



An  
Bord  
Pleanála

## Inspector's Report

**ABP-304270-19**

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<b>Nature of Application</b>	Derelict Sites application Moore Street, Cappamore, County Limerick
<b>Location</b>	Moore Street, Cappamore, County Limerick
<b>Planning Authority</b>	Limerick City and County Council
<b>Objector</b>	Richard Coleman
<b>Date of Site Inspection</b>	21 <sup>st</sup> June 2019
<b>Inspector</b>	Elaine Power

## 1.0 Introduction

- 1.1. This file relates to a request by Limerick City and County Council for the consent of An Bord Pleanála for the compulsory acquisition of a site at Moore Street, Cappamore, County Limerick, in accordance with the provisions of the Derelict Sites Act, 1990, as amended (hereinafter referred to as the 'Derelict Sites Act').

## 2.0 Site Location and Description

- 2.1. The subject site is located on the southern side of Moore Street in the village of Cappamore, approx. 22km east of Limerick City. Moore Street accommodates a variety of commercial, retail and residential uses. The site is bound to the front (north) by the public road, to the rear (south) by a field, to the east (side) by a storage unit and to the west (side) by a laneway.
- 2.2. The site has a stated area of approx. 0.172 acres or approx. 696sqm and accommodates 2no. two-storey semi-detached houses. The houses are a traditional style with pitched roofs and a rendered finish. The properties are set back approx. 1m from the public road and the front gardens are overgrown. There is currently a link chain fence around the majority of the front of site, however access to the front door of 1 no. house is retained. A metal mesh has been provided over the windows. There are a significant number of slates and sections of chimneys missing from the roof. The roof of the ground floor rear return has partially collapsed. Fascia's gutters and downpipes are also missing and there is vegetation growing from sections of the roof and side elevation.

## 3.0 Application for Consent for Acquisition

Limerick City and County Council has applied to the Board for consent to compulsorily acquire the site under Section 14 / 16 of the Derelict Sites Act.

## 4.0 Application & Objection

- 4.1. *Notice of Intention to Acquire*

Notice of intention to acquire the site compulsorily is stated to have been served on the owner / occupier of the site on the 28<sup>th</sup> day of March 2019 and published in the Limerick Leader newspaper on the 30<sup>th</sup> day of March 2019. I consider that the notices are generally in accordance with the requirements of Section 15 of the Derelict Sites Act.

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

An objection to the proposed acquisition was received in writing by the Local Authority on the 26<sup>th</sup> day of March 2019 from Richard Coleman, the stated owner of the site. The objector stated that he currently lives in the property, it is his only property and he intends to repair the houses.

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

4.3.1. The Local Authority state that they are focused on bringing derelict and vacant properties back into use with a particular emphasis in areas of high housing demand, town and village centres and the historic core in Limerick City. The Local Authorities application is summarised below.

- The Local Authority have provided a detailed history of the case. As the owner was unknown a notice was served on the property in March 2017. There was no response to this notice. In May 2017 a notice was served on the property regarding the intention to enter the site onto the Derelict Sites Register. A response was received from the objector, Richard Coleman, who claimed to live in the property. The subject site was first entered on the Derelict Sites Register in 2018. A notice of the intention to acquire the site was served in March 2019.
- It is the Local Authority's understanding that the objector's family rented the subject property for a number of years, however, he is not the owner and the property has been vacant for approx. 30 years.
- Between the period of 2017-2019 the property has been inspected on approx. 6 no. occasions and there was no evidence of anyone residing in the property and no improvement works have been carried out.

- Cllr. Noel Glesson made multiple representations on behalf of the community due to the unsightly conditions of the property and its proximity to the village.

#### 4.4. **Objectors Submissions**

The Objectors response is summarised below:

- The property has not been vacant for 30 years. The applicants father lived at this property for most of his life and the objector currently resides there. Proof of address has been provided to the Local Authority in the form of utility bills.
- Additional proof of address has been included in the submission. In this regard medical information, Travel Pass, voting card, correspondence from An Garda Siochana and Bank of Ireland and a number of utility bills.
- Limerick County Council never arranged to visit the property. Access could have been arranged, if required.
- All correspondence has been through notices attached to the site. No correspondence has been sent by post.
- The objectors brother has no connection to the site and correspondence should not be sent to his address.
- It is the intention to repair the houses.

## 5.0 **Planning History**

None

## 6.0 **Policy Context**

### 6.1. ***Cappamore Local Area Plan***

The subject site is zoned 'existing residential' and is located within an Architectural Conservation Area. Section 10.2 Derelict and Vacant Sites notes that there is noticeable dereliction and vacancy just outside of the town centre and fronting onto the town's principle streets. The council is committed to working with stakeholders to tackle vacancy and dereliction and address its causes.

The relevant policies include the following: -

- Objective ED 6(b): Town centre and local shops

- Objective H4: Infill development, restoration and town renewal

## 6.2. ***Limerick County Development Plan 2010-2016 (as extended)***

Relevant Development Plan policies include the following: -

- Policy CP11 – Vacant site levy
- Objective HOU O17: Regeneration of Derelict Sites
- Objective HOU O18: Re-utilisation of Redundant or Obsolete Urban Structures

## 7.0 **Legislation**

### 7.1. ***Derelict Sites Act, 1990, (as amended)***

7.1.1. The Derelict Sites Act includes provisions to prevent land being or becoming a derelict site. Amongst other things, it enables Local Authorities to require landowners or occupiers to undertake measures to derelict sites and, in certain circumstances, to acquire derelict sites compulsorily.

7.1.2. Section 3 of the Act provides a definition of a ‘derelict site’ as follows:

‘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’.

