



An
Bord
Pleanála

Inspector's Report

ABP-321490-24

Development

Derelict site application to acquire a semi-detached dwelling

Location

Dreminstown, Rathkenny, Co. Meath,
C15 N227

Planning Authority

Meath County Council

Notice Party:

Matthew Brien

Date of Site Inspection

8th May 2025.

Inspector

Lucy Roche

1.0 Introduction

- 1.1. This case relates to a request by Meath County Council for the consent of An Bord Pleanála to the compulsory acquisition of the subject site at Dreminstown, Rathkenny, Co. Meath, in accordance with the provisions of the Derelict Sites Act 1990, as amended.
- 1.2. The main parties in this are:
 - Meath County Council
 - Matthew O'Brien – Registered owner of folio MH18470, now deceased.
 - Matthew Brien – Acting as administrator of estate. Notice Party / objector in this case.

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 in north County Meath in the rural area of Rathkenny, c. 15km west of Kells and c. 11km north of Navan Town.
- 2.2. The subject property comprises a vacant semi-detached single storey dwelling and its curtilage. The subject property has a stated area of 0.18ha and is included in Land Registry Folio MH18470 and shown on drawing DS-1077.
- 2.3. The subject property is not listed as a Protected Structure and is not listed on the National Inventory of Architectural Heritage (NIAH). The site is not located within an Architectural Conservation Area (ACA).
- 2.4. On the day of my site inspection, I was unable to gain entry to the site; however, I was able to view the property from the public road. The dwelling was unoccupied and in a poor state of repair, with several missing roof tiles and many more in danger of falling. The curtilage of the property was heavily overgrown and unkempt as was the roadside boundary. The overall property was unsightly. The adjoining, semi-detached dwelling, was occupied and well maintained.

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 Meath County Council serving of 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 Meath County Council's intention to compulsorily acquire the site was served by way of a signed noticed dated the 22nd of October 2024, affixed to the property itself, by way of email to Matthew Brien (Acting as administrator of estate) on the 25th October 2024 and by advertisement in the Meath Chronicle Newspaper on 2nd November 2024.
- 4.1.2. The site was described in the notices, as follows:
- Map reference: DS-1077
 - Address: Dreminstown, Rathkenny, Co. Meath, C15 N227
 - Description: Derelict semi-detached bungalow,
- 4.1.3. 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. Objections to the proposed compulsorily acquisition were received by Meath County Council via email from Matthew Brien (Administer in the estate of Matthew O'Brien, deceased) on 21st November 2024 and 2nd December 2024. The objection can be summarised as follows:

- 21st November 2024 – In his initial e-mail to MCC, Mr. Brien outlined that the estate of Matthew (Mattie) O'Brien was still in probate and that works to the property had been hindered owing to a dispute from potential beneficiaries of the estate. Mr Brien advised that the issue had been resolved and that he was again able to continue with repairs subject to a delay on the 'Intention to Compulsory Acquire'. Mr Brien concluded by noting that once probate was complete it was the intention that the be put on the market for sale.
- 2nd December 2024 – In this second e-mail to MCC, Mr Brien advised that all beneficiaries of the estate had agreed that the property would be sold but that this had been delayed due to factors outside of their control. It was hoped that the property would be on the market by the first quarter of 2025.

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 18th of December 2024 and included the following:

- Copy of the Notice of Intention to acquire derelict site compulsorily under the Derelict Sites Act, 1990 as served on the registered owner and published in the Meath Chronicle.
- A copy of the Senior Executive Officer's recommendation to the Chief Executive to acquire the derelict site compulsorily, dated 21st of October 2024
- A copy of the Chief Executive Order, dated 21st of October 2024
- Copies of the Notices served on Registered Owners
- Copy of the newspaper notice, dated 2nd November 2024
- Site Maps
- Copy of objection made by Matthew Brien (via e-mail)
- A report from Meath County Council which sets out the local authority's need to compulsory acquire the property, the background to the case and their comments regarding the objection received.

