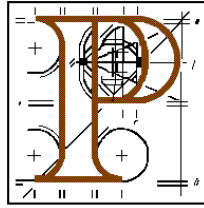


# An Bord Pleanála



## Inspector's Report

**Board Reference:**

ABP-312549-22

**Planning Authority Site ID:**

DS-140-20

**Local Authority:**

Limerick City & County Council

**Objector:**

Mary Ruttle

William Harty

**Location of Lands:**

Abbeyview, Askeaton, County  
Limerick

**Inspector:**

Kevin Moore

**Re: Application for consent from An Bord Pleanála for compulsory acquisition of former cottage and surrounding lands at Abbeyview, Askeaton, County Limerick.**

## **1.0 INTRODUCTION**

- 1.1. I have read the contents of the file and I inspected the site on 10<sup>th</sup> April, 2024.
- 1.2. Notice of the intention to compulsorily acquire the site under section 14 of the Derelict Sites Act 1990 was published on 13<sup>th</sup> November, 2021. Objections to the acquisition were received by the local authority by letters dated 9<sup>th</sup> and 10<sup>th</sup> December, 2021.
- 1.3. A Compulsory Acquisition Report is attached in the letter from the local authority, dated 17<sup>th</sup> January, 2022, 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 objections received. The local authority submits that it is the inaction of Owners/reputed Owners and failure in their duties under the Derelict Sites Act, 1990 (as amended) that jeopardises the future use of property in the area due to their continued neglected and derelict state. 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 objections received and acknowledgement letters, and photographs of the site.

## **2.0 OBJECTIONS**

- 2.1. An objection was received by the Board on 15<sup>th</sup> February, 2022 from Patrick Ruttle on behalf of his mother Mary Ruttle. The objector refers to her objection to

the compulsory acquisition. It is submitted that the site has always been divided into two parts and is mapped accordingly. The objector has no interest in the part containing the old cottage and land. It is submitted that the other part is fenced off separately, it does not contain any structure, and is referred to as being her site and being reasonably well maintained. It is submitted that the two sites have always been separated and should be dealt with separately. It is stated that she applied for title of the site adjoining her residential property in 2009, that an objection was lodged with the Land Registry Office, and, to speed up the registry of the residential part, the application was divided. It is stated that title was granted for the adjoining residential site in 2012 but the other application awaits a decision since that date. She states that she is confident of gaining title if the application is processed and could then proceed with investment to develop the site. A map dated 1983 is stated to show her interest in the site nearly 40 years ago. It is submitted that the site was used as a garden by previous generations of her family and that it is intended to develop the site as a garden. The objector states that she has always maintained the site. Reference is made to access connections to her home. Concern is raised about the Council having no definite plan for the site and to the site's condition deteriorating as a result. Details attached with the objection include letters from a solicitor relating to application for registration of the property and associated maps.

- 2.2. A second objection was received by the Board on 15<sup>th</sup> February, 2022 from William Harty. This refers to the documents for the property being with solicitors and to a cousin who bought the property for his grandparents being happy to gift them to him. He would appreciate being given time for the process to be completed.

### **3.0 FURTHER SUBMISSIONS**

- 3.1. Following the local authority and the objectors being informed of a revised projected date for determination of the case, a further submission was received as follows:

Patrick Ruttle submitted that, following a lengthy process with Land Registry Section, title was awarded to him for his portion of the property and a Folio Number is given. It was stated that the site has since been cleared off, grass has been sown and he is in the process of completing the fencing of one side of the property to enable him to secure the site.

- 3.2. I note that this correspondence was forwarded to the local authority and the local authority was requested to contact the Board if there were any queries in relation to the matter. I have no record of any response being received by the Board from the local authority.

### **4.0 SITE LOCATION AND DESCRIPTION**

- 4.1. The site is on the east side of Abbey View to the north of Main Street in Askeaton, County Limerick. There is a detached, single-storey structure fronting onto the road edge. This was formerly a house. The curtilage comprises side and rear garden spaces. The plot presents as a single plot, with no section of the property being subdivided by a hedgerow or fence. It is enclosed by a stone wall and hedge to the rear, by a block wall along its north-western boundary, and by a stone wall along its south-eastern boundary. The roadside area to the north-west of the house is without any wall or fence, while there is a timber post and rail fence along the roadside edge to the south-east. There is a detached house to the rear (east) of the site. There is a structure, formerly a house, immediately to the south of the site.

## 5.0 ASSESSMENT

5.1 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.

