



An
Bord
Pleanála

Inspector's Report ABP-317964-23

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

No. 2 Oliver Plunkett Street, Bandon, Co. Cork

Local Authority

Cork County Council

Notice Party

Dr. Michael Grimes (Grimes and Company)

Date of Site Inspection

3rd May 2024

Inspector

Ian Campbell

1.0 Introduction

- 1.1. This case relates to a request by Cork County Council (CCC) for the consent of An Bord Pleanála to the compulsory acquisition of the subject site at No. 2, Oliver Plunkett Street, Bandon, Co. Cork, in accordance with the provisions of the Derelict Sites Act, 1990, as amended.

2.0 Site Location and Description

- 2.1. The property which is the subject of this proposed compulsory acquisition (referred to hereafter as the 'subject property') is located on the northern side of Oliver Plunkett Street in the centre of Bandon. The subject property is a partially demolished three storey, mid-terrace building with a single storey rear annex.
- 2.2. The subject property is not a Protected Structure and is not listed on the National Inventory of Architectural Heritage.
- 2.3. Adjoining properties, with the exception of the properties to the immediate east and west, appear to be occupied and are in reasonable condition.
- 2.4. On the date of my site inspection the property was secure with timber hoarding along Oliver Plunkett Street. There was a 'for sale' sign attached to the hoarding bounding the property.
- 2.5. A narrow section of the front façade is in-situ and comprises the entrance door and a window (both of which have been closed up with concrete blocks) and above, a first and second floor window. Given the extent of the building which has been demolished the interior of the upper floors of the building are visible and the inside of the property is open to the elements. The part of the front façade which is existing is cracked and stained. Weeds are growing along the front of the property. The downpipe is broken and weeds are growing from the guttering. Timber hoarding has been erected to the front of the site along Oliver Plunkett Street. Vegetation which is growing behind the hoarding has overgrown the hoarding and is visible from Oliver Plunkett Street.

3.0 Application for Consent for Acquisition

- 3.1. Cork County Council (CCC) 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), (i.e. advising of the Local Authority's intention to enter the site on the register of derelict sites) on the 30th of November 2022, and under Section 8(7) (i.e. advising of the Local Authority's decision to enter the site on the register of derelict sites) on the 30th December 2022.

4.0 Application and Objection

4.1. Notice of Intention to Acquire

- 4.1.1. Notice of CCC's intention to acquire the site compulsorily was served on the owners/occupiers of the property on the 3rd July 2023, and was published in the Irish Examiner newspaper on the 7th July 2023. The site was described as follows in the notices:

- Partially demolished mid-terrace three storey building and rear single storey extension at No. 2 Oliver Plunkett Street, Bandon, County Cork.

The said derelict site is more particularly shown outlined in red on map bearing reference BK-23-005-S15-01 in the Derelict Sites Register established and maintained by Cork 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 (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 CCC by Dr. Michael Grimes (Grimes and Company) on the 17th July 2023. The objection can be summarised as follows:

- Notes that the site is on the Derelict Sites Register.

- Notes that clients of Grimes and Company, Ecuador Investments Limited, lent money to the owners with the property as security, and that the borrowers defaulted on their payments. Ecuador Investments Limited, in pursuance of the mortgage agreement, have realised their security and have taken possession of the property.
- Ecuador Investments Limited propose to remove the dereliction and it is contended that there is no need for the site to remain on the Derelict Sites Register.
- Notes that the property is to be renovated immediately, and as there are no external change proposed planning permission is not required.
- Notes that the property is for sale and that the new owners will then take over the renovation.
- Refers to Section 16 of the Derelict Sites Act 1990 which states:

16.—(1) Any of the persons upon whom notices of the proposed compulsory acquisition of a derelict site have been served may, within the time and in the manner specified in the notices, submit to the Local Authority an objection to the proposed compulsory acquisition referred to in the notice.

2 An objection to the proposed compulsory acquisition of any derelict site may be withdrawn by the person who made it, by notice in writing sent to the Local Authority.

3 Where in relation to the proposed compulsory acquisition of any derelict site by a Local Authority an objection is made to the Local Authority in accordance with subsection (1) and is not withdrawn, the derelict site shall not be acquired compulsorily by the Local Authority without the consent of the Minister.

- This letter is a formal objection under the said section.
- Acknowledges the scale of the works but notes a commitment to addressing the issue.

