



An
Bord
Pleanála

Inspector's Report ABP-320231-24

Development

Application for consent for compulsory acquisition of a derelict site in accordance with Section 14 of the Derelict Sites Act 1990, as amended

Location

Court Place, Carlow. (Eircode: R93 F5A0)

Local Authority

Carlow County Council

Notice Party

St. Patrick's Property Trustees

Date of Site Inspection

18th October 2024

Inspector

Jennifer McQuaid

1.0 Introduction

- 1.1. This case relates to a request by Carlow County Council for the consent of An Bord Pleanála to the compulsory acquisition of the subject site at Court Place, Carlow, Co. Carlow (Folio numbers CW2001L, CW2002L, CW12532F & CW1188L) 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 application for consent for compulsory acquisition (referred to hereafter as the 'subject property') is located at Court Place, Carlow along the R417, approximately 500 m to the northwest of the centre of Carlow town.
- 2.2. The subject site consists of a two-storey dwelling and a number of outbuildings and has a stated site area of 0.4196 hectares (c.4196 sqm). The site includes the dwelling itself, a concrete area around the dwelling, a corner single storey building and 2 storage sheds. The two-storey dwelling and adjoining boundary walls are directly on the footpath along the R417. There are 2 existing access points along the R417. The boundary to the northeast consists of a high wall along the entrance to Carlow College. The rear boundary adjoins existing sheds and the boundary along the western boundary consists of the shed wall and wall of a single storey building.
- 2.3. The subject site forms part of the Old Dublin Road R417, where commercial and residential are located along this route.
- 2.4. The subject property is not a Protected Structure nor is it listed on the National Inventory of Architectural Heritage (NIAH).
- 2.5. On the day of my site inspection the site was enclosed with timber hoarding painted blue. I was unable to gain entry to the site itself, but I could see sufficiently through the gate. Based on a comparison of photographs attached to the Local Authority's Compulsory Acquisition Report (dated 21st May 2024) I note that no works have been carried out at the subject property. I noted the following on site:
- Overgrown vegetation inside the sheds and inside the open yard to the rear.
 - Parts of the roof of the sheds are missing with loose sheeting,

- The exterior walls and timber hoarding has been painted and along Old Dublin Road and to the entrance for Carlow College, but the shed along College Street is not painted with dirty walls and missing windows along with parts of the roof missing and loose.

3.0 Application for Consent for Acquisition

- 3.1. Carlow County Council has applied to the Board for consent to compulsorily acquire the site under Section 14/ 16 of the Derelict Sites Act, 1990, as amended. I note that this application is subsequent to Carlow County Council serving a notice under Section 14 of the Act on the Derelict Sites Act, 1990, as amended, (i.e. advising of the Local Authority's intention to acquire compulsorily under the said Act, the derelict site as described).

4.0 Application and Objection

4.1. Notice of Intention to Acquire

- 4.1.1. Notice of Carlow County Council's intention to compulsorily acquire the site was served upon the owners/ occupiers (Trustees of St. Patrick's College) on the 21st of May 2024 and was published in the Nationalist Newspaper dated 4th June 2024. The site was described in the notices, as follows:

- All that and those the site and buildings at Court Place, Carlow comprised in Folios CW2001L & CW2002L situate on the corner of College Street and Court Place in the Urban District of Carlow being part of the Townland of Carlow Barony of Carlow, comprised in Folio CW12532F situate in the Townland of Carlow, in the Barony of Carlow and comprised in Folio CW1188L situate to the East side of College Street in the Town, Parish of Carlow being part of the Townland of Carlow and Barony of Carlow being All of the Property comprised in Folios CW2001L, CW2002L & CW1188L of the Register of Ownership of Leasehold interest in County Carlow and being All of the Property comprised in Folio CW12532F of the Register of Ownership of Freehold Land in County Carlow.

