



An
Bord
Pleanála

Inspector's Report

ABP-317504-23

Development

Application for consent for compulsory acquisition of a derelict site in accordance with Section 16 of the Derelict Sites Act 1990, as amended

Location

4 Robert Street, Limerick

Local Authority

Limerick City and County Council

Notice Party

Date of Site Inspection

8th January 2024.

Inspector

Niall Sheehan

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 4 Robert Street, Limerick City, in accordance with the provisions of the Derelict Sites Act, 1990, as amended.

2.0 Site Location and Description

- 2.1. The building is located at No. 4 Robert Street towards the corner of Robert Street and Upper Denmark Street in Limerick City Centre. The building occupies all of the 0.0302 hectare site.
- 2.2. The building is a protected structure (RPS 3062) and is on the National Inventory of Architectural Heritage (NIAH) (Reference Number 21513021). The building is described as 'six storey random course stone corn warehouse'. It is stated that the building was constructed c.1800 and its original use was a storehouse/warehouse (corn) and it's last known use was a gallery (Limerick Printmakers last known operators). St. Michaels Church to the corner of Robert Street and Denmark Street (curtilage adjoins to the rear) is a also protected structure. The building is not located in the Architectural Conservation Area (ACA). Johns Square, Lower Gerald Griffth and Johns Street Architectural Conservation Area is located c.250m due west however the building is not directly visible from and does not affect this ACA.
- 2.3. The building is immediately surrounded by a car park to the north east, a modern two-storey building (Cedar House restaurant) and St. Michael's Catholic Church further to the west. The Milk Market is located c.60m to the east of the site (further east of the car park with the Monk pub and Angel Lane night club inbetween). The wider surrounding area contains a variety of different city centre uses which include shops, pubs, nightclubs restaurants, other commercial uses and also RTE Limerick Studios.
- 2.4. The Limerick Opera Site is located to the corner of Michael Street and Ellen Street to the north west of the subject site (to the other side of the adjoining car park). The Opera Site is a large site currently under redevelopment and is framed by Michael St. to the east, Rutland Street to the west, Ellen Street to the south and Bank Place to the north.

- 2.5. The structure itself appears to have lain vacant for a considerable time period and the roof covering to the building is missing. Some rafters appear to remain, however all slates appear to have been removed. There is some netting to the front part of the eastern elevation (with the purpose of catching falling debris). A car park surrounds the building to the northern and eastern sides.

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 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 11th September 2020, (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 26th November 2020, (entry of 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 Sean Murray in a letter dated 3rd May 2023. This was published in the Limerick Post newspaper on 6th May 2023. The site was described as follows in the notices:

'A derelict site comprising a standalone, six storey former mill building and surrounding land situate at No.4 Robert Street, Limerick, containing 0.032ha. or thereabouts. The said property and surrounding land is in a state of dereliction. The said derelict site is more particularly shown outlined in red on a map bearing reference no. DS-020-18 in the Derelict Sites Register established and maintained by Limerick City and County Council under Section 8 of the Derelict Sites Act 1990'.

- 4.1.2. I consider that the notices were in accordance with the requirements of Section 15(1)(a) and 15(1)(b) 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 (LCCC) on behalf Sean Murray (registered owner, stated to have purchased property in October 2016) on the 2nd June 2023. The objection can be summarised as follows:

- Owner has had considerable exchanges with various departments of LCCC including Conservation Officer, since 30th January 2017;
- Due to nature of building as a protected structure and specialist disciplines required to action the refurbishment, the overall cost of initial works is in excess of €300,000;
- Owner received derelict notice on 7th of September 2020 during Covid lockdown;
- Negotiations with third party purchasers did not proceed due to derelict site notices issued;
- Plan enclosed with objection to take the property out of dereliction with anticipated commencement date in August 2023. Programme envisaged to be c.10 months;
- No purpose in LCCC proceeding with their compulsory purchase of property on this basis. Building programme to take the property out of dereliction anticipates completion of construction May 2024.

4.3. Derelict Site Report

4.4. 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;
 - Conservation value of the building and requirement for remedial restoration works, and;
 - Feasibility of various actions to make good the site and find viable uses for the site.

