



An
Bord
Pleanála

Inspector's Report ABP-318634-23

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

Castle Street, Castleconnell, Co. Limerick

Local Authority

Limerick City and County Council

Notice Party

Mary Frewen, Dara Ahern & Kathleen Coffey

Date of Site Inspection

9th April 2024

Inspector

Ian Campbell

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 Castle Street, Castleconnell, Co. Limerick, 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 CPO (referred to hereafter as the 'subject property') is located in the centre of Castleconnell, a small village situated c. 14 km north-east of Limerick City.
- 2.2. The subject property is located on the northern side of Castle Street, c. 100 metres west of the junction between Castle Street and Main Street. The area in the vicinity of the subject property is predominantly residential in character. The subject property occupies a prominent position along Castle Street.
- 2.3. The subject property, a two bay, two-storey, pitched roof, end of terrace house, abuts the public footpath and fronts onto Castle Street. The gable/west elevation of the subject property faces onto the front curtilage of an adjacent dwelling. There is a single storey annex to the rear of the subject property.
- 2.4. The subject property is not a Protected Structure nor is it listed on the National Inventory of Architectural Heritage (NIAH). There are several Protected Structures in the vicinity, including the adjoining property (no. 2 Castle Street, referred to in the Development Plan as Castle Street, Coolbane, Castleconnell – RPS Ref. 5063), no. 14 and no. 15 Castle Street (RPS Ref.'s 1097 and 1098 respectively), located on the southern side of Castle Street, opposite the subject property. The adjoining property (to the east, no. 2 Castle Street) is also listed on the NIAH (Ref. 21807023).
- 2.5. The subject property is located within Castleconnell Architectural Conservation Area (ACA).
- 2.6. The adjoining building to the east, a dwelling, comprises part of the terrace and is similar to the subject property in terms of its design. The property to the west, a single storey dwelling is set back from the street and is positioned to the rear of the subject

property. Both adjoining properties appear to be occupied and are in reasonable condition.

- 2.7. On the date of my site inspection, the property was secure. The front and gable/west façades are rendered and painted but the render is cracked and chipped in places, and the paint is also stained and peeling. The window cills and reveals are also chipped, flaking and need repainting. Windows and the front door are in place but are in need of repair or replacement. The down pipe on the front elevation is broken, rusted with paint flaking. The gutter along the front of the roof is broken at the juncture with the downpipe. The front roof is in very poor condition with roof tiles loose or damaged and covered with moss and weeds.

3.0 Application for Consent for Acquisition

- 3.1. Limerick City and County Council has applied to the Board for consent to compulsorily acquire the site under section 14/16 of the Derelict Sites Act, 1990, as amended. I note that this application is subsequent to the serving of notices under Section 8(2)¹, (i.e. advising of the Local Authority's intention to enter the site on the register of derelict sites), and under Section 8(7)² (i.e. advising of the Local Authority's decision to enter the site on the register of derelict sites).

4.0 Application and Objection

4.1. Notice of Intention to Acquire

- 4.1.1. Notice of Limerick City and County Council's intention to acquire the site compulsorily was served on the owners/occupiers (Mary Frewen, C/O Kathleen Coffey and Mary Frewen C/O Dara Ahern) on the 4th October 2023 and was published in the Limerick

¹ Page 5 of the Local Authority's Compulsory Acquisition Report refers to a Section 8 (2) Notice being served on the 1st March 2022 however page 6 of the report refers to the serving of this Notice on the 22nd February 2022.

² Page 5 of the Local Authority's Compulsory Acquisition Report refers to a Section 8 (7) Notice being served on the 13th June 2022 however page 6 of the report refers to the serving of this Notice on the 13th July 2022.

Post newspaper on the 7th of October 2023. The site was described as follows in the notices:

- A derelict site comprising an end of terrace, two-storey dwelling and surrounding land situate at Castle Street, Castleconnell, Co. Limerick containing 0.016³ hectares or thereabouts.

The said property and surrounding land are in a state of dereliction. The said derelict site is more particularly shown outlined in red on map bearing reference no. DS-113-21 in the Derelict Sites Register established and maintained by Limerick City and County Council under Section 8 of the Derelict Sites Act 1990.

