



An  
Bord  
Pleanála

## Inspector's Report ABP-318637-23

### 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

Marian Drive, Roxboro Road, Limerick

### Local Authority

Limerick City and County Council

### Notice Party

Déirdre Walsh and Antoinette Gallagher

### Date of Site Inspection

9<sup>th</sup> 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 Marian Drive, Roxboro Road, 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 to the south of Limerick City centre, west of Roxboro Road (R511) within an established residential area. The subject property occupies a corner site with frontage to Marian Drive and Marian Place.
- 2.2. The subject property is described in the CPO as comprising neglected land of 0.14 hectares. The Compulsory Acquisition report describes the site as comprising 3 no. cottages. A dash concrete wall bounds the subject property to the west.
- 2.3. The subject property is not a Protected Structure nor is it listed on the National Inventory of Architectural Heritage (NIAH).
- 2.4. On the date of my site inspection, the property was secure with fencing. Only the front and part of the gable wall of the westernmost dwelling is in situ and this wall appears to be listing forward the footpath. The windows and door of the middle dwelling are boarded up with metal and wire mesh. The rain goods of the middle dwelling are missing/damaged and there are weeds and vegetation growing from the roof. The render on the front façade of the middle dwelling is badly stained. The windows and door of the easternmost dwelling have been blocked up. The render on the front façade of this dwelling is crumbling and the block work beneath is visible and appears severely compromised. Render on the front façade of this dwelling is badly stained. Rain goods on the easternmost dwelling are missing/damaged and there are holes in the roof and missing/damaged roof tiles. Weeds and vegetation are growing on the roof. The elevations of the subject property have been subject to graffiti. There are an abundance of weeds to the front of the subject property and the area to the rear is unkept and overgrown.
- 2.5. The dwellings in the vicinity are well maintained and are in good condition.

### **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) on the 29<sup>th</sup> March 2022, (i.e. advising of the Local Authority's intention to enter the site on the register of derelict sites), and under Section 8(7) on the 7<sup>th</sup> October 2022 (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 (The Estate of Margarat Gallagher, c/o Deirdre Walsh and Antoinette Gallagher) on the 4<sup>th</sup> October 2023 and was published in the Limerick Post newspaper on the 7<sup>th</sup> of October 2023. The site was described as follows in the notices:

- A derelict site comprising neglected land situate at Marian Drive, Roxboro Road, Limerick, containing 0.14 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-030-20 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. 2 no. submissions expressing objection to the proposed acquisition were submitted to Limerick City and County Council.

4.2.2. The first objection to the proposed acquisition was submitted to Limerick City and County Council by Déirdre Walsh and Antoinette Gallagher, dated 19<sup>th</sup> October 2023. The objection can be summarised as follows:

- The property has been for sale since July 2023 and there is significant interest in the property (Property Service Agreement, auctioneer's brochure, and photographs of for sale sign included in submission). This predates the notice of intention received.

4.2.3. A second objection to the proposed acquisition was submitted to Limerick City and County Council by Martin Tynan O' Donovan Solicitors (on behalf of Déirdre Walsh and Antoinette Gallagher, Representatives of the Estate of the Late Margaret Gallagher) dated 3<sup>rd</sup> of November 2023. The objection can be summarised as follows:

- The site is for sale and there are a number of interested parties in the property. The sale of the property is likely to proceed quickly. Efforts have been made to ensure the sale of the property, including the preparation of planning feasibility of the site.
- The previous owner, Margaret Gallagher, spent time addressing complex issues affecting the title of the property.
- An application will be made shortly to the Probate Office for a Grant of Probate in the estate of the owner of the property, the late Margaret Gallagher.
- There is no necessity for the property to be compulsory acquired.

