



An
Bord
Pleanála

Inspector's Report

ABP-315277-22

Development

Compulsory Purchase Order of properties at numbers 11-14 Exchange Street lower and number 11 Essex Street West, Dublin City.

Location

Numbers 11-14 Exchange Street Lower and number 11 Essex Street West, Dublin City.

Planning Authority

Dublin City Council

Applicant(s)

Dublin City Council

Type of Application

Compulsory Purchase Order under Section 216 of the Planning and Development Act, 2000, as amended

Objector

Mary Cullen

Date of Site Inspection

14th day of May 2024

Date of Oral Hearing

None held.

Inspector

Fergal O Bric

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1.0 Introduction

1.1 Under the provisions of Section 216 of the Planning and Development Act 2000, as amended (PDA). Dublin City Council (DCC) has made an application to An Bord Pleanála (the Board) for the confirmation of a Compulsory Purchase Order (CPO) of numbers 11 -14 inclusive Exchange Street Lower and number 11 Essex Street West, within the southern section of Dublin City Centre. The Board is required to confirm or annul the CPO.

1.2 The order was made in October 2022, pursuant to Section 76 of and the Third Schedule to the Housing Act, 1966 as extended by Section 10 of the Local Government (No. 2) Act, 1960 and amended by the Planning and Development Act, 2000,

1.3 The Board received a single objection to the CPO from one landowner, Mary Cullen. This report considers the issues raised in the objection submitted to the Board and more generally the proposal to acquire the property.

1.4 The subject lands and properties are located at No's 11-14 Exchange Street Lower and Number 11 Essex Street West, within the southern sector of Dublin City Centre, approximately forty metres west of Parliament Street, seventy metres south-west of Capel Street Bridge and 35 metres south of Essex Quay. The lands are located within a mixed use residential and commercial area which accommodates commercial uses such as a hotel, public houses, office and retail uses, civic uses and residential accommodation. The buildings in these streets range in building height from four to five storeys, plot four being the exception, comprising a single storey retail unit. The two largest plots of lands to be acquired (plots 1 and 2) are presently underutilised sites, surrounded by palisade fencing and overgrown with shrubbery. Plot 4 comprises a single storey flat roofed retail unit, operating as a locksmith shop and is the only single storey structure in this vicinity. Plot 3 comprises a small piece of ground immediately to the rear of the single storey commercial premises. There was no evidence of fire damage within any of the land plots or that the lands are left accessible, open, or unsecured, thus not making them vulnerable to trespass.

2.0 Land Description

- 2.1 The CPO pertains to four plots of lands. The first demarcated as plot 1 on map reference number SM-2022-0078 (displayed at the offices of Dublin City Council) is located at numbers 11 and 12 Exchange Street Lower and comprises an area of 121 square metres. It is an undeveloped and densely overgrown parcel of land enclosed by palisade fencing, stated to be owned by the objector Mary Cullen.
- 2.2 The second piece of land demarcated as plot 2 on the map reference number SM-2022-0078 is located at numbers 13 and 14 Exchange Street Lower and comprises an area of 80 square metres. It is an undeveloped and overgrown parcel of land enclosed by palisade fencing, The owners of this plot of land are unknown.
- 2.3 The third piece of land demarcated as plot 3 on the map reference number SM-2022-0078 is located to the rear of number 11 Essex Street West and comprises an area of 4 square metres. It is an undeveloped and overgrown parcel of land located to the rear of a shop/workroom area, demarcated as plot 4. The owners of this plot of land are unknown.
- 2.4 The fourth piece of land is demarcated as plot 4 on the map reference number SM-2022-0078 is located at number 11 Essex Street West and comprises an area of 76 square metres. This plot of land comprises a single storey retail unit, occupied and operated by a company trading as Locks and Company. The owners of this plot of land are also unknown.
- 2.5 Plot numbers one and two have their street frontage onto Exchange Street Lower and plot 4 has street frontage onto Essex Street West. Plot 3 is located to the rear of plot 4 and, therefore, does not benefit from any street frontage. These are narrow city centre streets linking the city centre with the south quays along the River Liffey. The lands are accessible by public transport (Dublin Bus) at Parliament Street and along the Quays and by private motor car and have footpaths and streetlighting along their front. s.

3.0 Policy Context

3.1 Dublin City Development Plan 2022 - 2028

Zoning

The subject site is zoned 'Z1– Sustainable Residential Neighbourhoods' within the current Dublin City Development Plan (DCDP) 2022-28 where the objective is 'To protect, provide and improve residential amenities'.

