



An
Bord
Pleanála

Inspector's Report 18.CD.3035

Nature of Application

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

Location

74 Glaslough Street, Monaghan, Co. Monaghan

Local Authority

Monaghan County Council

Notice Party

Michael McCarron

Date of Site Inspection

23rd May 2017

Inspector

Deirdre MacGabhann

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1.0 Introduction

- 1.1. This file relates to a request by Monaghan County Council for the consent of An Bord Pleanála to the compulsory acquisition of the subject site, 74 Glaslough Street, Monaghan, Co. Monaghan, in accordance with the provisions of the Derelict Sites Act, 1990, as amended.

2.0 Site Location and Description

- 2.1. The application site is situated at no. 74 Glaslough Street in Monaghan Town. Glaslough Street extends in a north easterly direction from the town centre. It is characterised by predominantly two storey, terraced development. Land uses are mostly commercial with some residential uses apparent, in particular, at first floor level and towards the northern end of the street. Whilst there are a number of vacant units along the street, they are all generally in a good state of repair.
- 2.2. No. 74 Glaslough Street is a small two bay, two storey over basement mid terrace house with a gable roof. To Glaslough Street there is a main door to the property, with stepped access from the pavement, and a sliding sash window to its side serving the internal accommodation at ground floor. At first floor are two smaller sliding sash windows. Access to the rear of the property, from Glaslough Street, is via an integral open doorway (passageway) to the south end of the front elevation. To the rear, 74 Glaslough Street is three storey, again traditionally with sliding sash windows. The rear yard is overgrown and is directly accessible from the adjoining public car park (overlooking Peter's Lake).

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. A section 8(2) notice, advising of the local authority's intention to enter the site on the register of derelict sites, was served on the owner/occupier on the 20th June 2016 (see attachments). The site was subsequently entered into the derelict sites register (28th July 2016) and the owner/occupier was advised, under section 11 of the Act, to undertake certain measures to prevent the site from becoming/continuing to be a

derelict site on the 4th August 2016. These measures included repair and painting of windows to the front and rear elevation, painting the front and rear wall of the building, cleaning and painting the front door of the building, replacing the boarded up doorway to the rear of the building, replacing the downpipe to the rear of the building and removing litter, rubbish, debris and overgrowth from the rear of the property.

4.0 Application and Objection

4.1. Notice of Intention to Acquire

- 4.1.1. Notice of intention to acquire the site compulsorily was published the 22nd February 2017 and published in the Northern Standard on the 23rd February 2017.

4.2. Objection to Acquisition

- 4.2.1. An objection to the proposed acquisition was submitted to Monaghan County Council on 20th March 2017 by Michael McCarron, the stated owner of the property, making the following arguments:

- The property was purchased in 1998 for £90,000 (punt)/€115,000, well before the property prices peaked in 2007.
- It was his intention to redevelop and modernise the premises for retail business and accommodation use. In pursuit of this, he spent a substantial sum of money between 2002 and 2006 on development costs including, drawings, archaeological investigations and planning costs. Full planning permission was granted in 2006, but before works could commence, the economic downturn forced him to put his plans on hold.
- Over the past 30 years he has operated businesses in Monaghan Town and invested heavily in the town over those years. In 1993 he demolished and redeveloped his premises on Dublin Street. This work was carried out despite the area having been excluded from the urban renewal tax incentive that existed at the time.

- His track record shows that he is committed to the town and its future. All relevant documentation relating to the proposals outlined above are on file in the planning section of Monaghan County Council.
- When the local retail economy improves, it is his intention to revisit his plans and complete the redevelopment project.

4.3. Local Authority's Application for Consent

4.3.1. The Council requests the consent of the Board to the compulsory acquisition of the derelict site on the following grounds:

- A visual, external inspection of the building on the 22nd February 2016 by the Executive Planner observed the following:
 - Front elevation – Windows in poor repair, with paintwork peeled and glass panes broken. Front door, dirty in appearance. Some plaster had peeled from the front wall. Moss had grown on the steps and railings which had an unclean appearance. A partial door frame remained to the side entry at the front of the property which allows entry to the rear of the property, there was no door attached.
 - Rear of building – Walls were dirty with some vegetation having grown on it. A portion of the downpipe had been removed from the lower portion of the wall. There were four windows at first and ground levels which had been broken. A door had been boarded up at basement level. Birds, including pigeons were visible within the building. The garden area was overgrown and litter was present. Harris style fencing had been erected to the rear of the property.
- A section 8(2) Notice of intention to enter the site on the register of derelict sites was served (addressed to owner/occupier) attached to the front of the property on the 20th June 2016.
- Following observation on the 24th June 2016 that the notice had been removed, a further section 8(2) Notice was served attached to the front of the property on the 29th June 2016.