#### **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 30<sup>th</sup> 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 4<sup>th</sup> of October 2023).
- Copy of the newspaper notice (dated 7<sup>th</sup> of October 2023).
- Copy of objection(s) (and acknowledged response(s) from Limerick City and County Council) made by Martin Tynan O' Donovan Solicitors (on behalf of Déirdre Walsh and Antoinette Gallagher) submitted to the Local Authority on the 3<sup>rd</sup> of November 2023 and a submission from Déirdre Walsh and Antoinette Gallagher dated 19<sup>th</sup> October 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 property, comprising the remains of 3 cottages on lands of 0.14 hectares, 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 has a neglected look and is drawing antisocial behavior to the area. No attempts have been made to address the poor state of the structure of the buildings in the course of the case.
- The site is deemed to be derelict by definition under Section 3 of the Derelict Sites Act, 1990 (as amended), as follows:
  - Ruinous, derelict or dangerous condition,
  - neglected, unsightly or objectionable condition of the land or any structures,
  - the presence, deposit or collection on the land in question of any litter, rubbish, debris or waste.

Some indicators of dereliction as it applies to the site include;

- Partially demolished/ ruinous building(s);
- Holes in roof, loose and slipped slates;
- Missing/broken/leaking rainwater gutters or downpipes;
- Loose masonry or falling plaster;
- Broken, missing, or boarded up windows or doors;
- Dirty facade/ peeling paint;
- Graffiti;
- Plants growing out of masonry or roof;
- Unsecured entrances, trespass, or squatters;
- Rotten timber;
- Accumulation of litter / waste or Illegal dumping;
- Site overgrown with vegetation;
- Unsightly boundaries (damaged hoarded, broken fences, rusted railings etc.).

- The site was previously the subject of complaints from the local community since 2011 however the issues were satisfactorily addressed.
- The structure is in a dangerous condition with roof slates falling from the roof onto a public footpath. The front wall of one of the cottages is unstable and starting to fall towards the public footpath and road. The boundary wall is covered in graffiti. One of the cottages is missing gable ends and rear walls, missing roof and windows and there is graffiti along the full front elevation of the property.
- The title to this property is registered on the Landdirect System of the Property Registration Authority of Ireland to Margaret Gallagher (deceased). There is a no known charge or judgement registered against the property.
- Regarding the history of the Derelict Site Case –
  - 12<sup>th</sup> February 2020 – LCCC inspected the property and identified it as a Derelict Site by definition under Section 3 of the Derelict Sites Act, 1990, as amended.
  - 28<sup>th</sup> February 2020 - Margaret Gallagher contacted LCCC to ask if it would be interested in purchasing the property. The matter was referred to the LCCC Housing Directorate for consideration.
  - 24<sup>th</sup> March 2021 - A representative of an Approved Housing Body (AHB) confirmed they would be interested in purchasing the site and the LCCC Housing Directorate were facilitating this with the owner.
  - 25<sup>th</sup> January 2022 – A further inspection was carried out by LCCC and it was found that there was no improvement to the derelict condition of the site.
  - 29<sup>th</sup> January 2022 - LCCC was informed by the AHB that they had completed their initial feasibility assessment and were selecting a preferred option for the site. The ABH subsequently made a formal purchase offer to the site owner however, the owner rejected the offer.
  - 29<sup>th</sup> March 2022 - Section 8 (2) Notice of Intention to add the site to the Derelict Sites Register was served.

- 12<sup>th</sup> April 2022 - LCCC received a phone call from Antoinette Gallagher (daughter of owner) who was informed by LCCC that the site would need to be rectified to avoid the site being entered in the Derelict Sites Register. She said that consideration was being given to developing the site and expressed interest in the Repair And Lease Scheme. LCCC offered to meet on site to discuss remedial measures.
- 1<sup>st</sup> June 2022 – E-mail received from Antoinette Gallagher explaining that options were being considered, including selling the site. No commitment was given to rectify dereliction.
- 3<sup>rd</sup> June 2022 - A further inspection was carried out and it was found that roof slates had fallen from a structure on site onto the public footpath and plaster was also falling from the walls.
- 8<sup>th</sup> August 2022 - A fire was reported at the site.
- 24<sup>th</sup> August 2022 - Déirdre Walsh (daughter of owner) sent LCCC a letter outlining plans to apply for planning permission in September 2022 (no planning application was subsequently lodged).
- 7<sup>th</sup> October 2022 - Section 8(7) Notice of Entry to the Derelict Sites Register.
- 20<sup>th</sup> October 2022 - A meeting with LCCC was requested by the property owner. A request was made to have the property removed from the Derelict Sites Register and it was stated that options to sell or develop the site were being explored. LCCC noted that as the dereliction had not been resolved the site could not be removed from the Derelict Site Register.
- 20<sup>th</sup> October 2022 – Following the above meeting, Déirdre Walsh sent an e-mail asking whether the demolition of the buildings on the site would result in the site being removed from the Derelict Site Register. LCCC advised that if this was permitted on foot of a planning permission it may result in the entry in the Derelict Sites Register being deleted.