The report from Meath County Council (MCC) can be summarised as follows:

Background:

- June 2020 – MCC first inspected the property following a complaint from the adjoining property owner regarding the condition of the property and anti-social behaviour. At this time the property was seen to have been subject to fire. Waste from the property had been left on the site. The structural condition of the chimney was cited as a concern.
- 29th of June 2020 – MCC issued a Section 8(2) notice of intention to add the site to the Derelict site Register. Following the receipt of a submission committing to carry out works the decision was made not to add the property to the Derelict Site Registry.
- 1st of June 2023 – MCC inspected the site. At this time, it was noted that while some waste had been removed from the site the overall condition of the property had deteriorated with slipped roof tiles noted.
- 8th June 2023 – Section 8(2) notice of intention to add the site to the Derelict site Register was re-issued. At this time MCC were informed that Matthew Brien has been assigned the role of administrator of the estate and ownership was going through probate.
- 27th September 2024 – MCC received an e-mail from Mr. Brien outlining that a contractor had been appointed to remove overgrown vegetation from the site and that once completed the roof, and chimney would be repaired.
- 22nd May 2024 – MCC inspected the site to determine the level of repairs carried out. At this time, it was noted that while some vegetation had been removed, no works had been carried out to the structure. The condition of the chimney stack and roof tiles remained a concern.
- 4th June 2024 – The property was entered into the Derelict Site Register
- 23rd August 2024 – MCC inspected the property to determine its condition. The inspection found that the property remained in a derelict condition
- 22nd October 2024 – MCC signed a notice under Section 15 of the Derelict Sites Act 1990 as amended of intention to acquire the derelict property. The notice provided a deadline of 2nd December 2024 for submission.
- 21st November 2024 – MCC received a submission via email from Matthew Brien

- 2nd December 2024 – MCC received a telephone call and follow up e-mail from Mr. Brien.

MCC's Comment on Objection

- Despite commitments in 2020 and 2023, insufficient levels of work have carried out to remove the dereliction and the property remains in a ruinous state.
- Mr Brien fails in his submissions to reference what works will be carried out to remove the dereliction.
- MCC have engaged with Mr. Brien since 2020 and are of the opinion that sufficient time has been provided for the dereliction to have been removed or the site sold.
- MCC believe that without intervention the property will continue to remain in a derelict condition. This is a particular concern given the immediate risk of total collapse of the roof structure and that this property is semi-detached to a property with a young child.
- MCC note that the property had been in a derelict condition for some years prior to 2020.

4.4. Objectors Submission:

An objection was received from RVW O'Reilly Solicitors on behalf of Matthew Brien via e-mail on the 4th of February 2025. The submission comprises two letters, one from RVW O'Reilly Solicitors and one from Matthew Brien, these can be summarised as follows:

RVW O'Reilly Solicitors:

- The former owner of the property, Mr. Matthew O'Brien, died intestate in 2020. RVW O'Reilly Solicitors have been instructed to compile a list of beneficiaries, this work is ongoing.
- RVW O'Reilly Solicitors believe the property should not be acquired on a compulsory basis given that their client is in the process of extracting a grant of Administration Intestate and fully intends placing the property on the open market before finalising the administration of the estate.

- It is preferred that all beneficiaries of the estate are put on notice of the Administrators intention prior to placing the property on the market.
- It is believed that the property would receive a higher price on the open market and there is a concern that beneficiaries may take issue with the property being placed via CPO.

Letter of Mr. Brien:

- As Administrator of the estate of Matthew O'Brien, Mr. Brien is in the process of instructing an heir hunter to locate missing beneficiaries of the estate, consisting of property and a small sum of money.
- Mr. Brien is not in a position to renovate the property as per MCC requirements.
- Mr. Brien is surprised to hear of anti-social behaviour at the site given its rural location and has requested further information on the matter.
- MCC valuation of the property is a concern as it is believed that a higher price could be achieved on the open market.
- Mr. Brien contends that he should be allowed to sell the property (subject to probate) so that beneficiaries do not take issue with the low sum being offered.
- Mr. Brien requests that the property not be acquired by CPO due to concerns regarding the lack of input from beneficiaries.
- Mr. Brien intends to progress the application for the Grant of Administration Intestate as soon as possible and at the same time undertake to place the property on the open market. He hopes the property will sell quickly.

