



An
Bord
Pleanála

Inspector's Report ABP-319827-24

Development

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

Location

Derryveagh, Carrickroe, Folio MN23422F (Front Site), Co. Monaghan.

Local Authority

Monaghan County Council

Notice Party

David O'Reilly
Peter McCarron

Date of Site Inspection

26th July 2024

Inspector

Frank O'Donnell

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 Derryveagh, Carrickroe, County Monaghan, in accordance with the provisions of the Derelict Sites Act, 1990, as amended.
- 1.2. It should be noted that there are 1 no. other concurrent Compulsory Acquisition case pending with An Bord Pleanála which relate to the overall subject property, as follows:
 - **ABP-319830-24:** Derryveagh, Carrickroe, Folio MN5559F (Rear Site), Co. Monaghan. Case is due to be decided by 23rd October 2024.

2.0 Site Location and Description

- 2.1. The property which is the subject of this CPO (referred to hereafter as the 'subject property') is located at Derryveagh, Carrickroe, County Monaghan, which is a rural village located in the north of the County and within 4.8 km to the north-west of Emyvale. The site forms part of a partially complete mixed residential/ commercial development named Chapel Court, situated to the north of the centre of Carrickroe Village, to the west of the Sacred Heart Church which is listed as a Protected Structure (Ref. 41400312) (National Inventory of Architectural Heritage (NIAH) Reference No: 41400305).
- 2.2. The subject property, folio ref. no. MN23422F (Front Site), has a stated area of approximately 2.1 hectares (5.19 acres). The subject property comprises 2 no. ground floor shop units, 2 no. first floor apartments (units 1 & 2), unit no. 3 (1 no. two storey three-bedroom terraced dwelling), unit no. 4 (1 no. two storey three-bedroom terraced dwelling), unit no. 9 (1 no. two storey three-bedroom terraced dwelling), the sub-base foundations for a total of 16 no. semi-detached residential units to the rear (east) of the site, associated access roads, footpaths, landscaping and amenity spaces. The front of the subject property forms part of a row of two storey terraced dwellings of the same/ similar design theme, see house no's 5, 6, 7, 8 and 10.
- 2.3. On the day of my site inspection the 2 no. ground floor shop units and the 2 no. overhead apartments (units 1 & 2) were vacant, boarded up and inaccessible. I was

unable to gain entry to these units. Unit no's 3, 5 and 9 were similarly vacant and I was unable to gain entry to these said units.

2.4. The rear of the subject property, folio ref. no. MN23422F (Front Site), was fenced off from the remainder of the estate by means of a high timber fence. I was able to gain access to this area of the subject property via an access gate.

2.5. Based on a comparison of photographs attached to the Local Authority's Compulsory Acquisition Report (dated 21st May 2024 (Photos presented as Appendix 1 & 2) I did not notice that any significant works had been recently carried out at the subject property. I specifically note the following:

- The road wearing course has not been provided. Manholes and gullies remain exposed.
- The commercial/ apartment building containing the 2 no. ground floor retail units and the 2 no. apartment units above (units 1 & 2) remain unfinished. The windows and doors have not been installed and are all boarded up. No gutters have been attached to the building. Stonework to the front and side was discoloured due to water damage.
- House unit no. 3 was vacant. All windows and doors have been installed throughout. The ESB Meter box between unit no. 3 and the adjacent commercial property was open and exposed, had no cover and the meter itself was hanging loose. Another albeit smaller utility box below was similarly open and exposed with no cover attached to same. The front wall of the property was unclean and has not been recently power washed or painted. The bottom half of the wooden front door was showing signs of neglect in the form of discolouration and peeling varnish. The side of the canopy over the front door was discoloured and had not been recently cleaned. Some weed growth was evident at the base of the front door and to the side and front of the mobility access ramp. The footpath to the front of the property was discoloured and had not been recently power washed. The rear elevation of no. 3 was unclean and had not been recently power washed or painted. The gutter contained significant grass/ weed growth, particularly adjacent to the commercial building/ apartment units 1 & 2. Water damage was evident to rear elevation at this location in the form of

discolouration to the rear wall. The rear garden had significant weed growth. Ivy had begun to grow on the lower rear wall below the kitchen window. The side rear timber fence had not been maintained or recently painted and the timbers were showing signs of decay.

- House unit no. 4 was similarly vacant. All windows and doors have been installed throughout. The front wall of the property was unclean and has not been recently power washed or painted. The bottom half of the wooden front door was showing signs of neglect in the form of discolouration and peeling varnish. The side of the canopy over the front door was discoloured and had not been recently cleaned. The mobility access ramp and the footpath to the front of the property were discoloured and had not been recently power washed. The rear elevation of no. 4 was unclean and had not been recently power washed or painted. The rear garden had significant weed growth. The side rear timber fence had not been recently maintained or painted and the timbers were showing signs of decay.
- House unit no. 9 was also vacant. The rear elevation of no. 3 was unclean and had not been recently power washed or painted. The rear garden had significant weed growth. The side rear timber fence had not been recently maintained or painted and the timbers were showing signs of decay.
- At the rear (east) of the subject property, behind the timber fence, I noted evidence of several exposed foundations, electrical ducting and some manholes. There was an ESB substation positioned along the northern boundary of the subject property. This area of the subject property was overgrown and I noted recent evidence of cattle having been present in the field in the form of fresh hoof marks. I also noted a cattle feeder positioned close to the southern site boundary in the southeast corner of the subject property.

