



An  
Bord  
Pleanála

## Inspector's Report ABP-321261-24

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| <b>Type of Appeal</b>                   | Appeal against a Section 18 Demand for Payment |
| <b>Location</b>                         | Cartron, Sligo.                                |
| <b>Planning Authority</b>               | Sligo County Council                           |
| <b>Planning Authority VSL Reg. Ref.</b> | SL-VS-22                                       |
| <b>Site Owner</b>                       | Bernard Mullen                                 |
| <b>Planning Authority Decision</b>      | Demand for Payment                             |
| <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 €91,000 for a vacant site at Cartron Sligo and which is identified as SL-VS-22. 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 22<sup>nd</sup> of February 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 2<sup>nd</sup> of September 2019. The value of the subject site is stated to be €1,300,000. The landowner proposed to appeal the Determination of Market Value to the Valuation Tribunal, by letter dated 20<sup>th</sup> February 2020. This was beyond the 28 days allowed for in the 2015 Act.

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 Bernard Mullen on the 11<sup>th</sup> of October 2024 for the value of €91,000. 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**

- 2.1. The site, with a stated area of 2.15 hectares is located approximately 1.5km to the north of Sligo town centre, in Cartron. The site is an undeveloped greenfield site. The site is bordered by low-lying greenfield lands to the north, a petrol station and a fast-food premises to the east, the Cartron Heights residential development to the south and the R291 to the west. The site slopes south to north. A watercourse known as Willsborough Stream, runs along the northern boundary of the site.

### **3.0 Statutory Context**

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

The 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.’

#### **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. 3.A 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.

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## 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 **MIX-mixed uses**

Objective: Promote the development of a dynamic mix of uses able to create and sustain viable town and village centres. Commercial (including retail), residential, leisure, community, office and suitable enterprise uses are supported in mixed-use zones, as well as high-amenity open space.

The zoning matrix sets out that apartment use is normally permitted and houses is open to consideration in this zoning. Traveller accommodation and institutional or day care centre are also open to consideration.

Chapter 11 sets out the objectives for Sligo Town.

## **4.0 Planning History**

### **Subject Site:**

None recorded.

## **5.0 Planning Authority Decision**

### **5.1. Correspondence on Planning Authority Vacant Site Levy File:**

Copies of the Planning Authority Vacant Site Report 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 dated 20<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.
- Report dated 20<sup>th</sup> February 2018. Site is zoned for Medium-High Density Residential Development, is suitable for housing and has been vacant for the preceding 12 months. Notice of Proposed entry on the vacant sites register was issued on the 22<sup>nd</sup> of February 2018.
- Report dated 27<sup>th</sup> March 2018 confirming that the land is zoned for residential use and should be included on the Vacant Sites Register.
- Chief Executive's Order dated 25<sup>th</sup> October 2018 confirming the inclusion of the site on the Vacant Sites Register.
- Report dated 7<sup>th</sup> August 2019 confirming the Market Valuation of the site at €1,300,000, as of the 5<sup>th</sup> of July 2019.
- Chief Executive's Order dated 30<sup>th</sup> August 2019 confirming the valuation of the site.
- Notice of Determination of Market Value dated 2<sup>nd</sup> September 2019
- 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. The Planning Authority advised the landowner's solicitor in a letter dated the 24<sup>th</sup> of February 2020 that any further correspondence on the

matter of valuation should be to the Valuation Tribunal, not the Planning Authority. It also advised that as previously advised (2<sup>nd</sup> of September 2019) any appeal of the market value determination was to be made to the Valuation Tribunal within 28 days of that notice.

