



An
Bord
Pleanála

Inspector's Report ABP-314577-22

Nature of Application

Application for consent for compulsory acquisition of a derelict site in accordance with Section 14 of the Derelict Sites Act 1990, as amended

Location

4 Lower Gerald Griffin Steet, Limerick,
V94 Y01P

Local Authority

Limerick City and County Council

Notice Party

The Legal Reps of John O'Callaghan

Date of Site Inspection

7th March 2024

Inspector

Ciara McGuinness

1.0 Introduction

- 1.1. This case relates to a request by Limerick City and County Council for the consent of An Bord Pleanála to the compulsory acquisition of the subject site at 4 Lower Gerald Griffin Street, Limerick, V94 Y01P, 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 at 4 Lower Gerald Griffin Street, in Limerick City Centre. The property is a mid-terrace, two-storey building, which appears to have previously been in residential use. The front elevation can be viewed from the public road. Access to the rear of the property was not possible on the day of my site inspection.
- 2.2. The site has a stated area of 0.023ha. The subject site is not a Protected Structure nor is it listed on the National Inventory of Architectural Heritage. The immediate area is characterised by a mix of residential and commercial uses, which appear to be occupied and in reasonable condition and well maintained. The site is in the vicinity of Colbert Station, St. John's Square, St. John's Hospital, St. John's Cathedral, St. John's Church and the Milk Market. Lower Gerald Griffin Street is an important link route between these amenities and as such experiences a high volume of road and pedestrian traffic.
- 2.3. On the day of my site inspection, I noted that 2 no. of for sale signs had been erected on the front façade of the property. Extensive vegetation was growing through the first-floor windows, the front façade and the roof. The external façade was in poor condition with cracked render, paint peeling, significant discolouration and dirt on the walls.

3.0 Application for Consent of Acquisition

- 3.1. Limerick City and County Council has applied to the Board for consent to compulsorily acquire the site under section 14/16 of the Derelict Sites Act, 1990, as amended. I note that this application is subsequent to the serving of notices under section 8(2), on 19th of August 2021, advising of the Local Authority's intention to enter the site on the register of derelict sites, and under section 8(7), on the 8th of

February 2022, advising of the Local Authority's decision to enter the site on the register of derelict sites.

4.0 Application and Objection

4.1. Notice of Intention to Acquire

4.1.1. Notice of Limerick City and County Council's intention to acquire the site compulsorily was served on the owners/occupiers (Jonh O'Callaghan) and was published in the Limerick Post newspaper on the 1st of July 2022. The site was described as follows in the notices:

- A derelict site comprising a mid-terrace residential premises and surrounding land situate at 4 Lower Gerald Griffin Street, Limerick V94 Y01P, containing 0.23 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-055-21 in the Derelict Sites Register established and maintained by Limerick City and 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 and County Council by Kelly Law Solicitors in a letter on the 22nd of July 2022. It was stated that the owner of the property, Mr O'Callaghan died on 11th May 2022. The property will be dealt with in the course of the administration, but this cannot be done until such a time as grant of probate of the estate is extracted. It is requested that the position is noted, and no further action taken for the foreseeable.

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 6th September 2022 and was accompanied by the following:

- Local Authority Compulsory Acquisition Report which sets out the local authority's strategic approach to derelict sites in the city and county, a description of the site, the background to the case and the details of the objection.
- The report included photographs and a map of the site area.
- Copy of the notices served on the owners/occupiers of the site.
- Copy of the newspaper notice, dated 1st July 2022.
- Copy of objection made by Kelly Law Solicitors submitted to the Local Authority on 22nd July 2022.

4.3.2. The Derelict Site Report can be summarised as follows;

- Limerick City and County Council (LCCC) have established a specialised 'Dereliction and Vacancy Team' to take an area-based collaborative approach to addressing vacancy and dereliction in Limerick City and in the towns and villages in the County. The team focuses on bringing derelict and vacant sites back into use, particularly in areas of high housing demand, town and village centres and the historic core of the City. They seek to work proactively with property owners, with timely actions and improvement of sites through positive engagement. It is stated that the powers under the Derelict Sites Act, 1990 are used only where necessary, where all reasonable alternatives have been exhausted.
- Matters that are taken into account include
 - outstanding planning permissions,
 - evidence of efforts to address vacancy and dereliction,
 - security, safety to the public and condition of the site,

- the conservation value of the building and requirement for remedial restoration works, and
- the feasibility of various actions to make good the site and find viable uses for the site.