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 Monaghan County Council serving a

notice under Section 15 of the Act on the Derelict Sites Act, 1990, as amended, (i.e. advising of the Local Authority's intention to acquire compulsorily under the said Act, the derelict site as described).

4.0 Application and Objection

4.1. Notice of Intention to Acquire

- 4.1.1. Notice of Monaghan County Council's intention to compulsorily acquire the site was served upon the owners/ occupiers (Mr. Peter McCarron) on the 26th March 2024 and was published in the Northern Standard Newspaper dated 28th March 2024. The site was described in the notices, as follows:

- Derelict site at Derryveagh, County Monaghan, situate in the Chapel Court Estate, Carrickroe, comprising of a large two storey fronted building with concrete floors in a shell state, originally designed for two shop units and two overhead apartments; house numbers 3, 4 and 9 in an adjoining terrace of three-bedroom 2 storey dwellings, together with rear area of approximately 2 acres where foundations have been laid out for 16 semi-detached houses.

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

4.2. Objection to Acquisition

- 4.2.1. 2 no. submissions expressing objection to the proposed acquisition were submitted to Monaghan County Council.

- 4.2.2. The first objection to the proposed acquisition was submitted to Monaghan County Council by Mr. David O'Reilly, dated 30th April 2024 and is stamped received by the Local Authority on 2nd May 2024. It should be noted that an identical objection submission is also attached to a concurrent compulsory acquisition application relating to the adjacent lands to the west, see Case File Ref. No. ABP-319827-24.

The objection can be summarised as follows:

- The Letter of Objection refers to the proposed Compulsory Acquisition '*of the site area part folio 23422F, rear area circa 2 acres cm and plot of ground 2.387 ha folio 5559F.*'

- Mr. O'Reilly objects to the Derelict Sites Notice proceeding as this site is currently in use.
- Mr. O'Reilly states he is in occupation of the land and that he is entitled to ownership due to long-term possession.

4.2.3. The second objection to the proposed acquisition was submitted to Monaghan County Council by Mr. Peter McCarron, dated 1st May 2024 and is stamped received by the Local Authority on 2nd May 2024. The objection can be summarised as follows:

- The Letter of Objection refers to a previous Letter sent by the Objector to the Acting Senior Planner dated 29th August 2022. (The content of this said letter is summarised further below in Section 4.3.1 of this Report).
- Reference is made to negotiations with the Debt Holders regarding the Oakheights Development at the address of the subject property (folio ref. no. MN23422F). It is stated that the said negotiations have now concluded and that an offer of settlement has now been accepted. Having regard to same, Mr. McCarron objected to the proposed compulsory acquisition of the site by the Local Authority, folio ref. no. ref. no. MN23422F.
- It is stated Mr McCarrons' financial advisors have written to the Local Authority separately outlining the same and that they have sought a meeting with the Local Authority.

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 29th May 2024 and included the following:

- Copy of a letter from Mr. Peter McCarron to the Local Authority dated 29th August 2022. The letter is in response to the Local Authority letter dated 04th August 2022 and is addressed to the Acting Senior Planner. The Owner/ Reputed Owner, inter alia, objects to the land being entered as derelict by the Local Authority. The basis of the sad objection are as follows:

- The land delineated in red on the Local Authority map is incorrect. The referenced folio ref. MN23422F refers to the lands to the front of the lands delineated on the map.
 - Mr. McCarron (Peter) states that his son (Mark McCarron) owned and partially developed this site (MN23422F) and that it has remained unfinished since 2007 at the time of the financial crash.
 - Mr McCarron (Peter) has sought to work with the debt holders with a view to getting the development finished but the process has turned out to be very complex. Mr. McCarron has spent a significant amount of his own money in this regard, the process is ongoing, and it is hoped to be taken to a satisfactory conclusion.
 - Mr. McCarron (Peter) requests that on this basis, he objects to the land being entered as a Derelict Site by the Local Authority.
- Copies of 3 no. letters dated 28th November 2022 from the Local Authority to the Owner/ Occupier, Everyday Finance DAC and Allied Irish Bank, providing Notice as per Section 8 2) of the Derelict Sites Act, 1990 (as amended by the Planning and Development Acts, 2000 to 2021) that it is intended to make an entry on the Derelict Sites Register of the subject lands/ subject property. The letters are accompanied by a Derelict Sites Map of the subject property.
 - Copy of an Executive Order, (Ref. P1181/22) dated 28th November 2022 to issue the Section 8 2) Notice (Section 8 2) of the Derelict Sites Act, 1990 (as amended), to the above 3 no. parties.
 - Copy of a Derelict Site Report dated 29th November 2022 confirming that a Section 8 2) Notice (Section 8 2) of the Derelict Sites Act, 1990 (as amended)) was served/ affixed to the property on 28th November 2022.
 - Copies of 3 no. letters dated 22nd March 2023 from the Local Authority to the Owner/ Occupier, Oakheights Limited, Everyday Finance DAC and Allied Irish Bank providing Notice pursuant to Section 8 7) of the Derelict Sites Act, 1990 (as amended by the Planning and Development Acts, 2000 to 2015) wherein the Local Authority provides Notice of its intention to enter the subject property on the Derelict sites Register.

