



An
Bord
Pleanála

Inspector's Report

ABP-312356-22

Nature of Application

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

Location

Medova House, Emly Road,
Knocklong, Co. Limerick

Local Authority

Limerick City and County Council

Notice Party

Liam and Patrick Gleeson

Date of Site Inspection

30th of November 2023

Inspector

Siobhan Carroll

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 Emly Road, Knocklong, Co. Limerick in accordance with the provisions of the Derelict Sites Act, 1990, as amended.

2.0 Site Location and Description

- 2.1. The site of the subject property is located within the village of Knocklong, Co. Limerick. Knocklong is situated circa 32km to the south of Limerick City. Knocklong is located to the south-west of Limerick Junction railway station approximately 18km away.
- 2.2. The subject property is located to the eastern side of the village and on the southern side of the Regional Road, R515. It is situated circa 65m from the crossroads at the centre of the village where the R515 and the R513 intersect. There is a car sales garage and service station to the north-east of the crossroads, a Credit Union and convenience shop lie to the north-west of the crossroads and a restaurant and take-away are located to the western side of the crossroads.
- 2.3. The subject property comprises a two-storey end of terrace dwelling which dates from the early 19th century. The property is located at the western end of a terrace containing five dwellings. The external finish of the property and adjoining dwellings comprises a mix of stone and redbrick. The roadside boundary is defined by a low block wall with stone facing to the front which is capped with redbrick low pillars at the corners. The original window frames have been replaced with uPVC window frames. The eastern boundary with the adjoining dwelling is defined by a hedge. To the west of the dwelling there is a stone warehouse building which was formerly part of a creamery. The rear boundary of the site is formed by a capped concreted block wall. To the south of this boundary there is a single storey building which was formally a commercial premises associated with the creamery previously operating on that property. The building has been converted to residential use and contains two dwellings.

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), 11th of December 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 the 15th of February 2021, (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

4.1.1. Notice of Limerick City and County Council's intention to acquire the site compulsorily was served on the owner/occupiers Patrick Gleeson and Liam Gleeson and was published in the Limerick Post on the 23rd of October 2021. The site was described as follows in the notices:

- A derelict site comprising a two-storey, end of terrace, residential premises and surrounding land situated at Moldova House, Emly Road, Grange, Knocklong, Co. Limerick, containing 0.039 hectares or thereabouts.
- 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. D9-134-20 in the Derelict Sites Register established and maintained by Limerick City and County 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 Gordon Daly, Director of Services, Community, Tourism and Cultural Directorate Property and Limerick City and County Council by Liam Gleeson and Patrick Gleeson in a letter dated 12th of

November 2021. In a letter dated 16th of November 2021 issued by Property & Community Facilities Department of Limerick City and County Council, they acknowledged the persons representation on the case, however they advised that in order to make a valid objection that they should forward now evidence within the period specified on the Notice of being the property owner, lessee or occupier, as defined in section 15(2) of the Derelict Sites Act 1990(as amended). In a letter dated 23rd of November 2023 an objection to the proposed acquisition was submitted to the Property & Community Facilities Department of Limerick City and County Council by Mr. Liam Gleeson and Mr. Patrick Gleeson care of Gleeson McSweeney Architects 99 O'Connell Street, Limerick.

4.2.2. The objection can be summarised as follows:

- Messers. Gleeson stated that they were not satisfied with the level of interaction between them and Limerick City and County Council in terms of the how the process was conducted. They stated that any information as to how the Council were applying the legislation they had to be sourced from outside the Council.
- They contend that there were several more stages before the current situation. They state that they understand that they should have received a number of correspondences and that they only received three such correspondences;
 - (1) Derelict Sites Act 1990 Act 1990 Section 8(2) Notice of Intention to Enter Land as a Derelict Site and Particulars in Relation to Such Land in the Derelict Sites Register, dated 8th December 2020.
 - (2) Derelict Sites Act 1990 Section 8(7) Notice of Entry of Land as a Derelict Site and Particulars in Relation to Such Land in the Derelict Sites Register, dated 9th February 2021.
 - (3) The Notification of Intention to Acquire Derelict Site Compulsorily under the Derelict Sites Act, 1990 (as amended by the Planning & Development

Act, 2000) Form 1, (Notice under Section 15(1)(b) of the Derelict Sites Act, 1990, dated 18th Octobre 2021.

