



An  
Bord  
Pleanála

## Inspector's Report ABP-319669-24

### Development

Application for consent for compulsory acquisition of a derelict site in accordance with Section 14 of the Derelict Sites Act 1990, as amended

### Location

1 Assisi House, Chapelstown, Carlow.  
(Eircode: R93K090)

### Local Authority

Carlow County Council

### Notice Party

Peppard Investments Limited

### Date of Site Inspection

31<sup>st</sup> July 2024

### Inspector

Frank O'Donnell

## 1.0 Introduction

- 1.1. This case relates to a request by Carlow County Council for the consent of An Bord Pleanála to the compulsory acquisition of the subject property at no. 1 Assisi House, Chapelstown, Carlow, in accordance with the provisions of the Derelict Sites Act, 1990, as amended.
- 1.2. It should be noted that there are 3 no. other concurrent Compulsory Acquisition cases pending with An Bord Pleanála which relate to the overall subject property, as follows:
  - **ABP-319671-24:** No. 2, Assisi House, Chapelstown, Carlow, (Eircode: R93 PD95). Case is due to be decided by 10<sup>th</sup> September 2024.
  - **ABP-319673-24:** No. 4, Assisi House, Chapelstown, Carlow, (Eircode: R93 P9X9). Case is due to be decided by 10<sup>th</sup> September 2024.
  - **ABP-319674-24:** No. 3, Assisi House, Chapelstown, Carlow, (Eircode: R93 F504). Case is due to be decided by 11<sup>th</sup> September 2024.

## 2.0 Site Location and Description

- 2.1. The property which is the subject of this application for consent for compulsory acquisition (referred to hereafter as the 'subject property') is located at no. 1 Assisi House, Chapelstown, Carlow, (Eircode: R93 K090), in a suburban area approximately 1.9 km to the southeast of the centre of Carlow town. The subject site (No. 1 Assisi House) is one of 4 no. apartments units, contained within a single two storey apartment building. The overall site has a stated site area of 0.1 hectares (0.25 acres).
- 2.2. The subject property is located on the southwest side of the N80 National Secondary Road and has 3 no. direct access points onto the said road. The site has a general triangular shape.
- 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 day of my site inspection, the site was open and there were workmen present. I was able to gain entry to the subject property. Based on a comparison of

photographs attached to the Local Authority's Compulsory Acquisition Report (dated 5th March 2024 (Photos dated 15th January 2024) I note that certain works have been carried out at the subject property. I specifically note the following:

- Internal works were in progress including:
  - First fix electrical work,
  - Chasing of floor for ducting,
  - Dry lining of walls throughout,
  - Installation of new windows,
  - Replastering of window openings,
  - Closing up of former chimney,
  - New preparatory plumbing work (first fix),
  - New batons and replastering of ceilings.

### **3.0 Application for Consent for Acquisition**

- 3.1. Carlow 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 Carlow County Council serving a notice under Section 14 of the Derelict Sites Act, 1990, as amended, (i.e. advising of the Local Authority's intention to acquire compulsorily under the said Act, the derelict site as described).

### **4.0 Application and Objection**

#### **4.1. Notice of Intention to Acquire**

- 4.1.1. Notice of Carlow County Council's intention to compulsorily acquire the site was served upon the owners/ occupiers (Peppard Investments Limited) on the 12<sup>th</sup> March 2024 and was published in the Nationalist Newspaper (dated 12<sup>th</sup> March 2024). The site was described in the notices, as follows:

- All that and those the site and premises situate at and known as property at Chapelstown, Carlow (which contains 4 No. apartments known as 1 Assisi

House, R93K090, 2 Assisi House, R93PD95, 3 Assisi House, R93F504 & 4 Assisi house, R93P9X9) situate in the townland of Chapelstown, in the barony of Carlow being All of the Property comprised in folio CW22749F of the Register of Freehold Land in County Carlow being the lands delineated in red on the map attached hereto.

