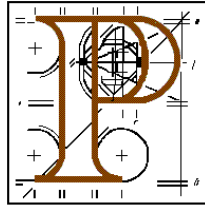


# An Bord Pleanála



## Inspector's Report

**Board Reference:** ABP-310720-21

**Planning Authority Site ID:** DS-009-16

**Local Authority:** Limerick City & County Council

**Objector:** Thomas Kiely

**Location of Lands:** 217 Elm Grove Close, Elm Park,  
Castletroy, Limerick

**Inspector:** Kevin Moore

**Re: Application for consent from An Bord Pleanála for compulsory acquisition of 217 Elm Grove Close, Elm Park, Castletroy, Limerick.**

**1.0 INTRODUCTION**

- 1.1 I have read the contents of the file and I inspected the site on 15<sup>th</sup> November, 2021.
- 1.2 Notice of the intention to compulsorily acquire the site under section 14 of the Derelict Sites Act 1990 was published on 24<sup>th</sup> April, 2021. An objection to the acquisition was received by the local authority on 25<sup>th</sup> May, 2021.
- 1.3 A Compulsory Acquisition Report is attached in the letter from the local authority, dated 18<sup>th</sup> June, 2021, requesting the consent of the Board to the compulsory acquisition of the property. This report describes the site and its location, the derelict site history associated with it, as well as referring to the objection received. Reference is made to the dwelling being vacant and derelict for a considerable period, with the property first inspected by an authorised officer of the Council on 25<sup>th</sup> April, 2016. The local authority submits that there has been no evidence of occupation on this site for the duration of the derelict sites case and that the applicant's letter to the local authority is the first direct contact from the owner to the local authority in an attempt to deal with the matter. The appendices with the report comprised the derelict site location map, a copy of the Section 15 Notice served to the owner, a copy of the newspaper advert of the Section 15 Notice, a copy of the objection received and an acknowledgement letter, and photographs of the site.

## **2.0 OBJECTION**

2.1 An objection by Thomas Kiely was received by Limerick City & County Council on 25<sup>th</sup> May, 2021 wherein it was submitted that the house is structurally sound and is not in a state of dereliction. Reference was made to Limerick Council recently approaching him to lease the house long term and this being sufficient proof that the assertion of dereliction is false. It is submitted that he is currently engaged with a builder in order to continue renovations to further improve his home.

## **3.0 SITE LOCATION AND DESCRIPTION**

3.1 The site is within the residential estate of Elm Grove Close which lies to the north of the Dublin Road (R445) in Castletroy in Limerick. No. 217 is a two-storey, semi-detached house. Its curtilage includes a front garden which is not an enclosed space. It also has rear garden / yard space with an outbuilding. Public open space, with pedestrian access across it lies immediately to the north of the property. The house is flanked by a semi-detached house to the south. The principal house types in the immediate vicinity of the site are two-storey, semi-detached units.

## **4.0 ASSESSMENT**

4.1 Section 3 of the Derelict Sites Act, 1990 defines 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 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.

4.2 Before offering my considerations on the property, I note for the Board that I undertook a site inspection which did not entail an internal examination of the house on this property. I examined the property from ground level from the curtilage within the site and from the adjoining public lands.

4.3 I note from the Council's report that it is submitted that the dwelling is vacant and in a derelict condition for a considerable period and that it detracts in a great way from the well-maintained properties in the vicinity. It is submitted that there is a lot of ivy and vegetation growing on the front of the property and the external walls are dirty and unsightly, with paint flaking off. It is further submitted that the downpipes and gutters are damaged and the fascia and soffit are in need of repair or replacement. Windows in the connecting garage were seen to be broken and the plastic roof sheeting damaged. Reference is made to an overgrown back garden, and to litter and general waste.

4.4 Further to the Council's considerations and to my inspection of this property, I make the following observations:

- The existing house appears to be in sound structural condition. The windows and doors present as being intact and functioning to keep out adverse impacts from the elements.
- The roof and chimney present as being intact.

- There is no visual evidence of structural cracks on the building.
- The rainwear presents as being sound and functioning.
- There is no ivy or other growth on the structure.
- The outbuilding and rear garden / yard space do not present as being untidy and ill-maintained.
- The property is secure from any public access.
- The open front garden space is a little overgrown but shows no sign of litter or waste visible from the curtilage.

4.5 It is my submission to the Board that it is evident that the house on this site is structurally sound, that it has been secured from unauthorised entry and has been cleared of ivy and other growth on the building and of debris within its curtilage. I do not consider that there is any dispute about the structural integrity of the house. Further to this, I submit that it is not reasonable to determine:

- (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.

4.6 In its current form, the property does not present as a derelict structure that is distinctly unsightly in this area.

4.7 Finally, I accept that the existing building on this site may previously have presented as being in a poorly maintained condition. I acknowledge, however, that this is not the condition of the property at this time. The potential remains for this property to be retained and refurbished for residential use. It does not

constitute a 'Derelict Site' in my opinion as the property does not detract, or at this time is unlikely to detract, to a material degree from the amenity, character or appearance of land in the neighbourhood of the land in question.

## **5.0 CONCLUSION AND RECOMMENDATION**

5.1 I conclude that No. 217 Elm Grove Close, Elm Park, Castletroy, Limerick does not constitute a derelict site and I recommend that the Board refuses to grant consent to the compulsory acquisition of this site at this time in accordance with the following:

### **Decision**

**REFUSE consent to the compulsory acquisition of the said site based on the reasons and considerations set out below.**

### **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

### **Reasons and Considerations**

It is considered that the structural integrity of No. 217 Elm Grove Close is intact, that the building is neither in a ruinous or dangerous condition, and that the property does not detract to a material degree from the amenity, character or appearance of land in the neighbourhood of the land in question. Furthermore, it

is considered that the existing house could reasonably be restored to residential use and does not constitute a derelict site for the purposes of the Derelict Sites Act 1990. The Board, therefore, has decided that it would be appropriate to refuse to consent to the compulsory acquisition of the site.

---

Kevin Moore  
Senior Planning Inspector  
18<sup>th</sup> November, 2021.