



An
Bord
Pleanála

Inspector's Report ABP-319693-24

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

3 Mulgrave Street, Limerick

Planning Authority

Limerick City and County Council

Notice Party

Pat McDonagh and Supermac's
Ireland Limited The Plaza Group

Date of Site Inspection

1st August 2024

Inspector

Ciara McGuinness

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 Cahills Bar, 3 Mulgrave Street, County Limerick, in accordance with the provisions of the Derelict Sites Act 1990, as amended.

2.0 Site Location and Description

- 2.1. The subject is located at Mulgrave Street, to the east of Limerick City Centre. The property is a two-storey building, with the ground floor previously been in use as a public house, with accommodation quarters on the first floor. The property is an end-of-terrace unit. Another public house adjoins the property to the east. To the west of the building, a gated entrance provides access to the side and rear of the property. A car dealership adjoins the site to the west. There is a mix of commercial and residential developments in the vicinity of the subject property. Limerick Court House and Limerick Prison are located on the opposite(south) side of Mulgrave Street to the subject property. Limerick College of Further Education and St. Josephs Hospital are located further east along Mulgrave Street.
- 2.2. The subject property is not a Protected Structure nor is it listed on the National Inventory of Architectural Heritage (NIAH). However, there are several Protected Structures in the vicinity, including RPS Ref 3360 (Prison Complex – Department of Justice), RPS Ref 3358 (Limerick College of Further Education) RPS Ref 3361 (Former Artillery Barracks) and RPS Ref 3334 (Pair of Detached Gatehouses). The site is not within an Architectural Conservation Area.
- 2.3. The site has an area of 0.049 hectares and is described in the notice as a former public house. On the day of my site inspection, I was able to view the front of the property from the public street. The gated side entrance was also open and therefore I was also able to view the side and the rear of the property.
- 2.4. My observations of the site on the date of the inspection include the following;
- The front windows of the public house remained boarded up.
 - The property had been painted and there was no evidence of graffiti.

- There appeared to be new mattresses visible through the first-floor windows.
- There was signage in the first-floor windows advertising a unit to let.
- Loose hanging wires and cables on the front façade had been secured/tidied.
- The side access lane had been concreted and was in a tidy condition.
- A new access door had been installed on the side elevation.
- Security system installers were on-site on the day of my inspection.
- The rear of the property was in a neglected and unsightly condition
- The rear walls were dirty and stained.
- Guttering was missing at the rear of the property.
- Windows to the rear were boarded up and broken.
- Vegetation was growing on the rear façade.

3.0 Application for Consent of 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 15th May 2023, advising of the Local Authority's intention to enter the site on the register of derelict sites, and under section 8(7), on the 26th June 2023, 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 (Pat McDonagh and Supermac's Ireland Limited The Plaza Group) on the 7th March 2024 and was published in the Limerick Post newspaper dated 9th March 2024. The site was described as follows in the notices:

- A derelict site comprising a former public house and surrounding land situate at Cahill's Bar, 3 Mulgrave Street, Limerick, containing 0.057 hectares or thereabouts. The said property and surrounding land is in a state of dereliction. The said derelict site is more particularly shown outlined in red on map bearing reference no. DS-035-23 in the Derelict Sites Register established and maintained by Limerick City & County Council under section 8 of the Derelict Sites Act, 1990.

4.1.2. I consider that the notices were in accordance with the requirements of section 15(1)(a) and (b) of the Derelict Sites Act 1990, as amended.

4.2. Objection to Acquisition

4.2.1. An objection to the proposed acquisition was received by Limerick City and County Council on the 21st March 2024 from James O'Brien & Co., LLP Solicitors on behalf of their client Pat McDonagh and Supermac's Ireland Limited. The objection can be summarised as follows;

- The property is not derelict. The premises is required for living accommodation for staff.
- Substantial refurbishment has been carried out to make the property suitable for residential accommodation.
- Sewerage facilities are not available to the property at present pending a resolution of a sewerage problem by Irish Water. The accommodation will be occupied once this is resolved. Correspondence from Irish Water is attached confirming ongoing works.
- The owners have commenced the process of bringing the derelict and vacant property back into use and have the financial means to complete this process.
- No proper engagement has taken place by the Council prior to issuing the notice. If such engagement had taken place the owners would have made the Council aware of their intentions.
- The owners have their own facilities for repair and maintenance of their properties and have carried out repairs and refurbishments to many properties in the area to date.

