



An
Bord
Pleanála

Inspector's Report

ABP-320970-24

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

Protected Structure adjoining Doyle's Garage, Drumconrath, Co. Meath

Planning Authority

Meath County Council

Notice Party

Robert Kieran & John Kieran

Date of Site Inspection

12th September 2024

Inspector

Ciara McGuinness

1.0 Introduction

- 1.1.1. This case relates to a request by Meath County Council for the consent of An Bord Pleanála to the compulsory acquisition of the subject site at Drumconrath, Co. Meath, in accordance with the provisions of the Derelict Sites Act 1990, as amended.

2.0 Site Location and Description

- 2.1. The site is located within in the village of Drumconrath in north county Meath. There is a mix of commercial and residential developments in the vicinity of the subject property, all of which appear to be occupied and well maintained. The lands, which relate to Folio MH20934F, contain a derelict house on a site of approximately 0.32 ha. The adjoining Folio MH12736F contains a derelict garage and associated buildings on a site of approximately 0.57 ha and is also the subject of a request by Meath County Council for the consent of An Bord Pleanála to compulsorily acquire the site. The derelict house is a Protected Structure as identified in the Meath County Development Plan 2021-2027 (RPS No. 90225/NIAH 14303002 refers) and is described as a 'Detached three-bay two-storey house, built c.1830, with a central entrance porch.'
- 2.2. On the day of my site inspection, I was able to view the site from the public road. My observations of the site on the date of the inspection include the following;
- Windows were boarded up or missing
 - The façade was dirty
 - Paint was chipped and peeling on the façade and doors
 - The garden was overgrown and unkempt
 - Vegetation was growing out of the rainwater gutters and roof

3.0 Application for Consent of 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 23rd October 2020 and re-issued 26th May 2022, advising of the Local Authority's

intention to enter the site on the register of derelict sites, and under section 8(7), on the 28th July 2022, advising of the Local Authority's decision to enter the site on the register of derelict sites.

4.0 Application and Objection

4.1. Notice of Intention to Acquire

- 4.1.1. Notice of Meath City and County Council's intention to acquire the site compulsorily was served on the owners/occupiers (several members of the Doyle family) on the 17th May 2024 and was published in the Meath Chronicle Newspaper on the 25th May 2024. The site was described as follows in the notices:

- DS-1081b – Protected Structure, Drumconrath, Co. Meath – Protected dwelling adjacent to Doyles garage and adjacent land.

- 4.1.2. I consider that 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. An objection to the proposed compulsorily acquisition was received by Meath County Council by JCK Solicitors on behalf of their clients Robert Kieran and John Kieran (executors in the estate of Andrew Doyle deceased) on 28th June 2024. The objection related to both the protected structure and the old garage and outbuildings and can be summarised as follows;

- Their clients object to the compulsory acquisition, in particular in respect of the workshop, which is a current and operational workshop.
- The workshop is located at the rear of the garage and remains in continuous use, having previously been rented out by a third party tenant who has recently vacated the property and is now in use by Stephen Doyle.
- The Council intends to compulsorily acquire agricultural lands as part of this compulsory acquisition. The compulsory acquisition of lands is not allowed under the derelict sites act.

- There are ongoing title issues to be resolved in respect of the lands comprised in Folio MH12736F.

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 19th July 2024 and was accompanied by the following:

- Copy of the section 15 Notice served on the owners/occupiers of the site on 17th May 2024.
- Copy of the newspaper notice, dated 25th May 2024.
- Senior Executive Officer Recommendation to Chief Executive
- Chief Executive Order
- Copy of objection made by JCK Solicitors on behalf of Robert Kieran and John Kieran.
- Local Authority Report (i.e. Derelict Site report/comments) which sets out the local authority's need to compulsory acquire the site (both the protected structure and the old garage and outbuildings), the background to the case and a response to the objection. The report included photographs and derelict site inspection and recommendation reports.

The Local Authority Report can be summarised as follows:

- Meath County Council (MCC) first began inspecting the property in September 2007. The garage was in an unsightly condition with missing windows, flaking paint and abandoned cars.
- In June 2008 and July 2008, MCC issued a letter to Andrew Doyle outlining specific works to be carried out. These works were not carried out.
- MCC issued further letters in August 2009 and November 2010 requesting specific works to be carried out. These works were not carried out.
- Following an inspection of the site, MCC wrote to Andrew Doyle on 19th April 2018 requesting action to be taken to address a number of issues including

abandoned vehicles, boarded windows, disused fuel pumps and the overall unkept site appearance. No works were carried out following the issuing of this letter.

