



An
Bord
Pleanála

Inspector's Report ABP 309187-21

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

The Quay, Askeaton, Co. Limerick

Local Authority

Limerick City and County Council

Notice Party

JP Ryan

Date of Site Inspection

10/05/21

Inspector

Pauline Fitzpatrick

1.0 Introduction

This case relates to a request by Limerick City and County Council for the consent of An Bord Pleanála to the compulsory acquisition of the subject site at The Quay, Askeaton, Co. Limerick, in accordance with the provisions of the Derelict Sites Act, 1990, as amended.

2.0 Site Location and Description

The Quay fronts onto the River Deel in the centre of Askeaton town. The building comprises a three bay, four/five storey limestone warehouse (Russell's Mill) which is a protected structure (ref:919) and is considered of regional importance according to the National Inventory of Architectural Heritage (ref:21826016). The warehouse forms part of a wider group of mill related structures within the town. Its deep form is typical of such structures with its gable-end with loading bay addressing the quay, where corn was directly hoisted from the boats.

The wooden shutters and doors to the openings onto The Quay are in a state of disrepair and are missing in some of the upper windows with gaps/holes evident in others. Whilst the roof was noted to be relatively intact with part re-tiled, slates and tiles are missing. The rear of the building is entirely overgrown with vegetation extending further over the roof space. A sign erected indicates that the building is for sale.

2 storey terraced dwellings fronting onto the quay bound the site to the north and south.

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, 1990, as amended. I note that this application is subsequent to the serving of notices under section 8(2) on the 15th February 2018 advising of the Local Authority's intention to enter the site on the register of derelict sites, and under section 8(7) on 27th March 2018 advising of the Local Authority's decision to enter the site on the register of derelict sites.

4.0 Application and Objection

4.1. Notice of Intention to Acquire

Notice of intention to acquire the site compulsorily was served on the owner of the property on 2nd November, 2020 and was published in the Limerick Post dated 7th November, 2020. The site is described as follows in the notices:

A derelict site comprising of Five Storey Former Warehouse at The Quay, Askeaton, County Limerick. The said derelict site is more particularly shown outlined in red on map bearing reference no. DS-035-17 in the Derelict Sites Register established and maintained by Limerick City and County Council under Section 8 of the Derelict Sites Act 1990.

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

4.2. Objection to Acquisition

The submission by the owner can be summarised as follows:

- The notice is unreasonable in the circumstances in that no allowance has been given in relation to works completed on the site and the ongoing work.
- The property is a protected structure and any works require careful planning, design and agreement. This takes a considerable amount of time and incurs costs.
- An architect has been appointed to assist in addressing the issues with the property. A meeting was held with the Council's Conservation Officer on 14/10/20. His approval has been secured for window shutters and vents to secure the building in addition to works to be undertaken on the front façade and roof.
- Household rubbish and garbage illegally dumped in the building has been removed.
- The owner is willing to engage with the Local Authority to sell it the property at an agreed market value. Such an arrangement will avoid further costs being

incurred on either side and will allow the Local Authority to acquire the building without the need of a compulsory purchase order.

4.3. Local Authority's Application for Consent

The Local Authority requests the consent of the Board to the compulsory acquisition of the derelict site. The application for consent was submitted on 8th January 2021 and is accompanied by the following:

- Local Authority Compulsory Acquisition Report which sets out the planning authority's strategic approach to derelict sites in the city and county, a description of the site, the background to the case and the details of the objection. The report includes photographs and a map of the site area.
- Copy of the section 15 Notice served on the owner of the site, dated 2nd November 2020.
- Copy of the newspaper notice, dated 7th November 2020.
- Copy of objection made by JP Ryan

The Compulsory Acquisition Report can be summarised as follows:

- Limerick City and County have established a specialised 'Dereliction and Vacancy Team' to take an area-based collaborative approach to addressing vacancy and dereliction in Limerick City and in the towns and villages in the County. The team focuses on bringing derelict and vacant sites back into use, particularly in areas of high housing demand, town and village centres and the historic core of the City. It seeks to work proactively with property owners, with timely actions and improvement of sites through positive engagement. It is stated that the powers under the Derelict Sites Act, 1990 are used only where necessary, where all reasonable alternatives have been exhausted.
- Limerick City and County Council carried out an inspection on 10/10/17. The property was of a derelict nature
- On foot of the inspection a Section 29 notice was issued to ascertain the owner of the property in October 2017. There was no engagement from the owner during this time and the property remained in a derelict condition. A Section 8(2) notice was issued and the property was added to the Derelict

Sites register in March 2018. The owner became known to the local authority in September 2019 and was informed that the property was on the Derelict Site Register.

- The owner was informed that if the property was not taken out of dereliction a derelict site levy would apply from 01/01/20.
- Following a demand notice in respect of levies owing the owner contacted the Local Authority in March 2020 stating that he was in the process of addressing the issues with the property. He did contest that the property was not of a dereliction nature (*sic*).
- The Local Authority received correspondence in October 2020 stating that the owner had engaged architects to address the issues in respect of the property.
- The case has been ongoing since 2017 with no real effort made to take the property out of dereliction.
- An objection to the notice was received from the owner.