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 7th September 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 county, a description of the site, the background to the case and the details of the objection.
- Photographs of subject property.
- Derelict site location map.
- Copy of the notices served on the owners/occupiers of the site (dated 3rd of July 2023).
- Copy of the newspaper notice (dated 7th of July 2023).
- Copy of objection made by Dr. Michael Grimes (Grimes & Company) dated 17th July 2023 and submitted to the Local Authority on the 27th July 2023 (and acknowledged response from CCC).

4.3.2. The **Derelict Site Report** can be summarised as follows:

- Cork County Council have established a specialised 'Property Activation and Regeneration Unit' to take an area-based collaborative approach to addressing vacancy and dereliction in the towns and villages in the County. The team focuses on bringing derelict and vacant sites back into use for residential, economic, community and leisure purposes. 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,
 - planning history and 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 complex ownership, uncertainties around title, the history of dereliction and previous actions required under Dangerous Structures legislation have resulted in CCC concluding that the only feasible action to resolve the dereliction on this site is to compulsory acquire it.
 - The subject property consists of a partially demolished building and single storey rear annex on a site of approx. 0.0176 hectares and is vacant and in a derelict condition for a considerable period. The structure is in a dangerous condition and partially collapsed in 2018. The front wall and internal floors to the front part of the building have been demolished with a narrow section approx. 1.5m wide remaining from ground to roof level to support the adjoining building No.1 Oliver Plunkett Street. Effectively all that remains is the front section of the building and the rear and party wall to No.1. The adjoining building No.3 is also partially demolished. The rear single storey annex/extension is in a derelict condition. The windows and doors are rotten with some broken glass and partially a boarded up door. The paintwork and plasterwork on the façade are deteriorating and unsightly. The rainwater goods are damaged and there are loose slates on the roof. Internally there are signs of ceiling collapse and issues with water ingress.
 - The site detracts from the amenity, character and appearance of the well-maintained property in the area.
 - The site is deemed to be derelict by definition under section 3 of the Derelict Sites Act, 1990 (as amended), for the following reasons:

The existence on the lands of structures which are in a ruinous, derelict and dangerous condition, and;

The neglected unsightly or objectionable condition of the land or any structures on the land in question

- The title to this property is not registered on the Land Direct System of the Property Registration Authority of Ireland. There is some uncertainty around the ownership of this property with the estates of two deceased persons holding parts of the title. As far as CCC can establish the ground floor of the building has a separate ownership from the former upper floors. CCC have requested full ownership details and title from the parties known to have an interest in the building but the responses received have not been sufficient to fully establish title to each portion of the site. CCC placed a public notice on the property in November 2022 requesting those with knowledge of the ownership of the building to contact CCC's Property Activation and Regeneration Unit however no responses were received. Parties known from previous dealings with the site to currently have/or have had a legal interest in the property include the following:
 - Laetitia M. Baker as Executrix of the Estate of Frank Kelly (deceased) of McCarthy, Baker and Co. Solicitors, 64 North Street, Skibbereen, Co. Cork - part ownership of section of ground floor.
 - PTSB, 56/59 St. Stephen's Green, Dublin 2 - upper floors.
 - Pepper Finance Corporation (Ireland) DAC, of 4th Floor, Two Park Place, Upper, Hatch Street, Dublin 2 - upper floors.
 - The Estate of Laurence (Larry) Lawless (deceased) - upper floors.

There was a charge registered on portions of the building in the name of PTSB and Pepper Finance, however they notified CCC that they no longer hold this charge as it has been released. They are seeking to ascertain the Legal Personal Representative of the deceased borrower, Laurence Lawless, with a view to facilitating the release of deeds to them in due course but await hearing from their Deceased Account services as regards the appropriate party as searches do not disclose a Grant of Probate having issued in this matter.

- No objections to the Section 15 Notices issued by CCC have been received from the above parties.