4.5. Oral Hearing

No request has been received for an Oral Hearing.

5.0 Planning History

There is no recent planning history on the subject property.

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 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.

6.1.2. 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 requires Local Authorities to establish a register of derelict sites in their functional area and to serve notices on occupiers/owners of their intention to do so.
- Section 9 places a duty on every owner and occupier of land, to take all reasonable steps to ensure that the land does not become or does not continue to be a derelict site.
- Section 10 places a similar duty on Local Authorities to take all reasonable

steps, including the exercise of any appropriate statutory powers, to ensure that any land in their functional area does not become or continue to be a derelict site.

- Section 11 enables Local Authorities to serve a notice on an owner or occupier of land, requiring them to take specified measures to prevent land becoming or continuing to be a derelict site.
- Section 14 provides that a Local Authority may acquire by agreement or compulsorily any derelict site situated in their functional area.
- Section 15 sets out arrangements for giving notice, if the Local Authority intend to acquire a derelict site compulsorily.
- Section 16 sets out arrangements if the owner/occupier wish to object to the acquisition. Specifically, section 16, as amended, provides that where an objection is made, the derelict site shall not be acquired compulsorily by the Local Authority without the consent of the Board.

6.2. Meath County Development Plan 2021-2027 (as varied)

6.2.1. The subject property is in the rural area of Co. Meath. The Meath County Development Plan 2021-2027 does not make specific reference to the Derelict Sites Act as amended nor does it include specific policies or objectives on measures to address dereliction in rural areas.

6.2.2. Regard is had to the following:

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.

RD POL 31 To encourage and facilitate the appropriate refurbishment of existing housing stock in rural areas and in certain limited cases the

replacement of existing dwellings subject to development assessment criteria outlined below.

7.0 Assessment

7.1. Site Inspection:

7.1.1. I did not gain access to the site on the date of inspection; however, I was able to view the subject property from the public road. My observations of the site on the date of the inspection include the following:

- The semi-detached dwelling was unoccupied and in a poor state of repair.
- Several roof tiles were missed leaving gaps in the roof for water ingress. Several more tiles were loose and at risk of falling. Fallen roof tiles were visible to the front of the property both in the overgrowth and placed against the front wall of the dwelling.
- The curtilage of the subject property was overgrown and unkempt as was the roadside boundary fronting the property.
- The adjoining semi-detached dwelling was occupied and well maintained.

I observed little evidence of any attempt to render the site non-derelict. It is evident from the photographs submitted by the local authority, which date back to June 2020, and from my observations on site, that the property has continued to deteriorate.

7.2. Category of Dereliction

7.2.1. I consider that the dwelling is in a ruinous, derelict and dangerous condition. The roof is missing several roof tiles with several more at risk of falling. Ingress of water is likely to contribute to damp and rot which is a concern given that the property is semi-detached. I also have concerns regarding the stability of the roof and the chimney. The property is not well secured and is I consider a danger to the public. I

therefore consider that the site falls under category (a) of Section 3 of the Derelict Sites Act 1990, as amended.

7.2.2. Based on my site inspection, it is my view that the subject property, both the dwelling and its curtilage are in a neglected, unsightly and objectionable condition. I note that the subject property is in a rural area alongside residential properties which are attractive and well maintained. I therefore consider that the site falls under Category (b) of Section 3 of the Derelict Site Act 1990, as amended.

7.2.3. Other than roof tiles in the front garden area, I observed no clear evidence of litter, debris, rubbish or waste at the subject property. I therefore do not consider that the site falls under Category (c) of the Derelict Sites Act 1990, as amended.

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/occupiers and the notice party (Matthew Brien) on the 29th of June 2020, and again on the 8th of June 2023, advising of the Local Authority's intention to enter the site on the Derelict Site Register. A Section 8(7) notice was served on the 4th of June 2024, advising that the site had been entered on the Derelict Sites Register. I have reviewed the Derelict Sites Register dated March 2025 which is available from Meath County Councils' website, and I note that the subject property is indicated to have been entered onto the Register on 04th June 2024, ref. no. DS-1077.

