



An
Bord
Pleanála

Inspector's Report

ABP-306318-20

Nature of Application

Proposed Compulsory Acquisition of Millbrook House, Protected Structure.

Location

Abbeyleix Demesne, Abbeyleix, Co. Laois.

Local Authority

Laois County Council

Notice Party

John Patrick Colclough.

Date of Site Inspection

16th March 2020

Inspector

A. Considine

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1.0 Introduction

- 1.1. This case relates to an application by Laois County Council for the consent of An Bord Pleanála to the compulsory acquisition of the subject site at Millbrook House, Abbeyleix Demesne, Abbeyleix, Co. Laois, in accordance with the provisions of Section 73(4) of the Planning and Development Act 2000, as amended.

2.0 Site Location and Description

- 2.1. Millbrook House lies within the Abbeyleix Demesne, approximately 2km to the south west of the town of Abbeyleix in Co. Laois. The M7/M8 Junction 1 lies approximately 7.2km to the west of the site and is accessible over the local road network through Ballycolla. The house is located to the south of Old Town, the original site of the pre-1750s town of Abbeyleix and is accessed via a small lane which serves a very small number of other houses and buildings. The estate of Abbeyleix Demesne lies to the south of the site.
- 2.2. The site the subject of this CPO covers a stated area of 1.7ha and includes the mill pond, associated with a former mill which is located to the south of the building, within the site boundaries. The wall to the front of the site comprises a high-level rubble stone wall with gates and there are mature gardens extending to the south west of the house.
- 2.3. Millbrook House is a detached 5 bay, two storey house with the attic served by dormer windows. There is also a part basement to the north eastern side of the house. To the north east of the main house, there is a stone-built outbuilding / stable block which reflects the style and finishes of the main Millbrook House.
- 2.4. On the date of my site inspection, there was evidence of dumping on the site. A number of the windows have been broken and to the rear of the house, there was evidence of clearing out of the inside with a large volume of timber and furniture piled. Given the condition of the property, I did not try to gain entry to the building. Photographs taken from outside windows suggest that house is not in a safe condition with evidence of collapsed ceilings internally. There was also a full skip present on the site.

2.5. I have enclosed a number of photographs of the site with this report for the Boards reference.

3.0 Application for Consent for Acquisition

3.1. Laois County Council served a Section 59 Notice on the owner, Mr. John Patrick Colclough, as well as Kenmare Property Finance Designated Activity Company and its three directors, on the 21st day of September 2018 by registered post, advising that due to the neglect and vandalism, Millbrook House, Protected Structure, Laois RPS Reference 649, has become endangered. The Notice, which was also posted on the site, included two requirements to be carried out within 8 weeks of the notice in order to protect the surviving fabric of the structure is protected and to prevent continued endangerment.

3.2. The actions required were as follows:

- (a) Engage the services of a suitably qualified conservation professional(s) (Grade 1 RIAI Conservation Architect or similar) to carry out a full assessment of the condition of the house and prepare a full conservation report including a schedule of repairs and a timeframe for the completion of same.
- (b) During the restoration project, a written and photographic record of the works / structure was required to be maintained and submitted in report form to the PA on completion of the works.

The Board will note that a copy of a 'Condition Assessment and Conservation Recommendations Report', prepared by AR&R on behalf of Laois County Council was also attached to the Notice for the owners information.

3.3. On the 12th of February 2019, the Senior Executive Planner reported that following a site visit on the 29th of January 2019, it was noted that no works have been carried out in relation to the issues raised in the Section 59 Notice. The Report notes that Kenmare Property Finance Designated Activity Company responded to the S59 Notice advising that they were not responsible for the structure but have a charge on the property. The report notes that the owners did not comply with the requirements of Sections 59, 60, 61 or 65 of the Planning and Development Act 2000, as

amended. Based on the lack of engagement and as no works have been carried out, it is recommended that Laois County Council acquire the structure and attendant grounds by agreement or compulsorily, and carry the works specified in the Section 59 Notice.

- 3.4. On the 18th of July 2019, a further report was prepared for the Chief Executive of Laois County Council by the Senior Planner /A/Director of Services, noting that a response to the Section 59 Notice was not responded to and advised that following a valuation of the site, an offer was made to the owner on the 3rd of May 2019 with a request to respond by the 31st of May 2019. No response was received, and the restoration works have not been carried out. Approval to commence with the CPO process was requested on the 18th of July and agreed by the Director of Services on the 17th of October 2019.
- 3.5. The Chief Executive Order regarding the acquisition of Millbrook House Protected Structures was signed on the 17th of October 2019.