- Following the erection of Section 8 (2) Notices at the site a letter was received (on the 27th November 2022) from Dr. Michael Grimes (Grimes and Company) stating that clients of Grimes and Company have taken over the property and that it was being renovated. Details of ownership were not provided.
- Regarding the history of the Derelict Site Case –
 - December 2018 - partial collapse of No. 2 and No. 3 Oliver Plunkett Street. CCC subsequently deemed the buildings to be dangerous. Ownership searches were carried out and notices served requiring works to make the structures safe. The owners of No.2 Oliver Plunkett Street failed to carry out the specified works and CCC subsequently carried out works to prevent further collapse of the building.
 - 11th November 2022 - following a site inspection the property was identified as a Derelict Site
 - 30th November 2022 and 30th December 2022 - Section 8(2)¹ and Section 8 (7)² Notices were issued on;
 - Laetitia M. Baker as Executrix of the Estate of Frank Kelly (deceased) of McCarthy, Baker and Co. Solicitors.
 - PTSB.
 - Pepper Finance Corporation (Ireland) DAC.
 - The Estate of Laurence (Larry) Lawless (deceased) at his last known address.
 - CCC engagements with each of these parties is summarised as follows;

¹ Notice of intention to enter land in Derelict Sites Register.

² Notice of Entry of Land in Derelict Sites Register.

**Laetitia M. Baker as Executrix of the Estate of Frank Kelly
(deceased) of McCarthy, Baker and Co. Solicitors –**

- 27th October 2022 - CCC wrote to Laetitia Baker requesting details of owners and what part of the property they owned and clarifying if she still acted on behalf of the owner. No response was received.
- 7th November 2022 – CCC phoned Laetitia Baker where she clarified that he acted on behalf of the estate of Frank Kelly who owned part of the building and would call back to provide further information on ownership.
- 21st November 2022 - CCC phoned Laetitia Baker/left message requesting that information in relation to ownership be provided. No response was received.
- 30th November 2022 - Section 8(2) Notice served by CCC and copied to Laetitia Baker. Response subsequently received stating that the Notice did not accurately describe the property owned by the estate of Frank Kelly and it was therefore deemed by the estate to be invalid. No ownership details were provided to state what was inaccurate. CCC are satisfied that the Notice issued was valid and a map was provided for the entire site.
- 30th December 2022 - Section 8(7) Notice issued. Response received from Laetitia Baker stating that the Notice did not accurately describe the property owned by the estate of Frank Kelly and it was therefore deemed by the estate to be invalid.
- CCC acknowledged receipt of letters from Laetitia Baker and stated that it was satisfied that the Notices were issued in accordance with the provisions of the Derelict Sites Act 1990. No response was received.
- No further contact from Laetitia Baker was received in relation to the site or the Section 15 Notice.

Pepper Finance/PTSB –

- 2022 - Various telephone calls/meetings between CCC and Pepper Group.
- Pepper Group indicated that they were in possession of the first and second floor and intended to prepare it for sale but subsequently reported that the sale would not be possible as effectively they owned two floors of a now demolished property which was unmarketable, and the title documentation was unclear as to exactly what part of the property they had a charge on.
- CCC requested and received title documents from Pepper Group.
- Mapping provided with the title documents did not relate to No.2 and neither CCC nor Pepper group could ascertain on site exactly what was in their ownership from the description in the title documents.
- Pepper Group/PTSB made no response to Section 8(2) and Section 8(7) Notices.
- 10th May 2023 - Pepper Group's legal representatives wrote to CCC stating they had released their charge on this property back to the estate of Laurence Lawless.

Estate of Laurance (Larry) Lawless –

- Registered letters with Notices returned as undeliverable. No response received to Notices issued.
- CCC unable to identify legal representatives for the estate.

Dr. Michael Grimes (Grimes and Company) –

- 1st December 2022 - Letter received following the erection of Section 8(2) Notices on-site stating that clients of Grimes and Company were now in possession of No.2 and No.3 Oliver Plunkett Street, and that the properties were being renovated and would no longer be derelict. No details of ownership or proof of title provided.

- CCC acknowledged this letter and requested details from Grimes and Company as to who the owners were and requested evidence of their title. No response was received.
 - 27th July 2023 – Objection from Grimes and Company to Section 15 Notice.
- The timeline for the serving of notices under the Derelict Sites Act, 1990 by CCC is set out as follows;
 - Section 8(2) Notice of intention to enter land in Derelict Sites Register: 30th November 2022.
 - Section 8(7) Notice of Entry of Land in Derelict Sites Register: 30th December 2022.
 - Section 15(1)a Notice of Intention to Acquire Derelict Site Compulsorily: 3rd July 2023.
- An objection (dated 17th July 2023) to the Section 15 Notice was submitted on the 27th July 2023 by Grimes and Company. Grimes and Company are not known by CCC to have any legal interest in the title of this property however the letter of objection states they act on behalf of Ecuador Investments who held the property as security for a loan and they have now taken possession of the property. The objection states that Ecuador investments propose to remove the dereliction and are immediately starting to redevelop the site and that it is now for sale.
- CCC note that this is a partially demolished building with no front wall, party wall or internal floors and that as such it is not possible to quickly carry out an internal renovation and that planning would be required for any redevelopment, and as of the 5th of September 2023 no development works were evident. CCC also note the same letter of objection submitted by Grimes and Company on three other buildings in Bandon where derelict sites notices were issued in July 2023.