- Copies of 3 no. letters dated 22nd March 2023 from the Local Authority to the Owner/ Occupier, Oakheights Limited, Everyday Finance DAC and Allied Irish Bank providing Notice pursuant to Section 11 2) of the Derelict Sites Act, 1990 (as amended by the Planning and Development Acts, 2000 to 2015) wherein the Local Authority directs that certain measures be undertaken and completed, as specified in an attached Schedule of Measures, to prevent the site from becoming/ continuing to be a Derelict Site. The Schedule of Measures Required are set out under the main headings of House no's 3, 4 and 9, Commercial/ apartment Building, Roads and Paths and Rear Portion. The letters are accompanied by a Derelict Sites Map of the subject property.
- Copy of an Executive Order, (Ref. P240/23) dated 22nd March 2023 to issue the Section 8 7) Notice (Section 8 2) of the Derelict Sites Act, 1990 (as amended)), to the Owner/ Occupier, Oakheights Limited, Everyday Finance DAC and Allied Irish Bank.
- Copy of an Executive Order, (Ref. P241/23) dated 22nd March 2023 to issue the Section 11 2) Notice (Section 11 2) of the Derelict Sites Act, 1990 (as amended)), to the Owner/ Occupier, Oakheights Limited, Everyday Finance DAC and Allied Irish Bank.
- Copy of a Derelict Site Report dated 24th March 2023 confirming that a Section 8 7) and Section 11 Notices (Section 8 7) and 11 of the Derelict Sites Act, 1990 (as amended)) were served/ affixed to the property on 22nd March 2023.
- Copies of 3 no. letters dated 26th March 2024 from the Local Authority to the Owner/ Occupier, Oakheights Limited, Everyday Finance DAC and Allied Irish Bank providing Notice pursuant to Section 15 1) a) of the Derelict Sites Act, 1990 (as amended) wherein the Local Authority in exercise of the powers conferred on them by Section 14 of the Derelict Sites Act, 1990, as amended intend to acquire compulsorily, un the said Act, the subject property/ derelict site. It is stated that *'any owner, lessee or occupier (except a tenant for a month) may, on or before 2nd May 2024, submit to the Local Authority an objection to the proper compulsorily acquisition of the derelict site.'*

- Copy of a Derelict Site Report dated 26th March 2024 confirming that a Section 15 1) Notice (Section 15 1) of the Derelict Sites Act, 1990 (as amended)) were served/ affixed to the property on 26th March 2024.
- Copy of an Executive Order, (Ref. TRO 4/24) dated 26th March 2024 to issue the Section 15 1) Notice (Section 15 1) of the Derelict Sites Act, 1990 (as amended)), to the Owner/ Occupier, Oakheights Limited, Everyday Finance DAC and Allied Irish Bank.
- Copy of a letter from KMR Accountants Limited (*for an on behalf of Mr. Peter McCarron and formerly for the Company Oakheights Limited to which he is a Director*) to the Local Authority dated 26th April 2024 and seeking a meeting with the Local Authority to discuss the Section 15 1) Notice (Section 15 1) of the Derelict Sites Act, 1990 (as amended)) and their clients' intention to make good the site referred.
- Copy of a Letter of Objection to the proposed compulsory acquisition from David O'Reilly to the Local Authority dated 30th April 2024 (received by the Local Authority on 2nd May 2024). The letter refers to '*the proposed compulsory acquisition of the site area part folio 23422F, rear area circa 2 acres cm and plot of ground 2.3870 ha part folio 5559F.*' It is further stated that '*this site is currently in use*' and that Mr. Reilly is '*in occupation of the land detailed above*' and that he is '*entitled to ownership due to long-term possession.*'
- Copy of a Letter of Objection from Mr. Peter McCarron to the Local Authority dated 1st May 2024 (received by the Local Authority on 2nd May 2024).
- Copy of email correspondence on 2nd May 2024 from KMR Accountants to the Local Authority. The email refers to an enclosed letter (assumed to be the above letter of objection dated 1st May 2024) and states that the letter was not previously forwarded as indicated in Mr. McEneaney's Phonecall.
- Copy of an internal Local Authority email dated 2nd May 2024 forwarding the above email and letter attachment.
- Copy of a letter of acknowledgement from the Local Authority to Mr. David O'Reilly dated 10th May 2024 in respect of Mr. Reillys' Letter of Objection. The

letter refers to Mr. Reilly's claim of ownership and invites further information in relation to said claim, in particular, a map outlining the area of land Mr. Reilly is claiming ownership of.

- A Copy of a Derelict Sites Report dated 21st May 2024, including 2 no. Appendices no. 1 & no. 2 as set out below.
 - Appendix no. 1: 12 no. Photographs of the site.
 - Appendix no. 2: 31 no. Photographs of the site. Objection A: David O'Reilly and Objection B: Peter McCarron, Minutes of Meeting (20th May 2024).
- A copy of Local Authority Meeting Minutes dated 20th May 2025. The Meeting was attended by representatives of the Owner/ Occupier and Local Authority Representatives (5 no. persons in total attended the meeting). The meeting minutes include the following conclusion:

'It was advised that the derelict sites process have been initiated. It was considered that, while not questioning the bona fide of the individuals, no specific evidence has been provided in this meeting to demonstrate completion of the project and removal of the dereliction. They had no control of the land currently, and no agreement in place. No demonstration of plan to do this work or timescale to see this work being carried out. In light of this we would be recommending the matter be referred to An Bord Pleanála and they could make their representations at that juncture.'