- 4.1.2. I consider 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. 1 no. submission (by and on behalf of the property owner) expressing objection to the proposed acquisition was submitted to Carlow County Council.
- 4.2.2. The submission to the proposed acquisition was submitted to Carlow County Council for and on behalf of Peppard Investments Limited and is dated 11<sup>th</sup> April 2024. The objection can be summarised as follows:
- The property owner requests that the letter be accepted as a letter of objection to the proposed compulsory acquisition proceeding.
  - The objective of the property owners with this property is to complete the restoration works that are required for the four properties.
  - The property owners Engineer has been in contact with the Planning Department over the past 2 weeks in relation to a commencement notice to begin works at these properties.

#### **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 received on 8<sup>th</sup> May 2024 and included the following:
- Local Authority internal email from the Vacant Homes Officer to the Housing Officer dated 27<sup>th</sup> June 2023 requesting confirmation as to whether the 4 no. Apartments (i.e. No's 1, 2, 3 & 4 Assisi House) are in the process of being pursued under the Repair & Release Scheme.
  - Copies of the Land Registry Folio Map.
  - Copy of Land Registry Folio details.

- Copy of extract from CRIF Vision Net Limited with Company details for the Registered Property Owners.
- Copy of a response internal email from the Housing Officer to the Vacant Homes Officer dated 27<sup>th</sup> June 2023 stating that the properties were signed up under the Repair and Lease Scheme, but they had been unable to contact the developer (Peppard) for almost 10 months at this stage. The Housing Officer states that they have had to since remove the property from the Scheme and would consider the building has been abandoned with no works progressing now for almost 1 year.
- Copies of 4 no. emails from the Vacant Homes Officer to the Housing Department dated 30<sup>th</sup> June 2023, 4 no. copies of associated internal memos from the Town Regeneration Officer to the Housing Officer dated 30<sup>th</sup> June 2023 and copies of relevant maps relating to property no's 1 to 4, Assisi House. The emails and memos both request confirmation from the Housing Department as to whether they have a social housing need for each of the respective properties.
- Copies of 4 no. internal memos from the Housing Officer/ Department to the Vacant Property Unit dated 08<sup>th</sup> July 2023 relating to each of the 4 no. respective properties. The Housing Officer requests the Vacant Homes Unit to pursue the respective properties under CPO or negotiated acquisition at market value rates. It is stated that once acquired, the Housing Department will develop the properties under SHIP renewal funding provided by the Department.
- Copies of 2 no. Registered Letters from the Local Authority to 2 no. Directors of Peppard Investments Limited Re Property VHO201 seeking that they make contact within two weeks from the date of the letter. The letter is dated 11<sup>th</sup> July 2023.
- Copy of email from the Registered Property Owners (Peppard Investments) to the Vacant Homes Unit dated 1<sup>st</sup> August 2023 and declaring an interest in discussing the Local Authority's interest in the property in terms of both acquiring and assistance in returning it use. The Local Authority is requested

to outline their proposal on both matters and a meeting is sought in the coming weeks to discuss.

- Copy of an email from the Housing Officer/ Department to Peppard Investments Limited dated 09<sup>th</sup> August 2023 regarding the possibility of acquiring the subject property subject to valuation etc. and seeking access to same.
- Copy of a response email from Peppard Investments to the Housing Officer/ Department dated 09<sup>th</sup> August 2023 seeking a date to arrange access to the properties.
- Copies of various emails between the Registered Owners (Peppard Investments Limited) and the Local Authority dated between the 9<sup>th</sup> and 28<sup>th</sup> August 2023 seeking to arrange access for a valuation.
- Copy of an email from the Housing Department to the Registered Owners (Peppard Investments Limited) dated 01<sup>st</sup> September 2024 stating that the valuer has come back with a valuation of €340,000 for the property, noting extensive works required to bring the property up to habitable status.
- Copy of response email from the Registered Owners (Peppard Investments Limited) to the Housing Department dated 01<sup>st</sup> September 2024 stating that they would be interested in facilitating a sale to the council on a turnkey basis and asking for the valuer to provide a valuation on the grounds that the Registered Owners (Peppard Investments Limited) sell the properties ready to occupy.
- Copy of an email from the Housing Department to the Registered Owners (Peppard Investments Limited) dated 7<sup>th</sup> September 2023 stating that based on the valuer's opinion they would value the property delivered on a turnkey basis at €540,000.
- Copies of various email correspondence between the 2 parties between 01<sup>st</sup> September 2023 and 25<sup>th</sup> October 2023 seeking updates/ progress.
- Copy of email from the Registered Owners (Peppard Inward Investments Limited) to the Housing Department dated 10<sup>th</sup> November 2023 and stating that they would be meeting with contractors onsite in the next few weeks to

