



An
Bord
Pleanála

Inspector's Report ABP-315661-23

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

West End, Church Street,
Dromcollogher, County Limerick

Local Authority

Limerick City and County Council

Notice Party

Daniel Sheridan

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 West End, Church Street, Dromcollogher, 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 Church Street, which is situated in Dromcolliher town, in south-west County Limerick. Dromcollogher 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. The northern arm forms part of the R522 and Church Street branches off the apex of the other two arms. The site is located on Church Street, approx. 100m to the south-west of the Square, in the centre of the town. Church Street has a mixed-use character, with residential terraces mixed with some small-scale retail and community facilities, but is predominantly residential in nature.
- 2.2. The site is located on the corner of Church Street and Buckley's Terrace (Broadford Road). It is at the end of a terrace and a stone wall extends from the side elevation around the corner along Buckley's Terrace. The stone wall encloses a historic cemetery/churchyard, which is at an elevated level, and there is a pedestrian entrance to a pathway which runs alongside the rear boundary of the site. The local Garda Station is located opposite the cemetery on Buckley's Terrace, beyond which is residential development. There is a church and a detached house on the northern side of Church Street, opposite the site, and a row of terraced cottages on the southern side (opposite the church).
- 2.3. The site comprises an end-of-terrace two-storey premises which, it is stated on file, was formerly a hotel, but is now vacant. The site is situated within the Dromcollogher Architectural Conservation Area. The buildings immediately to the east comprise the remainder of the terrace each of which is a two-storey house which 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 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 St. Bartholomew's Church opposite to the northwest (RPS 1166), and the cemetery to the south (RPS 1167). It is described as an end of terrace, 2-storey premises, formerly a hotel, on a site of approx. 0.051ha. 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 two front doors of the property firmly shut. There were two 'For Sale' signs inside the ground floor windows. 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 upper floor windows appear to have been replaced with upvc glazing. The ground floor windows are in need of repair or replacement. The side gable wall is also rendered and painted with two windows, also of upvc. The rear part of the side gable had cracked and peeling render, a rusted soil pipe and vegetation growing on the wall. The paint was dirty and peeling and there was wiring across the upper part of the gable wall.
- 2.6. The rear elevation is clearly visible from the cemetery to the rear. The rear windows and door were all boarded up with metal sheeting. The render was unpainted and in poor condition and was spattered with paint. The render on the main rear wall was damaged and patched in places. There was vegetation growing on the flat roof of the rear annexe and on the main rear wall. The roof and rainwater goods at the rear were in very poor condition. The roof tiles were loose or damaged and covered with moss. There were four rooflights, three of which were broken and open to the elements. 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 rainwater goods are either damaged or missing at the front and side. The side and rear gardens were overgrown with weeds, in an untidy and unkempt condition and there was debris stored there.

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 front elevation from the street and from the cemetery to the rear, where the rear elevation and garden were prominently visible.

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 24th of February 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 22nd of February 2022, (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 (Daniel Sheridan) and was published in the Limerick Post newspaper on the 19th of November 2022. The site was described as follows in the notices:

- A derelict site comprising a two-storey, end of terrace residential premises and surrounding land situate at West End Church Street, Dromcollogher, Co. Limerick, P56X074, containing 0.051 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-004-21 in the Derelict Sites Register established and maintained by Limerick City and County Council under Section 8 of the Derelict Sites Act 1990.

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

4.2. **Objection to Acquisition**

4.2.1. An objection to the proposed acquisition was submitted to Limerick City and County Council by Michael B. O'Donnell Solicitors in a letter on the 30th of November 2022 and on the 2nd of December 2022. It was stated that the owner of the property, Mr Sheridan, had purchased the property some years ago and has carried out substantial repairs and work to the property in the meantime. This was followed by further correspondence regarding the ownership/title of the property on the 2nd of December 2022. The objection can be summarised as follows:

- Mr. Sheridan 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.
- Mr. Sheridan has been hindered in carrying out further works because of ill health within the family and because of financial constraints.
- The property has been put up for sale with Mr. Donovan Auctioneer.
- It is submitted that substantial works have been carried out to make it presentable and to take it out of dereliction. The property is not currently habitable internally, as other works are required, but these are contained within the property and do not cause visual difficulty.
- On the 2nd of December it was confirmed that the property owner is objecting to the compulsory acquisition of the site. Reference was again made to the works carried out to date. Objection is being made on this basis.
- On the 2nd of December 2022, information was also given regarding the title. A copy of a Land Registry Transfer dated the 1st May 2017 was provided showing that the property was transferred from the beneficial owners, James and Dora Goggin to Daniel Sheridan. It was further stated that the property was awaiting stamping and registration which will take place in due course.

