



An
Bord
Pleanála

Inspector's Report ABP-306558-20

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

Barry's Thatched Cottage, Church View, Adare, Co. Limerick

Local Authority

Limerick City and County Council

Notice Party

Chris & Elaine Davidson

Date of Site Inspection

8th May and 26th 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 Barry's Thatched Cottage, Church View, Adare, Co. Limerick, in accordance with the provisions of the Derelict Sites Act, 1990, as amended.

2.0 Site Location and Description

- 2.1. Adare is a small town which is approx. 18km to the south west of Limerick City, on the N21, which is the main road to Tralee/Killarney. The village has developed in a linear fashion along the N21 which accommodates the majority 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 village forms part of Adare Architectural Conservation Area. It is a very picturesque village and includes many notable features of heritage value, including Adare Manor, the Dunraven Arms (formerly part of Dunraven estate), a row of 19th Century thatched cottages and Holy Trinity Abbey Church.
- 2.2. The application site is situated in the centre of the village and forms part of the row of thatched cottages at Church View, which is opposite Holy Trinity Abbey Church. It is described in the notice as an end-of-terrace four-bay single-storey thatched house known as Barry's Thatched Cottage, Church View, Adare. It is stated that the said property and surrounding land is in a state of dereliction.
- 2.3. The cottage is at the end of a terrace of four such cottages, which in turn forms part of a group of approx. 12 thatched cottages on the southern side of the main road. The cottages were constructed in the 1820s and it is stated in the submissions that they had replaced a previous group of cottages outside Adare Manor. The group of cottages is quite distinctive and forms a significant element of the streetscape in this picturesque tourist village. It is a Protected Structure RPS Ref. 864 and is within the Adare ACA. The site is also within the zone of archaeological potential for the historic town of Adare. The hipped and thatched roof of the cottage was destroyed by fire in June 2015 together with the interior of the structure and it is currently vacant and in a derelict state.

- 2.4. On the date of my site inspection, the property was secure with a solid metal hoarding erected around the perimeter of the site facing the N21. I was unable to view the site behind the hoarding but was able to view it from the public road and from the private laneway to the rear of the site. The site was secured at the rear by means of a wire mesh fence and a wooden gate with corrugated iron attached and it was possible to see parts of the structure that had survived the fire and remain standing. Most of the exterior walls and some of the interior walls remain, but the roof is missing, and the windows are boarded up. A red bricked chimney stack also remains, which has been partially constructed in concrete block at some stage in the past. Parts of the render had been removed and the paint was peeling off, with vegetation growing on the walls and out of the chimney stack. The cottage walls have been exposed to the elements. There is corrugated iron sheeting over much of the external area at the rear and attached to/supporting roofs of an extension and outbuildings, some of which was rusted and/or cracked, but some of which appeared relatively new.
- 2.5. There is an extension or return at the rear and a further extension to the side (east) of the cottage which are still standing. The main rear return comprises a whitewashed or painted stone structure with a double-pitched roof of slate and a brick chimney. The roof of this structure is in very poor condition with visible bulges and dips as well as missing slates and broken gutters. There is a flat-roofed extension to the eastern side of this return. The second rear extension is to the west of this structure and is smaller. The garden areas, boundaries and the existing hedges and trees were overgrown and in need of maintenance. Part of the front boundary stone wall has been removed, but the pedestrian gate remains together with the rest of the front wall.

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 7th April 2017, (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 9th February 2018, (i.e. advising of the Local Authority's decision to enter the site on the register

of derelict sites). The site was entered onto the Register of Derelict Sites on 9th February 2018. A Section 15 notice was issued on 7th November 2019.

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 (Christopher and Elaine Davidson) in letters dated 7th November 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 an End-of-terrace four-bay single-storey thatched house known as Barry's Thatched Cottage, Church View, Adare, 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-018-16 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 Christopher and Elaine Davidson in a letter dated 26th November 2019. The hard copy was received in the post on 27th November 2019. It was advised that the property had been substantially destroyed by fire in June 2015 but that the current owners did not purchase the property until May 2018. In the intervening three years, no effort had been made by the previous owners to restore the property. The objection can be summarised as follows:

- The owners have been taking active steps in relation to the development of the property since time of purchase.