4.4. Objector's Submission

None

5.0 Planning History

I am not aware of any planning applications on the site

6.0 Policy Context

6.1. Limerick County Development Plan 2010-2016 (as extended)

Chapter 4 sets out the policies and objectives relating to housing. Section 4.8 relates to Regeneration of Vacant and Derelict Sites.

The relevant objectives are as follows:

HOU O17 – to use its powers under the Derelict Sites Act to acquire and secure the redevelopment of derelict sites.

HOU 018 – to promote the re-utilisation of suitable redundant or obsolete structures in appropriate cases.

6.2. Askeaton Local Area Plan 2015-2021

The site is within an area zoned Town Centre

The building is a protected structure (ref. 919).

Objective EH 2- to protect structures entered onto the Record of protected structures, or listed to be entered onto the Record and to encourage their appropriate re-use and restoration. The Council shall resist; a) Demolition of protected structures, in whole or in part; b) Removal or modification of features of architectural importance; c) Development that would adversely affect the setting of the protected structure.

Section - 10.2 Derelict and Vacant sites

In relation to derelict and vacant sites, the general approach is to seek timely actions and improvements of sites, through positive engagement with landowners, using powers under the Derelict Sites Act only where necessary, and taking into account: a) outstanding planning permissions, b) evidence of efforts to address vacancy and dereliction, c) security, safety to the public and condition of the site, d) the conservation value of the building and requirement for remedial restoration works.

6.3. Derelict Sites Act, 1990, as amended

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 landowners or occupiers to take measures on derelict sites and, in certain circumstances, to acquire derelict sites compulsorily.

6.4.2. 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.”

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

Internal access to the building was not possible on the date of my site inspection. I carried out my site inspection from the public road and from land to the rear.

The building which is a protected structure fronts onto The Quay overlooking the River Deel. It is a three bay, four/five storey building constructed circa.1847. As per the National Inventory for Architectural Heritage notable features include pitched slate roof, rubble limestone walls and quoins, square headed window opes with brick voussoirs and timber battened fittings. It is considered to be of regional artistic,

architectural and historical interest and is entered in the National Inventory of Architectural Heritage (ref:21826016). This warehouse forms part of a wider group of mill related structures within the town of Askeaton. Its deep form is typical of such structures with its gable-end with loading bay addressing the quay, where corn was directly hoisted from the boats.

The building is vacant and has a neglected, unsightly and objectionable appearance from the public road and from lands to the east. This is due to the fact that the wooden shutters to the window and door openings onto The Quay are in a state of disrepair or are missing with gaps/holes evident in those in place on the upper floors. The slate roof has been replaced in part. Whilst relatively intact, tiles and slates are missing on both sides. The rear of the building is entirely overgrown with vegetation extending across the roof.

Having regard to the above, I consider that the site falls within category (b) of section 3 of the Derelict Sites Act, 1990 in that it has a neglected, unsightly and objectionable condition. With regard to Section 3 (a) there is evidence that the structure is in a derelict condition and in a poor state of repair. Having inspected the site, I do not consider that there is any apparent 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 and external walls. There was no litter within the site or any evidence of waste being stored externally. Therefore it is considered that the site does not fall within category Section 3 (c).

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.

I note the actions of the Local Authority. On foot of the inspection a Section 29 notice was issued to ascertain the owner of the property in October 2017. There was no engagement from the owner during this time and the property remained in a derelict condition. A Section 8(2) notice was issued and the property was added to the Derelict Sites register in March 2018. The owner became known to the local authority in September 2019 and was informed that the property was on the Derelict Sites Register. The owner was informed that if the property was not taken out of dereliction a derelict site levy would apply from 01/01/20. Following a demand notice

in respect of levies owing the owner contacted the Local Authority in March 2020 stating that he was in the process of addressing the issues with the property. As can be extrapolated from the local authority's report he contested the derelict nature of the property. In objecting to the notice for compulsory acquisition the owner said that he retained the services of an architect in October 2020 who has met with the Local Authority's Conservation Officer as to the suitability of replacement shutters and treatment of the building. Rubbish illegally dumped within the property was removed. He is willing to sell the property to the local authority subject to an agreed market value. The owner did not make a further submission to the Board.

Whilst the removal of rubbish dumped internally by the owner and reference to the above discussions with the authority's Conservation Officer are noted there is no evidence of any attempt to render the site non-derelict. Its condition and appearance are at variance with the well-maintained appearance of properties in the immediate vicinity due to the poor condition or absence of the window and door shutters and the extensive overgrowth which is extending across the roof. 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.

Having regard, therefore, to all of the information available 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 The Quay, Askeaton, Co. Limerick be granted.

8.0 Recommendation

Grant consent to Limerick City and County Council to compulsorily acquire the site.

9.0 Reasons and Considerations

Having regard to 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 of the Derelict Sites Act 1900, 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.

Pauline Fitzpatrick
Senior Planning Inspector

May, 2021