The vision for residential development in the city is one where a wide range of high-quality accommodation is available within sustainable communities, where residents are within easy reach of open space and amenities as well as facilities such as shops, education, leisure, and community services. The objective is to ensure that adequate public transport, in conjunction with enhanced pedestrian and cycling infrastructure, provides such residential communities good access to employment, the city centre and the key urban villages in order to align with the principles of the 15-minute city.

Permissible uses within the Z1 zonings include assisted living/retirement homes, residential use, and local shops.

Section 2.3 Settlement Strategy:

Broadly, the settlement hierarchy prioritises development in Dublin Inner City and the Key Urban Villages. It also specifically targets the Strategic Development and Regeneration Areas (SDRA.s) which are primarily brownfield lands located in both inner and outer city areas, where there is capacity to absorb a greater intensification of development owing to their proximity to public transport corridors and supporting urban infrastructure.

The Settlement Strategy is also based on the key principles of healthy place-making and the 15-minute city.

Section 2.4.3 Housing Strategy and HNDA (Housing Need Demand Assessment):

The conclusion of the Housing Need Demand Assessment (HNDA) and Housing Strategy is that Dublin City Council will require the maximum allowable provision (currently up to 20%) under the Planning and Development Act (as amended) for social, affordable purchase & cost rental housing need as part of future planning permissions, reflecting the high levels of housing demand within the city. The HNDA modelling indicates that over the six-year plan period of 2023-2028, there is an estimated need for 10,247 social homes in Dublin City as well as 7,887 affordable homes. 4,997 households are estimated to be able to access private ownership in Dublin City, while 4,088 households are estimated to be able to meet their needs in the private rental market.

Brownfield and Infill Lands:

National and regional policy places an emphasis on compact growth and supports the sustainable development of brownfield and infill lands, through consolidation to support the optimal use of the finite resource of land. Arising from the active land management strategy, Dublin City Council will prepare, update, and monitor brownfield and infill development of a strategic nature throughout the city and actively encourage and support the development of such lands.

Vacant Sites Levy/Living City Initiative:

Dublin City Council's Active Land Management Unit established the Vacant Sites Register under the Urban Regeneration and Housing Act 2015, amended (the Act), on 1st January 2017. The Act provides for a levy on vacant sites, and this is a key measure in implementing the Core Strategy. Vacant development sites are both a challenge and an opportunity for the city to provide for additional housing, employment, and other uses. The purpose of the Vacant Site Levy is to activate land that is considered vacant but zoned for uses that could optimise the lands for a more efficient and effective land use management, enabling the realisation of a more compact and consolidated city. The Vacant Site Levy continues to be implemented

within Dublin City Council through monitoring, inspection, site visits and engagement with relevant stakeholders.

Chapter 14 of the Development Plan provides further details on zoning objectives and vacant sites, setting out the criteria under which a site may be deemed vacant. Another tool is the Living City Initiative (LCI) which is a tax incentive scheme to assist and encourage people to live in the inner-city areas of Dublin City. It allows owners and investors to claim tax relief for money spent on refurbishment and/or conversion of residential property. The Living City Initiative unit of Dublin City Council has produced a guide to the LCI tax incentive scheme to help owners and investors to access the scheme and encourage the re-use of buildings in the designated Strategic Special Regeneration Area in Dublin

<https://www.dublincity.ie/residential/planning/active-land-management/living-city>.

Specific policy objectives in this regard include the following:

CSO8 Promote Active Land Management: To promote active land management including the vacant site levy and the Living City Initiative as a means to encourage brownfield development and densification in the city.

CSO9 Vacant Sites: To implement the vacant site levy for vacant development sites as appropriate in the city and to continue to make a publicly available register of vacant sites as set out in the Urban Regeneration and Housing Act, 2015 or any superseding Act.

CSO10 Support the Development of Brownfield, Vacant and Regeneration Sites: To prepare, where appropriate, masterplans and other non-statutory plans or strategies to actively encourage and support the development of brownfield, vacant and regeneration sites.

Derelict Sites/CPO:

The Derelict Sites Act 1990 defines a derelict site as any land that 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. The Derelict Sites Act continues to be implemented within Dublin City Council through monitoring, inspection, site visits and engagement with relevant stakeholders. Where the context requires, the use of Compulsory Purchase Orders will be pursued as a possible active land management measure.

CSO11 Derelict Sites Act and Compulsory Purchase: To deliver development through the use of the Derelict Sites Act 1990 and through the compulsory purchase of land as part of active land management to achieve the objectives of compact growth and the proper planning and sustainable development of an area.

Chapter 5: Quality Housing and Sustainable Neighbourhoods

Section 5.3 Challenges:

The Development Plan includes a socially inclusive housing strategy for the existing and future population of the city including the needs of those that require social housing. The Housing Strategy (Appendix 1) indicates that there is sufficient serviced land to meet the housing targets set out in the Core Strategy. There remains however, ongoing challenges in terms of housing delivery in the city. There is a pressing need to facilitate a significant increase in affordable housing output whilst creating high quality accommodation to address a range of housing issues including homelessness.

