



An
Bord
Pleanála

Inspector's Report ABP-317919-23

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

No. 30 North Frederick Street, Dublin 1

Local Authority

Dublin City Council

Notice Party

Patrick Walsh

Date of Site Inspection

10th May 2024

Inspector

Ian Campbell

1.0 Introduction

- 1.1. This case relates to a request by Dublin City Council (DCC) for the consent of An Bord Pleanála to the compulsory acquisition of the subject site at No. 30 North Frederick Street, Dublin 1, in accordance with the provisions of the Derelict Sites Act, 1990, as amended.

2.0 Site Location and Description

- 2.1. The property which is the subject of this CPO (referred to hereafter as the 'subject property') is located on the western side of North Frederick Street, c. 100 metres north of the Garden of Remembrance in the centre of Dublin.
- 2.2. The subject property is a four storey over basement, mid-terrace house. The front of the property is bound by metal railings. A set of steps lead from the street to the front door.
- 2.3. The subject property is a Protected Structure (RPS Ref. 2979) and is listed on the National Inventory of Architectural Heritage (Ref. 50010896).
- 2.4. Adjoining properties appear to be occupied and are in reasonable condition.
- 2.5. On the date of my site inspection the property was secure and the windows and door on the front façade have been fitted with sheets of steel. The brickwork on the front façade is chipped, dirty, and stained. Window cills on the front façade are chipped and in need of repair/re-painting. There is loose wiring hanging from the front façade of the building. The wooden surround around the door on the front façade is damaged and in need of repair/repainting. The steps leading to the front door are covered in weeds and moss. There is an abundance of weeds and overgrowth in the open area at basement level which has reached street level. Rain goods are in need of repair/replacement. Vegetation is growing from the chimney. The metal railings to the front of the property are in need of repairing. The plinth wall on which the railings are mounted is damaged. Graffiti is evident on the front of the property.

3.0 Application for Consent for Acquisition

- 3.1. Dublin City Council (DCC) 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), (i.e. advising of the Local Authority's intention to enter the site on the register of derelict sites) on the 27th of February 2023, and under Section 8(7) (i.e. advising of the Local Authority's decision to enter the site on the register of derelict sites) on the 18th April 2023.

4.0 Application and Objection

4.1. Notice of Intention to Acquire

- 4.1.1. Notice of DCC's intention to acquire the site compulsorily was served on the owners/occupiers of the property on the 28th June 2023, and was published in the Irish Independent newspaper on the 28th June 2023. The site was described as follows in the notices:

- No. 30 Frederick Street North, Dublin 1.

The said derelict site is more particularly shown outlined in red on map bearing reference SM-2023-0294, annotated as Derelict Site Ref. No. DS743 in the Derelict Sites Register established and maintained by Dublin City 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) and (b) of the Derelict Sites Act 1990, as amended.

4.2. Objection to Acquisition

- 4.2.1. An objection to the proposed acquisition (dated 27th July 2023) was submitted to DCC by Fagan Bergin Solicitors on behalf of the owner of the property, Patrick Walsh, on the 28th July 2023.
- 4.2.2. The objection can be summarised as follows:

- The Notice is invalid due to the failure to specify the purposes which they are intended to pursue and the relevant Statutory Provision.
- The Notice is invalid for failure to comply with statutory form 1 in S.I No. 192/1990 and in particular, the Notice fails to identify DCC as the Local Authority under the Derelict Site Act 1990 as required under SI192/1990.
- DCC has acted ultra vires/and in abuse of its powers under Derelict Sites Act 1990.
- The issuing of the Notice of making a Compulsory Purchase Order is unreasonable and/or irrational and is therefore, ultra vires.
- DCC has acted in breach of the constitutional rights of the landowners.
- DCC has failed to consider the reasonable interests of the landowners and the objector in purporting to make the said Notice.
- DCC has failed to act in accordance with the principles of basic fairness of procedures and natural/constitutional justice.
- DCC has failed to consider the possibility of achieving the purposes set out in the Notice by other means.
- The use of compulsory acquisition powers by DCC for no stated purposes is not an objective of DCC.
- The Notice is unnecessary and/or premature and/or oppressive in circumstances where the potential of a private bargaining process has not been fully explored or addressed and is being interfered with.
- The acquisition of the land by DCC is unfair and premature.
- The serving of the notice of endangerment contributed significantly to the property becoming derelict over time by virtue of DCC creating a significant impediment to the disposal of the property.

