



An
Bord
Pleanála

Inspector's Report

ABP-316239-23

Development	Carlow County Council, No CPOH-VH021-2023 Compulsory Purchase Order, 2023
Location	33 St. Fiacc's Terrace, Graiguecullen, Carlow, R93 YX61
Planning Authority	Carlow County Council
Applicant(s)	Carlow County Council.
Type of Application	Compulsory Purchase Order under the provisions of the Local Government (No. 2) Act 1960, the Housing Act 1966 (as amended), the Roads Act 1993 (as amended) and the Planning and Development Act 2000 (as amended)
Objector	Angela Yardley.
Date of Oral Hearing	14 th November 2024
Date of Site Inspection	6 th October 2023.
Inspector	Peter Nelson

1.0 Introduction

1.1. Overview

- 1.1.1. Carlow County Council is seeking confirmation by the Board of a Compulsory Purchase Order (CPO) entitled the Carlow County Council Compulsory Purchase Order No. CPOH -VH021-2023 of No.33 St. Fiacc's Terrace, Graiguecullen, Carlow R93 YX61.
- 1.1.2. The CPO relates to the compulsory purchase of a house and site at 33 St. Fiacc's Terrace, Graiguecullen, Carlow. The order was made pursuant to section 76 of the Housing Act, 1966 and the Third Schedule thereto (as amended by the Planning and Development Act, 2000, as amended).
- 1.1.3. The Board received a single objection to the CPO from the landowner Angela Yardley. This report considers the issues in the objection submitted to the Board and more generally the application to acquire the property.

1.2. Purpose of CPO

- 1.2.1. According to the documentation submitted with the application, the purpose of the CPO is to acquire the property for the purposes of the renovation of the dwelling unit, that will be used as a social housing unit.

1.3. Accompanying Documents

- 1.3.1. The application is accompanied by the following documents.
 - Cover Letter dated 6th of April 2023, outlining contents of the application;
 - Interim Chief Executive Order dated 29th March 2023.
 - Original CPO order signed and sealed by the Interim Chief Executive, the Chairperson and the Town Regeneration Officer dated 29th March 2023.
 - Newspaper Notice – The Nationalist, dated the 4th April 2023
 - CPO Map signed and sealed
 - Photographs of the CPO notice erected on site.

- Notification letters sent to the landowner
- Report from Nicola Lawler, Town Regeneration Officer, dated the 29th March 2023.
- Report from Brian O'Donovan, Senior Executive Officer, Housing, dated 23rd December 2022.

2.0 Site Location and Description

- 2.1. St.Fiacc's Terrace is an established residential development of similar terraced two-storey dwellings. No.33 St.Fiacc's Terrace is located on a west to east road which leads to Chapel Street. St Fiacc's Terrace is located c. 650m to the centre of Carlow Town.
- 2.2. The house on site is a two-storey, double-fronted terraced dwelling with a lawned garden to the front and a c.26m rear garden. A public footpath runs to the outside of the front boundary of the site. At the time of site inspection, while the front fence was in poor condition, the front garden was well kept, and the front elevation was in adequate condition. The interior was not available for inspection at the time of the site visit.

3.0 Planning History

- 3.1. There is no recorded recent application for this address.

4.0 Policy and Context

4.1. Carlow-Graiguecullen Joint Urban Local Area Plan 2024-2030

The Carlow-Graiguecullen Joint Urban Local Area Plan 2024-2030 is the Local Area Plan operating in the area. The plan came into effect on the 9th September 2024.

The site is zoned Existing/Infill Residential:

Objective: To protect and improve existing residential amenity; to provide for appropriate infill residential development; to provide for new and improved ancillary services.

Relevant Policies:

SO. 5: Promote Carlow-Graiguecullen as a priority location for regional level community and social infrastructure and support the expansion and enhancement of existing community facilities, the provision of residential development, and a range of new community facilities in tandem with population growth to meet the needs of future residents in the joint urban area.

HS.P1: Ensure that housing is available in Carlow-Graiguecullen to meet the needs of all people through the delivery of an appropriate mix of housing sizes, types, and tenures in suitable locations.

HS. P2: Provide for existing unmet housing need as identified by the Carlow County Council and Laois County Council social housing needs assessments through the provision of social and affordable housing using a range of delivery mechanisms.

