



An
Bord
Pleanála

Inspector's Report ABP-314583-22

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

The Square, Dromcolliher, County Limerick

Local Authority

Limerick City and County Council

Notice Party

Jeremiah Daly

Date of Site Inspection

10th May 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 The Square, Dromcolliher, 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 the main Square, which is situated in the heart of Dromcolliher town, in south-west County Limerick. Dromcolliher is a small town which is c.26km to the southwest of Limerick City, c.14km southeast of Newcastle West and c.14km west of Charleville. The R522 runs northwest to southeast through the centre of the town linking Newcastle West (N21) with Buttevant (N20) and Mitchelstown (M8). The R515 also runs east-west through the town linking Charleville with Broadford. There is a 'Square' in the middle of the town which is triangular in shape, with a green area and parking in the centre of the space, and the R522 forms the northern section of it. The site is located on the western side of The Square, which has a mixed-use character, with residential terraces mixed with some small-scale retail and community facilities, as well as some pubs and restaurants/take-aways.
- 2.2. The site is located close to the point where the R522 exits The Square, enroute to Newcastle West. It is a two-storey mid-terrace property with a substantial frontage to the western side of the Square. It was formerly in use as a nursing home. It originally had 7 bays, but the northern end has been demolished, resulting in just 5 bays fronting the Square. The site is quite substantial in area, having a stated area of 0.210ha. It is a long site extending almost 100m westwards towards the river. The demolition has left an exposed steel skeleton, which the local authority report states has been exposed to the elements for approx. 15 years. There are further structures to the rear of the main structure which are of a later date than the original building on the site.
- 2.3. The site occupies a central and prominent position on the Square and is situated within the Dromcolliher Architectural Conservation Area. The buildings immediately to the east and west comprise the remainder of the terrace, each of which is a two-storey house that appear to be occupied. The properties further to the east and west,

respectively, and on the opposite side of the road are generally two-storey buildings, mainly in commercial or residential use, which appear to be occupied and in reasonable condition.

- 2.4. 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 Bank to the south (RPS 1156), and a two-storey premises on the south-eastern side of the square (RPS 1157). It is described as a mid-terrace, 2-storey premises, formerly a nursing home, on a site of approx. 0.210ha. 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 secure with the front door and archway of the property firmly shut or boarded up. There was a tall metal gate and hoarding securing the gap formed by the demolition between the skeletal section and the gable wall of the adjoining property. The front façade is rendered and painted but the render is cracked and chipped in places, and the paint is also stained and peeling. The window cills and reveals are chipped and need repainting. The former arch is boarded up with plywood. Part of the ground floor section of the façade in front of the demolished section remains standing.
- 2.6. The upper floor windows were in place with the top lights open, but some had hoardings on the inside and they appeared to be propped open by wooden poles. The ground floor windows were also in place but were boarded up on the inside. All of the windows and doors are in need of repair or replacement. It was possible to see through the upper windows to the scaffolding holding the skeletal structure at the northern end. The partially demolished state of the building is highly visible from the public street as the skeletal structure is prominent in views of the terrace from The Square and from neighbouring properties.
- 2.7. The party wall with the adjoining premises to the north is open to the elements. It has been faced with concrete blockwork which is clearly visible from the street. The roof and rainwater goods at the front were in very poor condition. The roof slates/tiles were loose or damaged and covered with moss. There was vegetation growing out of the gutters and the downpipes were missing. The chimney pots had been removed. There is wiring and piping protruding from the property. The rear yard and gap appear to be in use as a building site with concrete blocks and building materials

stored there. The structures to the rear appear to be in the process of being reconstructed/ newly constructed.

- 2.8. 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 through the gap in the metal fence.

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 28th of June 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 the 11th August 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 (Jeremiah Daly) 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, mid-terrace former nursing home premises and surrounding land situate at The Square, Dromcollogher, Co. Limerick, P56 PF34, containing 0.210 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-036-16 in the Derelict Sites Register established and maintained by Limerick City and County Council under Section 8 of the Derelict Sites Act 1990.
- 4.1.2. 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 Hutch O'Malley Consulting Engineers in a letter on the 14th of July 2022 and on the 18th of July 2022. A letter from the owner's solicitor, PG McMahon Solicitors (dated 14/07/22) was included with the initial submission. It was stated that the owner of the property, Mr Daly, had purchased the property 'in his own right' in May 2015 and has carried out substantial repairs and work to the property in the meantime. It was stated, however, that at the time of purchase, both the physical development of the property and the financial aspect of the proposed development had required the consent of AIB Mortgage Bank and AIB PLC. Presumably, this related to the type of mortgage loan on the property at that time.

