



An
Bord
Pleanála

Inspector's Report

ABP-321896-25

Description

CPA No. 13 of 2024 Acquisition of
Stradballymore, Stradbally, Co.
Waterford

Location

Stradballymore, Stradbally, Co.
Waterford

Local Authority

Waterford City and County Council

Notice Party

Mary O'Keefe

Date of Site Inspection

22 April 2025

Inspector

Natalie de Róiste

1.0 Site Location and Description

- 1.1. The site measures c. 0.02 hectares, and is occupied by a small rectangular bungalow. It is located on the west side of the road (referred to as Whitewell Road or Chapel Road) in the townland of Stradbally More, in the village of Stradbally in County Waterford. It is bordered to the south and west by residential sites, to the north by a garden shed on a small plot. To the north of this is the handball alley.
- 1.2. The site fronts onto a broad grass margin with neatly cut lawns and a planted border, with a path leading from the pedestrian gate to the roadside. The site itself is bordered by an overgrown evergreen hedge which has obscured the entrance and covered most of the front garden. The gate and front door were both off the hinges on the date of the site visit. The site was extremely overgrown and difficult to access, with litter and detritus afoot.
- 1.3. Based on a comparison of photographs attached to the Local Authority's Compulsory Acquisition Report (dated 25th October 2024) I note that no works or improvements have been carried out at the subject property.

2.0 Application for Consent for Acquisition

- 2.1. Waterford City and 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 Waterford City and County Council serving a notice on 9 December 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).

3.0 Application and Objection

3.1. Notice of Intention to Acquire

- 3.1.1. Notice of Waterford City and County Council's intention to compulsorily acquire the site was served upon the owner (Mary O'Keeffe) on the 9 December 2024 and was published in the Irish Examiner dated 13 December 2024. The site was described in the notices, as follows:

- The property known as Stradballymore, Stradbally, Co. Waterford, covering an area of 0.0418 acres or thereabouts, in the District Electoral Division of Comeragh and as more particularly delineated on Map Ref. CPA 2024-13.

3.1.2. 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.

3.2. Objection to Acquisition

3.2.1. One no. submission (by the property owner) expressing objection to the proposed acquisition was submitted to Waterford City and County Council by Mary O'Keeffe.

3.2.2. The objection to the proposed acquisition was signed and dated 12 January 2025, and received 17 January 2025, prior to the relevant deadline (21st January 2025 as stated in the notices).

3.2.3. The objection, which referred to the house with its address and Eircode, is summarised as follows:

- The owner is in negotiation with the lender to put the property on the market in order to clear mortgage debt.

3.3. Local Authority's Application for Consent

3.3.1. The Local Authority requests the consent of the Board to the compulsory acquisition of the derelict site. The application for consent was received by email on 14 February 2025, with hard copies received on 18 February 2025 and included the following:

- Copy of CE Order
- Copy of signed and sealed CPA map
- Copy of Section 15 Notice to Landowners
- Copy of Registered Post Book for Section 15 Notice to Landowners
- Copy of newspaper advert
- Copy of objection letter from owner dated 12 January 2025 (council stamp 17 January)

- Copy of council acknowledgment letter dated 28 January in response to objection letter, inviting owner to make contact to organise a meeting to discuss objections
- Copy of Planning Report, with appendices detailing ownership investigations and CEO Orders and site notices.
- Copy of Letter to OPW dated 3 December 2024
- Copy of response from OPW dated 11 December 2024
- Copy of letter to Department of Agriculture (Cavan Office) dated 3 December 2024
- Reply from OPW dated 11 December 2024

The planning report submission from Waterford City and County Council dated 28 November 2024 states that the property was originally entered on the Derelict Sites Register on 18 June 2024. Contact was initially made with someone who was not the owner of the site; contact was successfully made with the owner in August, with a revised Section 8(2) notice erected on the site and addressed to the owner on 19 August 2024. The owner's husband subsequently contacted the council, and the report refers to an on-site meeting with the owner's husband on 25 September 2024. A Section 8(7) notice was served on the owner under the Derelict Sites Act 1990 (as amended) on 14 October 2024. No material change to the composition of the property was undertaken and no response is on file following the issuing of the Section 8(7) notice. On that basis the Council seek the consent of the Board to compulsorily acquire the property.

