



An  
Bord  
Pleanála

## Inspector's Report ABP-313547-22

### 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

Wolfe Tone Street, Kilmallock, County Limerick

### Local Authority

Limerick City and County Council

### Notice Party

Clinton Kiernan

### Date of Site Inspection

23<sup>rd</sup> June 2023

### 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 Wolfe Tone Street, Kilmallock County Limerick, in accordance with the provisions of the Derelict Sites Act, 1990, as amended.

## **2.0 Site Location and Description**

- 2.1. The site is located on Wolfe Tone Street which is situated in Kilmallock town centre. Wolfe Tone Street (R515) which travels in a N-S direction crosses the main street, Lord Edward Street (R512), which travels in an E-W direction, in the centre of the town. Lord Edward Street/Sarsfield Street is the primary retail street and Wolfe Tone Street has a mix of land-uses. The first street block of Wolfe Tone Street to the north of the junction has a mixed-use character, with residential terraces mixed with a car sales yard, a funeral director, public bars, restaurants and some small-scale retail. The second street block of Wolfe Tone Street, which is to the north of the junction with Orr Street/Deebert Park, is primarily residential. The subject site is located on this street block, just one property away from the junction with Deebert Park.
- 2.2. It comprises an attached two-storey which is currently roofless and without a rear wall. It is situated within the Kilmallock Architectural Conservation Area. The building immediately to the south, to which it is attached, is a two-storey habitable house which appears to be occupied. The building immediately to the north is a two-storey substantial structure which is setback slightly behind the established building line and appears to be in a derelict condition.
- 2.3. The subject site is not a Protected Structure nor is it listed on the National Inventory of Architectural Heritage. However, there are several Protected Structures in the vicinity including the cottages on the opposite side of the road (RPS1374-1378 inclusive), a 2-storey dwelling to the north (RPS 1383), and a bridge over the River Loobagh, approx. 60 metres to the north. It is described as a semi-detached, 2-storey dwelling on a site of approx. 0.040ha. It is stated that the said property and surrounding land is in a state of dereliction.

- 2.4. On the date of my site inspection, the property was partially secure with the front door and front windows boarded up. The ground floor opening to the south (right) of the front door was open to the elements and the rear garden was clearly in view through the opening from the street. There was a car parked behind the opening (within the 'room' of the structure) and a steel her a fence fixed to the rear of the 'room' (i.e., preventing access to the rear garden). The southern internal wall of the 'room' comprised a random rubble stone wall and the northern internal wall had recently been constructed of concrete block. A new floor/ceiling had been installed above the 'room'. The front door and windows, although currently boarded up, are either missing or badly damaged, as can be seen from the rear and from photographs on the file and are in need of replacement. The front façade is rendered and painted but the render is cracked, and the paint is dirty and peeling. There is wiring and piping protruding from the property and the rainwater goods are missing at the front.
- 2.5. The property is roofless and the much of the rear wall is missing, and as such the structure is exposed to the elements. The side gable wall to the north is damaged with the apex missing and the party wall to the south is unplastered with exposed brick visible. There is vegetation growing on the structural walls, and within the structure, with vegetation also evident at parapet and roof level. The rear garden is overgrown and unkempt with rubbish scattered around the rear. There is a long, narrow rear garden which is enclosed at the sides with a pair of high stone walls that are also in poor condition and crumbling in parts, particularly at the eastern end. There is also at least one hole in the southern wall which had a timber pallet wedged into it. There is a metal railing between the northern gable wall and the derelict site to the immediate north at street level.
- 2.6. I was unable to gain access to the site on the day of my site inspection. However, I was able to view the front elevation from the street and part of the rear from Deebert Park.