The objection also seeks information as to the intended purpose/objective of the CPO, and specifically whether the CPO is in pursuance of DCC's functions under the Planning and Development Act, 2000, Housing Act, 1966, Local Government (No. 2) Act, 1960 or Local Government Act, 2001. The objection also requests confirmation as to whether it is intended that the property is to be disposed of by way of sale or

other means or whether DCC intends to lease the property, and if so whether DCC have any potential buyers/renters.

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 30th August 2023 and comprises the following:

- Submission from DCC (dated 30th August 2023) seeking approval of proposed compulsory acquisition under Derelict Sites Act, 1990, as amended and setting out the Local Authority's strategic approach to derelict sites, a description of the site, the background to the case and a response to the objector's case.

Appendix 1:

- Copy of the newspaper notice (Irish Independent dated 28th June 2023).

Appendix 2:

- Local Authorities response to the issues raised in the objection submitted to DCC by Fagan Bergin Solicitors (dated 27th July 2023) on behalf of the owner of the property Patrick Walsh.
- Letter from Local Authority to objector setting out the rational for the proposed acquisition of the property. Letter also notes that there is no provision for extending the period for objections.
- Objection to Local Authority by Fagan Bergin Solicitors on behalf of the owner of the property, Patrick Walsh, (dated 27th July 2023).
- Order of Acting Executive Manager Planning and Property Development Department, DCC for Compulsory Acquisition of property (dated 12th June 2023).
- Letter to Representatives of the Estate of Patrick Walsh, c/o Fagan Bergin Solicitors regarding DCC's intention to acquire the property. Letter provides 14 day period within which to render the property non-derelict.
- Copy of the notice served on the owner of the property (dated 28th of June 2023).

- Deposit map reference SM.2023-0294.
- Extract from Derelict Sites Regulations, 1990.

Appendix 3:

- Site inspection report, including photographs of property (dated 16th August 2022).

Appendix 4:

- Extracts (in reverse date order) from DCC's Derelict Sites File, including the following recent actions in respect of the site¹;
 - DCC's response to objection of Patrick Walsh (dated 31st July 2023).
 - Objection on behalf of Patrick Walsh to acquisition of property (dated 27th July 2023).
 - Notice of Intention to Acquire (dated 28th June 2023).
 - Correspondence from DCC to Solicitors representing the owners of the property (Patrick Walsh c/o Fagan Bergin Solicitors and Mary Walsh c/o Liston & Co. Solicitors) dated 10th May 2023 informing parties of DCC's intention to acquire property. Correspondence notes that if property is rendered non-derelict within 14 days it will not be acquired.
 - Section 8 (7) Notice of entry to Derelict Sites Register (dated 18th April 2023).
 - Section 8(2) Notice of Intention to make entry on Derelict Sites Register (dated 27th February 2023).
 - Correspondence from DCC to Solicitor representing Mary Walsh informing property owner of DCC's intention to use Derelict Sites Act, 1990 legislation to address condition of property.
 - Site Inspection reports (various).

¹ The subject property initially came to the attention of DCC in 2009 and Section 8 Notices were issued in December 2010 and March 2011, however the property was subsequently removed from the Derelict Sites Register in 2015.

- Correspondence from DCC to Solicitor acting on behalf of Mary Walsh in relation to DCC's offer to purchase the property (dated 9th May 2019).
- Internal DCC correspondence regarding litigation affecting property which has resulted in unilateral agreement to sell the property being thwarted.