4.0 Application and Objection

4.1. Notice of Intention to Acquire

Notice of Laois County Council's intention to acquire the site compulsorily was published in the Leinster Express newspaper on Tuesday 29th October 2019. Notice was also served on the owner or reputed owner by post on the 29th October 2019. Millbrook House, Abbeyleix Demesne, Abbeyleix, Co. Laois, protected structure – RPS ref 649 and NIAH Reg 12802342, is described as follows:

Detached five-bay two-storey Victorian house with dormer attic, dated 1885, built as agent's house with full-height advanced bay to left having box bay window to ground floor. Double-pitched and hipped slate roof, gabled to dormer attic windows, with red clay ridge tiles and yellow brick chimneystack with red brick bands. Yellow brick Flemish Bond walls with red brick plinth and quoins and moulded brick entablature. Square- and segmental-headed window openings, some within box bay windows, with limestone sills, red

brick surrounds and single-pane timber sash windows. Red brick doorcase with limestone dressings including pediment and timber panelled door with sidelights and overlight. Interior not inspected. Set back from road in own grounds; landscaped grounds to site; limestone steps to entrance. Detached two-storey rubble limestone coach house to site with red brick dressings.

The site has a stated area of 1.7ha.

4.2. Objection to Acquisition

4.2.1. Two objections to the proposed acquisition were submitted to Laois County Council by John Patrick Colclough and Tadhg Campion in letters, both dated 29th November 2019 in accordance with Section 73(1) of the Planning and Development Act 2000, as amended. The objections can be summarised as follows;

4.2.2. Mr. John Patrick Colclough:

- Mr. Colclough presents a history and description of Millbrook House and its setting.
- Notes that the property was subject to vandalism and burglary on a number of occasions, including the breaking of windows and removal of lead from the roof which has caused a limited amount of water ingress.
- It is submitted that all that is necessary to preserve the house is to repair the roof and windows and to upgrade the security of the house.
- The requirements of Section 71 of the Planning and Development Act 2000, as amended, have not been complied with.
 - In terms of S71(1)(a), it is submitted that there are no structural issues with Millbrook House. The roof and windows require attention and maintenance, but these are not contributing to the overall deterioration of the property. It is in habitable condition and maintenance on the roof and windows has been undertaken in the past.
 - In terms of S71(1)(b), it is submitted that Millbrook House is used by Mr. Colclough and his family as a dwelling and is occupied regularly.

- Section 59 of the P&D Act has not been complied with as the notice was never served on the owner of the property and not served in accordance with the rules of service as set out by the Rules of the Superior Courts.
- Without prejudice to the above, it is submitted that statutory compulsory purchase of land or other interferences with property rights is a *prima facie* breach of the right to private property. Case law is cited.
- The house is not in danger of deterioration and there is a plan in place to protect and finally restore Millbrook House. Had the objector been aware of Laois County Councils concerns, he would have engaged earlier.
- Millbrook House has a better chance of being returned to its original condition left in the objectors' ownership.
- It is proposed that Mr. Campion purchase the property as he has the experience and experts to protect Millbrook House.

4.2.3. Mr. Tadhg Campion

- Notes that Millbrook House has been the family home of his sister and Mr. Colclough, for 35 years.
- He is the prospective buyer, in advance negotiations, and has had the benefit of a detailed inspection of the property.
- Mr. Campion has experience and contacts to affect the repairs and maintenance necessary to restore Millbrook House.
- While the house may not look to be in good conditions, the opposite is the case. The works required to secure the property are relatively easy and inexpensive.
- Works to restore the property will commence following the completion of the schedule of works to secure the property have been prepared by John Higgins of Rogerson Reddan & Associates, who specialise in conservation and listed buildings. The restoration process will take consideration of the views of the County Council.

- The objective of the objector is the same as the Council and it is submitted that Mr. Campion completing the purchase of Millbrook House and commencing the works would be more appropriate and cost and time effective than if the Council progressed to CPO with ABP.
- It is requested that Laois County Council withdraw the Section 71 Notice CPO as Mr. Campion is in a position to commence almost immediately.

4.2.4. The objections have not been withdrawn and therefore pursuant to Section 73(3) of the Planning and Development Act 2000, as amended, the planning authority shall not acquire the protected structure compulsorily without the consent of the Board.