- Copy of a Cover letter from the Local Authority to An Bord Pleanála in respect of the proposed compulsory acquisition of the subject property dated 28th May 2024.
- Copy of Local Authority Executive Order, ref. no. TRO 85/24, that Notice under Section 16 of the Derelict Sites Act 1990 (as mended), be served. The Executive Order is dated 28th May 2024.
- Copy of Local Authority Executive Order, ref. no. TRO 86/24, that Notice under Section 16 of the Derelict Sites Act 1990 (as mended), be served. The Executive Order is dated 28th May 2024.

- Copy of 2 no. Letters from An Bord Pleanála to the 2 no. Objectors dated 31st May 2024 inviting observations in relation to the comments of the Local Authority on the objection (s) received by it. Observations were invited not later than 5:30 p.m. on the 20th June 2024.
- Copy of a follow up letter from Mr. Peter McCarron dated 18th June 2024. The letter referred to an attachment letter of acknowledgement from the Local Authority to Mr. McCarron dated 14th June 2024 in reference/ acknowledgement of his letter dated 4th June 2024.

4.3.2. The **Derelict Site Report** can be summarised as follows:

- The Derelict Site Report is dated 21st May 2024.
- The Report relates to the compulsory acquisition of the subject property, at Derryveagh, Carrickroe, folio MN23422F (Front site). The subject property is stated to have a approximate site area of 2.1 hectares. It is stated that planning permission was Granted in 2003 for a multi-unit development of housing apartments and shop units on a 1.2 hectares site.
- The Church of the Sacred Heart, Carrickroe, located opposite the subject property is listed as a Protected Structure, Ref. 41400312.
- The Report refers to the previous planning history, planning reg. ref. no. 03/472 and states that work has commenced on site.
- The Derelict Site History is stated to include the following:
 - Section 8 (7) Notice issued on 22nd March 2023,
 - Section 11 (2) Notice issued on 22nd March 2023,
 - Section 22 Notice issued on 5th March 2024,
 - Section 15 (1) Notice issued on 28th March 2024.
- Reference is made in the Report to Development Plan Policy. The relevant Development Plan is the Monaghan County Development Plan, 2019 to 2025. The site is stated to be located in a rural area as a Tier 5 Rural Community settlement where Section 2.6 and Policy RSO1 are stated to be of relevance. It is stated that in addition, Section 8.36 and Policy DSPP1 apply owing to the dereliction.

- The Report Author refers to having carried out an initial site inspection on 25th May 2022 and to further site inspections with the most recent being 20th May 2024.
- The following main points are made regarding the condition of the subject property:
 - the lands incorporate an unfinished housing development which detracts from surrounding residential amenities,
 - the Commercial/ Apartment building is unfinished,
 - 3 no. of the 8 no. houses are unoccupied and appear dilapidated,
 - There are exposed foundations and ESB mini pillars to the rear of the site, with cattle present at the time of inspection,
 - Report from Executive Engineer confirms the presence of construction waste materials.
- The 2 no. Objections to the proposed compulsory acquisition are summarised in the report and referenced as Objection A and Objection B.
- The Local Authority response to the 2 no. Objectors is summarised.
- The Section 11 (Measures) Notice served on 22nd March 2023 is noted. It is stated that no works have been carried out on foot of the Section 11 Notice. The specific measures are listed under the main headings of House no's 3, 4 and 9, Commercial/ apartment Building, Roads and Paths and Rear Portion. The letters are accompanied by a Derelict Sites Map of the subject property.
- The Report refers to the Current Situation and notes the following main points:
 - The property, which remains in the derelict condition, is continuing to deteriorate. The site is in a prominent location.
 - The front terrace block is structurally complete. Some privately owned residential units are complete, occupied and well maintained. The Commercial building remains unfinished and is unsightly. 3 no.

residential units remain unoccupied. The unfinished commercial units contrast with the finished residential units to a noticeable extent.

- The roadway remains unfinished. There are exposed manholes and gullies and there is no wearing course. There are also potholes and loose stones which detract from surrounding residential amenity.
 - The unsightly appearance of the front of the building is referenced, particularly the commercial element. The front and side gable of the said building are also specifically referenced as being unsightly/ unkempt.
 - The 3 no. unoccupied properties are stated to have a grubby appearance. The paint on the walls and doors is discoloured. The rear garden areas of the 3 no. properties are unkempt.
 - The rear area of the site, behind the timber fence is stated to contain foundations together with earth mounds and the area is stated to be overgrown.
- The Report concludes and recommends that the proposed compulsory acquisition should proceed.

4.4. Objector's Submission

4.4.1. 1 no. submission was received by An Bord Pleanála from 1 no. Objector (Mr. Peter McCarron) on 18th June 2024. A subsequent submission letter was received from the same Objector on 19th June 2024. No other submissions from either of the 2 no. Objectors was made directly to An Bord Pleanála.

4.4.2. The submission from Mr. Peter McCarron received by An Bord Pleanála on 18th June 2024 can be summarised as follows:

- Cover Letter (No. 1) dated 17th June 2024.
 - The Cover Letter refers to the letter from An Bord Pleanála dated 31st May 2024.