4.2.2. The objection can be summarised as follows:

- Mr. Daly has been hindered in carrying out further works due to various reasons. These include problems obtaining financial backing and approval, delays seeking planning permission, issues with sewage capacity and further delays arising from the Covid 19 pandemic.
- Mr. Daly has been engaging with the planning authority for several years. Reference to correspondence dated 10 Feb. 2011, 28 Aug. 2007 and 22 Aug. 2005. Positive response was obtained from P.A. in pre-planning meeting on 05/04/22 - Note attached). A firm of architects have been engaged, a planning application has been lodged (22/885) and planning permission is now pending.
- Mr. Daly has carried out substantial repairs and works to the property as shown on the attached photographs. It is now in pretty good condition and is better than some of the properties in the vicinity. It is further noted that the site to the rear has been cleaned up with new stone paving.
- Funding for the proposed development has since been secured and Mr. Daly can provide proof of quotations for same.

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 of July 2022.
- Copy of objection made by Hutch O'Malley submitted to the L.A. on 14th of July 2022 and 18th of July 2022, including a letter from the owner's solicitors, PG McMahon Solicitors.

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. on the 11th of February 2016 and has remained vacant and derelict since then. It had a Derelict Site Case opened in 2016, Ref. DS-036-16, when it was first inspected.
 - Site ownership enquiries were made through the Land Registry System, and it was established that the title is comprised in two folios, namely Folio Nos. LK14200 and LK10129, and that the registered owner was Mr. Jeremiah Daly of Tullylease, Charleville, Co. Cork. Mr. Daly was contacted by the L.A. in March 2018, but no response was received.
 - On the 28th June 2021, a Section 8(2) was issued. Correspondence was received by the local authority in response from Hutch O'Malley Consulting Engineers on behalf of the owner on the 16th July 2021. The history of the property was outlined including the attempts to remedy the dereliction in the past. Further correspondence was submitted outlining the objection to the compulsory acquisition.
 - On the 28th July 2021, a site meeting took place with Mr. Daly. He gave commitments to engage an engineer to carry out works to remediate the site. It is stated that it was his intention to put the property on the market for sale.
 - Following a further inspection by the local authority in August 2021, it was confirmed that no further progress had been made. It was decided to issue a section 8(7) notice on the 11th August 2021.
 - On the 28th October 2021, further correspondence was received from Hutch O'Malley, Engineers acting for Mr. Daly. It was stated that the owner intended to carry out works to secure the building (i.e., close it in) and that he intended to lodge a planning application.
 - The property was inspected on a number of occasions by the Local Authority. Photographs from each of the site inspections dated in February 2016, May

2018, June 2021, and January and July 2022 are included with the application.

- The property is within the Dromcolliher Architectural Conservation Area, in the centre of Dromcolliher Town.
- The site comprises a mid-terrace two-storey premises which is described as a former nursing home and surrounding land containing 0.210ha. The appearance was described as follows: -

The mid-terrace two-storey premises is vacant and in a derelict condition for a considerable time.

The site has a neglected look and detracts in a great way from the well-maintained public square in the heart of the town and properties in the vicinity.

The structure on the site is an exposed skeleton and has been exposed to the elements for over 15 years and is in a derelict condition.

The internal yard was substantially overgrown with vegetation but has recently been cleared. An extension to the rear is also derelict and exposed to the elements due to a lack of weather protection.

The site has a neglected look and is in an unsightly condition. There is an amount of vegetation overgrowth on the land and structure. Attempts to screen the site with metal fencing, and later with plywood which has now deteriorated, has further added to the objectionable nature and dirty appearance of the site.

- The derelict site, a two-storey former nursing home, is located in the main square of Dromcollogher, a vibrant market town on the R522 road, 16km to the southeast of Newcastle West. The main structure is set on the footpath and then extends westwards from the main square towards the rear of the site. The site is close to a local National School and Secondary School, Dromcollogher & District Respite Care Centre, GAA grounds and several shops and retail/commercial premises and residential properties, where other properties are well maintained.

