



An  
Bord  
Pleanála

## Inspector's Report ABP-310712-21

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### 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

The Square, Rathkeale, Co. Limerick

### Local Authority

Limerick City and County Council

### Notice Party

David and Bridget Flynn

### Date of Site Inspections

26<sup>th</sup> October 2021

### 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 The Square, Rathkeale, Co. Limerick, in accordance with the provisions of the Derelict Sites Act, 1990, as amended.

## 2.0 Site Location and Description

- 2.1. Rathkeale is a small town with a population of c.1,500, which is situated approx. 30km to the southwest of Limerick City. The town is located off the N21, which is the main road to Tralee/Killarney. The town includes a range of shopping and commercial facilities as well as several schools, churches, a cinema and a number of housing estates. The site is located at the Square in the centre of town.
- 2.2. The site comprises a 2-storey commercial property with a pitched tile roof which lies behind a parapet on the front façade. It is situated on the southern side of the Square. The building is essentially detached but is joined towards the rear with the established 2-storey residential terrace along the lane to the west, which leads to Bank Place. These houses are occupied and appear to be well maintained. The ground floor of the building has a shopfront on the front façade (northern elevation) with a centrally located window overhead. There is vehicular access to the side (east) of the building which leads to a number of dwelling houses to the rear. A single-storey annexe is attached to the building at the rear, which has been partially demolished. There is also a single storey building to the south (rear) of the site with a caravan parked to the north of this building. The ground between the subject building and the caravan is laid in concrete.
- 2.3. On the date of my site inspection, (26/10/21), the property was secure with the front door and ground floor windows screwed shut. I was unable to gain access to the interior of the shop from the front. However, I was able to access the rear of the property which was open to the elements and was able to view most of the interior. I was also able to view the garden and rear of the building.
- 2.4. The front façade is rendered and painted a dark grey. The shopfront is boarded up on the inside with net curtains and a steel mesh screen on the door. The window on

the first floor is broken and is also boarded up on the inside. The timber panel and window frames are damaged and decaying. The western side elevation to the lane (leading to Bank Place) is painted grey at the bottom and yellow at the top but the paint is peeling off. There are broken windows which are boarded up on this elevation with vegetation growing out of them. The glazing is missing from some of the openings. The pitched roof is prominent in this view from the residential lane leading up the hill from Bank Place. However, the roof has a hole in it with several missing tiles and is in a poor state of maintenance. There is a steel barrier on the footpath adjacent to the side wall. The eastern elevation is rendered and also has boarded up windows. The rear of the property is exposed with building rubble stored behind it.

- 2.5. The front facade appears to be in reasonably good condition apart from the broken and boarded up windows and the timber frame windows which are showing signs of weathering. The paint on the external walls is flaking off and there was moss growing on the roof tiles and vegetation growing out of the gutters, the roof, chimney and some of the windows. The downpipes were either broken or missing. The rear of the property is in a very neglected and exposed state with missing doors and windows and part of the rear wall is missing. Part of the rear annexe appears to have been demolished and the building is exposed to the elements. Some of the rear yard was covered in rubble and debris with a large mound of rubble behind the house.
- 2.6. The interior of the property was in a poor state of repair. The first floor/ceiling was missing as was the staircase. There was debris scattered and stored throughout including security fencing, wooden pallets, gas canisters and domestic storage items. The holes in the roof and missing windows have allowed damp to penetrate. Pipes and wires/cables are hanging from the roof/ceiling and sections of plaster have been removed from the walls.

### **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 4<sup>th</sup> September 2020, (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 30<sup>th</sup> October 2020, (i.e. advising of the Local Authority's decision to enter the site on the register of derelict sites).

## **4.0 Application and Objection**

### **4.1. Notice of Intention to Acquire**

4.2. Notice of Limerick City and County Council's intention to acquire the site compulsorily was issued on 29<sup>th</sup> April 2021 and was published in the Limerick Post newspaper on the 1<sup>st</sup> of May 2021.

4.2.1. The site was described as follows in the notices:

- A derelict site comprising of a two storey, former commercial premises and surrounding land situate at The Square, Rathkeale, Co. Limerick. The said property and surrounding land is in a state of dereliction. The said derelict site is more particularly shown outlined in red on map bearing reference no. DS-062-16 in the Derelict Sites Register established and maintained by Limerick City and County Council under Section 8 of the Derelict Sites Act 1990.

