



An  
Bord  
Pleanála

## Inspector's Report ABP 309330-21

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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**

Main Street, Ardagh, Co. Limerick

**Local Authority**

Limerick City and County Council

**Notice Party**

Ken Tyrell (Receiver) PWC

**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 Main Street, Ardagh, Co. Limerick, in accordance with the provisions of the Derelict Sites Act, 1990, as amended.

## **2.0 Site Location and Description**

The 2 storey, terraced building is on the Main Street in the village of Ardagh in west County Limerick. Main Street is characterised by a mix of commercial and residential uses with a number of properties noted to be vacant and boarded up.

The subject property is boarded up at ground floor level with secure window openings at 1<sup>st</sup> floor level. Guttering and a downpipe are in place and are relatively intact save for a small break in the former. The roof is intact. Access to the rear of the property was not possible. The two structures to either side are in residential use.

## **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 29<sup>th</sup> July 2020 advising of the Local Authority's intention to enter the site on the register of derelict sites, and under section 8(7) on 8<sup>th</sup> September 2020 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 19<sup>th</sup> November, 2020 and published in the Limerick Post dated 21<sup>st</sup> November, 2020. The site is described as follows in the notices:

*A derelict site comprising of a two storey mid-terraced property situate at Main Street, Ardagh, County Limerick. The said property and surrounding land is in a state of dereliction. The derelict site is more particularly shown outlined in red on map bearing reference no. DS-097-20 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 Receiver PWC objects on the grounds that the CPO would impact on the Chargeholder's ability to properly enforce its security over the property and sell it on the open market. It has been placed on the market to be sold by auction on 09/12/20.

#### **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 received on 27th 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 16<sup>th</sup> November 2020
- Copy of the newspaper notice, dated 21<sup>st</sup> November 2020.
- Copy of objection made by Ken Tyrell, Receiver, PWC.

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. They seek 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 29/06/20. The inspector deemed that the property was of a derelict nature.
- A Section 8(2) notice was served on the property on 29<sup>th</sup> July 2020. The Local Authority had no ownership details. The property was unregistered.
- A section 8(7) notice was served on 8<sup>th</sup> September 2020 and the property was added to the Derelict Site register
- Correspondence was received from Ken Tyrell, Receiver for the property stating that it was the intention to sell the property at auction.
- The receiver did not carry out any works to address the derelict nature of the property.
- A section 15(1) (a) notice of intention to acquire the site compulsorily was served 16<sup>th</sup> November 2020.
- An objection to the notice was received from the Receiver.
- The Local Authority is of the opinion that it is best placed to remove the property from dereliction.

#### **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 O18** – to promote the re-utilisation of suitable redundant or obsolete structures in appropriate cases.

Ardagh is within Tier 5 of the settlement structure, namely a small village with a range of infrastructural, social and community facilities.

Policy SS P10 - to support the sustainable development of tier 5 settlements.

### 6.2. 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 intends to acquire a derelict site compulsorily, and section 16 sets out arrangements if the owner/occupier wishes 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 nor access to the rear was possible on the date of my site inspection. I carried out my site inspection from the public road.

The mid-terrace, two storey structure on Main Street appears from an external view to be structurally sound, albeit with evidence of possible cracking. The ground floor openings have been secured with windows at 1<sup>st</sup> floor level in place and secured. The roof appears to be intact. Guttering and the downpipe appear to be largely intact although a small part of the former was noted to be missing. There is no evidence of any litter, rubbish, debris or waste.

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) and 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 noted, 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).

The properties to either side are in residential use and are well maintained. Main Street is characterised by two storey terraced units comprising a mix of residential and commercial use with notable levels of vacancy and dereliction evident on day of inspection. I note from the Limerick City and County Derelict Sites Register 2021 a further 6 no. properties on Main Street have been included thereon.

I note the actions of the Local Authority. It issued a section 8(2) notice of its intention to insert the site onto the Derelict Sites Register on the 29<sup>th</sup> July 2020 with a section 8(7) notice issued on 8<sup>th</sup> September 2020 advising of the Local Authority's decision to enter the site on the register of derelict sites. The notice of intention to acquire the property compulsorily under section 15 was served on the Receiver 19<sup>th</sup> November, 2020 and published in the Limerick Post on 21<sup>st</sup> November 2020. An objection was received from Ken Tryell, Receiver PWC, objecting to the notice stating that the CPO would impact on the Chargeholder's ability to properly enforce its security over the property and sell it on the open market. The property was to be put up for sale by auction on 6<sup>th</sup> December. The local authority in response considers that it is best placed to bring the property out of dereliction. The Receiver did not make a further submission following the Board's notice under 16(5) of the Derelict Sites Act inviting observations in relation to the comments of the local authority on the objection or advising of the outcome of the auction. The property remains as originally documented with no evidence of any works carried out to improve the appearance and condition of the building or render it non-derelict

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, 1999, as amended.

Having regard, therefore, to 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 Main Street Ardagh, 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.

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**Pauline Fitzpatrick**  
**Senior Planning Inspector**

**May, 2021**