discuss works and receive quotations for the same and that they would keep the Housing Officer/ Department updated.

- Copy of an email from the Vacant Homes Officer to an Executive Technician in the Planning Department dated 12<sup>th</sup> January 2024 stating that CPO paperwork was being prepared and asking if the property could be inspected and that a report and recommendations be provided advising if the property falls under the definition of a derelict site in accordance with Section 3 of the Derelict Sites Act 1990.
- Copy of a Derelict Site Report from ET in Planning dated 15<sup>th</sup> January 2024 and including 36 no. photographs.
- Copy of a printout from CRIF Vision-Net - RE the Company Details for Peppard Investments Limited dated February 2024.
- Copy of an Email from the Registered Owners (Peppard Investments Limited) to the Housing Officer/ Department dated 4<sup>th</sup> March 2024 seeking help to progress along this project. It is stated that an ESB application has to be resubmitted. A letter confirming the final name of the 4 no. apartments is also sought.
- Copy of an internal Memo from the Vacant Homes Officer to the Chief Executive dated 05<sup>th</sup> March 2024 recommending that it is necessary that the Local Authority use its power to CPO the property. The Memo is counter signed by a Director of Services and the Chief Executive.
- Copy of Land Registry Folio Extract for Folio Ref. No. 22749F.
- Copy of an extract of Company details for Raven Finance (Ireland) Limited.
- Copies of 3 no. Registered Letters to:
  - 2 no. Directors and 1 no. Secretary (same name as one of the Directors) of Peppard Investments Limited (Registered Owners) dated 12<sup>th</sup> March 2024 confirming the commencement of CPO proceedings. Each of the Letters is accompanied by a Copy of the Notice dated 12<sup>th</sup> March 2024, a Copy of the Newspaper Notice dated 12<sup>th</sup> March 2024 and a Copy of a Land Registry Compliant Map dated 6<sup>th</sup> March 2024.

- Copy of 1 no. Registered Letter to:
  - Raven Limited confirming the commencement of CPO proceedings and including the same attachments as above.
- Copy of 1 no. internal email from the Executive Technician in the Planning Department to the Vacant Homes Officer dated 12<sup>th</sup> March 2024 and confirming that the notices had been erected at the property. The email has 2 no. photos attached.
- Copy of an email from the Registered Owners (Peppard Investments Limited) to the Housing Officer/ Department dated 13<sup>th</sup> March 2024 following up on a previous email sent on 4<sup>th</sup> March 2024 and seeking assistance.
- Copy of a response email from the Housing Officer/ Department to the Registered Owners (Peppard Investments Limited) dated 13<sup>th</sup> March 2024 detailing past efforts to engage under the repair and lease scheme and confirming there has been no agreement with the owners in respect of these units and that dealings are now with the Vacant Homes Unit.
- Copy of a Letter of Objection to the Compulsory Acquisition from the Registered Owners (Peppard Investments Limited) dated 11<sup>th</sup> April 2024 and stamped received by the Local Authority on 12<sup>th</sup> April 2024.
- Copy of a Letter dated 8<sup>th</sup> May 2024 from the Town Regeneration Officer to the Registered Owners (Peppard Investments Limited) noting their letter of objection dated 11<sup>th</sup> April 2024. The letter refers to Section 16 of the Derelict Sites Act 1990 and that all documentation in relation to the Compulsory Acquisition will now be forwarded to An Bord Pleanála for consideration.
- Copy of Letter from Town Regeneration Officer to An Bord Pleanála dated 8<sup>th</sup> May 2024 regarding the Referral of the matter for the determination of the Board under Section 16 (4) of the Derelict Sites Act, 1990.