4.3.2. The **Derelict Site Report** (see submission from DCC dated 30th August 2023) can be summarised as follows:

- Opening paragraphs - note that a Notice of Intention to Acquire Compulsorily No. 30 North Frederick Street, Dublin 1 was published in the Irish Independent newspaper on the 28th of June 2023 and that an objection was received in relation to the proposed acquisition. The basis for the compulsory acquisition is set out with reference to the need to return derelict sites within the city to active use, and that the exercise of the provisions of the Derelict Sites Act 1990 is used as a last resort where efforts to secure the carrying out of improvement works by the owner and attempts to acquire by agreement have been unsuccessful.
- Description of Site – sets out a description of the property and the category under which the subject property is considered to be a Derelict Site, specifically Section 3 (b) of the Derelict Sites Act, 1990, as amended, 'the neglected, unsightly or objectionable condition of the land or any structures on the land in question', which detracts, or is likely to detract, to a material degree from the amenity, character or appearance of land in the neighbourhood. The following is noted in respect of the condition of the property;
 - The front opes are all boarded up.
 - There is graffiti on the front door area.
 - The basement area is overgrown with vegetation.
 - Steel girders reinforce the front of the building.
- Regarding the history of the Derelict Site Case, the following is noted (in reverse date order) –
 - April 2009 – issue of dereliction at the property first identified.

- A legal dispute between a brother and sister, Patrick and Mary Walsh, over the beneficial ownership of No. 30 North Frederick Street is a significant factor in this case and the unresolved ownership issue has thwarted the ability of the parties to effectively deal with the property or to sell it.
- March 2011 – property first entered on Derelict Sites Register.
- May 2015 – property removed from Derelict Sites Register.
- Property identified for strategic acquisition and efforts made between 2019 and 2022 to acquire the property by agreement given its prominent location on main city centre throughfare. Resolution to the title issue never materialised and the sale could not be progressed.
- 27th February 2023 - Section 8 (2) Notice served (i.e. Notice of Intention to enter the property on the Derelict Sites Register). No objections were received in respect of same.
- 18th April 2023 – Section 8 (7) Notices served (i.e. property was entered onto the Derelict Sites Register).
- 10th May, 2023 - Prior to the Council's decision to proceed with compulsory acquisition the solicitors acting for the parties were emailed notifying them of the Council's intention to acquire the property and that the Council would not proceed in circumstances where it could be demonstrated that immediate action would be undertaken to render the property non-derelict. No response received from either party.
- The Council has considered the objections received to the compulsory acquisition and has determined that compulsory acquisition remains the appropriate course of action given the circumstances of this case. The site is the subject of ongoing public complaint and its condition continues to deteriorate.
- Given the circumstances outlined above, the Council seeks the consent of An Bord Pleanála to the compulsory acquisition of No. 30 North Frederick Street, Dublin 1 in accordance with Section 16 of the Act to enable the Council to take the appropriate measures to render the property non-derelict.

- The timeline for the serving of notices under the Derelict Sites Act, 1990 is as follows;
 - Section 8(2) Notice of intention to enter land in Derelict Sites Register: 27th February 2023.
 - Section 8(7) Notice of Entry of Land in Derelict Sites Register: 18th April 2023.
 - Section 15(1)a Notice of Intention to Acquire Derelict Site Compulsorily: 28th June 2023.
- Response to Objectors' Submissions (see Appendix 2) - the Local Authority note;
 - Issue raised - Notice is invalid for failure to properly/or at all specify the purposes which they are intended to pursue and the relevant Statutory Provision.
 - Local Authority Reply: Reason is as stated in letter dated 10th May 2023, eradication of dereliction in the city is a key priority for DCC. DCC intend to use Derelict Sites Act, 1990 to acquire sites on the Derelict Sites Register (see Section 14 of Act).
 - Issue raised - Notice is invalid for failure to comply with statutory form 1 in S.I No. 192/1990 and in particular, the Notice fails to identify DCC as the Local Authority under the Derelict Sites Act, 1990 as required under SI 192/1990.
 - Local Authority Reply: Notice of Intention to Acquire does comply, see notice served on 29th June 2023 and Derelict Sites Regulations 1990.
 - Issue raised - DCC has acted ultra vires its powers under Derelict Sites Act 1990 in purporting to issue the said Notice of the making of a Compulsory Purchase Order in respect of the lands.
 - Local Authority Reply: Section 14 of the 1990 Act provides that a Local Authority may acquire by agreement or compulsorily any derelict site situated within their functional area.

