



An
Bord
Pleanála

Inspector's Report ABP-306448-20

Nature of Application

Application for consent for compulsory acquisition of a derelict site in accordance with Section 14 of the Derelict Sites Act 1990, as amended

Location

Ancillary buildings and structures to Fuller's Folly, Bridge Street, Newcastle West, Co. Limerick

Local Authority

Limerick City and County Council

Notice Party

Tom Dooley

Date of Site Inspection

8th May 2020

Inspector

Mary Kennelly

1.0 Introduction

- 1.1. This case relates to a request by Limerick City and County Council for the consent of An Bord Pleanála to the compulsory acquisition of the subject site at Fuller's Folly, Bridge Street, Newcastle West, Co. Limerick, in accordance with the provisions of the Derelict Sites Act, 1990, as amended.

2.0 Site Location and Description

- 2.1. Newcastle West is the main County town outside of Limerick City. It is situated approx. 45km to the south west of Limerick City, on the N21, which is the main road to Tralee/Killarney. The N21 runs through the centre of the town and accommodates a large proportion of the shops and amenities of the village. This road is heavily trafficked and forms part of the main tourist route from Limerick to Killarney. The town has an important tourist role and includes many notable features of heritage value, including Desmond Hall and Great Hall, which is a medieval castle complex and is a National Monument and a major tourist attraction.
- 2.2. The application site is situated in the centre of the town and forms part of the Desmond Hall/ Great Hall complex. It is in a prominent location next to the Arra River on lands to the rear of Bridge Street and is highly visible from the N21. The Desmond Hall/Great Hall complex comprises a large medieval two-storey banqueting hall within a substantial complex, which is largely enclosed by a stone wall and gardens along the riverbank. Desmond Hall is described on the Heritage Ireland site as comprising a hall, a vaulted lower chamber and adjoining tower which were constructed in the 15th century, and that the restored medieval features include oak musician's gallery and a hooded fireplace. This imposing building has a prominent presence from the Square. The folly, which was constructed in 1859 is also a 2-storey structure and is located at the eastern end of the complex, behind the buildings that front onto Bridge Street. However, the southern part of the folly directly addresses the river with the stone wall enclosure continuing on either side of it to the west and east.
- 2.3. The subject site forms part of Fuller's Folly, a section of which has recently been renovated by the Local Authority. It consists of two parts, one owned by the Local Authority and the other in private ownership. The section in public ownership is quite

small relative to the rest of the folly site, and comprises a rectangular shaped 2-storey stone structure (tower) with windows and 2 doors, one of which opens onto the grassed river bank and the other to open lands behind the stone wall. It is very prominent and directly addresses the river and this section has been restored. The remaining section (in private ownership) comprises a second 2-storey tower which is separated from the restored section by a single storey wall or structure with a gate inset and is in a poor state of the repair. The latter 2-storey structure has stone parapets with embattlements on three sides, and on the open side (facing the restored 2-storey section) a slated, pitched roof has been inserted.

- 2.4. The site of the proposed compulsory acquisition incorporates the privately-owned part of the folly itself along with ancillary structures and a garden area, all of which are located to the rear (west) of one of the properties on Bridge Street (McCarthy Insurance). This property is owned by the Notice Party, Mr. Tom Dooley, and is outlined in blue on the map attached to the Notice at Appendix 1. It can be seen from photographs on the file and from Google Streetview, that there is a concrete out-house structure at the rear of Mr. Dooley's house which is separated from the folly by a lane of c.3m. The remainder of Mr. Dooley's lands, i.e. the site proposed to be acquired, is shown in red. It includes the two-storey part of the folly, the land linking the two tower structures and a large area of enclosed grounds to the rear of the towers. This appears to be a large overgrown garden area enclosed by the stone wall of the medieval complex to the west of the stone structures, and directly abuts the main medieval castle complex to its north. It is stated that the said property and surrounding land is in a ruinous and derelict condition.
- 2.5. Fuller's Folly is a Protected Structure (RPS Ref. 1488) and the Ancillary buildings and structures to the Folly are also Protected Structures (RPS Ref. 1489). The site is also within the zone of archaeological potential for the historic core of the town of Newcastle West (Recorded Monument LI036-067001). There are several other Protected Structures in the vicinity including Templar's Castle (RPS 1482), Castle House (RPS 1483) and Part of the walls of the Keep of Desmond Castle (1490), which form part of the site enclosure to the south.
- 2.6. On the date of my site inspection, the property was secure with notices on the gate to the rear (western) section. The exterior walls remain intact, but half of the roof of the insert structure is missing and many of the windows are either missing, boarded

