



An
Bord
Pleanála

Inspector's Report PL25.CD3042.

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

Abbey Road, Athlone, Co.
Westmeath.

Local Authority

Westmeath County Council.

Notice Party

Richard Greene and Other Related Parties (C/O Owen Carty Solicitors) and M. Myers, P. Greene and Others (C/O T&N McLynn Solicitors).

Date of Site Inspection

18th January 2018.

Inspector

Karen Kenny.

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1.0 Introduction

- 1.1. This file relates to a request by Westmeath County Council for the consent of An Bord Pleanála for the compulsory acquisition of the subject site at Abbey Road, Athlone, Co. Westmeath, in accordance with the provisions of the Derelict Sites Act, 1990, as amended.

2.0 Site Location and Description

- 2.1.1. The subject site is located to the east of Abbey Road in Athlone. The immediate area is characterised by a mixture of residential, commercial and community uses.
- 2.1.2. The site runs parallel to the Irish Rail mainline track (Dublin to Galway / Westport / Ballina line) and is situated between the rail track to the north and St. Vincent's Hospital to the south.
- 2.1.3. The site is accessed from Abbey Road, from a narrow laneway. The site is bounded by the Irish Rail mainline to the north, the St. Vincent's Hospital complex to the south and on open field to the east. There are drainage ditches along the southern and eastern boundaries and mature hedge planting along all boundaries. Structures on the site include a large concrete building (old abattoir) and smaller outbuildings to the rear of the site along the northern boundary.

3.0 Application for Consent for Acquisition

- 3.1. Westmeath 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 dated the 18th day of August 2016, was served on the owners / occupiers of the site, advising of the local authority's intention to enter the site on the register of derelict sites. A section 8 (7) notice dated the 20th day of September 2016, was served on the owners / occupiers of the site, advising of the local authority's decision to enter the site on the register of derelict sites (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 owners / occupiers of the site on the 9th day of June 2017 and published in the Westmeath Independent Newspaper on the 17th day of June 2017. Notice was served on the Health Service Executive, on Mr. Richard Greene c/o Oliver Carty & Co. Solicitors, on Mr. Oliver Carty, Oliver Carty & Co. Solicitors and on Mr. Richard Greene, Abbey Road Athlone.

4.2. Objection to Acquisition

- 4.2.1. Two objections to the proposed acquisition were submitted to Westmeath County Council.
- 4.2.2. Objection from Owen Carty & Co. Solicitors on behalf of Richard Green and other related parties, making the following arguments:
- The lands in question are not derelict, either within the statutory definition contained within Section 3 of the Derelict Sites Act 1990 (as amended) or within any commonplace understanding of that term.
 - Clients have maintained the property over many years and have made particular efforts to ensure that the roadside is well maintained.
 - The proposed acquisition of the lands is not a bona fide attempt to deal with the derelict property. Acquisition is being made by reason of the Council having a particular purpose for the lands.
- 4.2.3. Objection from T&N McLynn Solicitors on behalf of Melinda Myers, Peter Greene, Angela O'Donovan, Marcella Hennessy and Agnes McCarthy Heirs and Successors to the late Christopher Greene, making the following arguments:
- The lands are not derelict.
 - The objectors late father was the beneficial owner of the lands by way of long use / adverse possession and the objectors as his heirs and successors are persons now entitled to ownership of the property.

- The County Council specified Mr. Richard Green c/o Owen Carthy and Company Solicitors as the occupier. All of our clients are occupiers as the natural heirs and successors.
- The Council has plans for this property as part of a cycleway for several years. Describing the property as a derelict site is an attempt to circumvent our client's property rights.
- Clients will not be forfeiting their right to Council by virtue of this form of attack on constitutional rights.