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

- The Derelict Site Report is dated 15<sup>th</sup> January 2024, VHO Ref. VHO201.
- The Report relates to the overall subject property, (a two-storey property comprising 4 no. Self-Contained Apartments) Tullow Road, Chapelstown,

Carlow, folio ref. no. CW22749F. The site has a stated site area of 0.1 hectares (0.25 acres). The property is stated to be unoccupied.

- The Report finds that having inspected the property, it is a Derelict Site under Section 3 of the Derelict Sites Act, 1990.
- The Report includes the following Recommendation:
  - *‘Given the long-term neglected and objectionable condition of this prominent property. I advise direct initiation of CPO proceedings against this property.’*
- The Report is informed by a Case Summary dated 15<sup>th</sup> January 2024. The Case Summary indicates the Registered Owner as Peppard Investments Limited.
- The property is described as a two-storey property which has been converted into 4 No. self-contained apartments. The property is further described as long-term vacant, and the site and exterior are stated to have been neglected.
- It is stated in the Report that significant works will be required to the building to raise the apartments to the current building standards and best practice. The associated site is stated to be in a state of overgrowth and neglect with front site and rear open space requiring treatment of driveways, gardens and overgrowth.
- A series of visible works are stated to be required, as follows:
  - Localised roof repairs to fascia, soffit, guttering and rainwater downpipes. Repair and replace where necessary.
  - External windows and doors require cleaning and localised repairs. Repair and replace where necessary.
  - Complete external power-washing and cleaning to the entire property is required.
  - Cut back all out-of-control overgrowth and remove off site. Spray for weed throughout.
  - Make good topsoil and reseed all lawns.

- Instate a permanent finished surface to the driveway and yards.
- Remove all builders waste, rubble, debris and general litter off site.
- All waste to be removed by registered waste contractor or to a registered waste facility.
- Engagement with registered owners has yielded no contact (as confirmed by VHO and TRO).
- The Report includes a Photographic Survey taken on 15<sup>th</sup> January 2024 (36 no. photos in total).
- The following advice is provided in the Report:
  - *‘Advise that the property be put forward for direct CPO by the Local Authority as it is deemed in this instance that putting the property through a protracted dereliction process will only yield limited improvements (if any).’*

#### 4.4. Objector’s Submission

4.4.1. No objector’s submission was received by An Bord Pleanála.

#### 4.5. Oral Hearing

4.5.1. No request has been received for an Oral Hearing.

### 5.0 Planning History

#### 5.1. Planning History

- **21/124:** To retain indefinitely the 4 no. self-contained apartments. Retention was GRANTED on 08/10/2021 subject to 10 no. conditions.
- **21/71:** INCOMPLETE APPLICATION.
- **18/311:** Retention of detached dwelling which has been sub divided into 4 no. separate apartments and Planning permission to convert same into 1 no. dwelling. Permission was GRANTED on 17/01/2019 subject to 6 no. conditions.
- **06/397:** Permission Consequent to construct a dwelling house. Permission Consequent was GRANTED on 15/08/2006 subject to 20 no. conditions.

- **06/239:** INCOMPLETE APPLICATION.
- **05/837:** Outline Permission for dwelling house. GRANTED on 29/03/2006 subject to 10 no. conditions.

## 6.0 Legislation and Policy Context

### 6.1. Derelict Sites Act 1990 (as amended)

6.1.1. The Derelict Sites Act 1990, as amended, makes provision 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.

6.1.2. 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.”*

6.1.3. Other relevant provisions of the Act are summarised below:

- 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.
- 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.

