



An
Bord
Pleanála

Inspector's Report

ABP-320132-24

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

No. 1 & No. 2 Ralph Square, Leixlip, Co. Kildare

Local Authority

Kildare County Council

Notice Party

Moriarity Investments Limited

Date of Site Inspection

23rd August 2024

Inspector

Frank O'Donnell

1.0 Introduction

- 1.1. This case relates to a request by Kildare County Council for the consent of An Bord Pleanála to the compulsory acquisition of the subject site at No. 1 & No. 2 Ralph Square, Leixlip, County Kildare, 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 no. 1 and no. 2 Ralph Square, Leixlip, County Kildare. The subject property comprises 2 no. vacant two storey terraced dwelling structures and associated side and rear amenity space. The subject property has a stated area of 0.4 hectares (400 sqm). There are a number of shop units on the ground floor of the adjacent buildings located to the immediate east and southeast of the subject property, some of which are vacant. It appears that the upper floor of the adjacent building to the immediate southeast is in use for residential purposes. The adjacent site to the immediate west comprises the Court Yard Hotel and an associated landscaped area to the south along the north bank of the River Liffey.
- 2.2. The subject property is listed as a Protected Structure (RPS No. B11-28) (House) and is also listed on the National Inventory of Architectural Heritage (NIAH) (Ref. 11804077) (No. 1 Ralph Square). The site is also located within an Architectural Conservation Area (ACA).
- 2.3. On the day of my site inspection, I was unable to gain entry to the interior of the 2 no. dwelling structures (no. 1 Ralph Square and no. 2 Ralph Square) and the property was unoccupied.
- 2.4. I specifically note the following:
 - The exterior front elevation of the 2 no. dwelling structures (no. 1 Ralph Square and No. 2 Ralph Square) including all front window and front door surrounds and all associated timber boards within the said openings were recently cleaned and painted. The sides and rear of the said 2 no. dwelling structures do not appear to have been recently cleaned or painted.

- The side garden space to the immediate south of the southern dwelling structure (no. 2 Ralph Square) had significant low-level weed growth with some overgrowth of ivy on the eastern stone wall of the said garden.
- The rear yard spaces of each of the 2 no. dwelling structures was overgrown with trees and shrubs and was impenetrable as a result.
- The top of the rear stone wall to the west of the site was overgrown with weeds and ivy.

3.0 Application for Consent for Acquisition

3.1. Kildare 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 Kildare County Council serving a notice under Section 15 of the Act on 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 Kildare County Council's intention to compulsorily acquire the site was served upon the owners/ occupiers (1. Moriarity Investments Limited and 2. Yvonne Moriarity) dated the 23rd May 2024 and was published in the Leinster Leader dated 28th May 2024. The site was described in the notices, as follows:

- *'A derelict site comprising a 2x Semi-detached residential premises and surrounding land at 1 and 2 Ralph Square, Leixlip, County Kildare containing 0.04 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 23-102 and is entered on the Derelict Site Register established and maintained by Kildare County Council under Section 8 of the Derelict Site Act 1990 (as amended) being all the property comprised in the Register of Deeds Co. Kildare.'*

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/ reputed owner (Moriarity Investments Limited) expressing objection to the proposed acquisition was submitted to Kildare County Council.

4.2.2. The objection to the proposed acquisition was submitted by letter to Kildare County Council by Porter Morris Solicitors for and on behalf of Moriarity Investments Limited and is dated 1st July 2024. The grounds of objection can be summarised as follows:

- The subject property (No. 1 Ralph Square and no. 2 Ralph Square) are not derelict properties and cannot therefore be subject to procedures set out in the Derelict Sites Act, 1990.

The threshold to meet the test is very high and includes terms that are required to be complied with such as ruinous, derelict, dangerous, neglected and objectionable. None of these said terms relate to the subject property in the manner referred to by the Local Authority or at all.

The approach adopted by the Local Authority in this regard is fundamentally misconceived.