HS. P3: Provide social and affordable housing to meet forecasted future housing need over the period of this JULAP as identified in the HNDAs adopted as part of the Carlow County Development Plan and Laois County Development Plan. New units shall be delivered having regard to the aims and policies of the Core Strategies contained in these County Development Plans and the needs of local communities, including the need to deliver sustainable development, compact growth, social integration and an appropriate mix of housing types and tenures. Social and affordable housing shall be delivered through a range of mechanisms including provision directly by Carlow County Council and Laois County Council, by Approved Housing Bodies, Repair and Lease Scheme, Buy and Renew and through short- and long-term leases arranged by the Councils with private landlords.

4.2. Carlow County Development Plan

The Carlow Development Plan 2022-2028 is the current development plan operating in this area. This plan came into effect on the 4th July 2022.

Relevant Policies:

CS. O12: Promote measures to reduce vacancy and the underuse of existing building stock and support initiatives that promote the reuse, refurbishment and retrofitting of existing buildings within urban centres and targeted settlements in the county.

HS. P3 Provide for existing unmet housing need as identified by the Carlow County Council social housing needs assessment through the provision of social and affordable housing using a range of delivery mechanisms.

4.3. National Policy

4.3.1. Housing for All – A New Housing Plan for Ireland, Department of Housing, Local Government and Heritage September 2021.

This Plan recognises that in order to resolve the housing crisis we need to give consideration to every viable and sustainable option at our disposal. The Plan introduces incentives and measures to bring vacant and derelict properties back into residential use. The government's overall objective is that every citizen in the State should have access to good quality homes:

- to purchase or rent at an affordable price
- built to a high standard and in the right place
- offering a high quality of life

One pathway to addressing vacancy is identified as the launch of a CPO programme for vacant properties and in this regard, it is confirmed that “the objective will be for Local Authorities to acquire at least 2,500 vacant units by 2026 and present them to the market for sale”.

4.3.2. Department of Housing, Planning, Community and Local Government Circular PL 7/2017 4.4.1.

This Circular reminded local authorities of the overall strategy of bringing vacant homes back into use as quickly as possible. The circular advised the adoption of Vacant Home Action Plan which would include the possibility of using the CPO process to acquire suitable homes as part of a strategy to address the matter of vacant private houses.

4.3.3. Department of Housing, Planning, Community and Local Government Circular PL 8/2016

This Circular followed the publication of 'Rebuilding Ireland - Action Plan for Housing and Homelessness' and relates to the identification of planning measures to enhance housing supply. 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.

5.0 **Objection**

- 5.1. The objector, Angela Yardly states that she did not receive the original letter from the Council in time and therefore she missed the deadline to respond. The council then made the decision to move forward with the CPO.
- 5.2. The objection states that while the property at 33 St. Fiacc's Terrace is in Ms Yardley's name, it is a family home that her mother has always maintained that she owns the property. The objector did not have a key or access to the property.
- 5.3. The objector appreciates that the property has not been given any attention over the past few years complicated by multiple lockdowns, travel and Covid restrictions. The objector's mother has limited mobility, and her father is in hospital with Covid related

pneumonia. When her parents' health conditions have improved, the objector will be visiting the property to address any outstanding issues.

6.0 Response from Carlow County Council

6.1. No additional comments made at this stage.

7.0 Oral Hearing

7.1. An Oral Hearing was held on Tuesday, 14th of November 2024. The objector and Carlow County Council were represented at the hearing and oral submissions were heard by both parties.

7.2. A summary of the Hearing is included in Appendix 1 of this report. As the presiding Inspector, I commenced proceedings with an opening statement. Participants were informed that the purpose of the Hearing was an information gathering exercise to assist in the consideration of the merits of the case and in drafting the report and recommendation to the Board in relation to the CPO order. It was explained that the purpose of the Hearing was to deal with the CPO process only. i.e., the merits, or otherwise, of the proposed acquisition of the lands by the Planning Authority. Participants were also reminded that the Board has no role or jurisdiction in the determination of compensation.

7.3. The proceedings of the Oral Hearing are summarised in Appendix A of this report and referenced, where necessary, in the assessment below under Section 8.0.

8.0 Assessment

8.1. Overview

8.1.1. The Compulsory Purchase Order relates to the compulsory acquisition of lands at 33 St. Fiacc's Terrace, Carlow for the purpose of the renovation of the dwelling unit, that then will be used as a social housing unit.