Section 5.5.2 Regeneration, Compact Growth and Densification

The City Council recognises the need to create sustainable communities and address the underlying causes of deprivation through a combination of social, educational, and economic initiatives while rejuvenating the built environment in key regeneration areas. As set out in the Core Strategy in Chapter 2, the 17 identified SDRAs (Strategic Development and Regeneration Areas) will be prioritised for development and intensification over the plan period. There are significant tracts of vacant and underutilised land in the city. The vacant site levy will continue to be used as an effective active land management mechanism to encourage infill development on key sites throughout the city. Other measures such as the Living City Initiative

and the use of the Derelict Sites Act 1990 through the compulsory purchase of land will be used to as a means to encourage brownfield development and compact growth in the city.

Policy Objective: QHSN6 Urban Consolidation-To promote and support residential consolidation and sustainable intensification through the consideration of applications for infill development, backland development, mews development, re-use/adaption of existing housing stock and use of upper floors, subject to the provision of good quality accommodation.

Chapter 11 -Bulit Heritage and Archaeology

Exchange Street Lower/Essex Street is located within the area of the walled medieval city and the area is considered to be of high archaeological potential.

The Record of Monuments and Places (RMP) which lists sites protected under Section 12 of the National Monuments (Amendment) Act 1994, contains four entries within the subject lands:

- DU018-020536- DWELLING
- DU018-020537- DWELLING
- DU018-020538- DWELLING POSSIBLE
- DU018-020539- DWELLING POSSIBLE

These relate to the now demolished 18th century 'Dutch Billy' type houses which stood here and include the remains of these houses surviving on site.

The site is also within the general Recorded Monument of the Historic City DU018-020---

The Sites and Monuments Record includes the further entry:

- DU018-020979- Building

This is a probable 17th century structure identified by archaeological survey as having occupied the footprint of 11-12 Exchange Street Lower.

Two of the plots at numbers 11 and 12 Exchange Street Lower are said to contain buildings which are designated as protected structure(s) (reference number 2714) as set out within the Record of Protected Structures (RPS) set out within Volume 4 of the City Development Plan.

Housing Delivery:

The Dublin Housing Task Force (DHTF) provides a quarterly update of residential planning and construction activity for the four Dublin local authorities. The DHTF figures provide a 'snapshot' in time that includes all extant permissions that are 'live' at the time the DHTF return is prepared and published. The return, Quarter 3 2022, at the time of adoption of the plan, illustrate the rising volume of permissions and construction activity that has taken place over the past number of years. The figures are presented below.

DHTF Returns Q4 2023

Number. of Residential Units Extant Planning Permissions (permitted) 31,133

Number. of Residential Units constructed to date 1,091

Number. of Residential Units under construction 5,725

Number. of Residential Units permitted, but not commenced 24,317.

Source: DHTF Returns

The DHTF returns demonstrate that the level of extant permissions has more than trebled in the seven-year period, from 8,172 units in 2017 to over 31,133 in 2023. This analysis also demonstrates, on a yearly average over the period tracked, that for every five residential units that receive planning permission, only one extant permission for a residential unit is under construction. The reasons for this average ratio are many, including the complex nature of site development, acquisition, land speculation and funding models in the city.

3.2 Regional and National Planning Policy

Population Projections for the Core Strategy set out in the RSES and NPF:

The NPF identifies a minimum target population of 1,408,000 for Dublin City and Suburbs (including all four Dublin local authority areas) by 2040, representing a 20-25% population growth range from 2016.

Section 3.2 of the NPF sets out that Dublin needs to accommodate a greater proportion of the growth it generates within its metropolitan boundaries and to offer improved housing choice, transport mobility and quality of life. Dublin also needs to become a greener, more environmentally sustainable city in line with international competitors. At a metropolitan scale, this will require focus on a number of large regeneration and redevelopment projects, particularly with regard to underutilised land within the canals and the M50 ring and a more compact urban form, facilitated through well designed higher density development.

Section 3 of the Regional Strategy for the Eastern and Midlands Region sets out the following growth enabler for Dublin: To realise ambitious compact growth targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built-up area of Dublin city and suburbs and a target of at least 30% for other metropolitan settlements, with a focus on healthy placemaking and improved quality of life. Specific policy objectives RPO's 3.2 and 3.3 pertain to compact growth. The Settlement Strategy sets out a population target for the whole of Dublin of between 1.548 and 1.590 million people by the year 2031. Section 4.4 sets out the following in relation to Dublin city and the Suburbs: The RSES supports continued population and economic growth in Dublin City and suburbs, with high quality new housing promoted and a focus on the role of good urban design, brownfield redevelopment and urban renewal and regeneration.

