



An
Bord
Pleanála

Inspector's Report ABP-318638-23

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

Kilcornan House, Kilcornan, Co. Limerick

Local Authority

Limerick City and County Council

Notice Party

Rathdene Limited

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 Kilcornan House, Kilcornan, 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 at Kilcornan, a small rural settlement/village situated c. 20 km west of Limerick City.
- 2.2. The subject property is located on the northern side of the N69. The area in the vicinity of the subject property is rural in character. The subject property occupies a prominent position along the N69 and is highly visible on both eastern and western approaches.
- 2.3. Detached dwellings are located on the adjacent site to the east, and also opposite the subject property on the southern side of the N69. There is a go-carting track on the adjoining site, west the subject property. Curraghchase Forest Park is located to the south-west of the subject property.
- 2.4. The subject property comprises, a two-storey, partially stone clad, vacant public house with part two/part single-storey side and rear returns and a vacant petrol filling station (consisting of a small shop with a canopy over an island which previously accommodated fuel pumps) and the curtilage of these structures, including an area of surface car parking. A metal shed structure¹ situated to the rear of the site is also located within the boundary of the site as depicted on Deposit Map DS-192-20.
- 2.5. The subject property is not a Protected Structure nor is it listed on the National Inventory of Architectural Heritage (NIAH).

¹ This description of derelict site to be acquired in the notice served on the owners/occupiers of the site (dated 4th of October 2023) refers to 'a derelict site comprising a former public house and service station and surrounding lands'. No reference is made to the metal shed structure to the rear of the site. As this structure is within the boundary of the Deposit Map (Ref. DS-192-20) I consider it to be included in the consent for compulsory acquisition.

2.6. On the day of my site inspection the property was secure with fencing positioned up to the road edge. Based on a comparison of photographs appended to the Local Authority's Compulsory Acquisition report (date stamped September 2023) I note that significant works have been carried out at the subject property. I specifically note the following;

- The car park and hardstanding areas of the site along the roadside have been cleared of weeds and overgrowth.
- The rendered facades of the public house have been painted.
- Redundant signage has been removed from the side/east of the public house.
- The timber shop front of the public house has been painted.
- The canopy of the petrol filling station has been replaced/repainted with new sheets of galvanised metal (visible from the underside).
- The front and side/east façade of the petrol filling station have been clad in timber.
- The side elevations of the petrol filling station have been painted.
- A new door and window in the petrol filling station appear to have been installed and the roller shutter concealed by a timber canopy.
- The interior of the shop of the petrol filling station appears to be in the process of being fitted out with counter tops and tiled splash-backs.
- The pump island has been fitted in boxed galvanised cladding.

I note that part of the side/western façade of the public house remains overgrown with ivy, the extent of which appears to have advanced since September 2023. Appendages to the front façade of the public house are broken/hanging off the front wall and wiring is strewn on the ground across the front of the public house. I also observed a significant amount of builders waste and mattresses in the metal shed to the rear of the site. A section of the roof of this structure is missing and the structure is for the most part open to the elements.

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 11th May 2021, (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 30th September 2021 (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 (Rathdene Limited) on the 4th October 2023 and was published in the Limerick Post newspaper on the 7th of October 2023. The site was described as follows in the notices:

- A derelict site comprising a former public house and service station and surrounding land situate at Kilcornan House, Kilcornan, Co. Limerick containing 0.465 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-192-20 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 (by and on behalf of the property owner) 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 Harrison O' Dowd Solicitors (on behalf of Rathdene Limited), dated 31st October 2023. The objection can be summarised as follows:

- The owner of the property acknowledges that the site is unsightly and derelict and is in the process of addressing the status of the site.
- A planning application was submitted in 2022 for a 20 bedroom hotel (PA. Ref. 22/649 refers). This application was refused in May 2023. The property owner has engaged in pre-planning consultations with the Planning Authority to address the refusal reason in relation to the previous planning application. A new planning application will be submitted early 2024.
- In excess of €50,000 has been spent by the property owner in professional fees in relation to the property over the previous two years and the owner intends to undertake the proposed development subject to planning permission being granted. The property owner objects to the compulsory acquisition of the property and requests that they are allowed to submit a revised planning application.

4.2.3. A second objection to the proposed acquisition was submitted to Limerick City and County Council by Rathdene Limited, dated 31st of October 2023. The objection can be summarised as follows:

- The unsightly and potentially dangerous condition of the site is acknowledged and in the interim the owner proposes to remove weeds and refuse from the site; remove loose metal hanging from the former petrol filling station canopy, and subject to approval, remove the canopy structure and former shop structure, and to maintain the appearance of the property free from rubbish and weeds until such a time of planning permission issues for the property.
- The submission also requests that approval be given to remove the canopy structure and former shop structure as the structure is unsound.

