



An
Bord
Pleanála

Inspector's Report

ABP-319830-24

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 MN5559F (Rear Site), Co. Monaghan.

Local Authority

Monaghan County Council

Notice Party

David O'Reilly

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 is 1 no. other concurrent Compulsory Acquisition case pending with An Bord Pleanála which relates to the overall subject property, as follows:
 - **ABP-319827-24:** Derryveagh, Carrickroe, Folio MN23422F (Front 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 is located on backlands to the rear (west) of a partially complete mixed residential/ commercial development named Chapel Court, situated to the north of the centre of Carrickroe Village. The said adjacent development is in turn position 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. MN5559F (Rear Site), as outlined in red on the submitted Derelict Site Map, has a stated area of approximately 0.93 hectares (9,300 sqm) (2.3 acres). Access to the lands is available via the said adjacent development to the west.
- 2.3. On the day of my site inspection, the site was open and fully accessible via the adjacent development to the west. I walked to the centre of the site and along the western site boundary.
- 2.4. 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 site was not segregated by means of any barrier or fencing from the rear of the adjacent lands which are the subject of file ref. no. ABP-319827-24. I note the supporting photographs show post and wire fencing in this regard.
- Although there were no animals/ cattle present on the site at the time of the site inspection, it appears that cattle were recently present on the site as evidenced by fresh hoof marks.
- There was no apparent evidence of any significant rubbish or waste present on the site.
- The green ESB Substation structure shown in one of the supporting photographs is located on the adjacent lands to the west, which are the subject of file ref. no. ABP-319827-24.
- A manhole shown in one of the supporting photographs is similarly located on the adjacent lands to the west, which are the subject of file ref. no. ABP-319827-24.
- I could find no apparent evidence of any foundations constructed on the subject property. Any foundations encountered all relate to the adjacent lands to the west.

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 Owner/ Occupier, Everyday Finance DAC, Allied Irish Bank and Mr. Aidan 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, adjoining Chapel Court, Carrickroe comprising of 0.93 ha (2.3 acres) of rough ground where rubble, subsoil and waste materials have been deposited.

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. 1 no. submission expressing objection to the proposed acquisition was submitted to Monaghan County Council.

4.2.2. The 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 the 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.

4.3. 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:

- Copies of 4 no. letters dated 28th November 2022 from the Local Authority to the Owner/ Occupier, Everyday Finance DAC, Allied Irish Bank and Mr. Aidan McCarron, 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 4 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 4 no. letters dated 22nd March 2023 from the Local Authority to the Owner/ Occupier, Everyday Finance DAC, Allied Irish Bank and Mr. Aidan McCarron, providing Notice as per Section 8 7) of the Derelict Sites Act, 1990 (as amended by the Planning and Development Acts, 2000 to 2021) that the subject property has been deemed to be a derelict site and has been entered onto the Derelict Sites Register.
- Copy of an Executive Order, (Ref. P238/23) dated 22nd March 2023 to issue the Section 8 7) Notice (Section 8 2) of the Derelict Sites Act, 1990 (as amended)), to the above 4 no. parties.
- Copies of 4 no. letters dated 22nd March 2023 from the Local Authority to the Owner/ Occupier, Everyday Finance DAC, Allied Irish Bank and Mr. Aidan McCarron 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 the parties to undertake and complete the

measures specified in an attached schedule on order to prevent the subject property from becoming/ continuing to be a Derelict Site. The letters are accompanied by a Derelict Sites Map of the subject property.

