



An
Bord
Pleanála

Inspector's Report

ABP-317961-23

Development

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

Location

Main Street, Hacketstown, Co. Carlow, R93 K8H

Planning Authority

Carlow County Council

Notice Party

Mr Phelim Cullen

Date of Site Inspection

6th October 2023

Inspector

Peter Nelson

1.0 Introduction

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

2.0 Site Location and Description

- 2.1. The site is located on The Main Street in Hacketstown, Co. Carlow. Main Street contains residential, retail, community and commercial properties. The site is located on the western side of Main Street and adjacent to the grounds of St Brigid's Church, a protected structure. The site backs onto the amenity space of terrace housing facing Water Street and Eagle Hill Road. The site comprises a single-storey bungalow and associated front, side and rear garden. The building is currently unoccupied.
- 2.2. On the day of the site inspection, I noted that the front windows were boarded up, and the back and side windows were blocked up. The gardens were also overgrown, and extensive vegetation was growing on the rear elevation.

3.0 Application for Consent for Acquisition

- 3.1. Carlow County Council has applied to the Board for consent to compulsorily acquire the site under Sections 16(4) of the Derelict Sites Act, 1990, as amended. This application follows the service of notices:
 - Carlow County Council served notice on 25th July 2023 under section 14 of the Derelict Sites Act 1990 (as amended) of an intention to compulsorily acquire the derelict site at Main Street, Hacketstown, Co. Carlow R93K8H3.

4.0 Application and Objection

4.1. Notice of Intention to Acquire

- 4.1.1. Carlow County Council served notice on 19th July 2023 under section 14 of the Derelict Sites Act 1990 (as amended) of an intention to compulsorily acquire the derelict site at Main Street, Hacketstown, Co. Carlow. I consider that the notice is in accordance with the requirements of section 15(1)(a) of the Act with regard to the documentation on file.

4.2. Objections to Acquisition

- 4.2.1. Carlow County Council received one submission on foot of the notice of intention to compulsorily acquire the derelict site. AB Jordan Solicitors, on behalf of the property owner, Mr Phelim Cullen, made a submission to Carlow County Council on 8th August 2021. The letter of objection states that AB Jordan Solicitors understand that Mr Phelim has recently spoken with the Carlow County Council, who may be interested in acquiring the said property by way of a private purchase. The letter also states that Mr Phelim Cullen owns another property at Main Street, Hacketstown, Co. Carlow and it may be the case that Carlow County Council may be interested in acquiring the property.

4.3. Submission of Carlow County Council

- 4.3.1. Carlow County Council has made a submission in support of the proposed acquisition, dated 5th November 2023, and signed by Nicola Lawler, Town Regeneration Officer. The following points of same are noted:
- The Housing Department has confirmed that there is a need for social housing in the area.
 - The site is in a high-profile location in the village centre adjacent to the Church.
 - The unit is a bungalow, which is very valuable in the housing stock as it can be used for various family types with varying needs.

- Carlow County Council's primary objective is to address vacancy and maximise the use of existing stock. The reuse and regeneration of vacant properties can provide much-needed housing while also being an essential catalyst to transforming areas and the communities living in them.
- The property has been vacant for a number of years, and it is an objective of Carlow County Council's Town Centre First Officer, Housing Department and Vacant Homes Officer to bring the property back into use.

4.4. **Submission from Objector**

None received.

5.0 **Planning History**

5.1.1. None on file for the application site.

6.0 **Legislation and Policy Context**

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

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

6.1.2. Section 3 of the Act defines 'derelict site' as:

any land...which detracts, or is likely to detract, to a material degree from the amenity, character or appearance of land in the neighbourhood of the land in question because of—

(a) the existence on the land in question of structures which are in a ruinous, derelict or dangerous condition, or

(b) the neglected, unsightly or objectionable condition of the land or any structures on the land in question, or

(c) the presence, deposit or collection on the land in question of any litter, rubbish, debris or waste, except where the presence, deposit or collection of such litter, rubbish, debris or waste results from the exercise of a right conferred by or under statute or by common law.

6.1.3. Other relevant provisions of the Act are summarised below:

- Section 14 provides that a local authority may acquire by agreement or compulsorily any derelict site situated in its functional area.
- Section 15 sets out arrangements for giving notice if the local authority intends to acquire a derelict site compulsorily.
- Section 16 sets out arrangements if the owner/occupier wishes to object to the acquisition and it provides that if an objection is made, then the derelict site shall not be acquired compulsorily by the local authority without the consent of the Board.

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

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

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

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

Policy CS.06:

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

Policy TV. P4:

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

Policy HT. P4 (Hacketstown Plan):

Promote and support the use of previously developed brownfield, infill, derelict and backland sites in Hacketstown, including the redevelopment of existing sites and buildings, and to continue to identify regeneration opportunities in the town during the lifetime of this Plan.