up or broken. The first floor and stairs are no longer present. Many of the remaining slates are broken and the internal walls are exposed to the elements. Part of the lead flashing is still attached to the interior gable wall. The external stonework appeared to be in reasonable condition but there are significant levels of vegetation growing on the walls and over the castellations. Guttering and down pipes were missing or broken with vegetation growing out of them. The castle-keep walls along the southern boundary (which bound the riverside walkway) have vegetation growing over the top. It was not possible to view the interior of the structure or the enclosed garden area. However, photographs of these areas were enclosed with the planning authority's report and it was clear from the external views that the structures are still in a state of dereliction.

3.0 Application for Consent for Acquisition

3.1. Limerick City and County Council has applied to the Board for consent to compulsorily acquire the site under section 14/16 of the Derelict Sites Act, 1990, as amended. I note that this application is subsequent to the serving of notices under section 8(2), on 21st June 2019, (i.e. advising of the Local Authority's intention to enter the site on the register of derelict sites), and under section 8(7), on 15th October 2019, (i.e. advising of the Local Authority's decision to enter the site on the register of derelict sites). A Section 15 notice was issued on 14th November 2019 stating that the site has been entered onto the Register of Derelict Sites.

4.0 Application and Objection

4.1. Notice of Intention to Acquire

4.1.1. Notice of Limerick City and County Council's intention to acquire the site compulsorily was served on the owners/occupiers (Mr. Tom Dooley) in letters dated 21st June 2019 and was published in the Limerick Leader newspaper on the 16th November 2019. The site was described as follows in the notices:

- A derelict site comprising of 'Ancillary Buildings and Structures to Fuller's Folly', Bridge Street, Newcastle West, Co. Limerick. The said property and surrounding land are in a state of dereliction. The said derelict site is more

particularly shown outlined in red on map bearing reference no. DS-053-19 in the Derelict Sites Register established and maintained by Limerick City and County Council under Section 8 of the Derelict Sites Act 1990.

4.1.2. I consider that the notices were in accordance with the requirements of section 15(1)(a) of the Derelict Sites Act 1990, as amended.

4.2. **Objection to Acquisition**

4.2.1. An objection to the proposed acquisition was submitted to Limerick City and County Council by PJ McMahon, on behalf of Mr. Tom Dooley in a letter dated 6th December 2019. It was advised that the property had been acquired by the current owner on the 28th October 1983. In the intervening years, no notices have been issued and no steps were taken by the local authority to restore the property. The objection can be summarised as follows:

- The property is of considerable amenity and utility value to the current owners given that there is no garden associated with the house and as the owner is confined to a wheelchair (89 years old).
- Details of the state of dereliction are not clear and are based on an external inspection only, which would not have allowed a full appreciation of the property. The owner was not given adequate information regarding the works necessary to remediate the property. Neither was the owner given any opportunity to consider carrying out any such works to avoid the designation of the property as derelict.
- The property forms part of Fuller's Folly which was constructed in the 1870s and is on the Record of Protected Structures (PPS 360). Most of the site that is being described as 'derelict' is in fact part of a garden and any remedial works would have to be undertaken with great care. However, the owner was not given the opportunity to do so.
- The Local Authority purchased part of the folly in 2017 and now wants to purchase the remainder of the folly. It is submitted that the portion purchased by the Council is very limited in space and potential and that the purpose of

the acquisition is to enhance the development potential of the section already purchased.

- Inadequate time was given following the service of the Section 8(2) notice (21/06/19) to enable an adequate response. Only one month was allowed and prior to the expiry of this period, the Council had formed “a precipitate and inflexible view that it would confirm [the site] on the Derelict Sites Register. This was explicitly stated in an email from Gordon Daly to Audrey Crowe on 8th July 2019”. Thus, it is claimed that the view was formed before the email was sent.
- Information on the file – it is claimed that representations were made to the Council which were never made known to the owner, and in relation to which he was never given the opportunity to respond. Photographs were attached to the Notice which were not included in the inspection report or in the original decision to designate the site as derelict.
- The owner wishes to carry out works but restoration of the property will take a considerable and careful effort which will require great sensitivity due to its protected status and the fact that it forms part of a medieval complex. The owners are willing to engage with the Council to identify what works are required and to carry out such works. However, the Council must first indicate what works are required. The owner would then be in a position to appoint an engineer and appropriate professionals to progress the matters.

