



An  
Bord  
Pleanála

## Inspector's Report ABP-310713-21

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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

Land at Ballywilliam, Rathkeale, Co. Limerick

### Local Authority

Limerick City and County Council

### Notice Party

Fred O'Donoghue

### 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 Ballywilliam, 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 Ballywilliam along the R518 to the south of the town centre.
- 2.2. The site comprises a single-storey detached dwelling house with a pitched tile roof with a gable end. It is situated within a row of houses that front onto the R518 on the eastern side of the road. The building is set back from the road with a front garden and has a large rear garden which is accessible from the side of the dwelling. The lands to the north comprise similar bungalows set back a similar distance from the road. The lands to the south comprise recently constructed two-storey houses with stone-fronted facades. These houses are semi-detached, consisting of two pairs which appear to be completed, in good condition, but not yet occupied.
- 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 and boarded up. I was unable to gain access to the interior of the dwelling. However, I was able to access the rear garden and was able to view most of the exterior of the building and lands.
- 2.4. The front façade is rendered and painted with a brick panel covering part of the front elevation. The windows at the front and the front door are boarded up. The windows at the rear are not boarded up but are screwed shut. There is a steel panel/screen over the southernmost rear window which extends to the ground and the side window. The roof has loose or missing tiles and has moss and vegetation growing on it and is in a poor state of maintenance.

- 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 some of the external walls is mouldy and there was moss and vegetation growing on the roof tiles and over some of the windows. Several of the downpipes were either broken or missing.
- 2.6. The rear of the property is in a neglected state. There is a lean-to timber shed and a concrete outbuilding to the rear of the house which are in a poor state of repair. There is vegetation growing out of the concrete shed, the paint is peeling off and the roof is broken and damaged. There are sheets of plywood propped up against the wall, the door is missing, and the window is boarded up.
- 2.7. The front and rear gardens are untidy and unkempt and are overgrown with weeds. There is hardcore gravel strewn around both the front and rear gardens. The front boundary wall is missing, and the vehicular gateway is rusted and broken. The front driveway is laid with rough tarmac and is covered in weeds. There is a concrete patio at the rear which is overgrown, badly stained and covered in moss. The rear and side boundaries are delineated by concrete block walls which are not rendered or capped.

### **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 30<sup>th</sup> October 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 8<sup>th</sup> December 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 1<sup>st</sup> May 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 a detached, single storey dwelling and surrounding land situate at Ballywilliam, Rathkeale, Co. Limerick, containing an approximate area of 0.107 hectares. 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-061-20 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 John Barrett Architectural Consultant on behalf of Fred O'Donoghue on 17<sup>th</sup> May 2021. This stated that a planning application for the demolition and reconstruction of a dwelling house on the site is being prepared and sought time to complete the process.

4.3.2. The objection can be summarised as follows:

- The owner is in the process of applying for planning permission to demolish the bungalow and to construct a 2-storey house in its place.
- It is the owner's intention to proceed in accordance with this permission, once granted.
- It is requested that the owner be given the time to allow this process to be completed.

- 4.3.3. The Local Authority responded to the letter from the owners' agent on the 19<sup>th</sup> of May 2021 stating that as the property was registered in the name of Patrick Dunne, 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. A letter dated 21<sup>st</sup> May 2021 was received in response from John Barrett Architectural Consultant, which had enclosed a copy of correspondence from Michael O'Donnell Solicitors. It was stated that Fred O'Donoghue is the owner and that he would submit a planning application for the demolition and rebuilding of the house on 26<sup>th</sup> May 2021.
- 4.3.4. A further submission was made on behalf of Fred O'Donoghue by Michael B. O'Donnell Solicitors on the 31<sup>st</sup> of May 2021 confirming that Fred O'Donoghue is the beneficial owner of the property and has been since January 2006, but that the property has not yet been registered in his name as the legal owner. Evidence of the Deed of Transfer was enclosed. The Local Authority accepted this on 2<sup>nd</sup> June 2021 and stated that the objection was made within the time specified on the Notice. The property owner's agent was notified accordingly, that the application for consent to the compulsory purchase of the site would be made to the Board.