4.3. Planning Authority's Application for Consent

4.3.1. Laois County Council requests the consent of the Board to the compulsory acquisition of Millbrook House, protected structure. The application for consent was submitted to the Board on the 24th of December 2019 following the receipt of two objections to the CPO as described above. The application included the following documentation:

- Cover letter dated 23rd December 2019
- Response to objections to CPO
- Chief Executive Order No 609/2019 dated 17th October 2019
- Copy of Compulsory Purchase Order No. 17 of 2019 dated 17th October 2019
- Copy of CPO map dated 24th September 2019
- Copy of Notice of Compulsory Acquisition of a Protected Structure, Compulsory Purchase Order No. 17 of 2019 dated 29th October 2019
- Copy of newspaper advertisement dated Tuesday 29th October 2019
- Submission from Mr. John Patrick Colclough dated 29th November 2019
- Submission from Mr. Tadhg Campion dated 29th November 2019

- Report from A/DoS to Chief Executive dated (signed) 18th July 2019
- Section 59 Report prepared by Senior Executive Planner dated 6th February 2019
- Senior Executive Planner Report recommending CPO dated 23rd January 2019
- Copy of Section 59 Notice dated 21st September 2018
- Condition Assessment and Conservation Recommendation Report, prepared by AR&R on behalf of Laois County Council dated June 2018.

5.0 Further Responses / Submissions

5.1. Planning Authority Response to Objections

5.1.1. The Local Authority responded to the objections to the CPO advising that notices were served by registered post and were attached to the gates at the front of the dwelling in accordance with Section 250 of the Planning and Development Act 2000, as amended. OSM on behalf of Kenmare Property Finance DAC responded to the notice. A further letter issued on the 3rd of May 2019 to Mr. Colclough advising that the Section 59 Notice was not complied with and that the PA may compulsorily purchase the house. The PA offered €100,000 to purchase the house. This letter was also emailed on the 10th of May 2019 to the email address given in the submissions of both objectors on the 29th of November 2019.

5.1.2. During the process, which commenced on the 10th of September 2018, with a report to issue the Section 59 notice, and the preparation of the condition assessment by AR&R dated June 2018, there is no evidence that the house has been inhabited. The house is not in habitable condition and is not safe to enter given the condition of the ceilings and possible decay of the roof timbers.

5.1.3. Millbrook House is endangered based on the following:

- Removal of materials, including lead, from the roof and bays,
- Broken windows,

- Vegetation growing in the rainwater gutters and on section of the roof,
- Timber windows showing signs of decay,
- Ivy has grown at various locations on the outside of the building which can cause structural damage

5.1.4. While both submissions refer to their authors as the owners of the property, it is established that Mr. Colclough is the registered owner and is proposing to transfer/sell the property to Mr. Campion. For the purposes of this process, the PA requires more than a written commitment in terms of the ownership and transfer of ownership may become protracted, delaying the works required under the Section 59 Notice, further endangering Millbrook House.

5.1.5. The submissions somewhat trivialise the works required to prevent endangerment by limiting them to replacing lead and windows. It is clear from the AR&R report that there is damage to internal features. Laois County Council is not in a position to withdraw the CPO and request that ABP grant consent to the compulsory acquisition of the property.

6.0 Policy Context

6.1. Development Plan

6.1.1. The Laois County Development Plan 2017 –2023 is the relevant policy document for the area. The site lies approximately 1km to the south west of the development boundaries of the town of Abbeyleix. The full list of protected structures in the county are set out in Appendix 1 of the CDP of this Plan. Millbrook House, a two storey, detached house whos original use is indicated as being a Steward's House, constructed 1880-1890, is listed in the Record of the Protected Structures, RPS ref 649.

6.1.2. Chapter 7 of the CDP deals with Heritage and includes policies and objectives relating to protected structures.

It is an objective of the Council to:

OBJ1: Encourage the understanding of, access to and promotion of County Laois' historic architectural heritage and archaeological heritage;

OBJ4: Protect all structures listed in the Record of Protected Structures, that are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical character or interest in County Laois;

Section 7.5 relates to Protected Structures and the relevant policies relating to Protected Structures include as follows:

BH1: Protect structures or parts of structures of special interest or character by maintaining a Record of Protected Structures (RPS) (see Appendix 1), structures which form part of this record are afforded special statutory protection;

6.1.3. The National Inventory of Architectural Heritage (NIAH) describes the building as of regional architectural importance (Reg Ref 1280342 refers).