- 7<sup>th</sup> December 2022 - Déirdre Walsh wrote to LCCC requesting that LCCC refrain from sending a Derelict Site Levy demand as Margaret Gallagher had died.
  - 14<sup>th</sup> December 2022 - The owners of the property had a pre-planning meeting with LCCC. The owners requested that the Derelict Site Levy be paused. LCCC noted that this assurance could not be given.
  - 13<sup>th</sup> March 2023 – E-mail from Deirdre Walsh was received asking to confirm the position in respect of the Derelict Site Levy. LCCC responded to confirm that the Derelict Site Levy will stop accruing when the site is taken out of dereliction and removed from the Derelict Site Register.
  - 11<sup>th</sup> August 2023 – Inspection of property carried out. No improvement to site noted.
  - 27<sup>th</sup> September 2023 - Inspection of property carried out. No improvement to site noted.
  - 7<sup>th</sup> 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: 29<sup>th</sup> March 2022.
    - Section 8(7) Notice of Entry of Land in Derelict Sites Register: 7<sup>th</sup> October 2022.
    - Section 22 Notice of Valuation: 14<sup>th</sup> February 2023.
    - Section 15(1)a Notice of Intention to Acquire Derelict Site Compulsorily: 5<sup>th</sup> October 2023<sup>1</sup>.

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<sup>1</sup> The Section 15 Notice is dated 4<sup>th</sup> October 2023 and not 5<sup>th</sup> October 2023.

- An objection to the Section 15 Notice was received by LCCC on the 20<sup>th</sup> October 2023<sup>2</sup> from Déirdre Walsh and Antoinette Gallagher, daughters of the Margaret Gallagher. On the 3<sup>rd</sup> November 2023 further correspondence was received by LCCC from Martin Tynan O' Donovan Solicitors (on behalf of Déirdre Walsh and Antoinette Gallagher). The objection states that the property is for sale (marketing information for the property provided). A submission from a solicitors refers to the property owner spending time and resources dealing with the property. The Local Authority contend however that it would appear that no effort was made to deal with the dereliction on the site.
- 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 was made to the Board by Déirdre Walsh and Antoinette Gallagher on the 5<sup>th</sup> of January 2024 in response to the application for compulsory acquisition. In summary it was stated that;

- There has been on-going communication with LCCC in relation to the property.
- The impression was given to the owners that the property being listed for sale would result in property being removed from Derelict Sites Register.
- The property has been for sale since July 2023, which pre-dates the notification of intention issued by LCCC to compulsorily acquire the property.
- There has been significant interest in the site. There are currently three interested parties in the site (as of December 2023/January 2024).
- No evidence has been provided of complaints in relation to the site. LCCC official noted during a site visit that there had been no complaints in relation to the site.

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<sup>2</sup> The correspondence is dated 19<sup>th</sup> October 2023.

