



An
Bord
Pleanála

Inspector's Report ABP-311014-21

Development

Application for the compulsory acquisition of a derelict site comprising a property at 8 Eire Street, Gorey, Co. Wexford

Location

8 Eire Street, Gorey, Co. Wexford

Planning Authority

Wexford County Council

Notice Party

Tony Larkin (Applicant)
Jim Doyle and Marie Doyle
(Observers)

Date of Site Inspection

4th July 2023

Inspector

Sarah Moran

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2.0 Introduction

2.1. This case relates to a request by Wexford County Council for the consent of An Bord Pleanála to the compulsory acquisition of the site of a two-storey, semi-detached house at 8 Eire Street, Gorey, Co. Wexford, in accordance with the provisions of the Derelict Sites Act, 1990, as amended.

2.2. Compulsory acquisition is sought as the site continues to be derelict within the meaning of the Act for the following reason:

(a) The existence on the lands of structures which are in a ruinous, derelict or dangerous condition.

3.0 Site Location and Description

3.1. The site is located on Eire Street in the centre of Gorey, Co. Wexford. It comprises a semi-detached house and associated front and rear gardens, with access to the street. The gardens are overgrown and the building is currently unoccupied. There are partially completed construction works attached to the side of the house. There is a laneway to the western side of the house, which leads to a yard to the rear that is in separate ownership.

4.0 Application for Consent for Acquisition

4.1. Wexford County Council has applied to the Board for consent to compulsorily acquire the site under Sections 14 – 16 of the Derelict Sites Act, 1990, as amended. This application follows the service of notices:

- Wexford County Council served notice on 5th December 2014 of intention to enter the site onto the Derelict Sites Register pursuant to section 8(7) of the Derelict Sites Act 1990.
- The site was entered onto the Derelict Sites Register of Wexford County Council on 5th December 2014.
- Wexford County Council served notice on 1st June 2021 under section 14 of the Derelict Sites Act 1990 (as amended) of an intention to compulsorily acquire the derelict site at 8 Eire Street, Gorey, Co. Wexford.

5.0 Application and Objection

5.1. Notice of Intention to Acquire

- 5.1.1. Wexford County Council served notice on 1st June 2021 under section 14 of the Derelict Sites Act 1990 (as amended) of an intention to compulsorily acquire the derelict site at 8 Eire Street, Gorey, Co. Wexford. I consider that the notice is in accordance with the requirements of section 15(1)(a) of the Act with regard to the documentation on file.

5.2. Objections to Acquisition

- 5.2.1. Two no. submissions were received by Wexford County Council on foot of the notice of intention to compulsorily acquire the derelict site. Jim Doyle and Marie Doyle made separate submissions on 7th July 2021, which objected on the grounds that they are currently in advanced negotiations with a prospective purchaser of the site, and are confident that the site will soon be sold to that party.

5.3. Submission of Wexford County Council

- 5.3.1. Wexford County Council has made a submission in support of the proposed acquisition, dated 26th July 2021 and signed by Tony Larkin, Director of Services, Economic Development and Planning. The following points of same are noted:
- The house is within a housing estate and was previously occupied by Mr Sean Guerin, who is deceased since 2004. Mr. Guerin's executors were Jim and Marie Doyle, the objectors.
 - The ownership of the house has not been fully established to the satisfaction of WCC, however it is accepted that the Doyle family are de facto possessors of the property.
 - The current process under the Derelict Sites Act was commenced in 2014 on foot of complaints from the community. The complaints alleged that the site had been derelict for many years, which is believed to be probable.
 - The site was declared derelict and, following the imposition of levies not proving effective, CPO proceedings were initiated in 2019. They were not pursued at that

time on foot of commitments that repairs would be done and the house occupied by a member of the Doyle family. The house has remained in a derelict condition and unoccupied since that time.

- The objectors have not submitted any documentation in support of their statement that the house will imminently be sold.
- The Council believes that it is appropriate to continue acquisition at this point. The vesting of the house by the Council will ensure that a site which has been derelict for many years will be refurbished and reoccupied at a time of acute housing need in the area.

5.4. Submission of Jim Doyle and Marie Doyle

5.4.1. The above named parties have made a submission to ABP, dated 26th August 2021. The following points of same are noted:

- They are the legal owners of the property in question and submit folio documents demonstrating same.
- They intend to sell the property to raise funds for another family member, who has an urgent housing need, to purchase a house. They have been unable to develop the subject site due to factors outside their control.
- They request a stoppage of the CPO, to enable them to sell the property quickly.

