



An
Bord
Pleanála

Inspector's Report ABP-301226-18

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	46 Mullaghmatt, Monaghan, Co. Monaghan
Local Authority	Monaghan County Council
Notice Party	Fergal Treanor, Ulster Bank Ireland Ltd.
Date of Site Inspection	12 th June 2018
Inspector	Niall Haverty

1.0 Introduction

- 1.1. This case relates to a request by Monaghan County Council for the consent of An Bord Pleanála to the compulsory acquisition of the subject site at 46 Mullaghmatt, Monaghan, Co. Monaghan, in accordance with the provisions of the Derelict Sites Act, 1990, as amended.

2.0 Site Location and Description

- 2.1. The application site is situated at the southern end of Mullaghmatt, a development of terraced housing on a sloping site c. 1km south west of Monaghan Town Centre. The layout of Mullaghmatt is somewhat unusual, with the front of the houses generally accessed by means of relatively narrow pathways, with wider roads and communal car parking areas to the rear of the houses. The development also appears to be known as Rossmore Park.
- 2.2. The site in question extends to c. 334 sq m and it is described in the notice as an end-of-terrace two storey dwelling, front garden area, rear shed and yard area and southern side garden area, bounded to the north by two storey dwelling house with front and rear garden, to the south by an access roadway, to the east by an entry pathway and dwelling house and to the west by fronting onto a pathway and amenity space.
- 2.3. The house is two storey with a dashed finish, and pitched tile roof. The front and side gardens are defined by metal railings, and a c. 2m high dashed wall defines the rear garden. Three mature trees are located within the side garden.
- 2.4. On the date of my site inspection, the front and rear window and door openings of the house were covered in metal sheeting, and there were a number of pieces of graffiti on the walls of the house. The front and side gardens were also heavily overgrown with weeds.

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. I note that this application is subsequent to the serving of notices under section 8(2) (i.e. advising of the Local Authority's intention to enter the site on the register of derelict sites), section 8(7) (i.e. advising of the Local Authority's decision to enter the site on the register of derelict sites) and section 11(2) (i.e. directing that specified measure be completed).

4.0 Application and Objection

4.1. Notice of Intention to Acquire

4.1.1. Notice of Monaghan County Council's intention to acquire the site compulsorily was served on the owners/occupiers (Ulster Bank Ireland Ltd. and Fergal Treanor) in letters dated 16th January 2018 and was published in the Northern Standard newspaper on the 18th January 2018. The site was described as follows in the notices:

- Derelict site at No. 46 Mullaghmatt, Monaghan, Co. Monaghan, comprising of end-of-terrace two storey dwelling, front garden area, rear shed and yard area and southern side garden area, bounded to the north by two storey dwelling house with front and rear garden, to the south by access roadway, to the east by entry pathway and dwelling house and to the west fronting onto pathway and amenity space.

4.1.2. I consider that the notices were in accordance with the requirements of section 15(1)(a) of the Derelict Sites Act 1990, as amended.

4.2. Objection to Acquisition

4.2.1. An objection to the proposed acquisition was submitted to Monaghan County Council by Cabot Financial (Ireland) Limited, on behalf of Ulster Bank Ireland DAC in a letter dated 31st January 2018. The objection can be summarised as follows:

- The property was secured by Ulster Bank Ireland DAC on 25th September 2017 and rectification works have been completed in relation to the gardens at the property.

4.2.2. A series of photographs of the site were provided, with a statement that the gardens have been maintained on the property.