4.1.2. I consider that the notices were in accordance with the requirements of section 15(1)(a) 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 Limerick City and County Council by Dermot G. O' Donovan (on behalf of Mary Frewen, Dara Ahern and Kathleen Coffey) in a letter dated 2nd of November 2023. The letter of objection also includes a report from an Engineer (PHM Consulting).

4.2.2. The objection can be summarised as follows:

- Objection to the compulsory purchase of the subject property by the Council is made on the basis that remedial works on the subject property are currently being undertaken to restore the condition of the property.
- The owner of the subject property, Sarah Frewen, passed away in February 2018 and prior to her death was residing in a nursing home. Mary Frewen, Sarah Frewen's niece-in-law, was named as executrix in the estate of the late Sarah Frewen, and at the time of this correspondence a grant of probate is yet to be extracted in the estate of Sarah Frewen.

³ The Compulsory Acquisition Report prepared by the LCCC describes the land as comprising 0.017 hectares (see page 1) however the notices served on the owners/occupiers of the site and the newspaper notice refer to the site as comprising 0.016 hectares.

- At the time of Sarah Frewen's death, Mary Frewen suffered ill health and continues to undergo treatment. The property remained vacant during this period due to these circumstances.
- Correspondence was received on behalf of the owners of the adjoining property, no. 2 Castle Street, (Pat and Patricia Jones) in relation to defects in the shared roof/chimney which had caused damage to the adjoining property. Mary Frewen engaged a builder to survey the property and outline recommended remedial works (attached to submission). As these works affected both properties a legal agreement was required between both parties to determine who was responsible for the various works to be undertaken. A joint engineering assessment was also required to be undertaken. Mary Frewen's health subsequently deteriorated and a Power of Attorney was executed by her nominating Kathleen Coffey and Dara Ahern to act on her behalf. Reports were carried out on both properties (i.e. PHM Consulting Limited and Pat Leyden – attached to submission). Following this a planning application was prepared in respect of the proposed remedial works. Legal agreements were also drawn up in relation to the works to be undertaken by each party, costs etc. The adjoining property, No. 2 Castle Street, was subsequently listed on the NIAH and as a Protected Structure by Limerick City and County Council and following consultation with the Conservation Officer of Limerick City and County Council it was decided to seek permission to disassemble the chimney and reassemble it, however it subsequently transpired that the works would not require planning permission. A schedule of remedial works were drawn up and submitted to the Conservation Officer and it was intended to carry out these works once approved by the Council. On this basis the CPO is considered to be unwarranted as steps to address the defects of the property are being taken, with tender documents having been prepared for the repair of the roof and rear annex.
- Objections to the CPO are summarised in the submission as follows;
 - The property was inherited in poor condition at an extremely difficult time in her life.

- Considerable steps to address the issues affecting the property have been taken.
- Covid-19 render it extremely difficult, if not impossible, to attend to the issues affecting the property.
- It is intended to remedy any defects in the property and the services of two engineers and a solicitor have been engaged. Due to the fact that the property is in a terrace and any remedial works would affect the neighbouring adjoining property, it was essential that a legal agreement was reached between both parties. This has now been done.
- Limerick City and County Council has not specified the measures which the Local Authority or the Minister, consider to be necessary in order to prevent the land from becoming or continuing to be a derelict site, under Section 11 of the Derelict Sites Act 1990. It is requested that these measures are specified.
- Subject to approval from the Conservation Officer it is proposed to commence the following works:
 - Full repair of chimneys;
 - Re-roofing the entire building;
 - Rendering the building in traditional render;
 - Replacement of windows in property.
- The submission was accompanied by the following reports/appendices;
 - Appendix 1 – information re. damaged chimneys and necessary repair works. Correspondence also states that new roof/repair work is required. Correspondence also included quotes for repair works.
 - Appendix 2 – engineering report referring to condition of building, including dampness, poor condition of roof, poor condition of rainwater goods, ingress of water through chimneys (which are jointly owned), and recommendations including requirement for new roof, demolition of chimney below roof level, works to masonry wall and remediation of downpipe to front. A Dilapidation Survey was also included.

