



An  
Bord  
Pleanála

## Inspector's Report 18.CD3039

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### 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

North Road, Monaghan, Co.  
Monaghan.

### Local Authority

Monaghan County Council

### Notice Party

Darra MacNamara

### Date of Site Inspection

14<sup>th</sup> September 2017

### Inspector

Niall Haverty

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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 at North Road, 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 North Road in Monaghan Town Centre. North Road extends in a north-south direction in the vicinity of the application site, and intersects with Mill Street to the south. The area is generally characterised by two to three storey commercial development, with some residential uses apparent.
- 2.2. The site in question extends to 53 sq m and it is fully occupied by a small two storey structure with a dashed render finish and pitched slate roof. The structure has a gable wall facing onto North Road which does not have any openings at ground level, while a first floor level opening has been blocked up. The southern elevation of the building has been exposed following the demolition of an adjoining building to the south, and features exposed stonework and large openings which appear to have originally been internal. The area to the south of the application site is now occupied by a yard area with hoarding along North Road. To the south of the yard area is a two storey stone-faced building at 4-5 Mill Street. The building is a protected structure and the Board has recently granted consent to Monaghan County Council for the compulsory acquisition of the building and the vacant yard area (Ref. 18.CP3001).
- 2.3. A two storey commercial building occupied by Monaghan Integrated Development adjoins the structure on the application site to the north and west.

## 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. While a derelict site report dated 14<sup>th</sup> September 2016 recommends that a section 8(2) notice be served on the owner, advising of the Local Authority's intention to

enter the site on the register of derelict sites, there is no evidence on file that the notice was subsequently served. Neither is there evidence on file regarding whether a subsequent 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.

## **4.0 Application and Objection**

### **4.1. Notice of Intention to Acquire**

4.1.1. Notice of Monaghan County Council's intention to acquire the site compulsorily was served on the owners/occupiers (Mr Darra McNamara and Mr John McElvaney) in letters dated 17<sup>th</sup> May 2017 and was published in the Northern Standard newspaper on the 18<sup>th</sup> May 2017. The site was described as follows in the notices:

- Derelict site at North Road, Monaghan, Co. Monaghan, bounded to north and west by two storey building, to the south by yard area and the east fronting on the North Road.

4.1.2. I consider that the notices were in accordance with the requirements of section 15(1)(a) of the Derelict Sites Act 1990, as amended.

### **4.2. Objection to Acquisition**

4.2.1. An objection to the proposed acquisition was submitted to Monaghan County Council by Darra MacNamara in a letter dated 12<sup>th</sup> June 2017. Mr MacNamara's objection can be summarised as follows:

- The building and attached site are now sale agreed.
- In a previous meeting with Monaghan County Council, it became clear that they had no strategic interest in acquiring the structure and were doing so as a last resort as a result of years of neglect by the owners.
- At that time the building was under offer, but the prospective purchaser subsequently withdrew.
- In March 2017 the property became sale agreed but it would appear that the process is moving slower than would be ideal.

- The basis for the objection is purely a pragmatic one, as it would appear that the purchaser plans to develop the site as the Council have been striving for.
- Taking at face value that the Council is only seeking to acquire the site compulsorily as a last resort, this would now seem to be no longer necessary.

#### 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 and the application for consent was accompanied by the following:

- Map of the site area.
- Copy of the notices served on the owners of the site.
- Copy of the newspaper notice.
- Copy of objection made by Mr MacNamara.
- Local Authority's comments on the objection.
- Photographs of the site.
- Copy of the Planner's derelict site report, dated 14<sup>th</sup> September 2016.

4.3.2. The Local Authority's comments on the objection can be summarised as follows:

- It would appear that the sale has not been finalised and the property remains a derelict site.
- In the 2016 Census, Monaghan Urban Area had a 20.6% vacant dwellings 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 Local Authority 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 a combination of office and residential, as there currently is demand in the town centre for both uses.

4.3.3. The derelict site report can be summarised as follows:

- Site is c. 53 sq m and contains a two storey building.

- The southern end of the building abutted the former Dieselec building that was demolished c. 2014, leaving exposed impression and internal walls and openings from the demolished building.
- The remaining elevations abut other properties.
- The site is considered to be derelict in that it detracts 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.
- Recommend that a notice under section 8(2) of the Derelict Sites Act be served on the owner of the property.
- Measures required:
  - Plaster and paint the southern end wall and the eastern front wall of the building.
  - Fit windows/doors to openings on southern end of the building.