- The Objector understands that a) the Derelict Sites Act, 1990 has rarely, if ever been used by the Local Authority, b) the taking over of sites is a last resort and c) the first priority should be to work with stakeholders to find solutions.
- Best practice should have been for the Local Authority to invite all stakeholders to a meeting to discuss the situation instead of the current course of action. This did not happen.
- The submission is stated to include copies of all correspondence with the Local Authority and, in this regard, reference is made to an attached folder which includes Exhibits A to R.
- The Objector provides commentary on each of the Exhibits A to R.
- The attachments to the Cover Letter received by An Bord Pleanála on 18th June 2024 are summarised as follows:
 - Exhibit A: (Date: 4th August 2022): Copy of Letter from the Local Authority to Oakheights Limited providing Notice pursuant to Section 8 2) Notice (Section 8 2) of the Derelict Sites Act, 1990, as amended by the Planning and Development Acts, 2000 to 2021).
 - Exhibit B: (Date: 29th August 2022): Copy of Letter from Mr. Peter McCarron to the Local Authority objecting to the land being entered on the Derelict Sites Register.
 - Exhibit C: (Date: 18th October 2022): Copy of Letter of acknowledgement from the Local Authority to Mr. Peter McCarron in reference to his submission of 29th August 2022. Letter states that the Local Authority will be issuing a new Section 8 2) Notice under the Derelict Sites Act 1990 (as amended). The Objector notes in the Cover Letter that this letter of acknowledgement was 50 days after their submission and that no request for further information was issued or that no engagement was made.
 - Exhibit D: (Date: 22nd March 2023): Copy of Letter from the Local Authority to Oakheights Limited providing Notice pursuant to Section 8

7) of the Derelict Sites Act 1990 (as amended by the Planning and Development Acts, 2000 to 2015).

- Exhibit E: (Date: 22nd March 2023): Copy of Letter from the Local Authority to Oakheights Limited pursuant to Section 11 2) of the Derelict Sites Act 1990 (as amended by the Planning and Development Acts, 2000 to 2015).
- Exhibit F: (Date: 5th March 2024): Copy of a Letter from the Local Authority Oakheights Limited pursuant to Section 22 of the Derelict Sites Act, 1990 (as amended by the Planning and Development Acts 2000 to 2015) confirming the Local Authority's market value of the subject property. A Copy of the REA Valuation dated 5th January 2024 is also enclosed. The Objector notes in the Cover Letter, in reference to Exhibit F, that a valuation of the site has been determined and that the owner was liable to a 7% annual levy.
- Exhibit G: (Date: 28th March 2024): Copy of Newspaper Notice extract (28th March 2024).
- Exhibit HI: (Date: 1st May 2024): Copy of the 'Letter of Objection' from Mr. Peter McCarron to the Local Authority dated 1st May 2024. The letter is marked 'Confidential'.
- Exhibit JK: (Date: 20th May 2024): Refers to a Meeting held with the Local Authority on 20th May 2024 and lists the respective attendees.
- Exhibit L: (Date: 27th May 2024): Copy of a letter from Mr. Peter McCarron to the Local Authority expressing disappointment and confusion with the meeting held on 20th May 2024. The Objector notes in the Cover Letter, in reference to Exhibit L, that the Local Authority stated in the meeting that *'if they had met them earlier, the outcome might have been different.'* It is further stated in the Cover Letter that *'the Local Authority 'never asked for a meeting with the stakeholders or never asked for further information on Peter McCarron's letter of 29th August 2022' and that 'this raises fundamental questions.'*

- Exhibit M: (Date: 28th May 2024): Copy of a letter from the Local Authority to Mr. Peter McCarron providing Notice pursuant to Section 16 of the Derelict Sites Act 1990 (as amended by the Planning and Development Acts 2000 to 2015). Folio Ref. MN23422F.
- Exhibit N: (Date: 28th May 2024): Copy of a letter from the Local Authority to Mr. Peter McCarron providing Notice pursuant to Section 16 of the Derelict Sites Act 1990 (as amended by the Planning and Development Acts 2000 to 2015). Folio Ref. MN5559F/ MN175. It is stated by Mr. McCarron that this is AMC's field. The Objector states the following in the Cover Letter, in reference to Exhibit N, that *'this land has been personally owner by Aidan McCarron for the past forty years and the MCC letter of 20th May 2024... is the first time I had knowledge of MCC's intention to take over this field.'*
- Exhibit O: (Date: 29th May 2024): Copy of a letter from the Local Authority to Mr. Peter McCarron acknowledging his letter of 27th May 2024.
- Exhibit PQ: (Date: 31st May 2024): Copy of An Bord Pleanála Letter to Mr. Peter McCarron.
- Exhibit R: (Date: 4th June 2024): Copy of a letter from Mr. Peter McCarron to the Local Authority. The letter is marked 'confidential' and refers to 2 no. letters received by Mr. McCarron dated 28th May 2024. It is stated that one of the letters refers to Folio MN5559F/MN175 and has a map attached. It is further stated that the field outlined in red on the said map has been in the ownership of Mr. McCarrons son, Aidan, for the past 40 years and that he (Aidan) has not lived in Ireland for the past 30 years. The letter asks if the Local Authority has made direct contact with him (Aidan) and advised him of its intention to compulsorily acquire his private property?
- With specific reference to Exhibit R, the Objector states in the Cover Letter that to date there has been no response from the Local Authority and that he has serious concerns in this regard as his son (Aidan McCarron) does not live in Ireland and is unaware as to the intentions

of the Local Authority. The Objector refers to an existing right of way from the road through folio MN23422F to the rear site, Folio Ref. MN5559F/MN175. The Objector notes that the Local Authority has not acknowledged this right of way in any communications.