- Copy of an Executive Order, (Ref. P239/23) dated 22nd March 2023 to issue the Section 11 2) Notice (Section 11 2) of the Derelict Sites Act, 1990 (as amended)), to the above 4 no. parties.
- Copy of a Derelict Site Report dated 24th March 2023 confirming that a Section 8 7) Notice and a Section 11 Notice were served/ affixed to the property on 22nd March 2023.
- Copies of 4 no. letters dated 5th March 2024 from the Local Authority to the Owner/ Occupier, Everyday Finance DAC, Allied Irish Bank and Mr. Aidan McCarron providing Notice pursuant to Section 22 of the Derelict Sites Act, 1990 (as amended by the Planning and Development Acts, 2000 to 2015) (Notice of Determination of Market Value of Urban Land). The letters are accompanied by a Derelict Sites Map of the subject property.
- Copy of an Executive Order, (Ref. P50/24) dated 5th March 2024 to issue the Section 22 Notice (Section of the Derelict Sites Act, 1990 (as amended)), to the above 4 no. parties.
- Copy of a Derelict Site Report dated 5th March 2024 confirming that a Section 22 Notice (Section 22 of the Derelict Sites Act, 1990 (as amended)) was served/ affixed to the property on 5th March 2024.
- Copies of 4 no. letters dated 26th March 2024 from the Local Authority to the Owner/ Occupier, Everyday Finance DAC, Allied Irish Bank and Mr. Aidan McCarron providing Notice pursuant to Section 15 (1) of the Derelict Sites Act, 1990 (as amended) (Notice of the Local Authority intention to acquire the Derelict Site Compulsorily, under the Derelict Sites Act 1990, as amended.
- Copy of an Executive Order, (Ref. TRO 3/24) dated 26th March 2024 to issue the Section 15 1) Notice (Section 15 1) of the Derelict Sites Act, 1990 (as amended)), to the above 4 no. parties.

- 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)) was served/ affixed to the property on 25th March 2024.
- Copy of the Section 15 1) a) Notice/ Extract from Newspaper Notice (Northern Standard) dated 28th March 2024.
- Copy of a Letter of Objection to the Local Authority from Mr. David O'Reilly dated 30th April 2024.
- Copy of a letter of Acknowledgement of Letter of Objection from the Local Authority to Mr. David O'Reilly dated 10th May 2024. Mr. O'Reilly is invited to provide further information to support the case made in his letter of 30th April 2024. It is stated that *'in particular you may wish to present a map outlining the area of land that you are claiming ownership of.'*
- Copy of A Derelict Sites Report and associated photographs dated 21st May 2024.
- Copy of an Executive Order, (Ref. TRO 88/24) dated 28th May 2024 to issue a Section 16 Notice (Section 16 of the Derelict Sites Act, 1990 (as amended)), that consent from An Bord Pleanála for the compulsory acquisition of the subject property be sought.
- Copy of an Executive Order, (Ref. TRO 87/2024) dated 28th May 2024 to issue a Section 16 Notice (Section 16 of the Derelict Sites Act, 1990 (as amended)), to the following:
 - Owners/ Occupiers, Mr. Adam McCarron, Mr. Peter McCarron, Allied Irish Bank, Everyday Finance DAC, David O'Reilly, BCM Global

Informing them that the Local Authority has requested consent from An Bord Pleanála on the proposed compulsory acquisition of the derelict site.
- Copy of Local Authority Cover Letter to An Bord Pleanála dated 28th March 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 MN5559F/MN175 (Rear Site). The subject property is stated to have an approximate site area of 0.93 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 to the west.
- The Report refers to the previous planning history, planning reg. ref. no. 03/472 and states that work has commenced on the site and that groundwork has been made on the subject application 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 adjoining 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,