- There is no basis, reasons or justifications attached to the Notice dated 23rd May 2024.

The lands cannot be found to detract or be likely to detract to a material degree from the amenity and character or appearance of land in the neighbourhood. Nor does it fall into any heading that could justify the proposed compulsory acquisition and cannot therefore proceed on this basis.

- It is impossible to formulate proper grounds of objection owing to the absence of any basis. The Notice does not state the said basis. In the absence of such basis or justification, the Landowner should not be required to speculate.

The Notice is contrary to statute, ultra vires, contrary to fair procedures and natural law/ or constitutional justice.

- The properties or property are the subject of three separate protections under the Irish Constitution (Bunreacht na hEireann) namely Articles 40.3, 43 and 40.5. The approach taken by the Local Authority is extraordinary in this regard.

It appears there has been no inspection, assessment or analysis conducted by a suitably qualified individual prior to the issuing of the Notice. If there was an assessment, the failure of the Local Authority to make this accessible to the landowner is disturbing.

- It is impossible to formulate grounds of objection in the absence of information such as justification for the issuing of the Notice and the basis upon which it has been served. The landowner appears to be required to speculate in this regard. This is entirely unacceptable and in the absence of said justifications and basis, the Notice should be immediately withdrawn.

It is not within the powers of the Local Authority to retrospectively correct defects in the Notice. The Notice cannot be rectified and is void ab inito.

- The Notice (Parts I and II) are ambiguous, contradictory and confused.

Part I of the Notice is deemed by the Local Authority not to apply. This part of the notice deals with lands consisting of a house unfit for human habitation and not capable of being rendered fit for human habitation.

Part II of the Notice is deemed by the Local Authority to apply although this relates to lands other than a house unfit for human habitation. The property is referenced as a single dwelling.

This makes it impossible to engage with the Notice.

The Notice must be rejected as it does not appear to refer to the nature or description of the property on page 1.

Should it be decided to proceed and engage with the application given the highlighted defects and flaws of the Notice, the submission/ objection is made without prejudice to any proceedings which may be brought.

- The current hotel structure contains a total of 40 no. bedrooms and is not fit for purpose. The subject property at no. 1 and no. 2 Ralph Square forms a

crucial part of the future redevelopment of said hotel. A scenario where the owners were unable to extend and redevelop the hotel, including the subject property, would seriously undermine the operational viability of the business and would lead to damages and losses.

A planning application for the proposed redevelopment of the hotel to include the subject property is to be lodged in the next 7 to 8 weeks.

Despite ongoing liaising with the Local Authority in respect of their future plans for the property it is extraordinary that in the midst of said process, the Local Authority would proceed to compulsorily acquire the subject property.

The subject property is vital for the future viability of the owners' hotel business and the future of Leixlip urban core. This is something which is recognised by both parties.

- No regard has been had by the Local Authority to correspondence between both parties.

The posting of the Notice to part of the property by the Local Authority resulted in correspondence which indicated that the intention was to prepare a masterplan for the redevelopment of the overall area. This said correspondence was followed by correspondence from an appointed Architect where extra time was sought to prepare and make the application.

The Notice was served on 23rd May 2024 in response to this said correspondence.

- A Company representative sought disclosure of documentation grounding the making of the Notice and was advised that this would be made available on inspection on the identified date. The documentation was not available.

This is unacceptable whereby a public authority should behave in this manner.

- The address for the submission is indicated in the Notice to be the Vacant Homes Section of the Local Authority. The subject compulsory acquisition appears therefore to be being pursued by a section who deal with the provision of vacant homes. The purpose of the Notice appears to be the Derelict Sites Act. It would appear the real purpose is different which amounts

to an abuse of process. As a result, the Notice should not be considered further, should be rejected on this single basis as it appears to serve a separate purpose.

