



An
Bord
Pleanála

Inspector's Report ABP-302416-18

Nature of Application

Application for confirmation of compulsory purchase order for the purposes of the Housing Act 1966, as amended.

Location

75 Viewmount Park, 3 Darby Grove,
Earlscourt, Waterford &
15 Tramore Heights, Tramore, Co.
Waterford.

Local Authority

Waterford City and County Council.

Objector

1. Mrs. Una Hayden.

Date of Site Inspection

13th November 2018.

Date of Oral Hearing

14th November 2018.

Inspector

Susan McHugh.

1.0 Introduction

- 1.1. This case relates to an objection received to a CPO served by Waterford City and County Council, entitled 'Waterford City and County Council, Vacant Properties, Waterford Compulsory Purchase Order 2018 (No.3) No.'s 75 Viewmount Park, 3 Darby Grove, Earlscourt & 15 Tramore Heights, Tramore'.
- 1.2. One objection has been received to the Compulsory Purchase Order (CPO) and an Oral Hearing to consider these objections was held on 14th November 2018 in the Tower Hotel and Leisure Centre, Waterford.
- 1.3. The three properties which are the subject of this Compulsory Purchase Order are owned by one individual party.
- 1.4. I have read the contents of the file, inspected the site and conducted the Oral Hearing in this case.

2.0 Site Location and Description

- 2.1. The CPO map indicates three separate plots, 101, 102 and 103, two of which are located in the residential suburbs of Waterford City, and the third is located in Tramore, Co. Waterford.
- 2.2. House No. 75 Viewmount Park, and 3 Darby Grove, Earlscourt, (plots 101 and 102) are located to the west of the Dunmore Road R683, and to the south east of the Waterford City Outer Ring Road R710. They are both located in mature residential estates approximately 3km to the south east of Waterford City.
- 2.3. The Dunmore Road serves as the main route into Waterford City to the north west, and to Passage East and Dunmore East to the south. Both sites are located approximately 330m and 1.15km respectively to the southeast of Waterford Regional Hospital.
- 2.4. No. 75 Viewmount Park, is a semi-detached two storey house with single storey porch to front and garage to side. It is located along a long row of similar style houses. It has a cement render and brick finish, a tiled roof pvc windows and timber doors.

- 2.5. No. 3 Darby Grove, Earls court, is a detached two storey house, including garage with accommodation over. It is located within a small cul de sac of nine no. houses. It has a dash finish, tiled roof, pvc windows and timber doors.
- 2.6. House No. 15 Tramore Heights (plot 103) is located approximately 1.4km to the west of Tramore Town in Co. Waterford. Again, it is located within an established residential estate, characterised by single storey gable fronted detached houses with entrance door and car port to the side. No. 15 Tramore Heights is one of a row of four similar houses located to the west of a large green area. A row of houses to the north, east and south also face onto this green. It has a brick and cement render finish, tiled roof, pvc windows and timber doors.
- 2.7. The areas of the three plots are stated as 0.0442ha for Plot no.101, 0.0699ha for plot no. 102 and 0.0645ha for Plot no. 103. Each of the three residential properties subject of the CPO has a garden area to the front and rear and each benefit from off-street car parking. The gardens of all three properties were largely unplanted with some evidence of recent maintenance of grassed areas to the front and rear.
- 2.8. I noted that externally the houses appeared to be in reasonable condition with no obvious evidence of significant structural defects and the roofs appeared intact. The windows and doors on the front, sides and rear elevations were also intact. The exception being 75 Viewmount Park where the roof of the single storey garage to the side has collapsed and is in very poor condition. The front timber boundary fence to 15 Tramore Heights was also in need of repair.
- 2.9. The owner accompanied me and provided access to each house on the date of my site inspection. All three properties include four bedrooms and all are unoccupied. House no. 75 Viewmount Park included original flooring and kitchen and decoration, while no. 3 Darby Grove and no. 15 Tramore Heights have been recently refurbished to include new flooring, kitchens, bathrooms, heating systems and have also been repainted. All three houses have electricity and a water supply.
- 2.10. See photos attached.

3.0 Application for Confirmation of CPO

- 3.1. This CPO Waterford, is made under the Housing Act, 1966, as amended. The stated purpose of the CPO is for “securing and facilitating the development and renewal of property”.
- 3.2. The CPO states that the land described in Part II of the Schedule is “land other than land consisting of a house or houses unfit for human habitation and not capable of being rendered fit for human habitation at reasonable expense”.
- 3.3. Each of the three Plot Ref. No’s within Part I of the Schedule of the CPO are recorded.
- 3.4. The Owners or reputed Owners listed for Plot no. 101 are ‘Representatives of Richard Oliver Hayden (deceased), Viewmount (Developments) Limited’. Lessees or reputed Lessees are listed as ‘Representatives of Richard Oliver Hayden (deceased)’.
- 3.5. The Owners or reputed Owners listed for Plot no. 102 and 103 are ‘Representatives of Richard Oliver Hayden (deceased), Una T. Hayden’. Lessees or reputed Lessees are listed as ‘Unknown’.
- 3.6. Occupiers are listed as ‘None’ for all three Plots.
- 3.7. The official seal of the Local Authority was affixed to the Order on 25th April 2018, signed by Waterford City’s Mayor and seconded by Waterford City and County Council’s Chief Executive. The proposed CPO was advertised in ‘The Munster Express’ Newspaper on 7th August 2018, advising that owners, lessees and occupiers of the land described in the Schedule would receive individual written notice, and that a copy of the Orders and the maps referred to, could be inspected at the offices of Waterford City and County Council, Waterford, and Dungarvan, Co. Waterford.
- 3.8. Other documentation forwarded to the Board by the Local Authority includes: the deposited map; copy of a letter from Director of Services, Economic Development and Planning dated 23rd April, 2018 stating that the acquisition of land relating to the CPO is in accordance with the planning and development objectives for the area contained in the Waterford City Development Plan 2013-2019, as adopted on 11th February, 2013, and contained in the Tramore Local Area Plan 2014-2020, as

adopted on 20th February 2014, copy of notices to the landowners; and a copy of the Register of Post.

4.0 Planning History

4.1.1. There is no recent planning history pertaining to the subject sites.

5.0 Policy Context

5.1. Rebuilding Ireland: Action Plan for Housing and Homelessness July 2016

5.1.1. This Plan, published by the Department of Housing, Planning, Community and Local Government, states that it will address the needs of homeless people and families in emergency accommodation, accelerate the provision of social housing, deliver more housing, utilise vacant homes and improve the rental sector. In particular, the Plan sets out to deliver 47,000 units of social housing in the period to 2021.

5.1.2. The Plan identifies five key pillars, including Pillar 5 which is 'Utilising Existing Housing'. It states, "Ensure that existing housing stock is used to the maximum degree possible – focussing on measures to use vacant stock to renew urban and rural areas".

5.1.3. Pillar 2 is to 'Accelerate Social Housing'. Key Actions are listed including "Extensive support for Local Authorities and Approved Housing Bodies". Table 4 lists 'Our Programmes' and includes a programme "Local Authority Construction and Acquisition (also known as the Social Housing Investment Programme (SHIP))". The objective is noted as "to provide funding to local authorities for the provision of social housing by means of construction and acquisition".

5.2. Department of Housing, Planning, Community and Local Government Circular PL 8/2016

5.2.1. This Circular followed the publication of 'Rebuilding Ireland' and relates to the identification of planning measures to enhance housing supply. The Circular states that vacant stock represents a potentially very significant resource to assist in meeting the key goals of the Action Plan and that in advance of the approaching

work on the vacant homes re-use strategy, planning authorities are requested to initiate preparatory work such as surveys of, for example, the levels of, condition and potential availability of vacant housing stock in key urban areas and/or areas with very high demand for housing.