- At the rear portion of the site (containing Folio Ref. No. MN559F/MN 175) and to the rear of the timber fence are lands containing construction waste arising from the development to the west.
 - Report from Executive Engineer confirms the presence of construction waste materials on the lands to the east of the foundations.
- The 1 no. Objection to the proposed compulsory acquisition is summarised in the report and referenced as Objection A.
- The Local Authority response to the 1 no. Objector is summarised. In particular, it is stated that *‘Mr. O’Reilly has not made any clarification on how he intends to address the measures required to be addressed.’*
- 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 required are listed, i.e. i) Remove construction waste materials from the lands and ii) Reinstate topsoil on the lands.
- The Report refers to the Current Situation and notes the following main points:
 - The lands are accessed from the west via an existing ‘derelict’ development site. This said site is currently subject to a concurrent application to An Bord Pleanála.
 - The subject site is at a very prominent/ focal location within the settlement, immediately opposite the Church of the Sacred Heart and fronting the main car park which serves the Church.
 - Construction waste and rubble are present although the site has become somewhat overgrown.
- The Report concludes that the lands will remain derelict if the remediation works are not undertaken by the Local Authority. In acquiring the site, the Local Authority would be presented with an opportunity to redevelop the lands for longer term use for additional social/ affordable housing.
- It is recommended in the Report that the matter be referred to the Board for its determination in terms of consent for the proposed compulsory acquisition.

4.4. Objector's Submission

4.4.1. No objector's submission was received by An Bord Pleanála.

4.5. Oral Hearing

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

5.0 Planning History

5.1. Planning History on the subject site

- None.

5.2. Planning History on the adjacent site to the immediate west:

- **03/472:** Applicant: Aidan McCarron. Permission to erect 26 no. dwellings and 1 no. 2 storey building consisting of 2 no. ground floor shop units with 2 no. 1st floor apartments. 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 and Section 9.6 relates to Regeneration and Redevelopment of Vacant Land.

6.2.7. Section 9.8 relates to Housing and includes the following Objectives for Urban Residential Developments which are of relevance to the subject application:

- **UDO 5:** To encourage the refurbishment and reuse of derelict buildings and development on derelict lands and infill sites in the towns.*
- **UDO 10:** To encourage and support proposals for new residential development that will result in the regeneration/renewal of town centre areas and/or a reduction in vacancy/dereliction in the context of the proposed planning and sustainable development of the area.*

6.2.8. Section 9.9 relates to Town Centres and includes the following Objective for Town Centres which is of relevance to the subject application:

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

7.0 Assessment

7.1. Site Inspection

- 7.1.1. I carried out my site inspection on 26th July 2024. Access to the subject property was available via the adjacent partially complete mixed residential/ commercial development (Chapel Court) to the west, which is the subject of a separate concurrent compulsory acquisition application, ref. ABP-319827-24. I walked along the northern site boundary to the centre of the subject property, and I then walked along part of the western site boundary.

7.2. Category of Dereliction

- 7.2.1. Based on the condition of the subject property which I observed during my site inspection I do not consider that the site falls within subsection (a), of Section 3 of the Derelict Sites Act, 1990, which relates to the existence on the land in question of structures which are in a ruinous, derelict or dangerous condition.
- 7.2.2. I consider that the subject property falls within subsection (b) of Section 3 of the Derelict Sites Act, 1990, due to the general appearance of the land being in a neglected, unsightly and objectionable condition. In this regard I particularly note that the subject property is positioned immediately adjacent and to the east of a partially complete residential development and that there is no apparent segregation between said subject property and the said adjacent site. Access to the subject property is available via the said adjacent site, (see concurrent application ref. no. ABP-319827-24). This means that the subject property reads as part of the adjacent partially complete residential development on the adjacent site and is therefore, in my view, proximate to dwellings which for the most part are attractive and well maintained.
- 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);
- 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 Owner 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 5th March 2024 (Section 22 Notice), the 26th March 2024 (Section 15 1) Notice) and 28th May 2024 (Section 16 Notice).

7.3.6. I note that an objection submission dated 30th April 2024 was received on 02nd May 2024 from Mr. David O'Reilly in respect of the subject property (folio ref. MN5559F) and the adjacent property (folio ref. MN23422F) which is the subject of the concurrent compulsory acquisition application, case ref. no. ABP-319827-24. 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 said 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. 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 concurrent compulsory acquisition application, case ref. no. ABP- 319827-24. Both the subject property and the adjacent property to the west appear to have been discussed at this said meeting.

