



An  
Bord  
Pleanála

## Inspector's Report

### ABP-321684-25

#### 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

No.17 The Rise, Owenabue Heights, Carrigaline, Co. Cork

#### Local Authority

Cork County Council

#### Notice Party

Desmond Walsh

#### Date of Site Inspection

19<sup>th</sup> February 2025

#### Inspector

Bernadette Quinn

## **1.0 Introduction**

- 1.1. This case relates to a request by Cork County Council for the consent of An Bord Pleanála to the compulsory acquisition of the subject site at No.17 The Rise, Owenabue Heights, Carrigaline, Co. Cork 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 No. 17 The Rise, Owenabue Heights, Carrigaline, Co. Cork.
- 2.2. The subject property comprises a semi-detached two storey dwelling structure, a single storey shed structure to the rear and associated front and rear amenity and circulation space which includes a driveway and area of lawn to the front. A wall bounds the southern side elevation. Adjoining to the north is a similar style dwelling which forms the other dwelling in this pair of semi-detached properties.
- 2.3. The Rise in Ownabue Heights is a residential street comprising a row of similar semi-detached two storey houses on both sides of the road which appear to be occupied and are in reasonable condition.
- 2.4. The subject property is not listed as a Protected Structure and is not listed on the National Inventory of Architectural Heritage (NIAH). The site is not located within an Architectural Conservation Area (ACA).
- 2.5. On the day of my site inspection, I was unable to gain entry to the interior of the dwelling structure and it is unclear whether the property is unoccupied. I specifically note the following:
- The overall property was in a poor state of repair.
  - The paintwork on the front and side elevation, the window surrounds and the windowsills was in poor condition and in need of painting. Window frames were in poor condition and a front first floor window contains broken glass.
  - Fascia was missing on the front elevation.
  - There appears to be damage to the roof ridge.

- Based on a comparison of photographs attached to the Local Authority's Compulsory Acquisition Report I note that painting on the wall along the side boundary of the subject property and the side elevation of the house at ground floor level appears to have been recently carried out but is unfinished. Grass appears to have been cleared from the circulation space to the side of the subject property.

### **3.0 Application for Consent for Acquisition**

- 3.1. Cork County Council has applied to the Board for consent to compulsorily acquire the site under Section 14 of the Derelict Sites Act, 1990, as amended. I note that this application is subsequent to Cork County Council serving a notice dated 13<sup>th</sup> November 2024 under Section 15 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 Cork County Council's intention to compulsorily acquire the subject property was served upon the owner/ occupier (Desmond Walsh) on the 14<sup>th</sup> November 2025 and was published in the Irish Examiner dated 15<sup>th</sup> November 2024. The site was described in the notices, as follows:

- Derelict Residential Property at 17 The Rise, Owenabue Heights, Carrigaline, Co. Cork.

- 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. One no. submission (by the property owner) expressing objection to the proposed acquisition was submitted to Cork County Council by the property owner, Desmond Walsh, on 16<sup>th</sup> December 2024.

4.2.2. The objection can be summarised as follows:

- The garden and grounds have been cleared and the owner is actively having the property decorated, etc.
- The owner is occupying the property and carrying out the work.
- A recent electricity bill is enclosed. [no copy of this bill is attached with the letter on file].
- Photographs of the property will be forwarded as soon as possible.
- It is hoped that the above comments convey the intention in relation to the property.

#### 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 15<sup>th</sup> January 2025 and included the following:

- Cover letter
- Compulsory Acquisition Report of Cork County Council
- Derelict Site Location Map
- Copy of letter from Cork County Council to property owner, Desmond Walsh dated 14<sup>th</sup> November 2024 advising of Cork County Council's intention to acquire compulsorily the derelict site and enclosing copy of Section 15 Notice and notifying that an objection to the proposed compulsory acquisition of the derelict site may be made on or before 16<sup>th</sup> December 2024.
- Copy of Section 15 Notice Issued to owner dated 13<sup>th</sup> November 2024.
- Copy of Section 15 newspaper advertisement dated 15<sup>th</sup> November 2024
- The objection letter dated 11<sup>th</sup> December 2024 and acknowledged response dated 15<sup>th</sup> January 2025.
- Photographs from the derelict site case file on the property.
- Proof of postage from Cork County Council Town Regeneration Office to Desmond Walsh dated 14<sup>th</sup> November 2024.