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 site in question is registered to the Health Service Executive (HSE).
- Presently, members of the Greene family are occupying the lands, without the consent of the owners (HSE).
- It is the opinion of the Council that the Greene family have no legal right to these lands or to occupy these lands.
- Section 19 of the Derelict Sites Act provides for the payment of compensation to any person who has an estate or interest in or right in respect of the derelict site acquired. It would be a matter for the Green family to establish the existence of any proprietary rights as part of a compensation claim.
- The Council commenced the process of putting the site on the Derelict Sites Register in August 2016. The occupants made no submission in response to the Council's Notice of its intention in this regard. The occupants have not made any attempt to deal with the dereliction on the site.
- The Council is not in a position to instruct the occupiers to carry out works to render the site non derelict under Section 11 of the Act, as to do so could signal the Council's acceptance that the occupiers have rights to the property.
- It is the Council's opinion that the best way to deal with this site and its derelict condition is for the Council to acquire it, carry out the necessary works

and subsequently, to find an alternative use for the lands or to dispose of any surplus lands on the open market for subsequent third party use.

- Part of the site may be occupied by the Dublin – Galway cycleway. The CPO process is intended to deal with the dereliction on this site and the fact that there will also be a community benefit in terms of the cycleway should not deprive the Council of its entitlements under the Derelict Sites Act to acquire the property.

4.4. Objector's Submission

4.4.1. In response to the application to the Board for consent for compulsory acquisition of lands at Abbey Road, Athlone, Co. Westmeath, a submission has been received from Owen Carty & Co. Solicitors on behalf of Richard Green and other related parties, making the following arguments:

- An Oral Hearing is requested.
- Site is not a derelict site. The site has been used by Mr. Greene and his father for over 40 years. Local Authority never communicated a difficulty with the site, despite the site being largely in the same condition for decades.
- Mr. Green operated a motor repair business from the site and this has proceeded without difficulty.
- The suggestion that the HSE's title to the land (if any) has not been extinguished by over forty years of occupation by Mr. Greene and his father is without any factual or legal basis. Mr. Greene has clearly adversely possessed the property in question.
- Notice was not signed or dated.
- The Local Authority has not acted in relation to this matter for over forty years or exercised any of its powers under the Derelict Sites Act 2000 (or, indeed the Derelict Sites Act 1961). It is beyond credibility that the Local Authority is now motivated to use its powers due to the suggested derelict nature of the site.

- The Local Authority accept that they plan to use part of the site to build a cycle way. This constitutes an abuse of the statutory procedures put in place to deal with the issues of derelict sites.
- The Local Authority have acted in a manner which is disproportionate, unfair and not in accordance with Mr. Greene's constitutional rights. Mr. Greene has a constitutional right to his property and a right to make a living. The factual dispute between the parties and the inexplicable approach of the Local Authority must be explored in an oral hearing to vindicate Mr. Greene's natural and constitutional right to fair procedures.

5.0 Oral Hearing

5.1. An oral hearing into the objections made against the request for the compulsory acquisition of the site was held on 24th January 2018 at the Prince of Wales Hotel, Athlone, Co. Westmeath. This hearing was recorded and a complete record of the hearing is available. A list of attendees is also available.

5.2. The following parties made submissions to the oral hearing:

- On behalf of Westmeath County Council, Rory McEntee Solicitor, called the following witnesses:
 - Patrick Nally, District Engineer for Athlone Municipal District.
 - Pat Keating, District Manager for Athlone Municipal District.
 - Barry Kehoe, Director of Services for Athlone Municipal District.
- On behalf of the objector Richard Green and Other Related Parties, Paul George Gunning BL, elaborated on the objector's submissions and raised a number of legal points.
- On behalf of Melinda Myers, Peter Greene, Angela O'Donovan, Marcela Hennessy and Agnes McCarthy Heirs and Successors to the late Christopher Greene, Melinda Myers and Angela O'Donovan made submissions.