- A planning application was made on 10th December 2018 for a change of use to a mixed-use including works to restore and extend the property. A Further Information request was made on 8th February 2019 and the P.A. gave an extension of time until 8th November 2019 to respond. Notwithstanding the submission of the response on 1st November 2019, the Local Authority issued a Section 15 Notice of its intention to compulsorily acquire the property on the 7th November 2019.
- Restoration of the property will take a considerable effort which will be very expensive. It will be necessary to carry out the works with great sensitivity due to its protected status.
- The owners have proposed to carry out these works in accordance with the works set out in the planning application and further information, and have erected a hoarding around the site in preparation for the commencement of refurbishment works.

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 23rd 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.
- Letter from HSE Environmental Health 09.10.19
- Copy of objection made by PJ McMahon, dated 26th November 2019.

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 Adare village, on the Main Street (N21), which is a key tourist route and is heavily trafficked. It is therefore in a prominent location. The village forms a critical component of the visitor offering of County Limerick and is renowned as one of Ireland's prettiest villages. The character of the village is derived from the collective of architecture and, in particular, the heritage structures which now blend to create a diverse and attractive Main Street Setting. The level of vacancy and dereliction in the village is minimal.
- The property is a Protected Structure Ref. RPS 864 and is located in the Adare Architectural Conservation Area. The terrace is an unusual example of the English picturesque style in Ireland. They were built outside the gates of Adare Manor at the beginning of the 19th Century to replace a group of earlier cottages. They form a group with the nearby structures of the Dunraven Estate and the adjacent Adare Manor. It is situated opposite the Holy Trinity Abbey church.
- The cottage was substantially destroyed by fire in June 2015, when the hipped and pitched roof was lost, and the interior of the building was severely damaged. What remains today are the exterior walls and a red brick chimneystack. A section of the rubble stone boundary wall was removed sometime after the fire along with the topsoil from the front garden. The cast-iron gate to the pedestrian entrance has survived. It has been derelict for several years. It has an unsightly and very neglected appearance, which detracts to a material degree from the character and appearance of the land in the neighbourhood. Due to the level of dereliction, it is seriously affecting

the picturesque nature of the village. Much of the render on the front elevation has been removed, which has exposed stonework to the elements. The front windows and doors have been secured with plywood sheets and a metal hoarding was erected in December 2019 along the inside of the perimeter boundary wall.

- The adjoining cottage to the west, known as Benson's Cottage, (also protected RPS 865), was also damaged in the fire. However, this cottage was restored in 2016 with the assistance of funding from the Council under the Structures at Risk Fund, the Built Heritages Investment Scheme and a thatching grant.
- The site was first inspected by the Conservation Officer in July 2015 following the fire, but the site was not inspected as a Derelict Site until 25th April 2016. The then owners had engaged with the L.A. regarding conservation grants and in November 2016, it was notified that the ownership of the land had changed. Following the issuing of a Section 29 Notice, the Council was notified that the new owners were Mars Capital Finance and that it was intended to sell the property.
- The Local Authority decided to issue a Section 8(2) notice in April 2017 of its intention to enter the property onto the Register of Derelict Sites and a Section 8(7) notice on 9th February 2018 to advise that it had entered it onto the register. Confirmation was received on 11th July 2018 that the new owners were Christopher and Elaine Davidson. Prior to the serving of a Section 15 Notice, there were several telephone conversations and emails with the property owners about their plans for the property. It is stated that there was little or no engagement by the owners at this time and that an Area Inspector had requested a meeting with the owners at the site, but that this had been refused.
- The market value was determined, and a Section 22 Notice of valuation was issued in December 2018. On the 9th October 2019, the Council received a complaint from the HSE Environmental Health Officer regarding mould growth at the property and its impact on Benson's Cottage (Appendix 1).