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 30th November 2023 and was accompanied by the following:

- Local Authority Compulsory Acquisition Report which sets out the Local Authority's strategic approach to derelict sites in the city and county, a description of the site, the background to the case and the details of the objection.
- Photographs of subject property.
- Derelict site location map.
- Copy of the notices served on the owners/occupiers of the site (dated 4th of October 2023).
- Copy of the newspaper notice (dated 7th of October 2023).
- Copy of objection (and acknowledged response from Limerick City and County Council) made by Dermot G. O' Donovan Solicitors (on behalf of Mary Frewen, Dara Ahern and Kathleen Coffey) submitted to the Local Authority on the 2nd of November 2023.

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

- Limerick City and County have established a specialised 'Dereliction, Vacancy and Re-Use Unit' to take an area-based collaborative approach to addressing vacancy and dereliction in Limerick City and in the towns and villages in the County. The team focuses on bringing derelict and vacant sites back into use, particularly in areas of high housing demand, town and village centres and the historic core of the city. They seek to work proactively with property owners, with timely actions and improvement of sites through positive engagement. It is stated that the powers under the Derelict Sites Act, 1990 are used only where necessary, where all reasonable alternatives have been exhausted.
- Matters that are taken into account include
 - outstanding planning permissions,

- evidence of efforts to address vacancy and dereliction,
 - security, safety to the public and condition of the site,
 - the conservation value of the building and requirement for remedial restoration works, and
 - the feasibility of various actions to make good the site and find viable uses for the site.
- The dwelling and surrounding land is vacant and has been 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), as follows⁴:
 - neglected, unsightly or objectionable condition of the land or any structures.
 - Some indicators of dereliction as it applies to the site include;
 - Holes in roof, loose and slipped slates;
 - Missing/broken/leaking rainwater gutters or downpipes;
 - Dirty facade/ peeling paint;
 - Site overgrown with vegetation;
 - The structure is located in an Architectural Conservation Area in Castleconnell.
 - The title to this property is not registered on the Landdirect System of the Property Registration Authority of Ireland. The reputed owner of the property is Sarah Frewen, deceased since 2018. There is a no known charge or judgement registered against the property.
 - Regarding the history of the Derelict Site Case –
 - 7th September 2021 - Limerick City and County Council (LCCC) inspected the property and identified it as a Derelict Site.

⁴ The Section 15 Notice also refers to category (a), the existence on the lands of structures which are in a ruinous, derelict, or dangerous condition.

- 3rd September 2021 - LCCC received a complaint about the state of dereliction of the property (inc. reference to condition of roof and chimney), which was affecting adjoining property. Site ownership enquiries were made.
- 5th September 2021 - LCCC sent a letter of enquiry to Mary Frewen, Gardenhill, Castleconnell, Co. Limerick.
- 15th September 2021 - Mary Frewen rang the LCCC to say she would begin works on the back of the property. When asked about the leak affecting the neighbouring property Mary Frewen said that she was aware of this problem and was getting an engineer to carry out a report on the issue.
- 19th October 2021 - LCCC area inspector met with neighbour who expressed frustration at the condition of the property and the damage being caused to his property. No works had been carried out to tackle the dereliction of the house.
- 22nd October 2021 - LCCC sent a letter sent to Mary Frewen requesting an update on the proposed works to the property.
- 5th November 2021 - area inspector received a phone call from Mary Frewen to say that remedial works would be carried out soon.
- 8th February 2022 - a further inspection was carried out by LCC. There was no improvement to property.
- 1st March 2022 - Section 8(2) notice of intention to enter the property on to the Derelict Sites Register was served by registered post to Mary Frewen.
- 24th May 2022 - LCCC received a letter from Mary Frewen's solicitor stating she is undergoing treatment and will not be able to carry out works for some time.
- 3rd June 2022 - further inspection carried out and found no progress on the site to deal with the dereliction. Vegetation found to be growing out from internal rooms to external walls.