- Notices were issued in June 2021 of the local authority's intention to enter the land onto the Derelict Sites Register.
- Mr. Daly initially gave commitments to carry out remedial works, some of which were carried out. A site meeting was held on the 28th July 2021, at which the necessary remedial works were set out and agreed. However, little progress had been made following a subsequent site inspection and a section 8(7) notice was issued in August 2021.
- On the 28th of October 2021, Mr. Daly's agent wrote to the local authority and advised that he would be carrying out works to secure the property and that a planning application to develop the site would be lodged. However, the land continued to remain in a derelict condition.
- Taking into consideration the continued derelict 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 letter received by the local authority on the 14th of July 2022, by Hutch O'Malley Consulting Engineers Ltd. stating that the property owner had carried out works which had addressed the visual impact of the property. It was stated that a planning application had been lodged and that permission was pending. Difficulties encountered since the owner had taken possession of the property were also set out in the correspondence including difficulty securing funding for the project. This was followed by correspondence, (received on the 18th July 2022), which reiterated the objection to the compulsory purchase of the site.
- 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. 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 Jeremiah Daly on the **6th of October 2022** in response to the application for compulsory acquisition. It was stated that the property is a 'derelict site' due to the inability of the property owner to secure funds to further develop the site in the past. However, it was submitted that the owner has since secured funding. The delay was due to issues relating to the mortgage on the property initially and subsequently to problems with the sale of two other properties, which was required in order to fund the development of the subject site.
- 4.4.2. It was stated that the property has remained in a derelict condition due to circumstances outside of his control. These included the country being in recession since 2008 and in the years that followed, he had tried to clear all debts by selling properties. Furthermore, it is submitted that development would have happened sooner only for the worldwide pandemic.
- 4.4.3. Progress has been made on the site in that the vegetation to the rear has been cleared, with works carried out on the 28th and 29th April 2022 (invoices included). Furthermore, a planning application has been lodged to facilitate parking at the rear and fire brigade access, the outcome of which is awaited. In the meantime, any works that could be carried out without planning permission, e.g., clearance of vegetation, foundations for emergency works etc. have been undertaken. A considerable amount of preparation works have been carried out including pre-meetings, engagement of engineers etc. Documentation to this effect is enclosed.
- 4.4.4. It is disputed that the planning application is a late reaction to the derelict site notices. Documentation enclosed shows the history of engagement with the planning authority. A decision on the planning application is due on 5th October 2022 and will be forwarded to the board.
- 4.4.5. A further submission was made by the owner on the 19th April 2023. It was stated that he had been carrying out substantial works to the property for a number of months but could not progress the matter any further until he had received a decision on the planning application, which was due on the 24th April 2023. It was requested that any inspection be postponed until planning permission was granted and that he had had an opportunity to carry out the required works.

- 4.4.6. The Board wrote to the local authority on the **6th October 2023** noting that planning permission had been granted under P.A. Reg. Ref. 22/885. It was requested that an update on the status of the property be provided such as whether any commencement notices had been issued on foot of the said planning permission.
- 4.4.7. The response from the L.A. (**17/10/23**) stated that no Fire Certificate or Commencement Notices had been submitted to the Fire Service / Building Control Section of the Council.

5.0 Planning History

- 5.1. **22/885** – permission granted for variation in the use of an existing nursing home which contains two existing dwelling units at the rear and a partially demolished building to the front. The permission sought the reconstruction of the front building into a proposed guesthouse. The demolished front section was proposed to be reconstructed to reconstitute the street façade and provide an accessway to the rear to allow access to the rear car park and allow access for emergency vehicles. The permission included the demolition of one of the buildings to the rear in order to increase the amount of light to the property. The second building to the rear is to be converted into two apartments. Permission was granted in April 2023 subject to 10 conditions. Condition 2 required the submission of revised plans and details for the written agreement of the P.A. prior to commencement of development.
- 5.2. **09/086** – permission granted to Jim Goggin on 3/3/10 for retention and completion of works to the ground floor and a change of use of the house on the ground floor to retail unit and change of use of living accommodation to domestic apartment on the first floor.
- 5.3. **05/3385** – permission granted to Jeremiah Daly on 20/9/07 for demolition and redevelopment of shop and dwelling overhead with access to car park.
- 5.4. **97/1332** – permission granted for renovations to a nursing home on 27/01/98 (applicant Holland).
- 5.5. **87/27776** – Change of use to nursing home (Holland).

6.0 Policy Context

6.1. Limerick City and County Development Plan 2022

- 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 **Dromcolliher** is designated as a **Level 4 Large Village** in the Settlement hierarchy (Table 2.7), with a population of 518 in 2016 and a forecasted population of 663 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 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 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.”