Housing Supply Targets:

The Department of Housing, Local Government and Heritage issued Section 28 Guidelines - Projected Housing Demand by Local Authority Area 2020 – 2031 ESRI NPF Scenario Housing Supply Target of S28 Housing Supply Target Methodology for Development Planning, December 2020 - to provide Planning Authorities with the figures and methodology to incorporate national and regional population and housing

projections into their statutory functions. The result of this approach identifies the need for 47,941 residential units from 2017 through to 2028 within Dublin City Council, which must then be refined to the Development Plan period, following the prescribed methodology. Estimated homeless numbers (3,905) is added to this need; and the volume of housing delivered from 2017 to 2020 (11,708) is subtracted. Using this calculation, the Housing Demand for the years 2022 to 2028, the relevant development plan period, is approximately 40,003 residential units for the six-year period within the Dublin City Council area.

Summary:

Based on the population targets and calculated housing need set out within national and regional planning policy, guidelines and prescribed methodology, the development plan must accommodate between 20,120 – 31,520 additional persons up to an overall population target of between 625,750 and 640,000 by 2028. The housing demand calculated sets a requirement for the development plan to provide for approximately 40,000 housing units between 2022 and 2028.

3.1 Rebuilding Ireland: Action Plan for Housing and Homelessness, 2016

3.3.1 'Rebuilding Ireland' was published by the Department of Housing, Planning, Community and Local Government in 2016. It states that it intends to address the needs of homeless people and families in emergency accommodation, accelerate the provision of social housing, deliver more housing, utilise vacant homes and improve the rental sector. In particular, the Plan sets out to deliver 47,000 units of social housing in the period to 2021.

3.3.2 The Plan identifies five key pillars, including 'Pillar 2: Accelerate Social Housing'. This Pillar seeks to '*increase the level and speed of delivery of social housing and other State supported housing.*' Key Actions are listed including 'Extensive support for Local Authorities and Approved Housing Bodies.'

3.3.3 Table 4 lists 'Our Programmes' and includes a programme 'Local Authority Construction and Acquisition (also known as the Social Housing Investment

Programme (SHIP)). The objective is *‘to provide funding to local authorities for the provision of social housing by means of construction and acquisition.’*

3.4 Department of Housing, Planning, Community and Local Government Circular, PL8/2016, 2016

3.4.1 This Local Government Circular followed the publication of ‘Rebuilding Ireland’ - and relates to the identification of planning measures to enhance housing supply.

3.4.2 The Circular states that vacant stock represents a potentially very significant resource to assist in meeting the key goals of the Action Plan and that in advance of the approaching work on the vacant homes re-use strategy, Planning Authorities are requested to initiate preparatory work such as surveys of, for example, the levels of, condition and potential availability of vacant housing stock in key urban areas and/or areas with very high demand for housing.

4.0 Application of Compulsory Purchase Order

4.1 The stated purpose of the CPO is to acquire compulsorily the properties for the purposes of developing them for residential and commercial purposes.

4.2 The subject property is described in the schedule to the CPO as land other than land consisting of a house or houses unfit for human habitation and not capable of being rendered fit for human habitation at reasonable expense. In other words, according to the CPO, the lands do not presently comprise any residential properties or structures that are used for residential purposes and in accordance with the planning and development objectives set out within the current City Development Plan.

4.3 The overall site area of the four plots of land to be compulsorily acquired is stated to comprise 281 square metres or 0.0281 hectares. Dublin City Council (DCC) are stated to be the lessees or reputed lessees of plot number 3.

4.4 The buildings within Numbers 11-14 Exchange Street Lower were stated to have been demolished in 2008 and plots 1-3 inclusive have been vacant and underutilised for the

intervening sixteen-year period. Plot 4, operating as a single storey retail premises represents an underutilisation of a prime city centre site. The lands to be acquired are in an area of high housing demand within Dublin City centre and within walking distance of its many facilities and amenities.

4.5 It is stated by DCC within their correspondence that the lands to be acquired have been identified for the making of a CPO since as far back as the year 2006. DCC state that they subsequently acquired an interest in 13-14 Lower Exchange Street Lower in March 2021. DCC set out that title issues on both sides of these lands would impede their development. The confirmation of the CPO would resolve these issues thereby facilitating the development of the whole site for residential and commercial purposes.