#### 4.4. Objector's Submission

- None.

### 5.0 Planning History

#### 5.1. Application Site

5.1.1. I am not aware of any relevant planning history on the site.

#### 5.2. Surrounding Area

5.2.1. **Ref. 18.CP3001:** The Board granted consent on 15<sup>th</sup> September 2017 to the compulsory acquisition of a protected structure, namely, Nos. 4 – 5 Mill Street,

Monaghan, Co. Monaghan, following an application by Monaghan County Council under the provisions of section 73(4) of the Planning and Development Act 2000, as amended.

- 5.2.2. Nos. 4 – 5 Mill Street and its associated yard area are located immediately to the south of the application site and I note that both sites would appear to be in the same ownership.

## 6.0 Policy Context

### 6.1. Development Plan

- 6.1.1. The applicable Development Plan is the Monaghan County Development Plan 2013 – 2019, with the Monaghan Town Development Plan set out in Chapter 9 of the County Development Plan. The site and surrounding area are zoned ‘Town Centre’ and are within the Area of Archaeological Importance for Monaghan Town.
- 6.1.2. 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’.

### 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 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. 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 the structure on the site was not possible on the date of my site inspection and I instead carried out my site inspection from the public road.

7.2. The structure is in a state of disrepair, with its southern elevation exposed and internal walls and openings left open to the elements following the demolition of the adjoining building to the south. The imprint of the demolished building is apparent in the exposed stonework on the southern elevation, which is deteriorating. While the roof appears reasonably intact, there is vegetation growing at eaves level which appears to be spreading along the gutter. From North Road the building appears neglected and unsightly, with no openings at ground floor level and a blocked up



opening at first floor level occupied by a for sale sign. North Road is a busy commercial street in the centre of Monaghan Town and is generally well-kept with the exception of the application site and the adjoining site to the south, for which the Board has recently granted consent for its compulsory acquisition (Ref. 18.CP3001). The structure on the application site appears neglected and unsightly from North Road and in my opinion it detracts to a material degree from the character and appearance of the street.

- 7.3. 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. With regard to category (a), this relates to structures which are in a ruinous, derelict or dangerous condition. Having inspected the site, I do not consider that there is sufficient evidence that the structure is in a dangerous condition, or that it could be considered ruinous, as it appears to have a reasonably intact roof. I do, however, consider the structure to be in a derelict condition for the reasons identified above, and with regard to category (b), I further consider the structure to be neglected and unsightly. I consider that 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.
- 7.4. I note the actions of the Local Authority and the statutory notices served on the owner/occupier in respect of the building. The derelict site report dated 14<sup>th</sup> September 2016 recommends that a section 8(2) notice be served on the owners, advising of the Local Authority's intention to enter the site on the register of derelict sites. I note that the report also sets out measures required, namely plaster and paint the southern end wall and eastern front wall and fit window/doors to openings on the southern end of the building. However, there is no evidence that a section 11 notice directing the owners to undertake the specified measures was served. Neither is there any evidence on file that a section 8(2) notice was subsequently served on the owners. Similarly, there is no evidence on file that the site was placed on the register of derelict sites, or that a section 8(7) notice was served on the owners, advising of the Local Authority's decision to enter the site on the register of derelict sites.
- 7.5. Notwithstanding the Local Authority's failure to demonstrate that section 8(2) or section 8(7) notices were served on the owners, the Board should note that it is not a requirement under the Derelict Sites Act 1990, as amended, for a site to be placed

on the register of derelict sites prior to an application being made to acquire it compulsorily.

- 7.6. A section 15(1)(a) notice of intention to acquire the site compulsorily was served on the 17<sup>th</sup> May 2017 and published in the Northern Standard Newspaper on the 18<sup>th</sup> May 2017.
- 7.7. I note the objection made by the owner on the 12<sup>th</sup> June 2017 to the proposed acquisition of the site, indicating that compulsory acquisition of the site is not necessary as the site is sale agreed and the purchaser intends to develop the site. Notwithstanding this, I note that there was no evidence of any attempt to render the site non-derelict at the time of my site inspection and there were no changes to the appearance of the structure when compared to the photographs provided by the local authority. I consider that the property continues to be exposed, neglected and unsightly and to be in a derelict 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 the site at North Road is granted.

## **8.0 Recommendation**

- 8.1. Having regard to the observed condition of the application site, in particular its derelict, 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

9.1. Having regard to:

- (a) The derelict 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.

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Niall Haverty  
Planning Inspector

26<sup>th</sup> October 2017