- Report dated 23<sup>rd</sup> September 2019 confirming that the site remains vacant.
- Report dated 28<sup>th</sup> February 2020 confirming that the site remains vacant.
- Copy of appeal to Valuation Tribunal dated 18<sup>th</sup> June 2020. This appeal was invalid as it was made outside of the 28 day period outlined in Section 13 of the Urban Regeneration and Housing Act 2015. The Valuations Tribunal acknowledged receipt of this appeal by letter dated the 19<sup>th</sup> of June 2020.
- Report dated 27<sup>th</sup> October 2020 recommending a demand for payment of a vacant site levy.
- Demand for payment dated 16<sup>th</sup> December 2020.
- Letter from landowner's solicitor to valuations tribunal dated the 6<sup>th</sup> of January 2021 outlining that the landowner has received a Demand for Payment Notice notwithstanding the fact that the Valuations Tribunal has not yet determined the appeal and enquiring when the appeal will be dealt with.
- Email to the Valuation Tribunal, dated 1 June 2021, from Sligo County Council indicating that the appeal was lodged outside of the 28 days as specified.
- Letter dated 18<sup>th</sup> June 2021 from Sligo County Council to the Registrar of the Valuation Tribunal, Mr. Buggy, stating that the appeal was invalid.
- Notice of Demand for Payment of Vacant Site Levy dated 15<sup>th</sup> of December 2021, for the year 2020.
- Letter from landowner's solicitor dated the 6<sup>th</sup> of January 2022 asking when his clients appeal against the valuation issued by Sligo County Council would be dealt with.
- Notice of Demand for Payment of Vacant Site Levy dated 30<sup>th</sup> June 2023, for the year 2022.

- Notice of Demand for Payment of Vacant Site Levy dated 30<sup>th</sup> June 2023, for the years 2019-2021 inclusive.
- Notice of Appeal dated 21<sup>st</sup> of July 2023, sent to Sligo County Council.
- Notice of Demand for Payment of Vacant Site Levy dated the 11<sup>th</sup> of October 2024 for the year 2023.
- Notice of Demand for Payment of Vacant Site Levy dated the 11<sup>th</sup> of October 2024 for years 2019-2023 inclusive.
- Notice of Appeal dated 8<sup>th</sup> of November 2024, sent to Sligo County Council.

## 5.2. **Planning Authority Notices:**

A Notice of Determination of Market Value was issued to Bernard Mullen on the 2<sup>nd</sup> of September 2019 stating that the valuation placed on the site is €1,300,000, as of the 5<sup>th</sup> of July 2019, 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 11<sup>th</sup> October 2024, was issued for the year 2023.

## 6.0 **The Appeal**

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

The main grounds of appeal are in relation to the valuation of the site. It is stated that Sligo County Council incorrectly valued the site on the 2<sup>nd</sup> of September 2019 and a preliminary planning analysis from an architect and a land valuation report from an auctioneer have been submitted to the Board in support of this.

It is stated that the Valuation Tribunal have yet to determine the appellant's appeal. It is requested that the Board deem the demand for payment to be invalid for these reasons.

## **6.2. Planning Authority Response**

- Letter from Sligo County Council to An Bord Pleanála dated the 27<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.

## **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 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 challenges with the development of the site including flooding, ecology and infrastructure and the impact these issues have on the valuation of the site.

A letter from the Planning Authority dated the 24<sup>th</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**

- 7.5. 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 €1,300,000. An appeal was lodged but was outside the required 28 days and was deemed to be invalid. A levy of €91,000 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.

I note that Section 12 of the Urban Regeneration and Housing Act 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 and I note that matters raised in the appeal refer to the valuation of the site including a new Development Plan since the valuation. Notwithstanding this, the Board has no jurisdiction to adjudicate a determination of market value. This is a matter for the Planning Authority and then for the appellant to appeal same to the Valuation Tribunal within 28 days of the valuation. I note also that the appellant considers that there is a current appeal to the Valuation Tribunal which is awaiting determination. This is not the case as, whilst an appeal was submitted to the Valuations Tribunal, it was outside of the 28 day period under Section 13 of the Urban Regeneration and Housing Act 2015.

Having regard to the foregoing, I consider the Notice is valid and as such, the Demand for Payment for the year 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 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 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 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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Emer Doyle  
Planning Inspector

13<sup>th</sup> February 2025