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(s) made by Harrison O' Dowd Solicitors (on behalf of Rathdene Limited) dated 31st October 2023 and submitted to the Local Authority on the 1st of November 2023, and an objection from Rathdene Limited dated 31st October 2023 (and acknowledged response from Limerick City and County Council).

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 former public house, petrol filling station and surrounding land (0.465 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 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;
- Unsecured entrances;
- Rotten filling station canopy;
- Accumulation of litter / waste or Illegal dumping;
- Site overgrown with vegetation;

- Unsightly boundaries.
- The title to this property, comprising Folio LK41049F, is registered to Rathdene Limited. There is a judgement registered against the property in the name of Hotfoot Ltd.
- Regarding the history of the Derelict Site Case –
 - 20th November 2020 - Limerick City and County Council (LCCC) inspected the property and identified it as a Derelict Site.
 - November 2020 - LCCC spoke with Sinead Roche of Roche Group (who is responsible for the property) who confirmed that Rathdene Ltd owned the property and that she would be dealing with the issues and preparing a planning application. LCCC explained the issues to address the dereliction.
 - 21 April 2021 – Following a site inspection a Section 8(2) Notice of intention to enter land in the Derelict Sites Register was recommended.
 - 11th May 2021 – Section 8 (2) Notice served.
 - 16th September 2021 - Section 8(7) Notice of entry of land in the Derelict Sites Register was recommended.
 - 30th September 2021 - Section 8 (7) Notice served.
 - 22nd October 2021 - Planning agent acting for owners wrote to LCCC providing the reason as to why planning application had not been lodged.
 - June 2022 – Planning application lodged, and following further information request and time extensions, permission was refused on 22nd May 2023.
 - July 2023 - LCCC received a complaint from the public in relation to vermin at the site. HSE subsequently investigated issue. Environmental Health Office also raised concerns about the site with LCCC.

- 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: 11th May 2021.
 - Section 8(7) Notice of Entry of Land in Derelict Sites Register: 30th September 2021.
 - Section 22 Notice of Valuation: 14th January 2022.
 - Section 15(1)a Notice of Intention to Acquire Derelict Site Compulsorily: 4th October 2023.
- An objection to the Section 15 Notice was submitted on the 31st October 2023 by Harrison O' Dowd Solicitors on behalf of Rathdene Limited (and was acknowledged on the 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 was made to the Board by Harrison O' Dowd Solicitors on behalf of Rathdene Limited on the 8th of January 2024 in response to the application for compulsory acquisition. In summary it was stated that;
- LCCC's contention that they have exhausted all reasonable alternatives is contested.
 - LCCC's contention that the subject property is partially demolished or ruinous is contested.

- The Notice on 11th May 2021² was not served on the owner of the subject property.
- LCCC have not taken account of the impact of Covid during the period in question, which adversely impacted the property owner's ability to deal with the subject property.
- A substantial clean-up of the subject property has been undertaken addressing many of the indicators of dereliction referred to in LCCC's Compulsory Acquisition report (before and after photographs attached to submission indicate that the subject property is neither delapidated, unsightly or unsecure).
- The judgement registered on the Folio predates and does not affect the property owner's title to the property. In any event, the existence of this judgement is not relevant.
- LCCC's contention that there has been no further engagement is rejected. In July 2023, following the Council's refusal to grant planning permission the property owner had a pre-planning meeting with the Council.
- LCCC have failed to recognise the efforts being made (and substantial expense incurred) by the property owner over the past 3 years in seeking to obtain planning permission for the redevelopment of the subject property. A new planning application has been submitted (PA. Ref. 24/005³ refers).
- The property owner has been unable to arrange a meeting with Council to establish exactly what works they require to be undertaken to the subject property to satisfy their requirements. The landowner has undertaken substantial works to the property in the past 2 weeks (including the removal of substantial amounts of waste illegally dumped on their property, as well as repainting the exteriors of the buildings, power washing the car park surfaces, removal of weeds etc. cleaning drains repairing windows, fixing gutters, general clean up etc.) to render same in a clean and presentable condition.

² This related to a Notice under Section 8 (2), i.e. notice of intention to enter land in the Derelict Sites Register.

³ This appears to be a typographical error. PA. Ref. 24/6 refers to the current planning application on the lands.

- The property owner remains willing to address any reasonable requirements of LCCC to further enhance the visual aspect of the subject property.

5.0 Planning History

5.1. Subject Property (recent/relevant)

PA. Ref. 24/6 – Permission for the demolition of existing single-storey function room/night club/restaurant/petrol station and canopy, toilet blocks/1st floor living accommodation and construction of new 2 storey 20 bed country lodge, including refurbishment of existing original public bar. Provision of new foul treatment unit & rainwater retention system and associated site development works.