- In conclusion, as set out in the Cover Letter, the objectors are of the opinion that the Local Authority intends to compulsorily acquire the subject property without proper engagement with the stakeholders as this has been their experience to date. Although the lands have been grazed for years the Local Authority claim they are derelict and abandoned. The Objector considers the approach of the Local Authority to have been haphazard although their intent is stated to have appeared to have been to take over the complete site, i.e., both the front and rear sites. It is stated that with the exception of 3 no. unfinished houses and the commercial unit, the remainder of the front site, i.e., the majority, could readily be returned to farmland but that this was never offered as a solution by the Local Authority. The Objector considers it to be incredible that the Local Authority is seeking to acquire the back site under the Derelicts Sites Act. This will set a precedent whereby Local Authorities could take over lands they deem to be derelict. The Objector consider the Derelict Sites Act is being used in roughshod manner without any protection for citizens under the law.
- The Objector requests that the Board refuses consent for the Local Authority to acquire both folios.
- Cover Letter (No.2) dated 18th June 2024.
 - This second Cover Letter refers to the previous Registered Letter sent of the Board and dated 17th June 2024. The Objector states that following the positing of the previous letter he received a letter from the Local Authority. A copy of this said letter is enclosed.
 - The Objector states that the Local Authority has ignored the question posed to them in his letter of 4th June 2024, see Exhibit R above. The

Objector considers this is a further indication of the Local Authority's refusal to engage with stakeholders.

- The letter referred to in the Objectors Cover Letter (No. 2) is a letter of acknowledgement of the Objectors letter dated 4th June 2024. The said Local Authority letter is dated 14th June 2024.

4.5. Oral Hearing

- 4.5.1. No request has been received for an Oral Hearing.

5.0 Planning History

5.1. Planning History

- **03/472:** Applicant: Aidan McCarron. Permission to erect 8 no. terrace dwellings, 1 no. storey and a half with 2 storey attached building consisting of 2 no. ground floor shop units with 2 no. 1st floor apartments, 10 no. semi-detached storey and half dwellings, 8 no. semi-detached 2 storey dwellings and associated site works. Permission was GRANTED on 26th November 2003 subject to 17 no. conditions.

6.0 Legislation and Policy Context

6.1. Derelict Sites Act 1990 (as amended)

- 6.1.1. The Derelict Sites Act 1990, as amended, makes provision 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.

- 6.1.2. 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.”

6.1.3. Other relevant provisions of the Act are summarised below:

- 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 of the Act 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 of the Act 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 its functional area.
- Section 15 sets out arrangements for giving notice if the local authority intends to acquire a derelict site compulsorily.
- Section 16 sets out arrangements if the owner/occupier wishes to object to the acquisition and it provides that if an objection is made, then the derelict site shall not be acquired compulsorily by the local authority without the consent of the Board.

6.2. Monaghan County Development Plan 2019 to 2025

- 6.2.1. Carrickroe is listed in Section 2.3.2 (Table 2.2 (Settlement Hierarchy for County Monaghan)) of the Development Plan as a one of a 13 no. Tier 5 Rural Community Settlements. The site is not ascribed any specific zoning use.
- 6.2.2. Chapter 8.0 of the Plan relates to Environment, Energy and Climate Change. Section 8.36 of the Plan relates to Derelict Sites and states the following:

'In accordance with the provisions of the Derelict Sites Act 1990 and the Litter Pollution Act 1997 (as amended), the Local Authority can require remedial or improvement works on neglected lands, including the removal of vehicles and general waste and the renewal or repair of structures in a derelict or ruinous state. The Council will endeavour to be proactive in this role.'

Policy for Derelict Sites:

DSPP1: 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.'

- 6.2.3. Section 8.37 of the Plan relates to Dangerous Structures and Places and states the following:

'The Local Government (Sanitary Services) Act 1964 gives powers to local authorities to address dangerous structures in their administrative area. A Section 3 Notice can be served on owners of a property which is considered to be in a dangerous condition requiring them to carry out specific works to make the property safe.'

Policy for Dangerous Structures and Places

DSPP 2: To implement the provisions of the Derelict Site Act, 1990 in respect of dangerous structures or places.'

- 6.2.4. Chapter 9.0 of the Plan relates to Strategic Objectives for Settlements.
- 6.2.5. Section 9.4 relates to Derelict Sites and states the following:

'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.*
- *Issue an Endangerment notice in respect of a Protected Structure specifying works to be carried out to prevent a Protecting Structure from becoming or continuing to be endangered.*

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.'

6.2.6. Section 9.5 of the Plan relates to Vacant Sites.

6.2.7. Section 9.6 relates to Regeneration and Redevelopment of Vacant Land.

7.0 Assessment

7.1. Site Inspection

7.1.1. I carried out my site inspection on 26th July 2024. Internal access to the respective buildings was not available. I walked around the property and inspected the front, sides and rear of the respective buildings as well as the rear of the subject property to the east side of the timber panelled fence. I inspected the interior of house no's 3, 4 and 9 from the exterior at each of the front living room windows.