- 13th June 2022 - property added to the Derelict Sites Register and Section 8(7) Notice issued to the owner.
 - 8th August 2022 - letter from Donovan Solicitors confirming that the lawful attorney's for Mary Frewen were now appointed (i.e. Dara Ahern and Kathleen Coffey) who would be dealing with the property.
 - 22nd November 2022 - Dara Ahern informed LCCC that he was now representing the Frewen family to help address the dereliction. He also agreed he would mediate between the two properties to try and resolve the leaking chimney breast, and that it would be January 2023 before any works are started on the property.
 - 16th March 2023 - Dara Ahern was contacted by LCCC inspector and he said it would be September 2023 before he would submit a planning application and get builders to start on site to remedy the leaking chimney issue.
 - 23rd May 2023 - further inspection carried out by LCCC which found that no works had been progressed.
 - 27th September 2023 - further inspection carried out by LCCC which found that the property continued to fall further into dereliction and that no works have progressed on site.
 - 7th October 2023 - LCCC advertised (in Limerick Post newspaper) its intention to acquire the property as the land had continued to be in a derelict state.
- The timeline for the serving of notices under the Derelict Sites Act, 1990 by LCCC is set out as follows;
 - Section 8(2) Notice of intention to enter land in Derelict Sites Register: 22nd February 2022.
 - Section 8(7) Notice of Entry of Land in Derelict Sites Register: 13th July 2022.
 - Section 22 Notice of Valuation: 14th February 2023.

- Section 15(1)a Notice of Intention to Acquire Derelict Site Compulsorily: 4th October 2023.
- An objection to the Section 15 Notice (dated 2nd November 2023) was submitted on the 6th November 2023 by Dermot G. O 'Donovan Solicitors on behalf of Mary Frewen, Dara Ahern and Kathleen Coffey (and was acknowledged on 9th November 2023).
- The Local Authority contends that the inaction of owners and the failure of their duties under the Derelict Sites Act 1990 (as amended) jeopardises the future use of the property in the area due to its continued neglected and derelict state. The Local Authority intends to pursue the compulsory acquisition of the derelict site.

4.4. Objector's Submission

4.4.1. A submission (dated 5th January 2024) was made to the Board by Dermot G. O 'Donovan Solicitors on behalf of Mary Frewen, Dara Ahern and Kathleen Coffey on the 8th of January 2024 in response to the application for compulsory acquisition. In summary it was stated that;

- The contention that the subject property is causing issues with an adjoining property is partially incorrect. The party wall between the properties is not the sole responsibility of the Frewen estate and the chimney and its flashings are the responsibility of both parties. The adjoining neighbouring property has also failed to maintain their portion of the chimney. The poor condition of the roof of the subject property has no impact on the roof of the adjoining property. Furthermore, any water ingress at the front corner of the adjoining property is solely as a result of the rainwater goods of that property, which are discharging directly to the public footpath.
- The property is not located within Limerick City, as referred to on page 7 of the Compulsory Acquisition Report of the Local Authority.
- The rear of the property has been attended to and cleaned, this is not referred to.

4.4.2. The following correspondence is also attached to the submission.

- E-mail correspondence (dated 19th September 2023, 11th October 2023, 20th October 2023, 2nd November 2023 and 3rd November 2023) between the engineer of the Notice Party and the Conservation Officer of LCCC confirming that remedial works can be undertaken. In the last/most recent e-mail correspondence the Conservation Officer of LCCC advises that it is in order to proceed in accordance with the methodology and specification set out by the Notice Parties appointed engineer.
- Tender documents relating to works to improve weather tightness and the aesthetic of the building.

5.0 Planning History

5.1. Subject Property

There is no planning history relevant to the subject property.

6.0 Policy Context

6.1. **Castleconnell Local Area Plan 2023-2029**

- 6.1.1. The Castleconnell LAP 2023-2029 sets out a land use strategy for the proper planning and sustainable development of the village of Castleconnell. Castleconnell is identified as a Level 3 settlement in the Limerick Development Plan (see Table 2.4 Chapter 2).
- 6.1.2. The subject property is zoned 'Village Centre' in the Castleconnell LAP 2023-2029, the zoning objective of which is *'to protect, consolidate and facilitate the development of Castleconnell's commercial, retail, educational, leisure, residential, social and community uses and facilities'*.
- 6.1.3. The LAP is informed by the 'town first' approach, which seeks to attract families back into the heart of the towns through place-making, good quality urban design and sustainable mobility. Central to this approach is the re-use of buildings. The Castleconnell LAP 2023-2029 includes the following relevant policy:

