



An
Bord
Pleanála

Inspector's Report ABP-314580-22

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

Brewery Lane, Askeaton, County Limerick

Local Authority

Limerick City and County Council

Notice Party

John Sheehy

Date of Site Inspection

25th 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 Brewery Lane, Askeaton, 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 Brewery Lane which is situated in Askeaton Town. Brewery Lane is located off William Street to the rear of Main Street (R518) but loops around to rejoin Main Street at West Square. William Street is primarily residential in character and Main Street is mixed in terms of uses, with established commercial and residential development. Brewery Lane provides access to Kingspan manufacturing plant and to a single detached dwelling, as well as a number of old sheds and stores on the northern side of the carriageway close to the junction with William Street. The subject site is one such structure.
- 2.2. The remainder of Brewery Lane is winding and bounded by a stone wall and mature vegetation. Askeaton Castle (in ruins) is located to the east of West Square and beyond it, flows the River Deel and East Square. There is a tourist information office, some shops, pubs and restaurants as well as Askeaton Library on or in the vicinity of East Square.
- 2.3. The site comprises an attached two-storey building which is in a dilapidated condition. It fronts directly onto Brewery Lane and is bounded to the north, to the east and to the west by further structures. The building immediately to the west is a two-storey shed with double doors opening onto Brewery Lane. This building is considerably taller than the building on the subject site and is of concrete construction with an apex roof. The building appears to be in reasonable condition and occupied, although it was locked up at the time of my inspection. The structure to the immediate east is in ruins but was formerly attached to the structure on the subject site. The building immediately to the north is a single-storey dwelling house which is setback behind the established building line, and is accessed from Brewery Lane, with the entrance just beyond the ruined building.

- 2.4. The subject site is not a Protected Structure nor is it listed on the National Inventory of Architectural Heritage. It is described as a 2-storey commercial unit on a site of approx. 0.012ha. It is stated that the said property and surrounding land is in a state of dereliction.
- 2.5. On the date of my site inspection, the property was partially secure with the front door and front windows boarded up at ground floor level, but the upper floor window was open to the elements. The ground floor opening to the west (left) of the front elevation was closed up with an unpainted corrugated iron gate door and the remaining openings were closed up with concrete block walls. The front façade is rendered and painted but the render is cracked, and the paint is dirty and peeling. There is a rusted metal box attached to the facade and the rainwater goods are missing at the front. The corrugated iron roof is damaged with sheets missing and the join between the roof and the parapet/eaves is badly damaged. The join between the ground and first floors is also damaged and there is vegetation growing out of the wall. There are rust stains and mould on the front external wall.
- 2.6. The ruin to the east has been damaged in the past by fire. The side party wall with this ruin is exposed to the elements. The random rubble wall appears to be unsealed and the joists are damaged. The footpath to the front of the property is cracked and damaged and there is moss and vegetation growing on the footpath and road.
- 2.7. I was unable to gain access to the site on the day of my site inspection. However, I was able to view the site from the street.

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 8th August 2019, (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 3rd September 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

4.1.1. Notice of Limerick City and County Council's intention to acquire the site compulsorily was served on the owners/occupiers (John Sheehy) on the 1st of July 2022 and was published in the Limerick Post newspaper on the 9th of July 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 Brewery Lane, Askeaton, Co. Limerick, containing 0.012 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-114-18 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 the owner, Mr. John Sheehy, in a letter dated 8th August 2022. This was accompanied by further correspondence regarding the ownership of the property on the 14th of December 2021, 14th of July 2022 and 5th of August 2022. The objections raised can be summarised as follows:

- Mr. Sheehy has owned the property since 2000 and it had previously been used as a joinery workshop, before becoming vacant. It was then broken into and set on fire. As Mr. Sheehy did not have insurance, he could not afford to redevelop the site.
- In 2019, Mr. Sheehy engaged the services of a building surveyor to draw up proposals to redevelop the site.
- In 2020, he entered into negotiations with LCCC for the sale of the site by agreement. As a result, he postponed the development proposals. It is

submitted that he was willing to sell the site to LCCC at a reasonable price and didn't want to incur any more costs associated with the proposed redevelopment.