4.6 The CPO is accompanied by certification from the Dublin City Planning Officer certifying that the acquisition of the overall site by way of a CPO for residential and commercial purposes is consistent with the objectives of the then Dublin City Development Plan 2016-2022 and with the proper planning and sustainable development of the area. I note that the current DCC Development Plan 2022-28 continues to support this approach. Certificates from the City Architect, City Engineer, and the Assistant Chief Executive within DCC in support of the CPO have also been submitted.

4.7 The objector received planning permission back in 1999 for the redevelopment of her lands and never implemented this permission. The site remains undeveloped. Section 213 (2) (a) of the Planning and Development Act 2000 (as amended) provides that a Local Authority may for the purposes of performing any of its functions, including giving effect to or facilitating the implementation of its Development Plan...acquire land permanently or temporarily, by agreement or compulsorily.

5.0 Objection

Context

5.1 The objector. Ms. Mary Cullen is stated to be the owner of numbers 11 and 12 Exchange Street Lower, and she is represented by her legal agents.

5.2 The CPO process has been initiated by the Local Authority.

Objection

5.3 The main issues raised by the objector are as follows:

- The objector has endeavoured to develop her properties and obtained planning permission to develop a mixed-use development of offices and residential units under planning reference 3500/98 in the year 1999.
- The objector realised that it would be more practical to develop the whole of the CPO lands as one development but became aware of title issues with the remainder of the lands and, therefore, did not proceed to develop the lands.
- The objector engaged in discussions with the City Council Planners with a view to acquiring the remainder of the lands sought to be acquired as part of this CPO. During the course of the discussions, the Council set out that the elected members would only dispose of the lands if they were to be developed for residential purposes.
- Due to this impasse, the site has remained undeveloped.
- It is unreasonable for the Council to compulsorily acquire the lands when the objector has stated that she is willing to develop the lands herself.
- It is contended that there are no lawful grounds for compulsorily acquiring the lands.
- The Council is acting Ultra vires in attempting to acquire a site that the owner wishes to develop but is being thwarted in her efforts to do so, by the City Council.

6.0 Response to the Objection

6.1 The Local Authority made the following points in their response to the objection:

- The A/Executive Manager within the Planning and Property Development Department within DCC has set out that property numbers 11-14 Exchange Street Lower were demolished in circa 2008 and remain undeveloped. The redevelopment of the overall site for residential and commercial redevelopment purposes has been a long-time objective of the City Council and the making of a CPO was first mooted in 2006. The single storey retail unit on Essex Street West has been trading as a locksmith for in excess of forty years and in its present undeveloped state, the site has a negative impact on the surrounding area. It is stated that the development of the overall site in such a prominent location within the city is for the common good.
- It is stated that the City Council is not thwarting the owner's efforts to develop her site and never has. The City Council has showed great forbearance and has been very accommodating. In 2017, the City Council held off the proposed entry of the objectors' site on the Derelict Sites Register (DSR), which would have resulted in the imposition of a Derelict Sites Levy of 3% of market value. Following representations from the objector (correspondence included on file dated 19th April 2017) the objector contended that a planning application was being prepared and would be lodged within three months. The owner's development proposals were never advanced, and the overall site was the subject of a proposed CPO in 2018. The CPO was put on hold following a request from the objector to the City Council's Chief Executive to exclude Numbers 11 and 12 Exchange Street Lower from the CPO on the grounds that a planning application to develop the site was to be submitted shortly, thereby facilitating the owner to advance development proposals.
- The development proposals were never received by Dublin City Council (DCC) and the City Council proceeded with its plans to acquire the overall site for residential and commercial development purposes and made a CPO in October 2022.
- The City Council state that they will always try to acquire lands by agreement and will only acquire lands compulsorily as a last resort. In this case, attempts

to acquire Numbers 11 and 12 Lower Exchange Street were unsuccessful. The City Council acknowledges that there are title issues with the adjoining sites. However, the City Council acquired an interest in numbers 13 & 14 Lower Exchange Street on the 9th day of March 2021, however, title issues remain. The title issues on both sites impedes their development. The confirmation of the CPO would resolve these issues, thereby facilitating the development of the overall site by the City Council.

- The City Council has made it clear to the objector the position regarding a possible disposal of the site and the development of the overall site. The disposal of the site to a third party by the City Council would have impeded the City Council's own objective to see the overall site being developed. The objector was made aware from discussions with the City Council as to its objective for the development of the overall site and the type of development that would be acceptable from a planning perspective.
- In this regard, DDC have submitted correspondence from its Chief Planning Officer stating that the acquisition of the land as included on map number SM-2022-0078 by way of a Compulsory Purchase Order is consistent with the objectives of the then Dublin City Development Plan 2016-2022 and with the proper planning and sustainable development of the area. I note that the provisions of the current City Development Plan 2022-2028 continue to support this approach. Correspondence from the City Architect, City Engineer, and the Assistant Chief Executive within DCC outlining their support for the acquisition of the lands have also been submitted.
- The objector received planning permission in the year 1999 for the redevelopment of her lands. This permission was never implemented. The site remains undeveloped to date. DCC have cited Section 213 (2) (a) of the Planning and Development Act 2000 (as amended) which provides that a Local Authority may for the purposes of performing any of its functions,

including giving effect to or facilitating the implementation of its Development Plan...acquire land permanently or temporarily, by agreement or compulsorily.