- Objective H2 (c) 'Residential Compact Growth' - *Consolidate existing development and increase existing residential density, through a range of measures, including re-use of existing buildings and infill development schemes.*

6.2. Limerick City and County Development Plan 2022

6.2.1. Chapter 1 (Introduction, Vision and Strategic Overview)

- Strategic Objective 4 provides - *'support and facilitate revitalisation and consolidation of the City, towns and villages, through public realm and place-making initiatives. Address vacancy and dereliction to create compact attractive, vibrant and safe environments...*

6.2.2. Chapter 3 (Spatial Strategy)

- Policy CGR P1 'Compact Growth and Revitalisation' - *It is a policy of the Council to achieve sustainable intensification and consolidation, in accordance with the Core Strategy, through an emphasis on revitalisation and the delivery of more compact and consolidated growth, integrating land use and transport, with the use of higher densities and mixed-use developments at an appropriate scale on brownfield, infill, backland, state lands and underutilised sites within the existing built footprint of Limerick's City, Towns and Villages.*
- Objective CGR O4 'Active Land Management' - *It is an objective of the Council to:*
 - a) *Promote an active land management approach through cooperation with relevant stakeholders and infrastructure providers to deliver enabling infrastructure to achieve compact growth.*
 - b) *Support and facilitate the reuse and revitalisation of derelict, vacant and underutilised sites and disused buildings throughout Limerick for residential, economic, community and leisure purposes.*
 - c) *Establish a database of strategic brownfield and infill sites in the City Centre to be updated on an annual basis to monitor the progress of the active land management measures.*

- Section 3.3.2.2 notes 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' – *'it is an objective of the Council 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'.*

6.2.3. Section 2b (Spatial Strategy - Limerick County)

Notes that Castleconnell is designated as a Level 3 Town. Castleconnell is considered suitable for growth due to its location within the MASP area, and also the availability of existing infrastructure.

- Policy CGR P4 'Revitalisation of Towns and Villages' – *'It is the policy of the Council to:*
 - *a) Actively address issues of vacancy and dereliction in settlements across Limerick.*
 - *b) Promote projects contributing to compact growth and the physical, social and economic revitalisation of the towns and villages throughout County Limerick'.*
- Objective CGR O20 'Town and Village Revitalisation' – *'It is an objective of the Council to:*
 - *a) Promote and support the renewal and revitalisation of rural town and village centres to enhance the vitality and viability of settlements as attractive residential and service centres.*
 - *b) Support and work with State Bodies, private landowners, community and voluntary groups to successfully achieve the renewal and revitalisation of Limerick's towns and village centres, including projects to re-use vacant premises and underutilised sites, enhance the unique characteristics and assets of main streets and improve the public realm'.*

6.2.4. Chapter 4 (Housing)

Section 4.2.6 relates the re-use of buildings and notes that existing housing stock is valuable resource in terms of meeting the needs of a growing population and its retention and management is of considerable importance.

Objective HO O4 'Re-use of Existing Buildings' – *'It is an objective of the Council to encourage redevelopment and reuse, including energy retrofitting, of existing housing stock and conversion of other suitable buildings to sustainable housing accommodation'.*

6.3. Derelict Sites Act 1990 (as amended)

6.3.1. 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.

6.3.2. 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."

6.3.3. 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.

6.3.4. 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.

- 6.3.5. 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.
- 6.3.6. 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.
- 6.3.7. Section 14 of the Act provides that a Local Authority may acquire by agreement or compulsorily any derelict site situated in their functional area.
- 6.3.8. Section 15 of the Act sets out arrangements for giving notice, if the Local Authority intend to acquire a derelict site compulsorily.
- 6.3.9. 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. Site Inspection