- Other than those three notices they state that no further notice was received.
- They state that at no time did they receive any guidance from Limerick City and County Council as to the manner in which they were going to implement the legislation, while written guidance in the form of a leaflet or booklet would have been beneficial also guidance by phone call.
- A letter dated 16th of November 2021 which they received from Limerick City and County Council clearly indicates that they were not made aware of the process or the manner in which the legislation was going to be implemented.
- They state that they are aware that there a large number of properties on the Derelict Sites Register, which have been there for a considerably longer time than their property.
- They submit that the property has been well maintained down through the years, with regular cutting of the lawns, hedge cutting, and the removal of rubbish discarded by others.
- It is understood that there is no formal objection to the appearance of the property from any persons or organisations other than Limerick City and County Council.
- A contractor had been engaged to clean up the whole site, prior to the Covid outbreak in late February 2020, however this work could not be carried out in a timely manner due to the Covid restrictions.
- It is stated that there are tens of thousands of derelict properties throughout the country, many in County Limerick which are in a worse condition than the subject property.
- The objection includes a number of photographs of properties in the village of Knocklong which they state are in a far worse condition than the subject property.
- It is submitted that the property should not be subject of the CPO for a number of reasons.

- The property is bound to the rear and the west by a former creamery premises. The property ceased use as a creamery in 1972. It is stated that Gleeson McSweeney Architects have carried out architectural services for the various owners of that site since 2007. The current owner of the site was anxious to convert the building from commercial use to residential use. The north-western facing wall of the office building on the creamery site was the rear boundary of the subject property Medova House. The wall of the office building has seven large windows this would be an issue when considering the conversion of the office building to residential use. To overcome the situation Mr. Liam Gleeson stated that he agreed to give the owner of that property Mr. Al Fitzgerald free of charge a 1m strip along the rear of the site of Medova House as it would benefit the local community having the office building converted into two dwellinghouses. The development received planning permission and two families reside in the two dwellings. The two dwellings were purchased by Limerick City and County Council. Mr. Gleeson submits that he considers his actions in the interests of the common good have been overlooked.
- In early 2020 Mr. Gleeson approached Mr. Al Fitzgerald and enquired whether he could carry out works to the ground of the Medova House to tidy it up. It is highlighted that this was before the actions of Limerick City and County Council in relation to the derelict site register.
- Mr. Fitzgerald agreed to do the works on the grounds in early 2020 however when the first wave of Covid occurred then a lockdown was put in place. Mr. Fitzgerald was not able to carry out the works when restrictions eased due to other work commitments.
- When Mr. Gleeson received the first notice from Limerick City and Council that the property may be added to the derelict sites register he emphasised to Al Fitzgerald the importance of getting the works carried out. The second wave of Covid and the further lockdown and restrictions further delayed the works being carried out.

- The works were eventually carried out which served to both improve the appearance and also assist with the later development phases of the property.
- They submit that given the whole situation with Covid it is difficult to understand why Limerick City and County Council issued a CPO on the property after only 10 months and 10 days of the issuing of the Notice of Intention to Enter Land as a Derelict Site during the pandemic.
- Mr. Gleeson submits that Limerick City and County Council did not approach the subject CPO in a fair and reasonable manner.
- Limerick City and County Council have stated that one of the reasons for the execution of the CPO is the gathering of rubbish on the site. Mr. Gleeson totally refutes this.
- They state that they have not been provided with any photographic evidence from Limerick City and County Council of the rubbish that they refer to. Mr. Gleeson confirms that he personally removed any rubbish that was discarded onto the site. They highlighted that this rubbish was discarded by others and not by Mr. Gleeson or his family.
- Mr. Gleeson submits that given the fact that the dwellinghouse has been unoccupied for a period of time and the manner in which rubbish has not been allowed to accumulate on the site should be acknowledged.
- It is stated that it is hoped that Patrick Gleeson will occupy the dwellinghouse in the future. However, presently he is a third year student in the University of Limerick and therefore is not in a position to get a mortgage to occupy the house or get a sizeable loan to bring it to a habitable standard. It is submitted that the dwellinghouse has been in the Gleeson family for four generations that the interior of the dwellinghouse should not have to be brought up to living standards at this stage, but once the exterior is presentable that Patrick Gleeson should be allowed to finish his education and possibly travel before he is required to refurbish the interior. Mr. Gleeson states that a grace period of five or six years should be afforded in this case as Patrick Gleeson would at that stage be able to obtain a mortgage to live in the dwellinghouse.