#### **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 dated 7<sup>th</sup> and 8<sup>th</sup> October 2020, 4<sup>th</sup> November 2020, 31<sup>st</sup> March 2021, 21<sup>st</sup> April 2021 and 29<sup>th</sup> April 2021 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 John Barrett Architectural Consultant and associated correspondence from John Barrett and Michael O'Donnell

Solicitors on behalf of Fred O'Donoghue, dated 17<sup>th</sup> May 2021, 21<sup>st</sup> May 2021, 26<sup>th</sup> May 2021 and 28<sup>th</sup> May 2021 (received by local authority on 19<sup>th</sup> May 2021, 26<sup>th</sup> May 2021 and 31<sup>st</sup> May 2021, respectively).

- Copies of letters and emails from the local authority to the owner's agents dated 19<sup>th</sup> May 2021, 26<sup>th</sup> May 2021, 28<sup>th</sup> May 2021 and 2<sup>nd</sup> June 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.
- 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 property is located in Ballywilliam and is bounded by existing residential properties on either side, with two bungalows in a row to the north and two pairs of semi-detached 2-storey houses to the south.
- The former dwelling house, which is derelict and in a dangerous condition. The windows and doors are smashed and broken allowing free access into the property.
- The surrounding lands to the property are in a state of neglect and extremely unsightly with weeds and large growths of vegetation present inside the rusted railing by the roadside, which detracts greatly from neighbouring properties. There are large amounts of rubbish and waste deposited around the site.
- The property has an unsightly appearance, which detracts from the well-maintained land and properties in the vicinity and will attract the attention of anyone entering or passing through the residential area.
- There was no evidence of previous planning applications on the site. However, it was noted that an application had been received from the current owner on the 26<sup>th</sup> of May 2021 for the demolition of the existing bungalow and construction of a two-storey house.
- It was first brought to the attention of the Local Authority on the 7<sup>th</sup> of October 2020, at which point a Derelict Site case was opened, DS-161-20. Land Registry and planning searches were carried out in an attempt to establish ownership. The registered owner is Patrick Dunne of Ballywilliam, Rathkeale and there is a charge on the property dating back to 1971.
- The Local Authority decided to issue a Section 8(2) notice in October 2020 of its intention to enter the property onto the Register of Derelict Sites. There was no engagement from this, and no remedial works were carried out. A Notice of Entry of Lands in the Derelict Sites Register was served in December 2020 and there was no response to this from any party.

- Following further inspections, it was considered that the property was still in a derelict condition and that no effort had been made to address the dereliction. It was decided to issue a Section 15 Notice of intention to acquire the property compulsorily under the Derelict Sites Act 1990 on the 1<sup>st</sup> of May 2021.
- On the 14<sup>th</sup> of May 2021 the Local Authority received a phone call from Fred O'Donoghue in response to the Section 15 Notice. He stated that he had purchased the property from Patrick Dunne.
- An objection to the Section 15 Notice was submitted by John Barrett Architectural Consultant on behalf of Fred O'Donoghue on 20<sup>th</sup> May 2021. It was stated that the owner was in the process of applying for planning permission to demolish the bungalow and build a new house on the site and requested that the appropriate time be given to complete this process. Further information regarding the ownership was sought by the local authority on the 19<sup>th</sup> of May 2021 and the information required was submitted on the 31<sup>st</sup> of May 2021.
- The Local Authority intends to pursue the compulsory acquisition of the derelict site.

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

4.5.1. A submission was made to the Board by Michael O'Donnell Solicitors on 16<sup>th</sup> July 2021 in response to the Section 15 Notice. The main points may be summarised as follows:

- There is a current planning application with the local authority (Ref. 21/723) in relation to the property in question, which was submitted on the 26<sup>th</sup> of May 2021 and was acknowledged by the P.A. on the 9<sup>th</sup> of June 2021. It is therefore queried why the local authority would submit an application for the acquisition of the site on the 21<sup>st</sup> of June 2021. As the local authority are dealing with two separate applications at the same time, this would seem somewhat unfair.
- The owner is currently awaiting an outcome of the decision on the planning application to demolish the existing bungalow and to build a two-storey house



on the site. A letter from the owner's architect, John Barrett, is enclosed, which sets out the position. A decision is expected on the 20<sup>th</sup> of July 2021.

