



An
Bord
Pleanála

Inspector's Report

ABP-312050-21

Development

Application for the compulsory acquisition of a derelict site comprising a property at 12 Burrin Street, Carlow, Co. Carlow

Location

12 Burrin Street, Carlow, Co. Carlow

Planning Authority

Carlow County Council

Notice Party

Trevor Moore

Date of Site Inspection

6th October 2023

Inspector

Peter Nelson

1.0 Introduction

- 1.1. This case relates to a request by Carlow County Council for the consent of An Bord Pleanála to the compulsory acquisition of the site of a three-storey, terraced house at 12 Burrin Street, Carlow, Co. Carlow, in accordance with the provisions of the Derelict Sites Act, 1990, as amended.

2.0 Site Location and Description

- 2.1. The site is located on Burrin Street in the centre of Carlow, Co. Carlow. Burrin Street is predominately a residential street with a number of commercial properties and a community facility. The site comprises a three-storey, terraced house and associated rear garden. There is an undercroft vehicle entrance to the rear garden. The building is currently unoccupied.
- 2.2. On the day of the site inspection, I noted that the upper-floor middle window was missing and significant vegetation was growing from this window and from the first-floor centre window. There was also vegetation growing from the chimney.

3.0 Application for Consent for Acquisition

- 3.1. Carlow County Council has applied to the Board for consent to compulsorily acquire the site under Sections 16(4) of the Derelict Sites Act, 1990, as amended. This application follows the service of notices:
 - Carlow County Council served notice on 16th June 2017 of intention to enter the site in the Derelict Sites Register pursuant to section 8(2) of the Derelict Sites Act 1990 (as amended).
 - Carlow County Council served notice on the 5th March 2018 of an entry having been made in the derelict sites register pursuant to Section 8(7) of the Derelict Site Act 1990 (as amended).
 - Carlow County Council served a notice on the 25th March 2019 directing the owner to carry out specified works to 12 Burrin Street, Carlow, Co. Carlow, pursuant to Section 11 of the Derelict Sites Act, 1990 (as amended).

- Carlow County Council served notice on 29th September 2021 under section 14 of the Derelict Sites Act 1990 (as amended) of an intention to compulsorily acquire the derelict site at 12 Burrin Street, Carlow, Co. Carlow.

4.0 Application and Objection

4.1. Notice of Intention to Acquire

- 4.1.1. Carlow County Council served notice on 28th June 2021 under section 14 of the Derelict Sites Act 1990 (as amended) of an intention to compulsorily acquire the derelict site at 12 Burrin Street, Carlow, Co. Carlow. 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.

4.2. Objections to Acquisition

- 4.2.1. Carlow County Council received one submission on foot of the notice of intention to compulsorily acquire the derelict site. Trevor Moore made a submission to Carlow County Council on 28th October 2021. Trevor Moore objects for the following reasons:

- The house is a family home.
- The owner's daughter has a housing requirement in the area.
- Works are ongoing in order to bring the house up to acceptable energy and living standards.
- The exterior works need to be agreed upon.
- The Council have not engaged properly in agreeing on any works to the building and has not followed the exact and correct procedure in dealing with the Derelict Site process.

4.3. Submission of Carlow County Council

4.3.1. Carlow County Council has made a submission in support of the proposed acquisition, dated 25th November 2021 and signed by Fiona O'Neill, Senior Executive Officer. The following points of same are noted:

- The current process under the Derelict Sites Act was commenced in 2017 on foot of a Land Register Search and inspections of the property.
- The site was declared derelict and following the imposition of levies, which did not prove effective, compulsory acquisition proceedings were initiated in 2021.
- Trevor Moore submitted an objection to the Compulsorily Acquisition dated 28th October 2021, which also included a request for a meeting.
- Carlow County Council attempted to contact Trevor Moore several times to arrange a meeting.
- A meeting took place with Trevor Moore on the 22nd November, 2021. (A memo about the same has been submitted.)
- Burrin Street represents a key area of Carlow Town and is currently being targeted for regeneration by Carlow County Council. The Council is currently pursuing the purchase of an adjacent property, which is also a vacant property.
- It is a policy of the Joint Spatial Plan for the Greater Carlow Graiguecullen Urban Area 2012-2018 Section 9: HER P28 to *“encourage the retention, refurbishment and re-use of historic structures that are not protected and are not located within ACAs, where structures make a positive contribution to the streetscape or contribute to the sense of place of a particular locality.”*
- Since 2017, the property owner has failed to adequately demonstrate compliance with Section 9 of the Derelict Sites Act 1990.

4.4. **Submission of Trevor Moore**

4.4.1. The above-named party has made a submission to ABP, dated 26th August 2021. The following points of same are noted:

- 12 Burrin Street has only been used as a family home and has never been let to a third party.

