



An
Bord
Pleanála

Inspector's Report ABP-321264-24

Type of Appeal

Appeal against a Section 18 Demand
for Payment

Location

Newtownholmes Road, Sligo.

Planning Authority

Sligo County Council

Planning Authority VSL Reg. Ref.

SL-VS-16

Site Owner

Bernard Mullen

Date of Site Visit

No site inspection

Inspector

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 €31,500 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 31st of January 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 1st of August 2019. The value of the subject site is stated to be €450,000.

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 Bernard Mullen on the 11th of October 2024 for the value of €31,500. 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 170m to the south of the Caltragh roundabout. A hedgerow/treeline forms the boundary with the Caltragh Road. The site slopes from east to

west. 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 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.’

3.2. Development Plan Policy

The Sligo CDP 2024-2030 is effective from the 11th 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 **eRES - existing and infill residential use**

Objective: Protect and enhance the residential amenity of established residential areas and their communal or public open space and allow for small-scale infill development which is appropriate to the character and pattern of development in the immediate area. The introduction of other compatible or ancillary uses, redevelopment and regeneration may also be considered in these areas, as long as the dominant use remains residential.

The zoning matrix sets out that apartment use, houses, traveller accommodation, and institutional or day care centre are normally permitted.

Chapter 11 sets out the objectives for Sligo Town.

4.0 **Planning History**

Subject site: PA 19/269: Application for 44 No. housing units withdrawn.

Pre-planning Enquires in relation to development of the site in 2023.

Adjacent site to the north:

PA 19/269: Application for 44 No. housing units withdrawn.

PA 22/181: Permission granted for 26 residential units.

PA 23/38: Permission granted for revisions to previously approved planning application Reg. Ref. No. 22/181 to house numbers 3 and 14 from 2 bed semi-detached to 3 bed semi-detached.

5.0 **Planning Authority Decision**

5.1. **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 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.
- Memo dated 24th 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 31st of January 2018.

- Memo dated 27th March 2018 reporting that the site was vacant and would constitute a residential site.
- Chief Executive's Order dated 25th October 2018 confirming the inclusion of the site on the Vacant Sites Register.
- Report dated 25th July 2019 confirming the Market Valuation of the site at €450,000, as of the 5th of July 2019.
- Chief Executive's Order dated 1st August 2019 confirming the valuation of the site.
- Memo dated 20th 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, 20th February 2020. No appeal was lodged within the required 28 days.
- Memo dated 20th February 2020 reporting that the site was vacant and was in use for pasture.
- Memo dated 27th October 2020 outlining the surveys of the site and recommending a demand for payment.
- Notice of Demand for Payment of Vacant Site Levy dated 16th December 2020, for the year 2019.
- Notice of Demand for Payment of Vacant Site Levy dated 15th December 2021, for the year 2020.
- Notice of Demand for Payment of Vacant Site Levy dated 27th June 2023, for the year 2022.
- Memo dated the 27th of November 2024 reporting 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 the levy is correctly calculated.
- Notice of Demand for Payment of Vacant Site Levy dated 11th of October 2024, for the year 2023.

5.2. Planning Authority Notices

A Notice of Demand for Payment of Vacant Site Levy dated 11th October 2024, was issued for the year 2023.

A Notice of Determination of Market Value was issued to Bernard Mullen on the 1st of August 2019 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 section 7(3) Notice issued on the 25th October 2018, advising the landowner that their site had been placed on the register.

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 1st of August 2019 and a preliminary planning analysis from an architect, a land valuation report from an auctioneer and details of archaeological testing on the site 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 27th 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 1st of January 2023 to the 31st 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 25th of October 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.

The appellants do not dispute the vacancy of the lands. Reports from an auctioneering company and an architect submitted with the appeal relate to

challenges and restraints in developing the site in the future including access and archaeology.

The appeal relates to one matter only and this is the valuation of the site.

A letter from the Planning Authority dated the 24th 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 Bernard Mullen on the 1st of August 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 €31,500 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.

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 August 2019 and I note that matters raised in the appeal refer to issues which may impact on the valuation of the site. 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 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 required under Section 13 of the Urban Regeneration and Housing Act 2015 (as amended).

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/ 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, 1st January 2023 to 31st 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.

Emer Doyle
Planning Inspector

14th February 2025