- Issues raised (grouped) –

DCC has acted in abuse of its powers in making a decision to issue the said Notice of the making of the Compulsory Purchase Order.

DCC has acted in abuse of its powers in issuing said Notice of the making of a Compulsory Purchase Order.

The purported decision of DCC to issue said Notice of making of a Compulsory Purchase Order is unreasonable and/or irrational and is therefore, ultra vires.

DCC has acted in breach of the constitutional rights of the landowners, and the objector in purporting to issue the said Notice of the making of a Compulsory Purchase Order.

DCC has failed to consider the reasonable interests of the landowners and the objector, in purporting to make the said Notice.

DCC has failed to act in accordance with the principles of basic fairness of procedures and natural/constitutional justice.

DCC has failed to adequately or at all to consider the possibility of achieving the purposes set out in the Notice by other means.

- Local Authority Reply to above points: The Local Authority is exercising its compulsory acquisition powers pursuant to S. 14 of the Derelict Sites Act 1990 in this case as a last resort in circumstances as all efforts to secure the carrying out of improvement works by the owners have been exhausted and attempts to acquire by agreement have been unsuccessful (see Managerial Approval DS/0049/2023). The site is in a prominent location, has a long history of dereliction and is entered on the Derelict Sites Register. It also is the subject of ongoing public complaint and its condition continues to deteriorate. All procedures set out in the Derelict Sites Act, 1990 have been complied with as can be evidenced from the supporting documentation (see Appendix 4).

- Issue raised - The use of compulsory acquisition powers by DCC for no stated purpose is not an objective of DCC.
- Local Authority Reply: DCC is acting in accordance with Derelict Sites legislation (see letter dated 10th May, 2023). The eradication of dereliction in the city is a key priority.
- Issue raised (grouped) –

The Notice is unnecessary and/or premature and/or oppressive in circumstances where the potential of a private bargaining process has not been fully explored or addressed and is being interfered with.

The acquisition of the land by DCC is unfair and premature.

The notice of endangerment contributed significantly to the property becoming derelict over time by virtue of DCC creating a significant impediment to the disposal of the property.

- Local Authority Reply to above points: DCC is exercising its compulsory acquisition powers pursuant to S. 14 of the Derelict Sites Act 1990 in this case as a last resort in circumstances where all efforts to secure the carrying out of improvement works by the owners have been exhausted and where attempts to acquire by agreement have been unsuccessful (see Managerial Approval DS/0049/2023). DCC attempted unsuccessfully to acquire the site over a three year period from 2019 to 2022. A resolution to the dispute in relation to the beneficial ownership of the property never materialised so the sale could not be progressed. The ownership issue will continue to thwart the ability of any party to deal with the property or to sell it. The site has a long history of dereliction, is entered on the Derelict Sites Register, is the subject of ongoing public complaint and its condition continues to deteriorate.

4.4. Objector's Submission

- 4.4.1. No objections were received by the Board.

5.0 Planning History

5.1. Subject Property

There is no planning history relevant to the subject property.

