



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312354-22

#### Nature of Application

Application for consent for compulsory acquisition of a derelict site in accordance with Section 16 of the Derelict Sites Act 1990, as amended.

#### Location

No. 7 O'Dwyer Villas, Thomondgate, Limerick.

#### Local Authority

Limerick City & County Council

#### Notice Party

Susan Slater McCormack

#### Date of Site Inspection

03/10/2022

#### Inspector

A. Considine

## **1.0 Introduction**

- 1.1. This case relates to a request by Limerick City & County Council for the consent of An Bord Pleanála to the compulsory acquisition of the subject site at No. 7 O'Dwyer Villas, Thomondgate, Limerick, in accordance with the provisions of the Derelict Sites Act, 1990, as amended (hereinafter referred to as the 'Derelict Sites Act').
- 1.2. Notice of the intention to compulsorily acquire the site under Section 14 of the Derelict Sites Act 1990 was signed on the 18<sup>th</sup> of October 2021 and the notice was posted to Ms. Susan Slater and Mr. James Slater on the 20<sup>th</sup> of October 2021. A copy of the notice was also erected on the site. An objection to the CPO was received by the local authority from Ms. Susan Slater by letter on the 23<sup>rd</sup> of November 2021, prior to the final date for submissions.
- 1.3. I have read the content of the file and inspected the site on the 3<sup>rd</sup> October 2022.

## **2.0 Site Location and Description**

- 2.1. The subject site comprises an end of terrace two-storey residential property and surrounding lands of approx. 0.027ha at No. 7 O'Dwyer Villas, Thomondgate, Limerick. The site lies to the west of the River Shannon close to Browns Quay, and overlooking the river, to the north of Thomond Bridge. The site lies across the river from the historic area of Limerick City, and within walking distance to King John's Castle and Limerick City centre. The area comprises terraced two storey houses, and the subject site lies at the southern end of a block of 6 houses where the single storey element connects to the adjacent house to the south.
- 2.2. On the date of my site inspection, the property was secured with hoarding to a number of the front window frames of the property. I also noted that additional hoarding has been installed since the submission of this application to the Board. The Nissan which is pictured at the site during the PAs consideration of the site remained parked on the front garden area, with the addition of a Transit Van. I was unable able to gain access to the rear of the site. The properties on either side of the subject site are residential in use and the other properties on the street all appear to be in use and are well maintained.

2.3. The Board will note that the Planning Authority has submitted that the residential property is vacant and in a derelict condition for approximately 15 years, and while efforts were made to paint the front elevation, neither the side or the rear of the property were included. It is also noted that a significant stand of Japanese Knotweed has been identified in the rear garden which is spreading to the adjacent Council owned property at No. 6 O'Dwyer Villas.

### **3.0 Application for Consent for Acquisition**

3.1. On the 20<sup>th</sup> of December 2021, An Bord Pleanála received an application for consent to the compulsory purchase of a derelict site at 7 O'Dwyer Villas, Thomondgate, Limerick from Limerick City & County Council. The application for consent is made under section 14/16 of the Derelict Sites Act, 1990, as amended.

### **4.0 Application and Objection**

#### **4.1. Notice of Intention to Acquire**

4.1.1. Notice of Limerick City & County Council's intention to acquire the site compulsorily was published in the Limerick Post newspaper on the 23<sup>rd</sup> of October 2021. Notice was also posted on the property and served on the owners by registered post in letter dated 20<sup>th</sup> October 2021 (with photographic evidence of posting on site dated 21<sup>st</sup> of October 2021). The site is described as follows in the notices:

A derelict site comprising a two-storey, mid-terrace, residential premises and surrounding land situate at 7 O'Dwyer Villas, Thomondgate, Limerick, containing 0.027 hectares or thereabouts. The said property and surrounding land is in a state of dereliction. The said derelict site is more particularly shown outlined in red on map bearing reference no. DS-098-19 in the Derelict Sites Register established and maintained by Limerick & City County Council under Section 8 of the Derelict Sites Act 1990.

