



An
Bord
Pleanála

Inspector's Report ABP-318603-23

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. 18 Cadogan Road, Fairview, Dublin
3

Local Authority

Dublin City Council

Notice Party

Aidan Kelly
Kat Iremonger
Robert O' Reilly
Stephen Bedford
Stephen Kavanagh

Date of Site Inspection

30th April 2024

Inspector

Ian Campbell

1.0 Introduction

- 1.1. This case relates to a request by Dublin City Council for the consent of An Bord Pleanála to the compulsory acquisition of the subject site at No. 18 Cadogan Road, Fairview, Dublin 3, 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 northern side of Cadogan Road, west of Fairview Park, within an established residential area.
- 2.2. The subject property is a two bay, two-storey, pitched roof, terrace house. There is a c. 1 metre deep garden area to the front of the house, abutting the public footpath. The front curtilage of the subject property is bound by a metal railing mounted on a low plinth wall.
- 2.3. The subject property is not a Protected Structure nor is it listed on the National Inventory of Architectural Heritage (NIAH).
- 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. The brickwork on the front façade is chipped, dirty, stained and in need of repointing. The window cills of the ground floor windows are chipped. Windows frames on the front façade are in a poor state and require repair/replacement. The glass of the lower panes of the windows on the front façade appear to be missing and have been replaced with Perspex sheeting. Rain goods are leaking and are in need of repair/replacement. The front door is in a poor state of repair, with a glass pane missing and is partially boarded with timber where the glass is missing. The tiles at the front door are damaged. The concrete path at the front door is in poor condition and is crumbling. The brick on the chimney is badly chipped and vegetation is growing from the chimney. The timbers beneath the front porch are missing/rotting. The hinge of the gate in the metal railing to the front of the property is broken and the gate is affixed by a piece of wire. The plinth wall to the front of the property is damaged, and in need of repair and painting. Weeds are growing along the front boundary wall of the property and also in the garden area to

the front of the property. Rubble, slate and bricks are strewn in the area to 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 5th of May 2022, 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 8th July 2022.

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 2nd of October 2023, and was published in the Irish Independent newspaper on the 2nd of October 2023. The site was described as follows in the notices:

- No. 18 Cadogan Road, Fairview, Dublin 3.

The said derelict site is more particularly shown outlined in red on map bearing reference SM-2023-0545, annotated as Derelict Site Ref. No. DS912 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 was submitted to DCC by persons who claim to be occupants of the property (Stephen Bedford, Robert O' Reilly, Aidan Kelly, Kat Iremonger and Stephen Kavanagh) in e-mails dated 3rd and 4th of November 2023.

The objection from Stephen Kavanagh is stated as being on behalf of three unknown residents.

4.2.2. The objections can be summarised as follows:

The objections of Stephen Bedford, Robert O' Reilly, Stephen Kavanagh and Aidan Kelly are identical and note;

- The objector has been an occupant at the subject property since February 2023.
- The property was previously derelict but is now occupied with the intention of adverse possession.
- The property is no longer derelict and a huge amount of work has been undertaken to put it into liveable condition.
- The occupants of the property are seeking housing through government support.
- The occupants have connections to the locality and it would be difficult to relocate.
- Should the CPO be confirmed the occupants would be rendered homeless and in need of government housing services.
- If a CPO is initiated then right of first refusal may be infringed by the current occupants.

The objection¹ of Kat Iremonger notes;

- The objector has resided at the property since March 2023 and has undertaken a huge amount of work, time and money into making it liveable and comfortable. The objector intends of taking ownership of the building through adverse possession.

¹ The objection from Kat Iremonger refers to 8 Cadogan Road.

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 November 2023 and comprises the following:

Appendix 1:

- Submission from DCC (dated 30th November 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 objectors' case(s).

Appendix 2:

- Report of DCC Derelict Sites Section (dated 28th November 2023) regarding the condition of property and recommendation that the site remain on Derelict Sites Register and that permission is sought from An Bord Pleanála to acquire the site (photographs attached to report, including of the rear of the property from a third party/neighbouring property owner).
- Report of DCC Derelict Sites Section (dated 28th November 2023) regarding condition of property and conclusion that it is a Derelict Site under Section 3 (b) of the Derelict Sites Act, 1990, as amended.
- Report of DCC Derelict Sites Section (dated 3rd October 2023) regarding condition of property and recommendation that Section 15 Notices are affixed to the site notifying of the intention to acquire the site compulsorily (photographs attached).
- Report of DCC Derelict Sites Section (dated 10th August 2023) regarding condition of property and recommendation that the site remain on the Derelict Sites Register (photographs attached).
- Site Inspection report (dated 30th May 2023) recommending that the site remain on the Derelict Sites Register (photographs attached).
- Site Inspection report (dated 28th March 2023). Commentary included regarding ownership query (photographs attached).

