



An
Bord
Pleanála

Inspector's Report

ABP-310607-21

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

A derelict site known as 4, 5 & 6 New Lane Cottages, Abbeylands, Navan, Co. Meath

Local Authority

Meath County Council

Notice Party

Edward Cunningham

Date of Site Inspection

14th September 2021

Inspector

Dolores McCague

1.0 Introduction

- 1.1.1. This case relates to a request by Meath County Council for the consent of An Bord Pleanála to the compulsory acquisition of the subject site at 4, 5 & 6 New Lane Cottages, Abbeylands, Navan, in accordance with the provisions of the Derelict Sites Act, 1990, as amended.

2.0 Site Location and Description

- 2.1.1. The property is located close to the centre of the town of Navan, north of the river Boyne, between the N51 inner relief road and Flower Hill. It is located close to the junction of Ratholdren Road and New Lane where a narrow pedestrian gateway provides access; and at the rear adjoins Abbeylands a small residential development, where a double gateway provides vehicular access from the end of the estate road.
- 2.1.2. Access to the property was not possible on the date of inspection. The site was viewed across the front forecourt of the Vet practice at the front and from Abbeylands at the rear. The buildings adjoin the property boundary with an adjoining cleared site associated with the veterinary surgery site to the east. The buildings are low and the roofs, extending above the boundary wall, are visible as derelict and partial. The gable wall facing Abbeylands is intact, the roof is derelict and partial.
- 2.1.3. The site is long and narrow. It is given as 408m².

3.0 Application for Consent for Acquisition

- 3.1.1. Meath 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 is subsequent to the serving of notices under section 8(2) on the 5th December 2019 advising of the Local Authority's intention to enter the site on the register of derelict sites, and under section 8(7) on 4th February 2021 advising of the entry 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 owners of the property on April 14th 2021 and published in the Meath Chronicle dated April 17th 2021. The site is described as follows in the notice:

Map reference - DS-1036, Address - 4, 5 & 6 New Lane Cottages, Abbeylands, Navan, description - 3 no. bungalows.

A map of the said derelict site has been deposited at Meath County Council Offices, Buvinda House, Dublin Road, Navan, Co Meath, C15Y291.

- 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 Edward Cunningham objects on the grounds that:

- He has been ill in recent years and has undergone a number of operations. This has resulted in his delay in developing the property.
- His agent contacted Meath County Council to let them have their proposals to purchase the property as it was his intention to develop the property, and the Council did not proceed with any offer to purchase.
- The Derelict Site Notice has not been received by Clemdell Construction Ltd (one of the parties served with notice) as it was sent to the incorrect address, and they have been prevented from making any representations or objections.
- Regarding Meath County Council's comments about his ability to fund the project. The judgement mortgages on title are either stale or no longer relevant. It is financially viable to develop the property. He has agreed a joint venture with a named developer who will fund all costs in relation to the development. They intend to reinstate the three properties immediately and have considered offering the developed property to Meath County Council on a long-term lease.

- He issued High Court Proceedings against Meath County Council for negligence and breach of duty in relation to this matter. Documents in this regard are attached to the objection.

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 23rd June 2021 and is accompanied by the following:

- Copy of notice issued under section 8(2) of the Derelict Sites Act 1990, on the 5th December 2019 to Mr Edward Cunningham and other parties informing them that it is the opinion of the Council that the land is a Derelict Site within the meaning of the Derelict Sites Act 1990 and that it detracts to a material degree from the amenity, character or appearance of land in the neighbourhood 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, and
 - 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.

Notifying them of the Council's intention of entering the lands on the Derelict Sites Register.

Copy of notice issued under section 8(7) of the Derelict Sites Act 1990, on the 4th February 2021 to Mr Edward Cunningham and other parties informing them that the land has been entered on the Derelict Sites Register.

- Copy of notices of intention to acquire under section 14 of the Derelict Sites Act 1990 issued to Mr Edward Cunningham and other parties 14th April 2021, including a notice posted by affixing it on the property 31st March 2021.

- Report of Derelict Sites Officer of initial inspection 21st November 2019, with photographs; stating that there are tonnes of waste on the site, drug paraphernalia was observed in and around the site, structure is fire damaged and falling down.
- Details of 13 land registry folios which comprise the 408m² property.
- Report of Derelict Sites Officer under Section 15 of the Derelict Sites Act 1990, confirming the service of notices of intention to enter the land on the Derelict Sites Register and service of notices of entering the land on the Derelict Sites Register; and that no communication had been received during the statutory periods.
- Copy of objection made by Mr Edward Cunningham to the compulsory acquisition.
- Copy of the newspaper notice, dated 11th February 2021.
- Copy of notice published in the Meath Chronicle dated April 17th 2021.
- Copy of CPO map.
- Comments regarding objection from Mr Edward Cunningham which include:

Background – in November 2019 Meath County Council carried out an inspection of the property in relation to a complaint regarding the neglected condition of the property. The property had been inspected on a number of occasions over the previous few months and the condition of the property had not improved. Meath County Council also had Health & Safety concerns as there was anti-social behaviour, and drug use on the grounds. The structure was also considered dangerous given the fire damage and the compromised condition of the structure's roof and walls.