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

## **4.2. Objection to Acquisition**

4.2.1. An objection to the proposed acquisition was submitted to Limerick City & County Council by Ms. Susan Slater McCormack by letter on the 18<sup>th</sup> of November 2022. A cover letter is also included from Mr. James Slater. The objection can be summarised as follows;

- Progress is ongoing to bring the property up to standards and will continue to completion.
- Issues regarding the ownership title on the deeds which are being addressed.

## **4.3. Local Authority's Application for Consent**

4.3.1. The Local Authority requests the consent of the Board to the compulsory acquisition of the derelict site. The application for consent was submitted on 20<sup>th</sup> of December 2021, and was accompanied by the following:

- Compulsory Acquisition Report
- Derelict Site Location Map
- Section 15 Notice issued to owner
- Section 15 Newspaper advertisement
- Letter of Objection and acknowledged response.
- Photographs of the property dated from 2019-2021.

4.3.2. In support of the application for consent to the compulsory acquisition of the derelict site, the local authority included a history of the derelict site case which notes that an officer of Limerick City & County Council first inspected the property on the 12<sup>th</sup> of September 2019. The site was identified as a derelict site and the relevant notices seeking ownership information was affixed to the property. Both Ms. Slater and Mr. Slater made contact following the posting of the notice. It transpires that Mr. Slater is Ms. Slaters nephew, and the house was Ms. Slaters late mothers' property.

4.3.3. On the 25<sup>th</sup> of September 2020, a Section 8(2) Notice of Intention to enter the particulars of the land in the Derelict Sites Register was served. This action resulted in a commitment from Mr. Slater to remove the vehicles from the site and complete

the remedial works on the house. On the 7<sup>th</sup> of September 2021, the remedial works had not been completed and the land was entered in the register. A Section 8(7) Notice was served by registered post on the 16<sup>th</sup> September 2021.

4.3.4. On the 20<sup>th</sup> of October, the Council gave Notice of Intention to Acquire Derelict Site Compulsorily to the owner and advertised same in the Limerick Post newspaper.

4.3.5. It is contented that it is the inaction of owners and failure of their duties under the Derelict Sites Act 1990, as amended, that jeopardises the future use of properties in the area due to their continued neglected and derelict state.

#### **4.4. Objectors Submission**

4.4.1. The objector to the compulsory acquisition of the site has not made any submission to the Board following the lodging of the application by Limerick City & County Council on the 20<sup>th</sup> of December 2021.

### **5.0 Planning History**

None.

### **6.0 Policy Context**

#### **6.1. Development Plan**

6.1.1. The applicable Limerick City & County Council Development Plan 2022-2028 is the relevant policy document pertaining to the subject site. This Plan was adopted by the Elected Members of Limerick City & County Council on the 17<sup>th</sup> of June 2022 and the Plan came into effect on the 29<sup>th</sup> of July 2022, six weeks after the date of adoption.

6.1.2. The subject site lies in an area which is zoned Existing Residential in the new CDP. One of the strategic objectives of the plan includes the addressing of vacancy and dereliction to create compact attractive, vibrant and safe environments in which to live, work, visit and invest.

- 6.1.3. Chapter 3 of the Plan deals with Spatial Strategy and the following objective is considered relevant as it relates to derelict sites:

**Objective CGR O4: Active Land Management:**

It is an objective of the Council to:

- b) Support and facilitate the reuse and revitalisation of derelict, vacant and underutilised sites and disused buildings throughout Limerick for residential, economic, community and leisure purposes.

- 6.1.4. Section 3.3.2.2 of the Plan specifically deals with Derelict Sites and notes that such sites can have a negative impact on the social, visual and commercial aspects of a neighbourhood. The following policy objective is relevant in this regard:

**Objective CGR O6: Derelict Sites:**

It is an objective of the Council to utilise the provisions of the Derelict Sites Act 1990, including the maintenance of a Derelict Site Register and CPO powers to address instances of dereliction and decay in the urban and rural environment and bring properties back into active reuse.