7.0 Assessment

7.1. Introduction & Background

7.1.1. The Board will note my photographs of Millbrook House and the site. I did not enter the house for reasons of health and safety and based on the condition of the house. At the outset of this CPO process, the Board will note that Laois County Council commissioned a Condition Assessment and Conservation Recommendations report on Millbrook House, which issued in June 2018. This report was prepared by Architectural Recording & Research, Architectural Heritage Consultants with the objective to document the current condition of the exterior envelope of Millbrook House and to advise on those works which are necessary to halt deterioration of the building fabric. The report notes that the house, which is of architectural and historical interest, has been unoccupied for a number of years and is at imminent risk of dereliction and subsequent ruin. The report adheres to the report standards set out in both the Architectural Heritage Protection, Guidelines for Planning Authorities, DoAHG, 2011 and RIAI Guidelines for the Conservation of Buildings, RIAI, 2010

7.1.2. Section 71(1) of the Planning and Development Act (as amended) makes provision that a planning authority may acquire by agreement or compulsorily any protected structure situated within its functional area if:

- (a) it appears to the planning authority that it is necessary to do so for the protection of the structure, and
- (b) in the case of a compulsory acquisition, the structure is not lawfully occupied as a dwelling house by any person other than a person employed as a caretaker.

7.1.3. This provision is supported in the Architectural Heritage Protection Guidelines for Planning Authorities where it is stated that indirect endangerment could include allowing a building to fall into disrepair, leaving structures open to the elements and possible vandalism. The guidelines further state that immediate action should be taken to require the owner to stabilise or secure the structure, using either Section 59 (which may be a quicker option if the owner is amenable to carrying out the works) or the regular enforcement procedures in Part VIII of the Act.

7.1.4. Section 73(6) of the Planning and Development Act 2000, as amended, states that on application under subsection (4), the Board may, as it thinks fit, grant or refuse to grant consent to the compulsory acquisition of all or part of a protected structure referred to in a notice published under Section 72 (Notice of intention to acquire protected structure compulsorily).

7.1.5. With regard to the use of the protected structure acquired by planning authority Section 78 states that a planning authority may:

- (a) use a protected structure acquired by it under this Act or any other enactment for any purpose connected with its functions, or
- (b) sell, let, transfer or exchange all or any part of that protected structure, and in so doing shall have regard to its protected status.

7.1.6. To determine whether it is necessary to compulsorily acquire this protected structure for the protection of the structure I propose to consider the case under the following headings:

- Planning Authority's Application for Consent
- Protected Structure Status
- The necessity of the acquisition for the protection of the structure
- Future Risk to the structure
- Lawful Occupation

7.2. Planning Authority's Application for Consent

7.2.1. At the outset, the Board will note that Mr. Colclough has objected to the CPO on the grounds that the requirements of Section 71 of the Planning and Development Act 2000, as amended (P&D Act) have not been complied with. It is submitted that there are no structural issues that need to be addressed in respect of Millbrook House and other than the roof and windows requiring attention, the house is in habitable condition. It is further submitted that the house is used by the objector and his family as a dwelling, which is occupied regularly. Having undertaken a site inspection, it is clear to me that the house is not occupied as a residence, is not currently habitable and is at risk of further deterioration. I am satisfied that the provisions of Section 71 have been complied with.

7.2.2. The above concluded, it is appropriate to consider the application for consent to the compulsory acquisition of this protected structure and whether or not the Planning Authority has adhered to the requirements of Section 72(1) of the P&D Act.

7.2.3. Section 72(1) states that a planning authority intending to acquire any protected structure compulsorily under this Part shall:

- (a) publish in one or more newspapers circulating in its functional area a notice
 - (i) stating its intention to acquire the protected structure compulsorily under this Part,
 - (ii) describing the structure to which the notice relates,

- (iii) naming the place where a map showing the location of the protected structure is deposited and the times during which it may be inspected, and
 - (iv) specifying the time within which (not being less than 4 weeks), and the manner in which, objections to the acquisition of the structure may be made to the planning authority, and
- (b) serve on every owner, lessee and occupier (except tenants for one month or a period less than one month) of the structure a notice which complies with paragraph (a).