### **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 15<sup>th</sup> March 2021, (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 23<sup>rd</sup> September 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 owners/occupiers (Clinton Kiernan) and was published in the Limerick Post newspaper on the 12<sup>th</sup> of March 2022. The site was described as follows in the notices:

- A derelict site comprising a two-storey semi-detached dwelling and surrounding land situate at Wolfe Tone Street, Kilmallock, Co. Limerick, containing 0.040 hectares or thereabouts. The said property and surrounding land are in a state of dereliction. The said derelict site is more particularly shown outlined in red on map bearing reference no. DS-001-21 in the Derelict Sites Register established and maintained by Limerick City and County Council under Section 8 of the Derelict Sites Act 1990.

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

### **4.2. Objection to Acquisition**

4.2.1. An objection to the proposed acquisition was submitted to Limerick City and County Council by Lees Solicitors on behalf of the owner, Mr. Clinton Kiernan, in a letter dated 15<sup>th</sup> March 2022. This was followed by further correspondence regarding the ownership of the property on the 31<sup>st</sup> of March 2022. The objection can be summarised as follows:

- Mr. Kiernan is the owner of several properties on Wolfe Tone Street and has for the last forty years been renovating these properties and has greatly

enhanced the appearance of the street, with the knowledge and approval of LCCC.

- Mr. Kiernan has met with the Conservation Officer for LCCC on site and a schedule of works has been agreed. It is stated that the C.O. had advised that planning permission was not required given that it was the owner's intention to restore the property to its original condition. The C.O. had suggested minor conditions only such as not to remove the stone pillars and to restore the shop counter.
- No time schedule was agreed for the renovation works. Mr. Kiernan had advised the local authority that he had previously renovated other properties nearby and that when he was in a financial position to do so, he would undertake the renovation of this property. Objection is being made by the owner of the property on this basis.

#### 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 10<sup>th</sup> May 2022 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 12<sup>th</sup> March 2022.
- Copy of objection made by Lees Solicitors on behalf of the owners, dated 14<sup>th</sup> March 2022 and 31<sup>st</sup> March 2022.

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

- Limerick City and County have established a specialised 'Dereliction and Vacancy Team' to take an area-based collaborative approach to addressing

vacancy and dereliction in Limerick City and in the towns and villages in the County. The team focuses on bringing derelict and vacant sites back into use, particularly in 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.

- Matters that are taken into account include
  - 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 requirement for remedial restoration works, and
  - the feasibility of various actions to make good the site and find viable uses for the site.
- The property first came to the attention of the L.A. in November 2020 and has remained vacant and derelict since then. It had a Derelict Site Case opened in 2021, Ref. DS-001-21, when it was first inspected.
- Site ownership enquiries were made by serving a section 29 notice on the property as the site was unregistered on the Land-direct system. Mr. Kiernan came forward as the reputed owner, but the required documentary evidence was not provided (in full).
- The property was inspected on a number of occasions by the Local Authority. Photographs from each of the site inspections dated November 2020, January 2022 and March 2022 are included with the application.
- The property is within the Kilmallock Architectural Conservation Area, in the centre of Kilmallock Town. There are several other derelict properties on the street and in the vicinity, including the property immediately to the north, which is now in the ownership of the local authority.

- The site comprises a two bay, two-storey semi-detached property. The appearance was described as follows :-

The semi-detached two-storey dwelling and surrounding land containing 0.04ha is vacant and in a derelict condition for a considerable time.

The structure is in a ruinous, derelict and dangerous condition. There is no roof on the property and no windows or doors in place. The property would need to be structurally assessed due to its poor condition.

The property is neglected and detracting from other properties in the area. Both the front and the rear of the site is unsecure and can easily be accessed by the public.

There is rubbish and waste scattered throughout the rear of the site.

