



An  
Bord  
Pleanála

## Inspector's Report ABP-321183-24

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<b>Type of Appeal</b>	Appeal against a Section 18 Demand for Payment
<b>Location</b>	Lynn Dock, Rathedmond, Sligo.
<b>Planning Authority</b>	Sligo County Council
<b>Planning Authority VSL Reg. Ref.</b>	SL-VS-25
<b>Site Owner</b>	Brian and Martina Sherlock
<b>Date of Site Visit</b>	No site inspection
<b>Inspector</b>	Emer Doyle

## **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 2023, amounting to €17,500 for a vacant site at Lynns Dock, Rathedmond, Sligo and which is identified as SL-VS-25. The registered owners of the appeal site are Brian and Martina Sherlock, Old Market Street, Sligo.

A Notice of Proposed Entry on the Vacant Sites Register was issued to Brian and Martina Sherlock on the 5<sup>th</sup> of November 2018. A Section 7(3) Notice of Entry to the Vacant Sites Register was issued dated the 11<sup>th</sup> of December 2018. This was appealed to the Board under ABP 303382-19 and the Board determined that the site was a vacant site within the meaning of the Act and considered that it was appropriate that a notice be issued to the Planning Authority to confirm entry on the Vacant Sites Register in a Board Order dated the 23<sup>rd</sup> of April 2019. A valuation pertaining to the site was issued by Sligo County Council on the 4<sup>th</sup> of September 2019. The value of the subject site is stated to be €250,000.

A Notice of Demand for Payment of Vacant Site Levy for the year 2023 under Section 15 of the Urban Regeneration and Housing Act was issued to Brian and Martina Sherlock on the 11<sup>th</sup> of October 2024 for the value of €17,500. Brian Sherlock 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 0.27 hectares is located approximately 600m to the north east of O' Connell Street, Sligo. It is adjacent to Hughes Bridge and bounded by roads on three sides being the N4, Ballast Quay, and Pirn Mill Road. The rear of

the site adjoins a commercial premises. Pallisade fencing forms the boundary of the site to the back of the footpath.

### **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. A Section 7(3) Notice of Entry on the Vacant Sites Register was issued on the 11<sup>th</sup> of December 2018. This was appealed to the Board under ABP 303382-19 and the Board determined that the site was a vacant site within the meaning of the Act and considered that it was appropriate that a notice be issued to the Planning Authority to confirm entry on the Vacant Sites Register in a Board Order dated the 23rd of April 2019.

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.’

#### **3.2. Development Plan Policy**

The Sligo CDP 2024-2030 is effective from the 11<sup>th</sup> of November 2024. Please note that the Sligo CDP 2024-2030 is currently subject to a Draft Ministerial Direction.

A Local Area Plan for Sligo Town and Environs will be prepared after the adoption of the Development Plan. The County Development Plan includes only the zoning and strategic designations and objectives for Sligo Town.

Fig. 3A Core Strategy Map identifies that Sligo is a Regional Growth Centre. Table 3.1 outlines that the strategy for Sligo Town is to facilitate strong housing and population growth in accordance with the Regional Spatial and Economic Strategy, implement Regional Growth Centre RPOs and other major projects, promote urban regeneration and economic development.

Chapter 5 outlines the Settlement Strategy for Sligo. Section 5.2.1 outlines population and housing projections.

In Section 3.7 (c) of the RSES, RPO 3.7.38 Sligo County Council is required to facilitate the provision of 3,000 to 5,000 residential units to accommodate the additional Sligo Town population by 2040.

During the 6 year life cycle of the CDP, the number of dwellings allocated to Sligo Town in accordance with the RSES provisions would be between 900 and 1,500 units.

Taking into account the empirical evidence of acute housing shortage in Sligo Town, constantly increasing since 2016, the actual demand is probably much higher. The Plan facilitates 'frontloading' the delivery of housing in Sligo Town, by zoning sufficient lands to accommodate the Core Strategy allocation of 2,649 units by 2030, and potentially more units taking into account the lands zoned in excess of the minimum required.

Sligo Town has the greatest potential to deliver compact growth and regeneration in the existing built up area, as well as designated strategic growth areas to the north-east and south-west.

