



An  
Bord  
Pleanála

## Inspector's Report

### ABP-319683-24

#### 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

3 High Street, Croom, Co. Limerick

#### Planning Authority

Limerick City and County Council

#### Notice Party

Donal O'Donovan

#### Date of Site Inspection

1<sup>st</sup> August 2024

#### Inspector

Ciara McGuinness

## **1.0 Introduction**

- 1.1.1. 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 3 High Street, Croom, County Limerick, in accordance with the provisions of the Derelict Sites Act 1990, as amended.

## **2.0 Site Location and Description**

- 2.1. Croom is a large village located approximately 20km to the southwest of Limerick City and c.8km to the southeast of Adare. The village is located off the N20, the main road connecting Limerick and Cork. The River Maigue flows in a N-S direction through the village and crosses the High Street west of the junction with Main Street. The subject site is located on High Street (R516), to the east of the junction with the Main Street (R518). This part of High Street is at the edge of a commercial/village centre section with mainly residential properties. The site is a mid-terrace property. Croom Credit Union is located within the adjoining property to the west and is the only commercial property within the terrace. The former Allied Irish Bank Building, which is a Protected Structure (RPS 1128) is located across from the site on the opposite side of High Street. The site is located within the Croom Architectural Conservation Area.
- 2.2. The site has an area of 0.013 hectares and is described in the notice as a mid-terrace residence. On the day of my site inspection, I was able to view the property from the public street and from the rear lane and parking area to the north of the property.
- 2.3. My observations of the site on the date of the inspection include the following;
- The façade was dirty.
  - The glass panes on the door were missing and the openings had been boarded up.
  - The paint on the front door was chipped and peeling.
  - Vegetation was growing out of the rainwater gutters and roof.
  - The rear of the property was in a neglected state.

- The rear roof slopes are in poor condition with missing and broken slates.
- The rear annex was in poor condition with vegetation growing out of the roof.
- The rear yard was overgrown.
- The railings to the rear were dirty with some litter and rubbish on the ground inside the railings.

### **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 15<sup>th</sup> March 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 14<sup>th</sup> July 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**

Notice of Limerick City and County Council's intention to acquire the site compulsorily was served on the owners/occupiers (Donal O'Donovan) on the 7<sup>th</sup> March 2024 and was published in the Limerick Post newspaper dated 9<sup>th</sup> March 2024. The site was described as follows in the notices:

- A derelict site comprising a mid-terrace residence and surrounding land situate at 3 High Street, Croom, Co. Limerick, containing 0.013 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-010-21 in the Derelict Sites Register established and maintained by Limerick City & County Council under section 8 of the Derelict Sites Act, 1990.

4.1.1. 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 compulsorily acquisition was submitted to Limerick City and County Council by JRAP O'Meara LLP Solicitors on behalf of their client Donal O'Donovan on the 4<sup>th</sup> April 2024. The objection can be summarised as follows;

- Their client took proactive steps by making two applications to the Local Authority under the Repair and Leasing Scheme. Their client believed that the property met the criteria for the scheme and did not understand the grounds of refusal of the applications.
- Proper procedures were not followed by the Local Authority in seeking to compulsorily acquire the property, including a failure to serve a statutory notice advising of the steps required to bring the property into a better state of condition. In addition, their client has not observed a publication in a newspaper circulation in the relevant functional area providing notice of the Council's intention to compulsory acquire the property.
- The property is in no worse condition than other buildings within the vicinity and has been unfairly selected for compulsory acquisition.
- Their client had significant financial difficulties with AIB which held security over the property. This took many years to settle and was delayed and complicated by AIB transferring the loan to another lender. Their client could not deal with the property during this time period as he did not have the consent of the owner.
- Attempts to upgrade the property were further stymied by the Covid 19 pandemic. The applications under the repair and lease scheme were made during this time period in an effort to secure formal approval and financial assistance for the renovation of the property.
- Their client intends to submit a planning application for the property within the next 8 weeks and apply for the conversion of the property into 2 no. apartments with a view to future use as rental accommodation.
- Within the next 8 weeks their client intends to replace the front door of the property and paint the façade. This will ensure that the property could no longer be claimed to be in a neglected, unsightly or objectionable condition.

### **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 9th May 2024 and was accompanied by the following:

- Local Authority Compulsory Acquisition Report (i.e. Derelict Site 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 section 15 Notice served on the owners/occupiers of the site, dated 1<sup>st</sup> March 2024.
- Copy of the newspaper notice, dated 9th March 2024.
- Copy of objection made by JRAP O'Meara LLP Solicitors on behalf of Donal O'Donovan.