- The owner has since cleaned up the site and a picture of the tidied and cleaned site is enclosed. It is stated that it was taken in May 2021. The letter from the architect (John Barrett dated the 9<sup>th</sup> of July 2021) states that  
  
“The site has been extensively enhanced by the cleaning of tarmacadam and blocking up of broken windows. All rubbish on the site has been removed, lawns cleaned and cut, and general care being tended to the site. This work has greatly enhanced its appearance and is itself an interim measure until the granting of planning permission for the bungalow's removal.”
- The Architect's letter (9/07/21) also states that in his opinion, the application by the L.A. is premature and does not serve any of the stakeholders involved. It is submitted that once the planning permission has been granted, the works that the CPO is seeking to achieve will be able to be addressed and the site will be transformed to a fully compliant superior building, which will be constructed to best regulatory standards. It is further submitted that once planning permission is granted, it will allow for a new development which would be in harmony with the existing development on the adjoining sites along this section of the road.
- The landowner's solicitor (Michael O'Donnell) stated that the owner had been away for some period of time and that during his absence, people had damaged the windows and put various rubble and refuse material on the site, but that this has since been cleaned up.

4.5.2. Enclosures include the letter from the landowner's architect (John Barrett, 9<sup>th</sup> July 2021), a copy of a drawing of the existing contiguous situation on the street, a photograph of the cleaned-up site and a letter from the LCCC to the property owner acknowledging receipt of the planning application dated 09/06/21.

4.5.3. No further correspondence has been submitted.

## 5.0 Planning History

### 5.1. Application Site

- 5.1.1. **Reg. Ref. 21/723** – The P.A. has granted planning permission subject to 16 conditions for the demolition of the existing bungalow and the construction of a two-storey dwelling house with all associated works. The decision to grant planning permission was made on the 30<sup>th</sup> of September 2021. The conditions include a requirement to construct a new stone wall along the roadside boundary with a recessed entrance along the setback entrance identified on the submitted plans (Cond. 8) and plastered and capped side and rear boundary walls (Cond. 9).

### 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 017** – to use its powers under the Derelict Sites Act to acquire and secure the redevelopment of derelict sites.

**HOU 018** – 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. Rathkeale is a Tier 3 town, and these towns are generally located on major transport corridors and are promoted as secondary development centres for significant future development. However, no significant development has taken place within the town since the adoption of the LAP and the Chief Executive has extended the life of the LAP to 2022.

- 6.2.2. The site is 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.”

- 6.2.3. 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.

## 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. Introduction**

7.1.1. Internal access to the property was not possible on the date of my site inspection in October 2021. However, it was possible to view the exterior of the building and the

front and back garden areas. It is noted that the landowner has tidied up the site. This can be seen from a comparison of the photographs provided by the local authority with the application to compulsorily acquire the site and the more recent black and white photo (stated to have been taken in May 2021) and the photographs of my site inspection taken in October 2021. It is noted that a considerable effort has been made to clear the site of debris, litter, rubbish and overgrown vegetation. The broken windows have been boarded up. Although these works have improved the situation and reduced the unsightly appearance of the site and building, it has not addressed the dereliction of the property. This matter will be dealt with below.

## **7.2. Description of site and area**

- 7.2.1. The property is located in Ballywilliam which is an established residential area along the R518 to the south of the town centre. The R518, also known as New Line Road, leads southwards from the central area with a mixture of one-off houses in ribbon development format and housing estates. The site is bounded by existing residential properties to the north and south, with two bungalows in a row to the north and two pairs of semi-detached 2-storey houses to the south. Further to the south lies a large unfinished housing estate (Nos. 1-33 Ballywilliam Close), comprising derelict sites, which were the subject of site Acquisition Orders by the Local Authority, and confirmed by the Board, earlier this year. However, the houses in the immediate vicinity of the property are generally well-maintained, occupied and in good condition.
- 7.2.2. The building is a detached single storey dwelling house, which is derelict and unoccupied. The windows on the front elevation are boarded up as is the front door which gives the appearance of dereliction. There are industrial type metal screens on the side and some rear windows which are unsightly. The walls, although recently painted or cleaned at the front, have mould growing on them in places as well as creepers and weeds. The roof is in a poor state of repair with damaged tiles and moss growing on it and looks to be in need of repair and maintenance. The soffits and bargeboards are damaged, and the gutters and rainwater goods are either missing, broken or damaged. There is vegetation growing on the roof and up the walls of the house, covering some of the windows.