- The owners engineer will be happy to engage with the Council in order to clarify any issues arising.

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 9th May 2024 and was accompanied by the following:

- Local Authority Compulsory Acquisition Report (i.e. Derelict Site 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. The report included photographs and a map of the site area.
- Copy of the section 15 Notice served on the owners/occupiers of the site, dated 1st March 2024.
- Copy of the newspaper notice, dated 9th March 2024.
- Copy of objection made by James O'Brien & Co., LLP Solicitors on behalf of Pat McDonagh and Supermac's Ireland Limited.

4.3.2. The derelict site report can be summarised as follows:

- Limerick City and County have established a specialised 'Dereliction and Vacancy Team' to take an area-based collaborative approach to addressing vacancy and dereliction in Limerick City and in the towns and villages in the County. 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.
- The site detracts from the amenity, character and appearance of the well maintained properties in the area and is deemed derelict due to partially demolished/ruinous buildings, missing/broken/leaking rainwater gutters or downpipes, loose masonry or falling plaster, broken, missing or boarded up windows and doors, dirty façade/peeling paint, and graffiti.

- The council first inspected the property on 22nd February 2023 and identified it as a derelict site.
- Site ownership enquires were made through the land registry system and planning and development searches were subsequently carried out.
- On 17th February 2023, an internal complaint from Limerick City and County Councils (LCCC) Housing Support Services was received to the LCCC area Inspector to state that this derelict's sites poor condition was causing trouble with neighbouring properties and residents in the area.
- On 22nd February 2023, the area inspector made enquires on the property ownership locally and affixed a Notice of Enquiry to the property requesting anyone with information to contact LCCC.
- On 13th April 2023, a complaint was received from neighbouring commercial premises about foul smelling sewage coming from this site due to blocked pipes under the property. It was also reported that slates were falling from the roof of the building. LCCC were informed that the property may be in the ownership of the Plaza Group/Supermacs.
- On 20th April 2023, a further inspection of the property by LCCC was completed and it was noted that a phone number was visible on a sign on the top floor window. The area inspector rang the number, but it was disconnected.
- On 15th May 2023, a Section 8(2) notice was affixed to the site and posted to the Plaza Group.
- On 16th May 2023, LCCC water services section contacted the area engineer seeking access to the back of the property due to blockages reported in sewerage pipes in the area. It was confirmed to him that the property was in private ownership.
- On 30th May 2023, the inspector received a phone call from an adjoining business to complain that the sewage was backing up into their property and the business had to close. The business owner tried to contact the owners but got no response.

- On 31st May 2023, the area inspector spoke to the LCCC Water Services Engineer about the sewerage issue in the area caused by blockages from Cahill's Bar. The LCCC Water Services team were arranging the clearance of the sewerage pipes as further investigation had found the source of blockages caused. Irish Water have since carried out extensive works on the site to rectify the sewage issue in relation to the site.
- On 26th June, a Section 8(7) Notice of Entry of Land in Derelict Site Register was served to the owner and affixed to the site.
- On 27th June 2023, a representative of the Plaza Group contacted the area inspector and arranged to meet on site later that day to discuss the issues of dereliction and remedial measures required to remove it from dereliction. The owner's representative did not appear for the arranged meeting.
- On 12th January 2023, the area inspector spoke on the phone to Ms Marie Farrell of the Plaza Group to discuss the ongoing issues with the site. She said that the previous responsible representative had left the company and had not informed Ms Farrell of the issues with the site. The area inspector followed up the phone call with an email to Ms Farrell. No further correspondence was received from Ms Farrell or the Plaza Group.
- Further site inspections were completed by LCCC on 18th January 2024, 8th February 2024 and 26th February 2024. No improvements had been made by the owner to resolve the dereliction.
- It is the contention of the council that the inaction of the property owners and failures of their duties under the Derelict Sites Act that jeopardises the future use of properties in the area due to their continued neglected and derelict state. In this case, the property continues to deteriorate and attract negative attention in a key area of Limerick City. The only option available to the council is to acquire this property compulsorily.