- However, a dispute arose regarding the value of the property. Mr. Sheehy had the site valued at €23,000 (based on having a sewer and mains water services), but the L.A. had valued it at €10,000 (for the purpose of a Derelict Site Levy). The L.A. made a very low offer, which was inadequate and were not willing to increase their offer. It is submitted that the existing services on the site are worth more than the Council's valuation.
- Following this dispute, Mr. Sheehy advised that he had written to the L.A. explaining why he could not accept the offer and that he had then instructed his agent to proceed with the planning application for the redevelopment of the site.

The following documents were attached to the submission -

- An email from the local authority dated **7th of February 2022** stated that the sale was 'sale agreed' at €18,000.
- A copy of a letter dated **14th July 2022** (Attachment No. 4 to the Objection submitted to the L.A.) from Mr. Sheehy to the L.A. stated that LCCC had entered into an agreement to acquire the site for €18,000 on the 7th of February 2022, but had later notified him that it would be necessary to CPO the site in order to perfect the title. Mr. Sheehy further stated that if the amount of compensation is equivalent to the offer, he would be agreeable to the acquisition.
- A document dated **5th August 2022** (Attachment No. 3 to the Objection submitted to the L.A.) outlines the history of the ownership of the property, which may be summarised as follows.
 - It is stated that Mr. Sheehy bought the site on the 15th of May 2000 and was represented by a solicitor.
 - It is submitted that he has been in undisputed occupation of the property since obtaining a Deed of Assignment dated 15/05/00 and that all of the

purchasers had also been represented by legal representatives prior to that, as recited in the Deeds.

- The title of the property may be perfected by the local authority in his opinion on foot of his title.
 - Since he purchased the site in 2000, no third party has approached Mr. Sheehy alleging that they have any interest in the property or demanding any payment of rent.
 - The previous owner had also provided a Declaration confirming that no rent had ever been demanded from him during his 45 years of ownership nor had any notices been served on him since he had purchased it in June 1977.
- Mr Sheehy submits that the various legal firms that represented the purchasers through the chain of title for the property were of the view that the title was acceptable for the considerations paid.
 - It is stated that almost 12 months prior to going sale agreed, the local authority had been provided with a copy of the title deeds. He therefore questioned the L.A.'s legal advice as in his opinion, the sale agreed price reflected the value at that date given the condition of the property and the legal status of the deed.
 - He further advised that a planning application had been submitted to the P.A., which was at FI stage.
 - Objection is being made by the owner of the property on the basis of the above.

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 6th September 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 9th July 2022.
- Copy of objection made by Mr. Sheehy and associated correspondence, dated 8th August 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 April 2019 and has remained vacant and derelict since then. It had a Derelict Site Case opened in 2019, Ref. DS-114-18, when it was first inspected.

- Following service of Section 8(20 and 8(7) notices, Mr. Sheehy came forward claiming his ownership of the site, 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 April 2019, August 2019, September 2020, November 2021, June 2022 are included with the application.
- The derelict site is located on Brewery Lane on the southern side of the town and is just off the N69, which links the commuter routes between Limerick and North Kerry. The property is located close to the local National and Secondary schools, Askeaton Castle, the Franciscan Abbey, the Community Swimming Pool and leisure centre as well as other businesses and residential properties.
- The site is deemed derelict as it detracts from the amenity, character and appearance of the area. It has been in a derelict condition for some time. It detracts in a great way from the well-maintained residential property to its side and rear, the properties in the vicinity of the Askeaton Castle and will draw the eye of anyone entering the town.
- The derelict site comprises a two-storey former commercial unit. The appearance was described as follows:-

The front wall is weather beaten and has vegetation growing out of it.

The roof is structurally damaged, and the property has been set fire to in the past which has contributed to the roof damage.

The windows and door are damaged and broken.

The rear yard has extensive vegetation overgrowth along with rubbish dumped within the property.

The site has a neglected look and is in an unsightly condition.

Attempts to clean the property have been carried out by the Tidy Towns Committee in an effort to tidy up the property for the local community.

