



An
Bord
Pleanála

Inspector's Report ABP-309859-21

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

formerly Lennard Arms Hotel,
Annalore Street/McCurtin Street,
Clones, Co. Monaghan

Local Authority

Monaghan County Council

Notice Party

Link Asset Services

Date of Site Inspection

18th June 2021

Inspector

Dolores McCague

1.0 Introduction

- 1.1.1. 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 Annalore Street/McCurtin Street, Clones, 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 property comprises of one to three-storey L-plan former hotel and a terrace of three no. two-storey houses, bounded to the north, east and west by public roads and to the south by Abbey Church and Graveyard.
- 2.1.2. The property is prominently located at the junction of Annalore Street/McCurtin Street, where it forms an endpoint of the view from The Diamond, the formal space at the centre of the town. The site also has significant frontage to two prominent streets and comprises a group of buildings which include 3 dwellings, none of which appear to be currently occupied and which appear to be in poor condition, and the former Lennard Arms Hotel, which presents a poor appearance on the three visible elevations. Access to the interior of the property, was not possible.

3.0 Application for Consent for Acquisition

- 3.1.1. Monaghan County Council has applied to the Board for consent to compulsorily acquire the site under section 16 of the Derelict Sites Act, 1990, as amended. I note that this application is subsequent to the serving of notices under section 11(2) on the 7th October 2020 directing that specified works be carried out to the property. I further note that this was subsequent to the serving of notices under section 8(2) on the 24th February 2017 advising of the Local Authority's intention to enter the site on the register of derelict sites, and under section 8(7) on 1st September 2017 advising of the Local Authority's decision to enter the site on the register of derelict sites.

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 9th February 2021 and published in the Northern Standard dated 11th February, 2021. The site is described as follows in the notices:

Derelict site formerly Lennard Arms Hotel, Annalore Street/McCurtin Street, Clones, Co. Monaghan, comprising of one to three-storey L-plan former hotel and terrace of three no. two-storey houses, bounded to the north, east and west by public roads and to the south by Abbey Church and Graveyard

A map of the said derelict site has been deposited at the Planning reception of Monaghan County Council. Planning Section, 1 Dublin Street, Monaghan H18 X982.

- 4.1.2. I consider that the notices are 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. The submission by Link Asset Services on behalf of Everyday Finance DAC objects on the grounds that it is the intention to appoint a receiver as soon as possible. The property was transferred from AIB to Everyday Finance DAC on 14th June 2019. The receiver will take charge of the property until a buyer can be found. The reason that it has taken some time to appoint a receiver is because the company that operated the hotel has been struck off. They are in the process of having the company reinstated in order to be in a position to appoint a receiver to it.

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. The application for consent was received on 26th March 2021 and is accompanied by the following:
- Copy of notice issued under section 11(2) on the 3rd November 2020 to Everyday Finance DAC and other parties directing them to undertake and complete measures

specified in the notice in order to prevent the site from becoming/continuing to be a derelict site. Copy of similar notices to other parties, including Link ASI Limited, on the 7th October 2020.

- Copy of notices of intention to acquire to Everyday Finance DAC and other parties including Link ASI Limited on 9th February 2021; including a notice posted by affixing it in a conspicuous place on the site.
- Planner's report 22nd March 2021.
- Copy of the newspaper notice, dated 11th February 2021.
- Copy of objection made by Link Asset Services on behalf of Everyday Finance DAC dated 25th February 2021 received 2nd March 2021.

4.4. Objector's Submission

None.

5.0 Planning History

- 5.1.1. I am not aware of any planning applications on the site.

6.0 Policy Context

6.1. Derelict Sites Act, 1990, as amended

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 landowners or occupiers to take measures on derelict sites and, in certain circumstances, to acquire derelict sites compulsorily.

6.4.2. 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.”

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 intends to acquire a derelict site compulsorily, and section 16 sets out arrangements if the owner/occupier wishes 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.

6.2. County Development Plan

- 6.2.1. Monaghan County Development Plan 2019-2025, is the operative plan. Relevant provisions include:

Policy for Derelict Sites

DSPP 1 To utilise the provisions of the Derelict Sites, Act and the Litter Pollution Act to ensure that lands and buildings are maintained in a reasonable condition.

