



An
Bord
Pleanála

Inspector's Report

ABP-319691-24

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

Toll House, Corbally Road, Limerick

Planning Authority

Limerick City and County Council

Notice Party

John Cox on behalf of Gringle Limited

Date of Site Inspection

1st August 2024

Inspector

Ciara McGuinness

1.0 Introduction

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 Toll House, Corbally Road, Limerick, 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 Corbally Road, to the northeast of Limerick city centre. The site is located on the western side of Athlunkard Bridge, a crossing of the River Shannon, and the Limerick/Clare border. The area is primarily residential in nature. St. Munchin's College Secondary School is located to the north of the site and Scoil Ide Primary School to the southwest of the site. The property fronts onto the public path. A public right of way exists along the River Shannon and sweeps around the rear of the property. A pedestrian crossing to the front of the property connects to the continuation of the public right of way to the south. During my site visit, I noticed several pedestrians using this route.
- 2.2. The subject property is not a Protected Structure nor is it listed on the National Inventory of Architectural Heritage (NIAH). There are several Protected Structures in the vicinity, including Athlunkard Bridge (RPS Reg No. 6055). The site is not within an Architectural Conservation Area.
- 2.3. The site has an area of 0.043 hectares and is described in the notice as a former toll house. On the day of my site inspection, I was able to view the property from the public street and from the walkway to the rear of the property.
- 2.4. My observations of the site on the date of the inspection include the following;
- Windows were boarded up or missing.
 - The front door is in poor condition with peeling paint.
 - Guttering was loose and falling down.
 - Loose/hanging cables and wires on the front façade.
 - Vegetation was growing out of the gutters and roof.

- A 'To Let' sign was attached to the front of the property
- Weeds and vegetation were growing around the property.

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 10th May 2023, advising of the Local Authority's intention to enter the site on the register of derelict sites, and under section 8(7), on the 4th August 2023, 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 (John Cox) on 7th March 2024 and was published in the Limerick Post newspaper dated 9th March 2024. The site was described as follows in the notices:

- A derelict site comprising a former toll house and surrounding land situate at Toll House, Corbally Road, Limerick, containing 0.043 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-008-18 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 acquisition was submitted to Limerick City and County Council by John Cox on behalf of Gringle Limited in a letter dated 12th April 2024.

The objection can be summarised as follows;

- The property is of historical significance. As a result, the company has taken every care to carry out works to the property in an orderly fashion. The company has kept the council informed of all proposed works.
- A report prepared by John Shaw Auctioneers is submitted and can be summarised as follows;
 - A comprehensive historical report was commissioned from Dr Paul O'Brien and completed on February 15th 2021. The report outlines the significant historical context and architectural merit of the property.
 - Architect Alex Russell has contributed to preliminary drawings and sketches aimed at directing future development and restoration.
 - A pre-planning consultation was initiated by Architect Alex Russell on June 23rd 2022.
 - A discussion took place between Mr Tom Cassidy the Conservation Officer for LCCC, and Mr. John Cox on the 8th July 2022, which covered the pre-planning request, septic tank considerations, and best practice restoration for historically significant buildings. A follow-up meeting was arranged between the parties for the subsequent Wednesday.
 - Mr Cox had a briefing with Ms Audrey Crowe, Head of the Derelict Sites Division, on the 8th July 2022 to provide updates on the projects process and discuss next steps.
 - From the pre-planning application submitted on June 2022, a response was received from Ms Rosie O'Donnell Executive Planner which did not align with the discussions had with the Conservation Officer and Head of the Derelict Sites Division, in particular Ms Donovan's recommendation that the house be used for residential purposes.

- A subsequent meeting was held with Senior Planner and Roads Engineer on 28th March 2023. It was agreed that additional drawings would be prepared to provide further clarity on the proposed project.
- Follow up meetings to discuss project were delayed due Mr John Cox experiencing a decline in health.
- A meeting was held on 9th January 2024, where Ms Aine Leland Executive Planner outlined the requirements for a planning application. Subsequently on February 7th 2024, detailed sketches of the windows and doors were forwarded to Mr. Tom Cassidy the Conservation Officer seeking his approval. A response has yet to be received.
- In terms of the planning and environmental requirements for the project/planning application, the process of engaging suitable professional to complete the necessary reports and assessment is estimated to take between 3 to 6 months.
- In the interim, Gringle have made significant progress with the preliminary preparations for the renovations. Gerrard Mullins Electrical Contractors have completed works to restore power to the property, with a connection to ESB pending.
- Sandblasting of the property's exterior has been undertaken and precision excavation work has been undertaken to remove scrub and undergrowth from the surrounding area.
- Further attempts to contact Council officials were unsuccessful.
- Construction activities are presently on hold pending additional guidance from the Local Authority with regard to specifications for the windows. Various professionals have been contacted seeking quotes for the reports required for a planning application.
- Over the past two years Gringle has committed significant financial resources to the Toll House project. The project has faced delays due to slow response and lack of clear guidance from the Local Authority.