- In early 2021, Mr. Sheehy expressed an interest in selling the property to LCCC and through his solicitor, the deeds on which Mr. Sheehy originally

purchased the property were supplied to LCCC for approval. In August 2021, an offer was made to purchase the property. However, Mr. Sheehy rejected this offer.

- In November 2021, a notice was served under section 15 of the Derelict Sites Act, 1990 (as amended) to acquire the property compulsorily. Mr. Sheehy objected to this in December 2021. The L.A. then reached agreement with Mr. Sheehy to purchase the property directly and the compulsory purchase was paused.
- In February 2022, LCCC's law agent advised that the title provided by Mr. Sheehy was not satisfactory to prove superior interest in the property and could not guarantee that Mr. Sheehy had clear freehold title of the property.
- Planning permission (Ref. 21/1674) was lodged in December 2021 for the conversion of the property into two one-bedroomed apartments. It is stated that further information was requested by the P.A. on the 3rd of February 2022, but the applicant had not provided the requested information. However, an extension of time in which to provide the requested FI had been granted until the 3rd of August 2022.
- The land continued to be in a derelict state. Taking into consideration the continued dereliction and neglected 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 1st of July 2022 and it was publicised in the local newspaper on the 9th of July 2022.
- An objection to the section 15 notice was submitted by Mr. Sheehy by letter received by the local authority on the 8th of August 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 continued derelict and neglected state of the derelict structure is attracting negative attention in a key residential area. The Local Authority intends to pursue the compulsory acquisition of the derelict site.

4.4. Objector's Submission

- 4.4.1. No response to the local authority's application for compulsory acquisition has been made to the Board.

5.0 Planning History

- 5.1. **P.A. Ref. 21/1674** – planning application for permission to demolish the derelict building and to construct 2 apartments on the site. The application was declared withdrawn on the 3rd of November 2022, following a request for FI and a grant of an extension of time on the 3rd of August 2022. The FI request had raised concerns inter alia regarding piecemeal development in the absence of inclusion of the adjoining ruined building, lack of car parking, open space and access to public sewers. It is noted that there was also a letter of objection from the adjoining neighbour to the northwest.

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 **Askeaton** is designated as a **Level 4 Large Village** in the Settlement hierarchy (Table 2.7), with a population of 1,137 in 2016 and a forecasted population of 1,455 by 2028, representing an increase of 28%. Level 4 Large Villages are described (3.7) as catering for the daily and weekly needs of the surrounding wider catchment area. They provide for a range of employment opportunities and services appropriate to their size and function, such as secondary and primary schools, childcare facilities, sports grounds/complexes, libraries, Garda stations, medical centres, shops, pubs, post offices and banks/credit unions.

6.1.4. Relevant objectives include **CGR O15: Requirements for Developments within Level 4 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 O4 – to encourage redevelopment and reuse, including energy retrofitting of existing housing stock and conversion of other suitable buildings to sustainable accommodation.

6.2. **Askeaton Local Area Plan 2015-2021 (Extended to February 2025)**

6.2.1. The site is zoned **Town Centre**, and the lands on the opposite side of Brewery Lane are zoned Enterprise and Employment. The lands along William Street to the west are zoned Existing Residential apart from the site on the corner, which is zoned Open Space and Recreation. The objective for Town Centre in the LAP is to protect and enhance the character of Askeaton's town centre and to provide for and improve

retailing, residential, commercial, office, cultural and other uses appropriate to the town centre, while guiding development of an expanded consolidated town centre area. The site is identified in Figure 10.2 as an Opportunity Site Area 1 Brewery Lane (page 76).