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 25th January 2023 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 19th of November 2022.
- Copy of objection made by Michael B. O'Donnell Solicitors submitted to the L.A. on 30th of November 2022 and 2nd of December 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. on the 15th of January 2021 and has remained vacant and derelict since then. It had a Derelict Site Case opened in 2021, Ref. DS-004-21, 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 folio LK16588F and that the registered owner was Mr. James Goggin of Freemount, Charleville, Co. Cork. Mr. Goggin was contacted by the L.A. and it was advised that he had sold the property some 5 years previously and that he no longer had any interest in it.
- On the 5th March 2021, Mr. Daniel Sheridan contacted the L.A. following the affixation of a notice to the front of the property of the intention to add it to the Register of Derelict Sites. Mr. Sheridan gave commitments to carry out works to remediate the site. It is stated that some of the said works were carried out following this, but then works stopped.
- The property was inspected on a number of occasions by the Local Authority. Photographs from each of the site inspections dated in January, March, June and September of 2021 and in January, March, June, September and November of 2022 are included with the application.
- The property is within the Dromcollogher Architectural Conservation Area, in the centre of Dromcollogher Town.
- The site comprises an end of terrace two-storey premises which is described as a former hotel and surrounding land containing 0.051ha. The appearance was described as follows :-

The end of 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 land and properties in the vicinity and will draw the eye of anyone entering the town.

It is a location for anti-social behaviour along with a location where there is regular dumping of rubbish.

The rear of the property is in a most derelict condition with boarded up windows, missing slates, broken roof windows and defective gutters, all

clearly visible from the elevated graveyard adjoining the rear of the property.

- The derelict site is located on Church Street in a vibrant market town which performs an important civic and service function for the resident and local population. The site is located on a busy thoroughfare, being opposite the church and on the road to Broadford village as you leave the town. 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 March 2021 of the local authority's intention to enter the land onto the Derelict Sites Register.
- Mr. Sheridan initially gave commitments to carry out remedial works, some of which were carried out. However, works stopped and following the issuing of a section 8(7) notice in February 2022, a site meeting was held on the 16th March 2022, at which the remedial works were set out and agreed.
- On the 27th of June 2022, Mr. Sheridan phoned the local authority and advised that he would not be completing any further works on the property.
- 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 16th of November 2022 and it was publicised in the local newspaper on the 19th of November 2022.
- An objection to the section 15 notice was submitted by letter received by the local authority on the 30th of November 2022, by Michael B. O'Donnell Solicitors Ltd. stating that the property owner had carried out works which had addressed the visual impact of the property, but confirming that it was not in a habitable state. This was followed by correspondence, (received on the 2nd December 2022), regarding the ownership/proof of title and 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 Michael B. O'Donnell Solicitors on the **17th of February 2023** in response to the application for compulsory acquisition. It was not accepted that the property is a 'derelict site' within the meaning of the Derelict Sites Act 1990. Photographs of the site before and after were enclosed, which it is submitted shows the extensive renovation and redecoration works undertaken since their client became owner. In particular, the photo dated 16th March 2022 shows that the building has been painted blue and white with due sensitivity shown to the architectural character of the locality and features of the building.
- 4.4.2. It was stated that the premises are screened from view by a high stone wall which has also been preserved by the property owner. It is further noted that this wall is within the red line delineation shown on the local authority's map of the derelict site. The red line also incorporates part of the public road and the property owner is at a loss as to why this should be included.
- 4.4.3. The submission responds to the specific content of the L.A.'s report submitted to the Board (25/01/23) as follows -
- **Disproportionate and drastic means** - The L.A. has not shown evidence of compliance with its own stated policy of proactive engagement or use of its powers. In particular, no notice under section 11 requiring the owner to carry out specific works has been served. This would have clearly set out what the owner was required to do and it would have provided a framework for objection on specific points.
 - **Delineation of property incorrect** – the L.A. has incorrectly and unlawfully delineated the property it alleges is owned by their client and is thereby holding him responsible for property and actions of third parties entirely outside of his control.
 - **Not a rateable premises** - The L.A. has referred to rates, but it has not shown that the Council has ever collected any rates relating to its contention

that the site was a former hotel. No evidence of regular inspections by fire safety officers (which would have been required if it was a hotel) or any advertisement or publicity that a hotel would generate. There is no evidence that it has ever been a hotel.