- A Section 8(2) notice was issued on 23rd October 2020. Given the events of the global pandemic during this time which affected the owner's ability to carry out works, the Section 8(2) notice was re-issued on 26th May 2022.
- No improvement works were made following the issuing of this notice.
- On 28th July 2022, a Section 8(7) notice was served on the owners and affixed to the site.
- The abandoned cars were removed from the site following the death of Andrew Doyle in January 2023. No further improvements were made at this time or since.
- It is the contention of the council that the inaction of the property owners and failures of their duties under the Derelict Sites Act that jeopardises the future use of properties in the area due to their continued neglected and derelict state. In this case, the property continues to deteriorate and attract negative attention in a key area of Drumconrath. The only option available to the council is to acquire this property compulsorily.

4.4. Objectors Submission

None.

5.0 Planning History

None.

6.0 Policy Context

6.1. Meath County Development Plan 2021-2027

- 6.1.1. Drumconrath is identified as a Rural Settlement (Rural villages less than 1,500 and the wider rural region) in the Meath County Development Plan 2021-2027.

- 6.1.2. The following policies are considered relevant:

ED POL 38

To promote the reuse or reactivation of vacant and under-utilised properties/shop units in order to assist within the regeneration of streets and settlements in the County.

HER POL 15

To encourage the conservation of Protected Structures, and where appropriate, the adaptive re-use of existing buildings and sites in a manner compatible with their character and significance. In certain cases, land use zoning restrictions may be relaxed in order to secure the conservation of the protected structure.

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 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.
- 6.2.5. 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.
- 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 of the Act provides that a Local Authority may acquire by agreement or compulsorily any derelict site situated in their functional area.
- 6.2.8. Section 15 of the Act sets out arrangements for giving notice, if the Local Authority intend to acquire a derelict site compulsorily.
- 6.2.9. Section 16 of the Act 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 of Issues

7.1. Site Inspection

- 7.1.1. Internal access to the property was not possible on the date of my site inspection on 12th September 2024, however I was able to view the dwelling from the public road. The structure is vacant and has a neglected, unsightly and objectionable appearance from the public road and the surrounding area.
- 7.1.2. My observations of the site on the date of the inspection include the following;
- Windows were boarded up or missing
 - The façade was dirty

- Paint was chipped and peeling on the façade and doors
- The garden was overgrown and unkept
- Vegetation was growing out of the rainwater gutters and roof

7.1.3. The site is located in a prominent location in the settlement of Drumconrath. The unsightly condition and poor maintenance of the site and surroundings detracts from the character of the building and the character and streetscape of the area. The buildings and dwellings in the immediate surrounds appear to be well maintained and occupied.

7.2. Category of Dereliction

7.2.1. I note the Local Authority considered that the property and lands (both the protected structure and the old garage and outbuildings) fell under Category (a), (b) and (c) of Section 3 of the derelict Sites Act 1190, as amended.

7.2.2. I consider that the structure is in a ruinous, derelict and dangerous condition. Windows are broken/missing, and the building is not secured and is a danger to the public. I therefore consider that the site falls under category (a) of Section 3 of the Derelict Sites Action 1990, as amended.

7.2.3. Based on my site inspection, it is my view that the subject structures and lands are still in a neglected, unsightly and objectionable condition. I therefore consider that the site falls under Category (b) of Section 3 of the Derelict Site Act 1990, as amended.

7.2.4. While there was clear evidence of rubbish and litter associated with the garage and outbuildings, there was no rubbish or litter visible around the protected structure. I therefore do not consider that the site falls under Category (c) of the Derelict Sites Act 1990, as amended.

7.2.5. Having regard to (a) and (b) above, it is my view that the structure and lands are detracting to a material degree from the amenity, character, and appearance of land in the neighbourhood of the land in question.