5.3. Department of Housing, Planning, Community and Local Government Circular PL 7/2017

- 5.3.1. This Circular followed the Circular PL 8/2016 and relates to the preparation of Vacant Homes Action Plans.

5.4. County Development Plan

- 5.4.1. On 1st June 2014, Waterford City & County Council was established following the amalgamation of Waterford City Council and Waterford County Council.
- 5.4.2. The three existing development plans within the amalgamated Council area, Waterford City Development Plan 2013 – 2019, Waterford County Development Plan 2011 – 2017, & the Dungarvan Town Development Plan 2012 – 2018, had their lifetime extended, as per Section 11A of the Planning & Development Act 2000 (as amended) and remain in effect until the new Regional Spatial & Economic Strategy is made by the Southern Regional Assembly, thereafter a new City and County Development Plan will be prepared.
- 5.4.3. This Plan remains current until it is replaced by a new County Development Plan by virtue of the provisions of the Electoral, Local Government and Planning and Development Act 2013.

5.5. Waterford County Development Plan 2011-2017

- 5.5.1. The Waterford County Development Plan 2011-2017 is the overarching policy document in relation to planning in the County area, including Tramore.
- 5.5.2. Chapter 5 of the Plan refers to Housing and Section 5.1 sets out Housing Policy the main elements of which are;

1. *'Ensure proper planning and sustainable development in the County, in terms of the location and quality of housing including type and mix, to secure the development of sustainable communities;'*
2. *'Meet the needs of persons with special needs such as the elderly, persons with disabilities, minority groups, etc;'*
3. *'Counteract social segregation through integration of public and private housing, assimilation of those with special needs into the community and supporting community development.'*

5.5.3. Section 5.2 refers to Sustainable Communities.

5.5.4. Section 5.3 refers to Housing Strategy which sets out in detail the Council's own housing programme, which *'is aimed at providing suitable accommodation and assistance for those in need; providing loans and assistance for people housing themselves; and making provision for homeless people in the County. This also includes making provision for appropriate accommodation and assistance for the travelling community in the County.'*

5.5.5. Section 5.4 refers to Social and Affordable Housing

5.5.6. Section 5.7 refers to Building Re-use and Brownfield Site Development it states that *'The house vacancy rate in the County, according to the last census (2006) was 20%, whilst in fifteen Electoral Divisions more than a quarter of the housing stock was vacant. This is the result of the conversion of existing habitable dwellings to second and holiday homes and the construction of new holiday homes or houses built for investment purposes and left empty. The Council will encourage the re-use of vacant dwellings for use as permanent homes. Where appropriate, and subject to resources, the Council will acquire derelict or vacant land within towns and villages for the purposes of providing new dwellings.'*

The Council will also will encourage the utilisation and redevelopment of obsolete and vacant sites by developers in preference to green-field development.'

5.6. **Tramore Local Area Plan 2014-2020**

5.6.1. This Local Area Plan (LAP) 2014-2020 was made by the Elected Members of Waterford County Council on 10th February 2014. The plan was prepared in

accordance with the requirements set out in the Planning and Development Act 2000 (as amended) and the DoECLG's Local Area Plan Guidelines. The 6-year plan replaces the previous Local Area Plan for 2007-2013.

5.6.2. Under the Tramore LAP 2013-2019, the lands are zoned 'Existing Residential' 'to protect the amenity of existing residential development and to provide for new residential development at medium density.'

5.6.3. Chapter 3 outlines the Core Strategy which estimates a housing requirement of 359 units based on an average household size of 2.71 persons up to 2017 and 2.68 persons up to 2019.

5.7. Waterford City Development Plan 2013-2019

5.7.1. Under the Waterford City Development Plan 2013-2019, the lands are zoned 'Developed Residential' 'to protect and improve existing residential areas and their amenities and provide for appropriate residential infill opportunities where feasible.'

5.7.2. As outlined in the Core Strategy in Chapter 2, an estimation of the level of population to be planned for the Plan period is 5,003 persons. Applying an average household size of 2.6 persons per household translates into a housing requirement of 1924 units required over the new Plan period. These figures are based upon a disaggregation of RPG 2010 -2022 population growth estimates figures for the City, in conjunction with utilisation of the 2011 preliminary census results as a baseline figure.

5.7.3. The following objectives are of relevance;

Objective 2.1.4: To require new housing proposals to demonstrate compliance with the core strategy.

Objective 2.1.5: To provide a variety of housing types, tenures and densities reflective of the diverse needs of the people of Waterford, mitigating current leakage and unsustainable travel patterns.

Objective 2.1.7: To protect and enhance the vibrancy and vitality of Waterford City Centre.

Objective 2.1.17: To provide a socially inclusive society.

- 5.7.4. Chapter 5 of the Plan refers to the City Centre and Section 5.4.1 states that *'The City Council will continue to target obsolete/derelict sites within the City Centre for redevelopment and investment.'*
- 5.7.5. Chapter 8 of the Plan refers to Housing, with particular regard to housing policy, Section 8.1. refers *'The core objective of housing policy is to enable every household to have available affordable residential accommodation, suited to its needs, in a good environment and as far as possible, at the tenure of its choice'.*

6.0 **Objections**

6.1. One objection was received from Mrs. Una T. Hayden the owner of the sites and wife of Richard Oliver Hayden (now deceased).

6.2. **Mrs. Una T. Hayden**

6.2.1. The issues raised in the letter of objection dated 20th September 2018 can be summarised as follows:

- The properties were managed by her late husband, who became seriously ill.
- Two of the properties were vandalised, partly demolished internally, and stripped of their contents.
- The owner is an elderly widow who has been under pressure from Waterford City and County Council (WC&CC) to restore the three properties. This has been an overwhelming task both psychologically and financially.
- The restoration of the three properties is not far off completion.
- At the date of notification of the CPO:
 - 15 Tramore Heights - was totally restored except for internal painting and carpets. All ceilings and walls were renewed and plastered, the kitchen, hallway, corridor and bathrooms were newly tiled. Internally a new kitchen, bathroom sanitary equipment, central heating system, and new double-glazed windows were installed. All electrics were renewed

including fitting alarms and smoke detectors. Externally repairs were carried out to the roof and plasterwork.

- 3 Darby Grove - is currently undergoing repainting and decorating, with a new kitchen, utility area, hall and en-suite area to be retiled. Items which will then remain outstanding include floor covering and removal of material from site.
- 75 Viewmount Park – was constructed in the early 1970's and was the original family home. The house is very habitable, but could benefit from decorative upgrading. The garage has a flat roof and needs to be replaced. A builder has been sourced and will commence work on the garage middle of next week. Cites dilemma in relation to further financial outlay on this house in the context of a CPO where a financial return is uncertain.
- Unfamiliar with the building trade and naively told WC&CC that work on the three houses would be completed in three months i.e. 1st August 2018. The owner has had great difficulty in sourcing tradesmen to meet this deadline. Asserts that because of the best summer in decades, tradesmen took advantage of outdoor work, and bigger jobs. Because the owner could not meet her own self-imposed deadline, WC&CC proceeded with the CPO, despite being aware that she had to go to Russia for two weeks to attend her son's wedding in early August.
- This CPO makes little sense, the houses will be compulsory sold while four of her sons have no house.
- During her working life the owner has paid tax on all her income including the Widows and Orphans Scheme, and has contributed significantly to the State.
- The owner and her husband made many sacrifices to pay the mortgages on these houses while at the same time rearing and educating six children. Just when the mortgages were paid off the financial outlay has to be repeated all over again to restore the vandalized houses. Having paid for these houses on the double, they are now being compulsory taken from her.

- The owner has striven singlehandedly on very limited financial resources to restore these houses which is a mammoth undertaking.
- Requests that her unique circumstances be taken into consideration, and allow her to complete the project so that these properties can be quickly occupied.