7.1.3. Section 8 of the Derelict Sites Act requires Local Authorities to establish a register of derelict sites in their functional area and to serve notices on relevant occupiers/owners

of their intention to do so. Under the terms of section 9, every owner and occupier of land is required to take all reasonable steps to ensure that the land does not become or does not continue to be a derelict site. Section 10 of the Act 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. Local Authorities may serve notice on an owner or occupier of land under section 11 of the Act, requiring them to take specified measures to prevent land becoming or continuing to be a derelict site. Section 14 enables a Local Authority to 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 or occupier wish to object to the acquisition. Where an objection is made, section 16 of the Act states that a derelict site shall not be acquired compulsorily by the Local Authority without the consent of the Minister (now An Bord Pleanála).

## **8.0 Assessment**

- 8.1. The site is located on Moore Street, approx. 180m from the junction with Main Street. It is located within an Architectural Conservation Area and is highly visible within the village. While the adjoining property appears to be vacant and could benefit from some refurbishment works the surrounding properties and streetscape are generally in a good state of repair and well maintained.
- 8.2. During a site visit on the 21<sup>st</sup> June 2019 it was not possible to gain entry to the structures. No structural report or internal survey of the houses has been submitted. However, in my opinion the houses appeared to be in poor condition. While there was no sign of cracks, sections of chimneys and roof slates are missing, and the roof of the ground floor rear return has collapsed. A link chain fence has been provided around the front of the structures. A metal mesh has been provided over the windows and the side gate is blocked up with metal sheeting. There is vegetation growing from the roof and the front garden is overgrown and unkempt. Notwithstanding the assertion of the objector that he lives in the property, the houses appeared vacant, and in my opinion were neglected and unsightly.

- 8.3. Section 3 of the Derelict Sites Act provides a definition of a 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'. A number of criteria are set out in Section 3 to assess if a site is derelict. In this regard Section 3(a) refers to structures which are in a ruinous, derelict or dangerous condition, Section 3(b) refers to structures and land which are neglected, unsightly and objectionable condition and Section 3(c) refers to the quantity of waste that is considered sufficient to materially detract from the amenity or appearance of lands in the vicinity.
- 8.4. I consider that there is evidence that the structures could be considered ruinous, as sections of chimneys and roof slates are missing, and the roof of the ground floor rear return has collapsed. In addition, there is vegetation growing from the roof and side elevation. It is my view that the structures are neglected, unsightly and in an objectional condition. While the front garden is overgrown there was no evidence of waste or litter to materially detract from the amenity or appearance of lands in the vicinity. It is considered that the site falls within both category (a) and (b) of Section 3 of the Act. Having regard to the photographs included in the application by the Local Authority and having inspected the site, there is no evidence of any attempt to repair the houses. In my view the site detracts to a material degree from the amenity, character and appearance of land in the vicinity of the site and is therefore derelict under Section 3 of the Act.
- 8.5. In serving notice on the owner a reasonable and fair approach should be undertaken by the Local Authority. The Compulsory Acquisition report submitted with the application outlines the actions of the Local Authority and the statutory notices served on the owner/occupier in respect of the buildings.
- 8.6. The Local Authority stated that after a survey of the Cappamore Area, in 2017, a case was opened on the subject property. As the owner was unknown a Section 29 Notice was served on the property in March 2017. No response to the notice was received. In May 2017, a Section 8(2) notice was served on the property regarding the intention to enter the site onto the Derelict Sites register. In June 2017 a response was received from the objector, Richard Coleman, acknowledging the notice. In February of 2018 a Section 8(7) was served on the property, to an unknown owner. A letter was received by the Local Authority from the objector, Richard Coleman, requesting that the Local

Authority cease posting notices on the property as he lives in the property. Proof of the objector's address, at the subject site, was included with the response.

- 8.7. The objector was informed of the intention to acquire the property on the 25<sup>th</sup> March 2019. A section 15(1)(a) notice of intention to acquire the site compulsorily was served on the property on the 28<sup>th</sup> March 2019 and published in the Limerick Leader newspaper on the 30<sup>th</sup> day of March 2019.
- 8.8. The Local Authority state that it is their understanding that the property has been vacant for more than 30 years and that the Coleman family rented the property from a local farmer for a period of time. It has not been possible to locate the farmer. Between the period of 2017 and 2019 the inspecting officer from Limerick City and County Council visited the property on at least 6 no. occasions. There was no evidence of anyone living in the property and no improvement works have been carried out to date.
- 8.9. Based on the particulars of the case, I am satisfied that the Local Authority took reasonable steps to make the owner / objector aware of its concerns in relation to the condition of the site, including the intention to include the site in the Derelict Sites Register and to compulsorily purchase the site.
- 8.10. Having regard to the information on 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 Moore Street, Cappamore, Co. Limerick is granted.

## 9.0 **Recommendation**

- 9.1. Having regard to the observed condition of the application site, in particular the neglected, unsightly and objectionable state of the structures, 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 Limerick City and County Council to compulsorily acquire the site.



## 10.0 Reasons and Considerations

It is considered that the site detracts to a material degree from the amenity, character and appearance of the land in the neighbourhood, owing to the neglected, unsightly and objectionable condition of the structures and, therefore, falls within the definition of a derelict site as defined in Section 3 of the Derelict Sites Act, 1990 (as amended). Having regard to the observed condition of the site and the documentation provided in relation to the procedures and steps taken under the Derelict Sites legislation to include the site on Limerick City and County Councils Derelict Sites Register and the serving of the notice on the lands. It is considered that, the compulsory acquisition of the site by the local authority is warranted to render the site non-derelict and to prevent it from continuing to be a derelict site.

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Elaine Power  
Planning Inspector

23<sup>rd</sup> August 2019