- There are inaccuracies in the details of the case outlined in LCCC's submission.
- Key interactions in respect of the property summarised as follows;
  - February 2020 – Margaret Gallagher initiated contact with LCCC to progress issues relating to the property.
  - 2021 – LCCC advised contacting AHB.
  - May 2021 - Contact with AHB initiated.
  - February 2021 – Offer received for site. Offer did not meet expectations. AHB indicated offer would be increased if planning permission obtained.
  - 27 April 2022 & 17<sup>th</sup> June 2022 – LCCC inspect site at request of owner (this was not referred to in the submission of LCCC to the Board).
  - Communications were made directly with LCCC in relation to Repair and Lease scheme.
  - 24<sup>th</sup> August 2022 – Letter sent to LCCC informing of decision to sell property and to seek planning permission on the site in advance of sale.
  - September 2022 – Architect engaged.
  - 20<sup>th</sup> October 2022 – Meeting held with LCCC where owner was informed that the engagement of architect represented progress.
  - 7<sup>th</sup> December 2022 – LCCC informed of Margaret Gallagher's death and requested to suspend the inclusion of the property on the Derelict Sites Register, and that no levies be incurred from January 2023.
  - 14<sup>th</sup> December 2022 – Pre-planning meeting held.
  - 30<sup>th</sup> January 2023 – Feasibility study finalised.
  - 14<sup>th</sup> February 2023 – LCCC sent site valuation, which would form the basis of levy.

- 13<sup>th</sup> March 2023 – Déirdre Walsh contacted LCCC to ascertain requirements of Derelict Site Levy and also informed LCCC of negotiation for sale of site.
- 5<sup>th</sup> October 2023 – LCCC notify intention to apply to An Bord Pleanála for CPO of property. Property was for sale at this time and given the presence of a for sale sign LCCC would have been aware of this fact.

## 5.0 Planning History

### 5.1. Subject Property

There is no relevant or recent planning history pertaining to the subject property.

## 6.0 Policy Context

### 6.1. Limerick City and County Development Plan 2022 - 2028

6.1.1. The subject property is zoned 'Existing Residential' in the Limerick City and County Development Plan 2022 – 2028, the objective of which is *'to provide for residential development, protect and improve existing residential amenity'*.

6.1.2. 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...*

6.1.3. 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'.*

#### 6.1.4. Section 2a (Spatial Strategy - Limerick Shannon Metropolitan Area)

Paragraph 3.4.3 (Strategic Revitalisation) - *'Limerick City and County Council will encourage and facilitate the continuous revitalisation and redevelopment of existing settlements across the Limerick Shannon Metropolitan Area (in Limerick), to create more desirable places in which people can live, work and visit.'*

Objective CGR O10 – *'it is an objective of the Council to promote and support the utilisation of targeted incentives, investment opportunities and various funding sources such as the Urban Regeneration and Development Fund, the Rural Regeneration and Development Fund and the Town and Village Renewal Scheme to facilitate the*

*revitalisation and transformational renewal of Limerick's City, towns and villages for residential, employment, community and recreation purposes'.*

Paragraph 3.4.3.2 sets out the Living Limerick City Centre Initiative which seeks to make transformational change to revitalise the centre of Limerick City, identified as a growth enabler under the NPF. The Initiative focuses on targeted interventions and include the renewal of vacant and underutilised building stock.

#### 6.1.5. 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'.*

### 6.2. 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. 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 in an established residential area. The neighbouring properties and adjoining area are well maintained.

## 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 (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 that it could be considered ruinous, in particular noting the condition of the external walls and roof of the subject property. I also note that the front wall of the westernmost property is listing towards the footpath/road.
- 7.2.2. 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 views of the rear and sides of the property are visible as the subject property occupies a corner site. The render on the front façades of the houses are cracked, with the front façade of the easternmost dwelling severally compromised. Window and door openings are boarded up and the elevations of the property have been subjected to graffiti. The roof of westernmost dwelling is missing and the roof of the easternmost dwelling has a hole in it. There are an abundance of weeds to the front and rear of the subject property.
- 7.2.3. The subject property would not in my opinion fall within category (c) of Section 3 of the Act, and I did not observe any significant accumulations of debris or litter at the subject property.
- 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. The engagement between Local Authority and the owner of the subject property is set out in LCCC's Compulsory Acquisition report, and included telephone calls, letters, e-mails and meetings between February 2020 and March 2023. A number of inspections of the property were also conducted. I also note that LCCC Housing Directorate acted