7.0 The Oral Hearing

7.1.1. An Oral Hearing was held on 14th November 2018, in the Tower Hotel and Leisure Centre, Waterford. A digital sound recording was made of the Hearing and should be consulted for a full representation of proceedings. The Hearing commenced at 10:05am and there follows below a summary of the main areas covered and issues arising.

7.2. Attendees

7.2.1. Representation on behalf of each Party was as follows:

7.2.2. Waterford City and County Council:

- Mr. David O'Connor – Solicitor, Nolan Farrell & Goff.
- Mr. Myles O'Connor - Solicitor, Nolan Farrell & Goff.
- Mr. Paul Johnston – Senior Resident Engineer.
- Ms. Mary Quigley – Director of Services, Property Management.
- Mr. Robert Zelazny – Vacant Homes Officer.
- Ms. Anne Kiely - Derelict Sites Section, Former Senior Executive Engineer.

7.2.3. Objector:

- Mrs. Una T. Hayden – Owner of the properties.

7.2.4. Interested Non - Participating Parties:

- Mr. Brendan Cullinan – Executive Planner, WC&CC.
- Mr. Anton Lennon – Executive Engineer, WC&CC.
- Ms. Grace Deniffe – Property Management, WC&CC
- A number of local residents.

7.3. Submission of Waterford City and County Council

7.3.1. **Mr. O'Connor** provided a brief overview of the background to the CPO.

7.3.2. **Mr. Johnston** circulated a report (Item 1 appended) and a file including correspondence, planning history and photographs (Item 1A appended).

7.3.3. **Mr. Johnston**, Senior Resident Engineer, read from the report (Item 1. – appended), which can be summarised as follows:

- Objective is to bring the vacant properties into productive use, which has not been provided for a number of years.
- Waterford City and County Council (WC&CC) have an ongoing programme to deal with property vacancy that currently involves 12 CPO's that target forty-one individual properties.
- Reference is made to National and Local Policy; to the objectives of *Rebuilding Ireland Action Plan for Housing and Homelessness*, which has targeted five Pillars of action, with reference made specifically to Pillar 5 Utilising Existing Housing.
- Reference is also made to the *National Vacant Housing Reuse Strategy 2018-2021* and in particular *Planning Circular PL 7/2017*. In the Circular it addresses vacant private housing, and to the possibilities of using CPO powers in targeted areas for the purpose of bringing vacant properties into use, and to create sustainable communities and targeting reduction of vacant properties by bringing them back into use.
- Reference is made to the *Waterford City and County Council Vacant Homes Action Plan 2017*. This plan outlines that the Council will use the full range of

legislative and regulatory powers to seek to reduce the level of vacant residential units including CPO, and that a budget was provided in 2018 for commencement of a programme to compulsory purchase property in accordance with Pillar 5.

- Reference was also made by Mr Johnson to the provisions of the current Waterford City Development Plan and Waterford County Development Plan.
- In relation to the justification reference was made to the current housing needs nationally and specific to Waterford City and County. In December 2017, 1,444 households qualified for social housing supports in the City and County. Reference was made to current housing supply and demand and in particular housing constraints with few properties available for sale or rent with little residential activity in Waterford City.
- The proposal to CPO the properties is therefore in line with national policy and local policy which will bring vacant and underutilised residential property into productive use to address a pressing social need.
- The CPO was identified as the only means to acquire the properties given the history. Each of the properties has come to the attention of the Local Authority on numerous occasions over the years. There has been no appreciable action ever undertaken by the owner to address the issues of the property condition, dereliction, or vacancy.
- 15 Tramore Heights¹ - WC&CC first identified the property as a derelict site in 2009. Minimal works were undertaken by the owner but the property remained vacant and fell back into disrepair. A complaint was made on behalf of residents by a local Councillor in 2013, and the property was listed as a derelict site by WC&CC in 2016. WC&CC advised that works be undertaken and some, not all, were completed but the property fell back into disrepair again.
- 3 Darby Grove² – WC&CC received the first complaints in relation to the property in 2011. Further complaints were lodged by the HSE in relation to

¹ Also referred to as 'Tramore'

² Also referred to as 'Darby Grove or Earls court'

the deterioration of the property, broken windows etc. who stated that the property had been vacant for over 10 years. Some works were undertaken however the property was unmaintained. Following a property inspection, Notice under section 11 of the Derelict Sites Act was served on the owner.

- 75 Viewmount Park³ – WC&CC first received complaints in relation to the property in October 2012. Following a property inspection in February 2014, a section 8(2) Notice under the Derelict Sites Act, 1990 was served on the property owner outlining the intention of WC&CC to make an entry onto the Derelict Sites Register. Subsequent inspections in March 2015 confirmed that the property was vacant and derelict.
- The CPO was signed by the Chief Executive on the 25th April 2018, and a copy of the order was sent to the owner/objector on the 26th April 2018. The objector met with WC&CC Housing Department on the 30th April 2018 and it was agreed as requested by Mrs Hayden, to not issue the CPO at that time. The owner issued a letter to the Housing Department committing to have the properties occupied by the end of July 2018.
- The Housing Department responded to this letter outlining the various options that were available for assistance i.e. Repair and Lease Scheme and HAP. The Housing Department re-inspected the properties on the 30th July 2018 and the decision was taken to re-activate the CPO process given that the properties remained vacant. A copy of the notice was sent to the owner on the 7th August 2018 and issued in the Munster Express. (Item 1A appended).
- To date the properties, remain vacant with only superficial works having been completed in the recent past.
- Note that all the properties are in much sought-after areas in Waterford and there would be no difficulty in either renting or selling the subject properties on the open market.
- Also note a similar vacant and derelict property was identified in the Viewmount estate and following engagement with the owner, also in similar circumstances, agreed to enter a Repair and Lease agreement with WC&CC

³ Also referred to as 'Viewmount'

to improve their property while maintaining ownership and securing an income.

Response to the Objection by Mrs. Hayden

- The circumstances outlined by Mrs Hayden in relation to her late husband are understandably unfortunate. There has been a long history in relation to the properties and action taken by WC&CC because of inaction by the owner.
- Following recent inspections on Wednesday 7th November 2018 and Monday 12th November 2018, the front timber railing was found to have deteriorated at 15 Tramore Heights, some windows remain boarded up, internally painting needs to be finished and there is graffiti on the internal doors of the property.
- In relation to 3 Darby Grove, the refurbishment works are ongoing, graffiti is present on the windows, C&D waste are deposited on the side of the property, the garden is not maintained internally, the wall in the living room needs to be patched and painted, sanded floors to be varnished, with the floor in the en-suite bathroom to be tiled. A gas fire central heating is not commissioned yet, as gas was disconnected.
- Although some works have been undertaken, all the properties require significant further works. Even if additional works were undertaken, the properties remain vacant and the owner has informed the Council that there is no indication of providing or securing tenancies.
- Contend that 75 Viewmount is not habitable as the roof of the garage has collapsed. Following an inspection on Wednesday 7th November 2018 it was found that no works have taken place to the roof of the garage.
- Accept that some works have been undertaken externally at the properties, but contend that these works are an attempt to make it appear that the owner is serious about refurbishing the properties. The owner has not indicated that she has the financial and technical capability to refurbish these properties and tenant them.
- If the CPO is confirmed, the owner will be compensated at the market value for the properties.

- The owner's previous indication that the properties would be occupied by the end of July 2018 indicates a lack of appreciation of the amount of work involved or technical experience in restoring the properties to a habitable condition. WC&CC proceeded with the CPO upon inspecting the properties at the end of July 2018 and it being clear that no works had been undertaken.
- The three properties are currently vacant, and the owner resides at a fourth property. While stating that her four sons have no house, no evidence is provided of their current residence, or if they have the financial capacity to restore one of these properties, or if they have either an intention or inclination to take on the refurbishment.
- Contend that had the properties been properly maintained and habited, they would not be in the condition they are in now.
- The owner has ignored her responsibilities and has made no appreciable effort to restore the properties.