- In conclusion, Medova House, has been in the Gleeson family for four generations. Patrick's great grandfather John Gleeson lived at the house. Having regard to the ancestral heritage of the property the family are anxious that it remains in the Gleeson family. While Patrick Gleeson is not currently in a position to occupy the dwellinghouse at present, Mr. Gleeson states that he looks forward to a time when his son will live there. Therefore, he objects to the subject CPO.

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 the 20th of December 2021 and was accompanied by the following:

- Local Authority Compulsory Acquisition Report which sets out the local 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 on the owners/occupiers of the site.
- Copy of the newspaper notice, dated 23rd October 2021.
- Copy of the objection made by Liam and Patrick Gleeson submitted to the Local Authority on the 23rd November 2021.

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

- The Dereliction and Vacancy Team focus on bringing derelict and vacant properties back into use with a particular emphasis on areas of high housing demand, town and village centres and the Historic core in Limerick City.
- The general approach is to work proactively with property owners, seek timely actions and improvements of sites through positive engagement, using powers under the Derelict Sites Act, 1990 only where necessary. Owners of

derelict properties are provided with advice in relation to schemes such as Buy & Renew, Lease & Repair and the Council's Retail and Business Incentive Scheme.

- Referrals are made to other Council sections including pre-planning meetings, rates advice and the Local Enterprise Office. The following are taken into account – outstanding planning permissions, evidence of efforts to address vacancy and dereliction, security, safety to the public and condition of the site, the conservation value of the building and the requirement for remedial restoration works, and the feasibility of various actions to make good the site and find valuable uses for the site.
- Area Inspectors carry out regular surveys of their designated district and respond to representations by elected representatives, community groups and the public. Staff have been working through entries on the Limerick City and County Council Derelict Sites Register supporting owners in order to remove these properties from the register. Where all reasonable alternatives have been exhausted the option of Compulsory acquire will be considered. To date Limerick City and County Council have published notices to acquire 166 properties under the Derelict Sites Act.
- The site at Emly Road, Knocklong comprises a semi-detached dwelling and surrounding land of 0.038 hectares is vacant and in a derelict condition for a considerable period of time. The site detracts from all land and property in the vicinity and will draw the eye of anyone upon the area. The rear of the property is completely overgrown with vegetation as is the front garden, giving the appearance of neglect with a lot of weeds and ivy present. There is ivy and vegetation growing up the external walls and over the windows and doors at the back of the property. A window opening at the front of the property has been broken and covered with a light piece of plywood. There is a window at the gable end of the property that is in a ruinous state and covered with untreated and unpainted hoarding. The windows are all in need of repair/paintwork as they are dirty and unsightly. There is a presence of litter, rubbish and debris at the back of the property.

- The building is listed on the National Inventory of Architectural Heritage (21814008) with its original use being a Worker's House from 1800-1900.
- An Authorised Officer of Limerick City and County Council first inspected this property on 17th September 2020 and identified it as a Derelict Site. Site ownership enquiries were made by serving a Section 19 notice on the 21st September 2020. No owner came forward.
- On 11th December 2020, Limerick City and County Council served a notice of intention to enter land in Derelict Sites Register. There was no response or representation made to this notice by the owner.
- On the 18th January 2021, an email was sent to Limerick City and County Council from Liam Gleeson from Gleeson McSweeney Architects acting on behalf of his client Patrick Gleeson claiming that he was the owner of the property and they would carry out remedial works to take the property out of dereliction.
- The Notice of Entry of Land in Derelict Sites Register was served on the owner by affixing to the site on 15th February 2021. There have been ongoing representations by public elected representatives and complaints from local business owners, community groups and local residents about the derelict condition of the sites in Knocklong and the negative impact they are having on the area.
- As no remedial works had been carried out and the land continued to be in a derelict state, Limerick City and County Council exercised its power of compulsory acquisition under Section 15 of the Derelict Sites Act, 1990, and gave its Notice of Intention to Acquire Derelict Site Compulsorily to the owners and advertised same in the Limerick Post newspaper on 21st October 2021.
- Limerick City and County Council, have served the following notices under the Derelict Site Act, 1990:
 - Section 8(2) Notice of intention to enter land in Derelict Sites Register: 11th December 2020.
 - Section 8(&) Notice of Entry of Land in Derelict Sites Register: 15th February 2021.