7.2.3. The grounds of the house are in a state of neglect with unfinished surface treatments including rough tarmac and hard-core gravel, a badly stained and damaged concrete patio area, and extensive weeds with overgrown lawns. The front boundary wall is missing, and the vehicular entrance gate is rusted and damaged, which gives a neglected appearance. The side and rear screen boundary walls are unfinished with bare concrete blocks and no render or capping which detracts from the appearance of the site and area. The outbuildings are in a dilapidated condition and are unsightly with missing doors, peeling paintwork, a damaged roof and vegetation growing within.

### **7.3. Derelict nature of property**

7.3.1. The property has an unsightly, neglected and objectionable appearance, which detracts from the well-maintained land and properties in the vicinity. It will attract the attention of anyone entering or passing through the residential area and adversely affect the residential amenities of the neighbourhood. Notwithstanding the recent efforts to tidy and clean up the site, it still remains in a derelict condition.

7.3.2. The properties immediately to the north and south are either occupied and long established or have been recently constructed and are in good condition and well-maintained. 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 surrounding residential area.

7.3.3. Although the external walls generally seem to be intact, the damage to the windows during the recent past is likely to have exposed the interior of the property to the elements, which may result in the continual decline of the building. Furthermore, the poor condition of the roof and rainwater goods would contribute to damp conditions persisting and leading to further damage in the future, if not arrested. The combination of these factors would contribute to the ruinous and derelict state of the building. Having regard to the above, it is considered that the building falls within the category of being in a ruinous and derelict condition, i.e., category (a) of section 3 of the Derelict Sites Act 1990.

- 7.3.4. 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 some items of waste material stored and deposited on the site, particularly in the rear garden area. However, in general, the efforts of the landowner to tidy up and clear the site of debris in May 2021 have been reasonably successful. It is considered, therefore, that the site does not fall 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.
- 7.3.5. 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 30<sup>th</sup> of October 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 8<sup>th</sup> December 2020, advising the owners that the site had been entered on the Derelict Sites Register. Finally, section 15(1)(a) notices were served on 1<sup>st</sup> May 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.

#### **7.4. Recent grant of planning permission**

- 7.4.1. I note the objection made on behalf of the owners on the 19<sup>th</sup> of May 2021 and to the Board on the 16<sup>th</sup> of July 2021 to the proposed acquisition of the site, stating that the owner had applied for planning permission on the 28<sup>th</sup> of May 2021 and that once permission is granted, it was the intention of the owner to address the issues of dereliction. It is noted that planning permission (21/723) has since been granted by the planning authority for the demolition of the bungalow and the construction of a two-storey house which would be similar in design and appearance to the recently constructed houses to the south, which appear to be of a high standard. In addition, it is a requirement of the permission that a new stone wall be constructed along the roadside boundary and that the side and rear boundary walls be capped and rendered. Should this permission be implemented as permitted, it is considered that it would successfully address the dereliction issues at the site.

- 7.4.2. 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.
- 7.4.3. Having inspected the site, there is evidence of recent attempts to render the site less unsightly and objectionable. However, it still remains in a derelict state, the building continues to be 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. I would be concerned, therefore, that should the recent planning permission not be implemented in a timely manner, the site is likely to remain in a derelict condition. However, I note that the Local Authority 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.
- 7.4.4. **In conclusion**, having regard to all of the information available on the file and the continued appearance 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 planning permission to restore the property has been secured following the service of the Section 15 Notice. As such, it is considered that sufficient time should be afforded to the notice parties to implement the planning permission and to conclude these works. It is considered, therefore, that it is appropriate that the Local Authority's application for consent to compulsorily acquire the site at Ballywilliam, Rathkeale, Co. Limerick is refused.

## 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 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 permission by the Planning Authority under Reg. Ref. 21/273 for the demolition of the existing bungalow and the construction of a two-storey house on the site and to the ongoing efforts 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, 1990 (as amended). 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 is in a ruinous and derelict state, and 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 30<sup>th</sup> day of September 2021 for the demolition of the existing bungalow and the construction of a two-storey house on the site, 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. It is considered, therefore, that it would be appropriate to refuse consent for the compulsory acquisition of the site.

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Mary Kennelly

Senior Planning Inspector

23<sup>rd</sup> December 2021