- 7.1.1. 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. The subject property is located at a prominent location in the centre of the village. Neighbouring properties appear to be well maintained and are in good condition. The area has an attractive appearance, and the public realm is well cared for, with high quality public amenities. The subject property adjoins a Protected Structure (no. 2 Castle Street), is adjacent to a number of other Protected Structures and is within the Castleconnell Conservation Area.
- 7.1.2. The property is vacant and has a neglected, unsightly and objectionable appearance from the public road and surrounding area, and in particular from Castle Street. The front façade of the dwelling is in a poor state of repair with cracked, peeling render and dirty/peeling paintwork, chipped window cills and reveals and damaged rain goods. The roof of the subject property is in need of repair with loose, damaged slates and moss growing on it and the rainwater goods are either missing or damaged and in

poor condition. The subject property detracts significantly from the character and appearance of the street. The appearance of the subject property also results in a detrimental impact on the conservation value of the Castleconnell Architectural Conservation Area, and nearby Protected Structures, including the adjoining Protected Structure(no. 2 Castle Street).

7.2. Category of Dereliction

- 7.2.1. Based on the condition of the subject property which I observed during my site inspection, I consider that the site falls within category (b) of Section 3 of the Derelict Sites Act, 1990 due to the land and structure being in a neglected, unsightly and objectionable condition.
- 7.2.2. With regard to category (a), which relates to structures which are in a ruinous, derelict or dangerous condition, having inspected the site and reviewed the material on the file, I do not consider that the structure is likely to be in a dangerous condition, or that it could be considered ruinous. Thus, it is not considered that the site falls within category (a) of the Derelict Sites Act 1990.
- 7.2.3. There was no evidence of a significant presence of litter, debris, rubbish or waste within the application site and I consider therefore that the site does not fall within category (c) of Section 3 of the Act.
- 7.2.4. 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.

7.3. Action of the Local Authority

- 7.3.1. LCCC contacted the property owner/person responsible for the property in September 2021 in relation to the property and subsequently wrote to this party in October 2021 seeking an update on the property. LCCC carried out an inspection of the subject property in February 2022 and on finding that there had been no improvement to its condition LCCC served Section 8(2) notices on the owners advising of the Local Authority's intention to enter the site on the Derelict Site Register. A further site

inspection was undertaken in June 2022 where it was similarly found that no improvement works had been carried out at the property and LCCC then served Section 8(7) notices advising the owners that the site had been entered on the Derelict Sites Register.

7.3.2. Site inspections were then conducted in May 2023 and September 2023 where it was found that the property had continued to fall further into dereliction. Finally, Section 15(1)(a) notices were served on 4th October 2023 and published in the Limerick Post Newspaper on the 7th of October 2023 regarding the Local Authority's intention to acquire the site compulsorily.

7.3.3. 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 the Compulsory Acquisition report, is to positively engage with the owners of a derelict site and to avoid using the powers under the Derelict Sites Act, except where necessary. It is over two years since the owner was formally notified of the derelict state of the property. Having regard to the forgoing I am satisfied that the Local Authority gave the property owner sufficient time and opportunity to address the dereliction. Therefore, I am satisfied that the efforts of the Local Authority have been fair and reasonable.

7.4. Compliance with Development Plan

7.4.1. I note that the Limerick Development Plan 2022-2028, and specifically Objectives CGR O6 and CGR P4, seek to actively address instances of dereliction and decay in the urban and rural environment and bring properties back into active re-use and to revitalise towns and villages. The Limerick City and County Development Plan 2022 - 2028 also seeks to conserve and enhance areas of heritage importance such as those within ACAs. The property has been in a derelict state and has remained vacant for approximately two and a half years (i.e. since being identified as such by the Local Authority in September 2021). The continued dereliction of the property threatens the conservation value the Castleconnell Architectural Conservation Area and restricts the opportunities to find viable uses. Therefore, I consider that the subject property and a compulsorily purchase order (CPO) 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.