4.5. Limerick City and County Council (LCCC) have summarised the building as follows:

- The structure is partly ruinous with nearly all slates either missing, loose or having slipped;
- The guttering and downpipes on the building are either blocked, broken, missing or have slipped from the roof;
- There is vegetation growing from the structure;
- Walls and timber sheeting covering missing windows is covered in graffiti;
- The structure has a dirty façade and paintwork is peeling from window frames and doors etc.;

4.6. Limerick City and County Council (LCCC) have taken the following actions which include the following:

- On 22nd January 2018, LCCC first inspected the property and identified it as a derelict site by definition under Section 3 of Derelict Sites Act 1990 (as amended);
- In September 2018, LCCC Conservation Officer wrote to owner informing them that No.4 Robert Street is on the RPS and NIAH and requested a list of information on proposed works (in response to their correspondence regarding installation of new roof);
- On 11th September 2020, LCCC served a Section 8(2) Notice of Intention to enter land in Derelict Sites Register;

- On 28th October 2020, LCCC received a letter on behalf of property owner stating that owner wishes to protect existing structure and install new roof;
- On 10th November 2020 LCCC replied to owners stating that of opinion property remains in derelict state within meaning of Section 3 of Derelict Sites Act 1990 and will thus proceed to enter on Derelict Sites Register;
- On 26th November 2020, Section 8(7) Notice of Entry to Land in Derelict Sites Register served on owner;
- In December 2020, LCCC determined market value for site;
- On 3rd February 2021, Section 22 Notice of Valuation was served;
- On 18th February 2021, LCCC received copy of Appeal of Section 22 Valuation on behalf of owner Sean Murray;
- On 9th June 2021, LCCC received letter from owner stating owner negotiated sale of property with contract issued and deposit paid;
- On 11th March 2022, LCCC issued Section 23 Notice Demand for Derelict Sites Levy for 2021;
- On 31st May 2022, Mr. Murray withdrew his appeal of Section 22 Notice of Valuation to Valuation Tribunal;
- On 3rd May 2023, LCCC gave notice of intention to owner to compulsorily acquire derelict site (Section 15(1)(a)) and advertised same in Limerick Post on 6th May 2023.

4.7. Objector's Submission:

4.7.1 An objection to the proposed acquisition was submitted to An Bord Pleanála on behalf of Sean Murray on the 26th July 2023. This objection can be summarised as follows:

- LCCC assessment failed to give due regard to Covid pandemic, subsequent construction shut down, supply chain, cost increases and overall difficulty in progressing construction works on a restricted site;

- Stated that owner has a proven track record in refurbishing formerly derelict property and the intention of purchase is to refurbish the building for owner's use (referenced (with photographs) of residential development at Ellen St. nearby);
- In order to help effect substantial refurbishment, owner has agreed to purchase No. 3 Robert Street an adjoining property. Stated as being necessary given No.4 is an extremely difficult site to access and develop;
- Stated owner based in USA and entering into partnership with local Limerick developer to bring No.4 Robert Street out of dereliction and restore;
- Estimation of Costs (16th January 2019) and refurbishment timetable provided (indicated/anticipated start date 7th October 2023);
- Isometric drawings of proposed replacement roof provided;
- Photographs of restoration of front doors and removal of vegetation to building (photographs dated 7th October 2023);
- Stated owner discharged annual 7% levy imposed by LCCC;
- Respectively request that Consent for Compulsory Purchase be refused.

5.0 Planning History

Car park adjacent to subject site

Planning Reference Number: 04770601

Planning permission for mixed use development of five storeys over a two floor basement. Development to comprise of a 56 no. bedroom budget hotel with reception area, 7 no. ground floor shop units totalling 1235sq.m retail space, four floors of offices totalling 6430sq.m office space, a total of 163 no. car parking spaces overall, associated site development works including connection to existing public sewer.

Refused on the 13/10/2005

Appeal upheld on the 05/05/2006.

Reason 1: Having regard to the proximity to a designated ACA and two protected structures, it is considered the proposed development would be out of character with and detract from the setting of the said protected structure and would adversely affect the

ACA by reason of poor design, building height and scale, therefore contrary to the proper planning and sustainable development of the area.