5.3. The main points arising during the course of the oral hearing are summarised below.

5.3.1. **Westmeath County Council:**

- The opinion was formed that the site is a derelict site because of the ruinous nature of the buildings on site together with the unsightly presence of the partially dismantled cars and other miscellaneous debris.
- Council commenced the process of putting the site onto the Derelict Sites Register in August 2016. Occupants made no submission in response to notices advising of the intention to enter the site on the Derelict Sites Register, or of notice that the property had been entered onto the Register. Occupants have not made any attempt to deal with the dereliction on this site in the intervening period.
- It is the opinion of the Council that the best way to deal with the site and its derelict condition is for the Council to acquire the site, carry out the necessary works and subsequently, either find an alternative use for the lands or dispose of any surplus lands on the open market.
- A small part of the site (9%) will be occupied by the Dublin Galway National Cycleway Scheme. The fact that there will be a community benefit should not deprive the Council from pursuing statutory provisions under the Derelict Sites Act.

In relation to the submissions received:

- Local Authority considered various alternatives to CPO. Taking account of the history of the site, the nature of its occupation and the persistent issues at the site over a number of years, the Council is of the view that a sustainable long term solution is required.
- Site is relatively prominent and prominence will increase with the provision of the cycleway. The Council must be confident that the site will be rendered non-derelict and will continue to be non-derelict.
- Neither the Council nor the HSE are in a position to deal with the derelict nature of this site due to its unauthorised occupation.
- The proposed acquisition of the site is proportionate and is not arbitrary. The issue of dereliction has become a priority in the context of the proposed cycleway.

- Objectors have not submitted evidence to support the assertion of ownership, except to say that they have been in continuous occupation of the property for the requisite period. Were the CPO to be confirmed by the Board, the Derelict Sites Act provides for the payment of compensation to any person who has an estate or interest in or right in respect of the acquired site. It would be a matter for the objectors to establish the existence of any such rights as part of a compensation claim.

In response to the questions posed to Council:

- No notice issued under Section 11 of the Act. It is the view of the Local Authority that the best way to resolve dereliction is through CPO. Confirmed that the letter to ABP dated 15th August 2017 states that the Council is not in a position to instruct the occupiers to carry out works to render the site non-derelict under Section 11 of the Act, as to do so could signal the Council's acceptance that the occupiers have rights to the property. This formed part of the consideration in moving to CPO the site.
- Part 8 consent for cycleway approved in November 2015. Process under Derelict Sites Act started August 2016. Council stated that the reason for the CPO is to cure the dereliction on site, and not for the propose of the proposed Dublin Galway Cycleway. In this regard, Section 20 of the Derelict Sites Act states that a Local Authority may use any derelict site acquired for any purpose in connection with its functions.
- Council want the town to look as well as possible from the cycleway and in the context of the tourism status that is being built for Athlone under the Destination Athlone Initiative. Dereliction on the subject site detracts from these efforts and will continue to do so if not acquired and rendered non-derelict.
- Section 10 of the Derelict Sites Act puts a statutory duty on a Local Authority to take steps to ensure that any land in its functional area does not become or continue to be a derelict site. Council is fulfilling this duty.
- In relation to the question posed in relation to why the Council is acting now when the condition of the site has remained largely unchanged the Council

state that any failure to act earlier does not take from obligations under the Act.

- In relation to decision not to serve a notice under Section 11 of the Act, the Local Authority referred to a high court ruling by Justice Hedigan (Michael Egan v ABP – 2011 IEHC 44) which held that the power to acquire any derelict site is not dependent on the local authority having exhausted other lesser measures first.

