



An
Bord
Pleanála

Inspector's Report PL18.CD3041.

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

2 Thomas Street, Castleblayney, Co. Monaghan.

Local Authority

Monaghan County Council.

Notice Party

Jacqueline Gilnagh.

Date of Site Inspection

27th November 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. 2 Thomas Street, Castleblayney, 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 Thomas Street in Castleblayney Town Centre, to the south of the Main Street and Market Square. Land uses along the street are primarily residential. The subject site is a mid-terrace property that forms part of a terrace of six dwellings that front onto the northern side of Thomas Street. There is a two storey terraced dwelling on the site that is set back from the street by approximately 1.6 metres. The property incorporates a small front garden, a small yard area and an associated garden area on the opposite side of a communal access lane that runs to the rear of the terrace.

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 4th August 2016 (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 on 27th October 2016 (see attachments). A section 11 (2) notice was served on the owner of the property on 27th October 2016 directing the owner to undertake and complete measures in order to prevent the land from becoming / continuing to be derelict.

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 of the property on 15th June 2017 and published in the Northern Standard Newspaper on 15th June 2017.

4.2. Objection to Acquisition

- 4.2.1. The owner of the property made a submission to Monaghan County Council on 17th July 2017. The submission outlines a schedule of works undertaken and a schedule of further planned works to the property as follows:

- Interior of the structure cleared, overgrowth to front of property removed and walls prepared for painting.
- Window company engaged to install new windows and a door to front, painter and decorator engaged to paint exterior of property and gardener engaged to clear rear garden area.

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. A Planner's Report dated 10th August 2017 can be summarised as follows:

- Site was inspected on 9th August 2017.
- A new front door and front windows have been installed and overgrowth removed from the front garden area.
- Significant works set out in the Section 11 (2) notice served on the owner have not been attended to.
- The lands are considered to be derelict due to the neglected, unsightly or objectionable condition of the land and the structures on the land, and detract to a material degree from the amenity, character or appearance of land in the neighbourhood.

- The acquisition of the property would bring it into a residential use, and there is currently demand in the town for housing.

4.4. Objector's Submission

4.4.1. The owner of the property made a submission to An Board Pleanála on 12th September 2017. In response to the application to the Board for consent for compulsory acquisition of no. 2 Thomas Street, Castleblayney, Co. Monaghan, the owner of the property makes the following arguments:

- Council did not specify the works, other than to refer to the front of the property and rubbish to the rear.
- I was led to believe that a cosmetic solution was required and saw the list of measures for the first time, when it was forwarded to An Board Pleanála.
- Front windows and a front door have been replaced and overgrowth cleared to front of the property.
- House was ready for painting when the Council informed me that they were continuing with the purchase order.
- I have spoken to the Council on numerous of occasions. Our intention is to renew the property to a good standard, and we would honour any reasonable time constraints. We do not have finances to do it all at once.
- When advised that works done were not enough and that the Council were continuing with the purchase order, it seemed foolish to spend any more money on the property due to the risk of it been taken.
- The home was left to me by my mother and I wish to pass it onto my son.

5.0 Planning History

None.

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 Castleblayney Town Development Plan is provided in Chapter 13 of the County Development Plan. The site is zoned for Town Centre uses.

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. 2 Thomas Street, Castleblayney, a residential property that contains a two storey dwelling. Internal access to no. 2 Thomas Street was not sought. The site inspection was carried out from the front of the property and from a laneway to the rear of the property.

7.2. No. 2 Thomas Street is a two storey mid-terrace dwelling. The dwelling is set back from the public street by c. 1.6 metres and has a small garden area to the front. There is a yard directly to the rear of the dwelling and a separate garden to the north, on the opposite side of a communal access lane to the rear of the terrace. The front elevation of the building to Thomas Street is in good condition. The roof, gutters and downpipes are in place and the windows and front door are in a good state of repair. The paint work on the front elevation is in place with some chipping around windows, doors and on the front boundary wall. The paintwork on the rear elevation is chipped and faded and glass is absent from a first floor window. An outhouse and shed to the rear are in a poor state of repair and the yard area to the rear is overgrown.

- 7.3. 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 owner/occupier on the 4th August 2016. 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 on 27th October 2016. A section 11 (2) notice was also served on the owner of the property on 27th October 2016 directing the owner to undertake measures in order to prevent the land from becoming or continuing to be derelict.
- 7.4. I note the submission from the owner of the property to the Council on 17th July 2017 detailing works undertaken to the property and works to be undertaken to the property. At time of inspection a number of the measures specified in the Section 11 (2) notice issued by Monaghan County Council on the 27th October 2016 had been undertaken. The windows and front door to the front of the property had been replaced and overgrowth and rubbish to the front of the property had been removed. Specified measures to the rear of the property included the painting of exterior walls, the repair of a broken window, repair of guttering and downpipes, the repair of an outhouse, the repair or removal of a garden shed and the clearing of overgrowth and rubbish from the rear garden. I noted on inspection that the measures specified in the Section 11 (2) notice to the rear of the property had not been undertaken. The owner's submission states that she had intended to have the property painted and to have garden areas cleared, but that it "seemed foolish" to spend any more money on the property due to the risk of it been taken. The letter indicates that the owner's son wants to live at the property and planned to renovate it over a period time but that they do not have the finances to do it all at once.
- 7.5. I note the attempts of the owner to secure the property and to make it non-derelict and the improved condition and appearance of the property from the public street. However, the rear of the property continues to be in a neglected, unsightly and objectionable condition and I consider that it detracts to a material degree from the amenity, character and appearance of the area. I therefore consider the property to be a derelict site, within the meaning of Section 3 of the Derelict Sites Act, 1990, as amended.
- 7.6. Having regard to the all of the information available of the file and the continued appearance and condition of the property to the rear, 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. 2 Thomas Street, Castleblayney is granted.

8.0 Recommendation

- 8.1. Having regard to the observed condition of No. 2 Thomas Street and the neglected, unsightly and objectionable condition of the land and structures on the land, 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. 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.

Reasons and Considerations

Having regard to:

- (a) 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 (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
14th December 2017