- Section 15(1)a Notice of Intention to Acquire Derelict Site
Compulsorily: 21st October 2021.

- On the 12th November 2021, a letter stating an objection to the proposed acquisition was received from Liam Gleeson and on behalf of his son, Patrick Gleeson. It was duly acknowledged.
- It is the contention of Limerick City and County that it is the inaction of the owners and failure of their duties under the Derelict Sites, Act, 1990 (as amended), that jeopardise the future use of properties in the area due to their continued neglected and derelict state. The local authority is best placed to solve the dereliction evidenced with this land.
- While work was carried out on the property after the Section 15 notice was served, it remains a fact that this derelict site continues to detract from the land and amenities in the neighbourhood.

4.4. Objector's Submission

- 4.4.1. A submission was made to the Board by Gleeson McSweeney Architects on behalf of Liam Gleeson and Patrick Gleeson it was received on the 21st January 2022.
- 4.4.2. They wish to state that they have considerable surprise and disappointment that they read the submission prepared by Limerick City and County Council to support the Intention to Acquire Derelict Site Compulsorily.
- 4.4.3. The submission from Limerick City and County Council comprises four pages and the issues they raised in respect of the property are covered in a ten line paragraph.
- 4.4.4. It is considered that a just transition has not occurred in the way Limerick City and County Council has ramped up the implementation of the Derelict Sites Act. The Derelict Sites Act came into force in the early 1990's and up until recent times it was not used as vigorously, as it has been by Limerick City and County Council over the last short while.
- 4.4.5. As highlighted in their original submission, they are of the opinion that there were a number of further notices that they should have received prior to the Notification of Intention to Acquire Derelict Site compulsorily.

- 4.4.6. They state that they were informed by a staff member from Limerick City and County Council that several notices should have been forwarded to them. However, the Council's submission appears to confirm that they received three notices.
- 4.4.7. The submission includes 3 no. photographs of 3 no. derelict dwellinghouses in Knocklong village where no Compulsory Purchase Notice was issued, and which were not included on the Derelict Sites Register. These properties are in a far worse condition than Medova House.
- 4.4.8. Limerick City and County Council state in their submission that "Owners of derelict properties are provided with advice in relation to schemes such as Buy & Renew, Lease & Repair & the Council's own Retail and Business Incentive Scheme." They state that this is not correct as they were provided with no information in relation to those aspects or any other aspects and any information coming from Limerick City and County Council was minimum. They submit that they would not be in the current situation if the Council had engaged more proactively with them.
- 4.4.9. It is stated in the submission from the Council that "Area Inspectors carry out regular surveys of their designated district and respond to representatives by elected representatives, community groups and the public. They state from their research there was no complaint registered against Medova House from either a public representative, a community group or a member of the public.
- 4.4.10. The report from the Council states that "Staff have been systematically working through entries on the Limerick City and County Council Derelict Sites Register supporting owners in order to remove these properties from the register." They state that they confirm that they received no support from Limerick City and County Council in respect of this matter and that they were not informed how the process worked.
- 4.4.11. After the Notification of Intention to Acquire Derelict Site Compulsorily was issued, they state that they went to great efforts in their submission to Limerick City and County Council to explain the situation with Medova House. Therefore, they state that they were surprised that the Council made no comments in relation to the submission that they prepared. They cite the ancestral connection with the house, whereby Liam Gleeson's father and Patrick Gleeson's grandfather was born and

raised there. They also highlight that it is their intention for Patrick to live there when he is in a position to get a mortgage.