- Planning permission (Ref. 03/1870) had been granted in 2003 on a larger site which also incorporated the derelict site to the immediate north. The proposed development included 9 apartments and was submitted by Drombrook Construction. It is stated that the planning permission is no longer valid and that the neighbouring site has since been acquired by LCCC.
- In February 2021, a meeting was held on site between the owner (Clinton Kiernan) and the LCCC Conservation Officer, Mr. Cassidy. The C.O. advised that works could not proceed on site without planning permission as the site is within an Architectural Conservation Area. It was stated that this was further required due to the fact that the structure was a roofless ruin with no rear wall and well as 'cross-compliance issues' such as archaeological heritage concerns as the site is within the Zone of Archaeological Potential for Kilmallock.
- The derelict properties on this street are of great concern to the Elected Members of the Cappamore-Kilmallock Municipal district and to local community groups such as Kilmallock Partnership, Kilmallock Community Council and Kilmallock Tidy Towns.
- Notices were issued in March 2021 of the local authority's intention to enter the land onto the Derelict Sites Register.

- In April 2021, construction works had commenced at the site which included the construction of internal block walls and ceiling joists.
- No response was received from the owner and the site was entered onto the register on 17<sup>th</sup> September 2021. A section 8(7) Notice to this effect was served on the owner on the 23<sup>rd</sup> of September 2021.
- Taking into consideration the continued dereliction and dangerous condition of the building, the decision was made to compulsorily acquire the site. The owner was notified of this under section 15 of the Derelict Sites Act on the 10<sup>th</sup> of March 2022 and it was publicised in the local newspaper on the 12<sup>th</sup> of March 2022.
- An objection to the section 15 notice was submitted by Lees Solicitors Ltd. on behalf of the owner, Mr Clinton Kiernan, by letter received by the local authority on the 15<sup>th</sup> of March 2022, which was followed by correspondence regarding the ownership received on the 1<sup>st</sup> of April 2022.
- The Local Authority contends that it is the inaction of owners and the failure of their duties under the Derelict Sites Act 1990 (as amended) that jeopardises the future use of the property in the area due to their continued neglected and derelict state. In this case the dangerous state of the derelict structure is also putting the health and safety of the public at risk. The Local Authority intends to pursue the compulsory acquisition of the derelict site.

#### **4.4. Objector's Submission**

- 4.4.1. A submission was made to the Board by Lees Solicitors on the 31<sup>st</sup> of May 2022 in response to the application for compulsory acquisition. It was confirmed that they act for the owner of the property, Clinton Kiernan.
- 4.4.2. Reference was made to the letter of objection submitted to the local authority on the 15<sup>th</sup> of March 2022, and the wish for the contents of same to be reiterated.
- 4.4.3. It is submitted that the owner is well known to the local authority and to the local population for having an intense interest in renovating neglected and dilapidated properties on this street, Wolfe Tone Street. An album of photographs showing the works that he had undertaken in the vicinity was enclosed with the letter.

- 4.4.4. The owner intends to complete the renovation works to this property to the same standard as those across the road. He has also provided photographs of some of the works undertaken to date within the said property, which demonstrates that he is making an effort to regenerate the property.
- 4.4.5. Since the photographs were taken, it is submitted that the owner has had the façade painted and the windows/doors shuttered up. It is abundantly clear, therefore that he is not presiding over a derelict property but is actively endeavouring to revitalise and renovate this property as sympathetically as possible.

## 5.0 Planning History

- 5.1. There are no records of any planning applications or permissions relating to the site.

*On adjacent sites*

- 5.2. **PL13.211829 (P.A. Ref. 03/1870)** – permission refused by the Board following a third-party appeal for the construction of 11 apartments on the adjoining site to the East. The reasons for refusal included adverse impact on the Protected Structure and overdevelopment.
- 5.3. **PL13.233502 (P.A. Ref. 06/1636)** – permission granted by the Board for retention and completion of conversion of the existing building to apartments and the erection of further apartments to the rear.

## 6.0 Policy Context

### 6.1. Development Plan

- 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 centres 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 include 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 County 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 **Kilmallock** is designated as a **Level 3 Town** in the Settlement hierarchy, with a population of 1,668 in 2016 and a forecasted population of 2,135 by 2028 (Table 2.7), representing an increase of 28%. Level 3 Towns (>1,400 population) are described (3.6) as secondary development centres for future population growth. They provide for a wide range of services and their functions are complementary to the Limerick Shannon Metropolitan Area (in Limerick), Newcastle West and each other. They have an important regional employment function as well as housing, retail and leisure functions for both the resident population and the wider catchment areas.

