



An
Coimisiún
Pleanála

Inspector's Report ABP-322276-25

Development	Derelict Site 24-26 Market Street Monaghan H18 X051
Location	24-26 Market Street Monaghan H18 X051
Planning Authority	Monaghan County Council
Notice Party	MCB Woodberry Ltd, c/o Jim McBride, Ballymacforban, Co Monaghan
Date of Site Inspection	28/07/2024
Inspector	Darragh Ryan

1.0 Introduction

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

2.0 Site Location and Description

- 2.1. The subject site is located within 24-26 Market Street Monaghan H18 X051 a fire damaged mid terrace three storey derelict property in the town centre. It is indicated the property was occupied until a fire in the premises in 2017. The site is a prominent site within the town centre. The ground floor of the property has been hoarded up and the property remains in a derelict state
- 2.2. My observations of the property on the date of the site inspection included the following;
- The property was vacant.
 - The north of the property was most severely damaged by the fire
 - There are 4 windows missing
 - The front façade of the building is damaged.
 - Signage is in a poor state of repair
 - There rainwater goods on the north of the property are broken/missing
 - Access to the rear or the inside of the property was not possible. The site is hoarded up with no access available.

3.0 Legislative Context

Derelict Sites Act 1990, as amended

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.

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."

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 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 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 their functional area.

Section 15 sets out arrangements for giving notice, if the local authority intend to acquire a derelict site compulsorily, and section 16 sets out arrangements if the owner/occupier wish to object to the acquisition. Specifically, section 16, as amended, provides that where an objection is made, the derelict site shall not be acquired compulsorily by the local authority without the consent of the Board.

Planning and Development Act 2000, as amended

Planning and Development Regulations 2001, as amended

4.0 Application for Consent for Acquisition

- 4.1. Monaghan County Council has applied to the Coimisiun for consent to compulsorily acquire the site under Section 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 27th of March 2024 (advising of the Local Authority's intention to enter the site on the register of derelict sites), and), and under Section 8(7) on the 3rd of September 2024 (advising of the Local Authority's decision to enter the site on the register of derelict sites).

5.0 Application and Objection

5.1. Notice of Intention to Acquire

Notice of Monaghan County Council's intention to acquire the site was served on Owner/ Occupier & Jim McBride in a letter dated 4th of February 2025 and was published in the Northern Standard newspaper on 6th of February 2025. The site was described as follows in the notices:

- DESCRIPTION OF DERELICT SITE PROPOSED TO BE ACQUIRED

24 -26 Market Street, Monaghan Co Monaghan—A map of the said derelict site has been deposited to the Planning Offices of Monaghan County Council.

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

5.2. Objection to Acquisition

An objection to the proposed compulsorily acquisition was submitted to Monaghan County Council on 7th of March 2025 by Shane Kennedy & Company on behalf of the owners. The objection can be summarised as follows:

- The owner is in the process of an application for Exempted Development in respect of the "Restoration and Conversion of existing vacant commercial

building to create ground floor retail and 9 residential apartments” Ref EX 24/117)

- The owners have taken all reasonable steps and continue to take all reasonable steps to bring the site back into beneficial use.
- The owner originally sought planning permission to provide for 22 affordable homes at this location. However, after the further information request and the cost of consultant reports, it was considered an application for a smaller scheme would be more suitable. The exemption certificate process is still ongoing with additional information sought.
- The Derelict Sites legislation sets out the Duty of the Local Authority as well as the owner to take all reasonable steps to ensure that any land situate in their functional area does not become or continue to be a derelict site. The local authority should in this instance work closely with the owner of the site and flexibly interpret legislation in favour of bringing expeditious development of the derelict site. It is considered that the local authority has failed in its duty of care to take all reasonable steps to ensure that the land does not continue to be a derelict site.