- **Visual impact** - The R522, which links Charleville to Newcastle West, runs through the Square, and this is the only road that can be described as a busy thoroughfare. This reference in the report is misleading. It is disputed that the site has a neglected look and detracts in a great way from the area, as evidenced by the photographs submitted with the objection. There is no evidence of anti-social behaviour on the site.
- **No dumping of rubbish** - There is no evidence of dumping of rubbish on the site. No photographic evidence has been provided by the L.A. and the Notice dated 16/11/22 stating that the site was derelict in accordance with section 3 of the Derelict Sites Act did not include Section 3(c). There are also other remedies available which would be less drastic than a compulsory purchase of the site. Furthermore, the owner has no control over or responsibility for dumping of rubbish on the public road, notwithstanding that the red line site boundary includes part of the public road.
- **Planning history** - The L.A. report failed to note that planning permission was granted under 98/999 and that an application had been made under 03/2310.
- **Beneficial owner** - It is stated that their client is the beneficial owner and is in possession, but that that does not displace the statute law in the matter. The L.A. has ignored the relevant provisions of the Registration of Title Act 1964 and it is claimed that the notices have not been served properly. The owner has carried out extensive renovation works and it is no longer a derelict site.
- **Member of Travelling community** – The L.A. has not had regard to the client's membership of this community and has not shown evidence of its discharge of the special legal duties it owes to such members.

4.4.4. A further letter of objection was submitted to the Board on the **26th of June 2023**. The submission included a response from the local authority (21/06/23) to a request

from Michael B. O'Donnell solicitors to specify what works were outstanding to ensure that the property would be taken off the derelict sites register. It arose from circumstances where the client had successfully negotiated a sale of the property.

4.4.5. It was stated that the purchaser's solicitors had requested details of the works that needed to be done to bring the Derelict Sites proceedings to an end, with a view to having these works costed and an appropriate adjustment made to the purchase price. The owner's solicitors sought this information from the local authority, advising that the sale was imminent.

4.4.6. The response from the L.A. (21/06/23) stated that the decision of the Board for consent to acquire the site was awaited, and that the local authority was not therefore in a position to advise their client. It was further stated that the L.A.

“...continues to monitor the site and the particulars of the land shall remain entered in the Register until the land ceases to be a derelict site. Your client should be made aware of his duties under section 29 of the Derelict Sites Act, 1990, to notify the Council of a transfer of interest in ownership of the property.....”

4.4.7. The owner's solicitors consider that in light of this response, whereby the local authority has refused to specify its opinion on necessary remedial work by way of a section 11 Notice, fair procedures have not been afforded to their client. It was reiterated that the owners strenuously object to the application for compulsory acquisition.

5.0 Planning History

5.1. **98/999** – permission granted for conversion of existing premises to 2 no. apartments (Applicant Maurice Quinn).

5.2. **03/2310** – application for demolition of 2-storey retail units and construction of 3 no. retail units and 3 no. offices withdrawn (Applicant Jim Goggin)

6.0 Policy Context

6.1. Limerick City and County Development Plan 2022 - 2028

- 6.1.1. One of the strategic objectives for Limerick (Chapter 1) is to ensure the revitalisation and consolidation of urban areas through public realm and place-making initiatives, including addressing vacancy and dereliction to create compact attractive, vibrant and safe environments in which to live, work, visit and invest (1.3.4). The themes of revitalisation of towns and villages and the delivery of compact growth are central to the Core Strategy (Chapter 2) and the Spatial Strategy (Chapter 3). **Policies CGR P1** and **CGR P4** set out how this can be achieved including development of brownfield and underutilised lands within the built footprint of urban areas and actively addressing dereliction and vacancy. One of the measures required to create compact, dense and sustainable urban 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 **Dromcollogher** 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 O4 – 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 the cemetery adjoining the site.
- 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 publicly accessible cemetery to the rear. This is due to the fact that the side gable and rear façade is 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 rear elevation are all boarded up and this elevation is very prominent from the elevated cemetery to the rear, which is a historic site and is on the register of Protected Structures. It also includes two recorded monuments, (LI05467) (graveyard vaulted tombs and 18th century headstones), and the remains of a church (LI05466) which is filled with burial plots.

- 7.3. The render on the rear façade appears to have been damaged or removed, but is in a poor condition. There is vegetation growing out of the walls of the house and of the flat roof of the rear extension. The rainwater goods are damaged and in poor condition, with vegetation growing out of them and the roof is in need of repair with loose or damaged slates. The rooflights on the rear slope are damaged and broken, exposing the property to the elements. The front façade and the main part of the side gable have been painted recently and the sliding sash windows on the upper floor have been replaced with white upvc.
- 7.4. The side gable wall is also in a poor state of repair and has dirty, peeling render and paintwork, a rusted soil pipe and vegetation growing on the walls. The curved stone wall bounding the side garden is also in a poor state of repair with damaged stonework, vegetation growing on it and utilitarian metal gate forming an access. In addition, the side and rear gardens are untidy, overgrown and unkempt. Although the side garden and gable wall are not fully visible from the public road and surrounding area, given that it is a corner site in a prominent position and that there is a metal vehicular gate providing access from the side, the vacant and neglected appearance of the property is evident from the approaches from both the west and the south. The side and rear gardens are also highly visible from the elevated cemetery from the rear.
- 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 some time 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 Dromcollogher Architectural Conservation Area and contains many historic and protected structures,

with some of the sites in the vicinity being listed on the NIAH register. These include the Parish Church opposite, the Garda Station building on the Broadford Road (opposite site) and a protected cottage at the end of the row of houses to the west. In addition, the historic cemetery to the south, from which the rear of the site is prominently visible, incorporates recorded monuments which are on the Sites and Monuments Records.