- 6.1.4. Relevant objectives include **CGR O13: Level 3 Towns** – consolidate growth and ensure they become more self-sufficient, and **CGR O14: Scale of Development within Level 3** – scale of new housing to be 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. Kilmallock Local Area Plan 2019-2025**

- 6.2.1. The site is zoned **Town Centre**, the objective for which is to protect and enhance the character of Kilmallock's town centre and to provide for and improve retailing, residential, commercial, office, tourism related development, cultural and other uses appropriate to the town centre, while guiding development of an expanded consolidated town centre area.
- 6.2.2. It is stated that Kilmallock performs an important market, service and employment function for the resident population and for South County Limerick. The town is stated as having a good range of community services that include churches, schools, shops, library, theatre, post office and pubs. There is also a strong commercial and professional presence with banks, business advisory services, accounting, mart, Garda Station, veterinary services, community care clinics, insurance services and the Kilmallock Business Park. Administrative services include the District Court, the Cappamore-Kilmallock Municipal District office, Teagasc and an Intreo Centre/Social Welfare Regional office.
- 6.2.3. Kilmallock is a heritage town with a mediaeval core and is a walled town. It is one of 20 Irish walled towns and was designated as such by the Heritage Council through the Irish Walled Town Network programme in 2005. Conservation works and management of the town wall is guided by the Kilmallock Town Walls Conservation and Management Plan. The site is also located within the Kilmallock Architectural Conservation Area and is immediately adjacent to a Protected Structure, is opposite a row of Protected Structures and is in close proximity to several landmark Protected Structures within the town. Objective H6 Kilmallock's ACA seeks to protect, conserve and where appropriate, enhance the ACA.
- 6.2.4. The vision for Kilmallock is that it
- “... will be a resilient and vibrant town, competitive to attract inward investment, sustaining a diverse community with opportunities for quality housing, education, enterprise and employment, whilst safeguarding Kilmallock's natural and built

heritage for future generations. It will continue to function as a key centre of economic, social, cultural activity in South Limerick.” (2.1)

- 6.2.5. **Objective R4(c) – infill residential development, vacant and derelict sites** – seeks to promote the use and development of derelict sites and under-used sites in line with the NPF and consider using powers subject to resources under the Urban Regeneration and Housing Act 2015, if deemed appropriate. It is stated at 4.3 that Kilmallock has an issue of high vacancy of both commercial and residential units in the town centre.
- 6.2.6. **Section 8.4 – Vacancy and Dereliction in Kilmallock** – it is stated that there is a higher than average vacancy rate in Kilmallock (as set out in Table 8.1). In relation to derelict and vacant sites, the general approach is to seek timely actions and improvement of sites, through positive engagement with landowners, using powers under the Derelict Sites Act 1990 and the Urban Regeneration and Housing Act 2015 only where necessary.
- 6.2.7. **Objective P2 Obsolescence, vacancy and dereliction** – it is the objective of the Council to identify and seek the re-purposing of obsolete property and exercise powers under the Urban Regeneration and Housing Act 2015 and the Derelict Sites Act 1990, if appropriate, subject to resources and due legislative process and to ensure that redevelopment proposals are sensitive to the historic and built heritage of the town.

### 6.3. **Derelict Sites Act 1990 (as amended)**

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

- 6.3.2. Section 3 of the Act defines ‘derelict site’ as:

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

- (a) the existence on the land in question of structures which are in a ruinous, derelict or dangerous condition, or
- (b) the neglected, unsightly or objectionable condition of the land or any structures on the land in question, or
- (c) the presence, deposit or collection on the land in question of any litter, rubbish, debris or waste, except where the presence, deposit or collection of such litter, rubbish, debris or waste results from the exercise of a right conferred by or under statute or by common law.”