- Site Inspection report (dated 4th October 2022). Report notes that Section 22 Notice affixed to site (photographs attached).
- Site Inspection report (dated 8th July 2022). Report notes that Section 8(7) Notice affixed to site (photographs attached).
- Site Inspection report (dated 16th June 2022). Report queries whether site should be entered to Derelict Sites Register (photographs attached).

Appendix 3:

- Catalogue of complaints and responses in respect of subject property.

Appendix 4:

- Extracts from DCC's Derelict Sites File, including the following in respect of the most recent actions in respect of the site²;
 - Notice of Intention to Acquire (dated 2nd October 2023).
 - Correspondence from O'Donohoe Solicitors.
 - Correspondence to O'Donohoe Solicitors (various).
 - Correspondence from Sean Butler re. works required to property.
 - Site Inspection reports (various).
 - Section 8(2) Notice of Intention to make entry on Derelict Sites Register.
 - Section 8 (7) Notice of entry to Derelict Sites Register.

4.3.2. The **Derelict Site Report** (see Appendix 1) can be summarised as follows:

- Introduction – sets out the relevant statutory provisions under the Derelict Sites Act, 1990, as amended; notes that a Notice of Intention to Acquire Compulsorily No. 18 Cadogan Road, Fairview, Dublin 3 was published in the Irish Independent newspaper on the 2nd of October 2023, and that a Notice of Intention to Acquire the derelict site was also affixed to the property; and that a number of objections were received.

² The subject property initially came to the attention of DCC in 2012 and Notice of Intention to compulsorily acquire the property was issued in 2016 however the property was subsequently removed from the Derelict Sites Register in 2017.

- Compulsory Acquisition – sets out the basis for the compulsory acquisition, and specifically notes that the Core Strategy of Dublin City Development Plan 2022-2028 provides that the Derelict Site Act 1990 will be implemented, and where required the use of Compulsory Purchase Orders will be pursued as a possible active land management measure. Additionally, Objective CSO11 of the CDP provides for the use of the compulsory purchase of land to achieve the objectives of compact growth and the proper planning and sustainable development of the area. The Derelict Sites Unit within DCC proactively seek to achieve the eradication of dereliction in Dublin. Whilst acquisition is a key part of DCC's strategy to tackle dereliction the power to acquire property compulsorily is used as a last resort where efforts to secure the carrying out of improvement works by the owner have been unsuccessful.
- The Derelict Site – sets out 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. DCC note the following in respect of the condition of the property;
 - The property is located in a residential neighbourhood which is relatively well kept, Neighbouring properties are well maintained. There are no other properties in the neighbourhood in a similar derelict condition. As evidenced from complaints, the property is having a detrimental and/or negative impact on the neighbouring properties:
 - There is construction rubble and litter in the front garden area.
 - The stonework is cracked and missing in the front driveway area.
 - The front gate is attached to the front railings by wire.
 - There is a wooden board across a section of the front door.
 - The paintwork on the front door, front railings and gate is peeling, each would need to be re-painted.
 - The red brickwork on the front of the building needs cleaning.

- The bottom section of the ground floor window is covered with plastic sheeting rather than glass.
- All of the upper and lower floor window ledges are unpainted.
- The paintwork on the rear windows is in poor condition.
- The rear garden area is both overgrown with weeds and vegetation as well as littered with discarded household objects.
- The history (in reverse date order) of the Derelict Site Case, the following is noted –
 - 7th March 2016 – site was first entered onto the Derelict Sites Register, and a Notice of Intention to Acquire the site was issued on 6th December 2016. Improvement works were subsequently carried out and the property was removed from the Derelict Sites Register on the 2nd March 2017.
 - 5th May 2022 – following complaints about the property Section 8(2) Notices were issued (i.e. Notice of Intention to enter the property on the Derelict Sites Register). No objections were received in respect of the Section 8(2) Notice.
 - 8th July 2022 – property was entered onto the Derelict Sites Register).
 - 13th October 2022 – DCC were contacted by a Sean Butler (who had previously claimed ownership of the property) and stated that he had owned the property and was seeking information as to what works needed to be undertaken to render the property non-derelict. The person was requested to demonstrate details of ownership. O’ Donohoe Solicitors, who had previously acted for the owner of the property (The Estate of Mary Butler), were also notified and information in relation to the ownership claim was requested. No response from either party was subsequently received.
 - 14th August 2023 – O’ Donohoe Solicitors were notified of DCC’s intention to proceed with the compulsorily acquisition of the property but were informed that this would not occur if immediate action was

