



An
Bord
Pleanála

Inspector's Report PL18.CD3038.

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

12 Church Street Ballybay, Co. Monaghan.

Local Authority

Monaghan County Council.

Notice Party

Damien McCooey.

Date of Site Inspection

25th August 2017.

Inspector

Karen Kenny.

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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 for the compulsory acquisition of the subject site, No. 12 Church Street, Ballybay, Co. Monaghan, in accordance with the provisions of the Derelict Sites Act, 1990, as amended.

2.0 Site Location and Description

- 2.1.1. The site is located on Church Street, Ballybay. Church Street is an east – west street that links lower Main Street to the Church of Ireland. The site is bounded by residential properties to the east and west, and land uses along the street are primarily residential.
- 2.1.2. The subject site is a mid-terrace site that fronts onto the northern side of Church Street and backs onto a rear laneway. There is a two storey terraced dwelling on the site, that is set back from the street by approximately 1 metre and a garden area to the rear.

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 6th January 2017 (see attachments). A section 8 (7) notice, advising of the local authority's decision to enter the site on the register of derelict sites, was served on the owner / occupier on 27th February 2017 (see attachments).

4.0 Application and Objection

4.1. Notice of Intention to Acquire

- 4.1.1. Notice of intention to acquire the site compulsorily was served on the owner/occupier of the site on the 17th May 2017 and published in the Northern Standard Newspaper on the 18th May 2017.

4.2. **Objection to Acquisition**

4.2.1. An objection to the proposed acquisition was submitted to Monaghan County Council on the 30th May 2017 by Mr. Damien McCooey making the following arguments:

- I recently purchased the property and attach documents confirming the transaction. A conveyance agreement dated 3rd May 2017 is included with the objection.
- I intend to make contact with Monaghan County Council with a view to discussing the renovation of the property for domestic accommodation.

4.3. **Local Authority's Application for Consent**

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

- The property remains a derelict site.
- Ballybay urban area had a 42.4 percent vacant dwelling rate in Census 2016.
- The Local Authority is actively pursuing derelict properties in the town.
- The acquisition would present an opportunity to renovate the property and to use it for social housing.

4.4. **Objector's Submission**

No objection on file.

5.0 **Planning History**

PA Ref. 02/761: Renovate and extend derelict dwelling house to provide 2 no. townhouses, including two storey extension to the rear at no. 12 Church Street. Permission Granted.

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. The Ballybay Town Development Plan is provided in Chapter 13 of the County Development Plan. The site is zoned for Town Centre uses. Specific policy objectives for town centre development include the following:

- BBO2: Protect and conserve the streetscape character, and heritage of the town with particular emphasis on the Square and Main Street.
- BBO6: Regenerate the town centre as a residential, retail and services centre and encourage the refurbishment, renewal and re-use of existing buildings and derelict sites.

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. The subject application relates to no. 12 Church Street, a residential property that contains a two storey dwelling. Internal access to No. 12 Church Street was not sought. The site inspection was carried out from the public road to the front of the property and from a laneway and the rear garden area to the rear of the property.

7.2. No. 12 Church Street is a traditional three bay mid-terrace dwelling with a garden area to the rear. The dwelling is set back from the street by approximately one metre and has a small single storey porch to front that extends to the road edge. There is a low wall with railings to the front of the dwelling.

7.3. The dwelling is in a state of disrepair and has been subject to fire damage. From Church Street the building appears neglected and unsightly, as the roof is almost entirely collapsed, all windows are absent and the paint work on the front elevation has pealed. Internally, ceilings and floors are absent and the internal walls appear to be in a state of disrepair and to be structurally unsound. There is a more recent

extension to the rear of the property that is incomplete, with incomplete roof, exposed block work and no windows or doors. The rear garden area is also overgrown. In addition, the condition of the roof of the original structure, and the condition of internal walls would suggest that the structure is in a dangerous condition and it is considered that in its current state, it would not be possible to render the structure suitable for habitation.

- 7.4. The building appears neglected and unsightly from Church Street and from the laneway to the rear and contrasts with the generally well-kept nature of buildings in the vicinity of Church Street.
- 7.5. Having regard to the above, I would consider that the property falls within categories (a) and (b) of section 3 of the Derelict Sites Act, 1990. Notably, (a) the structure is in a ruinous, derelict and dangerous condition; and (b) the property is neglected and unsightly. 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.
- 7.6. I note the actions of the planning authority and the statutory notices served on the owner/occupier in respect of the building. 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 6th January 2017. A section 8 (7) notice, advising of the local authority's decision to enter the site on the register of derelict sites, was served on 27th February 2017. A section 15 (1) (a) notice of intention to acquire the site compulsorily was served on the 17th May 2017 and published in the Northern Standard Newspaper on the 18th May 2017. I note that there is a report on the file dated 23rd March 2016, setting out the measures that are considered necessary in order to prevent the land from becoming or continuing to be derelict. A section 11 notice, directing the owners to undertake the measures would not appear to have been issued.
- 7.7. I note the objection made by the owner on 30th May 2017 to the proposed acquisition of the site, indicating that the objector has recently purchased the property (including conveyance details dated 3rd May 2017) and that he intends to renovate the property for domestic accommodation. Notwithstanding this, there was no evidence of any attempt to secure the property or to make it non-derelict at the time of inspection.

The property continues to be exposed and to be in a ruinous, derelict and dangerous condition.

- 7.8. 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 that the local authority's application for consent to compulsorily acquire No. 12 Church Street is granted.

8.0 Recommendation

- 8.1. Having regard to the observed condition of No. 12 Church Street, in particular its ruinous, derelict and dangerous state and neglected and unsightly state, 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 ruinous, derelict and dangerous condition of the site, and
- (b) The neglected, unsightly and objectionable condition of the site,

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 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.

Karen Kenny
Senior Planning Inspector
13th October 2017