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 8th July 2024 and included the following:

- Copy of an undated Local Authority Derelict Site Report/ Memo signed by a Director of Services which confirms that the acquisition of the subject property, in order to address town centre vacancy and dereliction, would accord with the objective of the Kildare County Development Plan, 2023 to 2029 and with the Leixlip Local Area Plan 2017 – 2023 (extended to 2026).
- Copy of a Local Authority Certification/ Memo dated 14th May 2024 signed by a Director of Services which certifies that the acquisition of the subject property/s via compulsory acquisition would be in accordance with the policies and objectives of the Kildare County Development Plan, 2023 to 2029, including Objective RET A3 and the Leixlip Local Area Plan 2017 to 2023 (extended to 2026) including Objective TCR 1 and where the site on which the lands are situated and zoned 'Town Centre' and where it is the objective of the planning authority to *'tackle vacant residential and derelict sites within town centres'*.
- Copy of the Local Authority Chief Executive Officer's Order that the property be acquired compulsorily in accordance with the Derelict Sites Act, as amended, dated 20th May 2024.
- Copy of a Compulsory Acquisition Deposit Map relating to the subject property dated 23rd May 2024, Scale 1:1,000, file no. 23-102.
- Copy of
 - 1) Local Authority Compulsory Acquisition Order (no. 4, 2024) relating to the subject property.
 - 2) Attached Schedule dated 23rd May 2024, signed by the Chief Executive and Cathaoirleach.

- Copy of 2 no. Registered Letters dated 23rd May 2024 sent by the Local Authority to (1. Moriarity Investments Limited and 2. Yvonne Moriarity) notifying them of the intention to acquire the subject property compulsorily under the Derelict Sites Act, 1990. The letter advises where the order can be viewed and further advises that a submission can be made by any owner, lessee or occupier (except a tenant for a month or a period less than a month) on or before 2nd July 2024. The letter is accompanied by a Copy of the Section 15 1) a) Notice (Section 15 1) a) of the Derelict Sites Act, 1990, as amended) and a copy of the Compulsory Acquisition Deposit Map.
- Copy of a Local Authority list of Registered Post, dated 23rd May 2024 confirming Registered Post Receipt numbers for the following recipients:
 - Moriarity Investments Limited,
 - Yvonne Moriarity.
- 3 no. Photographs of the Notice affixed to the subject property.
- Copy of Newspaper Notice from the Leinster Leader dated 28th May 2024.
- Copy of Objection to the proposed compulsorily acquisition lodged for and on behalf of Moriarity Investments Limited by their appointed Solicitors dated 1st July 2024.
- Copy of Local Authority comments on Objection Letter of 1st July 2024 from the said appointed Solicitors – CPO No. 4 of 2024 – 1 and 2 Ralph Square, Leixlip, County Kildare.
- Copy of the Local Authority Cover Letter to An Bord Pleanála in respect of the proposed compulsory acquisition dated 4th July 2024.

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

- The Report/ Memo relates to the subject property, No. 1 Ralph Square and No. 2 Ralph Square, Leixlip, Co. Kildare. It is stated that a review has been carried out.
- Specific reference is made to Objective RET A3 of the Kildare County Development Plan, 2023 to 2029 and Objective TCR 1 of the Leixlip Local Area Plan, 2017 to 2023 (Extended to 2026).

- The site is stated to be zoned ‘Town Centre’ in the Leixlip Local Area Plan, 2017 to 2023 (Extended to 2026) where, it is further stated that it is an objective of the Planning Authority ‘*to tackle vacant residential and derelict sites within town centres.*’
- It is stated that on the above basis the compulsory acquisition of the subject property, in order to address vacancy and dereliction, would accord with the objectives of the Kildare County Development Plan, 2023 to 2029 and with the Leixlip Local Area Plan, 2017 to 2023 (Extended to 2026).