7.5. Action of the Owner to Address Dereliction

- 7.5.1. The owner/representatives of the owner liaised with LCCC on multiple dates, informing the Local Authority that it was intended that works would be undertaken 'soon' (in the correspondence dated 5th November 2021), that works to the property would be started in January 2023 (in the correspondence dated 22nd November 2022), and that a planning application would be submitted for remediation works in September 2023 (in the correspondence dated 16th March 2023). I can confirm from my site inspection on the 9th April 2024 that it was not apparent that any further works have been undertaken since January 2024 (when correspondence was last received on behalf of the Notice Party stating that tenders were being prepared and contractors in the process of being appointed with works beginning early spring) in order to bring the building out of dereliction. Whilst works may have undertaken to tidy up the rear of the site, I note that nothing has been done to address the appearance of the subject property to the front or side, where the building interfaces with the public street.
- 7.5.2. I note the objection to the proposed acquisition of the site made to the Local Authority by Dermot G. O' Donovan (on behalf of Mary Frewen, Dara Ahern and Kathleen Coffey) in a letter dated 2nd of November 2023. The basis of the objection to the compulsory acquisition of the property was that remedial works were currently being undertaken to restore the condition of the property. This correspondence set out the background to the property, and specifically noted that the owner of the property had died, that a grant of probate was pending, and that the executrix of the estate was receiving treatment for ill health which was effecting the probate process and resulting in the property remaining vacant. The correspondence also noted that repair works to a chimney required agreement to be reached with the owners of the neighbouring property, a matter further complicated by the fact that the adjoining property was subsequently designated as a Protected Structure. Reference was also made to effects of Covid-19 in addressing the issues affecting the property. A further objection was made by Dermot G. O' Donovan in a letter to the Board dated 5th January 2024. This objection notes that the issues affecting the chimney is not solely the responsibility of the owner and that rainwater discharging to the footpath at the corner

of the building stem from the adjoining property. The objection also notes that the rear of the property has been cleaned, and that the owner is currently liaising with contactors in relation to undertaking repair work to the property with a view to such works being undertaken in early spring.

7.5.3. 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 noted that no substantive works have taken place to the subject property. It is now over two and a half years since the derelict condition of the property came to the Local Authority’s attention and over two years since the owner/party responsible for the property was formally notified of the derelict state of the property. It has also been 6 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.

7.5.4. 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 Castle Street, Castleconnell, Co. 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 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 comprising a two-storey, end of terrace dwelling at Castle Street, County Limerick containing 0.016 hectares or thereabouts, as set out in the Derelict Site Notice issued under Section 15(1)(b) of the Derelict sites Act 1990, (as amended) and dated 4th of October 2023 and on the deposited map (DS-113-21), pursues, and is rationally connected to, a legitimate

objective in the public interest, namely, to ensure that the lands do not continue to be in a derelict condition.

- 8.3. I am also satisfied that the acquiring authority has demonstrated that the means chosen to achieve that objective impair the property rights of affected landowners as little as possible. In this respect, I have considered alternative means of achieving the objective referred to in submissions to the Board, and am satisfied that the acquiring authority has established that none of the alternatives are such as to render the means chosen and the CPO made by the acquiring authority unreasonable or disproportionate.
- 8.4. The effects of the CPO on the rights of affected landowners are proportionate to the objective being pursued. I am further satisfied that the proposed acquisition of these lands would be consistent with the policies and objectives of the Limerick City and County Development Plan 2022-2028, and specifically Objectives CGR O6 and CGR P4 which seek to actively address instances of dereliction and decay in the urban and rural environment and bring properties back into active re-use and to revitalise towns and villages. Accordingly, I am satisfied that the confirmation of the CPO is clearly justified by the exigencies of the common good.

9.0 Recommendation

- 9.1. Having regard to the observed condition of the application site, in particular the neglected, unsightly and objectionable state of the land and the structure thereon, I consider that the site materially detracts from the amenity, character and appearance of land in the neighbourhood and is therefore a derelict site within the meaning of Section 3 of the Derelict Sites Act, 1990, as amended.
- 9.2. I consider that it is reasonable that the Local Authority seeks to compulsorily acquire the land, as provided by Section 14 of the Act. I recommend that the Board grant consent to Limerick City and County Council to compulsorily acquire the site.

10.0 Reasons and Considerations

- 10.1. Having regard to the neglected, unsightly and objectionable condition of the site, to the poor state of repair of the external walls, windows, door, roof and rainwater goods,

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(b) of the Derelict Sites Act, 1990, as amended, and that the acquisition of the site by the Local Authority is necessary in order to render the site non-derelict and to prevent it continuing to be a derelict site. It is also considered that the objection made cannot be sustained having regard to that said necessity.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Ian Campbell
Planning Inspector

10th May 2024