A request for FURTHER INFORMATION was issued on the 28th February 2024. At the time of this report no response has been submitted.

PA. Ref. 22/649 – Permission REFUSED for the demolition of single-storey function room/night club/restaurant, toilet blocks/1st floor living accommodation and construction of new 2 storey 20 bed country lodge, including refurbishment of existing original public bar and petrol station/associated site development works and replace existing on site treatment unit.

6.0 Policy Context

6.1. Limerick City and County Development Plan 2022

6.1.1. The subject property is not subject to a specific land use zoning in the Limerick City and County Development Plan 2022 – 2028.

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)

- 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 2b (Spatial Strategy - Limerick County)

Kilcornan is a Level 6 settlement. Level 6 settlements are described as 'Rural Clusters' generally with limited essential infrastructure and services which do not have a settlement boundary.

- 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. 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. On the day of my site inspection I was able to view the principle elevations of the subject property from the N69. I also walked around the site and inspected the rear of the public house, the forecourt of the petrol filling station and the inside of the metal shed. I note that neighbouring properties appear to be well maintained and are in good condition and the area has an attractive appearance. The subject property is located at a prominent location on the N69 and visitors to Curraghchase Forest Park traveling from Limerick pass by the subject property.

7.2. Category of Dereliction

- 7.2.1. Based on the condition of the subject property which I observed during my site inspection I do not consider that the site falls within 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(s) are likely to be in a dangerous condition, or that they could be considered ruinous. I specifically note the works which have been undertaken to the canopy of the petrol filling station which render the canopy safe. Whilst I note the condition of the metal shed to the rear of the site, I note that this structure is not overtly visible from the public road, and on balance I do not consider that the condition of this structure results in the wider property being considered to fall under category (a).
- 7.2.2. In relation to category (b) of Section 3 of the Derelict Sites Act, 1990, notwithstanding the works which have been undertaken to address the indicators of dereliction, including painting, weeding and repairs to the canopy of the petrol filling station, I note that the industrial style security fencing, overgrowth of ivy and the loose wiring and appendages on the façades of the public house result in the subject property having a neglected, unsightly and objectionable condition and I consider that the site falls within category (b) of Section 3 of the Derelict Sites Act, 1990.
- 7.2.3. Regarding category (c) of Section 3 of the Derelict Sites Act, 1990, whilst I observed rubbish being stored in the metal shed, noting that this area is screened from view it would not in my opinion result in the wider site falling 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 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 establishing contact with the person responsible for the property through the auctioneer responsible for the sale

of the property and explaining the issues to be resolved to address the dereliction at the property. A number of inspections of the property were also conducted. I note the actions of the Local Authority and the statutory notices served on the owner/occupier in respect of the subject property. 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 3 years ago. 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.

- 7.3.2. 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. I accept that the Local Authority has undertaken steps in consultation with the owner of the subject property following the first inspection in 2020 in an effort to bring the property out of dereliction. It is approximately three and a half years since communications between the property owner/representative of the property 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 Objectives CGR O6 and CGR P4 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 3 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. Roche Group, acting on behalf of the property owner, contacted LCCC in November 2020 and informed the Local Authority of the owner's intention to lodge a planning application for the site. Following a site inspection in April 2021 the property owner was notified of LCCC's intention to add the property to the Derelict Sites Register and the subject property was subsequently added to the Derelict Sites Register in September 2021. In October 2021 a planning consultant, acting on behalf of the owner, contacted LCCC to explain the reasons for the delay in lodging a planning application on the site. A planning application (PA. Ref. 22/649) was then lodged in June 2022 however this was subsequently refused. The report of LCCC states that there was no further engagement with the owner of site, and following a complaint from a member of the public and an investigation by the HSE Section 15 Notices were subsequently issued. I note that a new planning application (PA. Ref. 24/6) was submitted in January 2024 and is currently awaiting the applicant's response to a further information request.
- 7.5.2. I note that an objection to the proposed acquisition of the site made to the Local Authority by Harrison O' Dowd Solicitors on behalf of the owner in a letter dated 31st October 2023. The basis of the objection to the compulsory acquisition of the property was that the owner is perusing the redevelopment of the site and has demonstrated their commitment with reference to expenditure incurred to date on this project. This objection was accompanied by a letter from Rathdene Limited which stated the owner's intentions to address dereliction at the property including the removal of weeds, refuse and hanging metals from the canopy of the petrol filling station.
- 7.5.3. A further objection was made by the owner in a letter to the Board, dated the 8th January 2024 which refers to a series of measures to address the derelict condition of the site. The objection also notes that a new planning application has been submitted to redevelop the site. Based on the photographs in the Local Authorities Compulsory Acquisition report (dated the 30th November 2023) and the condition of the subject property which I observed during my site inspection (carried out on the 9th April 2024)

I note that significant works have been carried out at the subject property since the application from the Local Authority has been submitted. I consider that these works significantly address the state of dereliction at the subject property.