7.0 Assessment

This assessment considers the issues raised in the written objection submitted to the Board and the four general principles to be applied in assessing CPOs (Compulsory Purchase Order) of this nature, which are:

- There is a **community need** to be met by the acquisition of the property.
- The particular **property/land is suitable** to meet the community need.
- The works carried out accord with the **relevant Development Plan** made in accordance with the Planning and Development Act(s).
- Any **alternative methods** of meeting the community need.

8.0 Community Need

8.1 The stated purpose of the CPO is to facilitate land assembly which would allow for the controlled and complete delivery of the regeneration of the four plots of land, in accordance with the provisions of the City Development Plan 2022-28, specifically policy objective CSO10 in relation to supporting the development of brownfield, vacant and regeneration sites, policy objective CSO 11 in relation to derelict sites and compulsory purchase and policy objective QHSN6 in relation to urban consolidation. It is considered, generally, that land assembly to facilitate the strategic delivery of community needs at an underutilised site may be appropriate and necessary in certain circumstances. However, in this instance, it needs to be established whether it is appropriate and necessary to necessitate a CPO of the lands in order to deliver this community need.

8.2 Specifically, DCC stated within their written submissions that the lands would provide for residential and commercial development in a highly visible location ...the surrounding area has undergone significant redevelopment and that the subject lands remain undeveloped. The redevelopment of these lands has been a long-time

objective of the City Council and the making of a CPO (first mooted in 2006). In its present undeveloped state, the overall site has a negative impact on the surrounding area. The development of the overall site in such a prominent location within the city is for the common good. I consider that the re-development of these underutilised lands would be desirable to the wider community need to regenerate this part of the Exchange Street Lower and Essex Street West area. It is my view that DCC have adequately demonstrated that it is necessary for the delivery of the wider community need, and in the absence of compulsory purchase would impede the delivery of said community need.

8.3 Numbers 11 and 12 Exchange Street Lower is a vacant underutilised and overgrown site surrounded by palisade fencing with no buildings within its bounds. DCC state that the former buildings within this plot were demolished circa 2008. Therefore, it is not considered that the site is currently actively managed by the objector with a tenant in situ, nor has it been for a considerable period of time. There are no buildings within the bounds of the site. In my opinion, in its present state it does not contribute positively to the character of Exchange Street Lower. Given the lands are underutilised and undeveloped, it is considered the lands owned by the objector and the adjoining lands at 13 and 14 Exchange Street Lower and number 11 Essex Street West and the plot to its rear would benefit greatly from regeneration.

8.4 I note that the objector did progress development proposals for the development of a mixed-use office and residential scheme under planning reference 3500/98 back in 1999. Unfortunately, the objector decided not to pursue those proposals, and the planning permission lapsed. Given that the sites at 11-14 Exchange Street Lower and at number 11 Essex Street West and to the rear of number 11 Essex Street West are not providing for a functional residential and commercial offering, I am satisfied that DCC has demonstrated that the existing underutilised state of the plots is not desirable, and that the objector has been afforded ample opportunity to submit her proposals for the redevelopment of her lands and the adjoining lands. Given the

derelict and undeveloped state of the four plots of land, I consider their redevelopment would be desirable to meet community need.

- 8.5 The plots (specifically plot numbers 1,2 and 4) all have the benefit of street frontage onto Lower Exchange Street and Essex Street and, therefore, access to the underutilised sites is not an inhibiting factor. There are no alternatives in terms of providing access to the subject lands. The plots, the subject of the CPO, are underutilised, undeveloped, and vacant, and, therefore, a justification for compulsory purchase can be made. It is evident, from the previous planning permission back in 1999, that a scheme for number 11 and 12 Exchange Street Lower and the adjoining lands can be successfully, progressed in a holistic and integrated and consolidated manner.
- 8.6 I consider that the planning authority have successfully demonstrated the common good exigencies for residential and commercial uses could be provided within the lands.
- 8.7 On balance, it is considered that DCC have adequately demonstrated that the compulsory purchase of No's. 11-14 Lower Exchange Street and number 11 Essex Street West would meet a community need or is required to meet the wider community need for the wider south city centre plots. It is considered that the four plots are explicitly required for the regeneration of this prominent part of the Exchange Street Lower and Essex Street areas and that the community need would not be met in the absence of compulsorily purchasing the four plots of lands.