- 4.1.2. I consider 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. 1 no. submission (by and on behalf of the property owner) expressing objection to the proposed acquisition was submitted to Carlow County Council.
- 4.2.2. The objection to the proposed acquisition was submitted to Carlow County Council by Carlow College, St. Patrick's, dated 1st July 2024. The objection can be summarised as follows:
- The Registered Owners (Trustees of St. Patrick's College) strongly object to the proposed compulsory acquisition of their property on the following grounds:
 - Carlow College have been engaged in discussions with the Department of Further and Higher Education, Research, Innovation and Science (DFHERIS) since 2017. The discussions centred around the strategic repositioning of the College in the context of the "National Strategy for Higher Education to 2030".
 - In May 2024, SETU Governing Body instructed a legal firm to "commence a property due diligence on the property assets of Carlow College St Patrick's as part of the process to inform the deliberations of SETU regarding options for collaboration and potential incorporating".
 - Carlow College is collaborating with SETU to establish the steps required to progress this integration and the lands, in the ownership of the Trustees, are critical in the context of the overall College strategy for regeneration of this town centre location as a university campus.
 - Carlow is now a University Town, and the growth of the college is significant in the context of future economic development opportunities.

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 received on 22nd July 2024 and included the following:

- Local Authority internal email from the Vacant Homes Officer to the Housing Officer dated 27th May 2024 regarding the Acquisition/ CPO of the property.
- Copies of the Land Registry Folio Map.
- Copy of Land Registry Folio details.
- Copies of Photographs of the Subject Property.
- Copy of email from Director of Services to Carlow College requesting the names of all individuals' directors of the trustees of St. Patrick's College in order to serve a notice under the Derelict Sites legislation dated 22nd May 2022.
- Copy of email from Carlow College dated 23rd May 2024 with list of names of trustee members along with addresses.
- Copy of 1 no. Local Authority letter to Registered Owners dated 21st May 2024 informing them of the intention of the Local Authority to acquire the property by Compulsory Purchase Order, in accordance with the Derelict Sites Act 1990, as amended and informing the owner the process will commence in one week.
- Copy of a Local Authority memo from Town Regeneration Officer to the Chief Executive of the Local Authority dated 29th May 2024 recommending that the CPO procedure proceeds. This memo is counter signed by a Director of Services and the Chief Executive.
- Copy of Derelict Sites Report prepared by the Executive Technician in the Planning Department and associated photographs dated 21st May 2024.
- Copy of 1 no. email from the Executive Technician in the Planning Department to the Vacant Homes Officer dated 4th June 2024 confirming the posting of notices on the subject property on the morning of 4th June 2024 with 4 no. accompanying photographs.
- Copies of 8 no. Registered letters from the Local Authority to Rev Michael Murphy, Msgr John McEvoy PP, Rev Conn O Maoldhomhnaigh, Right Rev John McDonald, Very Rev John Dunphy, Msgr John Byrne PP, Right Rev Msgr Brendan Byrne, Bishop Denis Nulty dated 4th June 2024 advising that

the Local Authority is now proceeding to Compulsorily Purchase/ acquire the subject property. The letters are accompanied by a copy of the notice dated 4th June 2024, 1 no. copy of a land registry compliant map, 1 no. copy of the Newspaper Notice dated 4th June 2024.

- Copy of a letter of Objection to the proposed Compulsory Acquisition from Fr. Conn O Maoldhomhnaigh, Secretary of Carlow College, St. Patrick's Property Trustees to the Local Authority for and on behalf of Carlow College, St. Patrick's dated 1st July 2024 and received on 4th July 2024. The letter requests the Local Authority to confirm that the proposal to acquire this property by Compulsory Purchase will not proceed. The owners are collaborating with SETU to establish the steps required to progress the integration of the lands for the overall College strategy for regeneration of the town centre location as a university campus.
- Copy of a letter from the Local Authority to An Bord Pleanála dated 19th July 2024 received on 22nd July 2024 seeking the confirmation of a Compulsory Acquisition in respect of the subject property.