- Michael McCarron contacted the office on 8th July 2016 and confirmed that he owned the property although it was under administration of the banks. Michael McCarron advised that the ownership map was incorrect as it extends to the car park area that the Council had surfaced.
- A section 8(7) Notice of entry on the register was served (addressed to owner/occupier) attached to the front of the property on 28th July 2016.
- A section 11 Measures Notice requiring improvement works was served (addressed to owner/occupier) attached to the front of the property on the 4th August 2016.
- Section 22 Notices of valuation were served (addressed to owner/occupier) attached to the front of the property on 11th January 2017 and on Michael McCarron, Dublin Street, Monaghan (also on 11th January 2017).
- Section 15 Notices of intention to acquire compulsorily were served (addressed to owner/occupier) attached to the front of the property on 22nd February 2017 and on Michael McCarron (also on 22nd February 2017).
- On the 19th August 2017, the local authority met with Michael McCarron at his premises on Dublin Street and advised him of his duty to carry out the necessary works to the property and that the local authority had taken a stance to address dereliction in the town centre. Michael McCarron advised that he did not have the financial resources to renovate the property but would address the measures required in the notice.
- No improvements works, detailed in the Section 11 Measures Notice, have been carried out to the property since the inspection of the property on the 22nd February 2016.
- Mr Mc Carron appears not to be in a position financially to be able to address the dereliction of the property.
- In the 2016 Census, Monaghan Urban area had a 20.6% vacant dwelling rate. A land use survey performed in November 2016 as part of a Town Centre Health Check revealed a 23% vacant retail occupancy rate in the town centre. These vacancy figures are high, and derelict properties contribute strongly to these figures. The LA is actively pursuing derelict properties in the town. The

acquisition would present an opportunity to bring this property into a suitable town centre use, possibly by a combination of office and residential, as there currently is demand in the town centre for both uses.

4.4. Objector's Submission

4.4.1. In response to the application to the Board for consent for compulsory acquisition of no. 74 Glaslough Street, the owner of the property makes the following arguments:

- It is the objector's intention to redevelop and modernise the premises for retail and accommodation use in the future.
- The objector has a mortgage on the property, but it is not under administration by any Bank.
- The map indicating the extent of the property is incorrect. The property includes land which the local authority has surfaced and have used for public car parking without the permission of the objector for several years. Previously drainage pipes were laid across this part of my property which have since been removed and re-routed around the plot at the request of the objector.
- Planning Permission for a new development has been granted, on this plot Ref. no. M.T.05/43 (04/05/2006).
- The property was purchased in 1998 long before property prices peaked. The objector had every intention to redevelop this property, with full planning permission granted, but due to the economic downturn this project was put on hold.
- The objector states that he will make improvements to the property going forward but his original project will have to wait on an upturn in the local economy.
- The local authority valuation of the property and the speed with which they forwarded the compulsory purchase proposal is questionable.

- The planning authority has no knowledge of the objector's financial position and is incorrect to state that he is not in a position to be able to address the dereliction of the property.

5.0 Planning History

5.1. There are two planning applications made in respect of the application site, made in 1998 and 2005, as follows:

- PA Ref. MU 83/98 – Permission granted on the site, subject to conditions, for the demolition of the existing extension and dilapidated out buildings to the rear of the building, change of use of existing building, construction of new extension, including shop fronts to rear, to provide extended commercial space, private living accommodation, separate shop unit and new access from Peters Lake Car Park to rear of premises.
- Under PA ref. 0530043¹ - Planning permission was granted in 2006, subject to conditions, for the change of use and alteration of the existing two storey derelict dwelling (with basement and derelict yard to rear) and extension to the rear to provide retail units at basement and ground floor and apartments at first and second.

6.0 Policy Context

6.1. Development Plan

6.1.1. The application site falls within the administrative area of the Monaghan County Development Plan 2013 – 2019. Monaghan Town Development Plan is provided in Chapter 9 of the County Development Plan. The site lies on land zoned for Town Centre uses and within the wider Zone of Archaeological Importance for Monaghan Town. Specific policy objectives for town centre development include MNO2 '*Carry out environmental improvement schemes at Church Square, Dawson Street, Park Street, Glaslough Street, Dublin Street, Hill Street and Mill Street*'

¹ This is the same planning application as that referred to by the objector MT 05/43. The different reference numbers occur due to use of the Monaghan County Council referencing system, replacing the Monaghan Town Council referencing system).