4.3.3. The site was first inspected on the 5th May 2021 and identified as a derelict site.

4.3.4. Site ownership enquiries were made through the Land Registry System, and it was established that the register owner of the lands is John O'Callaghan. Subsequent enquiries identified Mr O'Callaghan residing at Riverdale Nursing Homes, Ardnacrusha, Co. Clare. Mr O'Callaghan died on the 11th May 2022.

4.3.5. Mr Terrance O'Callaghan (son of John O'Callaghan) contacted LCCC in May 2021 advising that the property has been broken into many times and stated he did not have the full ownership of the property and could not carry out remedial works.

4.3.6. Following service of the Section 8(7) notice, a granddaughter of Mr John O'Callaghan, Ms Kathy Murphy, made contact with LCCC. A meeting was held with Ms Murphy on 15th February 2022 where a number of options to remedy the dereliction were discussed.

4.3.7. A letter of representation from O'Gorman Solicitors dated 14th March 2022 for their client Terrance O'Callaghan was received by LCCC and stated his beneficial interest in the property.

4.3.8. As the site continued to be in a derelict state, LCCC exercised its power of compulsory acquisition under Section 14 of the Derelict Sites Act, 1990, and gave Notice of Intention to Acquire Derelict Site Compulsorily to the owner and advertised same in the Limerick post Newspaper of 1st July 2022.

4.3.9. An objection to the Section 15 notice was submitted from Kelly Law Solicitors on behalf of the LPR of John O'Callaghan (deceased).

4.4. Objectors Submission

4.4.1. None.

5.0 Planning History

No record of any planning applications or permissions relating to the site.

6.0 Policy Context

6.1. Limerick City and County Council Plan 2022-2028

- 6.1.1. Strategic Objective 4 of the Development Plan supports and facilitates the revitalisation and consolidation of urban areas through public realm and place-making initiatives, including addressing vacancy and dereliction to create compact attractive, vibrant and safe environments in which to live, work, visit and invest. The theme of revitalisation and delivery of compact growth is central to the Core Strategy (Chapter 2) and the Spatial Strategy (Chapter 3). **Policy CGR P1 Compact Growth and Revitalisation** sets out how this can be achieved including development of brownfield and underutilised lands within the built footprint of urban areas. One of the measures required to create compact, dense and sustainable urban centres is 'Active Land Management' (Section 3.3.2) to bring vacant and underutilised land in urban areas into beneficial use. **Objective CGR O4 Active Land Management** promotes an active land management approach and supports the reuse and revitalisation of derelict, vacant and underutilised sites and disused buildings throughout Limerick.
- 6.1.2. Section 3.3.2.2 of the Development Plan notes that derelict sites can have a negative impact on the social, visual and commercial aspects of a neighbourhood. Limerick City and County Council is proactive in identifying and seeking the improvement of such sites to address incidences of decay, prevent deterioration of the built fabric and bring buildings back into active use. **Objective CGR O6 Derelict sites** seeks to utilise the provisions of the Derelict sites Act 1990, including the maintenance of the Derelict Sites Register and CPO powers to address instances of dereliction and decay in the urban and rural environment and bring properties back into active re-use.
- 6.1.3. Section 3.4.3.2 of the Development Plan deals with **The Living Limerick City Centre Initiative** which is a 7-year programme awarded funding in 2021 under the Urban regeneration Development Fund. It seeks to make positive, innovative and

transformational change to revitalise the centre of Limerick City and is seen as a growth enabler. The LCCC Initiative seeks, inter alia, to renew vacant, underutilised and derelict buildings in the city centre.

- 6.1.4. The site is zoned **City Centre**, the Zoning Objective for which is to protect, consolidate and facilitate development of the City Centre commercial, retail, educational, leisure, residential, social and community uses and facilities.

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

- 6.2.1. The Derelict Sites Act 1990, as amended, makes provisions 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.