4.3.2. The **Derelict Site Report** can be summarised as follows:

- The Derelict Site Report is dated 21st May 2024, VHO Ref. VHOC99.
- The Report relates to the subject property, Court Place, Carlow, folio ref. no. CW1188L, CW2001L, CW2002L, CW13532F. The site has a stated site area of 0.4196 hectares (4196 sqm). The property is stated to be unoccupied.
- The Report finds that having inspected the property, it is a Derelict Site under Section 3 of the Derelict Sites Act, 1990.
- The Report includes the following Recommendation:
 - *'Given the long-term neglected and objectionable condition of this property and the absence of direct action by the owner(s). I advise direct initiation of CPO proceedings against this property.'*
- The Report is informed by a Case Summary dated 21st May 2024. The Case Summary indicates the Registered Owner as The Trustees of St. Patrick's College, Carlow.

- The property is described as a substantial, prominent site within the Court Place/ College Streetscape in Carlow's Town Centre. The property has been long term vacant and the site and all buildings within are in an extreme state of neglect and dereliction.
- The existing condition of the property is stated to be deemed abandoned and derelict. The property is a problem site and has been subject to numerous dereliction inspections and improvement notices.
- It further states improvement notices have yielded improvements that are only short-term and cosmetic in their nature and that served only to soften the visual impact of the property from the Court Place Vista. The associated site is in a state of overgrowth and neglect and all building within are deemed abandoned and derelict.
- The Report notes that significant efforts of engagement with registered owners have yielded no improvements to date and that this is confirmed by the Vacant Homes Officer (VHO) and the Town Regeneration Officer (TRO).
- The Report includes a Photographic Survey taken on 21st May 2024 (27 no. photos in total).
- The following advice is provided in the Report:
 - *'Advise that the property be put forward for direct CPO by the Local Authority as it is deemed in this instance that putting the property through a protracted dereliction process will only yield limited improvements (if any).'*
- The Report details on requirements for the site which include:
 - Visible Works Required.
 - Significant works and investment will be required to bring this property to any acceptable standard and establish a long-term use into the future.
 - Given the size, location and prominence of this property within Carlow's Town Centre, the owners are requested to identify a viable use for this property.
 - Once identified the owners are requested to bring this property into use.

4.4. Objector's Submission

4.4.1. No objector's submission was received by An Bord Pleanála.

4.5. Oral Hearing

4.5.1. No request has been received for an Oral Hearing.

5.0 Planning History

5.1. Planning History

ABP-303534-19: Notice of entry on vacant site register. Decision - Cancel

ABP-304309-19 (Planning Authority Reference 18198): Permission granted to demolish and remove all existing single storey and two storey structures currently on site (formerly Dooley Motors Site), removal of all underground storage tanks and hardstand areas, removal of perimeter walls and replacement with 2.5m high boundary panel and all associated site works.

096202: Permission granted for 42 no. apartments - 5 no. one bedroom apartment, 34 no. 2 bedroom apartments, 3 no. 3 bedroom apartments, 530sqm office space, alterations to basement layout, alterations to landscaping layout, ESB Sub-station and all associated site works

035307: Permission granted for development to consist of 6 No. office units at ground floor level on the Court Place facade, 12 No. one bed units, 58 No. two bed units and 6 No. three bed units in three blocks of three and five storey over basement bicycle/car park/domestic storage with access off Court Place with a central landscaped courtyard at ground floor level and roof gardens over the Court Place/College Street block

6.0 Legislation and Policy Context

6.1. Derelict Sites Act 1990 (as amended)

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

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

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

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

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

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

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

- Section 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.
- 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.
- 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.

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

6.2. Carlow County Development Plan 2022 to 2028

6.2.1. The subject property is within the defined CSO settlement boundary and inside the defined development plan boundary for Carlow Town, as shown on the Carlow Town Land Use Zoning Map.