7.3. Action of Local Authority

7.3.1. I note the actions of the Local Authority and the statutory notices served on the owner/occupier in respect of the site. Section 8(2) notices were served on the owner

on 23rd October 2020, and re-issued on 26th May 2022, advising of the Local Authority's intention to enter the site on the Derelict Site Register. Section 8(7) notices were subsequently served on the owner on 28th July 2022, advising the owner that the site had been entered on the Derelict Sites Register. A Section 15(1) notice was served on the current owners on the 17th May 2024 and published in the Meath Chronicle newspaper dated 25th May 2024 regarding the Local Authority's intention to acquire the site compulsorily. Having regard to the above, I am satisfied that the Local Authority complied with the requirements of Section 8(2), Section 8(7) and Section 15 of the Derelict Sites Act 1990, as amended.

- 7.3.2. I note that Local Authorities have a duty (under section 10) "to take all reasonable steps (including the exercise of any appropriate statutory powers) to ensure that any such land does not become/continue to be a derelict site." The policy of the Local Authority, as expressed in the Local Authority's report, is to positively engage with the owners of a derelict site and to avoid using the powers under the Derelict Sites Act, except where necessary. The Local Authority have engaged with the owners/occupiers since 2008 with regards to the derelict state of the property. Having regard to the forgoing 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 that the Meath County Development Plan 2021-2027, specifically ED POL 38, seeks to reuse and reactivate vacant and underutilised properties to assist in the regeneration of streets and settlements. I consider that the subject property detracts to a material degree from the character and appearance of the surrounding area. Therefore, I consider that the proposed compulsory acquisition 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 and will contribute to the regeneration of the area.

7.5. Action of the Owner to address Dereliction

- 7.5.1. I note that an objection to the proposed acquisition of the site made to the Local Authority by JCK Solicitors on behalf of their clients Robert Kieran & John Kieran dated 14th June 2024. The basis of the objection to the compulsory acquisition of the

property was that the workshop is operational and is currently in use. It was also noted that there are ongoing title issues to be resolved. No further objections were made to the Board.

- 7.5.2. 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”. I note from my site inspection on the 12th September 2024 that it was not apparent that any further works had been undertaken to address the appearance of the subject property since the 12th June 2024 (when correspondence was last received on behalf of the Notice Party). The Local Authority have engaged with the owners/occupiers since 2008 with regard to the derelict state of the property. Having inspected the site, there is no evidence of any further attempt to render the site non-derelict or to support a conclusion that any works would be completed in a timely manner. The property remains in a neglected and unsightly condition.
- 7.5.3. Having regard, therefore, to all of the information available on the file and the continued appearance and condition of the property, 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 Drumconrath, Co. Meath is granted.

8.0 Conclusion

- 8.1.1. I am satisfied that the process and procedures undertaken by Meath County Council have been fair and reasonable, that the Local Authority has demonstrated the need for the lands and that all the lands being acquired are both necessary and suitable to ensure that the lands do not continue to be a derelict site.
- 8.1.2. Having regard to the Constitutional and Convention protection afforded to property rights, I consider that the proposed acquisition of the Derelict Site comprising the protected dwelling adjacent to Doyles garage and adjacent land, as set out in the Derelict Site Notice issued under Section 15(1)(b) of the Derelict sites Act 1990, (as amended) and dated 17th May 2024 and on the deposited maps DS-1081b, 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.
- 8.1.3. 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.

- 8.1.4. 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 Meath County Development Plan 2021-2027, and specifically Policy ED POL 38 which seeks to bring properties back into active re-use and to revitalise towns and villages. Accordingly, I am satisfied that 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 application site, in particular the ruinous, derelict or dangerous condition of the structure, the neglected, unsightly and objectionable state of the land and the structures thereon, and the presence, of rubbish and debris on the lands, 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.
- 9.1.2. 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 that the Board grant consent to Meath County Council to compulsorily acquire the site.

10.0 Reasons and Considerations

- 10.1.1. Having regard to the ruinous, derelict and dangerous condition of the structure and the derelict, neglected, unsightly and objectionable state of the land, having considered the objections made to the compulsory acquisition, and also:
- The constitutional and convention protection afforded to property rights,
 - The public interest, and

- The provisions of Meath County Development Plan 2021-2027,

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(a) and (b) of the Derelict Sites Act, 1990, as amended, and that the compulsory acquisition of the site by the Local Authority is necessary in order to render the site non-derelict and to prevent it from continuing to be a derelict site. It is also considered 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.

Ciara McGuinness
Planning Inspector

31st October 2024