3.4. Objector's Submission

- 3.4.1. The council made no comment on the objector's objection, and as a result no submission was invited from the objector by the Board.

3.5. Oral Hearing

- 3.5.1. No request is on file for an Oral Hearing.

4.0 Planning History

- 4.1. None on file. None found on a search of the Local Authority register website on 23 April 2025.

5.0 Policy Context

5.1. Waterford City and County Development Plan 2022 to 2028

- 5.1.1. The subject site is within the Stradbally Settlement Boundary,
- 5.1.2. Stradbally is categorised as a Rural Town in the Settlement Hierarchy. The site (along with the rest of the village within the boundary) is zoned Rural Village (RV) with an objective to 'protect and promote the character of the Rural Village and promote a vibrant community appropriate to available physical and community infrastructure'.
- 5.1.3. The site lies outside the Stradbally Architectural Conservation Area, and the building is not on the Record of Protected Structures. It lies within the Zone of Notification for the Records of Monuments and Places and the Sites and Monuments Record R131537. There are no special development objectives associated with the site.
- 5.1.4. Chapter 7 deals with Housing and Sustainable Communities. Section 7.1 Regeneration and Active Land Management contains the following text:
- 5.1.5. *The National Planning Framework and the Southern Regional Spatial and Economic Strategy identify 'Compact Growth' as the means to deliver sustainable growth in our urban settlements. The Council is committed to consolidation, redevelopment and regeneration of infill, brownfield, underused, vacant and/or derelict sites within the existing urban footprints, rather than the continued sprawl of urban development into the open countryside.*
- 5.1.6. Objective H06 'we will utilise legislative power under the Derelict Sites Act 1990, The Urban Regeneration and Housing Act 2015, as amended and general CPO powers to prevent anti-social behaviour and remove dereliction and vacancy where appropriate.'

5.1.7. Chapter 8 deals with Placemaking, and Objective Place 01 contains the following text: ‘

- identify obsolete and potential opportunity sites within the City and County and encourage and facilitate the reuse and regeneration of derelict land and buildings in the urban centres;
- work with landowners and development interests to pursue the potential of suitable, available and viable land and buildings for appropriate development/renewal;
- use specific powers, such as the compulsory purchase orders (CPO's) and statutory powers under the Derelict Sites Act 1990 and the Urban Regeneration and Housing Act 2015, as amended, to address issues of dereliction, vacancy and underutilisation of lands in settlements across Waterford.

5.2. **Derelict Sites Act 1990 (as amended)**

5.2.1. 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.

5.2.2. 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.”

5.2.3. 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.

5.2.4.

6.0 Assessment

6.1. Site Inspection

6.1.1. The following assessment is based on a site inspection carried out on 22 April 2025. I inspected the site from the public road, and from within the site. Due to health and safety concerns, I did not enter the building.

- 6.1.2. The site is extremely overgrown, with the house invisible from the public road. The boundary hedge has entirely closed over the pedestrian entrance, with the path the only indicator of the entrance, and access only possible by squeezing through. The boundary hedge has large amounts of dead material to the rear side, and is encroaching on the house.
- 6.1.3. The site is littered, both with flyblown litter and with debris from within the house. The house is not secured, with the front door off its hinges leaving the house open to the elements, and vulnerable to intrusion and colonisation by birds, rodents, and other animals. Due to the overgrown nature of the site and the unsecured nature of the building, it is currently uninhabitable, and it is particularly vulnerable to vandalism, anti-social behaviour, or squatting. I have considered the images in the planning report, and found no evidence of improvements or positive alterations on my site visit.