- 4.4.12. They also cite that Mr. Liam Gleeson provided the adjoining developer with a strip of land which facilitated him in the conversion of the old creamery office building into two dwellinghouses. These two houses are now occupied by Limerick City and County Council tenants which is a result of them working together with the developer for the common good of the area.
- 4.4.13. The Council's issues with property are covered in one 10 line paragraph in their report. The first point states; - "The rear of the property is completely overgrown with vegetation as is the front garden."
- 4.4.14. At the time Limerick City and County Council inspected the property a new boundary wall was erected within the rear grounds of Medova House, to allow for the conversion of the neighbouring office building within the old creamery grounds, into two dwellinghouses. The developer of this adjoining site dug out the foundations to accommodate the construction of this wall and the soil from the foundations dug were placed by the developer within the rear of Medova House. The developer and Mr. Liam Gleeson came to an agreement whereby he would remove this soil and also tidy up the entire grounds. This agreement was in place before the action under the Derelict Sites Act commenced. This would have been carried out expect for the fact that the developer got delayed as a result of the various lockdowns during Covid.
- 4.4.15. It is stated that prior to the pandemic that the front of the property was always maintained in a tidy condition, whereby the shrubbery would be trimmed, and the lawn cut, therefore they refute that there was long term neglect. The only reason that the property had got slightly overgrown was because the developer of the adjoining site had agreed to clean up the entire site. As this was going to happen the site was not attended to as regularly.
- 4.4.16. The second point stated that; - "There is ivy and vegetation growing up the external walls and over the windows and doors at the back of the property." In response to this they state that there is a lane to the rear of the property where there is a single personnel gate. As the rear of the property is onto this it is not directly visible.

However, the rear of Medova House is in a far more pleasant condition than some of the rears of the properties along the terrace of five.

- 4.4.17. They state that they are surprised at the Council's reference to the amount of ivy growing on part of the property. They do not consider that this could be thought of as excessive. They are also surprised at the reference to the back door. The back door is completely out of sight from all angles including from the public road and also from the neighbouring Maypole Crescent Estate.
- 4.4.18. The third point raised by the Council stated; - "A window opening at the front of the property has been broken and covered with a light piece of plywood." They state that they are surprised with this comment as the window opening in question has an area of only 0.23sq m and therefore it cannot be considered an eyesore. They cite the example of other properties in Kilmallock in which all windows have been completely boarded up. These properties and also Killamallock Railway Station have not been subject to CPO's nor are they on the Derelict Sites Register. Therefore, they would question the process of Limerick City and County Council in respect of executing their functions under the Derelict Sites Act as to whether or not dereliction is their main concern.
- 4.4.19. The fourth point raised by the Council stated; "There is a window at the gable end of the property that is in a ruinous state and covered with untreated and unpainted timber hoarding." They consider it is surprising that the Council have an issue with this window, as only a portion of the window is boarded up and the area that is boarded up cannot be seen from the public road fronting Medova House or from Maypole Crescent estate.
- 4.4.20. The fifth point raised by the Council states; - "There is a presence of litter, rubbish and debris at the back of the property." There has never been a litter problem with this property. The amount of rubbish at the rear of the property was minimal. They are of the opinion that Limerick City and County Council would have no evidence of any meaningful rubbish on the site. Any rubbish which was discarded onto the property by others was picked up frequently.
- 4.4.21. Mr. Liam Gleeson wishes to thank the Board for the opportunity to comment on Limerick City and County Council's submission and trust that the details provided

adequately outlines their objections to same and the proposed Compulsory Purchase Order.

5.0 Planning History

5.1. None referring to the subject site.

5.2. Reg. Ref. 18/697 & ABP 303447-19 – Permission was refused by the Board for the construction of 1 no. detached and 14 no. semi-detached houses, all weather pitch and associated works at Knocklong, Co. Limerick. The site located immediately to the south of the subject property. Permission was refused for the following reason.

Having regard to the planning history of the site, the existing deficiencies in the Knocklong Waste Water Treatment Plant which discharges to the River Camoge, and to the lack of certainty in respect of future capacity improvements to the Waste Water Treatment Plant, the Board considered that the proposed development, which would increase the number of connections to the existing system, would be premature. Furthermore, and as a consequence of the potential for indirect impacts on the water quality of the river, the Board considered that the proposed development would be prejudicial to public health and pose an unacceptable risk of environmental pollution and would therefore be contrary to the proper planning and sustainable development of the area.

5.3. Reg. Ref. 19/538 – Permission was granted for the conversion of existing two-storey office building into a pair of semi-detached dwelling houses and associated site works at Knocklong, Co. Limerick.

5.4. Reg. Ref. 19/1184 – Permission was granted for the construction of a development of four semi-detached and one detached single storey retirement houses and associated site works including slight adjustment to boundaries with neighbouring property.