8.1.2. My assessment of this case considers the issues raised in the written objections to the Board, the points made at the Oral Hearing (OH), and the general principles to be applied in assessing CPOs of this nature.

- 8.1.3. Carlow County Council sent letters to the registered owner, Angela Yardley at 33 St.Fiacc's Terrace on 4th January 2023 and 2nd February 2023. These were returned by post marked 'not called for.'
- 8.1.4. A letter was also issued to Angela Yardley on 9th March to an address in London.
- 8.1.5. As of 29th March 2023, no communication had been received from the owner. A Compulsory Purchase Order was signed and sealed by the Interim Chief Executive and the Chairperson on the 29th of March.
- 8.1.6. In her objection Angela Yardley states that the letter sent 9th March 2023 to her London address was not delivered to her home until the 24th March 2023 and she did not receive it until the 29th March 2023 as she was away from her home.
- 8.1.7. While the period between the original letter and the issuing signing of the CPO was short, I am satisfied that the correct process in notifying the applicant of the CPO was carried out.
- 8.1.8. For the Board to confirm the subject CPO, it must be satisfied that the following criteria are addressed:
- There is a community need that is to be met by the acquisition of the lands in question.
 - The project proposed and associated acquisition of lands is suitable to meet the community need.
 - The works to be carried out should accord with, or at least not be in material contravention of, the policy and objectives contained in the statutory Development Plan relating to the area.
 - Any alternatives proposed to meet the community need have been considered but are not demonstrably preferable.
 - The extent of land-take should have due regard to the issue of proportionality.

Furthermore, the Board should consider whether the acquisition will have an excessive or disproportionate effect on the interests of the affected persons.

The proposed CPO is now assessed in the context of the above tests prior to addressing the specific issues raised in the objections lodged.

8.2. Community Need

- 8.2.1. The community need for the acquisition was set out by Carlow County Council in the documentation submitted with the Compulsory Purchase Order (CPO) and was further detailed in the oral hearing.
- 8.2.2. Carlow County Council have stated in the submitted documentation that there is a considerable gross housing need of 924 and the council housing delivery programme currently requires more units in Carlow Town to meet demand and targets set out under Housing for All. The Housing Department is actively seeking lands, turnkey developments or regeneration opportunities within Carlow Town. It is stated that the subject dwelling would be a suitable site as it is adjacent to the town centre. The documentation also states that the repurposing of a derelict and vacant unit at this location would enhance the community and provide an excellent location for a family to live.
- 8.2.3. The local authority has stated that once acquired the Housing Department will develop the property under Social Housing Investment Programme (SHIP) funding.
- 8.2.4. No.33 St Fiacc's Terrace is a mid-terrace house in an established residential development. While the house would benefit from some improvement work, I consider that at the time of site inspection the house is not derelict nor an eyesore.
- 8.2.5. At the oral hearing, the local authority confirmed that the dwelling was identified as being vacant in October 2022. The objector has not disputed that the house has been vacant for a number of years. The objector has stated that the gardens have not been adequately maintained due to the Covid restriction and family health issues.
- 8.2.6. Having reviewed the information submitted, I am satisfied that there is a need for the local authority to address the housing list as it stands and to reduce the levels of vacancy in the county. I am therefore satisfied that Carlow County Council have demonstrated a clear and pressing community need that would be met by the project and would be facilitated by the acquisition of rights over the lands in question, should the Board consider it appropriate to confirm the CPO.

8.3. Suitability of Lands to Serve Community Need

- 8.3.1. No. 33 St Fiacc's Terrace is located on lands that are zoned 'Existing Residential' and is in an established urban-residential area. The house is located in a terrace of similar two-storey units.
- 8.3.2. The site is adjacent to Carlow Town centre and is located within walking distance of the main shopping areas. The refurbishment of this property would provide a family house in an area with high demand for such properties. Carlow County Council consider the house to be viable and suitable for refurbishment.
- 8.3.3. I consider that the subject property, having regard to its central location, could be refurbished, and put back into fulltime residential use. Having regard to all of the above, I am satisfied that in principle, the house is suitable for reuse.