undertaken to render the property non-derelict. O' Donohoe Solicitors responded and stated that they have no further involvement with their client.

- 2nd October 2023 – Notification of Intention to Acquire the property compulsorily issued.
- 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: 5th May 2022.
 - Section 8(7) Notice of Entry of Land in Derelict Sites Register: 8th July 2022.
 - Section 15(1)a Notice of Intention to Acquire Derelict Site Compulsorily: 2nd October 2023.
- Response to Objectors' Submissions - the Local Authority note;
 - If the objectors are in occupation at the property, which the Local Authority have no evidence of, then they are in illegal occupation of the property and said illegal occupation has no bearing on the proposed acquisition.
 - Illegal occupation is not a valid ground for objection nor does it render illegal occupiers as lawful occupiers with reference to Section 2(1) of the Derelict Sites Act, 1990, as amended as occupier under the Act is defined as '*any person in or entitled to immediate use and enjoyment of the land, any person entitled to occupy the land and any other person having, for the time being, control of the land*'.
 - The objectors have no lawful entitlement to be in control of, in possession or occupation of the property, the objectors have no lawful entitlement to 'the immediate use and enjoyment of the land'.
 - The Local Authority also note that the objectors are not in lawful occupation of the property and would not have any right of compensation arising from a compulsory acquisition of the property.

- The Local Authority note that the occupants refer to a claim of adverse possession but note that this would require 12 years of uninterrupted possession, with the occupants only being in situ since February/March 2023.
 - DCC intend to address the unlawful occupation of the property through the courts.
 - DCC invite the Board to dismiss the objections made as not valid for the purposes of Sections 15 – 16 of the Derelict Sites Act 1990.
 - Without prejudice to the above, regarding the objectors' position that the property is no longer derelict, DCC reject this claim and note that no evidence has been provided as to what purported work has been carried out to the property.
- The Local Authority contends that the site continues to detract to a material degree from the amenity, character and appearance of land in the neighbourhood due to its unsightly and neglected appearance and condition and is a derelict site within the meaning of s.3(b) of the 1990 Act; that the Local Authority only used the power to acquire compulsorily as a last resort; that the objections received have been considered but compulsory acquisition remains the appropriate action given the circumstances of the case; and that subject to the Board's consent to the acquisition, the property will be rendered non-derelict and retained for social housing purposes.

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 2023-2029

- 6.1.1. The subject property is zoned 'Z1' - 'Sustainable residential Neighbourhoods' in the Dublin City Development Plan 2022-2028 (see Map E) the zoning objective of which is *'to protect, provide and improve residential amenities'*.
- 6.1.2. 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.
- 6.1.3. 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.
- 6.1.4. 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 management to achieve the objectives of compact growth and the proper planning and sustainable development of an area.

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. Site Inspection

- 7.1.1. 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 an established residential area in Fairview, Dublin 3. Neighbouring properties appear to be well maintained and are in good condition. The area has an attractive appearance.
- 7.1.2. The property has a neglected, unsightly and objectionable appearance from the public road and surrounding area. The brickwork on the front façade is dirty and stained and the windows on the front façade are in a poor state of repair with Perspex fitted to ground floor windows. A glass pane is missing from the front door and the bricks on the chimney are damaged. Rainwater goods are in need of repair/replacement and vegetation is growing from the chimney. The hinges on the front gate are broken the plinth wall forming the boundary of the site is cracked. Debris, including bricks and slates are strewn in the area to the front of the house. Weeds are notable along the front of the property abutting the footpath. The subject property detracts significantly from the character and appearance of the street.