- 6.2.2. 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. 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.

- 6.2.4. 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. Internal access to the property was not possible on the date of my site inspection. However, I carried out my site inspection from the public road adjoining the site.
- 7.2. The property is vacant and has been derelict for a considerable time. Extensive vegetation is growing through the first-floor window, the front façade and the roof of the property. The structure has no fascia or working rainwater gutters. Due to the associated water egress, the external façade of the structure is in very poor condition, with render cracked, paint peeling and significant discolouration. The render and paintwork on the cills and reveals are chipped and peeling, and the window frames and doors have advanced rot. The combination of these factors detracts from the amenity of the street and the character of the area. The property has been in a derelict state and has remained vacant for some time and its condition has deteriorated during this period of vacancy and dereliction.
- 7.3. The property is situated in the middle of a row of similar terraced properties which are generally occupied and in use as commercial and/or residential premises, which appear to be well maintained and in good condition. The area has an attractive appearance, and the public realm is well cared for, with high quality public amenities in the vicinity such as St. John's Square and the Milk Market. The site also forms part of the City Centre for which there are Development Plan policies to promote the revitalisation and attractiveness of the city centre. Having regard to the foregoing, I

therefore consider that the application site detracts to a material degree from the character and appearance of the surrounding area.

- 7.4. Having regard to the above, I would consider 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. With regard to category (a), this relates to structures which are in a ruinous, derelict or dangerous condition. Having inspected the site, I consider that there is sufficient evidence to confirm that the structure is in a dangerous condition, and that it could be considered ruinous. Thus, it is considered that the site does also falls within category (a) of the Derelict Sites Act 1990.
- 7.5. I was unable to gain access to the rear of the site on the day of my site inspection, however I note from the photographs provided by the Local Authority that there was considerable evidence of litter, debris, rubbish, including waste in the form of old bits of furniture, plastic bags filled with material stored externally and general litter within the site. I consider 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.
- 7.6. I note the actions of the Local Authority. A section 8(2) notice was served on the property on the 19th August 2021 of its intention to insert the site onto the Derelict Sites Register with a section 8(7) notice issued on 8th February 2022 advising of the Local Authority's decision to enter the site on the register of derelict sites. The notice of intention to acquire the property compulsorily under section 15 was issued on 1st July 2022 and published in the Limerick Post on 1st of July 2022.
- 7.7. An objection was received from Kelly Law Solicitors on behalf of the LPR of John O'Callaghan (deceased), objecting to the notice. No further submissions were received following the Board's notice under 16(5) of the Derelict Sites Act inviting observations in relation to the comments of the local authority. I can confirm from my site visit that the property remains as originally documented with no evidence of any works carried out to improve the appearance and condition of the building or render it non-derelict. The property continues to be in a neglected, unsightly and objectionable condition and I consider that it detracts to a material degree from the

amenity, character and appearance of the area. I therefore consider the property to be a derelict site, within the meaning of Section 3 of the Derelict Sites Act, 1990, as amended.

7.8. I am satisfied that the processes and procedures undertaken by Limerick City and County Council have been fair and reasonable, and that Limerick City and County Council has demonstrated that the acquisition of the property is necessary to ensure the remedying of the sites derelict state can be expedited. I consider that the acquisition of the property at 4 Lower Gerald Griffin Street, Limerick, as set out in the compulsory acquisition order and on the accompanying maps, is rationally connected to a legitimate objective in the public interest, namely remedying the sites derelict state and bringing the property back into active use. Accordingly, I am satisfied that the confirmation of compulsory acquisition is clearly justified in the interest of the common good.

7.9. 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 4 Lower Gerald Griffin Street, Limerick be granted.

8.0 Recommendation

8.1.1. 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 materially detracts 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.

8.1.2. 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 and County Council to compulsorily acquire the site.

9.0 Reasons and Considerations

- 9.1. Having regard to the neglected, unsightly and objectionable condition of the site, the poor state of repair of the external walls, roof and rainwater goods, to the visible presence of vegetation growing on the property, and to the presence of litter, debris and waste materials on the site it is considered 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), 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.

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.

Ciara McGuinness

Planning Inspector

25th March 2024