The derelict site report can be summarised as follows:

- Limerick City and County 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. 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.
- The site detracts from the amenity, character and appearance of the well maintained properties in the area and is deemed derelict due to missing/broken/leaking rainwater gutters or downpipes, broken, missing or boarded up windows and doors, dirty façade/peeling paint, plants growing out of masonry or roof, rotten timber, site overgrown with vegetation and unsightly boundaries (damaged hoarding, broken fences, rusted railings etc).
- The council first inspected the property on 14<sup>th</sup> February 2021 and identified it as a derelict site. On 14<sup>th</sup> January 2021, a notice was affixed to the property seeking information on ownership of the property.

- A section 8(2) notice was served on 15<sup>th</sup> March 2021.
- On 2<sup>nd</sup> December 2021, a Local Authority inspector spoke with the site owner, Donal O'Donovan, who said he would apply in 2022 for the Repair and Lease Scheme. The inspector discussed the remedial measures required to take the property out of dereliction.
- A section 8(7) notice was affixed to the site and served to the owner on 14<sup>th</sup> July 2022.
- On 20<sup>th</sup> July 2023, The Local Authority completed a topography survey on the property and while surveying, Mr. O'Donovan introduced himself and discussed the property. Remedial measures required to take the property out of dereliction were again confirmed. The Croi Conaithe Vacant Property Refurbishment Grant was also discussed with the owner.
- The Local Authority has not received any further feedback from the owner.
- It is the contention of the council that the inaction of the property owners and failures of their duties under the Derelict Sites Act that jeopardises the future use of properties in the area due to their continued neglected and derelict state. In this case, the property continues to deteriorate and attract negative attention in a key area of Croom. The only option available to the council is to acquire this property compulsorily.

#### **4.4. Objectors Submission**

A submission was made to the Board (via email) by JRAP O'Meara LLP Solicitors on behalf of Donal O'Donovan on 29<sup>th</sup> May 2024 in response to the Section 15 notice.

This can be summarised as follows;

- The owner was fettered from dealing with the property as it was the subject of a charge in favour of AIB subsequently acquired by Everyday Finance DAC. A copy of the Folio LK53389F is enclosed which shows that the charge was only removed from the folio in December 2023.
- On two occasions the owner has tried to avail of the Repair and Lease Scheme but the application was refused on both occasions on the basis that there was no housing need in the area. Without the financial security of the

Council's Lease for a period of 20 years, the owner was not able to obtain the required finance to fund the renovation project to be undertaken to the Property.

- In August 2022, the Owner engaged the services of Cohalan Downing Auctioneers to offer the property on the open market for sale. The Council had the opportunity to acquire the property at that time but did not engage with the process.
- The 'Dereliction and Vacancy Team' seek to attain improvements to properties through positive engagement. The owner contends that the Council has at no point has positive or active engagement with him in respect of the property.
- It is clear from the documents submitted by the Council that there was minimal engagement with the owner which demonstrates a disinterest in engaging in a proactive manner. The Council proceeded directly to this process and ignored any improvements the owner committed to carrying out to the property in the letter of objection from the owner's solicitor dated 4<sup>th</sup> April 2024.
- Section 11 of the Derelict Sites 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. It is contended that the Council failed in its duties and obligations under the Act to provide such a notice in writing to the owner.
- The Council's application is not supported by any written third-party complaints in respect of the condition of the property. The Council provided no rationale for the need to compulsorily acquire the property.
- The delay to fresh painting and/or repairs to the rainwater goods does not detract to a material degree from the amenity, character or appearance of other properties in the area. The front door has timber sheeting behind the glass to prevent breaking of glass which occurred and had been replaced by the owner on three previous occasions. The house has been selected for

being vacant as opposed to being derelict which it is contended is an abuse of the process.

- The owner has engaged the services of an architect to submit a planning application to repurpose and modernise the property. The status of the planning application can be checked on the planning register

## 5.0 Planning History

None.

## 6.0 Policy Context

### 6.1. Limerick Development Plan 2022-2028

#### Objective CGR 04 Active Land Management

It is an objective of the Council to:

b) Support and facilitate the reuse and revitalisation of derelict, vacant and underutilised sites and disused buildings throughout Limerick for residential, economic, community and leisure purposes.

#### Objective CGR 06 Derelict Sites

It is an objective of the Council to utilise the provisions of the Derelict Sites Act 1990, including the maintenance of a Derelict Site Register and CPO powers to address instances of dereliction and decay in the urban and rural environment and bring properties back into active reuse.