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

## **7.0 Assessment**

- 7.1. Internal access to the property was not possible on the date of my site inspection. However, I carried out my site inspection from the public road and lands to the rear adjoining the site.
- 7.2. The property is vacant and has a neglected, unsightly and objectionable appearance from the public road and the surrounding residential area. This is due to the fact that

the front façade is in a poor state of repair with cracked, peeling render and dirty paintwork, that the rear wall and roof of the structure are missing meaning that the entire structure is open to the elements. In addition, the random rubble stone (eastern) gable wall is damaged, a large part of the apex is missing and there is vegetation growing out of it. The other gable (party) wall is unplastered and exposed to the elements. The windows and front door are boarded up with painted hardboard, apart from one opening. This ground floor opening is frameless and opens onto a void which has been lined with a concrete block wall on one side and ceiling joists overhead.

- 7.3. The stonework at parapet level also appears to be in a poor state of repair with unstable masonry and vegetation growing there. The rainwater goods have all been removed. The render, reveals and window cills appear to be in a poor state of repair and the front door is in need of repair/replacement. There is wiring and piping protruding from the façade. At the rear the original stone walls are crumbling and in a very poor state of repair with sections missing, vegetation growing over the top of the walls or entire walls missing.
- 7.4. The combination of these factors detracts from the amenity of the street and the character of the area, and in particular, have a detrimental impact on the conservation value of the Architectural Conservation Area and of the adjoining and nearby Protected Structures. The property has been in a derelict state and has remained vacant for some time and its condition has deteriorated during this period of vacancy and dereliction. The longer the building is vacant and in a state of dereliction, the greater is the likelihood of significant damage to historic fabric and the need for remedial restoration works, with the potential for greater levels of intervention. Thus, the continued dereliction of the property threatens the conservation value of the historic structure within the Architectural Conservation Area and restricts the opportunities to find viable uses.
- 7.5. The property is situated in the middle of a street of historic properties which are generally occupied as residential units, which appear to be well maintained and in good condition, apart from the property immediately to the east. This property is also in a derelict condition and is a Protected Structure, but according to the submissions on the file, it has recently been purchased by the Local Authority. The lands in the general vicinity form part of the Kilmallock Architectural Conservation Area and contains many historic and protected structures, with some of the sites in the vicinity

being listed on the NIAH register. The area has an attractive appearance, and the public realm is well cared for, with high quality public amenities such the walkway alongside the River Loobagh. The site also forms part of the Medieval Town Core with the Town Walls, the bridge over the river, the Collegiate Church and the Dominican Abbey in close proximity, which all contribute to the attractiveness and heritage value of the town. There are Local Plan policies to conserve the character and heritage value of Kilmallock and to promote the attractiveness of the town centre. 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 area.

- 7.6. Although the front façade remains standing, it is open to the elements on both sides and the stonework at the parapet level appears to be unstable and in a poor state of repair. The window openings are currently boarded up, but it can be seen from the photographs on file and in views from the rear that the frames are damaged and broken and the glazing is missing. The damage to the stonework which is clearly evident and the continuing exposure of the internal walls to the elements is both unsightly and is likely to further endanger the stability and longevity of the structure. I note from the photographs provided with the Local Authority report, however, that the property has deteriorated further since the first inspection in 2020, as the parapet area has since become more unstable and there are slates loose or missing on part of the roof of the adjoining premises adjacent to the expose party wall.
- 7.7. Having regard to the above, I would consider that the site falls within category (b) of section 3 of the Derelict Sites Act, 1990 due to the land and structure being in a neglected, unsightly and objectionable condition. With regard to category (a), this relates to structures which are in a ruinous, derelict or dangerous condition. Having inspected the site, I consider that there is also evidence that the structure is in a dangerous condition, and that it could be considered ruinous. Thus, it is considered that the site falls within category (a) of the Derelict Sites Act 1990.
- 7.8. There was evidence of litter, debris, rubbish and waste within the application site. I consider 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.

