



An
Bord
Pleanála

Inspector's Report PL06S.CD3033

Local Authority Reference	Derelict site, 4 Wheatfield Grove, Clondalkin
Nature of Application	Application for consent for compulsory acquisition of a derelict site in accordance with Section 14 of the Derelict Sites Act 1990
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	DS1710
Objector	Ms. Elaine Kerr
Location of Lands	4 Wheatfield Gove, Clondalkin
Date of Site Inspection	22/02/2017 and 23/04/2017
Inspector	Joanna Kelly

1.0 INTRODUCTION

1.1 The file relates to a request by South Dublin County Council for the consent of An Bord Pleanála to the compulsory acquisition of the subject site (accommodating a two-storey semi-detached dwelling) in accordance with the provisions of the Derelict Sites Act, 1990, as amended.

2.0 SITE LOCATION AND DESCRIPTION

2.1 The subject site, comprising a two-storey semi-detached dwelling is located in the Wheatfield Estate, approximately 1km from Neilstown.

2.2 The site accommodates a two storey semi-detached dwelling which at time of inspection was boarded up. The ESB meter box to the side of the dwelling is damaged and appears to have been tampered with. This is currently exposed to the elements.

2.6 The site's front garden is bounded by a low wall. The front gate is missing. The rear garden is bounded by a blockwork wall of c.1.8 metre height on all sides. The general appearance of the dwelling is such that is neglected and unsightly.

2.7 The area in which the subject site is located is an established residential area. The dwellings either side of the site appear occupied.

3.0 PROPOSAL

South Dublin County Council has applied to ABP for consent to the compulsory acquisition of the site under Section 14 of the Derelict Sites Act 1990, as amended. The site was entered on the Council's Derelict Sites Register on 24th September 2015 and on 6th May 2016.

4.0 APPLICATION AND OBJECTION

4.1 Notice of Intention to Acquire

Notice of intention to acquire this site was published in the Lucan Gazette and the Echo on 20th October 2016 and 20 October 2016 respectively. Notices were erected on site on the 2nd June 2016 and 18th November 2016.

4.2 Objection to Acquisition

An objection to the proposed acquisition was submitted to South Dublin County Council by the owner, Elaine Kerr, on 17th November 2016 who indicated that she understood works were to be carried out on the property and due to illness she has not been in a position to do these works. A builder has agreed to start work on site in the first week of January 2017.

4.3 Council's Application for Consent

By way of letter and a report titled '4 Wheatfield Grove File Schedule' received by ABP on the 16th December 2016, the Council requests the consent of the Board to the compulsory acquisition of the subject derelict site. The Council's submission may be summarised as follows:

- There has already been one attempt to compulsorily acquire the site on 1st June 2016 and following the owner's objection and assurances that the works would be carried out to render the dwelling non derelict it was agreed to cease the procedure for vesting of the site.
- Further inspections demonstrated that no works were carried out and the vesting process was re-commenced on 14th October 2016.
- The process re-commenced on 14th October 2016 and notice of intention to acquire the site was re-initiated.
- A booklet of schedule of documentation has been submitted and includes:
 - Inspection report confirming no works have been carried out 10/10/2016.
 - Chief Executive Order ENV/331/2016 (notice of intention of compulsory acquisition) dated 14th October 2016.
 - Newspaper notices

- Objection from Ms. Elaine Kerr dated 15th November 2016
- Certified Folio and File Plan No. DN33865F.
- Valuation on property (€125,000) received from Valuer's Officer, Dublin City Council dated 6th December 2016
- Schedule of steps taken by Council from 6th March 2013 to date.

4.4 Objector's Submission

On 19th January 2017 a submission to the proposed acquisition was been received by ABP from Rob Kerr, a brother of the owner of the property. The submission may be summarised as follows:

- It was hoped to start works on the property last October but this did not happen due to circumstances outside their control.
- The Council were notified that a builder was due to start in January 2017 to put in new windows and doors and to get the house respectable from the outside first and then commence inside.
- Windows and doors will be fitted within 2 weeks.