Reason 2: Having regard to the height and proximity to the north western site boundary, the high plot ratio, it is considered that this would adversely affect the daylight available to the properties located to the northwest and would seriously affect the amenities and devalue property in the area, therefore contrary to the proper planning and sustainable development of the area.

Reason 3: The site of the proposed development is located in an area identified as a zone of archaeological interest and designated an ACA. It is policy of the Planning Authority as expressed in Policy C7 of the Limerick City Development Plan, all development proposals of sites of archaeological interest must be accompanied by an archaeological assessment. Having regard to the failure of the applicant to submit an archaeological study in support, the Board is not satisfied that the proposed development would not impact on archaeological material and as such would contravene the development plan for the area, therefore contrary to the proper planning and sustainable development of the area.

Site immediately due north east. At corner of Ellen Street/Carr Street/ Punch's Row

Planning Reference Number: 04770600

Planning permission for RETENTION and completion of a mixed use development comprising of six storeys over basement to maximum height of 23.7m comprising of underground car park spaces, 5 no. ground floor retail units, 43 no. apartments on first to fifth floors with associated site development works.

Decision: Approve with conditions

Planning Reference Number: 18168

Completion of the works comprising of a mixed use development as follows:

- (a) Language school and seven retail shop units on ground floor;
- (b) 5 no. four bedroom apartments and 3 no. duplex six bedroom apartments on first and second floors;

- (c) Basement with 24 no. private car parking space, and,
- (d) New connections to mains public water and sewer.

Decision: Approve with conditions.

The above development commenced c.2006/2007, remained incomplete for a considerable time period and recommenced in recent times following grant of planning permission in 2018

At site to corner of Michael St. and Ellen St. (also Bank Place and Rutland Street to the north/north west of the subject site) (Applicant Limerick City and County Council/ Limerick 2030)

Planning Permission Reg. Ref.: ABP-304028-19/21311981

Strategic Infrastructure Development for 10 year permission for opera site re-development including a mixed use scheme comprising of offices, supported by a range of retail and non-retail services, cafes/restaurants, licenced premises, apart-hotel, civic/cultural uses (including a city library in the existing town hall), residential, refurbishment of existing protected buildings and provision of open space.

Decision: Approve with conditions.

6.0 Policy Context

6.1. National Policy

6.1.1. Architectural Heritage Protection Guidelines for Planning Authorities (2011)

Section 1.3 Part IV Planning and Development Act 2000

d) new responsibilities are given to the owners and occupiers of protected structures to maintain them and planning authorities have additional powers to ensure that buildings are not endangered either directly or through neglect.

Section 6.15 Endangerment

‘Endangered’ is defined by the Act as ‘exposed to harm, decay or damage, whether

immediately or over a period of time, through neglect or through direct or indirect means'. Protected or proposed protected structures that appear to be endangered may come to the attention of the planning authority in the course of normal planning duties or if informed by a member of the public. The state of a structure may also be brought to notice of the planning office by the sanitary authority prior to the issue of a notice in relation to a dangerous structure under the Local Government (Sanitary Services) Act 1964.

A structure may be endangered by structural interventions such as the removal of internal floors and/or partition walls, breaking new openings in external walls, removal of or damage to roofs and chimney stacks, removal and boarding up of windows and doors, excavation of the ground in close proximity to the structure without adequate shoring up or other protection for the structure, or the demolition of parts of a structure without shoring or protecting it. *Indirect endangerment could include allowing a building to fall into disrepair, leaving structures open to the elements and possible vandalism, or the removal of temporary safeguards which had secured a vacant structure, such as temporary roof-coverings, security fencing or blocked openings.*

6.2. Development Plan

- 6.2.1. The applicable Development Plan is the Limerick City and County Development Plan 2022 – 2028. This plan became effective on the 29th of July 2022, which was after the site was entered on the Derelict Sites Register and after the owner of the property was notified of the local authority's intention to acquire it by CPO.
- 6.2.2. 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 theme of revitalisation and delivery of compact growth is central to the Core Strategy (Chapter 2) and the Spatial Strategy (Chapter 3). Policy CGR P1 sets out how this can be achieved including development of brownfield and underutilised lands within the built footprint of urban areas. 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.

- 6.2.3. 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.