#### **4.4. Objector's Submission**

- 4.4.1. None received.

#### **4.5. Oral Hearing**

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

### **5.0 Planning History**

- 5.1. There is no recent planning history on the subject property.

### **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. Cork County Development Plan 2022 to 2028**

- 6.2.1. The subject property is in an area zoned 'Existing Residential / Mixed Residential. The objective for this zoning is to conserve and enhance the quality and character of established residential communities and protect their amenities.
- 6.2.2. The following provisions of the Development Plan are considered relevant:
- Paragraph 4.9.13, Volume 1 notes that 'the Council will use various mechanisms to resolve issues of title including Compulsory Purchase Orders to resolve long standing vacancy/ dereliction, however, it must be recognised

that such powers are less efficient to progressing redevelopments than on a willing partnership basis’.

- Paragraph 4.11.4 notes that land activation measures including the use of statutory powers will be used to address vacancy and dereliction.
- Regarding vacancy, Objective PL 3-2 ‘Encouraging Sustainable and Resilient Places’ provides that as part of the Council’s commitment to deliver compact growth and resilient places, the Plan supports addressing vacancy within the existing building stock.
- Objective TCR 9-2: Vacancy and Regeneration states that in relation to Derelict Sites the council will endeavour to use all mechanisms available to it as appropriate in order to maximize the potential of such lands.
- Policy Objective PO12 supports the creation of attractive and vibrant places through the renovation and re-use of obsolete, vacant and derelict homes.

## **7.0 Assessment**

### **7.1. Site Inspection**

- 7.1.1. I carried out my site inspection on 19th February 2025. Internal access to the dwelling was not available. I walked around the front of the property and inspected the front and sides and I viewed the rear garden from the side of the house.

### **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 not consider that the subject property 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 not consider that the structure(s) are likely to be in a dangerous condition, or that they could be considered ruinous. Other than the dwelling missing parts of the fascia, broken glass in a window, and some damage to the roof ridge, the walls and roof were intact. Therefore, on balance I do not consider that the condition of this structure results in the wider property being considered to fall under category (a) of Section 3 of the Act.

7.2.2. In respect of category (b) of Section 3 of the Act, I note the condition of the dwelling which has paintwork in poor condition on the front and side elevations and on the window surrounds and the windowsills; window frames are in poor condition; a front first floor window contains broken glass; fascia is missing on the front elevation; and there appears to be damage to the roof ridge. I note that the general appearance of the property has 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 an established residential area and is located alongside dwellings which are for the most part attractive and well maintained.

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 neighbourhood, 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 in relation to the site and included on the file sets out the actions of the Local Authority, and the statutory notices served on the owner and can be summarised as follows:

- Correspondence issued to the owner regarding the subject property and its upkeep in January 2022. No response was received.
- In September 2022 following the erection of a notice at the property by Cork County Council seeking information on ownership of the property, the owner responded to the notice and committed to the property's upkeep.
- Following the issuing of a Section 8(2) Notice on 11<sup>th</sup> January 2023 advising the owner of Cork County Council's intention to place the property on the Derelict Sites Register, the owner confirmed to Cork County Council in December 2023 that site clean-up was underway.
- In January 2024 following a site inspection by Cork County Council the site remained derelict and a Section 8(7) Notice was issued on 18<sup>th</sup> January 2024 placing the property on the Derelict Sites Register.



- In February 2024 the owner advised Cork County Council that works would be carried out. No works were subsequently carried out to render the site non-derelict and Cork County Council exercised its power of Compulsory Acquisition and gave notice to the owner of its intention to compulsorily acquire the site in a notice dated 13<sup>th</sup> November 2024.