6.0 Policy Context

6.1. Dublin City Development Plan 2022-2028

- 6.1.1. The subject property is zoned 'Z8' - 'Georgian Conservation Area' in the Dublin City Development Plan 2022-2028 (see Map E) the zoning objective of which is '*to protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective*'. The subject property is also indicated as being within a 'Conservation Area²'.
- 6.1.2. The subject property is a Protected Structure (RPS Ref. 2979) in the Dublin City Development Plan 2022-2028.
- 6.1.3. Chapter 4 'Shape and Structure of the City' notes – ongoing issues of dereliction, urban decay, underutilised and vacant sites, particularly in the inner city, and the need to implement effective active land management to promote balanced and sustainable economic and residential development.
- 6.1.4. Chapter 5 'Quality Housing and Sustainable Neighbourhoods' notes – that there are significant tracts of vacant and underutilised land in the city, and that measures including the Derelict Sites Act 1990 through the compulsory purchase of land will be used to as a means to encourage brownfield development and compact growth in the city.
- 6.1.5. The Dublin City Development Plan 2022-2028 includes the following relevant policy:
- Objective CSO11 - To deliver development through the use of the Derelict Sites Act 1990 and through the compulsory purchase of land as part of active land

² The property is not located within an Architectural Conservation Area (ACA).

management to achieve the objectives of compact growth and the proper planning and sustainable development of an area.

- Objective BHA9 – seeks to protect the special interest and character of all Dublin’s Conservation Areas – identified under Z8 and Z2 zoning objectives.

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.

6.2.4. Section 9 of the Act 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.

6.2.5. Section 10 of the Act 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.

- 6.2.6. 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.
- 6.2.7. Section 14 of the Act provides that a Local Authority may acquire by agreement or compulsorily any derelict site situated in their functional area.
- 6.2.8. Section 15 of the Act sets out arrangements for giving notice, if the Local Authority intend to acquire a derelict site compulsorily.
- 6.2.9. Section 16 of the Act 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. Request for Oral Hearing

- 7.1.1. The objector, Fagan Bergin Solicitors on behalf of Patrick Walsh, in the objection to DCC dated 27th July 2023, has requested that the Board convene an Oral Hearing in relation to DCC's application to the Board for consent to compulsorily acquire the site under section 14/16 of the Derelict Sites Act, 1990, as amended. I have considered this request and on the basis of the information contained on the file I am satisfied that the information is sufficient to facilitate an assessment of the application and the preparation of a recommendation to the Board, and I do not consider that an Oral Hearing is required in this instance.

7.2. Site Inspection

- 7.2.1. Internal access to the property was not possible on the date of my site inspection and I carried out my site inspection from the public road. The subject property is located in the centre of Dublin city along one of the principle thoroughfares. Neighbouring properties comprise Georgian terraced housing/offices and appear to be well maintained and are in good condition. The area has an attractive appearance.

7.2.2. The property has a neglected, unsightly and objectionable appearance from the public road and surrounding area. The windows and door on the front façade has been fitted with sheets of steel, the brickwork on the front façade is chipped, dirty, and stained and window cills on the front façade are chipped and in need of repair/re-painting. There is loose wiring hanging from the front façade of the building and the wooden surround around the door on the front façade is damaged. The steps leading to the front door are covered in weeds and moss, overgrowth is evident in the open area at basement level and weeds are growing from the chimney. Rain goods are also in a poor state of repair and the metal railings and plinth wall to the front of the property are in need of repair/repainting. The subject property detracts significantly from the character and appearance of the street.

7.3. Category of Dereliction

- 7.3.1. Based on the condition of the subject property which I observed during my site inspection, I 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.
- 7.3.2. With regard to category (a), which relates to structures which are in a ruinous, derelict or dangerous condition, having inspected the site and reviewed the material on the file, I do not consider that the structure is likely to be in a dangerous condition, or that it could be considered ruinous. Thus, it is not considered that the site falls within category (a) of the Derelict Sites Act 1990.
- 7.3.3. Whilst I observed that there was some debris to the front of the property there was no evidence of a significant presence of litter, debris, rubbish or waste within the areas which I observed during my site inspection. I consider therefore that the site does not fall within category (c) of Section 3 of the Act.
- 7.3.4. 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.