6.0 Policy Context

6.1. Limerick City and County Development Plan 2022-2028

- 6.1.1. One of the strategic objectives for Limerick (Chapter 1) is to ensure the revitalisation and consolidation of urban areas through public realm and place-making initiatives, including addressing vacancy and dereliction to create compact attractive, vibrant and safe environments in which to live, work, visit and invest (1.3.4). The themes of revitalisation of towns and villages and the delivery of compact growth are central to the Core Strategy (Chapter 2) and the Spatial Strategy (Chapter 3). **Policies CGR P1** and **CGR P4** set out how this can be achieved including development of brownfield and underutilised lands within the built footprint of urban areas and actively addressing dereliction and vacancy. One of the measures required to create compact, dense and sustainable urban centre is 'Active Land Management' (3.3.2) which is envisaged as important to bring vacant and underutilised land in urban areas into beneficial use (Policy CGR O4). Key legislative measures to facilitate this included the powers under the Derelict Sites Act 1990.
- 6.1.2. It is noted (3.3.2.2) that derelict sites can have a negative impact on the social, visual and commercial aspects of a neighbourhood. Limerick City and Council is proactive in identifying and seeking the improvement of such sites to address incidences of decay, prevent deterioration of the built fabric and bring buildings back into active use.
- Objective CGR O6 – Derelict sites** – seeks to utilise the provisions of the Derelict sites Act 1990, including the maintenance of the Derelict Sites Register and CPO powers to address instances of dereliction and decay in the urban and rural environment and bring properties back into active re-use.
- 6.1.3. Section 2 Spatial Strategy states that Knocklong is designated as a Level 5 Small Village in the Settlement hierarchy (Table 2.7)
- 6.1.4. Relevant objectives include **CGR O17: Requirements for Developments within Level 5 Settlements** – ensure development is in proportion to the pattern and grain of existing development. **Policy CGR P4 – Revitalisation of Towns and Villages** seeks to actively address issues of vacancy and dereliction and to promote compact growth and the physical, social and economic revitalisation of towns and villages.

6.1.5. **Chapter 4** sets out the policies and objectives relating to housing. Section 4.2.6 relates to Re-Use of buildings. Relevant objectives are as follows:

HO 04 – to encourage redevelopment and reuse, including energy retrofitting of existing housing stock and conversion of other suitable buildings to sustainable accommodation.

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

6.2.1. 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.

6.2.2. 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 of 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.”

6.2.3. 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 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.

- 6.2.4. 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 not possible on the date of my site inspection. However, I carried out my site inspection from the public road, the front, side and rear of the property.
- 7.2. In the Compulsory Acquisition report prepared by Limerick City and County Council it outlined that the Dereliction and Vacancy Team focus on bringing derelict and vacant properties back into use. They set out that the general approach is to work proactively with property owners and that owners of derelict properties are advised of scheme such as Buy and Renew and Lease and Repair.
- 7.3. In relation to the process of searching for derelict sites it is outlined in the report that Area Inspectors carry out regular surveys of designated districts and respond to submissions from elected representatives and the public. Where a property has been placed on the Derelict Sites Register, they state that staff work through the entries and support owners to remove them from the register.
- 7.4. In relation to the subject property at Emly Road, Knocklong, Co. Limerick, it is described in the Compulsory Acquisition report as vacant and in a derelict condition for a considerable period of time. It is stated the report that the site would draw the eye of persons in the area and that it detracts from all land and property in the vicinity. The rear of the property was described as being completely overgrown with vegetation and also that the front garden was overgrown. It was highlighted that ivy was growing up the external walls and over the windows and doors at the back of the property. Regarding the condition of the dwelling a window opening at the front of the

property was highlighted as being broken and covered with a light piece of plywood. A window at the gable end of the property was also noted as being in a ruinous state and covered with untreated and unpainted hoarding. In relation to the condition of the windows it was stated in the report that they are all in need of repair/paintwork as they are dirty and unsightly. The report also referred to the presence of litter, rubbish and debris at the back of the property.