5.3.2. **Secondly, Mr. Paul George Gunning on behalf of Richard Green and others:**

- In relation to case law a high court ruling of Justice O'Higgins was referenced (Hussey v Dublin City Council 2007 – IEHC 425). The decision held that if a local authority were of the opinion that a premises were a derelict site it would be obliged in conformity with Section 11 of the Act to serve notice on the person appearing to it to be the owner or occupier of the premises calling on that person to take the necessary action to remedy the situation. Only on the failure of that person to carry out the appropriate works within the requisite time could the local authority take action itself under the Act. The objectors contend that the stated reasons for not serving a notice under Section 11 is unacceptable.
- The objector argue that it has not been asserted and no evidence provided to suggest that the subject lands are in such a condition so as to detract to a material degree from the amenity, character or appearance of land in the neighbourhood. Report of Ms. Hazel Ryan refers to section (a), (b) and (c) of Act but does not state that site detracts to a material degree from the amenity, character or appearance of land in the neighbourhood. Reference to a decision of Justice O'Higgins (Hussey v Dublin City Council – 2007 – IEHC 425) which states that it is not sufficient for a structure on the land to be 'derelict'. It is necessary, in addition, that such condition detracts to a material degree from the amenity, character or appearance of land in the neighbourhood.
- Westmeath County Council is acting capriciously because the land in question is the most advantageous route for the national cycleway and this is the

primary motivation in this instance. A Supreme Court ruling was referenced (O'Brien v Bord na Mona 1980 no. 6760P p 282). The ruling held that person's carrying out administrative acts have an obligation to act judicially and states that persons carrying out acts which are clearly administrative in their essence (and, particularly in cases where such acts affect property rights) have under our law an obligation to act fairly and, in that sense, judicially in the carrying out of those acts and in the making of the decisions involved in them. They can and will be reviewed, restrained and corrected by the Courts if they act in a manner which is considered to be arbitrary, capricious, partial or manifestly unfair.

- In relation to conflicts in the 2011 and 2007 case law presented by the parties, objectors argue that there is no rule to suggest that most recent statement of the law should apply and also highlight that the 2011 decision does not refer to the 2007 case or make reference to Section 11 of the Derelict Sites Act.

Response of Westmeath County Council to issues raised in objector's submission:

- In relation to definition of Derelict Site, local authority has provided evidence of the impact of the site on amenity of the town and on view of town from railway and from proposed national cycleway.
- Decision maker, Westmeath County Council had made a technical assessment in this case and people should be slow to depart from that. Justice Hedigan in the Egan case refers to a proportionality test, stating that Irish Courts have positively stated that when applying the proportionality test a measure of judicial restraint is called for. In Meadows v Minister for Justice (2010 IESC 3), Denham J stated that "the legislature has placed decisions requiring special knowledge, skill, or competence with a skilled decision maker and the Courts should be slow to intervene in the technical area". It ought to follow therefore, where a court is asked to hold that an expert decision maker has failed to choose a methodology that impairs rights as little as possible, the Court ought to be slow to determine ex post facto whether alternative methods should be been adopted.

- Objector response states that it is not argued that the Local Authority acted disproportionality.

5.3.3. **Thirdly, Melinda Myers and Angela O'Donovan on behalf of Melinda Myers, Peter Greene, Angela O'Donovan, Marcela Hennessy and Agnes McCarthy Heirs and Successors to the late Christopher Greene:**

- Questioned why HSE are not in attendance.
- Site has been in use by the Greene family continuously. When Greene family came into the site there were no doors or windows in place.
- House adjoining the site is derelict.
- Council are concerned with the proposed Cycleway.

6.0 Planning History

Ref. LA(A) 2015-01: Part 8 for a 1 km section of Galway to Dublin Cycleway from Whitegates to the Marina Building, Athlone. Westmeath County Council approved the Part 8 in November 2015.

Ref. LA(A) 2017-05: Part 8 for a shared cycleway and footway at St. Vincent's Hospital. This proposal alters the cycleway previously approved under Ref. LA(A) 2015-01. Westmeath County Council approved the Part 8 in December 2017.

Ref. 80812251: Application to erect a milk store on lands immediately to the north / west of subject site. Permission granted.