5.3. Local Authorities Application or Consent

The Local Authority requests the consent of the Board to the compulsory acquisition of the derelict site. The application for consent was submitted on the 10th of April 2025 and was accompanied by the following:

- Local Authority Compulsory Acquisition Report (i.e. Derelict Site report) which sets out a description of the site, the background to the case and the details of the objection. The report included photographs and a map of the site area.
- Copy of the section 15 Notice served on the owner and occupier of the property, dated 4th of February 2025.
- Copy of the newspaper notice, dated 6th of February 2025
- Copy of objection made by Shane Kennedy & Company on behalf of MCB Woodberry Ltd,

The derelict site report can be summarised as follows:

- Planning Site History
- The property remains to be in a derelict state with no change. The local authority considers the site meets the definition of Derelict Site under the Derelict Sites Act 1990.
- The property is considered derelict as in its current state the property detracts from the streetscape and operation of the street. The timber hoarding has fallen on a number of occasions and Monaghan County Council have had to intervene to replace the hoarding.
- The building contains hazardous material that needs to be removed to allow development to proceed.
- The windows have fallen out and the property is open to the elements. The front of the building has a grubby/dirty appearance with paint peeling and discoloration on the walls.
- By virtue of the length of time since the initial fire in the property, the prominence and importance of the property in the townscape of the town, the impact of the continued dereliction on the operation of the town and immediate neighbours, as well as the absence of any substantive action by the applicant in respect of remedying the dereliction it was considered reasonable for the local authority to progress to compulsorily acquire the property.

Objector's Submission to the Board

There are no further submissions to the Board

6.0 Relevant Planning History

- PA Reg: Ref: 22/343 –On the 28/07/2022 Permission sought for the demolition and replacement of the existing unsafe fire damaged buildings on Market Street, the creation of a new vehicle and pedestrian access onto Market Street to serve the development, the creation of 1 commercial unit and 28 no 1- & 2-bedroom apartments in 3 & 4 storey buildings.

13 points of further information were requested. After being granted an extension of time with which to apply the application was withdrawn on 4/09/2023

- Exempted Development Application received on 11/10/2024. Additional information sought on 2/01/2025 requesting 6 items of clarification. No exemption cert has been issued to date.

7.0 Policy Context

Monaghan County Development Plan 2025 -2031

SHO 1 - To facilitate the development of Monaghan Town in order to maintain its position as the Principal/Key Town in the County at the top of the settlement hierarchy and to ensure that its population and development growth takes place in an orderly and sustainable manner.

RT0 -1 To protect the vitality and viability of the town centres as the principal shopping area by encouraging development that would maintain and consolidate the retail core (as defined by the town centre zoning) of the towns.

6.17.2 – Architectural Conservation Areas

ACP 1 To resist development that would adversely affect the character and appearance of the Architectural Conservation Areas. New development or alterations to existing building(s) in an Architectural Conservation Areas shall reflect the historic architecture in terms of scale, design and materials used. Regard shall be had to any objectives contained in the character appraisals (where applicable).

TCO1 To promote and develop the town centres as the principal location for retail, office, leisure, entertainment, cultural and service uses and to encourage the refurbishment, renewal and re-use of existing buildings and derelict sites within it.

9.3.1 Derelict Sites

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 in the neighbourhood of the land in question because of:

- The existence on the land in question of structures which are in a ruinous, derelict or dangerous condition, or
- The neglected, unsightly or objectionable condition of the land or any structures on the land in question, or
- The presence, deposit or collection on the land in question of any litter, rubbish, debris or waste.

The Derelict Site Act 1990 affords Local Authorities the power 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 Protected Structure from becoming or continuing to be endangered.

Monaghan County Council maintains a register of derelict sites in its area. Owners of urban land entered on the Derelict Sites Register are liable to pay an annual levy to the Local Authority. Monaghan County Council will continue to investigate and prioritise reports of dereliction and take relevant action, in accordance with the Derelict Sites Act 1990, in an effort to have the dereliction abated and ensure the re-use of existing urban lands throughout the County.

7.1. Assessment

Site Inspection

- 7.1.1. Internal access to the property was not possible on the date of my site inspection on the 28th of July , however, I was able to view the site from the public road. The property was vacant and in a derelict state.
- 7.1.2. I note the timber hoarding to the front of the property that projects onto the street. The property is fire damaged and there are 4 windows missing from the front of the property. The front façade is in a poor state of repair with some of the signage from

ground floor removed/damaged. The rainwater goods are also missing from the development. The property appears in a neglected state. It is very unsightly and detracts to a significant degree from the amenity of the streetscape and town centre. I consider the development impacts upon the operation of this part of town owing to size and nature of hoarding and impacts negatively upon operation of neighbouring properties. The development is in a prominent location and its current neglected state impacts the amenity and character of the area.