4.4. Objectors Submission

- 4.4.1. A submission by James O'Brien & Co., LLP Solicitors on behalf of Pat McDonagh and Supermac's Ireland Limited The Plaza Group in response to the application for

compulsory acquisition, was received by the Board by email on 3rd June 2024. The submission is summarised as follows;

- The Council failed to utilise less intrusive powers under the 1990 Act. This is contrary to the approach outlined in the Local Authority's Compulsory Acquisition Report
- Having regard to failure of the Council to engage with its powers under the 1990 Act (such as issuing a Section 11 notice) as well as the relatively short time period since the issued of dereliction was raised, it is considered that the proposed acquisition is disproportionate, inappropriate and unnecessary.
- Reference is made to court rulings (Reid v Industrial Development Agency & Ord [2015] IESC 82, Clinton v An Bord Pleanála [2007] 4 I.R. 701, Egan v An Bord Pleanála [2011] IEHC 44) with regards to general principles applicable to compulsory acquisition.
- It is not clear which of the three sub-provisions (a-c) the Council is relying on in the Compulsory Acquisition Report. The basis for asserting the property comprises a Derelict Site, by reference to the aforesaid statutory criterion, is not engaged with beyond listing some unspecified matters.
- There is a lack of detail and evidence presented by the Council to demonstrate that the property is a derelict site. The proposed acquisition should be determined upon the current condition of the property.
- No photographic evidence is provided to support the neighbouring property's claim as referenced in the Compulsory Acquisition Report. The evidence is deficient for meeting the definition of a derelict site under Section 3 of the 1990 Act.
- The owners are complying with their duty under Section 9 of the 1990 Act 'to take all reasonable steps to ensure the land does not become or does not continue to be a derelict site.'
- The Council failed to issue a Section 11 Notice. Noting the relatively minor nature of the issues raised in the Compulsory Acquisition Report, it is notable that having entered the property on the Derelicts Sites Register on 26th June

2023, no further action was taken by reference to any of the Council's powers under 1990 Act, until the decision to seek to acquire the property.

- Under Section 11 the Council have further powers to carry out works and seek to recover costs of same. The Council is also vested with enforcement powers for non-compliance with a section 11 Notice. The Council has not demonstrated how the proposed compulsory acquisition can be considered to be proportionate, appropriate or necessary in circumstances where it has failed to engage less intrusive power which serves to achieve the same purpose as the acquisition.
- The Council have only carried out limited inspections of the property. No inspections of the interior of the property appear of have occurred or been requested.
- The owners have a need for the property including in relation to providing accommodation for staff. Works have been carried out by Barrabehy Limited (building contractors) who have been engaged since August 2023 in respect of the property. Written confirmation from Barrabehy Ltd is enclosed with the submission.
- Substantial refurbishment works have been carried out. One apartment in the property is ready for occupation once public services are connected. Works continue on the remainder of the property. The owners have incurred significant costs carrying out these works.
- Sewerage facilities have only been made available to the property in April of this year. The issue in relation to sewage is now resolved. Correspondence from Irish Water is submitted in this regard.
- The owners do not have a history of neglecting property.
- The Council last inspected the property in February 2024. The works to the site have subsequently been completed. Photographs of the works to date are enclosed with the submission.
- Reference is made to previous Board decisions (ABP-315677-23 & ABP-310713-21) and the rationale applied in refusing consent to such acquisitions.

- The following documents have not been provided to the Board;
 - Chief Executives Order in relation to the decision of the Council to proceed to acquire the property by way of Compulsory Acquisition.
 - Chief Executives Order in relation to the statutory notices issued under the 1990 Act
 - Compliance with S.6 and the service requirements thereunder
 - A copy of the Derelict Sites Register
- It is requested that the Board hold an Oral Hearing in relation to the compulsory acquisition of the site.

5.0 Planning History

PA Reg Ref: 00/770100 – Permission granted in July 2000 for an extension to the rear of the licenced premises known as "Cahill's" and the conversion of a portion of the first floor area to a self contained apartment.

6.0 Policy Context

6.1. Limerick Development Plan 2022-2028

6.1.1. The subject property is zoned 'City Centre' in the Limerick Development Plan 2022 – 2028, the objective of which is 'to protect, consolidate and facilitate the development of the City Centre commercial, retail, educational, leisure, residential, social and community uses and facilities.'

6.1.2. The following Development Plan objectives are considered relevant;

Strategic Objective 4

'...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 in which to live, work, visit and invest. ...'