7.0 Policy Context

7.1. Development Plan

7.1.1. The application site falls within the administrative area of the Athlone Town Development Plan 2014 2020. The site lies on land zoned for Residential Uses. The following specific policy objectives are considered to be relevant:

P-PM4: To utilise the provisions of the Derelict Sites Act 1990 to encourage the refurbishment of derelict properties.

P-TRM2: To promote Athlone as a national and international tourist destination in cooperation with other agencies, such as Fáilte Ireland and Waterways Ireland.

P-TI3: To improve the visual appearance of the town and its environs, protect their inherent character and maximise their tourism potential, by the continuance of environmental schemes, design control and the removal or encouragement of re-use of derelict properties.

7.2. Derelict Sites Act 1990 (as amended)

7.2.1. 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.

7.2.2. 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.

7.2.3. 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.

8.0 Assessment

- 8.1. The subject application relates to a site on Abbey Road, Athlone, Co. Westmeath. I have inspected the site and the lands in the vicinity.
- 8.2. The site is accessed from Abbey Road via a narrow access lane that runs along the side of two separate properties. The site is bounded by the Irish Rail mainline to the north, by St. Vincent's Hospital to the south and by an open field to the rear. The Irish Rail mainline sits on an embankment above the level of the site, while the hospital and lands to the east and west are at a similar level to the site. The site is generally flat with a combination of hard-core areas and grass surfaces. A drainage ditch runs along the southern and eastern boundaries and there is mature hedge planting along all boundaries. Structures on the site include a large building located centrally within the site (old abattoir building) and outbuildings to the rear of the site along the northern boundary. The roof, windows and doors are absent from the structure located centrally within the site and it is in a ruinous state with vegetation on the exterior and interior walls. The roof of the outbuildings consists of corrugated sheet metal which is partially collapsed. I noted a number of cars (including partially dismantled cars), tractors, trailers and miscellaneous debris distributed across the site at time of inspection. There was an external workshop area adjacent to the old abattoir building.

- 8.3. Having regard to the observed condition of the structures and the neglected, unsightly and objectionable condition of the land and structures, in addition to the presence of waste and debris throughout the site, I am of the opinion that the site is visible and appears neglected and unsightly from Abbey Road to the east, from the St. Vincent's hospital complex to the south and from the rail line to the north and that it is in contrast with the generally well-kept nature of properties in the vicinity. I would note that the visibility of the site is likely to increase in the future should the proposed National Cycleway Scheme proceed at this location. I consider that the property falls within categories (a), (b) and (c) of Section 3 of the Derelict Sites Act, 1990, due to (a) the existence on the land in question of structures which are in a ruinous and derelict condition; (b) the neglected, unsightly and objectionable condition of the land and structures on the land in question; and (c) the presence, deposition and collection on the land in question of debris and waste. On this basis I consider that the property detracts, to a material degree from the amenity, character and appearance of land in the neighbourhood, which in my view, renders the site derelict by reference to the terms of Section 3 of the Act.
- 8.4. I note the actions of the Westmeath County Council and the statutory notices served on the owners / occupiers in respect of the site. A section 8 (2) notice dated the 18th day of August 2016, was served on the owners / occupiers of the site, advising of the intention to enter the site on the Register of Derelict Sites. A section 8 (7) notice dated the 20th day of September 2016, was served on the owners / occupiers of the site, advising of the decision to enter the site on the Register of Derelict Sites. A Section 15 (1) (a) notice of intention to acquire the site compulsorily was served on the owners / occupiers of the land on the 9th day of June 2017 and published in the Westmeath Independent Newspaper on the 17th day of June 2017. I would draw to the Boards attention the fact that the serving of the above notices is not disputed by any party.
- 8.5. Two objections were received in writing in response to the notice served under Section 15 (1) (a) of the Act, as detailed in Section 4.2 above. The objectors written submissions argue that the site is not a Derelict Site. There is no substantive evidence on the file or information presented at the Oral Hearing which demonstrated attempts to improve the condition of the lands or of any intention to improve the condition of the lands. Furthermore, no substantial reason why no

remediation works were undertaken or could not be carried out is put forward, save to argue that the site is not a Derelict Site.