- 6.2.3. 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/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.
- 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 and was able to see through the gap in the metal fence/gate.
- 7.2. The property is vacant and has a neglected, unsightly and objectionable appearance from the public road and surrounding residential area and in particular from the Square, which is in the heart of the town. This is due mainly to the fact that the northern section of the mid-terrace building has been demolished and the internal skeletal structure is highly visible, resulting in a gaping hole in the streetscape. The front façade is also in a poor state of repair with cracked, peeling render and dirty/peeling paintwork, chipped window cills and reveals and that there is wiring and piping protruding from the façade. The windows on the front elevation are in a poor state of repair and appear to be propped open at first floor level by means of a pole and most of the windows are boarded up internally. The prominent location of the site in the

centre of the Square and in the middle of a terrace of properties which includes Protected Structures and is within the Dromcolliher Conservation Area.

- 7.3. The roof is in need of repair with loose or damaged slates and moss growing on it and the rainwater goods are either missing or damaged and in poor condition, with vegetation growing out of them. The most serious matter is the fact that the interior of the structure is exposed to the elements as it has not been made secure or weather tight following the partial demolition of the main building. The skeletal steel structure at the southern end of the gap and the concrete block wall adjoining the party wall at the northern end are highly visible in the streetscape views of the property and detract significantly from the character and appearance of the street and the square.
- 7.4. The metal vehicular gate providing access to the rear is utilitarian and out of character with the streetscape and adds to the vacant and neglected appearance of the property. The rear yard is visible through the gap in the gate/fence from the street and would be more prominently visible when the gate is left open. The rear yard appears to be used as a construction site for the rebuilding of the structures to the rear. There are building materials stored there and a hard gravelled surface has been laid. It would appear that some rebuilding works have been undertaken at the rear. These relate to new and/or replacement buildings at the rear, referred to as Buildings B, C and D.
- 7.5. 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 nearby Protected Structures. The property has been in a derelict state and has remained vacant for a very long time (approx. 15 years) and its condition has deteriorated during this period of vacancy and dereliction, notwithstanding the repainting and remedial works to the front façade. 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.
- 7.6. 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. The lands in the general vicinity form part of the Dromcolliher

Architectural Conservation Area and contains historic and protected structures, with some of the sites in the vicinity being listed on the NIAH register. These include the Bank to the south (RPS 1156), and a two-storey premises on the south-eastern side of the square (RPS 1157).

- 7.7. The area has an attractive appearance, and the public realm is well cared for, with high quality public amenities. The Limerick City and County Development Plan 2022 seeks to conserve and enhance areas of heritage importance such as those within ACAs and also seeks to revitalise towns and villages throughout the county. 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.
- 7.8. Although the front façade appears generally intact, the gaping hole in the mid-terraced building arising from the partial demolition which has exposed the entire building to the elements, together with the metal gate and hoardings, give the structure a considerably neglected appearance and it presents as being in an unsightly and objectionable condition. The gaping void in the streetscape has a detrimental effect on the character of the Architectural Conservation Area. The render on the external walls and window reveals of the property are in a poor state of repair, as are the roof and windows and door. The poor condition of the external walls and roof, together with the damaged rainwater goods, with vegetation growing out of the gutters, is likely to contribute to dampness within the property. The exposed nature of the structure resulted in a lack of adequate shelter and protection from the elements, which has reportedly been the case for 15 years of more, and it is still the case. I note from the photographs provided with the Local Authority report, that the property seems to have deteriorated further since the first inspection in 2016.
- 7.9. 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 and reviewed the material on the file, I consider that the structure is likely to be in a dangerous condition, and that it could be considered ruinous, given the poor state of repair of the roof, the exposure of the property to the elements and

the length of time that it has been vacant and unprotected from the weather. Thus, it is considered that the site does fall within category (a) of the Derelict Sites Act 1990.

- 7.10. There was no evidence of a significant presence of litter, debris, rubbish or waste within the application site, apart from some builder's waste included with the building materials inside the rear yard. However, this was relatively minor in nature and extent and was clearly associated with ongoing building works. 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.
- 7.11. 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 23rd of June 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 11th August 2021, advising the owners that the site had been entered on the Derelict Sites Register. Finally, section 15(1)(a) notices were served on 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.
- 7.12. I note the objection made to the Local Authority by Hutch O'Malley Engineers and PG McMahon Solicitors on behalf of the owner on the 14th of July 2022 and on the 18th of July 2022 to the proposed acquisition of the site, stating that the property owner had carried out remedial works since he purchased the site in 2015 and that it was intended to apply for planning permission to renovate the property and to take it out of dereliction. The history of the property was also outlined which indicated the difficulties faced with seeking funding for the project over the past few years.
- 7.13. It is noted that a further objection was made by the owner, Jeremiah Daly, to the Board on the 6th of October 2022. This confirmed that a planning application had been lodged and that a considerable amount of money and effort had been spent on getting this permission. It was advised that planning permission was likely to be granted imminently. A further objection was submitted on 25th of April 2023 stating that considerable works had been carried out at the property over the previous few months but that it was not possible to progress the matter any further until planning

permission was granted. It was therefore requested to postpone any further action by the Board until such time as the planning permission is granted.