The Strategy for Sligo Town consists of the following elements:

- Support accelerated population growth to a level of at least 25,360 persons by 2030.

- Facilitate the provision of at least 40% of new development occurs within Sligo Town's existing built-up area, through regeneration and consolidation on infill and brownfield sites.
- Ensure that at least 40% of new development occurs within Sligo Town's existing built-up area, through regeneration and consolidation on infill and brownfield sites.
- Prioritise new residential and employment-related development on greenfield sites in the areas served by the Western Distributor Road at Caltragh and Oakfield, and at Ballinode, which will be served by the Eastern Garavogue Bridge and Approach Roads Scheme.

## Chapter 10

### Urban Regeneration Objectives

It is an objective of Sligo County Council to:

O-UR-1 Identify, if necessary, further areas in need of regeneration in Sligo Town as part of the process of preparation/ review of Sligo and Environs Local Area Plan (in addition to the Regeneration Sites designated in this Plan- refer to Chapter 11 Sligo Town)

O-UR-2 Actively pursue the reduction of vacant/derelict residential structures and sites within the town centres of Sligo. Ballymote, Enniscrone and Tobercurry.

The site is zoned **TC2**

### **Objective TC2 – Town centre uses, type 2 (only in Sligo Town)**

Consolidate the existing fabric of central areas outside the town core (TC1 Zone) by densification of appropriate commercial and residential developments, ensuring a mix of commercial, recreational, civic, cultural, leisure, residential uses and urban streets, while delivering a quality urban environment.

The zoning matrix sets out that apartment use and houses are normally permitted. Traveller accommodation, and institutional or day care centre uses are open for consideration.

Chapter 11 sets out the objectives for Sligo Town.

#### **4.0 Relevant Planning History**

##### **PA Reg. Ref. PA 2360376**

Current application for mixed use multi-storey building providing for commercial and residential uses.

##### **ABP Ref. 309323-21**

Appeal against the decision by Sligo County Council to enter this site (VS-25) onto the vacant sites register. The Board determined that the site was a vacant site within the meaning of the Act and issued a letter to Sligo County Council to 'Please accept this letter as notice to confirm the entry on the Vacant Sites Register in respect of this site.'

#### **5.0 Planning Authority Decision**

##### **5.1. Register of Vacant Sites Reports**

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

- Planning Authority report dated 26<sup>th</sup> of October 2017. This report contains photographs of the site dated October 2017 and October 2016. It states the site can be considered to constitute residential land and should be included on the register in accordance with Section 5 of the Urban Regeneration and Housing Act 2015.

- Memo dated 16<sup>th</sup> of May 2018, advises that the site can be considered to constitute 'residential land' and a 'vacant site' within the meaning set out in the Urban Generation and Housing Act 2015 and the owner should be informed of the Planning Authority's intention to enter the site on the vacant sites register.
- Memo dated 6<sup>th</sup> of December 2018 recommends that the site be entered on the Vacant Sites Register.
- Memo dated 28<sup>th</sup> of February 2020 with a photograph of the site indicating that the site is currently being used to store building materials.
- Memo dated the 23<sup>rd</sup> of September 2019 with a photograph of the site indicating that the site is currently being used to store building materials.
- Memo dated 6<sup>th</sup> of October 2020 advising that the site was surveyed on the 20<sup>th</sup> of September 2019 and the 28<sup>th</sup> of February 2020. The surveys show that the site was in temporary use for the building material storage associated with the O' Connell Street upgrade project. Notwithstanding the temporary use, it was considered that the site was still 'vacant' within the meaning of the Act for the year 2019.
- Memo dated 27<sup>th</sup> of October 2020 advising that the site was still 'vacant' within the meaning of the Act for the year 2019.

## 5.2. Planning Authority Notices

- A Section 7(1) Notice of Proposed Entry on the Vacant Sites Register Section was issued on 5<sup>th</sup> of November 2018.
- A Section 7(3) Notice of Entry on the Vacant Sites Register was issued on the 11<sup>th</sup> of December 2018.
- A Notice of Determination of Market Value was issued on the 4<sup>th</sup> of September 2019 stating that the valuation placed on the site was €250,000.
- A Notice of Demand for Payment of Vacant Site Levy for 2019 was issued on the 16<sup>th</sup> of December 2020.
- A Notice of Demand for Payment of Vacant Site Levy for 2020 was issued on the 15<sup>th</sup> of December 2021.