- 6.2.4. The Living Limerick City Centre Initiative (3.4.3.2) is a 7-year programme which was awarded funding in 2021 under the Urban regeneration Development Fund. It seeks to make positive, innovative and transformational change to revitalise the centre of Limerick City and is seen as a growth enabler. The LLCC Initiative seeks, inter alia, to renew vacant, underutilised and derelict buildings in the city centre. Chapter 5 ‘Strong Economy’ sets out the Economic Strategy. The success of economic growth is said to be intertwined with maintaining and enhancing its attractiveness. The City Centre is seen as a key driver of economic activity in the region.

- 6.2.5. Policy ECON P1 seeks to support the implementation of Limerick 2030 – An Economic and Spatial Plan to guide the economic, social and physical renaissance of Limerick City Centre and the wider county/Mid-West Region.

- 6.2.6. The site is zoned City Centre Area, the Zoning Objective for which is to protect, consolidate and facilitate development of the City Centre commercial, retail, educational, leisure, residential, social and community uses and facilities.

- 6.2.7. As per Section 6.5.4 Architectural Heritage, ‘Part IV of the Planning and Development Act 2000 (as amended) provides the legislative basis for the protection of architectural heritage. To complement this, the Department of Arts, Heritage and the Gaeltacht issued Architectural Heritage Protection Guidelines for Planning Authorities (2011). These offer assistance and advice to owners and occupiers of Protected Structures and buildings within Architectural Conservation Areas, in addition to offering guidance to Planning Authorities. The Planning and Development Act 2000 (as amended)

requires each Planning Authority to include in their Development Plan objectives for the protection of structures, or parts of structures, which are of special architectural, historical, archaeological, artistic, cultural, scientific, technical or social interest. These buildings and structures are compiled on a register referred to as the Record of Protected Structures (RPS). The RPS for Limerick City and County currently as listed in Volume 3 includes over 2000 structures, with a further 345 structures proposed for addition’.

6.2.8. Section 6.5.4 further states that ‘ a Protected Structure’, unless otherwise stated, includes the interior of the structure, the land lying within the curtilage of the structure, any other structures lying within that curtilage and their interior and all fixtures and features which form part of the interior or exterior of that structure. The protection also extends to any features specified as being in the attendant grounds including boundary treatments’.

6.2.9. Objective EH O50 Work to Protected Structures applies which is summarised as follows. It is an objective of the Council to:

a) Protect structures included on the RPS from any works that would negatively impact their special character and appearance.

b) Ensure that any development proposals to Protected Structures, their curtilage and setting, shall have regard to the Architectural Heritage Protection Guidelines for Planning Authorities published by the Department of the Arts, Heritage and the Gaeltacht.

c) Ensure that all works are carried out under the supervision of a qualified professional with specialised conservation expertise.

d) Ensure that any development, modification, alteration, or extension affecting a Protected Structure and/ or its setting, is sensitively sited and designed and is appropriate in terms of the proposed scale, mass, height, density, layout and materials.

e) Ensure that the form and structural integrity of the Protected Structure is retained in any redevelopment and that the relationship between the Protected Structure and any complex of adjoining buildings, designed landscape features, or views and vistas from within the grounds of the structure are respected.

- f) Respect the special interest of the interior, including its plan form, hierarchy of spaces, architectural detail, fixtures and fittings and materials.
- g) Support the re-introduction of traditional features on protected structures where there is evidence that such features (e.g. window styles, finishes etc.) previously existed.
- h) Ensure that new and adapted uses are compatible with the character and special interest of the Protected Structure.
- i) Protect the curtilage of Protected Structures and to refuse planning permission for inappropriate development within the curtilage and attendant grounds, that would adversely impact on the special character of the Protected Structure.
- j) Protect and retain important elements of built heritage including historic gardens, stone walls, entrance gates and piers and any other associated curtilage features.
- k) Ensure historic landscapes and gardens associated with Protected Structures are protected from inappropriate development.