8.4. Compliance with Planning Policy

- 8.4.1. The site is zoned for 'Existing/Infill Residential' use and as there is a house on site, the use of these lands is in accordance with the zoning objective.
- 8.4.2. The repurposing of the property for residential use would comply with policy HS. P2 of the Carlow-Graigecullen Joint Urban Local Area Plan 2024-2030 as it would contribute to providing for existing unmet housing need as identified by the Carlow County Council social housing needs assessment. The repurposing of the property for residential use would also comply with policies CS012 and HSP3 of the Carlow County Development Plan 2022-2028.
- 8.4.3. Having regard to all of the above, I am satisfied that that the proposed development is substantially in compliance with Development Plan policies and objectives.

8.5. Consideration of Alternatives

- 8.5.1. In the oral hearing the local authority stated that no alternatives were considered because it is not relevant in this case of bringing vacant properties back into use as the council will be looking at all vacant properties within the county.

- 8.5.2. The stated alternative given in the initial correspondence was that the Council could assist the owner to bring the property back into use with the provision of grants and that Carlow County Council were interested in buying the property themselves.
- 8.5.3. I acknowledge that the Council proposed alternatives to the CPO process and as the Council could not establish contact the CPO process was initiated.

8.6. Proportionality and Necessity for the Level of Acquisition Proposed

- 8.6.1. The objectors case relies on personal circumstances. The objector has stated that although the property is in her name it is a family home which has been maintained by her parents until recently. At the oral hearing, the objector stated that her father has died recently, and her mother has limited mobility and that she was unaware that the house was not being maintained.
- 8.6.2. The objector appreciates that the property has not been given any attention over the past few years complicated by multiple lockdowns, travel and Covid restrictions.
- 8.6.3. During the oral hearing, the objector stated that the house is now being maintained and that it is her intention to return from London within the next year and live in the property.
- 8.6.4. I consider that relatively minor cosmetic works would significantly improve the appearance of this property. Whilst it may be a vacant property, I would not consider it to be an eyesore.
- 8.6.5. As I have already outlined, Carlow County Council properly followed all procedures and demonstrate that the CPO is appropriate. The issue of proportionality is therefore critical – would the order have an excessive or disproportionate effect on the interests of the affected persons? I consider that it would. While the home has been vacant for a number of years, it is a family home and it is now the intention of the owner to return and live in the property within a year.
- 8.6.6. I note that Carlow County Council suggested to the property owner that the Council could assist the owner to bring the property back into use with the provision of grants. For various reasons outlined by the property owner she did not enter into discussion with the council before the CPO procedure was initiated. As stated in the

oral hearing the property owner has been in regular contact with the council since the CPO process has been initiated.

- 8.6.7. Whilst the market value for the property may be significant, it cannot be certain in this case that the received money would adequately compensate for the loss of this property. I therefore consider that the CPO would have a disproportionate impact on the property owner.

9.0 Conclusions and Recommendations

- 9.1. Having regard to all of the above, I am satisfied that Carlow County Council have demonstrated a need for the acquisition of No. 33 St Fiacc's Terrace, Carlow and that the house is necessary to meet the partial needs of the Housing List. The acquisition of this house is on the basis of the vacancy/ under use of this property. However, the objector has outlined that the house is to be used when they return from living in England in the next year. The applicant recognises that due to personal reasons and due to the Covid 19 Pandemic and its associated restrictions, the house has not been adequately maintained over this time. The compulsory purchase of this property would have a disproportionate impact on the property owner, which may not be offset by financial compensation.

9.2. DECISION

I recommend that the Board **ANNUL** the above Compulsory Purchase Order based on the reasons and considerations set out below

10.0 Reasons and Considerations

Having considered the objection made to the compulsory purchase order and not withdrawn, the report of the person who conducted the oral hearing into the objections, the purpose for which the lands are to be acquired as set out in the compulsory purchase order and also having regard to the following;

- The purpose of the compulsory acquisition of No. 33 St Fiacc's Terrace, Carlow for refurbishment of this house, to address vacancy and the acute housing need,
- The policies and objectives of the Carlow-Graiguecullen Joint Urban Local Area Plan 2024-2030 and the Carlow County Development Plan 2022-2028,
- The submissions and observations made at the Oral Hearing held on 14th of October 2024;
- The personal circumstances of the landowner and impacts of travel restrictions arising from the Covid-19 pandemic on the ability of landowner being able to visit the site and to carry out necessary maintenance works to the property.
- The intention of the property owner to return to live in the property within the year.