- CCC contend that the inaction of property owners and failure in their duties under the Derelict Sites Act, 1990 (as amended), jeopardises the future use of properties in the area due to their continued neglected and derelict state; that the property continues to deteriorate and attract negative attention in a key area of Bandon Town, that none of the parties involved have provided adequate proof of title documentation to the property, and that in CCC's opinion the property will continue to remain derelict into the future if it is not compulsorily acquired, and therefore the only option for CCC is to compulsorily acquire the property.

4.4. Objector's Submission

- 4.4.1. 2 no. submissions were made to the Board by Dr. Michael Grimes (Grimes & Company) in response to the application for compulsory acquisition. The first submission (dated 6th September 2023 and received by the Board on the 11th September 2023) objects to the compulsory acquisition of the property, requests that the Board hold an oral hearing, and states that the site is owned by a company in the ownership of Grimes and Company, that the site is to be restored and enquires if the Council have any objection, and what conditions, if any, they wish to put on its restoration. The second submission (dated 26th September 2023 and received by the Board on the 27th September 2023) requests that the Board hold an oral hearing.

5.0 Planning History

5.1. Subject Property

There is no planning history relevant to the subject property.

6.0 Policy Context

6.1. Cork County Development Plan 2022-2028

- 6.1.1. The subject property is zoned 'Town Centre/Neighbourhood Centre' in the Cork County Development Plan 2022-2028.

- 6.1.2. The subject property is located within an Architectural Conservation Area (Irish Town Conservation Area) in the Cork County Development Plan 2022-2028.
- 6.1.3. In relation to brownfield land and regeneration - Paragraph 4.9.13, Volume 1 of the Cork County Development Plan 2022-2028 notes that *'the Council will use various mechanisms to resolve issues of title including Compulsory Purchase Orders to resolve long standing vacancy/ dereliction, however, it must be recognised that such powers are less efficient to progressing redevelopments than on a willing partnership basis'*. Paragraph 4.11.4 also notes that land activation measures including the use of statutory powers will be used to address vacancy and dereliction.
- 6.1.4. Regarding vacancy - Objective PL 3-2 'Encouraging Sustainable and Resilient Places' provides that as part of the Council's commitment to deliver compact growth and resilient places, the Plan supports addressing vacancy within the existing building stock.
- 6.1.5. In respect of Architectural Conservation areas - Objective HE 16-18 'Architectural Conservation Areas' states *'conserve and enhance the special character of the Architectural Conservation Areas included in this Plan. The special character of an area includes its traditional building stock, material finishes, spaces, streetscape, shopfronts, landscape and setting...'*

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.
- 6.2.4. Section 9 of the Act 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.
- 6.2.5. Section 10 of the Act 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.
- 6.2.6. 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.
- 6.2.7. Section 14 of the Act provides that a Local Authority may acquire by agreement or compulsorily any derelict site situated in their functional area.
- 6.2.8. Section 15 of the Act sets out arrangements for giving notice, if the Local Authority intend to acquire a derelict site compulsorily.
- 6.2.9. Section 16 of the Act 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. Request for Oral Hearing

7.1.1. The objector, Dr. Michael Grimes (Grimes and Company) has requested that the Board convene an Oral Hearing in relation to CCC's application to the Board for consent to compulsorily acquire the site under section 14/16 of the Derelict Sites Act, 1990, as amended. I have considered this request and on the basis of the information contained on the file I am satisfied that the information is sufficient to facilitate an assessment of the application and the preparation of a recommendation to the Board, and I do not consider that an Oral Hearing is required in this instance.