4.3. Local Authority’s Application for Consent

4.3.1. The Local Authority requests the consent of the Board to the compulsory acquisition of the derelict site. The application for consent was submitted on 16th January 2020 and was accompanied by the following:

- Local Authority Compulsory Acquisition Report which sets out planning authority’s strategic approach to derelict sites in the city and county, a description of the site, the background to the case and the details of the objection. The report included photographs and a map of the site area.

- Copy of the section 15 Notice served on the owners/occupiers of the site, dated 7th November 2019.
- Copy of the newspaper notice, dated 16th November 2019.
- Copy of objection made by PJ McMahon, dated 6th December 2019.
- Memo from Senior Executive Engineer to Planning Department dated 14th January 2020.
- Memo from Valuation section of L.A. dated 14th January 2020.
- Copy of a letter from the L.A to the current owner dated 8th June 2018.
- A set of photographs of Fuller's Folly taken in the late 1980s.
- A set of photographs of Fuller's Folly taken by the Conservation Officer (LCCC) on 28th September 2011.
- Internal office Memo (LCCC) dated 6th November 2019 outlining the history preceding the entering of the property on the Derelict Sites Register.
- Authorised Inspection Report by Joseph Devine dated 6th November 2019 setting out the remedial measures required to remedy dereliction. This was accompanied by a map and a further set of photographs.

4.3.2. The **Derelict Site Report** can be summarised as follows:

- Limerick City and County have established a specialised 'Dereliction and Vacancy Team' to take an area-based collaborative approach to addressing vacancy and dereliction in Limerick City and in the towns and villages in the County. The team focuses on bringing derelict and vacant sites back into use, particularly in area of high housing demand, town and village centres and the historic core of the City. They seek to work proactively with property owners, with timely actions and improvement of sites through positive engagement. It is stated that the powers under the Derelict Sites Act, 1990 are used only where necessary, where all reasonable alternatives have been exhausted.
- The property is located in the centre of Newcastle West, adjacent to the river and the (N21), which is a key tourist route and is heavily trafficked. It is therefore in a prominent location and is highly visible from this tourist route. The town is designated as a Key Town in the County and Southern Region.

The Local Authority has been working with various groups to develop the town as a tourism hub for West Limerick. The Council's overall strategy on dereliction and vacancy forms a key part of this initiative, particularly in relation to the tourism potential of Newcastle West's historic town centre. The site backs onto and forms part of the extensive grounds of the restored Desmond Hall Complex, which is the town's most important tourist attraction, which now attracts 15,000 visitors per annum.

- Fuller's Folly is within the curtilage of the Desmond Hall and Great Hall Medieval Castle Complex, which is a National Monument. The Local Authority has been working with the OPW to ensure conservation of the buildings and surrounding area. It purchased the front portion of the folly in November 2017 and has invested in conservation works.
- Fuller's Folly is a Protected Structure Ref. RPS 1489. The ancillary buildings and structures to the folly were constructed in 1859 and are adjacent to the nearby restored Medieval Desmond Hall and Castle complex. The property comprises two parts, each of which is a 2-storey stone structure. The front portion was purchased and recently renovated by the Council. The rear portion is the subject of the compulsory acquisition and is currently open to the elements. The timber roof structure is partially collapsed along with the internal first floor and stairs. All the windows and doors are missing along with sections of the guttering and there is significant vegetation growth throughout the site.
- The land detracts to a material degree from the character and appearance of the land in the neighbourhood of the land because of the existence of structures, which are in a ruinous and derelict condition, the neglected objectionable condition of the land and the presence of debris.
- The site was first inspected by the Conservation Officer in 2011 when the Council became aware of the state of deterioration. The site then came to the attention of the Council following the purchase of the front portion of the folly in 2017. There were several attempts during 2018 to engage the owner informally in discussions with regard to the property. However, it was made

clear that the owner had no interest in accepting an offer and that there was no indication that remediation works of any kind would be undertaken.