7.2.4. I refer to Section 4 of my report above together with the information available on the file. I am satisfied that Laois County Council has published the relevant notice in the Leinster Express on Tuesday 29th October 2019 (copy on file) which includes all of the relevant information required in accordance with Section 72(1) of the Act and that relevant notice has been served on the owner of the property, Mr. John Patrick Colclough. Accordingly, I am satisfied that assessment of the compulsory acquisition can progress.

7.3. Protected Structure Status

7.3.1. The protected status of Millbrook House is not questioned or challenged by any party. The conservation principles of care and protection of Ireland's architectural heritage were first introduced under earlier planning legislation which facilitated the listing of significant buildings and the formulation of policies and objectives relating to such structures. These legislative provisions were superseded by the introduction of the Local Government (Planning and Development) Act 1999 and then by "Part IV Architectural Heritage" of the Planning and Development Act 2000. The main features of the 2000 Act (as amended) relevant to this case are:

- a) New responsibilities are given to the owners and occupiers of protected structures to maintain them and planning authorities have additional powers to ensure that buildings are not endangered either directly or through neglect.

- Section 58(1) states that each owner and each occupier shall, to the extent consistent with the rights and obligations arising out of their respective interests in a protected structure or a proposed protected structure, ensure that the structure, or any element of it which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest, is not endangered.
 - Section 59(1) states that where, in the opinion of the planning authority, it is necessary to do so in order to prevent a protected structure situated within its functional area from becoming or continuing to be endangered, the authority shall serve on each person who is the owner or occupier of the protected structure a notice to require works to be carried out in relation to endangerment of protected structures.
 - Section 60(1) states that “works”, in relation to a structure or any element of a structure, includes the removal, alteration or replacement of any specified part of the structure or element, and the removal or alteration of any advertisement structure.
- b) Where a structure is protected, the protection includes the structure, its interior and the land within its curtilage and other structures within that curtilage (including their interiors) and all fixtures and features which form part of the interior or exterior of all these structures.
- Section 2 of the Act states that a Protected Structure means:
 - (a) a structure, or
 - (b) a specified part of a structure,which is included in a record of protected structures, and, where that record so indicates, includes any specified feature which is within the attendant grounds of the structure and which would not otherwise be included in this definition;

- However, for the purposes of the compulsory acquisition of a Protected Structure Section 71(2) states that in Sections 72 to 77, a reference to a protected structure shall be construed to include a reference to any land which:
 - (a) forms part of the attendant ground of that structure, and
 - (b) is, in the planning authority's opinion, necessary to secure the protection of that structure, whether or not the land lies within the curtilage of the structure or is specified as a feature in the record of protected structures

In this regard, the Board will note that the map submitted with the application for the Board's consent to the compulsory acquisition of this Protected Structure, includes Millbrook House and its attendant grounds, extending to a site area of 1.7ha.

7.3.2. As stated previously a full list of protected structures in the county are laid out in Appendix 1 of the current Laois County Development Plan. Millbrook House is protected structure – RPS ref 649 and NIAH Reg 12802342, identified as being of regional architectural importance and is described as follows:

Detached five-bay two-storey Victorian house with dormer attic, dated 1885, built as agent's house with full-height advanced bay to left having box bay window to ground floor. Double-pitched and hipped slate roof, gabled to dormer attic windows, with red clay ridge tiles and yellow brick chimneystack with red brick bands. Yellow brick Flemish Bond walls with red brick plinth and quoins and moulded brick entablature. Square- and segmental-headed window openings, some within box bay windows, with limestone sills, red brick surrounds and single-pane timber sash windows. Red brick doorcase with limestone dressings including pediment and timber panelled door with sidelights and overlight. Interior not inspected. Set back from road in own grounds; landscaped grounds to site; limestone steps to entrance. Detached two-storey rubble limestone coach house to site with red brick dressings.

7.3.3. In light of the above, I am satisfied that the legislation provides that owners of protected structures, including Millbrook House, have a legal duty to ensure that the

Protected Structure is not “endangered”, defined in Section 2 of the Planning and Development Act (as amended) as “exposed to harm, decay or damage, whether immediately or over a period of time, through neglect or through direct or indirect means”. The legal requirement to maintain this Protected Structure is paramount and cannot be set aside. Notwithstanding the submissions of Mr. Colclough and Mr. Campion in relation to the property, the owners in this case have failed to maintain the building, thus allowing it to deteriorate to its current condition.