7.2. Category of Dereliction

- 7.2.1. 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.
- 7.2.2. 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.

7.2.3. Whilst I observed that there was some debris including broken bricks 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.

7.2.4. 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.

7.3. Action of the Local Authority

7.3.1. From reviewing the documentation on the file I note that dereliction has been an issue at the subject property dating back to 2012. I note that in December 2016 a Notice of Intention to Acquire the subject property was issued by DCC however the property was subsequently rendered non-derelict and was removed from the Derelict Sites Register in March 2017.

7.3.2. Issues in relation to the condition of the subject property arose again in 2018 however. DCC contacted O' Donohoe Solicitor's, who had previously liaised with DCC in relation to the property on behalf of the Estate of the Late Mary Butler (the owner of the property), to arrange to have the condition of the property addressed however records indicate that no response was received. A number of site inspections were undertaken by DCC between 2018 and 2022. DCC attempted to establish contact with the owner of the property but the information on the file indicates that these attempts were unsuccessful. Site inspections were carried out by DCC in March and April 2022 prior to Section 8(2) notices being served (6th May 2022) advising of the Local Authority's intention to enter the site on the Derelict Site Register. A further site inspection was undertaken in June 2022 prior to the serving of Section 8(7) notices (8th July 2022) advising the owners that the site had been entered on the Derelict Sites Register.

7.3.3. In October 2022, Sean Butler (who had previously contacted DCC objecting to a Notice of Intention to Acquire the property in 2017 and enquiring about rendering the property non-derelict) contacted DCC claiming to own the property. DCC requested that Sean Butler provide his details and details of the status of his ownership. There are no details on the file to indicate that this information was submitted. Sean Butler

subsequently contacted DCC in October 2022 and January 2023 requesting details of the works required to address the derelict condition of the property. In the meantime DCC contacted O'Donohoe Solicitors in November 2022 and again in January 2023 in relation to Sean Butler's claim of ownership of the property. DCC state in their Derelict Site report that no response from either party was received. Sites inspections were carried out by DCC in February, March and May 2023 before notification was sent to O'Donohoe Solicitors informing them of DCC's intention to acquire the property under the Derelict Sites Act, 1990, but that this would not occur if the property was rendered non-derelict. O'Donohoe Solicitors responded to DCC and noted that they had no instruction on the matter and that their file was closed. Section 15(1)(a) notices were served on the 2nd October 2023 and published in the Irish Independent Newspaper on the 2nd of October 2023 regarding the Local Authority's intention to acquire the site compulsorily.

- 7.3.4. 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 who acted on behalf of the property owner over a considerable period of time in an attempt to establish contact with the owner of the property/party responsible for the property. Additionally, I note that DCC invited Sean Butler to confirm the status of his ownership over the property but no response was subsequently received. Having regard to the forgoing I am satisfied that the Local Authority gave the property owner sufficient time and opportunity to address the dereliction. Therefore, I am satisfied that the efforts of the Local Authority have been fair and reasonable.

7.4. Compliance with Development Plan

- 7.4.1. 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. The property has been in a derelict state for approximately six 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.

7.5. Action of the Owner to Address Dereliction

- 7.5.1. As addressed above, DCC have liaised with O' Donohoe Solicitors, who acted on behalf of the property owner (The Estate of Mary Butler) over a considerable period of time. DCC also invited Sean Butler, who claimed to own the property, to confirm the status of his ownership over the property but no response was subsequently received. Attempts to engage with the owner of the property and address the condition of the property have not been possible.
- 7.5.2. I note that objections have been received by DCC from persons stating to be occupants of the property. DCC contend that the objectors are not lawful occupants of the property. In any event, I note that 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 six years since the derelict condition of the property came to the Local Authority's attention and approximately two years since Section 8 Notices were served. It has also been 7 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.
- 7.5.3. 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. 18 Cadogan Road, Fairview, Dublin 3, 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. 18 Cadogan Road, Fairview, Dublin 3, as set out in the Derelict Site Notice issued under Section 15(1)(b) of the Derelict sites Act 1990, (as amended) and dated 2nd of October 2023 and on the deposit map (Index Ref. SM-2023-0545), 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, to the poor state of repair of the external walls, windows, door, chimney, rainwater goods, the condition of the gate and boundary wall, the presence of weeds/vegetation and debris to the front of the property, 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.

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

15th May 2024