5.2. I note from the Council's report that it is submitted that the former cottage and surrounding land are 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, in relation to the structure on the site, the chimney is overgrown with ivy, there are damaged slates and slates missing, there is an absence of guttering and downpipes, and that the windows and doors are either broken or missing. It was also noted that slates, roof timbers and ivy have been removed from the cottage in recent times and that the structure has a dirty and unpainted appearance.

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

- The existing structure is in a neglected and unmaintained condition and fronts onto the edge of the public road. The local authority's description and

assessment of the structure are acknowledged. The structure is now roofless and the rear wall is missing. There is ivy and other growth on the building. The remaining door and window openings are not boarded up and access onto this land is available from the public road. The structure presents as being in a ruinous condition.

- The curtilage behind and to the north-west side of the former house is overgrown and unmaintained. A linear section of the land area to the south of the structure appears as having been cleared and seeded. This is not enclosed or fenced. There is a ramp and gate provided to a property to the rear from this location. A roadside timber post and rail fence has been provided to the front of this section of the curtilage.
- Notwithstanding what appears to be a maintained section of the overall holding, the site presents as a single plot. There is no subdivision of the land by fencing.
- Inhabited properties in the vicinity comprise detached dwellings and other buildings that are well-maintained.

5.4. Overall, I am satisfied to conclude that this is a site which detracts to a material degree from the amenity, character and appearance of land in the neighbourhood because of the neglected, unsightly and objectionable condition of the land and the ruinous condition of the former house structure. Indeed, it could reasonably be determined to be in a dangerous condition, sited on the road edge and openly accessible therefrom. I submit that the former house is in a state of dereliction, with its unmaintained condition likely facilitating further decay. Having regard to these observations, it is reasonable to determine that

- (a) a structure exists on the land in question which is in a ruinous and derelict condition, and
- (b) the condition of the land for the most part is neglected, unsightly and objectionable.

- 5.5. I submit that the property constitutes a ‘Derelict Site’ as it detracts to a material degree from the amenity, character or appearance of land in the neighbourhood of the land in question.
- 5.6. I note that no details have been provided by William Harty which would confirm his ownership of the property the subject of this application from the local authority.
- 5.7. I note the original submission to the Board from Mary Ruttle. This was made by Patrick Ruttle on her behalf. This referred to the site being divided into two parts and being mapped accordingly. While the map submitted with the application to the Board appears to subdivide the land to the rear of the house, there is no subdivision in place at present. The original submission to the Board referred to Mary Ruttle applying for title of the site adjoining her residential property in 2009, that an objection was lodged with the Land Registry Office, and, to speed up the registry of the residential part, the application was divided. It is stated that title was granted for the adjoining residential site in 2012 but the other application awaits a decision since that date. I then note the most recent submission from Patrick Ruttle. Therein he refers to “*the case of my property*” and to full title being awarded to him “*for my portion of the property*”. There is no reference to Mary Ruttle being the owner. There is no understanding of how this ownership of part of the property has now moved to Patrick Ruttle. Patrick Ruttle submits that Land Registry have awarded full title to him and states that the matter was dealt with under Folio No. LK64838F. The Board has no further details of this. There is no Land Registry Map or any accompanying detailed property information associated with this Folio which provide conclusive evidence to the title to this property, which would allow the Board to reasonably determine that a portion of this site now belongs to either Patrick or Mary Ruttle.
- 5.8. I am satisfied that this site constitutes a derelict site. The Board has no reason to determine that this is not the case. There are no formal, legal details to determine

that part or all of this plot is in William Harty's, Mary or Patrick Ruttle's, or any other person's ownership. The linear seeded strip of land to the south of the house does not address the neglected, unsightly and objectionable condition of the land and the structure on the land.

## **6.0 CONCLUSION AND RECOMMENDATION**

- 6.1. I conclude that the structure and surrounding land at Abbey View, Askeaton, County Limerick constitute a derelict site and I recommend that the Board grants consent to the compulsory acquisition of this site at this time in accordance with the following:

### **Decision**

**GRANT 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 property detracts to a material degree from the amenity, character or appearance of land in the neighbourhood of the land in question, having regard to the condition of the land being neglected, unsightly and



objectionable and the presence of an existing structure which is in a ruinous and derelict condition. The Board, therefore, has decided that it would be appropriate to grant consent to the compulsory acquisition of the site.

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.

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Kevin Moore  
Senior Planning Inspector  
15<sup>th</sup> April, 2024.