- A Notice for Demand for Payment of Vacant Site Levy for 2021 was issued on the 26<sup>th</sup> of October 2022.
- A Notice of Demand for Payment of Vacant Site for 2022 was issued on the 30<sup>th</sup> June 2023.
- A Notice of Demand for Payment of Vacant Site Levy for 2023 was issued on the 11<sup>th</sup> of October 2024.
- A Notice of Demand for Payment of Vacant Site Levy for the years 2019-2023 inclusive (total of €87,500 @ €17,500 per year) was issued on 11<sup>th</sup> of October 2024.

## **6.0 The Appeal**

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

The main grounds of appeal are in relation to attempts to achieve planning permission on the site. It is stated that the site is difficult to obtain planning permission on and after long negotiations, a planning application was lodged in December 2023. This application is now being held up as various reports are needed.

### **Planning Authority Response**

- Letter from Sligo County Council to An Bord Pleanála dated the 25<sup>th</sup> of November 2024 stated that the site is still a 'vacant site' within the meaning set out in section 5(1)(a) of the Urban Regeneration and Housing Act 2015 (as amended) and that the levy is correctly calculated.
- It is considered that no additional information has been submitted on the grounds of appeal which would satisfy the relevant criteria in relation to 'vacant site' or 'levy calculation'.



## **7.0 Assessment**

### **7.1. 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.

### **7.2. 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 2023 to the 31<sup>st</sup> of December 2023.

### **7.3. Is it a Vacant Site?**

A Section 7(3) Notice of Entry on the Vacant Sites Register was issued on the 11<sup>th</sup> of December 2018. 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.

An appeal was made to the Board under ABP 303382-19. The Board considered that insufficient reason had been put forward by the landowner to justify the cancellation of the entry on the vacant sites register. The Board determined that the site was a

vacant site within the meaning of the Act and considered that it was appropriate that a notice be issued to the Planning Authority to confirm entry on the Vacant Sites Register in a Board Order dated the 23rd of April 2019. A letter was issued to the Planning Authority in this regard.

The appellants do not dispute the vacancy of the lands. The appeal refers only to difficulties in obtaining planning permission and states that there is a current application on this site.

The Planning Authority response to the Board received on the 25<sup>st</sup> of November 2024 states that the site is still a 'vacant site' within the meaning set out in section 5(1)(a) of the Urban Regeneration and Housing Act 2015 (as amended).

Based on the information submitted and the evidence presented by the Planning Authority, I am satisfied that for the period/ year concerned, 2023, the site was vacant.

#### **7.4. Levy Calculation**

A Notice of Determination of Market Value was issued to Brian and Martina Sherlock on the 4<sup>th</sup> of September 2019 with a value of €250,000. A levy of €17,500 was served on the landowner for the year 2023.

The applicable rate for the period concerned is 7% and it is evident therefore, that the levy has been correctly calculated. The Planning Authority response to the Board also confirms that the levy is correctly calculated.

I note that Section 12(1) of the Urban Regeneration and Housing Act 2015 (as amended) requires that the Planning Authority shall determine, 'as soon as may be after it is entered on the register, and at least once every 3 years thereafter, the market value of a vacant site.' This site has not been valued since September 2019.

Notwithstanding this, the Board has no jurisdiction to adjudicate a determination of market value. This is a matter for the Planning Authority.

Having regard to the foregoing, I consider that the Notice is valid and as such, the Demand for Payment for 2023 should be confirmed.

## **8.0 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 2023. 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.

## **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) 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 for the period concerned,

(f) The amount of the levy has been correctly calculated at 7% of the site value in 2023,

(g) There has been no change in the ownership of the site during the period concerned, 1<sup>st</sup> January 2023 to 31<sup>st</sup> of December 2023, the Board is satisfied that the site was a vacant site for the year 2023 and the amount of the levy has been incorrectly 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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Emer Doyle  
Planning Inspector

14<sup>th</sup> March 2025