**6.2. Derelict Sites Act 1990 (as amended)**

- 6.2.1. The Derelict Sites Act 1990, as amended, makes provisions to prevent land or buildings being or becoming a derelict site. Amongst other things, it enables local authorities to require land-owners or occupiers to take measures on derelict sites and, in certain circumstances, to acquire derelict sites compulsorily.

- 6.2.2. 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.”

6.2.3. Other relevant sections of the Act include as follows:

- 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**

### **7.1. Introduction**

7.1.1. The subject site comprises a two-storey house within a terrace. Having regard to the nature of the site, the Board will note that I did not gain access to the rear of the site, and I carried out my site inspection from the public footpath.

7.1.2. The Board will note the considerations of the local authority in relation to the subject site. In addition, it is noted that a period of 3 years has passed since the Council first inspected the property, on the 12<sup>th</sup> of September 2019. The site was identified as a derelict site and the relevant notices seeking ownership information was affixed to the property. Following contact with the property owners, and a lack of progress to rectify the site, on the 25<sup>th</sup> of September 2020, a Section 8(2) Notice of Intention to enter the particulars of the land in the Derelict Sites Register was served.

7.1.3. Following a commitment to remove the vehicles from the site and to complete remedial works, a year later, the site remained in a neglected state and the Council proceeded with the entry of the site in the Derelict Sites Register and issuing of a Section 8(7) Notice on the 16<sup>th</sup> of September 2021. On the 20<sup>th</sup> of October, the Council gave Notice of Intention to Acquire Derelict Site Compulsorily to the owner and advertised same in the Limerick Post newspaper. It is contented that it is the inaction of owners and failure of their duties under the Derelict Sites Act 1990, as amended, that jeopardises the future use of properties in the area due to their continued neglected and derelict state.

7.1.4. At this point, there can be no argument that the site has a neglected, unsightly and objectionable appearance from the public road and in the surrounding streetscape. The Board will also note that the subject site was entered into the Limerick City & County Council Derelict Site Register, Site ID DS-098-19 and the S8(7) Notice is dated 16<sup>th</sup> of September 2021 and the S15(1) Notice is dated 21<sup>st</sup> of October 2021.

### **7.2. Planning History**

7.2.1. There is no relevant planning history pertaining to the subject site noted.



### **7.3. Statutory Process**

7.3.1. I note the actions of the Local Authority and the statutory notices served on the property, and the reputed owner in respect of the site. I note that notices under section 8(2) (i.e. advising of the Local Authority's intention to enter the site on the register of derelict sites), section 8(7) (i.e. advising of the Local Authority's decision to enter the site on the register of derelict sites) were served on the reputed owners and objector Ms. Susan Slater McCormac.

7.3.2. I would note also that while evidence of section 11(2) (i.e. directing that specified measures be completed) has not been provided to the Board, it is noted in the local authority's report, that a commitment 'to remove all of the vehicles and complete remedial works on the house', was given by Mr. Slater during a phone call on or around the 25<sup>th</sup> of September 2020. I would note that almost a 12-month period was afforded to the objectors to complete the agreed remedial works, however, the site continued to remain in a derelict state.

7.3.3. As the site is included in the Register of Derelict Sites for Limerick City & County, I am satisfied that the Local Authority adequately demonstrated that section 8(2), section 8(7) or section 11(2) notices were served on the owners. In any case, the Board should note that it is not a requirement under the Derelict Sites Act 1990, as amended, for a site to be placed on the register of derelict sites prior to an application being made to acquire it compulsorily.

7.3.4. A Section 15(1)(a) Notice of intention to acquire the site compulsorily was signed on the 18<sup>th</sup> of October 2021, served on the 20<sup>th</sup> of October 2022 and published in the Limerick Post newspaper on the 23<sup>rd</sup> of October 2021. With regard to the notices prepared by the Local Authority, it is clear that the reputed owners of the site were served notice, as demonstrated by the fact that an objection was made.