- 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, and has recently been repainted with new windows fitted on the upper floor at the front, the render on the external walls and window reveals of the property are in a poor state of repair, as are the roof and the rear windows and door. The poor condition of the external walls together with the damaged rainwater goods, with vegetation growing out of the gutters, is likely to contribute to dampness within the property. The damaged and broken rooflights are likely to have exposed the property to the elements, which 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 2021.
- 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. 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 leaning against the back

wall. However, this was relatively minor in nature and extent. 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 24th of February 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 22nd of February 2022, advising the owners that the site had been entered on the Derelict Sites Register. Finally, section 15(1)(a) notices were served on 16th of November 2022 and published in the Limerick Post Newspaper on the 19th of November 2022 regarding the Local Authority's intention to acquire the site compulsorily.
- 7.12. I note the objection made to the Local Authority by Michael B. O'Donnell Solicitors on behalf of the owner on the 30th of November 2022 and on the 2nd of December 2022 to the proposed acquisition of the site, stating that the property owner was Daniel Sheridan, that he was the beneficial owner, that he had carried out remedial works since he purchased the site in 2017 and that the property was no longer derelict, although it was acknowledged that it was not currently in a habitable condition.
- 7.13. It is noted that a further objection was made by Michael B. O'Donnell Solicitors Ltd. to the Board on the 17th of February 2022. This confirmed that Mr. Sheridan had carried out extensive renovation and redecoration works and that photos enclosed with the submission indicate the progress made and how the building is now in a very presentable state. The solicitor for the owner emphasised that the local authority's approach to the matter was not consistent with the policy of positive engagement and that the drastic action of compulsory acquisition was too extreme, particularly as they had not served any Section 11 Notice, which would have provided clarity to the owner regarding the outstanding remedial works. A further objection was submitted on 26th of June 2023 regarding the local authority's refusal to specify such remedial works, in the face of an imminent sale of the property.

- 7.14. I can confirm from my site inspection on the 10th of May 2023 that no further works had been undertaken beyond the repainting of the front and side elevations and the replacement of the upper floor windows on these elevations, apart from the replacement of the hoardings at the rear which appeared to be more secure.
- 7.15. The owner's solicitor strenuously objects to what is seen as a failure by the local authority to serve a section 11 notice in this instance, which would require certain measures (such as a schedule of works) to be completed within a certain timeframe. However, there is no obligation on the local authority to do so, as the Derelict Sites Act 1990 (as amended) confers the power on the local authority to serve a section 11 notice, where in its opinion, it is necessary to do so or, where directed to do so by the Minister. The power to acquire a derelict site is also conferred on the local authority by section 14. When this matter was put to the local authority, it was decided not to pursue this course of action (section 11) and to pursue the compulsory acquisition instead.
- 7.16. A query was raised regarding the objective of including part of the public road within the red line which delineates the Derelict Site on the map relating to the proposed compulsory purchase. It is not clear from the information provided why the red line boundary extends onto the public road. However, it is noted that the property is a corner site and the title may, therefore, potentially extend into the public road for historical reasons. However, as details of a registered title have not been provided to the Board, and as the property owner is described as the 'beneficial owner', it is assumed that the local authority's map (as submitted) reflects its understanding of the ownership of the lands in question at present. In any case, the current owner of the site would not be disadvantaged by any proposal to acquire lands that happened to be beyond the extent of his ownership.
- 7.17. 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 16th of March 2022, and setting out what remedial works would be required. However, it is

further stated that Mr. Sheridan phoned the local authority on the 27th of June 2022 to state that he would not be completing any further works to the property. It was five months after this date that the local authority served the section 15 notice of intention to acquire the site compulsorily.

- 7.18. 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 at the rear are still boarded up and the rear façade had not been repainted. Vegetation is still growing out of the guttering and flat roof at the rear. I note that the current owner has owned the property since 2017 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.
- 7.19. 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 West End, Church Street, 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, end of terrace, residential premises and surrounding land at West End, Church Street, Dromcollogher, County Limerick P56 XO74, containing 0.051 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 16th day of November 2022 and

on the deposited maps (DS-004-21), 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 state of repair of the external walls, roof and rainwater goods and to the visible presence of vegetation growing within and outside the property 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