6.3. Volume 3A Record of Protected Structures Metropolitan District of Limerick

Record of Protected Structures Limerick City and Suburbs (in Limerick), Mungret and Annacotty – Metropolitan District of Limerick;

RPS Ref. No. 3062; NIAH Reg. 21513021; Formerly Limerick Printmakers; Robert Street; Detached six-bay six-storey random coursed stone corn warehouse, built c. 1800

6.4. National Inventory of Architectural Heritage

NIAH Reference Number: 21513021;

Description: 'Detached six-bay six-storey random coursed stone corn warehouse, built c. 1800, facing south, with two hoist bays to street front and nine-bay side elevations. Now in use as a gallery. M-profile natural slate roof with gables hidden behind high parapet wall with stone coping. Metal and plastic rainwater goods. Squared and tooled random coursed limestone walls with random rubble limestone to other elevations. Cast-iron wall tie plates. Squared quoins to all corners. Gauged red brick flat-arched window openings with fixed-pane timber windows. Boarded-up camber-headed red brick arch loophole openings. Voussoirs stone flat-arched openings to ground floor

level with timber windows and two door openings with double-leaf timber doors. Gauged red brick segmental-headed window openings with square-headed bipartite timber windows to side elevations. Standing on a large open area used as a car park’.

Appraisal: ‘An imposing limestone warehouse, with its heavy massing and large scale, it maintains a link with the area’s industrial past. Its continued use is important in a rapidly changing era’.

Date Recorded: 16/07/2005.

6.5. Derelict Sites Act 1990 (as amended)

6.5.1. 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.

6.5.2. 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.”

6.5.3. 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.

- 6.5.4. 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.
- 6.5.5. 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.
- 6.5.6. 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.
- 6.5.7. 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.
- 6.5.8. Section 22 states that a local authority shall determine, as soon as may be after it is entered on the register, and at least once every five years thereafter, the market value of urban land by estimating the fee such land would fetch if it was sold on the open market on the valuation date in such manner and in such conditions as might reasonably be calculated to obtain for the vendor the best market price for the land.
- 6.5.9. Section 23 provides that derelict sites shall be charged, levied and paid for in respect of all urban land in relation to which a market value has been determined and stands entered on the register.

7.0 Assessment

- 7.1 Internal access to the property was not possible on the date of my site inspection. I did however carry out my site inspection from the public road adjoining the site.
- 7.2 The property is vacant and has a derelict, ruinous, dangerous neglected, unsightly and objectionable appearance which is obvious from the public road and area surrounding the site (city centre). This is due to the absence of a roof and subsequent exposure to

the elements in addition to inappropriate application of render/patching material and some staining to walls throughout, particularly to the north elevation. It is noted that no measures to make the building weather tight have been made despite the absence of proper roof covering (i.e. slate).

7.3 I note from my site inspection on the 8th January 2024, not all of the items which had been considered to give rise to the state of dereliction, as outlined in the local authority's Derelict Sites Report have been addressed. These include namely the absence of proper permanent roof coverings (all slates removed and roof stripped back to the rafters, not even a temporary covering provided), and, also the inappropriate rendering/patching of walls to the western elevation and staining of the walls throughout (particularly to the northern elevation). It was noted that on comparison to local authority photographic surveys, all vegetation to walls and roof appears to have been removed, all graffiti to doors and other areas of the building appear to have been removed, doors and window frames throughout the building were recently painted red. The majority of the stonework appears to be in reasonable condition with no obvious evidence of significant cracking or additional damage to the external walls. Notwithstanding the aforementioned works, the building is still derelict given the absence of a proper permanent roof covering (not even a temporary covering in place for weatherprotection) which gives a ruinous, derelict, neglected and unsightly appearance and leaves the protected structure completely exposed to the elements and therefore at further significant risk of further deterioration and substantial endangerment. The inappropriate rendering/patch repair work to the western elevation and some staining to the northern elevation also add to the unsightly and objectionable appearance. Overall there is insufficient evidence of any significant further attempts or progress (other than aforementioned) to render the site non-derelict and the property thus remains in a ruinous, dangerous, neglected, unsightly and objectionable condition which detracts materially from both its protected status and the amenity and character of the area to an unacceptable degree.

7.4 In addition to the building itself, I note the presence of metal gates (immediately adjacent to the east) and weldmesh fencing atop unrendered low block walls (further east) to both the Robert Street (southern) side of the adjacent/surrounding car park and also to the Ellen Street side (northern). Taking into consideration the city centre site location with protected structures (RPS Ref 3045) at the subject building (RPS

3062) and also at St. Michael Street Church these gates and boundary treatment are harmful to the appearance of the building when viewed from the streetscape. Notwithstanding the aforementioned, the ownership of the car park is unclear, and therefore cannot form a matter for consideration as part of this application.

