



An  
Bord  
Pleanála

## Inspector's Report ABP-300262-17.

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### **Nature of Application**

Application for consent for compulsory acquisition of a derelict site in accordance with Section 14 of the Derelict Sites Act 1990, as amended.

### **Location**

25 Old Cross Square, Monaghan, Co. Monaghan.

### **Local Authority**

Monaghan County Council.

### **Notice Party**

Luke Murray.

### **Date of Site Inspection**

5<sup>th</sup> February 2017.

### **Inspector**

Karen Kenny.

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## **1.0 Introduction**

- 1.1. This file relates to a request by Monaghan County Council for the consent of An Bord Pleanála for the compulsory acquisition of the subject site, 25 Old Cross Square, Monaghan, Co. Monaghan, in accordance with the provisions of the Derelict Sites Act, 1990, as amended.

## **2.0 Site Location and Description**

- 2.1.1. The site is located at Old Cross Square, in the town centre of Monaghan. The site is located at the end of a residential terrace that is located to the north of the junction of Dublin Street, Dublin Road, Broad Road and Roskey Vale. The immediate area is characterised by a mixture of residential, commercial and community uses. The site comprises a two storey end of terrace dwelling that fronts directly onto the footpath and a yard area and outbuilding to the rear. There is a residential property to the north, a public footpath and car park to the west, an access lane to the east and a public road to south. The site sits below the level of the lands to the west and south.

## **3.0 Application for Consent for Acquisition**

- 3.1. Monaghan County Council has applied to the Board for consent to compulsorily acquire the site under section 14/16 of the Derelict Sites Act, 1990, as amended. A section 8(2) notice, advising of the local authority's intention to enter the site on the register of derelict sites, was served on the owner on 16<sup>th</sup> June 2016 (see attachments). A section 8 (7) notice, advising of the local authority's decision to enter the site on the register of derelict sites, was served on the owner on 28<sup>th</sup> July 2016 (see attachments). A section 11 (2) notice, directing the owner to undertake and complete measures in order to prevent the land from becoming / continuing to be derelict, was served on the owner of the property on 4<sup>th</sup> August 2016.

## **4.0 Application and Objection**

### **4.1 Notice of Intention to Acquire**

- 4.1.1. Notice of intention to acquire the site compulsorily was served on the owner of the property on 18<sup>th</sup> September 2017 and published in the Northern Standard Newspaper edition dated 21<sup>st</sup> September 2017.

### **4.2 Objection to Acquisition**

- 4.2.1. The owner of the property made a submission to Monaghan County Council on 23<sup>rd</sup> October 2017. The submission can be summarised as follows:

- Owner of the property for just under two years.
- On purchase intention was to renovate and tidy up the property, but following inspection owner decided to apply for planning permission to extend and modernise the property.
- Planning permission approved for development, a quotation agreed with contractor and works to begin within two weeks.

### **4.3 Local Authority's Application for Consent**

- 4.3.1. The Council requests the consent of the Board for the compulsory acquisition of the derelict site. A Planner's Report dated 1<sup>st</sup> November 2017 can be summarised as follows:

- Met with the owner of the property on 23<sup>rd</sup> October 2017.
- Owner advised that the next step would be to refer the matter to An Bord Pleanála for them to determine if the property is a Derelict Site. The only likely way to avoid compulsory acquisition is to have work carried out to address the derelict nature of the property.
- Census 2016 indicated that there was a 20.6% vacancy rate in the housing stock in the Monaghan urban area. The acquisition of the property would present an opportunity to renovate the property for social housing.

#### 4.4. Objector's Submission

- 4.4.1. No submission received.

### 5.0 Planning History

Reg. Ref. 16/395: Application for a two storey extension to rear of existing dwelling at no. 25 Old Cross Square, Monaghan. Permission granted.

### 6.0 Policy Context

#### 6.1. Development Plan

- 6.1.1. The application site falls within the administrative area of the Monaghan County Development Plan 2013 – 2019. The Monaghan Town Development Plan is provided in Chapter 9 of the County Development Plan. The site is zoned for Town Centre uses.

#### 6.2. Derelict Sites Act 1990 (as amended)

- 6.2.1. The Derelict Sites Act 1990, as amended, makes provisions to prevent land being or becoming a derelict site. Amongst other things, it enables local authorities to require land owners or occupiers to take measures on derelict sites and, in certain circumstances, to acquire derelict sites compulsorily.
- 6.2.2. Section 3 of the Act defines 'derelict site' as:

*'any land....which detracts, or is likely to detract, to a material degree from the amenity, character or appearance of land in the neighbourhood of the land in question because of—*

*(a) the existence on the land in question of structures which are in a ruinous, derelict or dangerous condition, or*

*(b) the neglected, unsightly or objectionable condition of the land or any structures on the land in question, or*

*(c) the presence, deposit or collection on the land in question of any litter, rubbish, debris or waste, except where the presence, deposit or collection of*

*such litter, rubbish, debris or waste results from the exercise of a right conferred by statute or by common law.*