7.3.4. Mr O'Connor asked Ms. Anne Kiely, former Senior Executive Engineer, to give some further background in relation to the three properties.

7.4. Ms. Kiely gave a presentation which can be summarised as follows:

- She had responsibility for Derelict Sites after the merger between Waterford County Council (15 Tramore Heights refers) and Waterford City Council (75 Viewmount & 3 Darby Grove refers). After the merger the derelict sites staff were based in Dungarvan, Co. Waterford.
- Most complaints received were in relation to the properties at 75 Viewmount and 15 Tramore Heights.
- In relation to 15 Tramore Heights lots of attempts to contact the owners over the years following the first complaint in 2001, when the Council contacted Richard Hayden. The pattern that followed was that some work would be done and then formal discussions were held with the owner.
- The Council served a Derelict Site notice, but the bare minimum of work was carried out. Complaints continued and neighbours felt they were being discriminated against.

- The Council brought a case against Mrs. Hayden which was heard in the District Court, at which she was very reasonable and requested extra time to carry out the work. Ms. Kiely carried out the inspection of the property at that time.
- The biggest problem was that the property was vacant but Mrs. Hayden promised the Court that one of her sons would live in it.
- 75 Viewmount Park – there was a very similar process, and Ms. Kiely visited the property on several occasions. The property was put on the Derelict Site Register, and it was her opinion that the property was ideal to CPO and recommended same.
- 3 Darby Grove – there was a lot of vandalism, and Ms. Kiely spoke to one of the neighbours during her site inspections.
- Ms. Kiely suggested to Mrs. Hayden to sell the properties, but she felt she could not part with them.
- From 1st October 2018 the matter then moved on to Mr. Johnston.

7.4.1. This concluded the presentation by WC&CC.

7.5. Objector Submission and Response to Local Authority

7.5.1. **Mrs. Hayden** circulated photographs of the properties prior to the works being carried out (Item 2 – appended). Her response to the presentation by WC&CC can be summarised as follows:

- Conceded that the gardens were not maintained but that all the houses were perfectly maintained. The property at 75 Viewmount Park was used as an overflow for her relations who would visit from the west of Ireland.
- WC&CC were concerned about the gardens and outside the houses, and that her interpretation of derelict was different to theirs.
- In relation to 15 Tramore Heights she would dispute that there was only superficial works carried out. The works carried out include a full central heating system which has been installed, new ceilings and insulation, total

repainting, total carpeting of the house, new kitchen with fridge and washing machine, new toilet, tiles and sanitary ware. The guttering has to be finished.

- In relation to 3 Darby Grove a new boiler, back boiler, new stove, new flooring, and en-suite have been provided with the wooden floors totally sanded and re-stained. The house just needs a new door.
- Difficulty in getting tradesmen particularly in relation to 75 Viewmount Park. The house has an old heating system and she still has not engaged a plumber, a tiler or a painter. Contends that she is not indifferent, but has been unable to secure tradespeople to carry out work on the property.
- The restoration of these three properties is a mammoth project, and feels she is the criminal. The vandalism to the properties did not occur until her husband was dying.

7.6. Objector Submission and Questioning of Local Authority

7.6.1. I asked Mrs. Hayden if she had any questions for WC&CC.

7.6.2. Mrs. Hayden continued her statement which can be summarised as follows:

- 3 Darby Grove was a lovely house, and her husband did get tenants who knocked walls upstairs. There were also issues with the storage of household rubbish and vermin. The experience with bad tenants took its toll on her husband's health, and it has been a challenge to run a family and manage the properties.
- The houses are now ready and in relation to 15 Tramore Heights she has been to Remax to make enquiries about renting.
- In relation to 75 Viewmount Park work is underway, but that bad weather has been a delaying factor.

7.6.3. Mrs. Hayden circulated a copy of photographs of the 3 Darby Grove and 15 Tramore Heights prior to the works being carried out. (Item 2 and 2A – appended).

7.6.4. Mrs. Hayden asked WC&CC to clarify if they had inspected the interior of the properties.

- 7.6.5. Mr. Zelazny stated that he had inspected 15 Tramore Heights and 3 Darby Grove on Mon 12th November 2018 and that he was accompanied by a colleague from Property Management. He confirmed that the works as outlined by Mrs. Hayden at 15 Tramore Heights had been carried out, but that some painting in the kitchen was not finished, and cited graffiti on the internal doors as an example, and referred to photographs in his report.
- 7.6.6. Mrs. Hayden said that the doors were deliberately left unpainted to illustrate that the house had been vandalised, but can have the doors painted.
- 7.6.7. Mrs. Hayden asked what works were outstanding on 3 Darby Grove.
- 7.6.8. Mr. Zelazny stated that the chimney breast and dining room need to be painted and that there is no gas connection to the new gas boiler, and that an outdoor light needed replacement.
- 7.6.9. Mrs. Hayden explained that Bord Gais charge a connection fee and require forms to be completed once the house is occupied. The dining room was not painted as it was used to store the old kitchen white goods to facilitate the installation of the new kitchen and flooring in the sitting room, and that graffiti on one of the downstairs windows had been removed. Mrs. Hayden asserted that the items mentioned were superficial and that she has had three or four enquiries from interested parties about renting the property.
- 7.6.10. I requested a recess of 10 mins and that the Hearing would reconvene at 15.10pm.
- 7.6.11. **Objector further Questioning of Local Authority**
- 7.6.12. I asked Mrs. Hayden if she had any further questions for WC&CC.
- 7.6.13. Mrs. Hayden noted that there are vacant properties in Waterford City which are boarded up and queried why these houses could not be released, thereby reducing the need to CPO her private property.
- 7.6.14. Mr. Johnson said that WC&CC have approximately 5,500 properties, and at any one time there is a turnover of 2%, approximately 100/150 properties. Vacant properties are actively managed, and are only boarded up while vacant or undergoing refurbishment. The same property would not be boarded up year after year, as is the case in the subject CPO.

- 7.6.15. Mrs. Hayden asked if it was accepted that 3 Darby Grove and 15 Tramore Heights are almost ready to go on the market, and whether there were significant works outstanding or superficial items.
- 7.6.16. Mr. Johnson noted his colleague Mr. Zelazny had reported that there are works outstanding.
- 7.6.17. Mrs. Hayden stated that he had seen the works already carried out at 3 Darby Grove including the new boiler, and noted that Bord Gais will only make a gas connection once the house is occupied.
- 7.6.18. Mr. Johnston considered that there are significant works outstanding on all the properties to bring them to a rental standard and that there is no indication that it is her intention to rent out the properties.
- 7.6.19. Mrs. Hayden said that she had been to Remax and that they have 15 Tramore Heights on their books, that it is practically ready. All that remains is the guttering and the garden.
- 7.6.20. Mr. Johnston said that WC&CC have been in this situation before, but the properties have not been tenanted in recent years, and there is no indication from Mrs. Hayden that she is in a position to complete the works. Nor has she demonstrated that she has the capacity to manage the properties in the future.
- 7.6.21. Mrs. Hayden said she has one tenant ready to move into 15 Tramore Heights, and two for 3 Darby Grove, and fully accepts that 75 Viewmount is not fully lettable yet.
- 7.6.22. Ms Kiely noted that at the time of the Court case in 2016 Mrs. Hayden stated that a family member would move into the Tramore House, which would have been ideal, and that at that time Mrs. Hayden was as close to letting or selling the property then as she is now, but this did materialise.
- 7.6.23. Mrs Hayden said that because of family circumstances, her intention would be to rent the house for six months, in order to retain it for one of her sons returning home from abroad.
- 7.6.24. Ms Kiley accepted the circumstances but asked why was the house not occupied, and enquired what ages her sons were.
- 7.6.25. Mrs Hayden said they are all adults.