- 6.2.2. It is stated that Askeaton performs an important civic, trade/market and service function for the resident population and for the surrounding hinterland. Most of the economic activity takes place on Main Street, East Square and West Square. The town is stated as having a good range of community services that include churches, schools, a health clinic, library and a swimming pool/leisure centre. There is also a strong commercial and professional presence with a bank and a Credit Union, a large convenience retailer, an agri-business co-op store, a hardware store and some smaller retail outlets, pubs and restaurants.
- 6.2.3. Askeaton is a heritage town with a mediaeval core and a Desmond Castle. It has an unusual layout with two market squares one on either side of the Castle Island. It has a linear form and originally developed at the bridging point of the River Deel and along the R518. It is stated (2.3) that the Squares, the Friary and the Castle, the banks of the River Deel and its quayside, and the town centre with its traditional streetscapes and the medieval core are important contributors to the identity of the town. Askeaton is designated a Historic Town by the Record of Monuments and Places (RMP) under the National Monuments (Amendment) Act 1994. Askeaton is classified as a historic town (LI011-092001) in the Record of Monuments and Places (RMP).
- 6.2.4. The vision for Askeaton is that
- “Askeaton functions efficiently as a place where people can and want to live, work and visit and which fosters an authentic sense of place.” (3.2)
- To achieve this, it is stated that it must develop in a manner that protects its rich cultural and natural heritage, accommodated a vibrant and balanced community and provides good employment opportunities and quality local services and amenities.
- 6.2.5. Retail/commercial and residential vacancy is stated to be a serious issue in the town centre with 26 retail/commercial and 15 residential units vacant in 2014 (3.4 and 10.2). This issue also features in the SWOT analysis (Table 3.1) as both a weakness and a threat as they present a poorly maintained and neglected impression of the

town. It is stated (10.3) that Askeaton's traditional built form is unique and is an integral part of its heritage, but that it is under threat from vacancy.

6.2.6. At Section 10.2, it is stated that in relation to Derelict and Vacant sites the general approach is to seek timely actions and improvement of the sites through positive engagement with landowners, using powers under the Derelict sites Act only where necessary. The following matters will be taken into account –

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

6.2.7. **Section 10.4 Askeaton Opportunity Areas** – Brewery Lane is identified as an Opportunity Site. The purpose of the opportunity sites is to encourage the restoration, consolidation and improvement of these sites. The opportunity sites are located close to the town core and thus, sensitive development of these areas would consolidate the centre of the town whereby amenities are within walking distance.

Area 1 Brewery Lane is described as follows –

This area can be accessed from William Street and from West Square. This area is historically important as it was the location of a brewery in medieval times. It also contains the original slipway with cobble stones that served the castle, for example the movement of animals at low tide into the vaulted cellars of the Castle. Walking along the lane affords impressive views of Desmond Castle.

Redevelopment of the disused sheds, which are of poor visual quality, is stated as being important to improve public realm and tourism potential in the town. Desirable redevelopment includes a mix of small craft shops, coffee shops, tourist related services/accommodation and small-scale office development and residential development. Design advice is set out at 10.4.

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 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 roof of the structure is structurally damaged with parts of the corrugated iron cladding missing and that the first-floor window is unsealed, meaning that the entire structure is open to the elements. In addition, the random rubble stone (eastern) gable wall, (which is an internal party wall with the previous structure) is damaged and exposed to the elements. The windows and front doors at ground floor level are boarded up with unpainted corrugated iron or have been blocked up. The rainwater goods are missing and the joins between the floors and at parapet/eaves level are damaged and exposed to the elements. There is vegetation growing out of the external walls and at roof level and rust stains and mould on the front façade. The footpath to the front of the property is cracked and damaged and there is moss and vegetation growing on the footpath and road.
- 7.3. The combination of these factors detracts from the amenity of the street and the character of the area. 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 any historic fabric and the need for remedial restoration works, with the potential for greater levels of intervention, and restricts the opportunities to find viable uses.
- 7.4. The property is situated on a in the middle of a street of historic importance, which has been designated as an Opportunity Area 1 – Brewery Lane. It is stated (10.4 of the Askeaton LAP) that Brewery Lane is important historically due to the location of a brewery here in medieval times. It is further stated that the street contains the original

slipway with cobblestones that served the castle, which would have been used, for instance, for the movement of animals at low tide into the vaulted cellars of the castle. It is stated that 'walking along the lane affords impressive views of Desmond Castle'. I noted from my site inspection that the castle is prominent in views to the east from the lane outside the derelict site. The objective of the 'Opportunity Area' is to redevelop the disused sheds (including the subject site) in order to improve the public realm and tourism potential in the town.