7.3.2. Notice of Meath County Council's intention to compulsorily acquire the site was served by way of a signed notice dated the 22nd of October 2024, affixed to the property itself; by way of email to the Notice Party (Matthew Brien) on the 25th of October 2024 and by advertisement in the Meath Chronicle Newspaper on 2nd November 2024.

7.3.3. 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.

- 7.3.4. 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. In this instance I note that Meath County Council have engaged with the Notice Party since 2020 with regards to the derelict state of the property. As set out in their report accompanying this application, they believe that sufficient time has been provided for the site to be made non-derelict or sold. It is their contention that without intervention this property will be subject to further deterioration and potential collapse with potential significant impacts on the adjoining residential property.
- 7.3.5. I accept that the Local Authority has taken steps in consultation with the notice party to bring the property out of dereliction.
- 7.3.6. Having regard to the foregoing I am satisfied that the Local Authority gave notice parties 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

The subject property is in the rural area of Meath. The Meath County Development Plan 2021-2027 does not make specific reference to the Derelict Sites Act nor does it include and specific policies or objectives on measures to address dereliction in rural areas. Notwithstanding, I am satisfied that the proposed compulsory acquisition of the subject property would not contravene the policies and objectives of the Development Plan. The proposal would ensure that the lands do not continue to be in a derelict state to the benefit of the area and neighbouring properties.

7.5. Action of the Owner to Address Dereliction

- 7.5.1. I note that an objection to the proposed acquisition of the site has submitted by RVW O'Reilly Solicitors on behalf of Matthew Brien, acting as administrator of the estate. The main basis for the objection is that the property is currently in probate and the full extent of beneficiaries to the estate is unknown. There is a concern that beneficiaries would take issue with the compulsory acquisition of the property. It is believed that the property would receive a higher price on the open market to the

benefit of beneficiaries. As per the details provided Mr. Brien is in the process of extracting a grant of Administration Intestate and he intends to place the property on the open market as soon as it is practicable to do so.

- 7.5.2. I note that the local authority has obligations (under section 9 of the Act) 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 be a derelict site. I also note that Meath County Council have engaged with Mr. Brien since 2020 regarding to the derelict state of the property.
- 7.5.3. Having inspected the site, there is little evidence of an attempt to render the property non-derelict. The semi-detached dwelling has continued to deteriorate and is in a ruinous and dangerous state. The overall property remains neglected and unsightly. Furthermore, I am not satisfied that there is any evidence to a conclusion that works to remove the dereliction would be completed in a timely manner.
- 7.5.4. 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, Dreminstown, Rathkenny, Co. Meath is granted.

8.0 Conclusion

- 8.1. I am satisfied that the process and procedures undertaken by Meath County Council have been fair and reasonable, that Meath County Council 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.
- 8.2. Having regard to the constitutional and convention protection afforded to property rights, I consider that the proposed acquisition of the at Dreminstown, Rathkenny, Co. Meath, C15 N227, as set out in the in the compulsory acquisition order and on the deposited maps, is 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. 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. Having regard to the observed condition of the application site, in particular the ruinous, derelict or dangerous condition of the structure and the neglected, unsightly and objectionable state of the land and the structures 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 of the Derelict Sites Act, 1990, as amended.
- 9.2. 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. 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.

Lucy Roche

Planning Inspector

12th May 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-321490-24		
Proposed Development Summary	Derelict site application to acquire a semi-detached dwelling		
Development Address	Dreminstown, Rathkenny, Co. Meath, C15 N227		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	
		No	X
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes		State the Class here.	Proceed to Q3.
No			No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes		State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required
No			Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes		State the relevant threshold here for the Class of development....	Preliminary examination required (Form 2)
5. Has Schedule 7A information been submitted?			
No	X	Pre-screening determination conclusion remains as above (Q1 to Q4)	
Yes		Screening Determination required	

Inspector: _____ Date: _____