- 7.14. I can confirm from my site inspection on the 10th of May 2023 that it was not apparent that any further works had been undertaken since July 2022 in order to bring the building out of dereliction. Works may have been ongoing in the intervening period to tidy up the site and to lay drainage pipes etc. but nothing had been done to secure the building and make it weather tight, no windows or doors had been replaced and the external walls and roof were still in a very poor condition.
- 7.15. The Board wrote to the local authority on the 6th of October 2023, noting that planning permission had been granted in April 2023 (Ref. 22/885) and seeking an update on the status of the permission in terms of commencement of works. The Local Authority responded on the 17th October 2023 confirming that permission had been granted for Ref. 22/885 but advising that there was no record of any commencement notices or applications for fire certificates regarding this property.
- 7.16. The local authority in its report has pointed out that the owner/occupier has obligations (under section 9 of the Act) to “take all reasonable steps to ensure that the land does not become or does not continue to be a derelict site”. The local authority’s duty (under section 10) is “to take all reasonable steps (including the exercise of any appropriate statutory powers) to ensure that any such land does not become/continue to be a derelict site.” The local authority has set out in its report that it has engaged with the owner, including meeting him on site on the 28th of July 2021, and setting out what remedial works would be required. However, it is noted that notwithstanding the grant of planning permission in April 2023, no substantive works have taken place. It is now over seven years since the derelict condition of the property came to the local authority’s attention and over two years since the owner was formally notified of the derelict state of the property. It has also been well over a year since the local authority served the section 15 notice of intention to acquire the site compulsorily.
- 7.17. Having inspected the site, there is no evidence of any further attempt to render the site non-derelict and the property remains in a neglected and unsightly condition. The external walls, roof, guttering and downpipes are all in a poor state of repair, the windows and the doors are still boarded up and the interior of the building is still

exposed to the elements. Following the partial demolition works which have resulted in a gaping void in the streetscape, and the failure to adequately secure the building, it continues to be in need of substantial structural support. I note that the current owner has owned the property since 2015 and that the local authority has been engaging with him since early 2021, but that little progress has been made regarding taking the property out of dereliction. 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.

- 7.18. Having regard, therefore, to all of the information available on the file and the continued appearance and condition of the property, which as stated constitutes a derelict site, I consider that it is appropriate that the Local Authority's application for consent to compulsorily acquire the site at The Square, Dromcollogher, Co. Limerick is granted.

8.0 Conclusion

- 8.1.1. I am satisfied that the process and procedures undertaken by Limerick City and County Council have been fair and reasonable, 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.
- 8.1.2. Having regard to the constitutional and Convention protection afforded to property rights, I consider that the acquisition of the Derelict Site comprising a two-storey, mid-terrace, former nursing home premises at The Square, Dromcollogher, County Limerick P56 PF34, containing 0.210 hectares 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 1st day of July 2022 and on the deposited maps (DS-036-16), pursues, and is rationally connected to, a legitimate objective in the public interest, namely, to ensure that the lands do not continue to be in a derelict condition.
- 8.1.3. I am also 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 have considered alternative means of achieving

the objective referred to in submissions to the Board, and am 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.

- 8.1.4. The effects of the CPO on the rights of affected landowners are proportionate to the objective being pursued. I am further satisfied that the proposed acquisition of these lands would be consistent with the policies and objectives of the Limerick City and County Development Plan 2022-2028, and specifically Objectives CGR O6 and CGR P4 which seek to actively address instances of dereliction and decay in the urban and rural environment and bring properties back into active re-use and to revitalise towns and villages. Accordingly, I am satisfied that 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, 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.
- 9.2. 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.

10.0 Reasons and Considerations

- 10.1. Having regard to the neglected, unsightly and objectionable condition of the site, the poor structural condition of the building, the gaping void in the streetscape arising from the partial demolition of the mid-terrace property and to the poor state of repair of the external walls, windows, doors, roof and rainwater goods, 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
1st December 2023