6.1.2. A number of properties along Glaslough Street are identified as protected structures, but none directly abutting or opposite the subject site (see attachments). However, the property, constructed between 1810 and 1830, is listed in the National Inventory of Architectural Heritage, ref. no. 41303076, and appraised as follows *'This is one of the more modest street houses in Monaghan Town, but it retains much of its early character through the retention of timber sash windows of varied types. Its integral accessway leading to the backlands is a typical feature in provincial towns. The flight of well wrought sandstone steps and landing is an attractive element that highlights the topography of the street'* (see attachments).

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 land owners 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 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. 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.

7.0 Assessment

- 7.1. Internal access to No. 74 Glaslough Street was not sought. The site inspection was carried out from the public road, public car park to the rear of the site and from the external yard of the property.
- 7.2. No. 74 Glaslough Street is a small but an attractive historic property in Monaghan Town, which retains its early character. It is currently in a condition of disrepair. From Glaslough Street the building appears neglected and unsightly with window panes broken and pigeons inhabiting the building. The condition of the building contrasts with the generally well-kept nature of buildings in the vicinity of Glaslough Street (see attachments).
- 7.3. To the rear, No. 74 Glaslough Street windows are missing and of those that remain, many are broken. The downpipe to the centre of the rear wall is truncated and ivy is evident on part of the back wall and side passageway. The rear yard is overgrown, rubbish evident within it and Heras fencing has fallen down. Again, the neglected appearance of the property is at odds with the appearance of the adjoining properties (and public car park) which are generally in a good state of repair.
- 7.4. Having regard to the above, I would consider that the property falls within categories (b) and (c) of section 3 of the Derelict Sites Act, 1990. Notably, (b) the property is

neglected and unsightly, and (c) litter, rubbish and debris are present on the site (rear yard). Collectively, the property demonstrably detracts from the amenity, character and appearance of land in the vicinity of the site, which in my view, renders it derelict under section 3 of the Act.

- 7.5. I note the actions of the planning authority and the statutory notices served on the owner/occupier in respect of the building, for instance, notifying the owner/occupier of the local authority's intention to place the site on the register of derelict sites, the placing of the site on the register and of improvement measures required to be carried out. At each instance, the owner/occupier has had the opportunity to carry out repair works and remedy the situation. For instance, under section 8(3) of the Derelict Sites Act, the planning authority may remove an entry from the register if they no longer consider it appropriate.
- 7.6. I note the arguments made by the objector, in particular the extant planning permission granted in respect of the site, granted in June 2006. I also am cognisance of the downturn in the property market since 2007 and difficulties associated with implementing the permission in this environment. However, from the site inspection of the site, it is evident that basic repair/maintenance works at the property have not been carried out, including the measures set out by the local authority in their section 11 Notice (4th August, 2016). Further, the owner has not put forward any substantial reason why these works could not be carried out.
- 7.7. Having regard, therefore, to the all of the information available of the file and the continued appearance and condition of the property, which as stated constitutes a derelict site, I consider that it is appropriate, therefore, that the local authority's application for consent to compulsorily acquire no. 74 Glaslough Street is granted.

Ownership

- 7.8. I note the observer's argument with respect to the extent of the boundary of the property. However, this is a legal matter which lies outside the scope of this assessment. I am otherwise satisfied that the property in question sought for acquisition constitutes a derelict site.

8.0 Recommendation

- 8.1. Having regard to the observed condition of no. 74 Glaslough Street, in particular its neglected and unsightly state and the presence of litter and rubbish on the site, 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.
- 8.2. 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, therefore, that the Board grant consent to Monaghan County Council to compulsorily acquire the site.

9.0 Reasons and Considerations

Having regard to:

- (a) The neglected, unsightly and objectionable condition of the site,
- (b) The overgrown character of the site and presence of litter and rubbish on it,

It is considered that the site detracts to a material degree from the amenity, character and appearance of land in the neighbourhood and, therefore, comes within the definition of a derelict site as defined in section 3 (b) and (c) of the Derelict Sites Act, 1990, as amended, and that the acquisition of the site by the local authority is necessary in order to render the site non-derelict and to prevent it continuing to be a derelict site. It is also considered that the objection made cannot be sustained having regard to that said necessity.

Deirdre MacGabhann
Senior Planning Inspector
19th June 2017