concerned, or
- (b) the amount of the levy has been incorrectly calculated in respect of the site by the Planning Authority.

I will consider each of these in turn.

### **8.2 The site is no longer vacant.**

The Board should be aware that the provisions of Section 18(2) of the Act does not specify whether the applicant must demonstrate whether the site constitutes a vacant site as per the provisions of Section 5(1)(a) or 5(1)(b) i.e. that the site constituted a vacant site in the first instance when the Section 7(3) Notice was issued or whether they must just demonstrate that notwithstanding the Notice issued, that development has taken place on the site and it is no longer vacant as of the 1st of January in the year concerned, in this case the period specified is the 1<sup>st</sup> of January 2022 to the 31st of December 2022.

### **8.3 Is it a Vacant Site?**

A Section 7(3) Notice of Entry on the Vacant Sites Register was issued on the 25<sup>th</sup> of October 2018. This notice was appealed to the Bord who upheld the decision of the Planning Authority to include the site on the register. An assessment was carried out by the planning authority as to whether the site constituted a vacant site under section 5(1)(a). Following an assessment, the site was placed on the register, these matters have not changed.

The appellants do not dispute the vacancy of the lands. Their appeal refers to an inability to develop or sell these lands at present. My site visit of the 28<sup>th</sup> of November 2023 confirmed that there was no development on these lands.

Based on the information submitted and the evidence presented by the Planning Authority, I am satisfied that for the period/ year concerned, 2022, the site was vacant.

#### **8.4 Levy Calculation**

A Notice of Determination of Market Value was issued to Bernard Mullen on the 2<sup>nd</sup> of September 2019 with a value of €450,000. An appeal was lodged but was outside the required 28 days and was deemed to be invalid. A levy of €32,500 was served on the landowner for the year 2022.

#### **9.0 Recommendation**

I recommend that in accordance with Section 18 (3) of the Urban Regeneration and Housing Act 2015 (as amended), the Board should confirm that the site was a vacant site for the year 2022. In accordance with Section 18(4) of the Urban Regeneration and Housing Act 2015 (as amended), the Board confirm that the amount of the levy has been correctly calculated in respect of the vacant site. The demand for payment of the vacant site levy under Section 15 of the Urban Regeneration and Housing Act 2015 is, therefore, confirmed.

#### **10.0 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) the need for housing in the area, the site 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,
- (e) That the majority of the site is and was vacant/idle for the period concerned,
- (f) The amount of the levy has been correctly calculated at 7% of the site value in 2022,
- (g) There has been no change in the ownership of the site during the period concerned, 1<sup>st</sup> January 2022 to 31<sup>st</sup> of December 2022, the Board is satisfied that the site was a vacant site for the year 2022 and the amount of the levy has been correctly calculated. The demand for payment of the vacant site levy under Section 15 of the Urban Regeneration and Housing Act 2015 is, therefore, confirmed.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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**Paul O'Brien**

**Inspectorate**

**8<sup>th</sup> February 2024**