- 7.5. The report outlines the date that the notice of intention to enter the land in Derelict Sites Register was issued and also that correspondences and procedures were followed in line with the relevant provisions of the Derelict Sites Act, 1990, as amended.
- 7.6. They set out in the report that as no remedial works had been carried out and the land continued to be in a derelict state, Limerick City and County Council exercised its power of compulsory acquisition under Section 15 of the Derelict Sites Act, 1990, and gave its Notice of Intention to Acquire Derelict Site Compulsorily to the owners and advertised same in the Limerick Post newspaper on 21st October 2021. The report concludes that while work was carried out on the property after the Section 15 notice was served, it remains a fact that this derelict site continues to detract from the land and amenities in the neighbourhood. They submit that they are best placed to solve the dereliction evidenced with this land.
- 7.7. The objectors Liam Gleeson and Patrick Gleeson have responded to this in the submission to the Board provided by Gleeson McSweeney Architects. They object to the compulsory acquisition of their property for a number of reasons. They contend that Limerick City and County Council did not actively engage with them during the process and that they were not made aware of any relevant schemes and initiative.
- 7.8. They contend that they were not provided with a satisfactory level of formal notification regarding the subject process in accordance with the legislation. In relation to this point I would note that Limerick City and County Council have served the following notices under the Derelict Site Act, 1990:
 - Section 8(2) Notice of intention to enter land in Derelict Sites Register: 11th December 2020.
 - Section 8(&) Notice of Entry of Land in Derelict Sites Register: 15th February 2021.

- Section 15(1)a Notice of Intention to Acquire Derelict Site Compulsorily: 21st October 2021.

- 7.9. I consider that the notices were issued in accordance with the requirements of the Derelict Sites Act, 1990, as amended.
- 7.10. They raised concern that the Compulsory Acquisition report only covered the specific issues concerning the subject property in a ten line paragraph. In relation to the condition of the subject dwelling and lands the objectors responded to each of the points raised in the Compulsory Acquisition report. Firstly, in relation to the front and rear garden which Limerick City and County Council state was completely overgrown with vegetation as is the front garden the objectors provided some context as to when that was the case, and the subsequent steps taken. They highlighted that at the time that when Limerick City and County Council inspected the property that a new boundary wall was erected within the rear grounds of Medova House, to allow for the conversion of the neighbouring office building within the old creamery grounds, into two dwellinghouses. During the construction works including the construction of the new boundary wall the developer placed soil in the rear garden of Medova House. Mr. Liam Gleeson stated that he had an agreement with the developer that he would remove the soil and then tidy up the entire grounds. It is highlighted that this agreement was in place before the action under the Derelict Sites Act commenced. Regarding the clearing up and maintenance of the lands they stated it would have been carried out however it was delayed as a result of the various lockdowns during Covid.
- 7.11. The objectors submit that prior to the pandemic that the front of the property was always maintained in a tidy condition. This included the hedge/ shrubbery being trimmed and that the lawn was regularly cut. Therefore, they refute that there was long term neglect.
- 7.12. In relation to the condition of the front and rear garden of the subject property, on inspection of the site I observed that the front and rear garden were grassed and that the grass had been cut. I also observed that the hedge along the eastern boundary to the front of the property had been cut to an appropriate height and that was in a tidy condition.

- 7.13. The second point in relation to the condition of the property referred to the growth of ivy. The Compulsory Acquisition report, stated that “there is ivy and vegetation growing up the external walls and over the windows and doors at the back of the property.” In response to this matter the objectors stated that the rear of the property is not directly visible from the public domain. They also argued that the rear of the dwelling is in a better condition than other adjoining properties within the terrace. In relation to the matter of ivy growth on the dwelling, on inspection of the site I observed that there was no significant level of ivy growth on any of the external walls. It would appear that the owners have cleared the ivy and there is only a very minor amount remaining on the gable wall.
- 7.14. The third point raised in the Compulsory Acquisition report referred to a window opening at the front of the property which it stated was broken and covered with a light piece of plywood. In response to the matter the objectors referred to other properties located in Killamallock which had boarded up windows and which were not subject to CPO’s or on the Derelict Sites Register. In relation to this matter, I would note that on inspection of the site I did not observe any of the windows to the front of the property with light plywood covering them.
- 7.15. The fourth point raised in the Compulsory Acquisition report referred to the condition of a window at the gable end of the property. The Compulsory Acquisition report stated; “There is a window at the gable end of the property that is in a ruinous state and covered with untreated and unpainted timber hoarding.” In response to the matter the objectors stated that only a portion of the window was boarded up and that it could not be seen from the public road. In relation to this matter, I would note that on inspection of the site I did not observe any gable window of the property with timber hoarding covering it. I note that it appeared that a new pane of glass had been installed into the ground floor window at the southern end of the gable elevation.
- 7.16. The fifth point raised in the Compulsory Acquisition report referred to the presence of rubbish on the property. It was stated in the report that “there is a presence of litter, rubbish and debris at the back of the property.” In response to the matter the objectors stated that there has never been a litter problem with this property and that the amount of rubbish observed at the rear of the property at the time they inspected the location would have been minimal. They also confirmed that any rubbish which

was discarded onto the property by others was picked up frequently. In relation to this matter, I would note that on inspection of the site I did not observe any litter, rubbish or debris to the front, rear or side of the subject property.