It is, therefore, concluded that that the community need for the CPO has been established.

9.0 Extent and Suitability of the Lands to meet Community Need

- 9.1 A second criteria for considering the CPO is the suitability of the lands/properties to meet community need.
- 9.2 The subject properties are located in the southern sector of Dublin City centre, approximately forty metres west of Parliament Street, seventy metres south-west of Capel Street Bridge and 35 metres south of Essex Quay. The lands are within an established residential and commercial area which accommodates hotel, public house, retail and civic uses and apartment accommodation in buildings that range in building height from four to five storeys. The plots are located within an established mixed use residential and commercial area zoned 'Z1 – Existing Residential' under the Dublin City Development Plan 2022 – 2028 ('DCDP'), which seeks 'to protect, provide and improve residential amenities of existing residential areas'.
- 9.3 I am also satisfied that the four plots of land in question at numbers 11-14 Exchange Street Lower and Number 11 Essex Street West are capable of being redeveloped for residential and commercial purposes as set out by DCC within their written correspondence. and consistent with the character of development in this southern city centre area. I consider that the residential and commercial development would represent appropriate uses in the zoned and established residential and commercial core of Dublin City which is in close proximity to a vast range of services, facilities, and amenities.
- 9.4 There are no special designations affecting the site and there are no apparent development constraints. In terms of built heritage, there are no Protected Structures located on the site, although I note the current City Development Plan does reference the existence of protected structures at numbers 11 and 12 Lower Exchange Street. However, correspondence from Dublin City Council states that the structures on site were demolished in 2008. Therefore, I am satisfied that there are no longer structures which are of built heritage merit within the site. I also note that the City Architect has raised no objections to the compulsory purchase of the lands

for the redevelopment for residential and commercial purposes. I note that the objector has not raised the issue of built heritage within her submission.

- 9.5 A number of archaeological remains within the site are specifically referenced within Section 11 of the City Development Plan. However, I consider that these matters could be addressed as part of the Development Management Process in conjunction with the City Council Heritage Officer and in conjunction with advice from the Department of Environment, Heritage and Local Government who could advise as to how best to progress development within the site. From the planning history, it is clear that a mixed use development was permitted within the site at numbers 11 and 12 Lower Exchange Street and that the existence of archaeological remains did not hinder the granting of permission in that particular instance.
- 9.6 Therefore, given that three of the four plots of land are vacant and underutilised, and the Plot 4 comprises an underdeveloped site, it comprising the only single storey structure in this vicinity and surrounded by three to six storey buildings, I am satisfied that if, the subject properties were to be acquired by the Local Authority, they could be developed for a mix of residential and commercial purposes. The sites could be redeveloped easily in my view, given the plots 1 and 2 have already been cleared of buildings and would be very suitable for re-development. The re-development of these lands could then form part of the Council's social housing stock and potentially serve some of the many thousands of households that currently are in need of accommodation, as set out above, within Section 9 of this report. Accordingly, the properties would be appropriate for the uses proposed by the Local Authority, subject to its redevelopment. I note that it is the stated intention of the objector, Ms. Cullen, to redevelop her portion of the CPO lands for commercial purposes, stated to be as hotel accommodation.
- 9.7 Having inspected the site, I would agree that the lands are capable of being redeveloped with investment from the Local Authority. I am, therefore, satisfied that the lands are capable of being redeveloped and suitably located for redevelopment for the commercial and residential purposes, and I consider this to be an appropriate

use of these properties and lands, which is in a zoned, serviced city centre mixed use commercial and residential area.

9.8 I conclude that given the location of the lands within the city centre, proximity to commercial, civic and community facilities, amenities (including educational facilities and St Stephens Green and the Phoenix Park) and transport infrastructure, that the property's would be suitable to meet the commercial and housing need as identified by Dublin City Council.

10.0 **Compliance with Government Policy and Local Policy**

10.1 I refer the Board to Section 3 above, which outlines the planning policy context for the subject property. There are various strategic and statutory policies that support bringing vacant residential sites back into viable use.

10.2 Having regard to the residential zoning of the site, and its stated objective, I am satisfied that the acquisition and redevelopment of the property's for commercial and residential purposes would accord with the zoning objective by protecting, providing and improving the residential amenities of existing residential areas.