- Following a further inspection on 10th June 2019, the Local Authority decided to issue a Section 8(2) notice on the 21st June 2019 of its intention to enter the property onto the Register of Derelict Sites. It is stated that an objection was received from the owner's solicitor on the 10th July 2019 requesting that the notice be revoked, and that confirmation be given that the land would not be entered onto the Derelict Sites Register. However, a copy of this letter has not been forwarded to the Board.
- A Section 8(7) notice was served on the 15th October 2019 to advise that it had entered the land onto the register. It is stated that as no efforts had been made to take the property out of dereliction, a Section 15 Notice of intention to acquire the property compulsorily under the Derelict Sites Act 1990 was issued on 14th November 2019.
- An objection to this notice was submitted by PJ McMahan Solicitors, The Square, Newcastle West, Co. Limerick on behalf of the owners on 6th December 2019, (as summarised in 4.2 above).
- In the L.A.'s response to the objection, it is stated that there is no evidence that the building in question is used for any purpose by the owner or is of any material benefit to the next-door property. It is confirmed that the owner will retain access to the laneway to the rear of the property.
- It is claimed that the L.A. had offered to engage with the owner regarding works on several occasions, but without success. The L.A. states that it has evidence that the property has deteriorated significantly since it was purchased by the current owner in 1983.
- Notwithstanding the fact that the property has been in his ownership for 37 years, there is no evidence to suggest that the owner ever attempted to carry out remedial works. In 2011, the Conservation Officer inspected the site, took photographs and gave advice to the owner regarding maintenance. Thus, the owner has had every reasonable opportunity to consider a course of action and attempt to remediate the property. The length of time in ownership is not a valid basis for an objection under the Derelict Sites Act.

- The Local Authority has no option but to take action under the Derelict Sites Act and intends to pursue the compulsory acquisition of the derelict site.

4.4. Objector's Submission

A submission was made to the Board by PG McMahon Solicitors on 12th February 2020 (by email) in response to the Section 15 Notice. It was stated that the property was acquired by the current owner on the 28th October 1983 and that very little has changed since it was purchased. He is an elderly man with deteriorating health and the property is of sentimental value. The purpose of buying the property was to provide a garden for his young children at the time because his own home had no garden. Much of the objection reiterates the points made in the objection to the planning authority on 6th December 2019, which have been summarised at 4.2 above. The additional points made in the objection to the Board may be summarised as follows: -

- **Motivation of the L.A.** – following the purchase of the adjoining property, the L.A. made it clear that its motivation for progressing the owner's lands as derelict was to realise the full potential of the folly. It is submitted that as the L.A. has failed in its attempts to purchase the site from the owner, it has now utilised the Derelict Sites Act to forcibly acquire it. The L.A.'s interest is to enhance the development potential of its own property.
- **Visibility from N21** - The site is not high profile and is located behind the front portion of the folly and behind Bridge Street. It mainly consists of a garden area which is enclosed behind a high stone wall and is not visible from either the N21 or Bridge Street. The buildings that are described as derelict are comprehensively surrounded by other buildings. It is therefore rejected that the property is having a detrimental effect on the neighbouring properties or that it detracts from the area.
- **Works required** – the owner accepts that works would be required to bring the property back into use but states that he is not currently in a position to have them carried out.

- **No necessity for compulsory purchase** – There is no necessity for the local authority to compulsorily acquire the site and it is requested that the Board do not accede to the application.

No further correspondence has been submitted.

5.0 Planning History

5.1. Application Site

5.1.1. I am not aware of any relevant planning history on the site.

5.2. Surrounding Area

5.2.1. I am not aware of any recent relevant planning history in the surrounding area.

6.0 Policy Context

6.1. Development Plan

6.1.1. The applicable Development Plan is the Limerick County Development Plan 2010 – 2016 as extended. Chapter 3 of the Plan sets out the settlement strategy. Newcastle West is designated as a **Tier 2 – Key Service Centre** in the Settlement Hierarchy (3.1). The overall strategy is to encourage development to locate within the development envelope of towns and villages. Relevant policies include **SSP7** which seeks to promote Newcastle West as one of two key service centres, to promote sustainable growth and to act as a primary focus for investment.

6.1.2. Chapter 4 sets out the policies and objectives relating to housing. Section 4.8 relates to Regeneration of Vacant and Derelict Sites. Relevant objectives are as follows:

HOU O17 – to use its powers under the Derelict Sites Act to acquire and secure the redevelopment of derelict sites.

HOU O18 – to promote the re-utilisation of suitable redundant or obsolete structures in appropriate cases.