Property details – the property is set on approx. 408m² and can be accessed by foot from New Lane between units 2 and 3. There is vehicular access to the north of the site provided through Abbeylands Crescent Housing Estate which is in charge of Meath County Council. There are three terraced cottages on the property, which have been significantly damaged due to a fire. The structure is in a very poor condition - there is only a partial roof structure and a number of significant cracks throughout the cottages. There is no gable end to cottage No. 4. The inside of the cottages is not safe. All of the windows and doors of the three cottages are smashed.

Comments to objection from Edward Cunningham – The ability of the landowners to cure the dereliction issue is questionable in light of the significant judgement mortgages registered against the title, furthermore no development proposals have been forthcoming and no pre-planning discussions or consultation has been sought or had with the planning authority. There is health and safety concerns with regard to anti-social behaviour as well as interference to the amenities of neighbouring properties.

4.4. Objector's Submission

Mr Edward Cunningham by letter dated 10th May 2021, stated his objection to the compulsory acquisition as it is his intention to proceed with a planning application to fully develop the property.

5.0 Planning History

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

5.1.2. Planning history - the adjoining land to the east, ABP-308574-20, PA reg ref NA200506, for demolition of a single storey derelict dwelling together with outbuildings, erection of a two storey 2 no. bedroom dwelling unit to the front of the site, erection of a single storey veterinary aquamation facility to the back of the site and a car park for same, west of the veterinary surgery; granted planning permission; the inspector's report records other planning history for that adjoining 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. Development Plan

6.2.1. Navan Development Plan 2009-2015, extended, is the operative plan. Relevant provisions include:

Zoned - existing residential

Settlement Strategy OBJ 10 - To promote the re-use of urban brownfield land and derelict and vacant buildings.

Derelict and obsolete land and buildings is dealt with in section 4.7 of the plan and includes:

The Planning Authorities will examine joint public/private commercial ventures that facilitate the development or refurbishment of derelict or obsolete sites, including the use of the Derelict Sites Act, 1990 as amended by the Planning and Development Acts 2000-2016.

Policies - In terms of derelict and obsolete land and buildings, it is the policy of Meath County Council:

DER POL 1 - To implement the provisions of the Derelict Sites Act, 1990 (as amended) and regulations made there under to prevent or remove injury to amenity arising from dereliction.

DER POL 2 - To identify and secure the redevelopment of obsolete areas, including areas of backland, derelict sites and incidental open spaces.

7.0 Assessment

- 7.1.1. The property is located in a residential area near the centre of the town of Navan. Access to the interior of the property, was not possible on the date of my site inspection. I carried out my site inspection from adjoining lands.
- 7.1.2. 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 5th December 2019 with a section 8(7) notice issued on 4th February 2021 advising of the Local Authority's decision to enter the site on the register of derelict sites.
- 7.1.3. The notice of intention to acquire the property compulsorily was served in accordance with section 15 of the Derelict Sites Act, 1990 on the owners of the property on 14th February 2021 and published in the Meath Chronicle dated April 17th 2021.

- 7.1.4. An objection was received from Edward Cunningham who objects on the grounds that it is his intention to develop the property, the delay in carrying out development was due to illness; and that the Derelict Site Notice has not been received by Clemdell Construction Ltd (one of the parties served with notice) which has denied them the right to make an observation.
- 7.1.5. The service of notices including affixing to the land and publishing in the Meath Chronicle, is documented on the file.
- 7.1.6. Notwithstanding Mr Cunningham's personal circumstances, the acquisition of the site by Meath County Council is in the interests of the common good.
- 7.1.7. A derelict site is defined in Section 3 of the Derelict Sites Act, 1990 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.
- 7.1.8. Having regard to the above, I consider that the site falls within all of the categories of section 3 of the Derelict Sites Act, 1990, in that the structures are in a ruinous, derelict or dangerous condition; the land has a neglected, unsightly and objectionable condition; and having regard to the deposit or collection of debris within the site.
- 7.1.9. I consider that it is appropriate that the Local Authority's application for consent to compulsorily acquire the site at 4, 5 & 6 New Lane Cottages, Abbeylands, Navan, Co Meath be granted.

8.0 Recommendation

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

9.0 Reasons and Considerations

Having regard to the neglected, unsightly and objectionable condition of the site, the ruinous, derelict or dangerous condition of the structures and the deposit or collection of debris within 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 the said necessity.

Planning Inspector

21 September 2021

Appendices

Appendix 1 photographs

Appendix 2 Navan Development Plan 2009-2015, extended, extracts