- 7.6.26. Mrs. Johnston asked if WC&CC are to conclude that there would be a different outcome to that previously, and maintained that Mrs. Hayden is not able to deliver on the assets.
- 7.6.27. Mrs. Hayden disputed this and that she has delivered on the assets on two houses. That it is a different scenario now, as previously she had not undertaken the work or taken out the loans to carry out the work. She said she now requires an income from the properties to service the loans, and they will be let.
- 7.6.28. Mr. Johnston said there is no indication that the properties will be completed or that they will be tenanted, or that Mrs. Hayden is able to manage them going forward.
- 7.6.29. Mrs. Hayden enquired what major works were outstanding on the Tramore property.
- 7.6.30. Mr. Johnston said that rather than getting into technicalities that the works carried out are cosmetic.
- 7.6.31. Mrs. Hayden queried what he understood to mean as cosmetic and what works are delaying the properties being let, as generalities are not acceptable at this stage.
- 7.6.32. Mr. Johnston said that for these houses to be tenanted they must meet Standard 17 Regulations.
- 7.6.33. Mrs. Hayden said she was aware of the Regulations and that new radiators and thermostat had been installed, house and smoke alarm, and that the works carried out comply with the Regulations and all the tradesmen were certified.
- 7.6.34. Mr. Johnston cited certain items necessary to bring to housing rental standards, which the Local Authority must comply with for rental properties, particularly in relation to heating and storage requirements. He accepted that a thorough inspection was not carried out. He asserted that the photographs indicate that they are not anywhere near that standard.
- 7.6.35. Mrs. Hayden disagreed, and has spent thousands on the Tramore property. The outstanding item of guttering or garden maintenance can be done in a day, and maintained that there is nothing major to be done to the house. Similarly, the same applies to Earls court and debris on site follows recent work carried out and can easily be removed.
- 7.6.36. I asked Mrs. Hayden if that concluded her questioning, to which she indicated it did.

7.7. Inspectors Questions for Waterford City and County Council

- 7.7.1. I asked whether WC&CC accepted that following the works carried out by the owner of the properties that they are now capable of being occupied.
- 7.7.2. Mr. Johnston stated that the properties has been inspected on Monday 12th November 2018, and that to certify that the properties are ready and up to a rental standard would require a more thorough inspection.
- 7.7.3. Mr. Zelazny said he had inspected properties at Tramore Heights and Darby Grove internally on Monday 12th November, but did not carry out a full inspection in terms of whether the properties meet minimum standards in rented accommodation, because of time constraints. It was a brief inspection to verify if any works had taken place, as he had not had an opportunity previously to visit the properties internally. In relation to Darby Grove he noted the single glazed windows which would in his opinion require replacement. Other items such as vents and covers were not in place, in terms of room standards he would have checked for fire blankets in the kitchen, etc.
- 7.7.4. I asked if he would accept that significant works had been carried out since the CPO notice was served.
- 7.7.5. Mr Zelazny said it was only his first inspection of the property internally so he had little to compare the current condition of the property to. He did accept that in relation to 15 Tramore Heights the new kitchen did represent significant works to that property. However, there are still works outstanding which would be required to be completed before the property is tenanted.
- 7.7.6. Mrs. Hayden asked if he had seen photographs of 15 Tramore Heights previously, and whether he agreed that significant works had been undertaken. She also noted that it was at the time her husband's death was announced, that these houses were partially demolished, yet there is no reference to the criminal damage to the properties, which included breaking down the door, and windows and pulling down the ceiling. She was reluctant to replace broken windows as she was concerned that it would be vandalised again. Her sons had taken advice before boarding up the windows and doors on the house with Perspex costing €3,500. All the windows were kicked in. Mrs. Hayden said on the advice of the Council the house was boarded up

and subsequently graffitied. Mrs. Hayden referred to complaints which were only made subsequently in relation to restoring the house.

7.7.7. The hearing was interrupted by a gentleman from the audience who asked that the objector withdraw her previous statement, to which Mrs Hayden declined.

7.7.8. After a heated exchange I adjourned the Hearing for 10 mins.

7.7.9. I reopened the Hearing at 16.02pm.

7.7.10. I reminded those attending the hearing that questions were to be directed through me. Anyone not party to the appeal are not entitled to make a submission or representation, and that if anyone did so they would be asked to leave. I said that we are considering the issues that are relevant to the current oral hearing, and on that basis, we should proceed.

7.7.11. Mrs. Hayden sought to respond to the earlier submission, but I advised her that this would be unhelpful at this stage.

7.7.12. Mrs. Hayden then asked to submit and read from correspondence (item 3) from her to a neighbour of 75 Viewmount, which was in response to an issue raised concerning bats in the attic of the house noting that they are a protected species.

7.7.13. Mrs Hayden subsequently contacted the Environmental Department of WC&CC to look for guidance, and was referred on to the National Parks and Wildlife Service (NPWS). In conversation with the NPWS she was assured that if a bat was found that they would supervise its removal.

7.7.14. The correspondence referred to works which were to commence in the following days on the apex of the roof. Under the guidance of a pest control representative the entire roof has been examined on four different occasions, but no evidence of bats was identified.

7.8. Inspector's Questions for the Objector

7.8.1. I asked the Objector Mrs. Hayden when the properties were last occupied. In relation to 75 Viewmount she said that it would have been a number of years ago, but was unable to give an exact date. She said the property worked well as a rental

property initially, but as newer estates were built there was less demand and consequently found it harder to let the property.

- 7.8.2. In relation to 3 Darby Grove she could not give a date, but said it would have been some few years ago.
- 7.8.3. In relation to 15 Tramore Heights she said it was not really a letting possibility, instead it was used as a second home for family during the holiday periods, which in Tramore is not unusual.
- 7.8.4. I asked when would works on 15 Tramore Heights be completed and whether the property would then be occupied. Mrs Hayden was reluctant to give a date for the completion of the works, but anticipated that it would be occupied very shortly. She said she has a tenant, and intends to give a six-month contract, and that this would be reviewed depending on her family circumstances.
- 7.8.5. I asked when would works on 3 Darby Grove be completed and what her intentions were in relation to occupancy. Mrs Hayden said that works would be completed before Christmas, that she planned to let it, and has been in contact with Remax a local letting agent regarding the property.
- 7.8.6. I asked if she could provide anything in writing from the letting agent. Mrs. Hayden said that the property was on their books, that she had contact details, and would organise a viewing when the works are completed.
- 7.8.7. I asked when would works on 75 Viewmount Park be completed. Mrs. Hayden said she did not have the expertise to say with certainty given the nature of the works to be carried out and was unable to put a cost on the works.
- 7.8.8. In answer to whether she had considered selling any of the properties, Mrs. Hayden said she was reluctant to sell them as she has four sons without houses. Following questioning Mrs. Hayden indicated that her sons had not previously occupied the houses as they had been away in college. She also clarified that four of her sons are living and working in Waterford, and that three of her sons would consider occupying the houses, but maybe not immediately.
- 7.8.9. I asked apart from her family and contacting the local letting agent whether she had investigated any other options in terms of finding tenants. Mrs. Hayden said she had not, given that the properties in Earls court and Tramore were very attractive to

tenants, and that her project manager has already received enquiries in relation to them. I asked in relation to the project manager whether he was involved in all three properties, to which Mrs. Hayden confirmed he was.