6.0 Planning History

6.1.1. None on file for the application site.

6.1.2. There is a current appeal to the Board against inclusion on Residential Zoned Land Tax Draft Map, ref. VY26.316765, relating to lands to the east of the site at Maxol Service Station, Arklow Road, Gorey, Co. Wexford. This case is due for decision by 17th August 2023.

7.0 Legislation and Policy Context

7.1. Derelict Sites Act 1990 (as amended)

7.1.1. The Derelict Sites Act 1990, as amended, makes provision 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.

7.1.2. 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.

7.1.3. Other relevant provisions of the Act are summarised below:

- 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 enter their sites on to this register.
- 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 its functional area.
- Section 15 sets out arrangements for giving notice, if the local authority intend to acquire a derelict site compulsorily.
- Section 16 sets out arrangements if the owner/occupier wishes to object to the acquisition and it provides that, if an objection is made, then the derelict site shall not be acquired compulsorily by the local authority without the consent of the Board.

7.2. Gorey Town and Environs Local Area Plan 2017 – 2023 (as extended)

7.2.1. The site is zoned R ‘residential’ under the LAP, with the stated objective:

To protect and enhance the residential amenity of existing and developed communities and to provide for new residential development, associated residential services and community facilities.

8.0 Assessment

8.1. The following assessment is based on a site inspection carried out on 4th July 2023.

8.2. The application may be assessed with regard to the relevant provisions of the Derelict Sites Act, 1990, as well as procedural consideration, as follows.

8.3. I note the definition of a derelict site provided in section 3 of the Act, as set out above. I am satisfied that the subject site comes within the scope of that definition with regard to the following:

(a) the existence on the land in question of structures which are in a ruinous, derelict or dangerous condition, or

The external walls of the building are intact and the roof appears to be in good condition. However, several windows are broken and the doors are not secure.

There is a risk of unauthorised access to the building. There is also a risk that the partially completed building works to the side of the house may collapse. The current poor state of the house and the fact that it is open to the elements creates a likelihood of further decline. The combination of these factors would contribute to the ruinous and derelict state of the building. Having regard to the above, it is considered that the building falls within the category of being in a ruinous, derelict and dangerous condition, i.e., category (a) of section 3 of the Derelict Sites Act 1990.

In the light of these items, I consider that the building is in such a neglected/ abandoned condition that it could reasonably be described as derelict and so Section 3(a) of the Derelict Sites Act 1990, as amended, is applicable.

(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.

With regard to category (b), I would consider that on the basis of the foregoing, the site also falls within category (b) of section 3 of the Derelict Sites Act, 1990 due to the land and structure being in a neglected, unsightly and objectionable condition. While I did not observe any evidence of items of waste material at the site, the gardens are completely overgrown. It is considered, therefore, that the site also falls within category (c) of section 3 of the Act. In conclusion, 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.

- 8.4. The above named parties have submitted documentation to demonstrate that they own the site. I note the partially completed construction works at the site, there is no evidence of any intention to finish same. The owners have not submitted any evidence of advertising the property for sale or of any negotiations regarding same. According to Wexford County Council, the property has been in their possession (if not legal ownership) since the death of the previous occupant in 2004.
- 8.5. Having inspected the site, there is no evidence of any attempt to render the site non-derelict and the house remains in a neglected and unsightly condition and the

gardens are still untidy and unkempt. I therefore consider that the site remains in a derelict condition.

- 8.6. On balance, I consider then that the compulsory acquisition of the subject building should be confirmed to ensure that the remedying of its derelict state can be expedited.
- 8.7. 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 8 Eire Street, Gorey, Co. Wexford 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 land and the structure thereon, I consider that the site detracts to a material degree 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. It is further considered that the acquisition of the site by the Local Authority is warranted in order to render the site non-derelict and to prevent it continuing to be a Derelict Site. I therefore recommend that the compulsory acquisition be confirmed.

10.0 Reasons and Considerations

- 10.1. Having regard to the derelict state of the site and to its neglected, unsightly and objectionable condition, the Board considers 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 Sections 3(a) and 3(b) of the Derelict Sites Act 1990, as amended, and that the compulsory acquisition of the site by the local authority is necessary in order to render the site non-derelict and to prevent it from continuing to be a derelict site. It is also considered that the objection made against such acquisition cannot be sustained, having regard to that said necessity.

10.2. I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Sarah Moran
Senior Planning Inspector

5th July 2023