7.2. Category of Dereliction

7.2.1. Based on the condition of the subject property which I observed during my site inspection, I consider that the site falls within subsection (b), of Section 3 of the

Derelict Sites Act, 1990, as amended, due to the land and structure being in a neglected, unsightly and objectionable condition.

- 7.2.2. With regards to subsection (a), which relates to the existence on the land of structures which are in a ruinous, derelict or dangerous condition, having inspected the site and reviewed the material on the file, I do not consider that the structures are likely to be in a dangerous condition, or that they could be considered ruinous. Thus, it is not considered that the site falls within subsection (a) of the Derelict Sites Act 1990, as amended.
- 7.2.3. I do not consider the property to fall within category (c) of Section 3 of the Act as there was no significant or noticeable litter, rubbish, debris or waste, evident at the time of my inspection.
- 7.2.4. In conclusion, I consider that the property detracts to a material degree from the amenity, character and appearance of land in the neighbourhood, which in my view, renders it derelict under Section 3 of the Act.

7.3. Action of Local Authority

- 7.3.1. The Compulsory Acquisition Report of the Local Authority dated 21st May 2024 provides a Chronological Order of the Derelict Site History which includes the following:
- 22nd March 2023: Section 8 (7) and Section 11 2) Notices issued;
 - 5th March 2024: Section 22 Notice issued (Notice of Determination of Market Value of Urban Land). (It should be noted that this said Section 22 Notice relates to the adjacent land to the rear/ immediate east of the subject property which is the subject of a concurrent compulsory acquisition application, case ref. no. ABP-319830-24);
 - 28th March 2024: Section 15 1) Notice issued.
- 7.3.2. The Report notes that no works have been undertaken on foot of the measures set out in the Section 11 Notice issued on 22nd March 2023. The Report concludes and recommends that the matter be referred to An Bord Pleanála to seek consent for the compulsory acquisition of the site.

- 7.3.3. Under Section 10 of the Derelict Sites Act 1990, as amended, it is noted that the Local Authority has a duty *'to take all reasonable steps (including the exercise of any appropriate statutory powers) to ensure that any land situate in their functional area does not become or continue to become a derelict site.'*
- 7.3.4. I note that in using its powers to Compulsorily Acquire the property, as set out in the Compulsory Acquisition Report, the Local Authority consider the said Compulsory Acquisition accords with policies and objectives of the Monaghan County Development Plan, 2019 to 2025.
- 7.3.5. I accept that the Local Authority has taken steps in consultation with the Owner/ Reputed Owner of the subject property to bring the property out of dereliction. I note initial contacts were made with the Owner/ Reputed Owners of the subject property on the 28th November 2022 (Section 8 2) Notice) and then subsequently on 22nd March 2023 (Section 8 7) and 11 2) Notices), the 26th March 2024 (Section 15 1) Notice) and 28th May 2024 (Section 16 Notice).
- 7.3.6. I note the 2 no. objection submissions received by the Local Authority on 02nd May 2024. The first objection submission received from Mr. David O'Reilly and dated 30th April 2024 is made in respect of the subject property (folio ref. MN23422F) and the adjacent property (folio ref. no. MN5559F) which is the subject of the concurrent compulsory acquisition application, case ref. no. ABP-319830-24. Mr. O'Reilly states the subject property is in use, that he is in occupation of the land and that he is entitled to ownership owing to his long-term possession. I note that the Local Authority, as per their letter dated 10th May 2024, invited Mr. O'Reilly to provide further information in the form of a map outlining the area of land he was claiming ownership of, and that no response was received to this invitation. I further note that the Board subsequently wrote to Mr. O'Reilly on 31st May 2024 wherein, as per the provisions of Section 16 5) of the Derelict Sites Act, 1990, as amended, further observations were invited to the comments of the Local Authority in respect of the objection(s) received by it against the proposed compulsory acquisition. I note that no observation/ submission was received from Mr. O'Reilly within the stipulated timeframe, i.e. on or before 20th June 2024. I am satisfied that Mr. O'Reilly has been afforded ample opportunity to confirm his reputed ownership of the subject property.

- 7.3.7. The second objection, which was received from Mr. Peter McCarron, is dated 1st May 2024 and is stamped received by the Local Authority on 2nd May 2024. I note that the Board wrote to Mr. McCarron on 31st May 2024 wherein, as per the provisions of Section 16 5) of the Derelict Sites Act, 1990, as amended, further observations were invited to the comments of the Local Authority in respect of the objection(s) received by it against the proposed compulsory acquisition. A response observation submission dated 17th June 2024 was received from Mr. Peter McCarron on 18th June 2024. A further cover letter dated 18th June 2024 and also from Mr. Peter McCarron was received on 19th June 2024, i.e., all within the stipulated timeframe on or before 20th June 2024.
- 7.3.8. I finally further note that the Local Authority met Mr. Maurice McCarron (on behalf of his father Mr. Peter McCarron) and associated representatives on 20th May 2024 and that a copy of minutes of this said meeting are attached to the subject file. Both the subject property and the adjacent property to the east appear to have been discussed at this said meeting.
- 7.3.9. Having regard to the foregoing I am satisfied that the Local Authority gave the property owner sufficient time and opportunity to address the dereliction. Therefore, I am satisfied that the efforts of the Local Authority have been fair and reasonable.