7.2. Site Inspection

7.2.1. Internal access to the property was not possible on the date of my site inspection and I carried out my site inspection from the public road (Oliver Plunkett Street, Brady's Lane and Glasslyn Road). The subject property is located in the centre of Bandon. Neighbouring properties, with the exception of the adjoining properties to the east and west, appear to be well maintained and are in good condition. The area has an attractive appearance.

7.2.2. The property has a neglected, unsightly and objectionable appearance from the public road and surrounding area. The majority of the front façade and the roof of the building have been demolished and the windows and door on the front façade at ground level have been blocked up. The front façade which is in situ is cracked and stained and weeds are growing along the front of the property and from behind the hoarding which has been erected to the front of the property. The downpipe is broken and weeds are growing from the guttering. The subject property detracts significantly from the character and appearance of the street.

7.3. Category of Dereliction

7.3.1. Based on the condition of the subject property which I observed during my site inspection I consider that the site falls within category (a), of Section 3 of the Derelict Sites Act, 1990, which relates to structures which are in a ruinous, derelict or dangerous condition. Having inspected the site I consider that the structure is likely to be in a dangerous condition, and I note that part of the building previously collapsed onto the street, prompting CCC to partially demolish it. I also consider that the building could be considered ruinous, in particular noting the condition of the external walls and

roof, in particular the partial absence thereof, and the cracking of the external front façade which is in situ.

7.3.2. I consider that the site also 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. I particularly note that the subject property is located at a prominent location in the centre of Bandon, within an Architectural Conservation Area and alongside buildings which for the most part are attractive and well maintained. The property is severely compromised and is open to the elements with the interior visible from Oliver Plunkett Street and the adjoining area, including to the rear and from Glasslyn Road which is one of the main routes into Bandon. The hoarding to the front of the property also serves to detract from the amenities of the area.

7.3.3. Whilst I observed that there was some debris to the front of the property there was no evidence of a significant presence of litter, debris, rubbish or waste within the areas which I observed during my site inspection. I consider therefore that the site does not fall within category (c) of Section 3 of the Act.

7.3.4. 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.

7.4. Action of the Local Authority

7.4.1. From reviewing the documentation on the file I note that dereliction has been an issue at the subject property dating back to 2018 when part of the property collapsed onto the public road. The structure was deemed dangerous and notices were served on the owners of the property requiring works to be carried out to make the structure safe. The owners of the property did not carry out the required works and the Local Authority exercised its powers under the relevant statute and carried out works to render the structure safe, including the demolition of the front façade of the structure, roof and internal walls. The owners of the property failed to address the condition of the property and CCC subsequently served Section 8(2) Notices in November 2022. The property was then added to the Derelict Sites Register in December 2022 with Section 8(7) Notices served on the known owners of the property. CCC communications with the

parties known to have an interest in the property is outlined in the Compulsory Acquisition report. In relation to Laetitia M. Baker, Executrix of the Estate of Frank Kelly (deceased), I note that the validity of the Notices served were contested, and that no response was received from Laetitia M. Baker in respect of the Section 15 Notice served by CCC. In relation to Pepper Finance and PTSB, following extensive communications with CCC the charge on the property was released back to the Estate of Laurance Lawless. Correspondence sent by CCC to the Estate of Laurance Lawless was returned as undelivered and no legal representatives for the estate have been identified. Dr. Michael Grimes (Grimes and Company), who CCC state was unknown to them, wrote to CCC to state that their clients were now in possession of the property and that works to address the condition of the property were imminent. CCC requested proof of their clients title in relation to the property but no response was received. Dr. Michael Grimes subsequently submitted an objection to CCC in respect of the Section 15 Notice.

- 7.4.2. I note that Local Authorities have a duty (under section 10) “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 policy of the Local Authority, as expressed in CCC’s submission to the Board seeking confirmation of the proposed compulsory purchase of the property, is to acquire properties compulsorily as a last resort, in circumstances where efforts to secure the carrying out of improvement works by the owner and attempts to acquire by agreement have been unsuccessful. Based on the information on the file I note that CCC have gone to considerable lengths in attempting to have the site rendered non-derelict and have liaised with the various parties/their representatives who have/have had an interest in the property. I note that the property appears to be in multiple ownership, that there are issues in relation to establishing the title held by parties, and in establishing contact representatives for one of the parties. It is clear that CCC have attempted to address the issue of dereliction at the property with the owners/representatives over a considerable period of time. Regarding Dr. Michael Grimes, CCC have also attempted to verify the title of the party purporting to be in possession of the property but that this information has not been provided. Having regard to the forgoing I am satisfied that the Local Authority gave the property owner(s) sufficient time and opportunity to address the dereliction and have explored other means of achieving the aim of

rendering the property non-derelict. Therefore, I am satisfied that the efforts of the Local Authority have been fair and reasonable.