- Despite requests for a meeting, he did not receive a meeting with the Planning Authority.
- He did not receive the Section 22 Notice.
- One of his daughters wants to live at 12 Burrin Street.
- Currently, he is doing works to the dwelling by removing plaster from the house.
- He has plans to upgrade the dwelling and improve its energy efficiency.
- His upcoming retirement lump sum will fund the completion of the works.
- The garden is being used by himself as it abuts his other property.
- The proposed list of works to be carried out was inaccurate as there are no gutters on the front façade.
- In light of the proposal to bring the property back in use, the acquisition of the site by the local authority is not necessary to render the site non-derelict.

5.0 Planning History

- 5.1.1. None on file for the application site.

6.0 Legislation and Policy Context

6.1. Derelict Sites Act 1990 (as amended)

- 6.1.1. 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.

- 6.1.2. 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.

6.1.3. 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 to 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 from 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 intends 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.

6.2. **Carlow County Development Plan 2022-2028**

6.2.1. The site is zoned Town Centre in the Carlow County Development Plan 2022-2028

The objective of this zoning is: *To protect, provide for and/or improve town and village centre facilities and uses.*

“The purpose of this zoning is to protect and enhance the character and vibrancy of existing town and village centres and to provide for and strengthen as appropriate retailing, residential, commercial, cultural, tourist and other appropriate uses. It will promote compact growth through the consolidation of development on town and village centre lands, allowing for a broad range of compatible and complementary uses, which will be encouraged to locate in this area in order to create an attractive environment to reside, shop, work, visit and in which to invest. The appropriate reuse, adaptation, and regeneration of buildings, infill sites, backlands, vacant, derelict and underutilised lands, including residential development, will be encouraged....”

Policy CS.06:

Actively promote the redevelopment and renewal of areas in need of regeneration through appropriate active land management measures including availing of statutory powers under the Derelict Sites Act, Housing Act, Vacant Site Levy and supporting implementation of the Residential Zoned Land Tax together with other statutory provisions to actively promote regeneration of urban and rural areas within the County.

Policy TV.P4:

Promote the consolidation of town and village centres with a focus on the regeneration of underused / vacant buildings and strategic sites and the establishment of a mix of uses to encourage greater vibrancy outside of business hours.

7.0 Assessment

- 7.1. I inspected the site from both Burrin Street, onto which the property fronts and from Pembroke, where the rear roof profile is visible. At the time of site inspection, the house was not accessible for internal inspection.
- 7.2. The application may be assessed with regard to the relevant provisions of the Derelict Sites Act, 1990, as well as procedural consideration, as follows.
- 7.3. The house is vacant and has a neglected, unsightly and objectionable appearance from the public road. The external walls of the building are intact and the roof appears to be in fair condition. However, the middle top-floor window is missing and vegetation is growing from this window and in the first-floor centre window. The building has been partially painted on the ground and first floor, and the new and existing painting is in poor condition. It could be seen from the street that the some of the internal walls and ceilings are missing from the upper floors. The current poor state of the house and the fact that it is open to the elements creates a likelihood of further decline. I note that since the Photographic Survey taken by Pat Hughes of Carlow County Council on and 30th January 2019, the top-floor middle window is missing, the paintwork has deteriorated and the amount of vegetation has increased.
- 7.4. With respect to the nature of dereliction, I am of the opinion that the site 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. Apart from the missing window, the house appears to be in reasonable structural condition externally. There is no obvious evidence of significant cracking or structural damage to the external walls, and the roof structure appears to be generally intact. With regard to category (a) this relates to structures which are in a ruinous, derelict or dangerous condition; having inspected the site, I do not consider that the structure is in a dangerous condition, nor in the absence of any visible evidence of structural damage could be considered ruinous. As there was no litter within the application site or any evidence of waste being stored externally, I do not consider that the site falls within category (c) of section 3 of the Act. However, as stated, I consider the site derelict for other reasons.

- 7.5. There is little evidence of any attempt to render the site non-derelict and the house remains neglected and unsightly. I therefore consider that the site remains in a derelict condition.
- 7.6. On balance, I consider that the compulsory acquisition of the subject building should be confirmed to ensure that the remedying of its derelict site can be expedited.
- 7.7. 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 to confirm the Local Authority's application for consent to compulsorily acquire the site at 12 Burrin Street, Carlow, Co. Carlow.

8.0 Recommendation

- 8.1. 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.
- 8.2. It is further considered that the local authority's acquisition of the site is warranted to render the site non-derelict and prevent it from continuing to be a Derelict Site. I therefore recommend that the compulsory acquisition be confirmed.

9.0 Reasons and Considerations

- 9.1. Having regard to the derelict state of the site and 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(b) of the Derelict Sites Act 1990, as amended, and that the compulsory acquisition of the site by the local authority is necessary 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.

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.

Peter Nelson
Planning Inspector

23rd October 2023