7.4. Is the acquisition necessary for the protection of the structure?

7.4.1. In considering this issue, the Board will note the submission of the two objectors to the CPO as well as the Condition Assessment and Conservation Recommendations Report prepared on behalf of Laois County Council by AR&R, Architectural Heritage Consultants. There is clearly a divide between the two opinions in terms of the current condition of Millbrook House and what is required in order to prevent further deterioration. In this regard, I refer the Board to page 7 of the AR&R report, which includes a photograph of Millbrook House dated 2002 which shows the house to be in good repair at the time.

7.4.2. The AR&R Report provides an architectural inventory and a statement of significance noting that while the house is now in a poor condition, it retains many features of architectural interest. Section 8 of the report sets out an outline condition assessment and advises that the external fabric of the roof, walls and openings has deteriorated due to a combination of neglect and intentional vandalism. The building is in immediate need of repair to halt decay, to prevent further loss of historic fabric and to stop any further acts of vandalism or arson. The report provides a list of issues in relation to the house requiring attention and repair under three headings including Roof, Elevation and Openings.

7.4.3. Section 9 of the report sets out the Conservation Recommendations and the aims of conservation of Millbrook House, advising that the conservation works are to be guided by the internationally accepted conservation principles and the government published Advice Series on architectural conservation. It is further advised that in the interest of preserving the existing historic fabric and character of

the house, conservation works must be carefully specified and sensitively carried out. It is important that the conservation principles of minimum intervention, maximum retention of existing fabric and the repair with like-for-like materials be adhered to during the conservation project.

7.4.4. As the building is a protected structure, the owners are legally required to ensure that Millbrook House and structures within its curtilage are not endangered through neglect or intentional damage. Having undertaken a site inspection, and notwithstanding the submission of the objectors, I am satisfied that Millbrook House has been neglected to the point that it has become significantly endangered, requiring essential repairs relating to a number of aspects of the building, as described in the AR&R Report.

7.4.5. There is no question but that the house has been vacant for a considerable time and as noted on the day of site inspection has fallen into disrepair. I would not accept the opinion of the objectors which suggests that the works required are minimal and inexpensive, and most certainly, Millbrook House is not in a habitable condition. It was not evident on the day of site inspection that any of the works listed in the Section 59 Notice had been carried out to ensure satisfactory remediation of the state of the structure. In addition, the objectors do not appear to have engaged with Laois County Council at any point during the Section 59 process.

7.4.6. The AR&R Report, sets out at Section 9.5.3 of the report, general conservation repairs and recommendations which include promotion of ventilation, services, respecting the setting, recording of works, using like-for-like materials, mortars, minimum intervention and maximum retention of materials and using skilled professionals including supervision by an RIAI accredited Grade One Conservation Architect. In addition, a number of interim measures are recommended in order to secure the site, measures to prevent further loss of the structural fabric and internal features and keeping the building in use. A management plan for Millbrook House is required and finally, the report notes that Laois County Council have the powers to enforce the conservation of Millbrook House, which includes requiring the owners to carry out the works or by acquiring the property by means of CPO. I consider that this approach to conservation best practise is wholly appropriate.

7.4.7. It is my view that without immediate and appropriate intervention, particularly with regard to the roof and windows, this building is at risk of becoming further derelict and endangered.

7.5. Future Risk

7.5.1. The protection of Protected Structures is supported by policies and objectives set out in the Laois County Development Plan 2017-2023. Chapter 7 of the Plan deals with Heritage and the following policies are considered relevant:

It is an objective of the Council to:

- **OBJ1:** Encourage the understanding of, access to and promotion of County Laois' historic architectural heritage and archaeological heritage;
- **OBJ4:** Protect all structures listed in the Record of Protected Structures, that are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical character or interest in County Laois;
- **BH1:** Protect structures or parts of structures of special interest or character by maintaining a Record of Protected Structures (RPS) (see Appendix 1), structures which form part of this record are afforded special statutory protection;

These policies and objectives are considered reasonable.

7.5.2. As advised above, I consider that without urgent attention, Millbrook House is likely to become further endangered. I am also of the opinion that Laois County Council have afforded the owners adequate opportunity to carry out works to try and provide a minimum level of protection and restoration for the building. I agree with Laois County Council that these measures are necessary in order to prevent the protected structure from continuing to be endangered. However, these works have not been carried out to date.