#### Policy CGR P4 Revitalisation of Towns and Villages

It is the policy of the Council to:

a) Actively address issues of vacancy and dereliction in settlements across Limerick.

#### Croom Settlement

Croom is designated as a Level 4 Large village in the Settlement hierarchy, with a population of 1,159 in 2016 and a forecasted population of 1,484 by 2028 (Table 2.7), representing an increase of 28%. Level 4 Large Villages are described (3.7) as



catering for the daily and weekly needs of both the inhabitants and of the surrounding catchment area. They include primary and secondary schools, childcare facilities, sports facilities, libraries, Garda stations, medical centres and a good range of local services including shops, pubs, post offices and banks/credit unions. It is stated that in order to realise the consolidation of these towns/villages, development will be encouraged to be delivered in a sustainable, sequential manner from the town/village core outwards, while promoting the reuse and redevelopment of vacant and derelict sites and buildings

## **6.2. Croom Local Area Plan 2020-2026**

- 6.2.1. The site is zoned 'Town Centre' in the Croom LAP, the objective for which is 'to protect and enhance the character of Croom's town centre and to provide for and improve retailing, residential, commercial, office, cultural and other uses appropriate to the town centre, while guiding development of an expanded consolidated town centre area'.
- 6.2.2. Section 4.6 – Derelict and Vacant Sites – states that there are 15 vacant dwellings within Croom town centre. The general approach is to seek timely actions and improvements of sites, through positive engagement with landowners, using powers under the Derelict Sites Act only where necessary and taking into account:
- Outstanding planning permissions;
  - Evidence of efforts to address vacancy and dereliction of the site;
  - 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.

## **6.3. Derelict Sites Act 1990 (as amended)**

- 6.3.1. 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.

6.3.2. 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."

6.3.3. 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.

6.3.4. 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.

6.3.5. 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.

6.3.6. 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.

6.3.7. Section 14 of the Act provides that a Local Authority may acquire by agreement or compulsorily any derelict site situated in their functional area.

6.3.8. Section 15 of the Act sets out arrangements for giving notice, if the Local Authority intend to acquire a derelict site compulsorily.

- 6.3.9. 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 of Issues**

### **7.1. Site Inspection**

- 7.1.1. Internal access to the property was not possible on the date of my site inspection on 1<sup>st</sup> August 2024, however I was able to view the site from the public road and I was able to view the rear of the site from the rear lane and parking area to the north of the property. The house is vacant and has a neglected, unsightly and objectionable appearance from the public road and the surrounding area.

- 7.2. My observations of the site on the date of the inspection include the following;

- The façade was dirty.
- The glass panes on the door were missing and the openings had been boarded up.
- The paint on the front door was chipped and peeling.
- Vegetation was growing out of the rainwater gutters and roof.
- The rear of the property was in a neglected state.
- The rear roof slopes are in poor condition with missing and broken slates.
- The rear annex was in poor condition with vegetation growing out of the roof.
- The rear yard was overgrown.
- The railings to the rear were dirty with some litter and rubbish on the ground inside the railings.

- 7.2.1. The site is located in a prominent location on High Street. The building is also located within the Architectural Conservation Area for Croom. The unsightly condition and poor maintenance of the site and surroundings detracts from the character of the building and the character and streetscape of the Architectural Conservation Area. The buildings and dwellings in the immediate surrounds appear

to be reasonably well maintained and occupied. Croom LAP has identified derelict and vacant sites as a matter of serious concern which has a very negative effect on the amenity of the town.

### **7.3. Category of Dereliction**

7.3.1. I note the Local Authority considered that the property and lands fell under Category (b) of Section 3 of the derelict Sites Act 1990, as amended.

7.3.2. Based on my site inspection, it is my view that the subject structure and lands may be considered to still fall under Category (b) of Section 3 of the Derelict Site Act 1990, as amended (DSA):

(b) The lands and structure are still in a neglected, unsightly and objectionable condition.

7.3.3. 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. I consider therefore that the site does not fall under category (a) of Section 3 of the Derelict Sites Act 1990, as amended. I did notice some minor littering within the site to the rear, however I did not see any evidence of waste being stored externally. Therefore, I am satisfied that the site does not fall under Category (c) of the Derelict Sites Act 1990, as amended. Having regard to (b) above, it is my view that the structure and lands are detracting to a material degree from the amenity, character, and appearance of land in the neighbourhood of the land in question.

