



An
Bord
Pleanála

Inspector's Report ABP-317966-23

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. 3 Oliver Plunkett Street, Bandon, Co. Cork

Local Authority

Cork County Council

Notice Party

Mary Tyner
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. 3, 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, former three storey, mid-terrace building on a long narrow site which extends northwards towards Glasslyn Road.
- 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. The front façade of the building has been demolished and the only remaining wall is to the rear of the building. 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 at No. 3 Oliver Plunkett Street, Bandon, County Cork.

The said derelict site is more particularly shown outlined in red on map bearing reference BK-23-005-S15-02 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. 2 no. objections were submitted to CCC in respect of the proposed acquisition of the property and can be summarised as follows;

4.2.2. Mary Tyner dated the 25th July 2023 and received by CCC on the 27th July 2023 –

- Notes that the property is owned by Mary Tyner and that she objects to the compulsory purchase of the property.
- Notes that the site is large and also includes No. 4, and that she is amenable to the Council acquiring the property by agreement but that any sale would have to include No. 4 so as to maximise the value of each property.

4.2.3. Dr. Michael Grimes (Grimes and Company) dated the 17th July 2023 and received by CCC on the 27th July 2023 -

- 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 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 contend that there is no need for the site to remain on the Derelict Sites Register.
- Notes that the property is being 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 is committed 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 objections made by Dr. Michael Grimes (Grimes & Company) dated 17th July 2023 and submitted to the Local Authority on the 27th July 2023 and Mary Tyner dated 25th July 2023 and submitted to the Local Authority on the 27th July 2023 (and acknowledged responses 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 significant 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 compulsorily acquire it.
 - All that remains of the original building is the rear wall, while the weather-proof wrapping on the exposed gable of the adjoining building has deteriorated exposing the timber boards behind. There is vegetation growth evident from behind the hoarding securing the property to the front
 - The adjoining building to the west, No.2 Oliver Plunkett Street, is also partially collapsed and derelict and CCC have also served a Section 15 Notice on that property.
 - The adjoining building to the east No.4 Oliver Plunkett Street is also derelict. CCC have also served a Section 15 Notice on that property.
 - The subject property consists of a partially demolished building with rear garden/yard on an overall site of approx. 0.0183 hectares and is vacant and in a derelict condition for a considerable period. 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 structure is in a dangerous condition and partially collapsed in 2018. The front wall, party wall with No.2 Oliver Plunkett Street and internal floors of the building have been demolished. Effectively all that remains of the building is the

rear wall and party wall to No.4 Oliver Plunkett Street. The adjoining building No.2 is also partially demolished. There is extensive propping installed on the site of No.3 to support the party wall of No.4 Oliver Plunkett Street. This was installed following partial demolition of No.3. There is a rear garden extending from the back wall of the building to the site boundary on the Glasslyn Road. This rear yard is severely overgrown and derelict.

- This site is located in an Architectural Conservation Area.
- The title to this property is not registered on the Land Direct System of the Property Registration Authority of Ireland. No. 3 Oliver Plunkett Street is reputedly in the ownership of the O'Donovan/Tyner family, however the exact title and nature of the ownership stake between family members is unclear. The following have confirmed their ownership of the property to Cork County Council:
 - Mary Tyner, Shippool, Kinsale, Co. Cork (has indicated that she is the owner and represents the family in relation to ownership of the property).

Other parties on file who are known from previous dealings with the site to currently have/or have had in the past a legal interest in the property include the following:

- Cornelius O'Donovan, Ballinadee Co. Cork - brother of Mary Tyner listed above. Mary Tyner has confirmed she acts on behalf of the family ownership interests including those of Cornelius O' Donovan.
 - Shane McCarthy as receiver over certain assets of Mary Tyner and Cornelius O'Donovan of KPMG, 1 Stoke's Place, St. Stephen's Green, Dublin 2. (KPMG wrote to CCC on the 7th Jul 2023 stating they were discharged as Receiver and all rights and responsibility's in respect of this site reverted to Mary Tyner and Cornelius O'Donovan in November 2013).
- 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. 3 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;
 - o Mary Tyner, Shippool, Kinsale, Co. Cork.
 - o Cornelius O'Donovan, Ballinadee Co. Cork – c/o of Mary Tyner listed above.
 - o Shane McCarthy as receiver over certain assets of Mary Tyner and Cornelius O'Donovan of KPMG, 1 Stoke's Place, St. Stephen's Green, Dublin 2.

CCC engagements with each of these parties is summarised as follows;

Mary Tyner and Corneilius O' Donovan-

- 17th October 2022 - CCC contacted Mary Tyner by telephone and requested access to properties she had an ownership interest in at No.3 and No.4 Oliver Plunkett Street so that they could be surveyed and checked to see if they were in danger of collapse. Mary Tyner confirmed her family owned the properties but stated there was a bank involvement in No.3 which prevented them from doing anything with it.
- 25th October 2022 - Mary Tyner and Cornelius O 'Donovan met with CCC onsite to facilitate access for surveys. They acknowledged their ownership interests but stated they did not have any plans to

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

² Notice of Entry of Land in Derelict Sites Register.

redevelop or renovate the site to remove dereliction in the immediate future as major works were required which they could not do.