Policy HT. P12 (Hacketstown Plan):

Seek to encourage and facilitate where appropriate the re-use and regeneration of derelict, vacant and underutilised property in the town centre for residential purposes.

7.0 Assessment

- 7.1. The following assessment is based on a site inspection carried out on 6th October 2023. I inspected the site from both Main Street, onto which the property fronts and from the church carpark, where the rear of the property is visible. At the time of site inspection, the house was not accessible for internal inspection.
- 7.2. The application may be assessed with regard to the relevant provisions of the Derelict Sites Act, 1990, as well as procedural consideration, as follows.
- 7.3. According to the documentation on file, it appears that the subject site has not been entered into the Derelict Sites Register. 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.

- 7.4. The house is vacant and has a neglected, unsightly and objectionable appearance from the public road. The front bay windows and the front door of the property are boarded up. The paintwork is in very poor condition and the driveway and front garden are overgrown and unsightly. The rear and side windows are blocked up. The side guttering is falling off. The majority of the rear elevation of the house is covered in vegetation. The rear garden is overgrown and unsightly.
- 7.5. With respect to the nature of dereliction, I am of the opinion that the site falls within category (b) of section 3 of the Derelict Sites Act, 1990, due to the land and structure being in a neglected, unsightly and objectionable condition. Apart from the missing window, the house appears to be in reasonable structural condition externally. There is no obvious evidence of significant cracking or structural damage to the external walls, and the roof structure appears to be generally intact. With regard to category (a) this relates to structures which are in a ruinous, derelict or dangerous condition; having inspected the site, I do not consider that the structure is in a dangerous condition, nor in the absence of any visible evidence of structural damage could be considered ruinous. As there was no evidence of litter within the application site or any evidence of waste being stored externally, I do not consider that the site falls within category (c) of section 3 of the Act. However, as stated, I consider the site derelict for other reasons.
- 7.6. Having inspected the site, there is little evidence of any attempt to render the site non-derelict and the bungalow remains neglected and unsightly. I note that the bungalow has been in this condition for over four years. I therefore consider that the site remains in a derelict condition.
- 7.7. I note that the objection to the compulsory acquisition stated that the site's owner had discussed with the Council the possibility of the private purchase of the property. In their submission to the Board, the Council stated that should the voluntary acquisition of the property proceed, the Council will withdraw the Compulsory

Acquisition Order at that point. There is no evidence on file to suggest that the voluntary acquisition of the property has proceeded.

- 7.8. In their submission, the Town Regeneration Officer states that based on a social housing need in the area and the long-term vacancy and dereliction of the subject property, the council pursued the compulsory acquisition of this property. The council considers the housing type, a bungalow, valuable in the housing stock as it can be used for various family types with different needs.
- 7.9. I am satisfied that the process and procedures undertaken by Carlow County Council have been fair and reasonable, that the Carlow County Council has demonstrated the need for the lands and that all the lands being acquired are both necessary and suitable to facilitate the proportionate response to ensure that the remedying of its derelict state can be expedited.
- 7.10. Having regard to the constitutional and Convention protection afforded to property rights, I consider that the acquisition of the property on Main Street, Hacketstown, as set out in the compulsory acquisition order and on the deposited maps, is rationally connected to a legitimate objective in the public interest, namely remedying of the sites derelict state and provision of housing.
- 7.11. Accordingly, I am satisfied that the confirmation of compulsory acquisition is clearly justified by the exigencies of the common good.
- 7.12. Having regard, therefore, to all 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 Main Street, Hacketstown, Co. Carlow R93K8H3.

8.0 Recommendation

- 8.1. Having regard to the observed condition of the application site, in particular the neglected, unsightly and objectionable state of the land and the structure thereon, I consider that the site detracts to a material degree from the amenity, character and appearance of land in the neighbourhood and is therefore a derelict site within the meaning of Section 3 of the Derelict Sites Act, 1990, as amended.

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

9.0 Reasons and Considerations

9.1. Having regard to the ruinous and derelict condition of the structures on the site and the derelict state of the site and to its neglected, unsightly and objectionable condition, having considered the objections made to the compulsory acquisition, and also:

- (i) the constitutional and Convention protection afforded to property rights,
- (ii) the provisions of Carlow County 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 Sections 3 (a) and (b) of the Derelict Sites Act 1990, as amended, and that the compulsory acquisition of the site by the local authority is necessary in order to render the site non-derelict and to prevent it from continuing to be a derelict site.

It is also considered that the objection made against such acquisition cannot be sustained, having regard to that said necessity.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Peter Nelson
Planning Inspector

18th December 2023