- The site zoned as Town Centre. The objective is to protect, provide for and/or improve town and village centre facilities and uses. The purpose of this zoning is to protect and enhance the character and vibrancy of existing town and village centres and to provide for and strengthen as appropriate retailing, residential, commercial, cultural, tourist and other appropriate uses. It will promote compact growth through the consolidation of development on town and village centre lands, allowing for a broad range of compatible and complementary uses, which will be encouraged to locate in this area in order to create an attractive environment to reside, shop, work, visit and in which to invest. The appropriate reuse, adoption, and regeneration of buildings, infill sites, backlands, vacant, derelict and underutilised lands including residential development will be encouraged. The full use of upper floors in retail and commercial premises in town and village centres for residential use will also be encouraged. Primacy of existing Core Retail Areas will be retained and prioritised for any new retail development to enhance its vitality and viability. Retail proposals shall have regard to relevant policies and objectives in the

Retail Strategy (Appendix 5) and Chapter 4 of this Plan and the Retail Planning Guidelines 2012. Town centre development proposals will be required to be of high architectural quality, which contributes to a distinct sense of place and public realm, promotes sustainable modes of travel and be appropriate to its location. New commercial and retail uses will be accommodated in town and village centres. The size and scale of any such commercial or retail development shall be reflective of the role and function of the town or village in the settlement hierarchy.

6.2.2. The following policies and objectives are of relevance to the subject proposal:

Objectives

Active Land Management

It is an Objective of the Council to:

- **CS. O6:**
 - *Actively promote the redevelopment and renewal of areas in need of regeneration through appropriate active land management measures including availing of statutory powers under the Derelict Sites Act, Housing Act, Vacant Site Levy and supporting implementation of the Residential Zoned Land Tax together with other statutory provisions to actively promote regeneration of urban and rural areas within the County.*

Core Strategy – Objectives

It is an Objective of the Council to:

- **CS. O12:**
 - *Promote measures to reduce vacancy and the underuse of existing building stock and support initiatives that promote the reuse, refurbishment and retrofitting of existing buildings within urban centres and targeted settlements in the county.*

6.3. Draft Carlow Graiguecullen Joint Urban Local Area Plan 2024-2030.

- 6.3.1. The site adjoins the administrative area for Laois County Council. The Draft Carlow Graiguecullen Joint Urban Local Area Plan 2024-2030 is noted but not considered as part of this application due to the “draft” status.

7.0 Assessment

7.1. Site Inspection

- 7.1.1. I carried out my site inspection on 18th October 2024. Internal access to the site was not available. I walked around the property and inspected the front and sides, access to the rear was not possible. I inspected the open yard and sheds through a gate from Old Dublin Road and I could clearly see the site has been unoccupied in a number of years.

7.2. Category of Dereliction

- 7.2.1. Based on the condition of the subject property which I observed during my site inspection I do consider that the site falls within category (a) of Section 3 of the Act, 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 consider that the structure(s) are likely to be in a dangerous condition, and that they could be considered ruinous. The roof of the sheds is missing in parts and loose in other parts. Windows and doors are missing from the buildings. Stonework, roofs and other structural parts are missing or falling apart. Therefore, I do consider that the condition of this structure results in the wider property being considered to fall under category (a).
- 7.2.2. In respect of category (b) of Section 3 of the Act, I note the condition of the property and the general appearance of the property and grounds having a neglected, unsightly and objectionable condition and I consider that the site falls within category (b) of Section 3 of the Derelict sites Act, 1990. I particularly note that the subject property is located in a prominent town centre location and zoned as town centre.
- 7.2.3. I do not consider the property to fall within category (c) of Section 3 of the Act as there was no rubbish evident at the time of my inspection.

7.2.4. In conclusion, I consider that the property detracts to a material degree from the amenity, character and appearance of land in the town centre, which in my view, renders it derelict under Section 3 of the Act.

7.3. Action of Local Authority

7.3.1. The Compulsory Acquisition Report of the Local Authority dated 21st March 2024 states significant efforts of engagement with registered owners were made which yielded no improvement which were only short-term and cosmetic in their nature and that served to only soften the visual impact of the property from the Court Place Vista. The Report recommends that the property be Compulsorily Acquired under the Derelict Sites Act, 1990, as amended.

7.3.2. A Notice of the Local Authority's intention to Compulsorily Acquire the property under Section 15 of the Derelict Sites Act, as amended, was served on 21st May 2024 and published in the Nationalist Newspaper on 4th June 2024.