6.2. Newcastle West Local Area Plan 2014 extended to 2024

6.2.1. Newcastle West is described as a key service provider in the region and the largest county town outside Limerick City. It is also described as a 'Vibrant Riverside Town' which has a great variety of shops, professional services, commercial operations and manufacturing facilities. It has a wide range of commercial, retail, social and civic functions and also has an important role as a tourism provider. There are 67 Protected Structures in the town and the core of the town is a Recorded Monument (LI036-067001) – classified as a Historic Town.

6.2.2. Relevant policies and objectives included the following:

ED6 – Enhance the tourism potential of the town

EH1- ensure the protection of the archaeological, architectural, natural and built heritage of Newcastle West in the interest of sustainable development.

EH2 – objective to protect structures that have been entered onto the RPS and to encourage their appropriate re-use and restoration. The Council shall resist:

- a) Demolition of a Protected Structure in whole or in part.
- b) Removal or modification of features of architectural importance
- c) Development that would adversely affect the setting of the Protected Structure

Section **10.2** addresses **Derelict and Vacant Sites**, which are described as having a detrimental effect on the amenity of the town as properties fall into disrepair and are poorly maintained. Section **10.3** addresses the importance of the **Public Realm**. It is described as the quality of an urban space which contributes to a sense of place, pride and uniqueness and has an important cumulative effect on one's impression of the town.

6.3. Derelict Sites Act 1990 (as amended)

6.3.1. The Derelict Sites Act 1990, as amended, makes provisions to prevent land being or becoming a derelict site. Amongst other things, it enables local authorities to require landowners or occupiers to take measures on derelict sites and, in certain circumstances, to acquire derelict sites compulsorily.

6.3.2. Section 3 of the Act defines 'derelict site' as:

“any land...which detracts, or is likely to detract, to a material degree from the amenity, character or appearance of land in the neighbourhood of the land in question because of—

(a) the existence on the land in question of structures which are in a ruinous, derelict or dangerous condition, or

(b) the neglected, unsightly or objectionable condition of the land or any structures on the land in question, or

(c) the presence, deposit or collection on the land in question of any litter, rubbish, debris or waste, except where the presence, deposit or collection of such litter, rubbish, debris or waste results from the exercise of a right conferred by or under statute or by common law.”

6.3.3. Section 8 of the Act requires local authorities to establish a register of derelict sites in their functional area and to serve notices on occupiers/owners of their intention to do so. Section 9 places a duty on every owner and occupier of land, to take all reasonable steps to ensure that the land does not become or does not continue to be a derelict site. Section 10 places a similar duty on local authorities to take all reasonable steps, including the exercise of any appropriate statutory powers, to ensure that any land in their functional area does not become or continue to be a derelict site. Section 11 of the Act enables local authorities to serve a notice on an owner or occupier of land, requiring them to take specified measures to prevent land becoming or continuing to be a derelict site. Section 14 provides that a local authority may acquire by agreement or compulsorily any derelict site situated in their functional area. Section 15 sets out arrangements for giving notice, if the local authority intend to acquire a derelict site compulsorily, and section 16 sets out arrangements if the owner/occupier wish to object to the acquisition. Specifically, section 16, as amended, provides that where an objection is made, the derelict site shall not be acquired compulsorily by the local authority without the consent of the Board.

7.0 Assessment

- 7.1. Internal access to the structures was not possible on the date of my site inspection. However, I carried out my site inspection from the public road and from within the laneway at the front and the public riverside walkway to the side of the property.
- 7.2. The property is vacant and has a neglected, unsightly and objectionable appearance from the public road (N21 and the bridge at the bottom of Bridge Street) and the surrounding area. This is due to the fact that the roof is partially collapsed, and the remaining section is in a very poor state of repair with multiple slates missing or broken, and the rafters exposed. There are large crevices in the stonework which is exposed to the elements and there is significant vegetation growth throughout the structure. The first floor of the structure has collapsed and been removed together with the staircase. There are several windows and doors missing and any remaining windows are either broken or boarded up. In addition, the gutters and downpipes are broken or missing. The stonework and plastered walls are now exposed, with parts of the flashing where the roof collapsed still in place. There is vegetation growing out of the walls, roof and guttering. The keep-walls and area enclosed within these walls are in an overgrown state with semi-ruinous structures, as evidenced by the photographs taken by the Conservation Officer in 2011.
- 7.3. The structures form part of the historic structure known as Fuller's Folly, which in turn is an integral part of the medieval Desmond Castle complex. This is a significant historic part of Newcastle West's cultural heritage and is a major tourist feature in the town and within the region, which attracts approx. 15,000 visitors per annum. It is situated on the public walkway alongside the picturesque River Arra which flows through the centre of the town and is situated on South Quay which runs parallel with the N21. Although located to the rear of Bridge Street, the structures are visually prominent from the surrounding area and positively contribute to the public realm in the vicinity of the site. The fact that the local authority has purchased and restored the southern tower of the Folly accentuates the derelict and neglected state of the northern tower and the section to the rear. The objector claims that the local authority's motivation to compulsorily purchase the property is merely to restore/improve the value of its own property, which it has refurbished, and to expand the area available in order to enhance its development potential.