- In the absence of any progress to resolve the derelict condition of the property, a Section 15 Notice of intention to acquire the property compulsorily under the Derelict Sites Act 1990 was issued on 7th November 2019.
- An objection to this notice was submitted by PJ McMahon Solicitors, The Square, Newcastle West, Co. Limerick on behalf of the owners on 27th November 2019.
- In the L.A.'s response to the objection, it is stated that it has been actively working to preserve and reactivate this historic property since the fire in 2015. The Conservation Officer had engaged with the previous owners regarding heritage grants that would support remediation works to quickly restore the property. However, there has been little engagement with the current owners.
- In 2019, the property was approved for funding of €28,000 under the DCHG Historic Structures Fund in order to restore it to its original style including the restoration of the thatched roof. The funding was never drawn down and the 2019 Scheme has now lapsed. It is stated that this funding could have been used to protect the property from further water damage and to improve the unsightly condition and bring it out of dereliction. It is therefore considered that every effort has been made to assist and support the owner in bringing the property out of dereliction, including a grant of funding.
- Given the picturesque nature of the property location, the status of Adare as an important tourist destination in Limerick known for its pretty architecture, including thatched cottages, the Council has no option but to take action under the Derelict Sites Act. The Local Authority 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 28th February 2020 (by email) in response to the Section 15 Notice. It was stated that the property was acquired by the current owners on the 4th May 2018 and that it was purchased from Targeted Investment Opportunities ICAV, who had become the registered owners on 12th September 2017. The objection outlined the actions undertaken by

the current owners since the purchase of the lands, which may be summarised as follows: -

- **Clearance of debris** - In May 2018 works commenced immediately to clear the property of waste material, burnt timbers and fire damaged materials. No such works had been undertaken by the previous owners and no action by the L.A. was taken to acquire the property during the three years after the fire.
- **Historic Structures Fund** - The owners had intended applying for a Historic Structures Fund but were unable to do so until planning permission had been granted. An application was lodged in January 2019 but was withdrawn on 13th March 2019. However, a further application was lodged on 30th January 2020 (following grant of planning permission).
- **Section 57 Declaration (P & D Act) 14th March 2019** – the owners applied to the P.A. for a S57 Declaration on 26/10/18 to establish the type of works which it considered would or would not materially affect the character of the PS. It is stated that the S57 works sought would have effectively facilitated restoration of the property, but these works (alone) would have required a substantial commitment of funds. Prior to the issuing of the S57 Declaration, the owners decided to apply for planning permission as they wanted to carry out alterations that went beyond the scope of the works outlined in the Declaration.
- **Planning application Reg. Ref. 18/1197** – application lodged on 10/12/18. This sought a change of use from residential to mixed use (residential and commercial); removal of the existing side and rear extensions; construction of a new side extension for commercial use; and construction of a new rear 2-storey extension for residential use. Following a request for FI on 8th February 2019, an extension of time was granted until 8th November 2019. The Further Information response was made on 1st November 2019. A grant of permission was issued on 10th January 2020
- **Section 59 Notice (P & D Act) served on owners 20th June 2019** – this required the owners to carry out extensive works to the property as provided for in the Section 57 Declaration.

- **Appeal against Section 59 Notice before Newcastle West District Court –** this was appealed on the grounds of unreasonable expense to comply with requirements; the owners had already taken all reasonable steps to prevent the structure from becoming or continuing to be endangered; and the time for compliance was too short. The matter came before the court on 3/09/19 and on several occasions since then but was adjourned pending the outcome of the planning permission. The case stands adjourned until 7th April 2020.
- **Engagement of professional advisers and operators –** the owners have engaged the services of a Conservation Architect, a Structural Engineer, an expert thatcher and a groundworks contractor, (details provided).
- **Preliminary ground investigation works -** No works could have been carried out until the planning permission had been granted and there has been no undue delay. A full height steel hoarding was erected around the site and appropriate construction and safety signage was erected on 9th December 2019. Preliminary ground investigation works are due to commence on 2nd March 2020 in order to progress the detailed works, for which funding has been sought. Works will commence once this funding has been secured.

No further correspondence has been submitted.

5.0 Planning History

5.1. Application Site

- 5.1.1. **18/1197 –** planning permission granted to current owners for (1) change of use from residential to mixed use comprising of commercial and residential; (2) removal of existing side and rear extensions; (3) construction of a new side extension for commercial use; and (4) construction of a new rear 2-storey extension for residential use. Permission was granted for a revised proposal, (as amended on 1st November 20th November and 25th November 2019), with Final Grant issued on 10/01/20.
- 5.1.2. I am not aware of any further relevant planning history on the site.