- 7.5 From the evidence on file, it is clear that the property was in a derelict state, and, in an unsightly and neglected condition which detracted considerably from the character and amenity of the area at the time to acquire the site was lodged. The owners have engaged to an extent with the local authority to address issues of dereliction including removal of slates from the roof which has been stripped back to the rafters, removal of vegetation to walls and roof, removal of graffiti to doors and any other areas of the building, painting of doors and window frames throughout the building. Prior to the recent aforementioned works, the appearance of the building had been deteriorating significantly (as per local authority photographic surveys from 2018-2023).
- 7.6 Following a review of the Local Authority's Application for Compulsorily Purchase including the submission which comprised of photographs taken from site visits on 8 no. occasions (04/05/2023, 31/03/2023, 17/01/2023, 09/11/2020, 09/10/2020, 11/09/2020, 28/07/2020, 22/01/2018), I am of the opinion that the site including building was in a derelict condition by way of the absence of proper permanent roof covering (i.e slate), presence of timber sheeting to windows and other openings damaged with paint peeling off, presence of graffiti to some boarded up openings, vegetation overgrowth to the building, particularly at eaves level. I am of the opinion that the overall condition would have satisfied the tests for Section 3 (a) ruinous, derelict and dangerous condition, and, Section 3 category (b) neglected, unsightly and objectionable condition (Section 3 of Derelict Sites Act 1990).
- 7.7 It is noteworthy that there are no records of the submission of a planning application (or even a pre-planning application), nor have any other works commenced on the building apart from aforementioned
- 7.8 Furthermore, as the building is a protected structure, it's re-roofing, refurbishment, in addition to finding an appropriate sustainable use is of importance for its future preservation, maintenance and re-use. It is completely exposed to the elements at present (not even temporary covering let alone permanent) with the internal envelope of external walls subject to rainwater ingress which may lead to significant risk of

longer term substantial endangerment of the structure if this were to continue to be the case. From a study of local authority photographic surveys dating back to 2018 and also Google Street View (September 2014, June 2017, August 2019, May 2022), the roof coverings appear to have been absent continuously (without even temporary covering) for at least the last nine and a half years or thereabouts.

- 7.9 Section 3(a) and Section 3(b) were the two reasons provided by LCCC in attempt to compulsorily acquire the site (including building) for which I consider were reasonable and proportionate at the time (as per photographs submitted by LCC) and also in accordance with the policy and objectives contained in the County Development Plan (including for the benefit of the building/street/area/community) and also National Guidance (Architectural Heritage Protection Guidelines for Planning Authorities (2011)).
- 7.10 With regard to category (a) of the Derelict Sites Act 1990, the structure is in a ruinous, derelict and dangerous condition by way of absence of permanent roof covering with no protection against the elements (for the interior, part of designation/protection).
- 7.11 With regard to category (b), the building is in a neglected, unsightly and objectionable condition due to the absence of roof covering in addition to inappropriate rendering/patch repair work to the western elevation walls.
- 7.12 With regard to category 3 (c), while LCC did not list it as part of the reason for seeking compulsory acquisition, I noted that the site wasn't litter or rubbish strewn on the day of site visit. There was a small amount of litter around the edge of the building to the eastern side, however this forms part of the car park adjoining which appears to be managed by Euro Car Parks (ownership unclear). Access to No.3 Robert Street at the opposite/western side was not available on the day of site visit.
- 7.13 Overall, 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.
- 7.14 The property has been in a derelict state without a roof and exposed to the elements for some time (for a period of what appears to be at least nine and a half years). Despite removal of vegetation to openings, eaves and roof, painting of doors and window frames, the condition of the building has not improved in a significant enough way as to bring it out of dereliction. The longer the building is vacant and remains in a

state of dereliction, the greater is the likelihood of further damage to its historic fabric and the need for remedial restoration works with the potential need for greater levels of intervention. The continued dereliction of the property threatens the conservation value of the historic structure (including its very existence) and would further restrict opportunities to find viable future potential uses vital to the long term future of the building.