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

4.3.1. The Local Authority requests the consent of the Board to the compulsory acquisition of the derelict site and the application for consent was accompanied by the following:

- Local Authority comments, dated 15th February 2018, in response to the objection.
- Map of the site area.
- Copy of the notices served on the owners/occupiers of the site, dated 16th January 2018.
- Copy of the newspaper notice, dated 18th January 2018.
- Copy of objection made by Cabot Financial (Ireland) Limited, dated 31st January 2018.
- Copy of notices dated 13th November 2017 that were served on Ulster Bank Ireland Ltd. and Fergal Treanor pursuant to Section 22 of the Derelict Sites Act 1990, as amended, regarding the determination of the market value of the land.
- Copy of notices dated 5th September 2017 that were served on Ulster Bank Ireland Ltd. and Fergal Treanor pursuant to Section 11(2) of the Derelict Sites Act 1990, as amended, directing that specified measures be completed to prevent the site from becoming/continuing to be a derelict site.
- Copy of notices dated 1st September 2017 that were served on Ulster Bank Ireland Ltd. and Fergal Treanor pursuant to Section 8(7) of the Derelict Sites Act 1990, as amended, that the site has been entered on the Derelict Sites Register.

- Copy of notices dated 14th June 2017 and 26th April 2017 that were served on Ulster Bank Ireland Ltd. and Fergal Treanor, respectively, pursuant to Section 8(2) of the Derelict Sites Act 1990, as amended, that the Local Authority intends to enter the site on the Derelict Sites Register.
- Copies of a series of Chief Executive's Orders in connection with the abovementioned notices.
- Copy of the Planner's derelict site report, dated 9th November 2016.
- Photographs of the site. I note that the photographs are undated but that they were not taken on the same date, since in some photographs the windows are boarded up, and in other photographs they are not.

4.3.2. The derelict site report can be summarised as follows:

- Site is c. 334 sq m.
- House is currently unoccupied.
- Litter has presented in the side garden area. The garden area is overgrown. The window to the front door had been boarded up. A small window had been broken at ground level to the rear of the house and the back door was partially open. The gate to the rear of the house was open. The front wall had a grubby appearance and paint had peeled from the window sills, plaster plinth and porch.
- The site is considered to be derelict in that it detracts to a material degree from the amenity, character or appearance of land in the neighbourhood of the land in question because of:
 - The existence on the land in question of structures which are in a ruinous, derelict or dangerous condition, or
 - The neglected, unsightly or objectionable condition of the land or any structures on the land in question
 - The presence, deposit or collection on the land in question of any litter, rubbish, debris or waste.
- Recommend that a notice under section 8(2) of the Derelict Sites Act be served on the owner of the property. Measures required:

- Remove litter/rubbish from garden areas.
- Remove overgrowth from garden areas.
- Replace window to front door.
- Clean external walls and paint window sills, plinths and porch area of house.

4.3.3. The Local Authority's comments on the objection, which took the form of a letter to Cabot Financial (Ireland) Ltd., can be summarised as follows:

- The Local Authority considers the property to be a derelict site and Section 15 notices of intention to compulsorily acquire the site were served.
- The measures listed in the Section 11 measures notice dated 5th September 2017 have not been fully complied with, including:
 - Remove hoardings from window/door openings and repair/replace any broken glazing.
 - Clean external walls and paint window sills, plinths and porch area of house.
- On inspection of the property on 12th February 2018, the windows and doors remain boarded up, walls have dirty/grubby appearance and window sills, plinth and porch area had not been painted. Graffiti on side wall and porch was observed and some litter was present in garden.
- Local Authority intends to pursue the compulsory acquisition of the derelict site.

4.4. **Objector's Submission**

- None.

5.0 **Planning History**

5.1. **Application Site**

5.1.1. I am not aware of any relevant planning history on the site.

5.2. Surrounding Area

- 5.2.1. I am not aware of any recent relevant planning history in the surrounding area.

6.0 Policy Context

6.1. Development Plan

- 6.1.1. The applicable Development Plan is the Monaghan County Development Plan 2013 – 2019, with the Monaghan Town Development Plan set out in Chapter 9 of the County Development Plan. The site and surrounding area are zoned ‘Existing Residential’.