5.2. Surrounding Area

- 5.2.1. **305349-19** – planning permission granted by Board for alterations and extensions to Fr. Kelly’s Thatched Cottage to the west of the site. Works included repair of thatched roof, chimney, walls and replacement of windows doors and the demolition and construction of an extension.
- 5.2.2. **PL118722** – Board refused planning permission for change of use of Katie’s Cottage from residential to commercial – reason included statement that the proposal would have seriously undermined the integrity and character of the area which constitutes an important tourist attraction in the village and would detract from the amenities of the village.
- 5.2.3. I am not aware of any further recent relevant planning history in the surrounding area.

6.0 Policy Context

6.1. Limerick County Development Plan 2010-2016 (as extended)

- 6.1.1. Limerick County Development Plan 2010-2016 (as extended). Chapter 3 of the Plan sets out the settlement strategy. Adare is designated as a Tier 3 Town Centres on Transport Corridors in the Settlement Strategy for County Limerick. Tier 3 Settlements are described as main centres on transport corridors which will be promoted as secondary development centres for significant future development. They provide a range of employment opportunities and services appropriate to their function, such as secondary and primary schools, childcare facilities, sports grounds and complexes, libraries, Garda Stations, medical centres and a good range of local services. Policy **SSO11** seeks to facilitate sustainable development within these settlements.
- 6.2. **Objective SSP8** seeks to encourage and facilitate sustainable, balanced development and for Tier 3 towns to act as a primary focus for investment in infrastructure, housing, transport, employment, education, shopping, health facilities and community. Other relevant policies and objectives include: -

Policy SSP2 – to support the sustainable development of settlements within tiers 2-6

Obj. SS01 – scale of such development should be in proportion to pattern and grain of existing development.

6.2.1. 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.

6.3. **Adare Local Area Plan 2015-2021 (as extended)**

The site is zoned 'Village Centre' with the objective to protect and enhance the character of Adare village centre and to provide for and improve retailing, residential, commercial, office, cultural and other uses appropriate to the village centre while guiding the development of an expanded and consolidated village centre area. The existing dwelling, 'Barry's Thatched Cottage', is a protected structure (RPS Ref. 864). The site also lies within the Adare Architectural Conservation Area (ACA). Objectives for protected structures and the ACA include:

Objective EH 1: Thatched Structures

It is the objective of the Council to protect and retain the thatched structures while recognising that such an objective may require the adaptation and modifications of the thatched structures, including the construction of extensions. The Planning Authority will require the maintenance of their essential architectural character, retention of features of special interest and respect for the structure's fabric, plan, form and setting. Any development to the thatched structures which would have a significant adverse impact upon their character will not be permitted.

Objective EH 2: Architectural Conservation Area (ACA)

It is the objective of the Council to protect, conserve and where appropriate, enhance the ACA as identified in Map 4.

Objective EH 3: Protected Structures

It is the objective of the Council to protect structures entered onto the Record of Protected Structures, or listed to be entered onto the Record, and to encourage their appropriate re-use and restoration.

Section 4.8 Derelict and Vacant sites – the approach is to seek timely actions and improvements of sites through positive engagement with landowners, using powers under the Derelict Sites Act only where necessary and taking into account -

- a) outstanding planning permissions,
- b) evidence of efforts to address vacancy and dereliction,
- c) security, safety to the public and condition of the site,
- d) the conservation value of the building and requirement for remedial restoration works, and
- e) the feasibility of various actions to make good the site, and find viable uses for the site.

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

6.4.1. 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.

6.4.2. 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.”

6.4.3. 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 house was not possible on the date of my site inspection. However, I carried out my site inspection from the public road and from the laneway to the rear of the site.
- 7.2. The site is vacant and in a ruinous condition as a result of the fire in 2015. It has a neglected, unsightly and objectionable appearance from the public road and the surrounding area, which has been mitigated to some extent by the erection of a metal hoarding. This is due to the fact that the remnants of the building are visible above and behind the hoarding and that the building forms an integral part of a row of thatched cottages which form a set-piece in the centre of this picturesque village. The private lane to the rear is partly residential and partly commercial in use, providing access to individual houses and small businesses. The hoarding does not screen the site from the rear and the derelict and ruinous state of the site is highly visible when viewed from this rear lane.