### **7.4. Compliance with Section 3 of the Derelict Sites Act 1999, as amended**

7.4.1. The Derelict Sites Act 1990, as amended, makes provisions to prevent being or becoming a derelict site. Amongst other things, it enables local authorities to require land owners or occupiers to take measures on derelict sites and, in certain circumstances, to acquire derelict sites compulsorily. 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.”

7.4.2. With regard to category (a), of section 3 of the Derelict Sites Act, 1990, which relates to structures which are in a ruinous, derelict or dangerous condition, having inspected the site, I note that the building occupying the site is in a derelict condition. I note that the front wall of the house has been painted in an effort to improve the appearance, however, this has done little to improve the derelict nature of the building. I would also note that since the original photographs were taken by the Planning Authority, and having undertaken a site inspection, additional hoarding has been required to ground floor windows. In this regard, I accept that the subject site is in a derelict condition, and it is reasonable to determine that the site is a derelict site in accordance with category 3(a) of the Derelict Sites Act 1990, as amended.

7.4.3. With regard to category (b), the Board will note the location of the site in the context of the adjacent homes, all of which are well maintained. I would consider that the site falls within this category of section 3 of the Derelict Sites Act, 1990 due to the property being in a neglected, unsightly and objectionable condition and it is reasonable to determine that the site is a derelict site in accordance with category 3(b) of the Act.

7.4.4. While I could not gain access to the rear of the site, the Board will clearly see that the front of the property, and fully visible from the public realm, has been used for the storage of old cars, one of which clearly hasn't been removed from the site for a period of a number of years. I am satisfied that the storage of old cars in the front garden area materially detracts from the amenity and appearance of properties

within the streetscape of this area of Thomondgate, Limerick. I consider therefore, that the site falls within category (c) of section 3 of the Act and that in its current condition, which has been in place for many years, renders it derelict in accordance with category 3(c) of the Act.

## **7.5. Other Issues**

7.5.1. I note that the owners, Ms. Susan Slater McCormack, objected to the proposed acquisition of the property by Limerick City & County Council in November 2021 which instigated the application to the Board. No further submissions have been received by the Board from Ms. Slater McCormack. I further note that the objection was based on the fact that progress is ongoing to bring the property up to standard. Issues over title were also being addressed.

7.5.2. Having regard to all of the information available to me, together with my site inspection which clearly indicated that no remedial works have been undertaken at the site, I am satisfied that the site is a derelict site within the definition of the Act and has been included in the Register of Derelict Sites for Limerick City & County Council since September 2021. The site has remained in a state of dereliction.

## **7.6. Conclusion**

Having regard, therefore, to all of the information available on the file and the continued appearance and condition of the site, 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 No. 7 O'Dwyer Villas, Thomondgate, Limerick is granted.

## 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 site, I consider that the site materially detracts from the amenity, character and appearance of streetscape of No. 7 O'Dwyer Villas, Thomondgate, Limerick and is therefore a derelict site within the meaning of Section 3 of the Derelict Sites Act, 1990, as amended.
- 8.2. I am satisfied that the Local Authority has made efforts to rectify the situation over a number of years, without success and that notwithstanding the submission of the objector to the compulsory purchase of the land, no effort to carry out remedial works to address the dereliction by the identified owners.
- 8.3. I consider that it is reasonable that the Local Authority seeks to compulsorily acquire the land, as provided by section 14 of the Act. I recommend, therefore, that the Board **grant** consent to Limerick City & 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 the streetscape of No. 7 O'Dwyer Villas, Thomondgate, Limerick and, therefore, comes within the definition of a derelict site as defined in sections 3(a), 3(b) and 3(c) of the Derelict Sites Act, 1990, 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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A. Considine  
Planning Inspector  
03/10/2022