



An
Bord
Pleanála

Inspector's Report

ABP-313200-22

Name of Application

Application for consent for compulsory acquisition of a derelict site in accordance with Section 16 of the Derelict Sites Act 1990, as amended

Location

Derelict Site at Church Lane, Kells, Co. Meath

Planning Authority

Meath County Council

Notice Party

Patricia Sheridan

Date of Site Inspection

19th of January 2022.

Inspector

Karen Hamilton

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1.0 Introduction

- 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 Church Lane, Kells, Co. Meath in accordance with the provisions of the Derelict Sites Act, 1990, as amended.

2.0 Site Location and Description

- 2.1. The subject site is a small parcel of overgrown waste land, located along the eastern side of Church Hill, Kells, Co. Meath. Church Lane/Hill Road is a one-way street which radiates from the northwest of Kells town centre and provides access to residential lands beside the centre. The street has a high-quality urban streetscape/paving to reflect the historic location adjacent to St Columba's Church. The Kells Round Tower is also located on lands on the opposite side of Church Lane/Hill.
- 2.2. There is a row of single storey bungalows to the east and a detached derelict bungalow to the west. There is temporary hoarding along the front of the site, adjoining Church Hill/ Lane and there is access to the rear of the site via Cross Carrick Road.

3.0 Application for Consent for Acquisition

- 3.1. Meath 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), on 24th of January 2022, (i.e., advising of the Local Authority's intention to enter the site on the register of derelict sites), and also under section 8(7), on 30th of April 2010, (i.e. 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. Meath County Council advertised a "Notice of intention to acquire derelict site compulsory under the Derelict Site Acts 1990, (as amended by the Planning and

Developmetn Act, 2000)” on the 05th of February 2022 in the Meath Chronicle newspaper. A map of the derelict site was placed on public display at Meath County Council Offices and submissions were invited by an owner, lessee, or occupier on or before the 07th of March 2022.

4.2. Objection to Acquisition

4.2.1. An objection to the proposed acquisition was submitted to Meath County Council from Patricia Sheridan (on behalf of Edward Sheridan) in a letter dated 27th of February 2022. The hard copy was received in the post by Meath County Council 01st of May 2022. It was advised that the site was registered in the family name and the compulsory purchase was being objected to as follows:

- A firm of solicitors had been employed to deal with the compulsory order.
- I was unaware until recently there was a vesting order on the property.
- No court summons was served.
- I will now deal with the matter directly and require information under the data protection regulations.
- A full copy of the file and proof of service of summons (heard on 31st of March 2021) is requested.
- I will lodge an appeal on the orders served in the Circuit Court in March of last year. We are in the process of erecting a security fence and plan to apply for permission for a family member to live on the site.
- The compulsory order is only a land grab by the council.
- The compulsory order is objected to.

4.2.2. The Board wrote to Patricia Sheridan on the 6th of April 2022 seeking any comments regarding the proposed compulsory acquisition of the site by Meath County Council. A response was received on the 13th of April 2022 and an updated submission was received on the 14th of April 2022.

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 submitted on 04th of April 2022 and was accompanied by the following:

- Background document of the history and process to date
- Notice of intention to acquire derelict site compulsory under the Derelict Site Act, 1990, as served on the registered owner and published in the Meath Chronicle;
- Senior Executive Officer Recommendation to Chief Executive;
- Chief Executive Order;
- Copy of Notices served on registered owners;
- Copy of complaint received by Meath County Council (CRM: 5926 & 98526) in relation to waste disposal on the site.
- Copy of Newspaper Advert;
- Site Map- Ref KT/DS/35a/2007 & Ref ENV/KT/DS/35a/2007-2021;
- Submission with objection to compulsory acquire from Patricia Sheridan;
- Meath County Councils comments regarding the objection from Patricia Sheridan with documents referred to therein.
 - Appendix A- Photos
 - Appendix B- Derelict Site Report with Recommendation for Intention to Compulsory Acquire in accordance with Section 15 of the Act
 - Appendix C- Folio maps and land registration.
 - Appendix D- Submission from Edward Sheridan in 2010
 - Appendix E- Statement of outstanding levies.

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

- In September 2020 Meath County Council served notice for the lands with the intention to compulsory acquire the lands in accordance with the derelict sites act.

- An objection was received by Carol-Ann Owens claiming ownership over a portion of lands. The title had almost been resolved although her solicitor had passed away.
- Meath County Council put on hold their intention to purchase the lands.
- No further correspondence was received by Carol-Ann.
- The site continues to be left in a derelict condition with ongoing waste issues and no improvements have been carried out.
- In the interest of improving the area of Kells, it is recommended to proceed with the Compulsory acquisition of the site.

The Local Authority decided to issue a Section 8(2) notice on the 24th of January 2022, of its intention to enter the property onto the Register of Derelict Sites, as advertised in the Meath Chronicle Newspaper published on the 05th of February 2022. The closing date for submissions was the 07th of March 2022 and a written submission was received from Patricia Sheridan, as the widow of the late registered owner, objecting to the compulsory acquisition.

4.4. Objector's Submission

A submission was made to the Board by Patricia Sheridan, on the 13th of April 2022, as the widow of the registered owner (Edward Sheridan). The objection stated that:

- The land has been registered in the family name for many years.
- Any previous complaints about fly tipping by the council had been dealt with.
- The site is a brown site with no buildings on it.
- It is the intention of the owner to apply for full planning permission to build a house for her daughter.
- The pandemic prevented any action being undertaken to apply for planning permission.
- It is intended that a mobile home is erected which predates the council's action.

- The council is attempted a land grab on a site which previously had the family home.