7.2. Category of Dereliction

- 7.2.1. Based on my site inspection and having regard to paragraph 7.1 above, it is my view that the subject structure and lands fall under Categories (b) of Section 3 of the Derelict Sites Act 1990, as amended:

(a) The lands and structure are in a neglected, unsightly and objectionable condition.

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

7.3. Actions of Local Authority

- 7.3.1. I note that the local authority sent a Section 8(2) notice to Jim McBride on the 27th of March 2023. A Section 8(7) notice was sent to the owner on 3rd of September 2024. I note a meeting was held on the 13/06/2024 between the planning office and representatives of the owners of the building and it was agreed a Section 5 exempt cert application would be applied for. (Record of meeting has been provided with the application)
- 7.3.2. Exemption Development Application was received by Monaghan County Council on the 11/10/2024. Additional Information was sought on the 2/01/2025 and due to the continued derelict site of the property it was determined there was no clear path to a resolution. A notice under Section 15 (1) of the Derelict Site Notice was issued on the 4/01/2025.
- 7.3.3. I note the responses of representative of the owner to the Section 15 notices, objecting to the potential acquiring of site under the Derelict Sites Act. (summarised under Section 5.2 above)

7.3.4. I also note correspondence between the owners of the property and the local authority under Section 22 (3) of the Derelict Sites Act outlining that the site has been entered in the Derelict Sites register on 3rd of August 2024. The council has had the property valued for the purposes of charging the Derelict Sites levy as prescribed under Section 23 of the Act. The levy will be seven percent of the market value of the property per annum.

7.3.5. Having regard to the above, I am satisfied that the local authority complied with the requirements of Section 6, Section 8(2), and Section 15 of the Derelict Sites Act 1990, as amended. I am also satisfied that the local authority has given sufficient time and opportunity to address the dereliction as the Section 8(2) notice was first served over 2 years ago. Therefore, I am satisfied that the efforts of the local authority have been fair and reasonable and in accordance with the legislation.

7.4. Compliance with development plan policy

7.4.1. I note that the Monaghan County Development Plan 2025 -2031, specifically Policy TCO 1 seeks to address instances of dereliction and decay in the urban environment, seeks to reuse and revitalise derelict, vacant and underutilised sites and disused buildings and bring properties back into active reuse.

7.4.2. Therefore, I consider that the subject property and 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.

7.5. Actions of the Owner to address dereliction

In 2022 the applicant applied for planning permission to redevelop the site, however after a request for further information the application was deemed withdrawn.

In 2024 an exempt cert was applied for to carry out works under the Section 5 regulations. The planning authority sought additional information. To date no exemption certificate has been issued.

Having regard to the above, it is my view that the owner has not taken material steps to address the dereliction. 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.

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 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 Derelict Site comprising a three storey building and surrounding land situate at 24-26 Market Street, Monaghan, as set out in the Derelict Site Notice issued under Section 15(1)(b) of the Derelict sites Act 1990, (as amended) and dated 4th of January 2025 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 Coimisiun and am satisfied that the acquiring authority has established that none of the alternatives are such as to render the means chosen and the proposed compulsory acquisition made by the acquiring authority unreasonable or disproportionate.
- 8.4. The effects of the proposed 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 2025-2031, and specifically Policy Objective TCO1 which seeks to address instances of dereliction and decay in the urban environment, seeks to reuse and revitalise derelict, vacant and underutilised sites and disused buildings and bring properties back into active reuse. Accordingly, I am satisfied that that the confirmation of the CPO 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 neglected, unsightly and objectionable state 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 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 Coimisiun grant consent to Monaghan County Council to compulsorily acquire the site.

10.0 Reasons and Considerations

Having regard to the condition of the structure and to the neglected, unsightly and objectionable state of the land and structure, having considered the objection 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 2025-2031,

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 sections 3(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.

Darragh Ryan
Planning Inspector

11th of August 2025