- 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.
- 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.
- Section 14 provides that a local authority may acquire by agreement or compulsorily any derelict site situated in its functional area.
- Section 15 sets out arrangements for giving notice if the local authority intends to acquire a derelict site compulsorily.
- Section 16 sets out arrangements if the owner/occupier wishes to object to the acquisition and it provides that if an objection is made, then the derelict site shall not be acquired compulsorily by the local authority without the consent of the Board.

## 6.2. Carlow County Development Plan 2022 to 2028

- 6.2.1. The subject property is within the defined CSO settlement boundary and outside the defined development plan boundary for Carlow Town, as shown on the Carlow Town Land Use Zoning Map. The site is therefore not ascribed any specific zoning use.
- 6.2.2. The following policies and objectives are of relevance to the subject proposal:

### Objectives

#### Active Land Management

It is an Objective of the Council to:

- **CS. O6:**
  - *Actively promote the redevelopment and renewal of areas in need of regeneration through appropriate active land management measures including availing of statutory powers under the Derelict Sites Act, Housing Act, Vacant Site Levy and supporting implementation of the Residential Zoned Land Tax together with other statutory provisions to*

*actively promote regeneration of urban and rural areas within the County.*

## Core Strategy – Objectives

It is an Objective of the Council to:

- **CS. 012:**
  - *Promote measures to reduce vacancy and the underuse of existing building stock and support initiatives that promote the reuse, refurbishment and retrofitting of existing buildings within urban centres and targeted settlements in the county.*

## 7.0 Assessment

### 7.1. Site Inspection

- 7.1.1. I carried out my site inspection on 31st July 2024. There were 2 no. construction workers present on site and a third, the foreman, arrived soon afterwards. I walked around the property and inspected the front, sides and rear. I was able to access and inspect the interior of the subject apartment unit (no. 1 Assisi House) as well as the interior of the remaining 3 no. apartment units.
- 7.1.2. The front of the property, including the hardstanding area, was unkempt and overgrown with grass and weeds. The south-east side of the property was similarly unkempt and overgrown with grass and weeds. Although there was a skip full of builders' waste present at the time of the inspection, there were other items of waste present and on the ground, including blocks, timber, old furniture, a timber pallet and a disused fencing panel. The rear of the property was similarly overgrown with grass and weeds.
- 7.1.3. A number of external timber doors and the pillars on the front and side canopy had not been cleaned or painted recently. Gutters, particularly on the front elevation appeared damaged and had not been cleaned recently. I noted loose wiring in places on the side (southwest) and rear elevations. Satellite dishes on the side and rear elevations appeared to have been disconnected with the rear such satellite dish hanging loose from its mounting. The external walls did not appear to have been

cleaned recently. I noted the presence of significant moss growth on the canopy and main roof.

## 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 the definition under subsection 3 (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 note that considerable works are currently in progress to the interior of the property (No. 1 Assisi House) and to the remaining 3 no. apartments. Therefore, 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 respect of subsection (b) of Section 3 of the Act and notwithstanding the works which have been undertaken to address the indicators of dereliction, including the extensive redevelopment works which are ongoing to the subject property (no. 1 Assisi House) and the remaining 3 no. apartments, I note the appearance of the apartment building and the overall site and the general appearance of the 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. I particularly note that the subject property is located in an established residential area and is located alongside dwellings which are for the most part attractive and well maintained.
- 7.2.3. In respect of subsection (c) of Section 3 of the Act and notwithstanding the clear efforts of the Registered Owners to contain the mounting builders waste within a designated skip owned by a registered waste contractor, the extent of other various rubbish around the site evident at the time of my inspection is such that I conclude that the property falls within category (c).
- 7.2.4. In conclusion, I consider that the property does detract to a material degree from the amenity, character and appearance of land in the neighbourhood, which in my view, renders it derelict under Section 3 of the Act.