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 1st March 2024.
- Copy of the newspaper notice, dated 9th March 2024.
- Copy of objection made by John Cox.

4.3.2. The derelict site report can be summarised as follows:

- Limerick City and County Council (LCCC) have established a specialised 'Dereliction and Vacancy Team' to take an area-based collaborative approach to addressing vacancy and dereliction in Limerick City and in the towns and villages in the County. 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 holes in roof, loose and slipped states, missing/broken/leaking rainwater gutters or downpipes, broken, missing or boarded up windows and doors, dirty façade/peeling paint, graffiti, plants growing out of masonry or roof, accumulation of litter/waste or illegal dumping, site overgrown with vegetation and unsightly boundaries (damaged hoarding, broken fences, rusted railings etc.).

- The site was first inspected and identified as a derelict site on 15th February 2018.
- The former owner of the property (prior to Mr John Cox) had a meeting on 15th February 2018 with the area inspector to discuss remedial measures to remove the property from dereliction.
- On 14th December 2021 the area inspector visited the site, no remedial works had been carried out, but a sign indicated the property was for sale.
- On 6th July 2022, the area inspector visited the site and there was physical evidence of antisocial behaviour to the rear of the building. The area inspector contacted the owner by phone who confirmed that the property had been sold.
- On 13th July 2022, Mr John Cox phone the area inspector to confirm his ownership and that he had been in contact with the LCCC Conservation Officer on the works he proposes to carry out.
- On 14th July 2022, Mr Cox phones the area inspector to say he had a pre-planning meeting confirmed with his architect.
- On 17th October 2022, Mr Cox told LCCC that new windows were ordered, and new water mains were connected to the building. The area inspector would review the case again in December 2022.
- On 2nd February 2023, the area inspector emailed Mr Cox for an update on the progress of works on the site.
- On 2nd May 2023, a further site inspection by LCCC found that no further works had progressed.
- On 15th May 2023, a Section 8(2) Notice was served on the owner and affixed to the site.
- On 5th July 2023 a further site inspection by LCCC found that no further works had progressed on site.
- On 10th August 2023, a Section 8(7) Notice was served on the owner and affixed to the site.

- On 18th January 2024, a further site inspection by LCCC found that no further works had progressed no site.
- On 23rd February 2024, a Section 22 Notice of Valuation was served to the owner Mr Cox, following which he contacted the area inspector to state that he thought the valuation was too low.
- A site inspection on 26th February 2024 by the area inspector noted some clearance of vegetation to the site and sand blasting to the walls.
- 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 Limerick City. The only option available to the council is to acquire this property compulsorily.

4.4. Objectors Submission

4.4.1. A submission by Shaws Consulting Engineers on behalf of John Cox/Gringle Limited was received by the Board by email on the 4th June 2024 in response to the application for compulsory acquisition. The submission is summarised as follows;

- Gringle Limited acquired Toll House on 25th May 2022, and has since invested significant resources in its restoration and conservation.
- Numerous consultations with the Conservation Officer and other Council officials were held to ensure compliance with all regulatory and conservation standards. Pre-planning consultations further demonstrate Gringle's dedication to compliance.
- Mr. John Cox representing Gringle experienced significant health issues, causing unavoidable delays in the project.
- Gringle is addressing various environmental and planning requirements, including Appropriate Assessment, Invasive Species Management, and consultations with Irish Wate rand ESB Networks. Detailed reports by qualified professionals reflect the meticulous nature of this conservation effort.