as a facilitator between the property owner and an AHB in relation to the purchase of the subject property. I note the actions of the Local Authority and the statutory notices served on the owner/occupier in respect of the building. Section 8(2) notices were served on the owners advising of the Local Authority's intention to enter the site on the Derelict Site Register. Section 8(7) notices were subsequently served advising the owners that the site had been entered on the Derelict Sites Register. These actions were undertaken approximately 2 years ago and a year and a half ago respectively. Finally, Section 15(1)(a) notices were served on the 4<sup>th</sup> October 2023 and published in the Limerick Post Newspaper on the 7<sup>th</sup> of October 2023 regarding the Local Authority's intention to acquire the site compulsorily.

- 7.3.2. 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 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 four years since communications between the owner/representatives of the owner and LCCC commenced in relation to 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 Objective CGR O6, which seeks 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 property has been in a derelict state and has remained vacant in excess of 4 years. I therefore consider that the subject property detracts to a material degree from the character and appearance of the surrounding area. 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. I note that property owner initially liaised with LCCC in 2020 to request that they purchase the subject property. An AHB subsequently offered to purchase the property in 2022 however this offer was declined as it did not meet expectations. In April 2022 LCCC were advised by the daughter of the property owner that consideration was being given to developing the site, and later in June 2022 LCCC were advised that consideration was also being given to selling the subject property. It was subsequently communicated to LCCC that a planning application would be lodged. I note that no planning application was subsequently lodged however. A number of requests were made to the Local Authority to remove the property for the Derelict Sites Register, and following the death of the owner of the property, it was requested that the Local Authority refrain from sending a Derelict Site Levy demand.
- 7.5.2. I note that an objection to the proposed acquisition of the site made to the Local Authority by Martin Tynan O' Donovan Solicitors (on behalf of Déirdre Walsh and Antoinette Gallagher) dated 3<sup>rd</sup> of November 2023. The basis of the objection to the compulsory acquisition of the property was that the subject property was advertised as being for sale prior to the serving of the notice of intention of LCCC to compulsory acquire the property, that there is significant interest in the property, and that there is no necessity for LCCC to compulsory acquire the property. I note that a further objection was made to the Board on the 5<sup>th</sup> January 2024 generally reiterating the issues raised in the initial objection to the Local Authority and also stating that there has been on-going communication with LCCC in relation to the property; that it was understood that if the property was for sale it would be removed from the Derelict Sites Register; that no evidence of complaints in respect of the site have been provided; and highlighting inaccuracies in LCCC's submission.
- 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". I note from my site inspection on the 9<sup>th</sup> April 2024 that it was not apparent that any further works had been undertaken to address the appearance of the subject property since the 5<sup>th</sup> January 2024 (when correspondence was last received on behalf of the Notice Party). It is now over 4 years since the derelict

condition of the property came to the Local Authority's attention and over two years since the current owner was 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. Whilst the property is stated as being for sale I note that its sale alone would not guarantee that it will be taken out of dereliction.

- 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 Marian Drive, Roxboro Road, Limerick is granted.

## **8.0 Conclusion**

- 8.1.1. 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.
- 8.1.2. Having regard to the Constitutional and Convention protection afforded to property rights, I consider that the acquisition of the Derelict Site comprising neglected land at Marian Drive, Roxboro Road, Limerick containing 0.14 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 4<sup>th</sup> of October 2023 and on the deposited map (DS-030-20), 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.
- 8.1.3. 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.

- 8.1.4. 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 Objective CGR O6 which seek to actively address instances of dereliction and decay in the urban and rural environment and bring properties back into active re-use. Accordingly, I am satisfied that 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 to the structure which is in a ruinous, derelict and dangerous condition and to 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 ruinous, derelict and dangerous condition of the structure and the neglected, unsightly and objectionable condition of the site, evidenced by the poor state and severely compromised nature of the external walls, the partial absence of a roof, the boarded up windows and doors and the extent of graffiti, 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.

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.

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Ian Campbell  
Planning Inspector

10<sup>th</sup> May 2024