Objective CGR 04 Active Land Management

It is an objective of the Council to:

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.

Objective CGR 06 Derelict Sites

It is an objective of the Council to utilise the provisions of the Derelict Sites Act 1990, including the maintenance of a Derelict Site Register and CPO powers to address instances of dereliction and decay in the urban and rural environment and bring properties back into active reuse.

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 of Issues

7.1. Site Inspection

- 7.1.1. Internal access to the property was not possible on the date of my site inspection on 1st August 2024, however I was able to view the site from the public road and from the laneway adjoining the property to the west. The condition of the site at the time of my site inspection was a vast improvement to how the property looked from the most recent photographs taken by the Local Authority dated 7th March 2024.
- 7.1.2. My observations of the site on the date of the inspection include the following;
- The front windows of the public house remained boarded up.
 - The property had been painted and there was no evidence of graffiti.
 - There appeared to be new mattresses visible through the first-floor windows.

- There was signage in the first-floor windows advertising a unit to let.
- Loose hanging wires and cables on the front façade had been secured/tidied.
- The side access lane had been concreted and was in a tidy condition.
- A new access door had been installed on the side elevation.
- Security system installers were on-site on the day of my inspection.
- The rear of the property was in a neglected and unsightly condition
- The rear walls were dirty and stained.
- Guttering was missing at the rear of the property.
- Windows to the rear were boarded up and broken.
- Vegetation was growing on the rear façade.

7.1.3. The site is located in a prominent location within Limerick city near a number of public buildings and community services. There are also number of commercial and residential properties along Mulgrave Street which are well maintained and are in good condition. The works carried out since the application has been submitted have significantly addressed the state of dereliction. I note that the structural condition of the building and the condition and appearance of the external walls, windows, doors, roof and rainwater goods on the front and side elevations, which are comparable to the condition of the adjoining properties within the terrace. However, I consider that further additional works would be required to take the property out of dereliction. Issues with the rear façade have not been addressed, however I note that this façade is not publicly facing and cannot be viewed from the public road.

7.2. Category of Dereliction

- 7.2.1. I note that the Local Authority considered that the property and lands fell under Categories (a) (b) and (c) of Section 3 of the Derelict Sites Act 1990, as amended.
- 7.2.2. The building appears to be in reasonable structural condition externally. There is no obvious evidence of significant cracking or structural damage to the external walls. I consider therefore that the site does not fall under category (a) of Section 3 of the Derelict Sites Action 1990, as amended.

- 7.2.3. I did not notice any litter or rubbish within the site, or any evidence of waste being stored. Therefore, I am satisfied that the site does not fall under Category (c) of the Derelict Sites Act 1990, as amended.
- 7.2.4. While the subject structure and lands may be considered to still fall under Category (b) of Section 3 of the Derelict Sites Act, as amended, however having regard to the condition of the site on inspection, it is my view that the structure and lands do not detract to a material degree from the amenity, character, and appearance of land in the neighbourhood and therefore, does not constitute a derelict site within the meaning of Section 3 of the Derelict Sites Act, 1990, as amended.

7.3. Action of Local Authority

- 7.3.1. I note the actions of the Local Authority and the statutory notices served on the owner/occupier in respect of the site. Section 8(2) notices were served on the owner on 15th May 2023, advising of the Local Authority's intention to enter the site on the Derelict Site Register. Section 8(7) notices were subsequently served on the owner on 26th June 2023, advising the owner that the site had been entered on the Derelict Sites Register. A Section 15(1) notice was served on the owners on the 7th March 2024 and published in the Limerick Post newspaper dated 9th March 2024 regarding the Local Authority's intention to acquire the site compulsorily. Having regard to the above, I am satisfied that the Local Authority complied with the requirements of Section 8(2), Section 8(7) and Section 15 of the Derelict Sites Act 1990, as amended.
- 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 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. I note that the Council did not exercise this power.

7.3.3. Furthermore, having regard to the observed condition of the subject property, I am not satisfied that the condition of the site is so unsightly and objectionable that it detracts to a material degree from the amenity and character of the neighbourhood. I am not satisfied, therefore, that the process and procedures undertaken by Limerick City and County Council have been fair and reasonable, or that the Local Authority has demonstrated the need for the lands, or that all the lands being acquired are both necessary and suitable to ensure that the lands do not continue to be a derelict site.