- 7.15 I note the actions the local authority took including inspection, identification, correspondence with owner, serving of a Section 8(2) Notice of Intention to enter land in Derelict Sites Register on 11th September 2020; serving of Section 8(7) Notice of Entry to Land in Derelict Sites Register on 26th November 2020; serving of Section 22 Notice of Valuation on 3rd February 2021; Issuance of Section 23 Notice Demand for Derelict Sites Levy for 2021 on 11th March 2022; serving of Section 15(1)(a) Notice of Intention to Acquire Derelict Site Compulsorily on the 28th of April 2023 and publication in the Limerick Post Newspaper on the 6th of May 2023. It is also noted in the local authority's application report that it engaged with the owner over the course of the past 6 years.
- 7.16 I note the objection made to the local authority on behalf of the owner to the proposed acquisition of the site on the 2nd June 2023. In summary the owner states that LCCC assessment failed to give due regard to the covid pandemic, the subsequent construction shut down and negotiations with third party purchasers. In an objection to An Bord Pleanála, it is stated that owner bought No. 3 Robert Street adjoining to the east to assist with the development of No.4 Robert Street. Photographs of the refurbishment works undertaken have also been supplied with submission stating that these commenced on the 7th of July 2023.
- 7.17 From a review of the information on file including but not limited to the owner's objection in addition to a site visit undertaken on the 8th January 2024, there is evidence present that the owners have engaged to a degree with the local authority to address issues of dereliction by way of removal of vegetation to openings, eaves and roof, painting of doors and window frames. It is noted that the owner has also paid the

annual 7% levy imposed by LCCC. The preparation of an estimate of costs, example programme of works and correspondence with LCCC was also noted.

- 7.18 It is noted that local authority policy as expressed in the Limerick City and County Development Plan 2022-2028 is to positively engage with the owners of a derelict site and to avoid using powers under the Derelict Sites Act, except where necessary. I also note Objective EH O50 which seeks to ensure the long term integrity of protected structures. National Guidance in terms of endangerment (indirect) is also expressed in Architectural Heritage Protection Guidelines for Planning Authorities (2011), Section 16.5 Endangerment.
- 7.19 I would accept that the Local Authority have undertaken steps in consultation with the owners over a period of over 6 years following first inspection on the 22nd January 2018, in an effort to bring the property out of dereliction, and, the owners have also engaged to a degree in recent times by way of removal of vegetation from external walls and eaves, removal of graffiti and subsequent painting of external doors, window frames and boarding. Notwithstanding, I consider the level of engagement and progress over a 6 year period to be insufficient. The building still remains in a derelict condition by way of absence of a permanent roof covering (let alone temporary covering), is therefore not weathertight, is completely exposed to the elements with subsequent significant risk of longer term substantial endangerment (indirect endangerment – weather damage, decay), there is inappropriate rendering and patching to the western elevation, the north elevation wall is heavily stained with some joints between stones exposed. There is no evidence of any further attempts to render the site non-derelict and the property thus still remains in a derelict, ruinous, neglected, unsightly and objectionable condition. Furthermore, no planning application for appropriate re-roofing, any other necessary amendments and prospective future use has been submitted. I consider that the application site detracts to a material degree from the character and appearance of the building itself (RPS Ref. 3062) and the surrounding city centre area.
- 7.20 As per paragraph 7.3, from a site inspection on the 8th of January 2024, there is insufficient evidence of any significant progress to render the site non-derelict and the property thus remains in a derelict, ruinous, dangerous, neglected and unsightly

condition which detracts materially from both its protected status ,and, the amenity and character of the area to an unacceptable degree.