7.9. Local Authority Questioning of Mrs. Hayden

- 7.9.1. **Mr. O'Connor** Solicitor for the Local Authority, questioned Mrs. Hayden.
- 7.9.2. He noted that the owner was having some difficulty in putting a date on how long the properties have been vacant. For the property in Tramore the first complaint was received by the Council in 2001, and it would appear to have been unoccupied since her husband passed away.
- 7.9.3. Mrs. Hayden clarified that the complaint was in relation to the garden, and agreed it was approximately five years since it was last occupied.
- 7.9.4. Mr. O'Connor asked when 75 Viewmount was last occupied, but Mrs. Hayden was unable to give a date, stating that her husband had managed the property.
- 7.9.5. Mr. O'Connor enquired as to when the properties had been vandalised, and consequently boarded up, and whether any other action had been taken at that time.
- 7.9.6. Mrs Hayden said vandals broke into the properties in 2011, and referred to other matters which are not relevant to the case. She said she had been caring for her husband, and it was about 5 years since it was boarded up. In that interval work was ongoing up to 2016 at the time of the Court case, which has continued since then.
- 7.9.7. Mr. O'Connor asked if she would accept that the three houses would not have been vandalised had they been occupied.
- 7.9.8. Mrs. Hayden said not necessarily, as they had not been vandalised prior to her husband's death, but did recognise that if the houses had been occupied it was less likely.
- 7.9.9. Mr. O'Connor noted that most of the works were done around 2016, referred to the history with the properties, and to the photos circulated by Mrs. Hayden of significant damage to the properties internally.

- 7.9.10. Mrs. Hayden noted that the planning history was in relation to the external areas of the properties, and that the damage was because of vandalism.
- 7.9.11. Mr. O' Connor said that there has been a pattern of reaction to when the Council takes action, and then no progress is made in terms of occupancy. He noted that the Council would have accepted around the time of the Court case in 2016 that the Tramore property was habitable and had been done up to a reasonable standard.
- 7.9.12. Mrs. Hayden said she was not involved at the time. In relation to the Tramore property it needed painting, carpeting and new guttering, but could not get a painter, otherwise she agreed in 2016 it was done up to a decent standard.
- 7.9.13. Mr. O'Connor asked was there a difficulty in getting one of her sons to move in, as already mentioned they are in Waterford, or someone else to occupy the house.
- 7.9.14. Mrs. Hayden said she had been reluctant to let anyone occupy the house until it was painted, that she had been unsuccessful in locating painters, and that she had undertaken the work herself.
- 7.9.15. Mr. O'Connor questioned her on the two potential tenants for 3 Darby Grove, and for Tramore, whether rent had been agreed, letting agreements signed, exchange of deposits or a start date agreed.
- 7.9.16. Mrs. Hayden said that she had not agreed anything that there are still items remaining to be finished in the houses, and is not ready to rent them. She indicated that she had contacted a local letting agent, and although they had not visited the properties, would be willing to take both properties. She said she does not want to be managing the properties herself.
- 7.9.17. Mr. O'Connor noted in her objection she had described the process of restoring the properties as an overwhelming task both psychologically and financially, that she was not familiar with the building trade, and did not have the resources to undertake such a mammoth undertaking. He asked in all the circumstances whether she acknowledged that she does not have the financial resources or capacity to do the work.
- 7.9.18. Mrs. Hayden largely agreed, but that she had enough finance to finish the work including Viewmount.

- 7.9.19. Mr. O'Connor asked her if it would not make more sense for the Council which has the resources, capacity and familiarity with the building trade to take on the restoration of the properties, and to pay her the market value to for them. He also noted that the Council had written to her to advise her on different schemes available to restore the properties, and queried whether she had made any applications under those schemes.
- 7.9.20. Mrs. Hayden said that the properties are in sought after areas, the mortgages are paid, and she would now like to have some autonomy over the business. She said she has taken on the challenge of renovating the properties and has them nearly finished.
- 7.9.21. Mr. O'Connor queried an earlier reference to a Project Manager for all three of the properties, the difficulty experienced in getting tradesmen, and enquired about his role and qualifications.
- 7.9.22. Mrs. Hayden said his role was to advise her on options in terms of works, managing expenditure and costs, and had sourced tradespeople on her behalf, and is unaware of his qualifications.

7.10. Closing Statements

- 7.10.1. I provided an opportunity for both parties to make closing statements.

7.11. Local Authority

- 7.11.1. **Mr. O'Connor** stated that WC&CC are seeking to acquire properties at 75 Viewmount Park, Waterford, 3 Darby Grove, Waterford, and 15 Tramore Heights, Co. Waterford for the purpose of securing and facilitating the development and renewal of vacant properties, by refurbishing them and putting the properties into productive use, reducing property vacancy and increasing housing supply. This is to address a pressing social need by putting vacant and underutilised properties back into full use, which further breathes new life into the streets and residential areas of which they form a part.
- 7.11.2. It is policy at national and local level to enable every household to have affordable residential accommodation suited to its needs in a good environment and as far as possible at the tenure of its choice. The proposal is to acquire these vacant

properties by means of compulsory purchase order and return them to productive use, in line with national and local policy.

7.11.3. There is significant demand for property of this nature and this is acknowledged by both sides. There is a long history of these properties being vacant, at least since 2012 when the late Mr. Hayden passed away.

7.11.4. The Council has had extensive representations from neighbours over the years and from local representatives. The Council has repeatedly made efforts to see if these issues could be addressed and have afforded Mrs. Hayden ample time to allow her to address all the various issues.

7.11.5. Given the long history of the delay and the deferral of the CPO earlier this year, the Council doesn't believe that there is a realistic prospect that the properties will be fully restored and that they will be tenanted or be occupied. The CPO is justified in the Council's view by the exigencies of the common good arising from a pressing social housing need and is proportionate to the objective to be achieved.

7.11.6. He asked that the Board confirm the CPO.

7.12. Objector

7.12.1. **Mrs. Hayden** cited her difficulty in finding tradesmen and managing the renovation works. It is her intention to have the houses occupied very soon. Two of the properties 15 Tramore Heights and 3 Darby Grove are in her opinion now in excellent order and lettable. In relation to 75 Viewmount Park, it is a work in progress, and that it will be let. If there is an issue with vacancy or letting of 75 Viewmount Park, that she would have no difficulty residing in the property until she found a tenant.

7.12.2. Mrs. Hayden stated that it is in her interest financially to complete the works and have the houses occupied.

7.12.3. She urged the WC&CC to release the properties that they have boarded up, to carry out renovations and give them to families who desperately need housing.

7.13. I then read a Closing Statement, and the Oral Hearing closed at 16.35pm.

8.0 **Assessment**

8.1. Previous Board decisions and case law have established four key areas upon which a CPO is typically assessed, as follows:

- Does the CPO serve a community need?
- Is the property in question suitable to meet that community need?
- Does the stated purpose / proposed use / works accord with the Development Plan for the area?
- Have alternative means of meeting the community need been explored?

8.2. I will address these in turn below, along with other issues arising from the objections.

8.3. **Community Need**

8.3.1. Waterford City and County Council's case for the CPO as originally received by the Board relied largely upon a Chief Executive Order (Order Ref. 2018/893) stating that the land and vacant properties are required for the purposes of securing and facilitating the development and renewal of the properties and that they be acquired by Compulsory Purchase Order.

8.3.2. A report from Waterford City and County Council dated November 2018, was circulated at the Oral Hearing. This report confirmed that the scheme was necessary and that the lands are suitable and necessary for the provision of social dwelling units and which recommended that the lands be the subject of a CPO.

8.3.3. I note that it also stated in the report that the minimum housing requirement over the projected period 2016-2020 in Waterford City and suburbs to be 713 units, and that in December 2017 the Housing Agency determined that 1,444 households qualified for social housing supports within Waterford City and County. During the Oral Hearing, issues relating to the community need for the subject CPO were addressed in more detail by the statement of Mr. Paul Johnston, Senior Engineer in respect of the planning policy context (Item 1 - appended).