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

### **4.3. Objection to Acquisition**

4.3.1. An objection to the proposed acquisition was submitted to Limerick City and County Council by Casey & Co. solicitors on behalf of the owner on 20<sup>th</sup> May 2021. The objection can be summarised as follows:

- The owners, Bridget Flynn and David Flynn, obtained planning permission to carry out work to the property under Planning Reference 18/35 (in 2018). It is their intention to renovate it in accordance with this permission.
- Due to Covid-19 the owners were unable to commence works. They have been outside of the jurisdiction for most of the pandemic and were unable to return to Rathkeale until recently.

- The owners have now engaged a Building Contractor who is due to commence work on the project.
- A letter from the owners' architect, John Barrett, was attached which confirmed that the financial contribution that was required in respect of the planning permission has been paid (€446.60).

4.3.2. The Local Authority responded to the letter from the owners' solicitor on the 24<sup>th</sup> May 2021 stating that in order to sustain a valid objection to the Section 15 Notice, it would be necessary to submit evidence of the client's title or ownership of the property. An email was received in response from Casey Solicitors which enclosed a copy of the Deed of Conveyance dated 06/11/15 between David Flynn and Bridget Flynn and a previous Deed of conveyance between Stephen McDonnell and David Flynn and Bridget Flynn.

#### 4.4. **Local Authority's Application for Consent**

4.4.1. The Local Authority requests the consent of the Board to the compulsory acquisition of the derelict site. The application for consent was submitted on 23<sup>rd</sup> June 2021 and was accompanied by the following:

- Local Authority Compulsory Acquisition Report which sets out the 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 notices served, dated 26<sup>th</sup> April 2021.
- Copy of the newspaper notice, dated 1<sup>st</sup> May 2021.
- Copy of objection made by Casey & Co. Solicitors on behalf of David and Bridget Flynn, dated 18<sup>th</sup> May 2021 (received by local authority on 20<sup>th</sup> May 2021).

4.4.2. 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 areas 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.

- Owners of sites are provided with advice in relation to schemes such as Buy & Renew, Lease & Repair and the Council's own Retail and Business Incentive Scheme. The P.A. takes relevant matters into account when making its decision to compulsorily acquire a particular site such as any outstanding planning permissions, evidence of efforts to address vacancy and dereliction, and the security and safety to the public and the condition of the site. In addition, matters such as the conservation value of the site and requirements for remedial restoration works are considered as well as the feasibility of various actions to make good the site, and to find viable uses for it. Staff seek to support owners in order to remove the properties from the Derelict Sites Register, but where all reasonable alternatives have been exhausted, it is stated that the option to compulsorily acquire the site will be considered.
- The property is located in the Main Square in the centre of the town, which is part of an Architectural Conservation Area. The building is bounded by public roads/spaces on three sides and although not part of the ACA, adjoins and fronts onto the Square, which is part of the ACA. Rathkeale is an attractive town with many tourist attractions such as the Palatine Museum in the former railway station and part of the restored the Limerick Greenway which runs through the town. It performs an important civic and service function and has many sports and community facilities as well as a concentration of civic amenities such as schools, churches, a garda station and sports clubs
- The building is a two-storey former commercial premises, which is derelict and in a dangerous condition. Slates are slipping off the roof onto the street below. The local authority has erected safety barriers to protect the public from this danger. The exterior walls are neglected and unsightly with the main façade facing into the Square roughly painted and dirty and in poor repair. The windows on the upper floor have their glazing elements broken with rotten timber work, with paint flaking off. The large windows and door on the

ground floor are not attractive and efforts to screen the dereliction are not successful.

- The property has an unsightly appearance, which detracts from the local area. The sidewalls are unsightly and in need of plastering or paint with blocked or broken windows. There are wires and cables hanging loose in places. The gutters to the sides of the structure are partly missing and are blocked with vegetation. There is free access to the rear of the property from the unsecured rear of the site. The windows and doors are neglected and in need of repair.
- The site detracts from the well maintained land and properties in the vicinity and will attract the attention of anyone entering or passing through the town.
- It was first brought to the attention of the Local Authority in October 2016, at which point a Derelict Site case was opened, DS-062-1. Land Registry and planning searches were carried out in an attempt to establish ownership. The title to the property is not registered. However, in November 2016, David and Bridget Flynn contacted the planning authority to confirm ownership and to confirm their intent to seek planning permission.
- A Section 11 Notice was issued in October 2017 seeking certain works to be carried out. This was not complied with.
- In 2018, planning permission was granted (18/35) to Bridget Flynn to redevelop the property and change the use from commercial to residential. The planning permission is still live. However, no works have commenced.
- The Local Authority decided to issue a Section 8(2) notice in September 2020 of its intention to enter the property onto the Register of Derelict Sites. There was no engagement from this. A Notice of Entry of Lands in the Derelict Sites Register was served in October 2020 and there was no response to this.
- Following a further inspection in November 2020, it was the opinion of the inspecting officer that the property was still in a derelict condition.
- Following further inspections in March and April 2021, it was deemed that no effort had been made to address the dereliction since the case opened in 2016. It was decided to issue a Section 15 Notice of intention to acquire the