7.4. Action of the Local Authority

- 7.4.1. From reviewing the documentation on the file I note that dereliction has been an issue at the subject property dating back to 2009. I note that the subject property was added to the Derelict Sites Register in 2011 but then removed in 2015.
- 7.4.2. The subject property continued to deteriorate in the intervening period and between 2019 and 2022 DCC attempted to acquire the property by agreement however an issue in relation to the title of the property affected the purchase of the property. Following a site inspection in August 2022 Section 8(2) Notices were served (on the 27th February 2023) advising of the Local Authority's intention to enter the site on the Derelict Site Register. No representations were made in respect of the Section 8 (2) Notice and DCC subsequently served Section 8(7) Notices (on the 18th April 2023) advising the owners that the site had been entered on the Derelict Sites Register. Prior to DCC's decision to proceed with the compulsory acquisition of the property an e-mail was sent to the representatives of the owners of the property notifying them of DCC's intention to compulsorily acquire the property and stating that this would not occur if the property was rendered non-derelict. No response from either party was however received and Section 15(1)(a) Notices were served on the 28th of June 2023 and published in the Irish Independent Newspaper on the 28th of June 2023 regarding the Local Authority's intention to acquire the site compulsorily. An objection to the Notification of to Acquire was submitted to DCC by Fagan Bergin Solicitors on behalf of Patrick Walsh on the 27th July 2023 and on the 31st July 2023 DCC issued a comprehensive response to the issues raised in the objection setting out the basis for the proposed compulsory acquisition of the property, the rationale and intention for same.
- 7.4.3. I note that Local Authorities have a duty (under section 10) "to take all reasonable steps (including the exercise of any appropriate statutory powers) to ensure that any such land does not become/continue to be a derelict site." The policy of the Local Authority, as expressed in DCC's submission to the Board seeking confirmation of the CPO, is to acquire properties compulsorily as a last resort, in circumstances where efforts to secure the carrying out of improvement works by the owner and attempts to acquire by agreement have been unsuccessful. Based on the information on the file I

note that DCC have gone to considerable lengths in attempting to have the site rendered non-derelict and have liaised with the solicitors representing the owners of the property. I note that no representations were made in respect of the Section 8 (2) Notice in February 2023 or to correspondence sent to the representatives of the property owners on the 10th May 2023, where DCC advised that compulsory acquisition would not be perused if the property was rendered non-derelict. It is clear therefore that DCC have attempted to address the issue of dereliction at the property with the owners over a considerable period of time. Additionally, I note that DCC have attempted to acquire the property voluntarily. Having regard to the forgoing I am satisfied that the Local Authority gave the property owners sufficient time and opportunity to address the dereliction and have explored other means of achieving the aim of rendering the property non-derelict. Therefore, I am satisfied that the efforts of the Local Authority have been fair and reasonable.

7.5. Compliance with Development Plan

- 7.5.1. I note that the Dublin City Development Plan 2022-2028, and specifically Objective CSO11, which seeks to deliver development through the use of the Derelict Sites Act 1990 and through the compulsory purchase of land as part of active land management to achieve the objectives of compact growth and the proper planning and sustainable development of an area. I also note that the property is a Protected Structure and is within a Conservation Area, and that Objective BHA9 seeks to protect the special interest and character of all Dublin's Conservation Areas. The property has been in a derelict state for approximately five years. Therefore, I consider that a compulsory purchase order (CPO) would be consistent with the policies and objectives of the Development Plan and will ensure that the lands do not continue to be in a derelict condition.

7.6. Action of the Owner to Address Dereliction

- 7.6.1. As addressed above, DCC have spent considerable time and effort attempting to address the condition of the property, firstly by attempting to acquire it voluntarily, and then attempting to liaise with the owners of the property. By contrast I note that the owners of the property have made no substantive efforts to address the derelict condition of the property, and furthermore have not responded to communications

instigated by DCC, notably in relation to the e-mail sent by DCC on the 10th May 2023 which clearly stated that if measures were taken to render the property non-derelict that the proposed compulsorily acquisition of the property would not occur.