7.17. 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 of 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."

7.18. Having regard to the definition of 'derelict site' under Section 3 of the Derelict Sites Act 1990, as amended, I would not concur with Limerick City and County Council that the subject property comes under the definition as detailed above. I have come to this conclusion on the basis of the observed condition of the application site and subject property, specifically the current condition of the site, the structural condition of the building and the condition and appearance of the external walls, windows, doors, roof and rainwater goods which are comparable to condition of the adjoining four properties within the terrace, I consider that the site does not materially detracts from the amenity, character and appearance of land in the neighbourhood and therefore does not constitute a derelict site within the meaning of Section 3 of the Derelict Sites Act, 1990, as amended. Having regard to the details set out above I do not consider that the subject property and lands are in a neglected, unsightly or objectionable condition. Furthermore, I did not observe the presence of any litter, rubbish, debris or waste.

7.19. In relation to the matter of the occupation of the subject dwelling, while I note that it is currently unoccupied the objectors have confirmed that the medium term plan is

that the property will be occupied by Mr. Patrick Gleeson within a timeframe of approximately five years following the internal refurbishment of the dwelling. Accordingly, I would consider that it would be appropriate to provide further time for the site owners to carry out the internal refurbishment of the property to facilitate the future occupation of the dwellinghouse.

8.0 Conclusion

- 8.1. I am satisfied that the process and procedures undertaken by Limerick City and County Council have been fair and reasonable. However, I do not conclude that the local authority has demonstrated the need for the lands and that all the lands being acquired are both necessary and suitable to ensure that the lands do not continue to be a derelict site.
- 8.2. Having regard to the constitutional and Convention protection afforded to property rights, I do not consider that the acquisition of the Derelict Site comprising a two-storey, end of terrace, residential premises and surrounding land situated at Emly Road, Knocklong, Co. Limerick, contain 0.039 area or thereabouts, as set out in the Derelict Site Notice issued under Section 15(1)(b) of the Derelict sites Act 1990, (as amended) and dated the 18th day of October 2021 and on the deposited maps (DS-134-20) pursues, and is rationally connected to, a legitimate objective in the public interest, namely, to ensure that the lands do not continue to be a derelict condition.
- 8.3. I am not satisfied that the acquiring authority has demonstrated that the means chosen to achieve that objective impair the property rights of affected landowners as little as possible. In this respect, I considered alternative means of achieving the objective referred to in submissions to the Board, and am not satisfied that the acquiring authority has established that none of the alternatives are such as to render the means chosen and the CPO made by the acquiring authority unreasonable or disproportionate.
- 8.4. Accordingly, I am not satisfied that the confirmation of the CPO is clearly justified by the exigencies of the common good.

9.0 Recommendation

- 9.1. Having regard to the observed condition of the application site and subject property, specifically the current condition of the site, the structural condition of the building and the condition and appearance of the external walls, windows, doors, roof and rainwater goods which are comparable to condition of the adjoining four properties within the terrace, I consider that the site does not materially detracts from the amenity, character and appearance of land in the neighbourhood and therefore does not constitute a derelict site within the meaning of Section 3 of the Derelict Sites Act, 1990, as amended.
- 9.2. Accordingly, I do not 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 that the Board refuse consent to Limerick City and County Council to compulsorily acquire the site.

10.0 Reasons and Considerations

- 10.1. Having regard to the current condition of the site, the structural condition of the building and the condition and appearance of the external walls, windows, doors, roof and rainwater goods, it is considered that the site does not detract to a material degree from the amenity, character and appearance of land in the neighbourhood and, therefore, does not come within the definition of a derelict site as defined in sections 3(a), 3(b) and 3(c) of the Derelict Sites Act, 1990, as amended. The Board considered that the acquisition of the site by the local authority is not necessary in order to render the site non-derelict. The Board considered that it would be appropriate to provide further time for the site owners to carry out the internal refurbishment of the property to facilitate the future occupation of the dwellinghouse by the owner/s. Therefore, the Board decided to refuse consent to the compulsory acquisition of the site in question.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Siobhan Carroll
Planning Inspector

22nd of February 2024