- 7.5. Most of the properties on Brewery Lane are generally occupied as commercial or as residential units, which appear to be well maintained and in good condition, apart from the property immediately to the east, which is in ruins. This property is also in a derelict condition and is on the Derelict Sites Register (Ref. DS-126-20). The property immediately to the rear (north) is in residential use, which is occupied and well maintained, and the adjoining site to the west is a storage shed which also appears reasonably well maintained.
- 7.6. It is considered that the redevelopment of the vacant and derelict sites on this street would make a significant improvement to the visual amenity and public realm of Brewery Lane, which forms an important link to the historic medieval core of the town. There are Local Plan policies to conserve the character and heritage value of Askeaton 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.
- 7.7. Although the front façade remains standing, it is open to the elements at the upper floor and roof levels due to the unsealed window and missing corrugated sheeting and the masonry at the parapet level appears to be unstable and in a poor state of repair. The remaining party wall (formerly internal) is also damaged and exposed to the elements. The window openings at ground floor level are currently boarded up, but it can be seen from the photographs on file that it has been in a state of neglect for some time with evidence of debris, waste and vegetation growing internally. I note from the photographs provided with the Local Authority report, however, that the property has deteriorated further since the first inspection in 2019, as the parapet area has since become more unstable and fire at the adjoining premises is likely to have resulted in further structural damage and to the exposure of the party wall.

- 7.8. 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.
- 7.9. There was no evidence of litter, debris, rubbish and waste within the application site. I consider 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.
- 7.10. I note the actions of the Local Authority and the statutory notices served on the owner/occupier in respect of the building. Section 8(2) notices were served on the owners on 8th of August 2019, advising of the Local Authority's intention to enter the site on the Derelict Site Register. Section 8(7) notices were subsequently served on 3rd September 2020, advising the owners that the site had been entered on the Derelict Sites Register. Finally, section 15(1)(a) notices were served on 11th November 2021 and again on the 1st of July 2022 and published in the Limerick Post Newspaper on the 9th of July 2022 regarding the Local Authority's intention to acquire the site compulsorily.
- 7.11. I note the objection made to the Local Authority by the owner, on the 8th of August 2022 to the proposed acquisition of the site, stating that he had entered into negotiations with the local authority to purchase the site which had progressed as far as sale agreed on the 7th of February 2022, but that the local authority had withdrawn from the sale agreement due to uncertainty regarding ownership of the property. However, Mr. Sheehy claimed that he was the owner and had provided evidence in the form of title deeds to this effect.
- 7.12. The Board should note, however, that in the Local Authority's report submitted with the application for compulsory acquisition of the site (06/09/22), the reason for withdrawal from the sale agreement was provided as follows:

“In February 2022, LCCC’s Law Agent advised that the title provided by Mr. Sheehy was not satisfactory to prove superior interest in the property and could not guarantee that Mr. Sheehy had clear freehold of the property.”

- 7.13. It is noted that in his objection, Mr. Sheehy had pointed out that each of the purchasers of the property over the last few decades had been represented by a legal representative and therefore questioned the legal advice given to the local authority on this matter. Information was provided which provided some detail on the chain of property owners.
- 7.14. Notwithstanding the information provided by the owner, the title does not appear to have been registered in Mr. Sheehy’s name. As he is not the first owner of the property, doubt remains over the freehold interest as it is unclear whether any previous owners could register an interest, which would potentially supersede his interest in the land. Although Mr. Sheehy has pointed out that nobody had ever claimed an interest during his occupation of the site, or that of the previous owner, going back 45 years, the local authority considered that this was not sufficient to overcome the doubts regarding the ownership issues.
- 7.15. 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 or blocked up, the roof remained damaged, and the façade had not been repainted or repaired. 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.
- 7.16. 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 Brewery Lane, Askeaton, 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 damaged roof and exposed side wall, the boarded up windows and doors and unsealed window at first floor level, the poor state of repair of the external walls on the front façade and at parapet level and the dirty, stained and unpainted nature of the front elevation, 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) and 3(b) 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.

Mary Kennelly

Senior Planning Inspector

11th October 2023