- 7.3. The submissions on file indicate that the site may formerly have comprised two adjoining cottages which were amalgamated at some time in the past. Photographs submitted by the local authority indicate that the site comprised a substantial cottage prior to the fire, which, together with the adjoining thatched cottages, would have formed an attractive and imposing element in the streetscape. The views from the public road are now of the hoarding with the chimney stack rising above it. The party wall of Benson's Cottage to the west is exposed to the elements and part of the perimeter stone wall has been demolished. The chimney stack consists of concrete blocks below the red brick at the top and there is vegetation growing out of the chimney pot. At the rear, the extensions and outbuildings are generally in poor condition with rusted sheets of corrugated iron covering the remaining stone walls. The rear return with the gable roof is also in poor condition with a roof that has missing or loose slates and evidence of sunken or dipped areas. There is vegetation growing out of the walls, roof and chimney, the windows are boarded up and the guttering is either broken or missing. The rear boundary wall is cracked with paint peeling off and there are weeds growing at the rear of the site.
- 7.4. The location of the site in a prominent position within a formal grouping of thatched cottages, which are extremely well maintained and a source of local and national interest, adds significant weight to the amenity value and importance of the site in terms of its contribution to the character and appearance of the village. Adare is well renowned for its attractive and engaging public realm and the historical and architectural value of its built form. It is situated on a heavily trafficked tourist route to the south-west and the thatched cottages comprise a significant feature in the tourist offering of the village. The rear laneway, although private, is primarily residential and the dwelling houses appear to be well maintained and occupied. Having regard to the foregoing, I therefore consider that the application site detracts to a material degree from the amenity, character and appearance of the surrounding residential area and from the main street of the village.
- 7.5. Having regard to the 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, I consider that there is evidence that the structure is in a

dangerous condition, and that it could be considered ruinous, as the roof is missing and the internal and external walls are exposed. There was no litter within the application site, 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.

- 7.6. 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 7th April 2017, advising of the Local Authority's intention to enter the site on the Derelict Site Register. Section 8(7) notices were subsequently served on 9th February 2018, advising the owners that the site had been entered on the Derelict Sites Register. Finally, section 15(10)(a) notices were served on 7th 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.
- 7.7. The local authority has emphasised that it has been attempting to resolve the situation since it was fire damaged in 2015, and had been working with the previous owners to secure funding to address the dereliction and to prevent further deterioration of the Protected Structure. Notification of a complaint was received from the HSE in October 2019 regarding mould growth in the adjoining property to the west (Benson's cottage – also a Protected Structure). Given the historical and architectural importance of the Protected Structure (and the adjoining Protected Structure), its prominent location on the main street of the village and the status of Adare as a significant tourist destination, and to the derelict, objectionable and neglected state of the property, the local authority remains committed to pursuing the compulsory purchase of the site.
- 7.8. I note the objections made on behalf of the owners to the Local Authority on 27th November 2019 and to the Board on 28th February 2020, in which it was stated that the property was severely damaged by fire in June 2015, but that the current owners did not purchase the site until three years later (May 2018). The actions undertaken by the current owners are set out at 4.4 above. The Board will note that soon after the completion of the acquisition, the owners had proceeded to clear the site of debris; had applied to the P.A. (on 26/10/18) for a Section 57 Declaration to establish

what works could be carried out to the P.S.; had applied for planning permission (Ref. 18/1197) to restore, extend and change the use of the property (on 10/12/18), for which a Final Grant of planning permission was issued on 10th January 2020. The owner has also advised that an application for historic structures funding had initially been made in January 2019 and was resubmitted once planning permission was granted. The site was secured with a high-quality hoarding as soon as planning permission was granted.