6.2. Category of Dereliction

- 6.2.1. I note the definition of a '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"*.
- 6.2.2. While the structure is in a derelict condition (being unsecured, open to the elements, neglected, disused, overgrown, and currently uninhabitable), it is largely hidden from public view. However, it is in direct proximity to neighbouring residential properties to the south, and I consider the derelict condition of the structure detracts from the amenity of those neighbouring residential properties, falling within category (a) of Section 3 of the Act.
- 6.2.3. Regarding category (b), the neglected condition of the land detracts from the visual amenity of land in the neighbourhood. It is located in a prominent position in the village, on the roadside. The very overgrown boundary hedge which obscures the entrance has an incongruous appearance, with the footpath indicating the presence of an overgrown entrance. The hedging is largely of *Griselinia littoralis* type, a fast growing non-native evergreen, with some thorn bushes intermixed.
- 6.2.4. Regarding category (c), I did observe litter and rubbish on the site. However, due to the overgrown nature of the site, the litter I saw is not visible from outside the site,

and therefore does not detract from the amenity, character or appearance of land in the neighbourhood.

- 6.2.5. In conclusion, I consider that the property detracts to a material degree from the amenity, character and appearance of lands in the village, both neighbouring residential lands, and the public realm, which in my view, renders it derelict under Section 3 of the Act.

6.3. Action of Local Authority

- 6.3.1. I note the actions of the Local Authority, including their efforts to ascertain the owner and contact same. The planning report refers to the serving of a Section 8(2) notice on the owner on 19 August 2025. (This notice has not been provided with the file; an earlier notice issued to a neighbouring property owner has been provided). The report notes the owner's husband made contact, and met the council planner on 25 September 2025. Details of this meeting are appended to the planner's report; it notes that the financial aspects of the site ownership were discussed, and that the planner explained that the derelict sites process would be progressed with, and the site might be moved to CPA (Compulsory Purchase Acquisition) in time. Following this meeting, a notice was served on the owner under Section 8(7) on 14 October 2024. The letter sent with this notice stated *'we would be happy to discuss options and next steps with you, and have included a leaflet on available grants and relevant contact details'*. (I note this leaflet has not been provided for the file.) The planning report (dated 28 November 2024) noted no response was received to the Section 8(7) notice, and recommended compulsory purchase.
- 6.3.2. The subsequent Compulsory Purchase Acquisition notice dated 9 December 2024 served on the owner noted that an objection could be lodged before 21 January 2025.
- 6.3.3. Having regard to the above, I am satisfied that the local authority complied with the requirements of Section 6, Section 8(2), Section 8(7) and Section 15 of the Derelict Sites Act 1990, as amended. In my view, the Local Authority has been fair and reasonable, giving the owner the time and opportunity to address the dereliction.

6.4. Compliance with Development Plan policy

- 6.4.1. Relevant policy is noted above; a compulsory purchase order in this instance would comply with policies H06 and Place01 and the zoning of the site.

6.5. Actions by the owner to address dereliction

- 6.5.1. There is no evidence on the file, and no evidence from the site visit, that the owner or any agent of hers has undertaken any actions to address the dereliction. The objection to the Compulsory Purchase is a desire to put the property on the market to clear mortgage debt. The owner has not made any indication in the objection of an intention to address the condition of the property, or any desire to retain the property.

7.0 Conclusion

- 7.1. I am satisfied that the process and procedures undertaken by Waterford City and 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.
- 7.2. 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 Stradballymore, Stradbally, Waterford covering an area of 0.0418 acres 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 4 December 2024 and on the deposited map ref. CPA 2024-13, 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.
- 7.3. 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.

7.4. 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 Waterford City and County Development Plan 2022-2028, and specifically Objectives H06 and Place 01, 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.

8.0 Recommendation

- 8.1.1. Having regard to the observed condition of the site, in particular the derelict condition, the unsightly and objectionable condition of 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 (a) & (b) of the Derelict Sites Act, 1990, as amended.
- 8.1.2. 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 Waterford City and County Council to compulsorily acquire the site.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the derelict, unsightly and objectionable condition of the subject property, which detracts to a material degree from the amenity, character and appearance of lands in the neighbourhood, 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 Waterford City and 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 a) & 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 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.

Natalie de Róiste

Planning Inspector

24 April 2025