8.3.4. Arising from the above, the key tenets of the Local Authority's position are that there is significant demand for social housing in Waterford City and County, with the 2016 Census Total Population data for the Farranshoneen area (i.e. the area that the 75

Viewmount Park and 3 Darby Grove, Earls court are located) showing an increase in population from 5,465 in 2011 to 5,607 in 2016. For the electoral division of Tramore (i.e. the area that 15 Tramore Heights is located) shows a population increase from 9,503 in 2011 to 9,545 in 2016. There appears to have been minimal delivery of units to date through direct-build or the Part V process.

- 8.3.5. While the principal purpose of the CPO is stated to be for purposes of securing and facilitating the development and renewal of the properties, the Local Authority contended at the Hearing that there has been no appreciable action ever undertaken by the owners to address the issues of property condition, dereliction or vacancy.
- 8.3.6. I am of the view that currently the vacant detached houses at no. 3 Darby Grove and 15 Tramore Heights do not currently have a detrimental effect on the streetscape or the residential amenity of the area.
- 8.3.7. However, I consider that no. 75 Viewmount a semi-detached house to be in poor condition which does detract from the residential and visual amenities of the area.
- 8.3.8. Notwithstanding, I would accept that renovating all three houses and bringing them back into active residential use – regardless of whether private or social housing use – could be considered to serve a community need, by making appropriate use of existing serviced dwellings and by improving the streetscape and protecting residential amenity in the area by arresting any deterioration in the condition of the properties.
- 8.3.9. Considering the above, I consider that the Local Authority has adequately demonstrated that the subject CPO would serve a community need by addressing an urgent social housing need, and that the protection and improvement of residential amenity and estate management in the area would serve a secondary community need and can be considered to be a material consideration in terms of addressing social housing provision. Notwithstanding this, however, further consideration is required to establish whether an adequate case and justification has been made for the CPO of the subject lands and the interference with private property rights that compulsory acquisition represents. This will be addressed further below.

8.4. Suitability of the Sites

- 8.4.1. The subject properties are existing residential units in established urban housing areas. The sites are zoned for residential development, and are in close proximity to town centre facilities and amenities and, as such, I consider them to be suitable for use as social housing units.
- 8.4.2. An internal inspection was undertaken by the Local Authority, however, having inspected the sites, I would consider that two of the dwellings are readily capable of being utilised as housing units, notwithstanding any required refurbishment works. In forming this opinion, I note that the roofs appear intact, that windows and doors are intact and that there was no obvious evidence of any significant structural defects to the front elevations.
- 8.4.3. In relation to the third property however, and despite the contention of the owner is not currently capable of being utilised without structural work to the side extension of the house and significant refurbishment. In forming this opinion, I also note the collapsed roof of the side extension and the damp walls of the adjoining downstairs bathroom.
- 8.4.4. The Local Authority has not provided an estimate in terms of how long the refurbishment works required to return the houses to active use would take, allowing for design and procurement. The Local Authority also stated at the Hearing that Waterford City and County Council has made provision in the 2018 budget to facilitate the commencement of a programme of compulsory purchase of vacant residential units, but has not indicated specific estimates in respect to the subject properties.
- 8.4.5. Considering the above, I am therefore satisfied that the sites are capable of being renovated for the purposes of providing social housing units, and I consider this to be an appropriate use of these existing dwelling units in zoned and established residential areas which are close to a range of services and facilities. It should also be noted, however, that the Objector Mrs. Hayden indicated at the Hearing that she has already renovated two of the properties, but conceded that more significant renovation works were required to the third house in bringing them back into use. This is addressed further below.

8.5. Accordance with Housing and Planning Policy

- 8.5.1. The Board is referred to Section 5 above, which outlines the housing and planning policy context. There are various National and County level policies promoting the re-use (and acquisition, where necessary) of existing dwellings in order to meet housing need.
- 8.5.2. With regard to the residential zoning of the sites and their stated objectives, I am satisfied that the acquisition and renovation of the properties for social housing accord with the zoning and would contribute to the protection and improvement of the existing residential amenity of the areas within which the houses are located.
- 8.5.3. The renovation and active use of the houses would also ensure their long-term protection and would contribute to the protection and enhancement of the character of the areas.
- 8.5.4. The renovation of the subject dwellings for social housing use would assist in fulfilling Housing Policy 8.1 of the Waterford City Development Plan 2013-2019 which seeks to *'to enable every household to have available affordable residential accommodation, suited to its needs, in a good environment and as far as possible, at the tenure of its choice'*. It would also assist in fulfilling the Housing Strategy of the Waterford County Development Plan 2011-2017 which aims to *'provide suitable accommodation and assistance for those in need; providing loans and assistance for people housing themselves; and making provision for homeless people in the County.'*
- 8.5.5. Notwithstanding, my overall opinion that the acquisition of vacant houses for social housing use accords with various strategic and statutory policy, I would note that nowhere is it explicitly stated that such acquisition should be carried out compulsorily. Having said that, neither does any of the policy prohibit such an approach, and having regard to the provisions of Planning and Development Act 2000 and the Housing Act 1966, both as amended, it is clear to me that compulsory acquisition of land is one of a number of tools that has been placed at the disposal of Local Authorities to fulfil their functions, which includes the delivery of social housing.
- 8.5.6. In conclusion, I consider that the compulsory acquisition of the subject properties would be in accordance with housing and planning policy.

8.6. Use of Alternative Methods

- 8.6.1. Given the protection afforded to private property ownership in Ireland, the compulsory acquisition of any property should generally be seen as a last resort having considered other alternatives first. In this regard, I consider that the onus is on the Local Authority to demonstrate that alternative methods are not available to them.
- 8.6.2. As noted in Section 8.3 above, there is significant pressure on the Local Authority to deliver social housing in the Waterford City and County area, due to demand from eligible applicants and targets given to the Local Authority by Central Government. The Local Authority stated at the Oral Hearing that the delivery of social housing units to date had primarily been through the acquisition of units through the CPO process, (with currently twelve CPO's that target 41 individual properties).
- 8.6.3. In respect of the subject sites at 75 Viewmount, 3 Darby Grove and 15 Tramore Heights, the Local Authority stated at the Hearing that they had pursued alternative methods including various meetings with the owner, and in correspondence outlining the various options such as acquisition with consent or the 'Repair and Lease' scheme, prior to preparing and serving a CPO on the owner.
- 8.6.4. They also outlined the background to the CPO earlier this year which did not proceed following a request from the owner, and the planning history with regard to the Derelict Sites Act and District Court Hearing in 2016. The assessment of the Local Authority's Senior Engineer, as expressed to the Oral Hearing by Mr. Johnston, was that the Local Authority decided to utilise its compulsory purchase powers as the properties have been vacant for a considerable time, with only superficial works having been completed in the recent past.
- 8.6.5. While I do consider that a less intrusive approach to these properties (such as acquisition by consent or a leasing arrangement) would have been preferable, I do accept that the Local Authority is seeking to meet a wider community need by providing social housing units.
- 8.6.6. While the primary purpose of the proposed compulsory acquisition is to provide social housing units, the Local Authority, has also noted that the acquisition and refurbishment of vacant houses for social housing use is supported and promoted by

the Department's Rebuilding Ireland Action Plan for Housing and Homelessness 2016 and associated Circulars PL 7/2017.