- 29th November 2022 - CCC phoned Mary Tyner and informed her that survey results did not show any immediate danger of the buildings collapsing but that they were derelict and that Notices to that effect were being served. Mary Tyner confirmed that no other persons, including Grimes and Company, were acting on their behalf in relation to No.3 Oliver Plunkett Street.
- 30th November 2022 - Section 8(2) Notice served by CCC on Mary Tyner and Cornelius O' Donovan. No response was submitted from Mary Tyner and Cornelius O' Donovan in relation to this notice.
- 30th December 2022 - Section 8(7) Notice served by CCC on Mary Tyner and Cornelius O' Donovan. No response was submitted from Mary Tyner and Cornelius O' Donovan in relation to this notice.
- 10th July 2023 - Following serving of the Section 15 Notice CCC spoke by phone to Mary Tyner where she acknowledged receipt of the Section 15 Notice. Mary Tyner stated the family were considering their options with regard to either selling the property or renovating it but noted that there was a family dispute ongoing in relation to the properties and that they were not likely to agree a way forward. CCC explained the compulsory acquisition process and advised that CCC intended to proceed with the Section 15 Notice and compulsorily acquire the site as the owners could not provide any assurances that dereliction would be removed. CCC also provided the family with an independent valuation of No.3 Oliver Plunkett Street.
- 25th July 2023 - Mary Tyner submitted an objection to the Section 15 Notice.

Dr. Michael Grimes (Grimes and Company) –

- 27th November 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 to be 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 have confirmed with Mary Tyner and Cornelius O’ Donovan that no one is acting on their behalf.

- CCC note that this is a partially demolished building 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.
- An objection (dated 25th July 2023) to the Section 15 Notice was submitted on the 27th July 2023 by Mary Tyner. CCC note that the letter does not set out a grounds for objection but notes that the site is valuable and that she is willing to sell No. 3 and No. 4 to CCC. CCC wrote to Mary Tyner stating that it would enter negotiations in relation to potential purchase by agreement of No.3 and No.4 Oliver Plunkett Street from her if she could provide details of the full title to these properties within 2 months however no response was been received to that letter. CCC also stated that given the extensive history on the site and failure of the owners to agree to either sell or develop the property since 2018 that CCC would proceed with the proposed compulsory acquisition process during any negotiations with regard to a purchase by agreement and subject to providing a reasonable valuation in line with CCC's independent valuation report.
- 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 and that the property continues to deteriorate and attract negative attention in a key area of Bandon Town. CCC note that the only option is to compulsorily acquire the property.

4.4. Objector's Submission

- 4.4.1. 3 no. submissions were made to the Board in response to the application for compulsory acquisition and are summarised as follows –

Dr. Michael Grimes (Grimes & Company) – 2 no. submissions:

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.

4.4.2. Mary Tyner

The submission (dated 18th September 2023 and received by the Board on the 20th September 2023) notes that she is engaging an engineer to explain why each property should not be compulsory acquired by the Council; that the submission from Dr. Michael Grimes is fictitious and that there are no other owners of the 2 properties other than Mary Tyner, and her family members and the Estate of our father Cornelious O' Donovan. The submission notes that there is also no existing solicitor, accountant or engineering firm in Cork called 'Grimes and Co'. nor is there an existing company in the name of "Ecuador Investments" registered in Ireland.

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 building has been demolished and the only wall remaining is the rear wall. Timber hoarding has been erected to the front of the property. 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, in particular the partial absence thereof.

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 subject property is located at a prominent location in the centre of Bandon, within an Architectural Conservation Area and

alongside buildings which are for the most part 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. 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. Mary Tyner and Cornelius O' Donovan informed CCC on the 25th October 2022 that they were unable to redevelop the property and address the dereliction. On the 29th November 2022 CCC contacted Mary Tyner to advise her that Section 8(2) Notices were to be served in respect of the property. Section 8(7) Notices were served subsequently followed by a Section 15 Notice. CCC then liaised with Mary Tyner who advised CCC that the family were considering their options but that consensus was unlikely to be achieved within the family and as such the owners could

not provide any assurances that dereliction would be addressed. Separately, 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 acquisition, 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 owners of the property. I note Mary Tyner’s admission that agreement within the family, who are the purported owners of the property, as to whether the property should be sold or redeveloped is unlikely to be resolved, and that no commitment could be given to taking the site out of dereliction. It is clear that CCC have attempted to address the issue of dereliction at the property with the owners over a considerable period of time. Regarding Dr. Michael Grimes objection, CCC have also attempted to verify the title of the party purporting to be in possession of the property but 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 the proposed compulsory 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. I note a degree of inertia in relation to family in deciding whether to sell or redevelop the property, a situation which Mary Tyner notes is unlikely to be resolved. I also note that in communication between CCC and Mary Tyner and Cornelius O' Donovan it was intimated that the condition of the property and scale of work required would be such to render addressing the derelict condition of the property beyond the capabilities of the owners. I further 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 of Dr. Michael Grimes (Grime and Company) submitted 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.
- 7.6.3. 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.

- 7.6.4. 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. 3, 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. 3, 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-S15-02), 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 of the property made 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 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 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 objections 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