7.5.4. As referred to above, a new planning application (PA. Ref. 24/6) has been lodged in respect of the redevelopment of the site, and whilst this indicates the property owners intention to redevelop the site, I note that any grant of permission would not in itself guarantee that the site will be redeveloped as the permission may not be implemented, or implemented in timely fashion.

7.5.5. 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”. From the evidence on file, including photographs appended to Local Authorities Compulsory Acquisition report, it is clear that the subject property was in a derelict state, and in an unsightly and neglected condition which detracted considerably from the character and amenity of the area at the time that the application to acquire the site was lodged. However, having inspected the site in April 2024, I observed that there is evidence that the owner has attempted to actively address the issues of dereliction, and in my opinion it is likely that the owner will continue to address the indicators of dereliction of the property. Thus, whilst the site remains in a neglected and unsightly condition, and detracts materially from the amenity and character of the area to an unacceptable degree, I would accept that the ongoing efforts by the owner to render the site non-derelict should be taken into account in this instance. For this reason, it is considered that it would not be appropriate to consent to the compulsory acquisition of the site at this point in time. It is further noted that the Local Authority has powers under Section 11 of the Derelict Sites Act 1990 (as amended) to require the owner to take specified measures to address any outstanding issues contributing to the dereliction of the property, should this be deemed necessary. Having regard, therefore, to all of the information available on the file and the continued appearance and condition of the subject property, it is concluded that the property constitutes a derelict site. Notwithstanding this, it is considered that there is evidence that adequate efforts are being made to render it non-derelict, and that as such, sufficient time should be afforded to conclude these works. It is considered, therefore,

that it is appropriate to refuse the Local Authority's application for consent to compulsorily acquire the site at Kilcornan House, Kilcornan, Co. Limerick.

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 proposed acquisition of the Derelict Site comprising a former public house and service station and surrounding land at Kilcornan House, Kilcornan, Co. Limerick containing 0.465 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 day of October 2023 and on the deposited map (DS-192-20), pursues, and was 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. Although the acquiring authority, at the time of application, demonstrated that the means chosen to achieve that objective impair the property rights of affected landowners as little as possible, having regard to the significant works undertaken at the subject property, I am not satisfied that this is still the case. In this respect, I have considered alternative means of achieving the objective referred to in the 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 landowner were proportionate to the objective being pursued at the time. I am further satisfied that the proposed acquisition of these lands was consistent with the policies and objectives of the Limerick City and County Development Plan 2022-2028, and specifically Objectives CG 06 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.

- 8.1.5. Notwithstanding this, having regard to the efforts made to date by the owner to address the matters that gave rise to the derelict condition of the site and the progress made on site, I am no longer satisfied that the confirmation of the CPO is justified by the exigencies of the common good at this point in time. I am of the opinion that, given the works carried out to date on site, it would be appropriate to allow time to progress matters on site.

9.0 Recommendation

- 9.1. Having regard to the observed condition of the site, in particular the derelict condition, the unsightly and objectionable state of the land, 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). It is further considered that the acquisition of the site by the Local Authority would be warranted in order to render the site non-derelict and to prevent it continuing to be a derelict site.
- 9.2. However, as per assessment and having regard to all of the information available, the current appearance and condition of the property, with the public house and petrol filling station having been painted, weeds and vegetation removed from areas of hardstanding, the canopy of the petrol filling station repaired/replaced, and the site made secure by means of fencing being put in place, I do not consider it reasonable that the Local Authority seeks to compulsorily acquire the land, as provided by Section 14 of the Act. I therefore consider it appropriate to refuse the Local Authority's application for consent to compulsorily acquire the site at Kilcornan House, Kilcornan, Co. Limerick.

10.0 Reasons and Considerations

- 10.1. Notwithstanding the current unsightly and objectionable condition of the site which detracts to a material degree from the amenity, character and appearance of the surrounding land in the neighbourhood, taking account of the evidence of the ongoing efforts being made by the Notice Party to address the dereliction on site, I do not consider it reasonable that the Local Authority now seeks to compulsorily acquire the land (at this point in time), as provided by Section 14 of the Act. I recommend,

therefore, that the Board refuses consent to Limerick City and County Council to the compulsory acquisition of the site.

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

Ian Campbell
Planning Inspector

10th May 2024