### **7.4. Action of Local Authority**

7.4.1. I note the actions of the Local Authority and the statutory notices served on the owner/occupier in respect of the site. Section 8(2) notices were served on the owner on 15<sup>th</sup> March 2021, advising of the Local Authority's intention to enter the site on the Derelict Site Register. Section 8(7) notices were subsequently served on the owner on 14<sup>th</sup> July 2022, advising the owner that the site had been entered on the Derelict Sites Register. A Section 15(1) notice was served on the current owners on the 7<sup>th</sup> March 2024 and published in the Limerick Post newspaper dated 9th March 2024 regarding the Local Authority's intention to acquire the site compulsorily. Having regard to the above, I am satisfied that the Local Authority complied with the

requirements of Section 8(2), Section 8(7) and Section 15 of the Derelict Sites Act 1990, as amended.

- 7.4.2. 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 the Compulsory Acquisition report, is to positively engage with the owners of a derelict site and to avoid using the powers under the Derelict Sites Act, except where necessary. It is over 3 years since communications between the owner/representatives of the owner and the Local Authority commenced in relation to the derelict state of the property. 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.

#### **7.5. Compliance with Development Plan**

- 7.5.1. I note that the Limerick Development Plan 2022-2028, specifically Policy CGR P4 and Objectives CGR 04(b) and CGR 06, seeks to address instances of dereliction and decay in the urban and rural environment, seeks to reuse and revitalise derelict, vacant and underutilised sites and disused buildings and bring properties back into active reuse. I consider that the subject property detracts to a material degree from the character and appearance of the surrounding area. Therefore, I consider that the proposed compulsory acquisition 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. I note that an objection to the proposed acquisition of the site made to the Local Authority by JRAP O’Meara LLP Solicitors on behalf of their client Donal O’Donovan dated 4th April 2024. The basis of the objection to the compulsory acquisition of the property was that addressing the dereliction had been delayed and complicated for financial reasons, the covid pandemic and the refusal of applications made to the Local Authority under the Repair and Lease scheme. I note that a further objection was made to the Board on the 29<sup>th</sup> May 2024 generally reiterating the issues raised in the initial objection to the Local Authority and also stating the an architect had

been engaged to submit a planning application to repurpose and modernise the property and that the status of the planning application can be checked on the planning register. I note that no planning application had been lodged at the time of writing this report.

- 7.6.2. 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”. I note from my site inspection on the 1<sup>st</sup> August 2024 that it was not apparent that any further works had been undertaken to address the appearance of the subject property since the 29<sup>th</sup> May 2024 (when correspondence was last received on behalf of the Notice Party). It is now over 3 years since the derelict condition of the property came to the Local Authority’s attention and since the current owner was notified of the derelict state of the property. It has also been 5 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 or to support a conclusion that any works would be completed in a timely manner. The property remains in a neglected and unsightly 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 High Street, Croom, Limerick is granted.

## **8.0 Conclusion**

- 8.1.1. I am satisfied that the process and procedures undertaken by Limerick City and County 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.
- 8.1.2. Having regard to the Constitutional and Convention protection afforded to property rights, I consider that the proposed acquisition of the Derelict Site comprising a a mid-terrace residence and surrounding land situate at 3 High Street, Croom, containing 0.013 hectares or thereabouts, as set out in the Derelict Site Notice issued under Section 15(1)(b) of the Derelict sites Act 1990, (as amended) and

dated 1<sup>st</sup> March 2024 and on the deposited maps DS-010-21, pursues, and was 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.

- 8.1.3. 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 the 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 compulsory acquisition by the acquiring authority unreasonable or disproportionate.
- 8.1.4. The effects of the compulsory acquisition on the rights of affected landowners 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 Limerick Development Plan 2022-2028, and specifically Objective CGR 04, Objective CGR 06 and Policy CGR P4 which seek to actively address instances of dereliction and decay in the urban and rural environment and bring properties back into active re-use and to revitalise towns and villages. Accordingly, I am satisfied that the grant of consent to compulsorily acquire these lands is clearly justified by the exigencies of the common good.

## **9.0 Recommendation**

- 9.1.1. 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.
- 9.1.2. 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 that the Board grant consent to Limerick City and County Council to compulsorily acquire the site.

## 10.0 Reasons and Considerations

10.1.1. Having regard to the derelict, neglected, unsightly and objectionable state of the land, having considered the objections made to the compulsory acquisition, and also:

- The constitutional and convention protection afforded to property rights,
- The public interest, and
- The provisions of Limerick 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 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 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.

---

Ciara McGuinness  
Planning Inspector

16<sup>th</sup> August 2024