- Significant financial resources have been invested in the purchase and restoration including electrical work, sandblasting, exterior cleaning and ongoing maintenance.
- There is no record of considerations taken into account for this case. Communication between key officials were not disclosed.
- The Conservation Officer had not responded to requests for specifications, significantly delaying the project.
- There has never been illegal dumping on the site and all vegetation has been cleared. Boundaries are maintained apart from Athlunkard Bridge, which is under Council Control.
- Gringle did not own the site when initial dereliction issues were raised. There is no evidence of anti-social behaviour given the sites location along a well-used walking path.
- Mr. Cox could not order windows in October 2022 due to a lack of necessary specifications from the Conservation Officer. Ongoing discussions with the Local Authority have been held throughout the process.
- No report has been received from the Council regarding specific dereliction concerns or required remedial actions.
- The submission included the following documents
 - Initial appeal
 - Letter confirming date of purchase
 - Original historic report
 - 1st pre-planning request and response
 - Correspondence with Conservation Officer
 - 2nd preplanning request and response with windows sketch
 - Paul Stanley works invoice (sand blasting and digger works)

5.0 Planning History

None.

6.0 Policy Context

6.1. Limerick Development Plan 2022-2028

6.1.1. The subject property is zoned 'Existing Residential' in the Limerick Development Plan 2022 – 2028, the objective of which is 'to provide for residential development, protect and improve existing residential amenity.'

6.1.2. The following objectives are considered relevant;

Strategic Objective 4

'...Support and facilitate revitalisation and consolidation of the City, towns and villages, through public realm and place-making initiatives. Address vacancy and dereliction to create compact attractive, vibrant and safe environments in which to live, work, visit and invest. ...'

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.

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 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 1st August 2024, however I was able to view the site from the public road and from the walkway to the rear of the property. The house is vacant and has a neglected, unsightly and objectionable appearance from the public road and the surrounding area.

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

- Windows were boarded up or missing.
- The front door is in poor condition with peeling paint.
- Guttering was loose and falling down.
- Loose/hanging cables and wires on the front façade.
- Vegetation was growing out of the gutters and roof.
- A 'To Let' sign was attached to the front of the property
- Weeds and vegetation were growing around the property.

7.1.3. The site is located in a prominent location on Corbally Road. 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 area. The buildings and dwellings in the immediate surrounds appear to be reasonably well maintained and occupied. The site also adjoins a public right of way walkway that is used frequently by pedestrians. The Limerick Development Plan has identified derelict and vacant sites as a matter of serious concern which has a negative impact on the social, visual and commercial aspects of a neighbourhood.

7.2. Category of Dereliction

7.2.1. I note the Local Authority considered that the property and lands fall under Category (b) of Section 3 of the derelict Sites Act 1190, as amended.

7.2.2. 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):

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

7.2.3. The house appears to be in reasonable structural condition externally. There is no obvious evidence of 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 Action 1990, as amended. I did not notice any litter or rubbish within the site, or 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.

7.3. Action of Local Authority

7.3.1. I note the actions of the Local Authority and the statutory notices served on the owner in respect of the site. Section 8(2) notices were served on the owner on 10th May 2023, 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 10th August 2023, advising the owner that the site had been entered on the Derelict Sites Register. A Section 15(1) notice was served on the owners on the 7th 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.

7.3.2. 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 2 years since communications between

the current 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.

7.4. Compliance with Development Plan

- 7.4.1. I note that the Limerick Development Plan 2022-2028, specifically 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 subject property and 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.

7.5. Action of the Owner to address Dereliction

- 7.5.1. I note that an objection to the proposed acquisition of the site was made to the Local Authority by the owner John Cox (on behalf of Gringle Limited) by letters dated 12th April 2024. The basis of the objection to the compulsory acquisition of the property was that the owner was in the process of renovating the property and were taking every care given its historical significance/architectural merit. I again note that the property is not a protected structure nor is it within an Architectural Conservation Area. A further objection was made to the Board on 4th June 2024 by Shaws Consulting Engineers on behalf of John Cox/Gringle Limited generally reiterating the issues raised in the initial objection to the Local Authority.
- 7.5.2. 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 1st August 2024 that it was not apparent that any further works had been undertaken to address the appearance of the subject property since the 4th June 2024 (when correspondence was last received on behalf of the Notice Party). It is c. 6 years since the derelict condition of the property came to the Local Authority’s attention and c. 2 years since the current

owner was notified of the derelict state of the property. It has also been 6 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.

- 7.5.3. 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 Toll House, Corbally Road, 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 former toll house and surrounding land situate at Toll House, Corbally Road, Limerick, containing 0.043 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 1st March 2024 and on the deposited maps DS-008-18, 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 Objectives CGR 04 and CGR 06 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 cities, towns and villages. Accordingly, I am satisfied that 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 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

6th September 2024