- 8.6.7. In terms of other methods available to the Local Authority, and noting the apparently long-vacant nature of the houses, the Board may wish to satisfy itself that the provisions of the Derelict Sites Act 1990, as amended, would not have been a more appropriate course of action than the CPO route.
- 8.6.8. In this regard, while all three of the houses are currently unoccupied and appear to have been so for a considerable period, I do not consider that they would meet the definition of a derelict site, as set out in section 3 of the Derelict Sites Act. In my opinion they are not in a ruinous, derelict or dangerous condition, they do not appear particularly unsightly or objectionable, and there is no evidence of significant litter or waste build-up. Despite the use of the term 'reasonably good condition' in the Senior Engineer's report describing the houses, I would not consider the houses to comprise a derelict site within the meaning of the aforementioned Act. I therefore do not consider that the provisions of the Derelict Sites Act would be of use in seeking to ensure that the houses are refurbished or brought back into use through, and in any event, I also note that the purpose of the Derelict Sites Act is not primarily linked to the provision of social housing.
- 8.6.9. I am satisfied that the Local Authority has considered certain alternative means of meeting the community need (i.e. the provision of social housing), and I am satisfied that the acquisition of vacant houses for social housing is supported by housing policy.
- 8.6.10. However, in light of circumstances pertaining, there would appear to be alternatives to acquisition for the formally stated purpose of acquisition as set out in the Order 'for securing and facilitating the development and renewal of property', having regard to the matters set out below.

8.7. Issue Raised by Objector

8.7.1. Vacancy

- 8.7.2. The three properties are owned by one party Mrs. Hayden following the death of her husband in 2012. Because of family commitments and difficulty in sourcing and securing tradespeople the maintenance of the properties has been a significant

burden. Two of the properties which were previously vandalised have consequently remained vacant for a significant time. The Local Authority confirmed at the Hearing that each of the three properties had come to their attention following complaints over the years, and that there was a long history of complaints and investigation by the Local Authority associated with each property.

- 8.7.3. At the Oral Hearing, Mrs. Hayden submitted copies of photographs of the interior of two of the properties prior to their renovation, and did concede that works had not yet commenced at 75 Viewmount Park. It is clear from these photographs and from the objector's submission at the Hearing that significant works have been carried out on the other two properties. This I can also confirm from my site inspection.
- 8.7.4. The Local Authority however, maintain that the works carried out are superficial and would not meet building standards, but have conceded that a thorough inspection of the properties was not carried out.
- 8.7.5. None of the three properties are currently occupied and have been vacant for a considerable period. The objector indicated that works currently being undertaken on two of the properties are with a view to them being occupied and or rented. The objector has also contacted a local letting agent with a view to letting and to interest expressed by individuals wishing to rent them. While I accept that no evidence was tabled regarding a letting agreement, I am mindful of the owner's family circumstances, and the significant renovation works carried out by the owner on the two detached properties.
- 8.7.6. In relation to the third property where work has not yet commenced, the structural work required, and the difficulties cited by the owner in securing tradespeople, I am less confident that this semi-detached property can be renovated by the owner and occupied in the near future.
- 8.7.7. Given the protection afforded to private property ownership in Ireland and the imposition on these rights that compulsory purchase represents, it is clear to me that the Local Authority must demonstrate a pressing need and public interest served to acquire these properties at this particular time. While the Local Authority has demonstrated the urgent need for additional social housing units in the Waterford City and County area and the planning, community and social merits of bringing three long-vacant houses back into active residential use, I do not consider that it

has sufficiently proven the need to acquire all three properties at the present time, considering the particular circumstances of each of the cases.

- 8.7.8. In my opinion, the fundamental circumstances underlying these cases are as follows: In this regard, I note that the Objector is actively engaged in renovating two of the houses with a view to securing tenants, with a longer-term view of commencing significant work and bringing the third vacant house back into active use.
- 8.7.9. Given these circumstances, and noting the timeframes associated with the various events and the constitutional protections afforded to private property rights in Ireland, I do not consider that the Local Authority has demonstrated that the compulsory acquisition of two of the houses in question for the purpose stated in the Order is justified at the present time.
- 8.7.10. I consider it reasonable and appropriate that the Objectors be afforded an opportunity to return two of the vacant properties to active use prior to confirming a CPO. In this regard I would note that while no. 3 Darby Grove and 15 Tramore Heights have been vacant for a considerable time and are stated to be in need of repair and maintenance works, significant refurbishment work has been carried out and they are not derelict or in immediate danger of becoming derelict in my opinion. The owner also referred at the oral hearing to the fact that attempts were made (albeit not supported by independent professional verification) to let them.
- 8.7.11. In relation to the third property 75 Viewmount Park has also been vacant for a considerable time, it is in need of significant repair and maintenance works, and refurbishment works have not been carried out to date. Notwithstanding, the property is not derelict or in immediate danger of becoming derelict in my opinion. The owner has cited difficulties in sourcing tradespeople, and I am satisfied that that the Local Authority has demonstrated that the compulsory acquisition of this property for the purpose stated in the Order is justified at the present time.
- 8.7.12. I therefore recommend that the CPO be modified to exclude properties 3 Darby Grove, Earls court, Waterford and 15 Tramore Heights, Tramore, Co. Waterford but confirm annulled in light of the particular circumstances of the case. However, given that there is still some uncertainty with regard to when the properties will be occupied, I would note that the Local Authority would remain empowered to seek the

compulsory acquisition of the properties at any stage in the future, should this be considered necessary in light of ongoing circumstances at the properties.

8.7.13. I also recommend that the CPO be confirmed in relation to 75 Viewmount Park, Waterford.

9.0 Recommendation

9.1. While the Local Authority has demonstrated the pressing need for increased social housing provision in the Waterford City and County area, and while the acquisition of vacant properties for such social housing purposes is consistent with both National and County level policies and objectives as expressed in the Rebuilding Ireland Action Plan for Housing and Homelessness 2016, the Waterford County Development Plan 2011-2017 and the Waterford City Development Plan 2013-2019, and notwithstanding the suitability of the properties for use as social housing units, I am not satisfied, having regard to the particular facts of this case, that adequate justification has been put forward by the Local Authority for the acquisition of private properties at 3 Darby Grove, Earls court, Waterford and 15 Tramore Heights, Tramore, Co. Waterford at this time. In this regard, I note that the Objectors statement that she is actively engaged in renovating the houses with a view to securing occupation for both properties, thereby bringing both properties back into active use.

9.2. I therefore recommend that the Board MODIFY the Compulsory Purchase Order to exclude 3 Darby Grove, Earls court, Waterford and 15 Tramore Heights, Tramore, Co. Waterford based on the reasons and considerations set out below.

9.3. I am however satisfied, having regard to the particular facts of this case, that adequate justification has been put forward by the Local Authority for the acquisition of the private property at 75 Viewmount Park, Waterford at this time. In this regard, I note that the Objector is not actively engaged in renovating the house with a view to securing tenants with a view to bringing the property back into active use.

9.4. I therefore recommend that the Board CONFIRM the Compulsory Purchase Order in respect of 75 Viewmount Park, Waterford, based on the reasons and considerations set out below.

10.0 Reasons and Considerations

10.1. Having considered the objection made to the Compulsory Purchase Order, the report of the person who conducted the oral hearing into the objection, the purpose for which the lands are to be acquired as set out in the compulsory purchase order and also having regard to the following:

- The documentation on file including the case made by the Local Authority;
- The submissions and observations made at the Oral Hearing held on 14th November 2018;

And notwithstanding the numerous supporting policies and objectives in respect of social housing provision and re-use of vacant houses set out in:

- Waterford County Development Plan 2011-2017;
- Waterford City Development Plan 2013-2019;
- Rebuilding Ireland: Action Plan for Housing and Homelessness, 2016, and associated Circular letters PL8/2016 and PL7/2017;

The Board is not satisfied that, in this instance, the acquisition by the Local Authority of 3 Darby Grove, Earls court, Waterford and 15 Tramore Heights, Tramore, Co. Waterford as set out in the order and on the deposited map, has been justified and is necessary, at this stage, for the purposes stated.

The Board is however satisfied that, the acquisition by the Local Authority of 75 Viewmount Park, Waterford as set out in the order and on the deposited map, has been justified and is necessary, at this stage, for the purposes stated.

Susan McHugh
Planning Inspectorate

6th December 2018