7.5.3. I acknowledge the submission of the owner in terms of their objection to the CPO and that works have been carried out in the past to protect the house. I further note that owner has 'a plan in place to first protect the property from further

vandalism and theft, and to secondly fully weatherproof the property and finally to restore Millbrook House to the full extent of its former self'. The owner suggests that if he had been aware of the Council's concerns in relation to the condition of Millbrook House, he would have engaged sooner and shared his plans for the property. I also note the indication that the owner has agreed to sell the property to Mr. Campion, with contracts of sale being finalised.

7.5.4. In terms of the above, the owner suggests that he was not made aware of the concerns for Millbrook House and that the Section 59 Notice was not served on him. However, the Council advise that the notice was served by registered post. I also note that the Section 59 Notice was attached to the gates of Millbrook House on the 21st of September 2018 – photographic evidence submitted. I am satisfied that the notice was served and is valid. In addition, I note that no documentary evidence has been provided by the owner with regard to the plan for the property as advised in his objection, and no schedule of repairs as required or timeframe for the works set out in the Section 59(1) Endangerment Notice has been submitted to the Board for consideration.

7.5.5. As the owners have failed to address the situation and in the present circumstances it is reasonable in my opinion for the Planning Authority to seek to compulsorily acquire this property.

7.6. Lawful Occupation

With regard to Section 71(b) as to whether the structure is lawfully occupied as a dwelling house by any person other than a person employed as a caretaker I am satisfied based on my site inspection, and notwithstanding the comments of the owners, the building is unoccupied and is currently uninhabitable.

7.7. Conclusion

7.7.1. I am satisfied that Millbrook House, protected structure, has fallen into serious disrepair. I am also satisfied that the owners have been afforded an appropriate opportunity and reasonable time period for the completion of schedule of works set

out in the Section 59(1) Notice, dated September 2018. I consider that the works outlined in the Section 59 Notice are both reasonable and necessary. It is unfortunate that no substantive works would appear to have been carried out in compliance with the notice and that no substantive evidence to suggest that the work will be carried out as a matter of priority has been provided to the Board. Following my site inspection, and comparing photographs taken during 2019, it appears to me that further damage / vandalism has taken place at the house, with timbers and furniture having been removed from the house and dumped to the rear, since the issuing of both the Section 59 Notice in September 2018 and the CPO Notice in October 2019.

7.7.2. Therefore, having regard, to the information available on the file and the continued appearance and condition of the property, I consider that the Planning Authority's application for consent to compulsory purchase the Protected Structure as defined in Section 72(2) of the Act (as amended) and as outlined in red on map received by the Board on 24th of December 2019 is necessary for the purposes of the protection of the structure and to protect it from further endangerment. Therefore, it is recommended that the local authority's application for consent to compulsorily acquire Millbrook House, Abbeyleix Demesne, Abbeyleix, Co. Laois is granted.

8.0 Recommendation

Having regard to the observed and documented condition of Millbrook House, Abbeyleix Demesne, Abbeyleix, Co. Laois, a protected structure of regional architectural importance, urgent measures are considered necessary for the protection of the structure and in order to prevent this protected structure from continuing to be endangered.

It is considered necessary for the protection of the protected structure that the planning authority compulsorily acquire the protected structure. It is recommended, therefore, that the Board grant consent to Laois County Council to compulsorily acquire the protected structure subject of the compulsory acquisition notice.

9.0 Reasons and Considerations

Having regard to:

- (a) The submissions on file
- (b) The observed and documented endangered condition of Millbrook House, Abbeyleix Demesne, Abbeyleix, Co. Laois, a protected structure of regional architectural importance
- (c) Non-compliance with the schedule of works set out in the Section 59(4) Notice issued by Laois County Council to the owners on 21st of September 2018
- (d) The Laois County Development Plan 2017-2023
- (e) The Architectural Heritage Protection Guidelines for Planning Authorities (2011)
- (f) The National Inventory of Architectural Heritage
- (g) The report and recommendation of the inspector appointed by the Board to consider the matter

It is considered that urgent measures are necessary in order to prevent this protected structure from continuing to be endangered and therefore the acquisition of the protected structure, as defined in Section 72(2) of the Act (as amended) and as outlined in red on map received by the Board on 24th of December 2019, by the planning authority is necessary for the purposes of the protection of the structure. It is also considered that the objections made cannot be sustained having regard to the said necessity.

A. Considine

Planning Inspector

24th April 2020