property compulsorily under the Derelict Sites Act 1990 on the 29<sup>th</sup> of April 2021.

- An objection to the Section 15 notice was submitted by Casey & Co. Solicitors on behalf of the owner on 20<sup>th</sup> May 2021. Further information regarding the ownership was sought by the local authority on the 24<sup>th</sup> May 2021 and the information required was submitted on the 25<sup>th</sup> May 2021.
- The Local Authority intends to pursue the compulsory acquisition of the derelict site. It is considered that the property has been in a derelict condition for a considerable length of time. Notwithstanding the grant of planning permission in 2018, the local authority has seen no efforts to take the property out of dereliction, apart from a coat of paint on the façade. The objection cites difficulties commencing works experienced through Covid. The property is in a very poor condition and is derelict and dangerous and it detracts from the neighbourhood. Historical photographic evidence has been included which shows the nature of the dereliction between 2016 and 2021. The dereliction is evident from the street and from the rear.

#### **4.5. Objector's Submission**

4.5.1. A submission was made to the Board by Meskell Engineering Ltd. on 14<sup>th</sup> July 2021 in response to the Section 15 Notice. The main points may be summarised as follows:

- The property in question has current planning permission since 2018. However. Due to the covid pandemic over the last two years, the proposed works could not take place as a suitable builder was required to do these works.
- The owner has now in a position to proceed with these works as a builder has been engaged to commence the works. A commencement notice can be put in place and the building will be demolished and built as per the planning conditions and building regulations.
- Meskell Engineering Ltd. has been appointed to oversee the works and ensure that all conditions of the permission will be adhered to.



4.5.2. Enclosures include copy of planning permission from Limerick City and County Council (Reg. Ref. 18/35) and a letter from the LCCC to the property owner relating to the need for connection to Irish Water services dated 14/03/18.

4.5.3. No further correspondence has been submitted.

## 5.0 Planning History

### 5.1. Application Site

5.1.1. **ABP.301366-18 (Reg. Ref. 18/35)** – Following a first party and a third party appeal against the decision of the P.A. to grant planning permission subject to 21 conditions for the renovation of the existing building and change of use from shop and residence to a dwelling house with all associated works including demolition of the existing buildings, and to refuse outline planning permission to construct a house in the rear garden, the Board issued a **split decision granting permission** for the renovations and change of use of the building at the front of the site but **refusing outline planning permission** for the erection of a further dwelling house at the rear of 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. Limerick County Development Plan 2010-2016 (as extended)

6.1.1. The applicable Chapter 3 of the County Development Plan sets out the settlement strategy. Rathkeale is designated as a **Tier 3 – Centres on Transport Corridors** 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 **SSP2** which seeks to support sustainable development of the settlements in Tiers 2-6 and **SSP3** which states that it is the policy of the Council to be pro-active in acquiring land and providing services and sites within small towns and villages as a means of stimulating a shift towards development within these areas.

6.1.2. Tier 3 Settlements are described as centres on transport corridors which will be promoted as secondary settlement centres for significant future development. Policy **SSP8** seeks to encourage and facilitate sustainable balanced development within these settlements and to ensure that they act as the primary focus for investment in infrastructure, housing, transport, employment, education, shopping, health facilities and community.

6.1.3. 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. **Rathkeale Local Area Plan 2012-2018 (as extended)**

6.2.1. The site is zoned **Town Centre** as is the western side of the Square. The zoning objective is to protect and enhance the character of Rathkeale Town Centre and to provide for an improve retailing, residential, commercial, office, cultural and other uses appropriate to the town centre while guiding the development of expanded and consolidated town centre area. The remainder of the lands immediately surrounding it, including those fronting onto the Square to the east of the site are zoned **Existing Residential**, the objective for which is “To ensure that new development is compatible with adjacent uses and protect the amenity of existing residential areas.” The Square is within the Architectural Conservation Area which covers the central spine of the town and there is an Opportunity Site which is centred on the Square (Opportunity Site 10, attached).