7.4. Compliance with Development Plan

- 7.4.1. I note the Monaghan County Development Plan, 2019 to 2025, and specifically Policy DSPP1 where the provisions of the Derelict Sites Act will be utilised together with the Litter Pollution Act to ensure that lands and buildings are maintained to a reasonable condition.
- 7.4.2. Having regard to the condition of the subject property I consider that the proposed compulsory acquisition of the property would be consistent with the policies and objectives of the Development Plan and will ensure that the lands do not continue to be in a derelict condition.

7.5. Action of the Owner to Address Dereliction

- 7.5.1. I note the Section 11 Notice issued by the Local Authority on 22nd March 2023. I also note the specific measures outlined therein to address the dereliction which are presented under the main category headings of Houses no's 3, 4 and 9,

Commercial/ apartment building, roads and paths and rear portion of the site (area to the east of timber panelled fence to the rear of existing buildings). The Local Authority state in the Compulsory Acquisition Report that no works have been carried out on foot of the Section 11 Notice.

- 7.5.2. I note the 2 no. letters of objection to the proposed compulsory acquisition which were received by the Local Authority on 2nd May 2024 (dated 30th April 2024 and 1st May 2024 respectively).
- 7.5.3. In respect of the first letter of objection from Mr. David O'Reilly dated 30th April 2024, there is no reference to any action having been taken by him or on his behalf to address dereliction.
- 7.5.4. I note in the second letter of objection, which was received by the Local Authority from Mr. Peter McCarron on 1st May 2024 that there is similarly no reference to any action having been taken by him or on his behalf to address dereliction. It is noted however that the letter states that an offer of settlement has been accepted.
- 7.5.5. I note the Objection submission received from Mr. Peter McCarron on 18th June 2024 (dated 17th June 2024) and a follow up letter received on 19th June 2024 (dated 19th June 2024). There is no reference to any action having been taken by Mr. McCarron or on his behalf to address dereliction.
- 7.5.6. Based on my observations of the property no substantive works have taken place to the subject property to render it non-derelict and it remains that the continuing dereliction of the property is having a significant adverse effect on the amenities and appearance of the area. I note that owner/occupiers have obligations (under section 9 of the Act) to *"take all reasonable steps to ensure that the land does not become or does not continue to be a derelict site"*. Having inspected the site, there is no evidence of any further attempt to render the site non-derelict and the property remains in a neglected and unsightly condition. I therefore consider that the site remains in a derelict condition.

8.0 Conclusion

- 8.1. I am satisfied that the process and procedures undertaken by Monaghan County Council have been fair and reasonable, that the Local Authority has demonstrated

the need for the land to be acquired are both necessary and suitable to ensure that the lands do not continue to be a derelict site.

- 8.2. Having regard to the Constitutional and Convention protection afforded to property rights, I consider that the proposed acquisition of the Derelict Site comprising the site and premises situate at and known as Derryveagh, Carrickrow, Folio MN23422F (Front Site), Co. Monaghan, containing 2.1 hectares or thereabouts, as set out in the Derelict Site Notice issued under Section 15(1)(b) of the Derelict sites Act 1990, (as amended) and dated 28th March 2024 and on the deposited derelict site map, pursues, and was rationally connected to, a legitimate objective in the public interest, namely, to ensure that the lands do not continue to be in a derelict condition.
- 8.3. I am also satisfied that the acquiring authority has demonstrated that the means chosen to achieve that objective impair the property rights of affected landowners as little as possible. In this respect, I have considered alternative means of achieving the objective referred to in the submissions to the Board and am satisfied that the acquiring authority has established that none of the alternatives are such as to render the means chosen and the compulsory acquisition by the acquiring authority unreasonable or disproportionate.
- 8.4. The effects of the compulsory acquisition on the rights of affected landowners are proportionate to the objective being pursued. I am further satisfied that the proposed acquisition of these lands would be consistent with the policies and objectives of the Monaghan County Development Plan, 2019 to 2025, and specifically Policy DSPP1, which seeks, inter alia, to address dereliction and encourage and facilitate appropriate redevelopment. Accordingly, I am satisfied that the grant of consent to compulsorily acquire these lands is clearly justified by the exigencies of the common good.

9.0 Recommendation

- 9.1.1. Having regard to the observed condition of the site, in particular the derelict condition, the unsightly and objectionable condition 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 b) of the Derelict Sites Act, 1990, as amended.

9.1.2. I consider it reasonable that the Local Authority seeks to compulsorily acquire the land, as provided by Section 14 of the Act. I recommend that the Board grant consent to Monaghan County Council to compulsorily acquire the site.

10.0 Reasons and Considerations

10.1.1. Having regard to the neglected, unsightly and objectionable condition of the lands, and having regard to the objections made to the compulsory acquisition, and also:

- (a) the Constitutional and Convention protection afforded to property rights,
- (b) the public interest, and,
- (c) the provisions of Monaghan County Development Plan, 2019 to 2025

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 objections made cannot be sustained having regard to that said necessity and that the compulsory acquisition and its effects on the property rights of affected landowners are proportionate to that objective and justified by the exigencies of the common good.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Frank O'Donnell
Planning Inspector

13th September 2024