- 7.21 It is also noteworthy that despite the stated aspirations of owner to develop the property (including estimation of costs enclosed, example refurbishment timetable provided and example of works to property at Ellen Street nearby), no planning application (or indeed evidence of pre-planning enquiry) had been lodged at the time of writing. Furthermore, I consider that even if a planning application is lodged and subsequently approved, should funding to progress development not be secured or stall, the property will remain in a derelict, ruinous, unsightly, neglected and objectionable condition for the foreseeable future. No further information has been provided to the board to the contrary.
- 7.22 In addition to the aforementioned, I also note the site is part of the city centre which there are policies to support and promote its attractiveness. There are a number of significant noteworthy planning applications proximate to the site which are currently under development for which will help the regeneration of the immediate and wider city centre area. These include a 10 year permission (Strategic Infrastructure Development (SID)) at the Limerick Opera Site for a large mixed use office, retail, café/restaurant, apart-hotel and civic/cultural development to a site to the corner of Michael Street and Ellen Street (planning permission reference number: ABP-304028-19/21311981) to the north west, and, a mixed use development comprising of retail and language school to ground floor, residential to upperfloors to the north east (planning permission reference number 18168). The continuance of the subject site in a derelict state in particular with no roof and exposure to the elements would appear negatively in the context of the surrounding environment to its detriment.
- 7.23 Having regard to all the information available on the file and the continued appearance and condition of the property, the compulsory acquisition of the building will serve to better secure the building from further endangerment and ensure the refurbishment and longer term development and sustainable use of a protected structure which is an important building in both the streetscape and this area of the city centre. Allowing the protected structure to deteriorate further is not in its' special interest or the common good, and, offers no benefits of the community who live proximate to ,or, transverse the area on a regular basis. If the site is left to deteriorate further, it will put the building at risk of further endangerment, and continue to appear at odds with ongoing

development in the immediate area of the city centre (as detailed in Section 5.0 Planning History) and also the wider regeneration of the city centre.

- 7.24 I therefore consider that it is appropriate that the local authority's application for consent to compulsorily acquire the site at No.4 Robert Street, Limerick is granted.

8.0 Conclusion

- 8.1. 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, all the lands being acquired are both necessary and suitable to ensure that the lands including the protected structure does not continue to be a derelict site.
- 8.2. Having regard to the constitutional and Convention protection afforded to property rights, I consider that the acquisition of the Derelict Site comprising of a six storey protected structure (RPS ref. 3062) at No.4 Robert Street, Limerick, containing 0.032ha. or thereabouts as set out in the Derelict Site Notice issued under Section 15(1)(a) and Section 15(1)(b) of the Derelict Sites Act 1990, (as amended) and 28th April 2023 and on deposited maps (DS-020-18), pursues, and, is rationally connected to, a legitimate objective in the public interest, namely to secure the structure and also ensure the structure and lands do not continue to be in a derelict condition.
- 8.3. I am also satisfied that the acquiring authority, at the time of application, demonstrated the means chosen to achieve that objective, impairing the property rights of affected landowners as little as possible. I am satisfied that this is still the case. In this respect, I have considered alternative means of achieving the objective referred to in submissions to the Board, and am satisfied that none of the alternatives are such as to render the means chosen and the CPO made by the acquiring authority unreasonable or disproportionate.
- 8.4. 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, bring properties back into active re-use to revitalise towns and villages, and also Objective EH O50 which seeks to ensure the long term integrity of protected structures. Accordingly, I am satisfied that that the application to compulsory acquire the site was 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 protected structure including the absence of an appropriate permanent roof covering (i.e. slate) leaving the structure completely exposed to the elements and at significant risk of longer term substantial endangerment and further deterioration, inappropriate rendering and patching to the western elevation, and, the staining of the walls throughout (particularly to the northern elevation), 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 absence of a permanent roof covering (i.e. slate) to the subject building which leaves the building a protected structure completely exposed to the elements and at risk of endangerment, further deterioration and decay; inappropriate rendering/patching to the western elevation; staining of walls throughout particularly to the northern elevation; the structure is in a derelict, ruinous, dangerous, neglected, unsightly and objectionable condition. This is notwithstanding works undertaken including removal of vegetation to walls (including eaves), painting of doors and window frames. I consider 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 structure/site by the local authority is necessary in order to render the structure non-derelict and to prevent the protected structure from deteriorating further and being subject to endangerment. It is considered that the objection made cannot be sustained having regard to that said necessity.

10.2. Notwithstanding the efforts made by the Notice Party, I consider it reasonable that the local authority now seeks to compulsorily acquire the land, as provided by Section 14 of the Act, I recommend, therefore, that the Board grants consent to Limerick City and County Council to compulsorily acquire the site.

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.



Niall Sheehan
Planning Inspector

28th March 2024