- 8.6. The objectors argue that the Local Authority was obliged to serve notice under Section 11 of the Act, on the person appearing to it to be the owner or occupier of the premises calling on that person to take the necessary action to remedy the situation and that only on the failure of that person to carry out the appropriate works within the requisite time could the Local Authority take action under the Act. The objectors argue that the stated reasons for not serving a notice under Section 11 are unacceptable. A High Court ruling is cited (2007 IEHC 425 refers). While I would note that the Local Authority had the option of issuing of a notice under Section 11, this is a discretionary rather than mandatory provision. There is no clear, definitive statement or obligation on a local authority to issue a notice under Section 11 prior to initiating procedures under Section 14 of the Act. I consider, based on the particulars of the subject case, that the Local Authority took reasonable steps to make the owner / occupiers aware of its concerns in relation to the condition of the property, of the intention to place the site onto the Derelict Sites Register, of the entry of the site onto the Register and of the circumstances under which the site may be removed from the Register. I also consider, having regard to the circumstances of this case, that the Local Authority was not unreasonable in not serving notice under Section 11. I would draw to the Boards attention to the fact that the objectors do not appear to be the registered owners of the property and that the objectors did not make a submission (s) in response to the initial notices served in relation to the placing of the site on the Derelict Sites Register. I note the comments contained in the Council's letter to ABP dated 15th August 2017. The letter states that "the Council is not in a position to instruct the occupiers to carry out works to render the site non-derelict under Section 11 of the Act, as to do so could signal the Council's acceptance that the occupiers have rights to the property".
- 8.7. The objectors argue that the Council is acting capriciously as the subject lands are required to facilitate the Dublin Galway National Cycle Route and not for the purpose of addressing the derelict nature of the site. The Council states that the subject request is for the purpose of addressing the derelict condition of the site and that in doing so, the Council is fulfilling its obligations under Section 10 of the Derelict Sites Act, to take all reasonable steps to ensure that premises do not become, or continue

to be derelict. The fact that a section of the site will form part of the Dublin Galway National Cycle Route Scheme is not disputed. In this regard, the Council refer to the provisions of Section 20 of the Derelict Sites Act, which states that a local authority may use any Derelict Site acquired for any purpose in connection with its functions.

- 8.8. The objectors argue that it has not been asserted that the subject lands are in such a condition so as to detract to a material degree from the amenity, character or appearance of land in the neighbourhood. However, I would refer to the Council's submissions which refer to the visual impact arising from the derelict condition of the site due to its visibility from the adjoining rail line and proposed National Cycle Route. I also refer to the assessment set out in Section 8.3 above.
- 8.9. Having regard, to the all of the information available of the file and the continued appearance and condition of the property, which as stated above, I consider constitutes a derelict site, it is appropriate that Westmeath County Council's application for consent to compulsorily acquire lands at Abbey Road, Athlone, Co. Westmeath is granted.

9.0 Recommendation

- 9.1. Having regard to the observed condition of lands at Abbey Road, Athlone, Co. Westmeath, due to (a) the existence on the land in question of structures which are in a ruinous and derelict condition, (b) the neglected, unsightly and objectionable condition of the land and structures on the land in question, and (c) the presence, deposition and collection on the land in question of debris and waste, 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, therefore, that the Board grant consent to Westmeath County Council to compulsorily acquire the site.

10.0 Reasons and Considerations

Having regard to:

- (a) the existence on the land in question of structures which are in a ruinous and derelict condition,
- (b) the neglected, unsightly and objectionable condition of the land and structures on the land in question, and
- (c) the presence, deposition and collection on the land in question of debris and waste.

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), (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.

Karen Kenny
Senior Planning Inspector
1st February 2018