7.5. Compliance with Development Plan

- 7.5.1. I note that the Cork County Development Plan 2022-2028, and specifically Objective PL 3-2 which seeks to deliver compact growth and resilient places by measures which include addressing vacancy within the existing building stock, and Section/Paragraph 4.11.4 which provides that land activation measures including the use of statutory powers will be used to address vacancy and dereliction. I also note that the property is within an Architectural Conservation Area, and that Objective HE 16-18 seeks to '*conserve and enhance the special character of the Architectural Conservation Areas*'. The property has been in a derelict state for approximately six years. Therefore, I consider that compulsorily acquisition of the property would be consistent with the policies and objectives of the Development Plan and will ensure that the lands do not continue to be in a derelict condition.

7.6. Action of the Owner to Address Dereliction

- 7.6.1. As addressed above, CCC have spent considerable time and effort attempting to address the condition of the property, firstly by addressing the dangerous condition of the property following the partial collapse of the building in 2018 and also by attempting to liaise with the owners of the property. Addressing the derelict condition of the property appears to be hampered by uncertainty around the ownership of the property and difficulty in establishing title of each portion of the property. I also note the inaction of the owners of the property following the partial collapse of the building in 2018, and failure of the owners to subsequently address the condition of the property in the intervening period.
- 7.6.2. I note the objection submitted by Dr. Michael Grimes (Grimes and Company) in respect of CCC's Notification to Acquire the property, and in particular I note that in July 2023 it was stated that renovation works would be undertaken immediately to address the condition of the property. Based on my observations of the property no substantive works have taken place to the subject property to render it non-derelict and it remains that the continuing dereliction of the property is having a significant

adverse effect on the amenities and appearance of the area. I note that owner/occupiers have 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”. It is now approximately six years since the derelict condition of the property came to the Local Authority’s attention and approximately a year and a half since Section 8 Notices were served. It has also been 10 months since the Local Authority served the Section 15 notice of intention to acquire the site compulsorily. 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. I therefore consider that the site remains in a derelict condition.

- 7.6.3. 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 No. 2, Oliver Plunkett Street, Bandon, Co. Cork, is granted.

8.0 Conclusion

- 8.1. I am satisfied that the process and procedures undertaken by Cork 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.
- 8.2. Having regard to the Constitutional and Convention protection afforded to property rights, I consider that the acquisition of the Derelict Site, No. 2, Oliver Plunkett Street, Bandon, County Cork, as set out in the Derelict Site Notice issued under Section 15(1)(b) of the Derelict sites Act 1990, (as amended) and dated 3rd of July 2023 and on the deposit map (Ref. BK-23-005-S15-01), 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.
- 8.3. 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 proposed compulsory acquisition by the acquiring authority unreasonable or disproportionate.

- 8.4. The effects of the proposed compulsory acquisition on the rights of the affected landowner(s) 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 Cork County Development Plan 2022-2028, and specifically Objective PL 3-2 which seeks to deliver compact growth and resilient places by measures which include addressing vacancy within the existing building stock, and Section/Paragraph 4.11.4 which provides that land activation measures including the use of statutory powers will be used to address vacancy and dereliction. Accordingly, I am satisfied that that the confirmation of the proposed compulsory acquisition 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 Cork County Council to compulsorily acquire the site.

10.0 Reasons and Considerations

- 10.1. Having regard to the ruinous, derelict and dangerous condition of the structure, and the neglected, unsightly and objectionable condition of the site, evidenced by the partially demolished nature of the property, the condition of the front façade which is in situ, the extensive hoarding to the front of the property and the presence of weeds and overgrowth, and also:

- (a) the Constitutional and Convention protection afforded to property rights,
- (b) the public interest, and,
- (c) the provisions of the Cork County Development Plan 2022 – 2028,

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 Section 3 (a) and (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 and that the compulsory acquisition and its effects on the property rights of affected landowners are proportionate to that objective and justified by the exigencies of the common good.

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.

Ian Campbell
Planning Inspector

30th May 2024