6.2.3. Section 8 of the Act requires local authorities to establish a register of derelict sites in their functional area and to serve notices on occupiers/owners of their intention to do so. Section 9 places a duty on every owner and occupier of land, to take all reasonable steps to ensure that the land does not become or does not continue to be a derelict site. Section 10 places a similar duty on local authorities to take all reasonable steps, including the exercise of any appropriate statutory powers, to ensure that any land in their functional area does not become or continue to be a derelict site. Section 11 of the Act enables local authorities to serve a notice on an owner or occupier of land, requiring them to take specified measures to prevent land becoming or continuing to be a derelict site. Section 14 provides that a local authority may acquire by agreement or compulsorily any derelict site situated in their functional area. Section 15 sets out arrangements for giving notice, if the local authority intend to acquire a derelict site compulsorily, and section 16 sets out arrangements if the owner/occupier wish to object to the acquisition. Specifically, section 16, as amended, provides that where an objection is made, the derelict site shall not be acquired compulsorily by the local authority without the consent of the Board.

## **7.0 Assessment**

- 7.1. The subject application relates to no. 25 Old Cross Square, Monaghan, a residential property comprising a two storey dwelling. Internal access to no. 25 Old Cross Square, was not sought. The site inspection was carried out from the front of the property, from a public footpath to the south and a laneway to the rear of the property.
- 7.1.1. No. 25 Old Cross Square, comprises a two storey end of terrace dwelling that fronts directly onto the public footpath and a yard and outbuilding to the rear. The site is bounded by residential properties to the north, a public car park to the west, a communal access lane to the east and a public road to the south. The site sits below the level of lands to the south, east and west and is visible locally due to its

prominent location at the junction of a number roads and its proximity to a public car park and the road edge.

- 7.2. The roof of the property is in place but is subsiding. The chimney on the gable end is absent and a void remains at this location. The gutters across the front and rear elevation are broken. All windows and doors are in place but are in a poor state of repair. The paint work on the front, side and rear elevations is in place but is chipped, cracked and faded. There was rubbish and debris in the yard area to the rear, which is visible from the adjoining public footpath.
- 7.3. I note the actions of the planning authority and the statutory notices served on the owner in respect of the building. A section 8(2) notice, advising of the local authority's intention to enter the site on the register of derelict sites, was served on the owner on the 16<sup>th</sup> June 2016. A section 8 (7) notice, advising of the local authority's decision to enter the site on the register of derelict sites, was served on the owner on 28<sup>th</sup> July 2016. A section 11 (2) notice was also served on the owner of the property on 4<sup>th</sup> August 2016 directing the owner to undertake specified measures in order to prevent the land from becoming or continuing to be derelict. The specified measures were to re-plaster and paint the front and side elevations of the building, replace the chimney stack and repair the gutter and downpipe on the front elevation.
- 7.4. I note the submission from the owner of the property to the Council on 23<sup>rd</sup> October 2017 detailing his intentions to extend and renovate the property and the fact that planning permission was granted by Monaghan County Council on the 8<sup>th</sup> of December 2016 for an extension to the rear of the property (Reg. Ref. 16/395 refers). Notwithstanding this, at time of inspection the measures specified in the Section 11 (2) notice issued by Monaghan County Council on 4<sup>th</sup> August 2016 had not been undertaken and there was no evidence of any attempt to improve the condition of the property or to make it non-derelict. The condition and appearance of the property is at variance with the well-maintained appearance of properties in the immediate vicinity, due to the poor condition of plaster work and paint on the front, side and rear elevations, the presence of a void in the roof, the broken condition of gutters to front and rear of the property and the presence of rubbish and debris in the rear garden area. The property continues to be in a neglected, unsightly and objectionable condition and I consider that it detracts to a material

degree from the amenity, character and appearance of the area. I therefore consider the property to be a derelict site, within the meaning of Section 3 of the Derelict Sites Act, 1990, as amended.

- 7.5. Having regard, therefore, to the all of the information available of the file and the continued appearance and condition of the property, which as stated constitutes a derelict site, I consider that it is appropriate that the local authority's application for consent to compulsorily acquire No. 25 Old Cross Square, Monaghan, is granted.

## **8.0 Recommendation**

- 8.1. Having regard to the observed condition of No. 25 Old Cross Square, Monaghan, and the neglected, unsightly and objectionable condition of the land and structures on the land, I consider that the site materially detracts from the amenity, character and appearance of land in the neighbourhood and is therefore a derelict site within the meaning of Section 3 of the Derelict Sites Act, 1990, as amended. I consider that it is reasonable that the local authority seeks to compulsorily acquire the land, as provided by section 14 of the Act. I recommend, therefore, that the Board grant consent to Monaghan County Council to compulsorily acquire the site.

## **Reasons and Considerations**

Having regard to the neglected, unsightly and objectionable condition of the site, it is considered that the site detracts to a material degree from the amenity, character and appearance of land in the neighbourhood and, therefore, comes within the definition of a derelict site as defined in section 3 (b) of the Derelict Sites Act, 1990, as amended, and that the acquisition of the site by the local authority is necessary in order to render the site non-derelict and to prevent it continuing to be a derelict site. It is also considered that the objection made cannot be sustained having regard to that said necessity.

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Karen Kenny  
Senior Planning Inspector  
6<sup>th</sup> March 2018