7.6.2. I note the objection submitted in respect of DCC's Notification to Acquire the property, including that the serving of a notice of endangerment has contributed to the property becoming derelict over time, impeding the disposal of the property however it remains that the continuing dereliction of the property is having a significant adverse effect on the amenities and appearance of the area, and whilst I note that measures have been taken by the property owner(s) to secure the property no substantive works have taken place to the subject property to render it non-derelict. I note that owner/occupiers have obligations (under section 9 of the Act) to "take all reasonable steps to ensure that the land does not become or does not continue to be a derelict site". It is now approximately five years since the derelict condition of the property came to the Local Authority's attention and approximately one year since Section 8 Notices were served. It has also been 10 months since the Local Authority served the Section 15 notice of intention to acquire the site compulsorily. Having inspected the site, there is no evidence of any further attempt to render the site non-derelict and the property remains in a neglected and unsightly condition. I therefore consider that the site remains in a derelict condition.

7.6.3. 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 No. 30 North Frederick Street, Dublin 1, is granted.

8.0 Conclusion

8.1. I am satisfied that the process and procedures undertaken by Dublin City Council have been fair and reasonable, that the Local Authority has demonstrated the need for the lands and that all the lands being acquired are both necessary and suitable to ensure that the lands do not continue to be a derelict site.

8.2. Having regard to the Constitutional and Convention protection afforded to property rights, I consider that the acquisition of the Derelict Site, No. 30 North Frederick Street,

Dublin 1, as set out in the Derelict Site Notice issued under Section 15(1)(b) of the Derelict sites Act 1990, (as amended) and dated 28th of June 2023 and on the deposit map (Index Ref. SM-2023-0294), pursues, and is rationally connected to, a legitimate objective in the public interest, namely, to ensure that the lands do not continue to be in a derelict condition.

- 8.3. I am also satisfied that the acquiring authority has demonstrated that the means chosen to achieve that objective impair the property rights of affected landowners as little as possible. In this respect, I have considered alternative means of achieving the objective referred to in submissions to the Board, and am satisfied that the acquiring authority has established that none of the alternatives are such as to render the means chosen and the CPO made by the acquiring authority unreasonable or disproportionate.
- 8.4. The effects of the CPO on the rights of the affected landowner(s) are proportionate to the objective being pursued. I am further satisfied that the proposed acquisition of these lands would be consistent with the policies and objectives of the Dublin City Development 2022-2028, and specifically Objective CSO11 which seek to deliver development through the use of the Derelict Sites Act 1990 and through the compulsory purchase of land as part of active land management to achieve the objectives of compact growth and the proper planning and sustainable development of an area. Accordingly, I am satisfied that the confirmation of the CPO is clearly justified by the exigencies of the common good.

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 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.
- 9.2. 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 that the Board grant consent to Dublin City Council to compulsorily acquire the site.

10.0 Reasons and Considerations

10.1. Having regard to the neglected, unsightly and objectionable condition of the site, as evidenced by the poor state of repair of the external walls; the present of loose wiring on the front façade of the property; the steel hoarding on the window and door opes; the condition of the railings and boundary wall; and the presence of graffiti and of weeds/vegetation to the front of the property and growing from the basement, and also:

- (a) the Constitutional and Convention protection afforded to property rights,
- (b) the public interest, and,
- (c) the provisions of the Dublin City Development Plan 2022 – 2028,

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 Section 3(b) 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 objections made cannot be sustained having regard to that said necessity and that the compulsory acquisition and its effects on the property rights of affected landowners are proportionate to that objective and justified by the exigencies of the common good.

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.

Ian Campbell
Planning Inspector

23rd May 2024