7.9. It is noted that the policy of the Local Authority, as expressed in the County Development Plan and in the Adare LAP, is to positively engage with the owners of a derelict site and to avoid using the powers under the Derelict Sites Act only where necessary. I would accept that the L.A. had undertaken many steps, in consultation with the previous owners, in an effort to bring the property out of dereliction, but much of this effort had been expended prior to the completion of the acquisition by the current owners. During the course of the recent planning application for the renovation and extension of the property (18/1197), it is clear that the current owners had fully engaged with the Local Authority. They had responded to the further information request (on 1st Nov. 2019) with revised plans and had made two further unsolicited further information submissions on 20th and 25th November 2019. The owners had engaged specialist advisers with expertise in architectural conservation matters to advise them, and following revisions to the proposed development, the planning authority had decided to grant planning permission on 28th November 2019. Notwithstanding this, in the meantime, the L.A. had issued the Section 15 Notice to compulsorily acquire the site on 7th November 2019.

7.10. Prior to this, the Council had issued a S57 Declaration in March 2019 followed by a Section 59 Notice in June 2019 requiring certain works to be carried out by the owners. This matter is in abeyance in the District Court pending the outcome of the current application for the Compulsory Acquisition of the site. It is considered, therefore, that there is evidence that the owners have actively engaged with the local authority to address the issue of dereliction and that there has not been any undue delay in the process since the completion of the acquisition of the site by the notice parties. Given that there is a current (recently granted) planning permission for the restoration of the site, it is likely that the owners will pursue the restoration project in accordance with that permission in due course.

- 7.11. Thus, whilst the site remains in a neglected and unsightly condition and in a derelict and ruinous state, which detracts materially from the amenity and character of the area to an unacceptable degree, I would accept that the ongoing efforts by the current owners to restore the site and to render it no longer a derelict site, together with the recently granted planning permission for the restoration of the site, should be taken into account in this instance. For these reasons, it is considered that it would not be appropriate to consent to the compulsory acquisition of the site at this point in time.
- 7.12. I would be concerned, however, that the remedial works required to restore the protected structures and prevent any further deterioration on this site, and on the adjoining site to the west, are urgent and should be undertaken without any further delay. Thus, should the recent planning application not be implemented in the near future, the site is likely to remain in a derelict condition and the protected structures could be endangered further. However, I note that the local authority has already taken steps to require certain remedial works to be carried out under Section 59 of the Planning and Development Act 2000 (as amended), which is currently before the District Court, and that it also has powers under Section 11 of the Derelict Sites Act 1990 (as amended) to require the owner to take specified measures to address the dereliction of the property, should this be deemed necessary.
- 7.13. Having regard, therefore, to all of the information available on the file and the continued appearance and condition of the property, it is concluded that the property constitutes a derelict site. Notwithstanding this, it is considered that there is evidence that adequate efforts are being made to bring the property back into use and to render it non-derelict, and that as such, sufficient time should be afforded to the notice parties to conclude these works. It is considered, therefore, that it is appropriate to refuse the Local Authority's application for consent to compulsorily acquire the site at Barry's Thatched Cottage, Church View, Main Street, Adare, Co. Limerick.

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 structures thereon, I

consider that the site detracts to a material degree 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. It is further considered that the acquisition of the site by the Local Authority is warranted in order to render the site non-derelict and to prevent it continuing to be a Derelict Site.

- 8.2. However, having regard to the recent grant of planning permission by the Planning Authority under Reg. Ref. 18/1197 for the restoration and extension of the property and to the ongoing efforts being made by the Notice Parties to bring the property back into use and to address the dereliction of the site, I consider it unreasonable that the Local Authority seeks to compulsorily acquire the land, under section 14 of the Derelict Sites Act. I recommend, therefore, that the Board refuses consent to Limerick City and County Council to compulsorily acquire the site.

9.0 **Reasons and Considerations**

- 9.1. Notwithstanding the current neglected, unsightly and objectionable condition of the site, which detracts to a material degree from the amenity, character and appearance of land in the neighbourhood, taking account of the grant of planning permission on the 10th day of January 2020 for a change of use, restoration and extension of the property under P.A. Reg. Ref. 18/1197, together with the evidence of the ongoing efforts by the Notice Parties to seek to address the issues of dereliction and to bring the property back into use, the Board decided that the acquisition of the site by the local authority is not necessary in order to render the site non-derelict and to prevent it continuing to be a derelict site, and that it would, therefore, be appropriate to refuse consent for the compulsory acquisition of the site.

Mary Kennelly

Senior Planning Inspector

9th June 2020