### 7.3. Action of Local Authority

- 7.3.1. The Compulsory Acquisition Report of the Local Authority dated 5<sup>th</sup> March 2024 notes that engagement with the property owners by the Housing Department has been ongoing since 2021, and more recently the Vacant Housing Unit, has yielded no improvement to the property. The Report notes that following an inspection on the 15<sup>th</sup> January 2024, the property was deemed derelict as per Section 3 of the Derelict Sites Act, 1990, as amended and that previously, as per the memo dated 8<sup>th</sup> July 2023, the Housing Department had confirmed that they had a social housing need in the area. The Local Authority consider that the property has been vacant and derelict for the past 5 years, that the site is overgrown, neglected and is distracting, to a serious degree, from the surrounding streetscape. The prominent location of the site is noted as well as the presence of footpaths, cycle lanes and established service connections. The site is considered by the Local Authority to be suitable for a range of housing needs and would be put to an immediate and critical use by the Housing Department. The Vacant Homes Officer considers that it is necessary for the Local Authority to Compulsorily Acquire the property. The recommendation has had regard to the provisions of the Development Plan and specific policies and objectives in particular, the Draft Carlow Graiguecullen Joint Local Area Plan 2024 to 2030 and relevant policies and objectives contained therein and to the Action Plan for Housing and Homelessness, particularly the stated policy objective to acquire vacant homes for social housing. The Compulsory Acquisition Report is signed by the Vacant Homes Officer, a Director of Services and the Chief Executive.
- 7.3.2. Following on from the above decision, Registered Letters were sent to 2 no. Directors and 1 no. Secretary (same name as one of the Directors) of Peppard Investments Limited (Registered Owners) dated 12<sup>th</sup> March 2024 confirming the commencement of CPO proceedings. Each of the Letters was accompanied by a Copy of the Notice dated 12<sup>th</sup> March 2024, a Copy of the Newspaper Notice dated 12<sup>th</sup> March 2024 and a Copy of a Land Registry Compliant Map dated 6<sup>th</sup> March 2024. A separate Registered Letter of the same date, 12<sup>th</sup> March 2024, was sent to Raven Limited confirming the commencement of CPO proceedings and included the same attachments as above.
- 7.3.3. On the same date, 12<sup>th</sup> March 2024, the Local Authority attached a notice and associated map to the site/ property. This is confirmed in an internal email from the

Executive Technician in the Planning Department to the Vacant Homes Officer on 12<sup>th</sup> March 2024.

- 7.3.4. Following on from this the Registered Owners (Peppard Investments Limited) contacted the Housing Department by email on 13<sup>th</sup> March 2024 seeking assistance regarding the final naming of the 4 no. apartments. In a response email on the same date, 13<sup>th</sup> March 2024, the Housing Department advised that dealings in relation to the property were now with the Vacant Homes Unit.
- 7.3.5. The Registered Owners (Peppard Investments Limited) then lodged a Letter of Objection to the Compulsory Acquisition dated 11<sup>th</sup> April 2024 (received by the Local Authority on 12<sup>th</sup> April 2024).
- 7.3.6. In a response letter dated 8<sup>th</sup> May 2024, the Town Regeneration Officer noted the letter of objection and advised, as per Section 16 of the Derelict Sites Act, 1990, as amended, that all documentation in relation to the Compulsory Acquisition will now be forwarded to An Bord Pleanála for consideration. The matter was referred by the Local Authority to An Bord Pleanála for their determination on the same day, 8<sup>th</sup> May 2024.
- 7.3.7. Having regard to the foregoing 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 the Carlow County Development Plan, 2022 to 2028, and specifically Objectives CS. O6 and CS. O12, which seek, inter alia, to address dereliction, reduce vacancy and encourage and facilitate appropriate redevelopment. I note that the Local Authority state the property has been vacant and derelict for the past 5 years. I 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 compulsory 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 the objection to the proposed compulsory acquisition lodged for and on behalf of the Registered Owners of the property which was received by the Local Authority on 12th April 2024 (dated 11th April 2024), i.e., within the stipulated period specified in the Section 15 Notices. The Registered Owners state their objective with these four properties is to complete the restoration works that are required. It is further stated that their Engineer has been in contact with the Planning office regarding the commencement notice to begin works at the properties.
- 7.5.2. At the time of my site inspection the subject property (no. 1 Assisi House), in addition to the other 3 no. apartments, was vacant and in the process of significant internal renovations. I note the stated visible works required as set out in the Derelict Site Report dated 15<sup>th</sup> January 2024. I further note that aside from the removal of some of the rubbish surrounding the site, no other visible external works, as listed in the said Derelict Site Report, have been carried out.
- 7.5.3. I note that the owner has 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'*.
- 7.5.4. Having inspected the site, I am satisfied that a demonstrably reasonable effort has been made on the part of the landowner to address dereliction and vacancy. I note that the works which would be required to address the condition of the property, specifically the indicators of dereliction set out at paragraphs 7.1.2. and 7.1.3 (above), together with the ongoing works to take the site out of dereliction and vacancy, are not structural or significant in nature and could be carried out within a reasonably short period of time and as such, I recommend that sufficient time should be afforded to undertake these works. It is considered, therefore, that it is appropriate to refuse the Local Authority's application for consent to compulsorily acquire the subject property at No. 1, Assisi House, Chapelstown, Carlow.