10.3 The CPO would also be in accordance with the provisions of the City Development Plan 2022-28, specifically policy objective CSO10 in relation to supporting the development of brownfield, vacant and regeneration sites, policy objective CSO 11 in relation to derelict sites and compulsory purchase and policy objective QHSN6 in relation to urban consolidation. The Development Plan seeks to encourage and facilitate the appropriate redevelopment of underutilised lands within its administrative area and that all available tools and mechanisms, including the

Derelict Sites Act and the Vacant Site levy, may be utilised to stimulate such development.

- 10.4 There is also a clear endorsement and mandate from central government, across several national policy documents, which support the compulsory purchase of vacant/underutilised lands to help resolve the housing crisis.
- 10.5 In my opinion, having regard to the residential zoning of the site and various objectives outlined in the current City Development Plan, which seek to address underutilisation of lands, and that of that set out in national policy documents, I consider that the acquisition of the subject lands/properties by the local authority, and redeveloping them for residential and commercial uses would accord with the relevant settlement and urban regeneration policies outlined in the City Development Plan.

11.0 Alternative Methods Assessed

- 11.1 Given the protection afforded to private property ownership in Ireland, the compulsory acquisition of any property should be seen as a last resort. The Local Authority should, therefore, be required to show how they have considered other alternatives first and prior to initiating the CPO process. In this regard, the onus is on the Local Authority to demonstrate that alternative methods are not available to them. This was explored at the Oral Hearing.
- 11.2 As noted in Section 6 above, the Local Authority is under significant pressure to deliver social housing across the City. There is an urgent need for social housing provision both nationally and specifically within the capital city. In relation to Dublin itself, I note that it is recognised as an area of high demand where a total of 12,772 no. households have live applications in train / are waiting for social housing provision.
- 11.3 In response to whether the Local Authority had considered using other powers available to them to provide social housing, the response was that given the demand for social housing the Local Authority had engaged with the objector over the period

between 2017 and 2022 regarding the redevelopment of the lands. DCC outline that it was the stated intention of the objector to redevelop the lands for commercial purposes. However, the objector has failed to progress redevelopment proposals for the lands since she was granted planning permission back in 1999 for a mixed-use development within her lands at numbers 11 and 12 Exchange Street Lower. I note that no planning application was received by the Planning Authority for the redevelopment of her lands in the intervening period.

- 11.4 The Local Authority have set out within their written submission to the Board, dated December 2023, that the CPO is fully consistent with national and local planning policy and particularly noted Sections 4.3 and 4.9 of the Government's 'Housing for All' policy document which advocates for a major programme of compulsory purchase orders to be activated by Local Authorities. This CPO relates to the purchase of underutilised and vacant plots and with a view to assist in resolving the housing crisis and that consideration should be given to every viable and sustainable option that is available.
- 11.5 I note that the lands are suitably zoned and serviced and, therefore, have the potential to tap to the public water and wastewater networks and therefore the redevelopment of these lands are preferable to lands which are not serviced or serviceable.
- 11.6 Given the submissions received from the objector and the Local Authority in relation to the continued undeveloped and underutilised status of the lands, and the apparent lack of any firm proposals or timeframe for developing these city centre lands, it is apparent to me that the uncertainty and delays experienced to date show no immediate signs of resolution. It is under these circumstances that I accept that the proposed acquisition of the subject property's is the most reasonable route to

progress matters, particularly as the Local Authority has demonstrated that options other than compulsory acquisition have been explored and ruled out.

11.7 In summary, I am satisfied that there is no other viable alternative method available which would help meet the pressing need for housing in this instance.

12.0 Recommendation

12.1 I recommend that the Board confirm the Compulsory Purchase Order based on the reasons and considerations set out below.

13.0 Decision

13.1 Having considered the objection made to the Compulsory acquisition, the submissions received by the Board from the objector and the acquiring authority (Dublin City Council) the residential and commercial purposes for which the subject lands are to be acquired and having regard to the following.

- The constitutional and Convention protection afforded to property rights.
- The current undeveloped and underutilised use of the properties at numbers 11-14 Lower Exchange Street and Number 11 Essex Street
- The case made by Dublin City Council to justify the compulsory purchase of the plots of land in terms of community need and public interest,
- The purpose of the compulsory acquisition to provide for residential and commercial uses within a city centre site zoned for residential purposes,
- The policies and objectives of the current Dublin City Development Plan 2022-2028, specifically policy objectives CSO10 in relation to supporting the development of brownfield, vacant and regeneration sites, CSO 11 in relation to derelict sites and compulsory purchase and QHSN6 in relation to urban consolidation.

the Board is satisfied that, in this instance, the acquisition of the lands and properties at numbers 11-14 Exchange Street Lower and number 11 Essex Street West, within

the south city centre of Dublin as set out in the Order and on the deposited map has been justified and is necessary for the purposes stated.

Professional Declaration

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.

Fergal Ó Bric

Planning Inspectorate