4.4. Local Authority comments on Objection Letter of 1st July 2024

4.4.1. A Response submission from the Local Authority to the letter of objection dated 1st July 2024 and dated 4th July 2024 forms part of the application documentation. The submission is prepared by the Acting Vacant Homes Officer and can be summarised as follows:

- Section 3 of the Derelict Sites Act, 1990, as amended, is quoted in full.
- It is stated that 4 no. Inspections were carried out on 25th January 2023, 26th June 2023, 18th September 2023 and 12th April 2024. It is stated that reports/ assessments were then completed and that it was confirmed that subsections a) and b) of the Derelict Sites Act, 1990, as amended applied to the protected structures units 1 and 2 Ralph Square.
- The following chronology of events is then provided:
 - 15th February 2023: The Local Authority was informed by the Owners as to their intentions to lodge a planning application for the subject property, including a masterplan for the area.
 - 27th September 2023: A Pre-Compulsory Purchase Order (CPO) Notice was erected on the site/ subject property.
 - 17th October 2023: A Chief Executive’s Order was signed which recommended that the site/ subject property be Compulsorily Acquired. Based on a submission received from an appointed Architect on behalf of the owners stating that a Masterplan would be submitted by the end of 2023 followed by a planning application in early 2024, it was decided

not to proceed with the CPO at that stage. It is stated that no such documentation has been received to date.

- 22nd April 2024: The Local Authority issued a Registered Letter and email to the Owner and the appointed Architect seeking an update. The said correspondence stated that the Local Authority had provided sufficient time for the vacancy/ dereliction to be addressed and that they had been more than lenient.
 - 23rd May 2024: As a result of complaints received from members of the public, investigations carried out by the Local Authority which confirm the dereliction and the fact that commitments made by the owners since 15th February 2023 to address dereliction had not been honoured, a Notice was issued.
 - 24th June 2024: An email and Registered letter was sent to the Owner which included all documents which were available to view. On the same day the Local Authority issued an email to the owner advising that, if required, all documents would be available for public viewing. No response was received from the Owner confirming his attendance at the offices and therefore the said documents were not available at the time the visit occurred.
- It is stated that both the Derelict Sites Team and the Vacant Homes Team fall within one remit with the Housing Department of the Local Authority.

4.5. Objector's Submission

- 4.5.1. 1 no. objector's submission was received by An Bord Pleanála on 01st August 2024 for and on behalf of the property Owners.
- 4.5.2. The 1 no. objectors' submission is presented under the main headings of Introduction, Background, Site Location and Description, Planning Policy Context, Proposed Development, Compulsory Purchase Order and Conclusion. The objectors' submission is also accompanied by 3 no. Appendices which include a Copy of An Bord Pleanála's Letter dated 10th July 2024 (Appendix A), a copy of comments from Kildare County Council on the objection (Appendix B) and Drawings for a proposed redevelopment of the subject property (Appendix C).

- 4.5.3. It is stated that the Owners are entirely intent on developing the site and that they intend to submit a planning application. This proposed development seeks to integrate the subject property as part of the overall redevelopment and expansion of the hotel (Court Yard Hotel) located to the west of the subject property. This is essential to the financial viability of the hotel, a significant financial driver for Leixlip. It is requested that the Board consider this forthcoming application and, in doing so, reject the compulsory acquisition application lodged by the Local Authority. A planning application will be lodged for and on behalf of the owners not later than September 2024. Following consent, works are anticipated to commence in late 2025 or early 2026.
- 4.5.4. The Objectors Submission provides a chronology of relevant events from 30th January 2023 (when a non-registered letter was received by the Owners in relation to Vacant Property) to 23rd May 2024 (Notice of Compulsory Acquisition). Reference is also made to the letter of Objection lodged to the Local Authority on behalf of the Owners dated 1st July 2024 and to the later comments to same from the Local Authority dated 4th July 2024. The proposed compulsory acquisition is, in summary, considered by the owners to be premature.
- 4.5.5. The Owners consider that the proposed development, as presented in the supporting drawings attached as appendix C of the Objection Submission, is consistent with the provisions of the Kildare County Development Plan, 2023 to 2029, the Leixlip Local Area Plan 202 to 2023 (Extended to March 2026) and the Leixlip Town Renewal Masterplan. A considerable number of relevant policies and objectives are quoted in this regard.
- 4.5.6. The Owners' proposed development is discussed in Section 5.0 of the submission. It is stated that the owners will submit a planning application for the site. The Owners wish to ensure the Board that through this process their engagement with the Local Authority has been ongoing and that they are committed to developing the site. It is stated that the application has been delayed due to various reasons which are beyond the control of the owner. The reasons are stated to include the liquidation of the appointed Architectural Firm and the appointment of a new Architect which took some time. It is stated that new Architects have been appointed to prepare the new application. Extracts from the drawings/ proposals are provided. The Owners have provided figures of their expenditure since 2020 which includes the existing site and