7.3.2. Cork County Council considered that the property owner has not complied with their duties under the Derelict Sites Act, 1990 (as amended), that the property continues to be in a derelict state and detracts from its surrounds and that the property owner has not followed through on commitments to carry out works to remove the dereliction. The report states that Cork County Council considered that the best resolution is to acquire the property compulsorily as it is the Council's view that the property will continue to remain derelict in the future if not compulsorily acquired. If successful in obtaining consent from An Bord Pleanála, it is the intention of the Council to use the property for social housing provision.

7.3.3. 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." It is over three years since Cork County Council commenced communication in relation to the derelict state of the property. I also note the Cork County Council allowed for a period of approximately one year between the serving of a Section 8 (2) notice and 8 (7) notices. 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 that the Cork County Development Plan 2022-2028 includes Objective TCR 9-2 which seeks, inter alia, to use all mechanisms available to the Council as appropriate in order to maximize the potential of derelict sites, Policy Objective PO12 which supports the creation of attractive and vibrant places through the renovation and re-use of obsolete, vacant and derelict homes, and Objective PL 3-2 which provides that as part of the Council's commitment to deliver compact growth and resilient places, the Plan supports addressing vacancy within the existing building

stock. The property has been in a derelict state for some time and detracts to a material degree from the character and appearance of the surrounding area.

Therefore, I consider that the compulsorily acquisition of the subject property 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 the objection to the proposed acquisition of the subject property made to Cork County Council by the owner outlines that the garden and grounds have been cleared and the owner is actively having the property decorated and is occupying the property. I also note that on multiple occasions the property owner has stated his commitment to undertake works to address the condition of the property. At the time of my inspection of the subject property (February 2025), whilst the external ground floor level side elevation and boundary wall have been painted and clearance of grass has taken place from the circulation space to the side of the dwelling, I noted no substantial evidence of measures to address the condition of the property with the paintwork still in poor condition and recent paintwork is unfinished, fascia still missing from the front roof, windowsills and window surrounds remain unpainted and in poor repair, a broken glass pane in a front window has not been replaced and damage to the roof ridge does not appear to have been repaired. I do not consider the works that have been carried out have addressed the neglected appearance and derelict state of the subject property.
- 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”. It is my opinion that although the owner appears to have carried out some limited improvement works, a significant time has passed since the Correspondence issued to the owner regarding the subject property and its upkeep in January 2022 and correspondence to Cork County Council from the owner in September 2022 committing to the property’s upkeep. Having inspected the site, there is no evidence of any substantial attempt to render the site non-derelict and the property remains in a neglected and unsightly condition. 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 Cork 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 property does 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 property at No.17 The Rise, Owenabue Heights, Carrigaline, Co. Cork, as set out in the Derelict Site Notice issued under Section 15(1)(b) of the Derelict sites Act 1990, (as amended) and dated 13<sup>th</sup> November 2024 and on the deposited map CMD/DS/06, 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 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.
- 8.4. 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 Cork County Development Plan 2022-2028, and specifically Objective TCR 9-2, Objective PL 3-2 and Policy Objective PO12, which seek, inter alia, to address dereliction and vacancy. 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. Having regard to the observed condition of the site, in particular the derelict condition, the 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 there is therefore a derelict site within the meaning of Section 3 b) of the Derelict Sites Act, 1990, as amended.
- 9.2. 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 Cork County Council to compulsorily acquire the site.

## **10.0 Reasons and Considerations**

- 10.1. Having regard to the neglected, unsightly and objectionable condition of the subject property, the poor state of the paintwork on the external walls, the missing fascia, the poor state of the windows, window surrounds and windowsills, and the damage to the roof ridge, having considered the objection 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 Cork County Development Plan 2022-2028,

it is considered that the site detracts to a material degree from the amenity, character and appearance of land in the neighbourhood and, therefore, comes within the definition of a derelict site as defined in 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.

---

Bernadette Quinn  
Planning Inspector

21<sup>st</sup> March 2025