



An
Bord
Pleanála

Inspector's Report ABP-317642-23

Type of Appeal	Appeal against a Section 18 Demand for Payment for 2021
Location	Caltragh Road, Sligo
Planning Authority	Sligo County Council.
Planning Authority VSL Reg. Ref.	SL-VS-17
Site Owner	Bernard Mullen
Date of Site Visit	29 th November 2023
Inspector	Paul O'Brien

1.0 Introduction

A Notice of Proposed Entry on the Vacant Sites Register was issued to Bernard Mullen on the 22nd of February 2018 and notification of Entry on the Vacant Sites Register was issued on the 25th of October 2018.

A valuation pertaining to the site was issued by Sligo County Council on the 2nd of September 2019. The value of the subject site is stated to be €435,000. The landowner proposed to appeal the Determination of Market Value to the Valuation Tribunal, by letter dated 20th 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 30th of June 2023 for the value of €30,450. 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 an area of 0.59 hectares, contains an area of land located 1.2 km to the south of Sligo town centre, and located between the N4 interchange and the Caltragh Road. There is a laneway located to the north of the site and the site has road frontage to the south eastern side onto the Caltragh Road. Access to the site is via an agricultural gate onto the laneway. The site was under grass on the day of the site visit.

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 25th 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 31st of July 2017 and came into effect on the 28th of August 2017. By resolution of Sligo County Council, dated the 3rd 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 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.'

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 MIX-1 – mixed uses (non-retail), in which residential development is permitted in principle. Objective: Promote the development of a dynamic mix of uses able to create and sustain vibrant residential and employment areas. Commercial (non-retail), residential, leisure, employment/enterprise uses are encouraged by this zoning.

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:

- Report undated but site visit undertaken on the 13th of October 2016 and found the site to be vacant.
- Report undated but site visit undertaken on the 25th of October 2017 and found the site to be vacant.
- Memo 16th February 2018, reports that the subject lands are considered to constitute a residential site and also a vacant site. Landowner to be informed that the Planning Authority intend to enter the site onto the vacant site register in accordance with Section 7(1) of the Urban Regeneration and Housing Act 2015.
- Notice of Proposed Entry on the Vacant Sites Register dated 22nd February 2018.
- Reported dated 27th March 2018, recommending the inclusion of the site on the Vacant Sites Register.
- Landowner notified on the 25th of October 2018 of the inclusion of these lands on the Vacant Sites Register.
- Notice of Determination of Market Value issued on the 2nd of September 2019.
- Report dated 25th 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.
- Planning Authority site inspection dated 19th September 2019 finds that the site is in use for animal grazing purposes.
- Planning Authority report dated 20th September 2019 finds that the site is in use for animal grazing purposes, is vacant and there has been no change of ownership.

- Planning Authority report dated 20th February 2020 finds that the site is in use for animal grazing purposes, is vacant and there has been no change of ownership.
- Demand Notice dated and issued on 16th December 2020, under Section 15 of the Urban Regeneration and Housing Act 2015 as amended, by Sligo County Council on Brendan Mullen.
- Demand Notice dated and issued on 15th December 2021, under Section 15 of the Urban Regeneration and Housing Act 2015 as amended, by Sligo County Council on Brendan Mullen for the year 2020.
- Demand Notice issued on 30th June 2023, under Section 15 of the Urban Regeneration and Housing Act 2015 as amended, by Sligo County Council on Brendan Mullen for the year 2022.

6.2 Planning Authority Notices:

A Notice of Determination of Market Value was issued to Bernard Mullen on the 2nd of September 2019 stating that the valuation placed on the site is €435,000 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 30th June 2023, was issued for the year 2022.

7.0 The Appeal

7.1 Grounds of Appeal

The subject lands are zoned Mixed-1 – mixed uses/ non retail creating viability issues. Secondly, the lands are not suitably serviced and the costs of providing the services would impact on the value of the lands. Thirdly, access to the site is via a laneway that would require significant upgrading to enable site development for housing. Fourthly, there are archaeological remains on site. The result of these issues is to prevent the sale of these lands to a developer and does not allow the current landowner to develop this site.

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 1st 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 25th 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 28th 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 2nd of September 2019 with a value of €435,000. An appeal was lodged but was outside the required 28 days and was deemed to be invalid. A levy of €30,450 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 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, 1st January 2022 to 31st 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.

Paul O'Brien

Inspectorate

8th February 2023