6.2.2. Relevant policies –

**Section 10.2 – Derelict and Vacant Sites** – it is stated that there are 11 buildings/sites in Rathkeale Town on the Derelicts Sites Register. It is stated that the Council will fully enact its powers under the Derelict Sites Act and process all derelict sites expeditiously.

**Objective EH1: Architectural Conservation Area** – to protect, conserve and enhance the ACA as identified in Map 3. Proposals must respect the scale and form of the existing structures within the ACA and seek to contribute to or enhance the character and streetscape of the ACA. It is also required that proposals seek to retain/incorporate/replicate exterior features which enhance the character and streetscape of the ACA such as sash windows, gutters, downpipes, decorative plasterwork etc.

**Objective H4: Infill Development, Restoration and Town Renewal** – this seeks to promote the appropriate restoration of existing buildings for residential, office, workshop or retail uses in the town centre that are vacant or underused and to encourage living in the town centre by the promotion of residential uses over the shop and rehabilitation of vacant properties for residential purposes.

### **10.3 Rathkeale Opportunity Areas**

The purpose of the opportunity sites is to encourage the restoration, consolidation and improvement of these sites, which could provide of significant improvements to the town. Opportunity Area 10 includes an integrated urban design scheme for the area which includes the subject site (extract from LAP attached).

#### **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.
- 6.3.4. 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 property was possible on the date of my site inspection in October 2021. There are photographs on the file which indicate the condition of the interior and exterior of the building as well as the back garden/yard. I have also enclosed photographs from the Board’s history file (ABP.301366-18) which show what the property comprised of on 11<sup>th</sup> July 2018, which is the date of the Inspector’s visit. It is noted that the majority of the buildings to the rear have been demolished apart from the most northerly single-storey annexe, and the structure at the southern end of the site appears to be new, or may comprise an adapted outbuilding. The permission

granted by the board had included the demolition of these buildings to the rear as part of the renovation of the main building at the northern end.

- 7.2. The building is vacant and has a neglected, unsightly and objectionable appearance from the public road and the surrounding area. This is due to the fact that the windows are damaged or covered up and the roof is in need of significant maintenance. The paint is peeling off the walls and windows and although a coat of paint has been applied to the front façade, the paintwork is not complete and the side walls are still peeling. The roof is in an extremely poor condition with moss growing on it, a significant number of tiles are missing and there is a large hole which is evident from the Square and surrounding streets. Vegetation is growing out of the gutters and some windows and bits of the downpipes are either broken or missing. The interior of the building is in a very poor state of repair which is poorly disguised by the net curtains on the shopfront and boarded up first floor windows.
- 7.3. The Local Authority reports had indicated that roof tiles have been slipping onto the public road. As the building directly abuts the public footpath, this represents a danger to the public. I note from the history file (301366) that the security fencing was located around the northern and western facades. The photographs submitted by the L.A. indicate that the security fencing dates from at least October 2017. Currently, there is security fencing propped up against the side wall and a further part of the fence has been moved inside the building.
- 7.4. The rear garden has been concreted over and a caravan placed on the concrete. The rear annexe is partially demolished with exposed internal plasterwork, pipework and cables and there are building materials and a mound of rubble stored behind it. A substantial part of the rear wall and roof are missing and the interior is exposed to the elements. The property is not secured from the rear. Thus, the building is open to the elements, particularly at the rear and is likely to be in a continual state of decline.
- 7.5. The building is located immediately adjacent to the Architectural Conservation Area for Rathkeale which includes the Square. There are a number of Protected Structures in the vicinity. Rathkeale LAP attaches great significance to the historical importance and special character of the town, to which its many buildings, including Protected Structures and proposed Protected Structures, have contributed greatly. Objective EH1 seeks to protect, conserve and enhance the ACA and to enhance the

streetscape and character of the ACA. In addition, the LAP identifies the Square as an Opportunity Site which seeks to encourage restoration and improvement in these areas in order to facilitate the improvement of the urban design of the town, and the subject site forms an integral part of this scheme. Furthermore, the LAP encourages development which restores existing vacant buildings (Objective H4) and seeks to minimise the number of vacant and derelict buildings within the town (10.2).