A further email was received from Mr. Rob Kerr on 7th March 2017 indicating that they can start work on the property but due to the costs involved they are waiting from the Council a time frame to carry out this work without applying for a compulsory acquisition. The fear is if they proceed with the works the money due to be spend on the property would be lost if the property was compulsory acquired in any event.

A further email, 7th March 2017, indicates that windows have been measured and manufactured and the fitters are ready to fit them

4.5 Council's Response

The Council confirms that they received submissions in relation to works promised but never carried out. It is submitted that correspondence from Ms. Elaine Kerr and her brother Mr. Rob Kerr only began on 15th June 2016 following the advertisement of the first Notice of Intention to compulsory acquire the said property.

A further response was received from the council, dated 21st April 2017, which makes reference to the submissions received from the registered owner in relation to the works but never carried out. No works have been carried out to date. The Council sets out that it is unclear why Rob Kerr stated in his email that he is awaiting to hear from the Council as no exchange has taken place between the Council and Rob Kerr.

5.0 PLANNING HISTORY

5.1 There appears to be no recent planning history associated with the appeal site.

6.0 ASSESSMENT

6.1 Section 3 of the Derelict Sites Act, 1990 defines 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 because of –

(a) The existence on the lands 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 lands 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 statute or by common law.”

6.2 It is difficult to determine how long the subject dwelling has been vacant however it would appear that it has been since at least 2014. The current dwelling has boarding to all door and window openings so as to prevent unauthorised access. As access to the internal structure was not possible, it is not possible to determine the internal state of the dwelling and the extent of works required to bring the structure into habitable living condition.

- 6.3 The property in its current state, significantly detracts from the residential estate in which it is located. It significantly detracts from the adjoining semi-detached unit. The property due to its location at the end of the public road is visible to passing traffic and pedestrians within the wider estate and the public open space area to the east of the site. The property can clearly be defined as neglected, unsightly and of objectionable condition. While there is reference on the documentation from the Council that there was debris to the front and back gardens, at time of my inspection there was no evidence of such debris.
- 6.5 Having regard to the above, I would consider that the property falls within category (b) of Section 3 of the Derelict Sites Act. With regard to whether this renders it derelict, the Act requires that arising from same the property detracts materially from the amenity, character or appearance of land in the neighbourhood. I would consider that this is so in the instant case, given the visibility of the site within a residential estate. The house as it currently stands is boarded up and as such detracts materially from the residential and visual amenities of this established residential neighbourhood and in particular from the abutting semi-detached residential unit.
- 6.6 The Objector's submission is noted, particularly with reference to the fitting of new windows and doors. However, these works remain outstanding to date. It is also considered that the current owner has been afforded more than ample opportunity to undertake such works as to bring the dwelling back to an acceptable condition.
- 6.7 Arising from the above I conclude that the property is derelict insofar as it detracts materially from the residential amenity and appearance of land in the neighbourhood by reason of its neglected, unsightly, and objectionable condition.

7.0 RECOMMENDATION

I conclude that the site at 4 Wheatfield, Clondalkin is a derelict site within the definition of Section 3 (b) of the Derelict Sites Act, 1990, as amended, and that it is therefore reasonable and within the powers of the Local Authority to seek to compulsorily acquire the lands. I therefore recommend that the Board grants consent to South Dublin County Council to compulsorily acquire the site.

REASONS AND CONSIDERATIONS

Having regard to the neglected and objectionable condition of the property and its unsightly appearance, it is considered that the subject site detracts materially from the residential amenity, character and appearance of land in the neighbourhood, and therefore constitutes a derelict site within the meaning of Section 3 (b) of the Derelict Sites Act, 1990, as amended, and that its acquisition by South Dublin County Council is necessary to prevent it continuing to be a derelict site.

Joanna Kelly
Senior Planning Inspector
24th April 2017