the purchase of 2 other buildings on the Main Street. The Owners wish to stress the critical importance of the subject property to the development of their Company. The existing hotel, which only has 40 bedrooms, is not financially viable and the extension of same to include the subject property is essential in this regard and in order to maintain overall financial viability. The development of the subject property is also vital for the viability of the urban core of Leixlip. A high-level Masterplan has been presented by the Project Architects and agreed with the Owners.

4.5.7. The Owners refer to and summarise the Letter of Objection dated 1st July 2024. Reference is made to the Response of the Local Authority dated 4th July 2024 and to a Letter from the Board dated 10th July 2024 inviting a response to the Letter of the Local Authority. The Owners' response can be summarised as follows:

- The site is not Derelict, particularly one which is deemed appropriate for compulsory acquisition. The building is vacant. It has always been the intention of the owners to develop the subject property and the Local Authority is aware of this and that the owners are actively preparing a development proposal, which is the same purpose of the subject CPO. The Owners wish to see the vacant building developed. It is hoped the said buildings will be removed from the Derelict Sites Register and any process for their Compulsory Acquisition.
- The Local Authority were notified on 26th April 2024 by the Project Architect that the Owners were progressing a planning application. A separate email was sent to the Local Authority by the Project Architect on 20th May 2024 stating, inter alia, that it was anticipated that an application would be lodged by the end of August/ End of the summer.
- The Notice was served on the Owners on 23rd May 2024.
- The Owners consider that the approach of the Local Authority with regards to the subject property has not been fair and reasonable despite engaging with the Local Authority and seeking to progress a planning application. Owing to delays beyond the control of the Owners the planning application has been delayed. The Board is requested to consider the Owners long term commitment and contribution to the local economy and, in doing so, to not

consent to the proposed Compulsory Acquisition as proposed by the Local Authority.

4.6. **Oral Hearing**

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

5.0 **Planning History**

5.1. Planning History

- There is no planning history relating to the subject property.

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. Local Planning Policy Context

Kildare County Development Plan 2023 to 2029

6.2.1. The following Chapters, Sections, Actions, Policies and Objectives are of relevance to the subject proposal.

6.2.2. Chapter 8.0: Urban Centres and Retail

- Section 8.13: Re-Use and Regeneration of Derelict and Underutilised Land and Buildings
 - It is stated that

- *Re-use and regeneration of derelict/obsolete/underutilised land and buildings in town and village centres is a sustainable and desirable objective in helping to preserve and restore the character and quality of centres, particularly when having regard to the vernacular/historical architecture, scale, height, density and massing.*

Objectives

It is an objective of the Council to:

- **RET O77** *Work with applicants and development interests to explore the potential of suitable, available and viable land and buildings for retail and other town centre uses across all centres in the County Retail Hierarchy. The Council may facilitate and engage in active land management strategies so as to encourage regeneration and ensure viable land parcels for retail development in preference to edge of centre and out-of-town sites.*

Action

It is an action of the Council to:

- **‘RET A3:** *Identify obsolete and potential renewal areas and, through active and positive engagement with landowners, to encourage and facilitate the re-use and regeneration of derelict land and buildings in the county’s main towns, villages and smaller centres. The Council will use its statutory powers, including the Derelict Sites Act (as amended), the Vacant Site Levy 4 and/or Compulsory Purchase Order, where necessary.’*

Leixlip Local Area Plan, 2017 to 2023 (Extended to 2026)

- 6.2.3. The duration of the Leixlip Local Area Plan, 2017 to 2023 was extended to 2026 by means of a resolution by Kildare County Council to adopt Amendment No. 1 of the Leixlip Local Area Plan 2020-2023 (as extended to 2026) at a special meeting held on the 25th March 2024. The Amendments are effective as of the 6th May 2024.