## 8.0 **Conclusion**

- 8.1. I am satisfied that the process and procedures undertaken by Carlow 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 proposed acquisition of the Derelict Site, Apartment No. 1 Assist House, Chapelstown, Carlow, R93K090, containing [0.1 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 12<sup>th</sup> March 2024 and on the deposit maps (Ref. VHO 201/ 202/ 203/ 204) 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.
- 8.3. I am further satisfied that the proposed acquisition of these lands would be consistent with the policies and objectives of the Carlow County Development Plan 2022-2028, and specifically Objectives CS. O6 and CS. O12, which seek, inter alia, to address dereliction, reduce vacancy and encourage and facilitate appropriate redevelopment.
- 8.4. It is further acknowledged that at the time of lodgement of the application with the Board, the acquiring authority had adequately demonstrated that the means chosen to achieve the objective would have impaired the property rights of affected landowners as little as possible, and that the effects of the compulsory acquisition on the rights of affected landowners were proportionate to the objective being pursued at the time.
- 8.5. However, having inspected the subject property and having regard to the nature and extent of the works required to address the condition of the property, and noting that sufficient works have been undertaken to date to indicate that the property will be taken out of dereliction in a timely fashion, I am satisfied the compulsory acquisition by the acquiring authority is unreasonable and disproportionate.
- 8.6. Having regard to the nature and extent of the works required to address the matters that gave rise to the derelict condition of the site, I am no longer satisfied that the grant of consent to the compulsory acquisition is justified by the exigencies of the common good at this point in time. I am of the opinion that, noting the nature and extent of the works required to address the condition of the property, it would be appropriate to allow time to progress matters on site.

## **9.0 Recommendation**

- 9.1.1. Notwithstanding the current unsightly and objectionable condition of the site which detracts to a material degree from the amenity, character and appearance of the streetscape and 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 the site and bring the property back into use, including ongoing extensive internal renovations to all 4 no. apartments, 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 Carlow County Council to the compulsory acquisition of the site.

## **10.0 Reasons and Considerations**

- 10.1. Having regard to the current unsightly and objectionable condition of the site, having considered the objection(s) made to the compulsory acquisition, and also:

- a) The Constitutional and Convention protection afforded to property rights,
- b) The public interest, and
- c) The provisions of Carlow County Development Plan 2022-2028,

it is considered that, having regard to the nature and extent of works which are required to address the dereliction on the site, that the compulsory acquisition of the site by the Local Authority is not necessary in order to render the site non-derelict. The Board is not satisfied, therefore, that the objection made cannot be sustained, having regard to that said necessity and that the compulsory acquisition and its effects on the property rights of affected landowners are proportionate to that objective and justified by the exigencies of the common good.

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

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Frank O'Donnell  
Planning Inspector

14<sup>th</sup> August 2024