7.9. I note the actions of the Local Authority and the statutory notices served on the owner/occupier in respect of the building. Section 8(2) notices were served on the owners on 15<sup>th</sup> March 2021, advising of the Local Authority's intention to enter the site on the Derelict Site Register. Section 8(7) notices were subsequently served on 23<sup>rd</sup> September 2021, advising the owners that the site had been entered on the Derelict Sites Register. Finally, section 15(1)(a) notices were served on 10<sup>th</sup> March 2022 and published in the Limerick Post Newspaper on the 12<sup>th</sup> of March 2022 regarding the Local Authority's intention to acquire the site compulsorily.

7.10. I note the objection made to the Local Authority by the owner's solicitors, on the 15<sup>th</sup> of March and 1<sup>st</sup> of April 2022 to the proposed acquisition of the site, stating that the property was not derelict, that the owners Clinton and Kathleen Kiernan, intend to restore the property to its original condition. It was further stated that Mr. Kiernan was the owner of several properties on Wolfe Tone Street and that he had been renovating such properties for over forty years, which has greatly enhanced the appearance of the street. It was stated that Mr Kiernan had met with the L.A.'s Conservation Officer and that a schedule of works had been agreed, which would be carried out when the owner had the available funding. It was further stated that the Conservation Officer had advised Mr. Kiernan that: -

"no planning was required in the circumstances and Mr. Cassidy had relatively minor conditions attaching to the renovation of those works such as – not to remove the stone pillars and to restore the shop counter."

7.11. The Board should note however that in the Local Authority's report submitted with the application for compulsory acquisition of the site (10/05/22), a different account of the meeting was provided as follows:

"In February 2021, a meeting was held on site between Clinton Kiernan and the LCCC Architectural Conservation Officer, Mr. tom Cassidy. The LCCC Architectural Conservation Officer stated that the works could not proceed on the building without a planning application submission due to the site being in an Architectural conservation Area. Other site constraints highlighted by the LCCC Architectural Conservation Officer in support of the foregoing included the fact that the structure is a roofless ruin and has no rear wall, as well as the

cross-compliance issues (archaeological heritage concerns as the site is located within the Zone of Archaeological Potential for Kilmallock).”

- 7.12. It is noted that a further objection was made by Lees Solicitors on behalf of the owner to the Board on the 31<sup>st</sup> of May 2022. This stated that the owners had an established reputation for renovating such properties in Kilmallock and photographs to demonstrate this were attached. It was stated that it was quite clear that Mr. Kiernan was making an effort to regenerate the property and had received advice and direction from the L.A.’s Conservation Officer to this end. It was further indicated that the owner had had the façade painted and the doorway and windows shuttered up since the submitted photographs had been taken. It was reiterated that Mr. Kiernan is not presiding over a derelict property but is actively endeavouring to revitalise and renovate it as sympathetically as possible.
- 7.13. Having inspected the site, there is no evidence of any attempt to render the site non-derelict and the property remains in a neglected and unsightly condition. All but one of the openings had been covered with hardboard but the façade had not been repainted. No further information has been provided to the Board regarding any progress made on advancing the works to enable the property to be removed from the Derelict Sites Register. I therefore consider that the site remains in a derelict condition.
- 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 Wolfe Tone Street, Kilmallock, Co. Limerick is granted.

## **8.0 Recommendation**

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

- 8.2. I consider that it is reasonable that the Local Authority seeks to compulsorily acquire the land, as provided by section 14 of the Act. I recommend 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, the absence of a roof and rear wall, the poor state of repair of the external walls at parapet level and gables and to the presence of litter, debris and waste materials on the site it is considered that the site detracts to a material degree from the amenity, character and appearance of land in the neighbourhood and, therefore, comes within the definition of a derelict site as defined in sections 3(a), 3(b) and 3(c) 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.

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.

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Mary Kennelly  
Senior Planning Inspector  
3<sup>rd</sup> October 2023