9.4 Derelict Sites A derelict site is any land that ‘detracts’ or is likely to detract to a material degree from the amenity, character or appearance of land. This may be as a result of structures which are in a derelict or ruinous condition, neglected, unsightly or objectionable condition of land or structures or the presence, deposit or collection of litter, rubbish or debris. The Derelict Site Act 1990 allows local authorities to: - Require owners to clean up their sites. - Prosecute owners who don’t comply with notices served. - Carry out necessary work themselves and charge the owners. - Acquire land by agreement or compulsorily in the functional area.

Monaghan County Council keeps a register of derelict sites in its area, including sites owned by the local authority itself. The register gives the market value of each site and a valuation is carried out by the local authority. Owners of urban land entered on the Derelict Sites Register are liable to pay an annual levy to the local authority.

UDO 5 To encourage the refurbishment and reuse of derelict buildings and development on derelict lands and infill sites in the towns.

DSPP 1 To utilise the provisions of the Derelict Sites, Act and the Litter Pollution Act to ensure that lands and buildings are maintained in a reasonable condition.

TCO 4 Use statutory legislation to discourage and prevent dereliction and encourage regeneration and development in the town.

Clones Town Centre Objectives

CPO 2 To prioritise development on brownfield lands and derelict sites and incentivise such development.

CPO 3 To regenerate the town centre as a residential, retail and services centre, with particular emphasis on Fermanagh Street and the Diamond and to encourage the refurbishment, renewal and re-use of existing buildings and derelict sites.

Natural and Built Heritage Objectives

CPO 10 To protect and conserve the streetscape character, architectural quality, and heritage of the Diamond, Mac Curtain Street, Cara Street and Fermanagh Street

7.0 Assessment

- 7.1.1. The property is prominently located in the centre of the town of Clones where it is the focus of the view southwards from The Diamond. The site also has significant frontage to two prominent town centre streets. Access to the interior of the property, was not possible on the date of my site inspection. I carried out my site inspection from the public streets.
- 7.1.2. The parapet wall facing The Diamond conceals the northern end of the main roof from view in this direction. Vegetation is visible growing in the gutters on both Annalore St and McCurtain St elevations of the main roof, the rear of the main roof and on the flat roof facing McCurtain St; and from the chimneys and roof/gutters of the dwellings. The roof of the dwelling terrace is sagging and there appears to be a roof support in place at the front above the narrow footpath. Plaster has either been removed or has fallen from large areas of the front of southern-most dwelling. The internal structure of the flat roof is exposed to the weather along the street edge. The former Lennard Arms Hotel is distinguishable from the dwellings by the colour of the painted plaster on the elevations, but the paint is peeling and is not being maintained. The group of buildings presents a poor appearance.
- 7.1.3. There is no evidence of any litter, rubbish, debris or waste.
- 7.1.4. Having regard to the above, I consider that the site falls within category (b) of section 3 of the Derelict Sites Act, 1990 in that it has a neglected, unsightly and objectionable condition. With regard to Section 3 (a) and 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 noted, there was no litter within the site or any evidence of waste being stored externally. Therefore it is considered that the site does not fall within category Section 3 (c).
- 7.1.5. I note the actions of the Local Authority. It issued a section 8(2) notice of its intention to insert the site onto the Derelict Sites Register on the 24th February 2017 with a section 8(7) notice issued on 1st September 2017 advising of the Local Authority's decision to enter the site on the register of derelict sites.

- 7.1.6. The notice of intention to acquire the property compulsorily under section 15 was served on the owner of the property on 9th February 2021 and published in the Northern Standard dated 11th February, 2021.
- 7.1.7. An objection was received from Everyday Finance DAC objects on the grounds that it is the intention to appoint a receiver as soon as possible. The property was transferred from AIB to Everyday Finance DAC on 14th June 2019. The receiver will take charge of the property until a buyer can be found. The reason that it has taken some time to appoint a receiver is because the company that operated the hotel has been struck off. They are in the process of having the company reinstated in order to be in a position to appoint a receiver to it.
- 7.1.8. I consider that it is appropriate that the Local Authority's application for consent to compulsorily acquire the site at Annalore Street/McCurtin Street, Clones, Co. Monaghan be granted.

8.0 Recommendation

- 8.1.1. I recommend that the Board grant consent to Monaghan County Council to compulsorily acquire the site.

9.0 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 of the Derelict Sites Act 1900, 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.

Planning Inspector

14th July 2021

Appendices

Appendix 1 photographs

Appendix 2 Monaghan County Development Plan 2019-2025. extracts