7.3.8. 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 Local Authority refer in the Compulsory Acquisition Report dated 21st May 2024 to a Report from the Housing Department where it is stated that an Executive Engineer confirms that *'the rear portion of the lands to the east of the foundations contains construction waste materials.'* I note the 20 no. photographs attached to the Local Authority Report, none of which, in my view, appear to show any significant construction waste materials on the subject property.
- 7.5.2. I further note that the western boundary of the subject property, as delineated in red on the submitted Derelict Site Map, is positioned a minimum of 22 metres from the rear of the outline of the house foundations shown on that said map. There is a significant strip of ground to the rear (east) of the said foundations which forms part of the adjacent folio, ref. no. MN23422F (Front Site). I note from available historic Google Earth aerial images that there is a strip of ground to the rear (east) of the easternmost foundations on the adjacent folio ref. no. MN23422F, which includes a construction access road and to the east of same what appears to be construction waste/ rubble.
- 7.5.3. It is stated in the Local Authority Compulsory Acquisition Report that no works have been undertaken on foot of the measures outlined in the Section 11 Notice issued on 22nd March 2023. The stated measures were to
- Remove construction waste materials from the lands.
 - Reinstate topsoil on the lands.
- 7.5.4. I note the objection to the proposed compulsory acquisition received by the Local Authority on 02nd May 2024 (dated 30th April 2024) wherein there is no reference to any works having been undertaken in respect of the measures outlined in the Section 11 Notice.
- 7.5.5. At the time of my site inspection there was no evidence of any significant construction waste materials or excessive surplus topsoil on the subject property.
- 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 lands and that all lands being 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 Derryveagh, Carrickroe, County Monaghan, Folio MN5559F (Rear Site), containing 0.93 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 26th 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 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 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.
- 8.4. It is further acknowledged that at the time of lodgement of the application with the Board, the acquiring authority had adequately demonstrated that the means chosen to achieve that objective would have impaired the property rights of affected landowners as little as possible, and that the effects of the compulsory acquisition on the rights of affected landowners were proportionate to the objective being perused at the time.
- 8.5. However, having inspected the subject property and having regard to the nature and extent of the works required to address the condition of the property, and noting that

these measures are not structural or significant in nature and could be carried out within a reasonably short period of time, I am no longer satisfied that this is still the case. In this respect, I have considered alternative means of achieving the objective referred to in the submissions to the Board, and I am satisfied that the alternatives are such as to render the means chosen and the compulsory acquisition by the acquiring authority unreasonable and disproportionate.

- 8.6. Having regard to the nature and extent of the works required to address the matters that gave rise to the derelict condition of the site, I am no longer satisfied that the grant of consent to the compulsory acquisition is justified by the exigencies of the common good at this point in time. I am of the opinion that, noting the nature and extent of the works required to address the condition of the property, it would be appropriate to allow time to progress matters on site.

9.0 Recommendation

- 9.1.1. Notwithstanding the current unsightly and objectionable condition of the site which detracts to a material degree from the amenity, character and appearance of the streetscape and surrounding land in the neighbourhood, taking account of the nature and extent of works which are required to address the dereliction on the site, I do not consider it reasonable that the Local Authority now seeks to compulsorily acquire the land (at this point in time), as provided by Section 14 of the Act. I recommend, therefore, that the Board refuses consent to Monaghan County Council to the compulsory acquisition of the site.

10.0 Reasons and Considerations

- 10.1.1. Having regard to the neglected, unsightly and objectionable condition of the site, the ruinous, derelict or dangerous condition of the structures, the deposit or collection of debris within the site 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, having regard to the nature of the works necessary to address the dereliction on the site, that the compulsory acquisition of the site by the Local Authority is not necessary to render the site non-derelict. The Board is not satisfied, therefore, that the objection 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