- 7.6. It is considered that the siting of the building facing onto the Square, which is within the ACA, underlines the need to arrest the decline and any further deterioration in the condition of the building, which could lead to the loss of further historic fabric or features of architectural interest, or to the partial demolition of the structure. The unsightly condition and poor maintenance of the site and surroundings detracts from the character of the building and of the character and streetscape and Square within the Architectural Conservation Area.
- 7.7. The site is visually prominent from the Main Street and from within the Square, as it is detached and projects forward of the adjoining building lines. It is also prominent in terms of its side elevation when viewed from Bank Place and the laneway leading uphill from that street. The buildings and dwelling houses in the immediate surroundings appear to be reasonably well maintained and occupied, although there are some further derelict or unoccupied sites in the general vicinity. The properties immediately to the east and to the west within the Square have been renovated and are in good condition and well-maintained. There are occupied dwelling houses within the Square, on the lane leading to Bank Place and further south along the right-of-way adjoining the site. The derelict condition of the site detracts from the amenity of these buildings in the vicinity. Rathkeale LAP has identified derelict and vacant sites as a matter of serious concern which has a very negative effect on the amenity of the town. Having regard to the foregoing, I therefore consider that the application site detracts to a material degree from the character and appearance of the main street and the surrounding residential area.
- 7.8. Although the external walls generally seem to be intact, the damage to the windows and in particular to the roof and to the rear elevation, has exposed the interior of the property to the elements, and these factors are likely to result in the continual decline of the building. The combination of these factors would contribute to the ruinous and derelict state of the building. Furthermore, the extremely poor state of the roof with

loose tiles poses a danger to passing pedestrians and vehicles. Having regard to the above, it is considered that the building falls within the category of being in a ruinous, derelict and dangerous condition, i.e., category (a) of section 3 of the Derelict Sites Act 1990.

- 7.9. With regard to category (b), I would consider that on the basis of the foregoing, the site also 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. There was evidence of items of waste material stored and deposited on the site, particularly in the rear garden area, which included debris and rubble. It is considered, therefore, that the site also 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 issued on the 4<sup>th</sup> of September 2020, advising of the Local Authority's intention to enter the site on the Derelict Site Register. Section 8(7) notices were subsequently issued on 30<sup>th</sup> October 2020, advising the owners that the site had been entered on the Derelict Sites Register. Finally, section 15(1)(a) notices were served on 29<sup>th</sup> April 2021 and published in the Limerick Post Newspaper on the 1<sup>st</sup> of May 2021 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 20<sup>th</sup> of May 2021 and to the Board on the 14<sup>th</sup> of July 2021 to the proposed acquisition of the site, stating that the owner had secured planning permission in 2018 and that it was the intention of the owner to address the issues of deterioration of the condition of the building. It is noted that the owner has commenced demolition of the outbuildings/extensions to the rear, on foot of the grant of planning permission, but has not carried out any works to address the continual deterioration of the building itself. Although it is stated that the applicant intends to pursue this matter and that he has appointed a building contractor, it should be noted that the site has been in a dangerous and derelict condition since at least 2016 and that the demolition works were commenced within the past two years (and at least over a year ago), since when the building has remained open to the elements.

- 7.12. The property is not secured at the rear and the roof has several holes in it as well as missing and loose tiles. There is no evidence of any works of maintenance having been carried out to the interior or exterior of the building. The photographs provided by the Local Authority which track the changes in the condition of the building between the 18<sup>th</sup> of October 2016 and the 21<sup>st</sup> of April 2021 show the significant level of decline and deterioration during that period. Having inspected the site, there is no evidence of any attempt to render the site non-derelict and the building remains in a neglected and unsightly condition and the gardens are still untidy and unkempt. I therefore consider that the site remains in a derelict condition.
- 7.13. I also note the objection to the compulsory acquisition on the grounds that the works had to be put on hold due to the Covid-19 pandemic as a suitable builder had to be found to carry out the works. However, as stated above, the decline of the property has been progressing over several years and began before the pandemic. It is acknowledged that planning permission to restore the property has been secured and is still live. However, no works to arrest the dangerous and derelict condition of this prominent and highly visible building in the centre of the town have been undertaken, and there is no clear commitment to undertake same or any timetable for such works. It is considered that the delay relating to the restrictions during the pandemic are not sufficient justification for the continued derelict state of the property.
- 7.14. 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 The Square, Rathkeale, Co. Limerick is granted.

## 8.0 Recommendation

- 8.1. Having regard to the observed condition of the application site, in particular the neglected, unsightly, dangerous 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, which is in a ruinous, dangerous and derelict state, 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 section 3 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.

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Mary Kennelly

Senior Planning Inspector

22<sup>nd</sup> December 2021