It is considered that, the acquisition by the Local Authority of the property in question, as set out in the order and on the deposited map, would result in an excessive and disproportionate impact on the property owner.

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.

Peter Nelson

Senior Planning Inspector

25th November 2024

APPENDIX A: PROCEEDINGS OF THE ORAL HEARINGS

[Note: The following is a brief summation of the proceedings of the Oral Hearing and the persons in attendance. It is not intended to be a comprehensive overview of the proceedings and should be conjunction with the main body of the report above.]

- **Background**

An Oral Hearing (OH) was held on Tuesday, 14th November 2024 in relation to the proposed compulsory acquisition sought by Carlow County Council – ‘Carlow County Council Compulsory Purchase Order CPOH-VH021-2023’. The Hearing virtually via MS Teams. The persons listed below were in attendance and made submissions / witness statements at the Oral Hearing.

- **Submissions on behalf of Carlow County Council**

Nicola Lawler, Town Regenerator Officer

- **Submission on behalf of the Objector**

Angela Yardley

- **Opening of Hearing**

The Inspector formally opened the hearing at 10.14am. (Angela Yardley was not present). Nicola Lawler and Brigid Deenihan are present on behalf of Carlow County Council.

At 10.18am Angela Yardley enters the hearing.

Following some technical issues with objector’s microphones, the Inspector adjourned the hearing for approximately 5 minutes. Technical issues were resolved. The Inspector then reopened the hearing at approximately 10.30am.

Angela Yardley and her daughter Davina were then present. The Inspector then resumed his opening statement.

It was requested that the Local Authority make its formal submission.

- **Submission of Carlow County Council**

Ms Nicola Lawler

- Under Pathway 4 Housing for All, Carlow County council have been tasked with bringing vacant and derelict properties back into reuse.
- With that in mind over the last two years vacant dwelling surveys have been carried out in Carlow Town at this time the property at St Fiacc Terrace was identified as being vacant.
- The council established that there is a housing need for housing in the area and initiated contact with the register owner in January 2023. The register address was given as 33 St. Fiacc's Terrace.
- The correspondence to the address was returned by An Post as not called for. Correspondence was sent a number of times, subsequent to those, further investigations established an English address for Ms Yardley. Correspondence was then sent to that address.
- Over a period of a long number of months the Council could not establish contact, so the CPO process was initiated.
- Notices were erected on the property.
- The council were successful in making contact with Ms Yarley and contact Brigid Deenihan was ongoing until such time as the objection went into the Board.
- No alternatives were considered because it is not relevant in this case of bringing vacant properties back into use as the council will be looking at all vacant properties within the county.
- The alternative given in the initial correspondence was that the Council could assist the owner to bring the property back into use with the provision of

grants and that Carlow County Council were interested in buying the property themselves.

- However as contact with the owner could not be established the Council initiated the CPO process.

I would note that during this session of the hearing the inspector sought confirmation of when Carlow County Council identified the dwelling as being vacant. Ms Brigid Deenihan stated that it was identified as being vacant in October 2022.

- **Submission of the Objector, Ms Angela Yardley**

Angela Yardley

- Stated that she was going through a difficult time with her father.
- As soon as she got the letter, she contacted Carlow County Council
- Six weeks after burying her father she met with Carlow County Council and explained the situation and made a pledge to sort out the garden.
- She also told them it was her intention to come back to her family home to live.
- She has reconnected with family in Ireland and is in contact with people who keep an eye out on the house and as soon as they point out that something needs to be done, she addresses it.
- She is presently trying to sort out care for her mother and is travelling a lot.
- She commented that her parents were involved in looking after garden of the property and did not inform her that this was not carried out.

I would note that during this session of the hearing the inspector sought confirmation on when Ms. Yardley intends to return and occupy the property. Ms Yardley stated that she intends to return and live in the property in a year's time.

- **Question between Parties.**

The objector was afforded the opportunity to question Carlow County Council

Question

What are the council's intentions, as when she expressed her desire to return to the property, she was told the Council understood and she apologised for what had happened?

Response

The Council replied that Brigid Deenihan would have dealt with the objector a lot and understood that the objector was going through a difficult time and had no further comments.

- **Closing Statements**

Ms Yardley apologised for everything that has happened and looks forward moving back to the property.

Carlow County Council had no closing statement.

- **Closing**

The inspector closed the Oral Hearing at 10.56am