7.4. Compliance with Development Plan

7.4.1. I note that the Limerick Development Plan 2022-2028, specifically Policy CGR P4 and Objectives CGR 04(b) and CGR 06, seeks to address instances of dereliction and decay in the urban and rural environment, seeks to reuse and revitalise derelict, vacant and underutilised sites and disused buildings and bring properties back into active reuse. Therefore, I consider that the subject property and proposed compulsory acquisition would be consistent with the policies and objectives of the Development Plan and would 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 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 an unsightly and neglected condition at the time that the application to acquire the site was lodged. However, having inspected the site in August 2024, I observed that there is evidence that the owner has undertaken action to address the unsightly and neglected condition of the site, and in my opinion, it is likely that the owner will continue to address the indicators of dereliction of the property. I noted that the refurbishment works had been undertaken at first floor level, the front façade had been painted and tidied of any loose/hanging wires and that the access lane at the side of the property had been cleared and concreted. Thus, whilst the site, and in particular the rear of the site remains in a neglected and unsightly condition, I am of the opinion that it does not materially detract from the amenity and character of the

area to an unacceptable degree. I would also 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.

- 7.5.2. Having regard, therefore, to all of the information available on the file and the appearance and condition of the subject property, it is considered that the site does not detract to a material degree from the amenity, character and appearance of land in the neighbourhood and that there is evidence that adequate efforts are being made to address the unsightly and objectionable condition of the site, 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 Mulgrave Street, Limerick.

7.6. Oral Hearing

- 7.6.1. The Board decided, by Direction dated 16th August 2024, that an oral hearing was not warranted in relation to the subject case, as it was considered that there was sufficient written evidence on file to enable an assessment of issues raised

8.0 Conclusion

- 8.1. 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 surrounding land situate at Cahill's Bar, 3 Mulgrave Street, Limerick, containing 0.57 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 1st March 2024 and on the deposited maps no. DS-035-23, 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.
- 8.2. I am further satisfied that the proposed acquisition of these lands by the acquiring authority, which are currently in an unsightly and objectionable condition, was consistent with the policies and objectives of the Limerick Development Plan 2022-2028, and specifically Objective CGR 04(b) and CGR06 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.

However, I am not satisfied that the condition of the site is so unsightly and objectionable that it detracts to a material degree from the amenity and character of the neighbourhood.

- 8.3. I am not satisfied, therefore, that the process and procedures undertaken by Limerick City and County Council have been fair and reasonable, or that the Local Authority has demonstrated the need for the lands, or that all the lands being acquired are both necessary and suitable to ensure that the lands do not continue to be a derelict site. It is further acknowledged that the acquiring authority has not adequately demonstrated that the means chosen to achieve the objective in the public interest 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.
- 8.4. 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 alternatives are such as to render the means chosen and the compulsory acquisition by the acquiring authority unreasonable or disproportionate. Having regard to the current condition of the site and the efforts made to date by the owner to address the unsightly and objectionable condition of the site, I am no longer satisfied that that the grant of consent to compulsorily acquire the lands is justified by the exigencies of the common good at this point in time.

9.0 Recommendation

Notwithstanding the current unsightly condition of the site, the site does not detract to a material degree from the amenity, character and appearance of the streetscape and surrounding land in the neighbourhood. Furthermore, there is evidence of ongoing efforts being made by the Notice Party to address the unsightly and objectionable condition of the site. I do not, therefore, consider it reasonable that the Local Authority seeks to compulsorily acquire that land as provided for in Section 14 of the Derelict sites Act. I recommend, therefore, that the Board refuses consent to Limerick City and County Council to the compulsory acquisition of the site.

10.0 Reasons and Considerations

10.1.1. Having regard to the current unsightly and objectionable condition of the site, having considered the objection 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 the Limerick Development Plan 2022-2028,

It is considered that the site does not detract to a material degree from the amenity, character and appearance of land in the neighbourhood, and that having regard to the efforts made to date by the owner to address the unsightly and objectionable condition of the site, the compulsory acquisition of the site by the Local Authority is not necessary, in order to render the site non-derelect. The Board is not satisfied, therefore, that the objection 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.

Ciara McGuinness
Planning Inspector

27th August 2024