- 7.4. I do not accept this argument as the Development Plan and Local Area Plan emphasise the importance of protecting the built heritage of the town, and the Protected Structures in particular, as well as maintaining the quality of the public realm and avoiding dereliction in the interests of the sustainable growth and development of the town. Objective EH2 of the Newcastle West LAP seeks to protect protected structures and encourage their re-use and restoration and discourages demolition, removal of features and development that would adversely affect its setting. At 10.2 of the LAP it is stated that high vacancy rates have a detrimental effect on the amenity of the town as properties fall into disrepair and are poorly maintained. It states (at 10.3) that the quality of an urban space contributes to a sense of place, pride and uniqueness and has an important cumulative effect on one's impression of the town, but that the quality of the public realm can be depleted and negatively affected by matters such as vacancy, neglect and dereliction.
- 7.5. The external walls of the tower and castellated elements appear to be generally in reasonable condition with no obvious cracks, albeit with vegetation growing on and out of the walls. However, the fact that the internal structure is in a state of collapse with clear evidence of having fallen into a state of serious disrepair, together with a range of poorly maintained elements, such as the significant vegetation growth, lack of windows, doors, broken gutters, downpipes, etc., are matters of great concern. It is further noted that the photographs from 2011 show damage to and deterioration of part of the structural stonework. The majority of the structure is also exposed to the elements and there is documented evidence that the situation has persisted for at least a decade. The owner has advised that no works have been carried out to the structure in the recent past and it is likely, therefore, that the buildings and structures that comprise this Protected Structure have continued to deteriorate in the intervening period.
- 7.6. The owner claims that the site it is of sentimental and functional value to him as he had purchased it 37 years ago in order to provide a garden for his children to play in, as there is no garden to the rear of his dwelling house on Bridge Street. It is stated that the structures have not changed much in the meantime, that the Local Authority has never specified what works were required to be carried out. In the letter of objection to the Local Authority (6/12/19) it was stated that he was seeking a reasonable time to be allowed in which to carry out any works specified by the Council.

However, in the letter to the Board (12/02/20) it was stated that whilst it is accepted that works would be required to bring it back into use, he is not in a position at the moment to carry out such works. However, the local authority considers that the site is of no material benefit to the owner and that despite owning it for 37 years, has never carried out any works to remedy the dereliction, despite having ample opportunity to do so.

- 7.7. It is clear that the conservation and heritage value of the buildings and structures on the site is of considerable importance and that there is an urgent need for remedial restoration works to be carried out. The L.A. has advised that the matter first came to its attention in 2011, when the Conservation Officer inspected the site, took photographs and, it is stated, advised the owner with regard to maintenance. However, there is no evidence of any efforts having been taken by the current owner to address the vacancy and dereliction. The Local Authority has stated that it has made efforts on several occasions to engage with the current owner and more recently with a view to purchasing the property by agreement. However, the current owner indicated that he had no wish to sell the property. I would agree with the local authority that the owner has had every reasonable opportunity to consider a course of action and attempt to remediate the property, but has not done so during the considerable length of time that it has been in his ownership.
- 7.8. The property is clearly visible from the public roads surrounding the site, including the N21 and the bridge at the bottom of Bridge Street. The properties in the immediate vicinity appear to be well maintained and the town in general has an attractive appearance. The public realm is well cared for and the area adjoining the river is very picturesque. The Desmond Castle complex, with its attendant grounds, has an imposing presence and the keep walls and associated stone structures are an attractive and integral part of the built fabric of the town. These features combine to create an attractive urban space and amenity area between the river and the castle which has a distinctive character which contributes to a unique sense of place and adds to the attractiveness of the town. Having regard to the foregoing, I therefore consider that the application site, by reason of its poor state of repair and dilapidated condition detracts to a material degree from the amenity, character and appearance of land in the vicinity.