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 or under 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. Internal access to the house on the site was not possible on the date of my site inspection and I instead carried out my site inspection from the public road.
- 7.2. The house is vacant and has a neglected, unsightly and objectionable appearance from the public road and the surrounding residential area. This is due to the fact that the window and door opening are covered by metal sheeting, that there is graffiti on the front and side elevations of the house, that the garden is heavily overgrown with weeds, including nettles, and that the house is unpainted and stained with dirt.
- 7.3. The surrounding residential area appears to have benefitted from refurbishment works in recent years, with new roads and boundary treatments, and the other houses which form the remainder of the terrace to which the subject house is attached are well maintained and occupied. Having regard to the foregoing, I therefore consider that the application site detracts to a material degree from the character and appearance of the surrounding residential area.
- 7.4. Externally the house appears to be in reasonable structural condition. There is no obvious evidence of significant cracking or damage to the external walls, and the

roof appears intact. Also, as noted above, the window and door openings are sealed with metal sheeting.

- 7.5. Having regard to the above, I would consider that the site falls within category (b) of section 3 of the Derelict Sites Act, 1990 due to the land and structure being in a neglected, unsightly and objectionable condition. With regard to category (a), this relates to structures which are in a ruinous, derelict or dangerous condition. Having inspected the site, I do not consider that there is any apparent evidence that the structure is in a dangerous condition, or that it could be considered ruinous, as it appears to have a reasonably intact roof and external walls. While there may be some litter within the application site, it was not particularly apparent due to the overgrown nature of the garden. I therefore do not consider that the quantity of waste is sufficient to materially detract from the amenity or appearance of lands in the vicinity, and I do not consider that the site falls within category (c) of section 3 of the Act. In conclusion, I consider that the property demonstrably detracts from the amenity, character and appearance of land in the vicinity of the site, which in my view, renders it derelict under section 3 of the Act.
- 7.6. I note the actions of the Local Authority and the statutory notices served on the owner/occupier in respect of the building. Section 8(2) notices were served on the owners on 26th April and 14th June 2017, advising of the Local Authority's intention to enter the site on the Derelict Site Register. Section 8(7) notices were subsequently served on 1st September 2017, advising the owners that the site had been entered on the Derelict Sites Register. Section 11(2) notices were then served on the owners on 5th September 2017, directing that specified measures be completed to prevent the site from becoming/continuing to be a derelict site. These measures included removal of litter and garden overgrowth, removal of hoardings, repair of glazing, cleaning of walls and repainting of sills and plinths. Section 22 notices were served on the owners on 13th November 2017, regarding the determination of the market value of the land, and setting out the procedure for an appeal against said determination. Finally, section 15(1)(a) notices were served on 16th January 2018 and published in the Northern Standard Newspaper on the 18th January 2018 regarding the Local Authority's intention to acquire the site compulsorily.
- 7.7. With regard to the map prepared by the Local Authority, I note that while the application site is outlined in red, the map has no title block, drawing number, legend

or other explanatory notes to explain its purpose or to identify the address of the site. Nevertheless, it is clear that the owners of the site were served notice, as demonstrated by the fact that an objection was made. Furthermore, the Derelict Sites Act 1990, as amended, and the associated Regulations, do not appear to set out any particular statutory requirements with regard to the map, and I therefore consider that the map is adequate.

7.8. I note the objection made on behalf of Ulster Bank Ireland DAC on the 31st January 2018 to the proposed acquisition of the site, stating that the property was secured and that rectification works have been completed to the gardens. I also note the photographs submitted with the objection which are date-stamped 30th January 2018. Having inspected the site, there is no evidence of any attempt to render the site non-derelict and while the timber hoardings covering window openings that can be seen in some of the Local Authority photographs have been replaced with metal sheeting, the house remains in a neglected and unsightly condition and the gardens have become more unkempt and overgrown, when compared to the photographs submitted by both the objector and the Local Authority. I therefore consider that the site remains in a derelict condition.

7.9. Having regard, therefore, to all of the information available on 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 the site at No. 46 Mullaghmatt, Monaghan is granted.

8.0 Recommendation

8.1. Having regard to the observed condition of the application site, in particular the neglected, unsightly and objectionable state of the land and the structure thereon, 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.

8.2. 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.

9.0 Reasons and Considerations

- 9.1. 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.

Niall Haverty

Planning Inspector

27th June 2018