An updated letter of objection was received on the 14th of April 2022. The letter refers to an attached valuation to reflect the true value of the site.

4.5. Local Authority Response to the Objection.

The local authority submission to the Board, received on the 04th of April 2022, includes a response to the initial objection received from Patricia Sheridan as summarised below:

- The site was initially inspected in 2007 and the owner failed to prevent the site becoming a derelict site or adequately secure the site.
- There is a significant number of unpaid levies on the site.
- An application granted in 2010 has lapsed and the site remains in a derelict state.
- Part of the site remains unregistered and MCC have not been provided details of the ownership.

5.0 Planning History

Reg Ref KT900020

Permission granted in 2010 to Alan Sheridan to construct a bungalow, connect to the public sewerage and create an entrance onto the public road with off streetcar parking and all ancillary work. The development was never carried out and has since lapsed.

6.0 Policy Context

6.1. Meath County Development Plan 2021-2027

The site is zoned as A1, Existing Residential, where it is an objective “To protect and enhance the amenity and character of existing residential communities”.

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 landowners 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.
- 6.2.4. 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.
- 6.2.5. 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.
- 6.2.6. 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.

- 6.2.7. Section 14 provides that a local authority may acquire by agreement or compulsorily any derelict site situated in their functional area.
- 6.2.8. 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 site is currently unoccupied and is wasteland. The site is located to the south of an existing derelict dwelling, not within the applicant's ownership. A temporary hoarding is located along the front of the site, adjoining the public footpath. The hoarding prevents access into the site from Church Hill, although upon site inspection I noted access, via Cross Carrick Road, to the west was possible. There did not appear to be any dumping on the site although the site is unkept and overgrown.
- 7.2. The site is located within the central area of Kells, within easy access to the amenities of the town. Church Hill is an attractive street which has been upgraded in recent times to reflect the historic location beside St Columba's Church and Kells Round Tower. The urban streetscape, including the road and footpaths, have a high-quality finish. The site adjoins a row of single storey terraced dwellings (east) and a derelict detached dwelling (west). The temporary hoarding along the front of the site is made with MDF, has graffiti, and detracts from the existing dwellings and the attractive streetscape along the front of the site.
- 7.3. Meath County Council (MCC) have been in contact with the owner of the waste land since 2008. Under the derelict site's legislation, the Council requested the owner of the site in 2008 to remove all waste (scrub, litter etc), erect a fence to secure the site, carry out maintenance to maintain the appearance of the site and treat any rodent problem. I note the site has been secured in part although, as stated above, access is possible to the rear of the site.
- 7.4. In 2010 a Notice under Section 8 (7) of the Act, was sent by register post to the owner Edwards Sheridan in 2010. The order stated that the land was considered

derelict where it detracts to a material degree from the amenity, character, or appearance of the neighbourhood. The notice also referenced the unsightly or objectionable condition of the land and the presence of litter, rubbish, or waste. An objection was received in relation to the compulsory order and MCC delayed further action.

- 7.5. Planning permission was granted in 2010 for the erection of a dwelling for the son of the registered owner. This permission was never carried out and has since lapsed. The objector's submission states that it is intended to submit a planning application for the registered owner's daughter for a new dwelling on the site.
- 7.6. A derelict sites levy has been imposed on the site since 2010. Appendix E of the council's submission to the Board includes a breakdown of the outstanding levies owned on the site. The total levy due for payment, between 2010 and 2021 is €58,016.11.
- 7.7. The MCC submission, to the Board, provides a rationale for the need to compulsory acquire the derelict site. Should the Council not acquire the site, it is considered the site will remain as a derelict site, with possible waste issues and continue to be an eyesore for the locals. It is considered the site will provide much needed land in an area where social housing would provide benefit for the local community. Whilst I note the objector states that they intend to apply for permission on the site, I note the timeframes and MCC engagement since 2010 and I consider the applicant has had sufficient opportunity since the first notifications to either reapply for permission or carry out development. I also note MCC has imposed a derelict site levy on the site to prevent further dereliction, even those levies are outstanding.
- 7.8. The objector's submission to the Board, considers the compulsory purchase is merely a land grab by MCC. Should the Board permit the compulsory purchase, the objector states they will erect a mobile home on the site. I consider this a matter for the planning authority and not a material consideration for addressing the issues of dereliction on the site. In addition, the Board will note the objector submitted an updated submission which refers to an attached valuation indicating the true value of the site. The Board did not receive this valuation. This aside, I consider there is sufficient evidence from the documentation received and from site inspection to determine that the current state of the site detracts, to a material degree from the

amenity, character, or appearance of land in the neighbourhood. To this end, I consider MCC has taken all reasonable steps to prevent the neglected, unsightly, or objectionable condition of the site. I do not consider the payment of levies and/or valuation of the site is a matter for the Board in considering if the site may be defined as derelict.

7.9. Having regard, therefore, to all the information available on the file and the continued appearance and condition of the site, 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 Derelict Site at Church Lane, Kells, Co. Meath 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, 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 Meath County Council to compulsorily acquire the site

9.0 Reasons and Considerations

It is considered that the site detracts to a material degree from the amenity, character and appearance of the land in the neighbourhood, owing to the neglected, unsightly and objectionable condition and, therefore, falls within the definition of a derelict site as defined in Section 3(b) of the Derelict Sites Act 1990 (as amended). Having regard to the observed condition of the site and the documentation provided in relation to the procedures and steps taken under the Derelict Sites legislation to include the site on Meath County Council's Derelict Sites Register and the serving of the notice on the lands, it is considered 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.

Karen Hamilton
Senior Planning Inspector

24th of January 2022