7.3.3. Under Section 10 of the Derelict Sites Act 1990, as amended, it is noted that the Local Authority has a duty *'to take all reasonable steps (including the exercise of any appropriate statutory powers) to ensure that any land situate in their functional area does not become or continue to become a derelict site.'*

7.3.4. I note that in using its powers to Compulsorily Acquire the property, as set out in the Compulsory Acquisition Report, the Local Authority consider the said Compulsory Acquisition accords with policies and objectives of the Carlow County Development Plan, 2022 to 2028. I further note the Local Authority consider that the Compulsory Acquisition accords with general Government Policy as set out in the Action Plan for Housing and Homelessness and in particular the stated policy objective to acquire vacant homes for social housing. I accept that the Local Authority has taken steps in consultation with the owner of the subject property to bring the property out of dereliction. I note initial contacts were made with the Registered Owners of the Property on 21st May 2024 and then subsequently on 4th June 2024 (including the posting of notices at the property on same said date) and that it was not until 4th July 2024 that a Letter (dated 1st July 2024) from Carlow College on behalf of the Registered Owners was received by the Local Authority. Having regard to the foregoing 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 the Carlow County Development Plan, 2022 to 2028, and specifically Objectives CS. O6 and CS. O12, which seek, inter alia, to address dereliction, reduce vacancy and encourage and facilitate appropriate redevelopment. The site is located on lands zoned for town centre where it is an objective to enhance the character and vibrancy of the town centre. The subject property is in a derelict state and has remained vacant for a period in excess of 10 years. 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 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. I note the objection to the proposed compulsory acquisition lodged for and on behalf of the Registered Owners of the property which was received by the Local Authority on 4th July 2024 (dated 1st July 2024). It is stated that Carlow College are collaborating with SETU to establish the steps required to progress the integration and that the lands in the ownership of the Trustees, are critical in the context of the overall College strategy for regeneration of this town centre location as a university campus.
- 7.5.2. At the time of my site inspection the property was vacant and as noted further above was in a derelict state. There was no evidence of any further actions carried out by the owner to address dereliction other than the site was enclosed and secure with sections painted. The measures taken to date are largely cosmetic. I am satisfied the proposed compulsory acquisition is proportionate given the circumstances of this particular case.

8.0 Conclusion

- 8.1. I am satisfied that the process and procedures undertaken by Carlow County Council have been fair and reasonable, that the Local Authority has demonstrated the need for the land to be 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 proposed acquisition of the Derelict Site comprising the site and premises situate at and known as Court Place, Carlow, (0.41 hectares), as set out in the Derelict Site Notice issued under Section 15(1)(b) of the Derelict sites Act 1990, (as amended) and dated 21st May 2024 and on the deposited map VHO-C99, 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.
- 8.3. 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 I 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.
- 8.4. 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 Carlow County Development Plan 2022-2028, and specifically Objectives CS. O6 and CS. O12, which seek, inter alia, to address dereliction, reduce vacancy and encourage and facilitate appropriate redevelopment. 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 site, in particular the derelict condition, the unsightly and objectionable condition 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 there is therefore a derelict site within the meaning of Section 3 (a) & (b) of the Derelict Sites Act, 1990, as amended.

- 9.1.2. I consider it 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 Carlow County Council to compulsorily acquire the site.

10.0 Reasons and Considerations

- 10.1.1. Having regard to the derelict, unsightly and objectionable condition of the subject property, the poor state of repair of the external walls, roofs and windows and the visible presence of considerable weed growth on the hardstanding areas within the property, having considered the objection(s) made to the compulsory acquisition, and also:

- A) the constitutional and convention protection afforded to property rights,
- B) the public interest, and
- C) the provision of Carlow County Development Plan 2022-2028 & Draft Carlow-Graigieucullen Joint Urban Local Area Plan 2024-2030,

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 a) & 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 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.

Jennifer McQuaid
Planning Inspector

21st October 2024