- 7.9. Having regard to the description of the property set out above, I would consider that the site falls within category (b) of section 3 of the Derelict Sites Act, 1990 due to the land and structure being in a neglected, unsightly and objectionable condition. With regard to category (a), this relates to structures which are in a ruinous, derelict or dangerous condition, having inspected the site and the documentation on file, including photographs, I consider that there is evidence that the structure is in a dangerous condition. It could also be considered ruinous, as half of the roof is missing, some of the remaining roof rafters are exposed, loose slates are sitting on the roof slope and crevices have developed in the stonework. There was no litter within the application site that was visible from the lane or any evidence of waste being stored externally. It is not considered, therefore, that the site falls within category (c) of section 3 of the Act. In conclusion, I consider that the property demonstrably detracts from the amenity, character and appearance of land in the vicinity of the site, which in my view, renders it derelict under section 3 of the Act.
- 7.10. I note the actions of the Local Authority and the statutory notices served on the owner/occupier in respect of the building. Section 8(2) notices were served on the owners on 21st June 2019, advising of the Local Authority's intention to enter the site on the Derelict Site Register. Section 8(7) notices were subsequently served on 15th October 2019, advising the owners that the site had been entered on the Derelict Sites Register. Finally, section 15(10)(a) notices were served on 14th November 2019 and published in the Limerick Leader Newspaper on the 16th November 2019 regarding the Local Authority's intention to acquire the site compulsorily.
- 7.11. I note the objection made on behalf of the owners on the 6th December 2019 to the proposed acquisition of the site, stating that the property is owned by an elderly man who had purchased it some 37 years ago to provide a garden for his family, and that it is still of considerable amenity value to him. It is not accepted that the property is high profile, highly visible or that it detracts from any other property in the area. The objection relates to the claim that the owner wishes to carry out works to the property so as to ensure that it would not become or continue to be a derelict site, but as it forms part of a Protected Structure, any such works would need to be carried out sensitively and be approved by a Conservation Officer. It was requested that the owner be allowed a reasonable time to carry out such works, which should first of all be specified by the local authority. However, I also note that the local authority has

attempted to engage with the owner on several occasions and that the local authority believes that the property has deteriorated significantly in the time that it has been in the ownership of the Notice Party and that there had been ample opportunity to carry out such works. The submission on behalf of the owner to the Board (12/02/20) stated that the owner is not currently in a position to have these works carried out.

7.12. I consider the site to be highly visible and that it detracts from properties in the vicinity. I also note that the property has been secured with a boarded-up gate. Having inspected the site, there is no evidence of any attempt to render the site non-derelict and the property remains in a neglected and unsightly condition, and in a ruinous and dangerous state. I therefore consider that the site remains in a derelict condition.

7.13. Having regard, therefore, to all of the information available on the file and the continued appearance and condition of the property, which as stated constitutes a derelict site, I consider that it is appropriate that the Local Authority's application for consent to compulsorily acquire the site at Fuller's Folly, Bridge Street, Newcastle West, Co. Limerick is granted.

8.0 Recommendation

8.1. Having regard to the observed condition of the application site, in particular the neglected, unsightly and objectionable state of the land and the structure thereon, I consider that the site materially detracts from the amenity, character and appearance of land in the neighbourhood and is therefore a derelict site within the meaning of Section 3 of the Derelict Sites Act, 1990, as amended.

8.2. I consider that it is reasonable that the Local Authority seeks to compulsorily acquire the land, as provided by section 14 of the Act. I recommend, therefore, that the Board grant consent to Limerick City and County Council to compulsorily acquire the site.

9.0 Reasons and Considerations

9.1. Having regard to the neglected, unsightly and objectionable condition of the site, and to the structures which are in a ruinous and derelict condition, it is considered that

the site detracts to a material degree from the amenity, character and appearance of land in the neighbourhood and, therefore, comes within the definition of a derelict site as defined in sections 3 (a) and 3 (b) of the Derelict Sites Act, 1990, as amended, and that the acquisition of the site by the local authority is necessary in order to render the site non-derelict and to prevent it continuing to be a derelict site. It is also considered that the objection made cannot be sustained having regard to that said necessity.

Mary Kennelly

Senior Planning Inspector

27th May 2020