- 6.2.4. The subject property is zoned 'Town Centre' where the relevant zoning objective is *'to protect, improve and provide for the future development of Town Centres.'*
- 6.2.5. The subject property is located within an Architectural Conservation Area, as per the Built Heritage and Archaeology Map, (Map no. 3) of the Local Area Plan. The subject property is also identified as a Protected Structure (B11-28) on the same map. The property is located within the defined Town Centre Regeneration Area as shown on the Land Use Zoning Map, (Map no. 4) of the Local Area Plan.
- 6.2.6. The property is similarly identified within an area which is subject to a Flood Risk Assessment, see Leixlip Flood Risk Map (Map no. 5) of the Local Area Plan.
- 6.2.7. Section 5.0 of the Local Area Plan relates to the Town Centre and Retailing. Section 5.2 relates to Retailing where Objective UCR2.7 reads as follows:

'UCR2.7: To encourage and facilitate the re-use and regeneration of derelict land and buildings for retail and other town centre uses, with due cognisance of the character, heritage and design requirements for the Architectural Conservation Area (ACA).'

- 6.2.8. Section 5.3 relates to Town Centre Regeneration and includes the following Town Centre Regeneration Objective:

'TCR1: To facilitate and progress the regeneration of the town centre through 'Active Land Management' measures set out under the Urban Regeneration and Housing Act 2015 (as amended) and the Derelict Sites Act 1990 (as amended).'

- 6.2.9. A number of Public Realm Improvements are set out in Section 5.5 of the Local Area Plan. Section 5.5.3 specifically relates to Public Realm Objective 3: Ralph Square and reads as follows:

'Public Realm Objective 3: Ralph Square

Ralph Square is a small square opposite Captain's Hill which has the potential to link the Main Street to the riverside. While the area is too small to form a square of civic proportions it does have the potential to create a very attractive space due to its narrow entrance and the small scale of the surrounding development.

There are a number of existing commercial uses located along the square which attract vehicular traffic reducing the potential to create a pedestrian centre. In addition, to the south of the square which opens onto the River Liffey walkway, there are a number of derelict properties. The regeneration of this area has the potential to attract enterprises which stimulate pedestrian movements through this space connecting Main Street to the River Liffey.

Objective 3 may be achieved through:

- Upgrades to building façades, where appropriate, within Ralph Square;*
- The provision of soft landscaping to enclose the square and provide relief from hard urban materials;*
- A focus on pedestrian access (to/from the town centre to Ralph Square) and active uses to encourage a vibrant atmosphere (see Figure 5-6, overleaf);*
- The removal of parking and resurfacing the square with natural stone or paving;*
- The refurbishment and reoccupation of units south of the square for active uses and over the shop living; and*
- The provision of a focal entrance to the proposed riverside walkway.'*

6.2.10. Section 10 of the Local Area Plan relates to Built Heritage and Archaeology. Section 10.1.1 relates to the Record of Protected Structures where, in table 10-1 (Record of Protected Structures, Extract from the Kildare County Development Plan, 2017 to 2023) the subject property is listed (Ref. no. B11 – 28). Objective BH1.9 is of relevance to the subject proposal and reads as follows:

BH1.9: *To address dereliction, vacancy and promote appropriate and sensitive reuse and rehabilitation of Protected Structures.'*

Leixlip Town Renewal Masterplan

6.2.11. The Leixlip Town Renewal Masterplan is a non-statutory document which was issued on 8th March 2023. Following an Urban Design Analysis of the Town together with Public Consultation, a total of 4 no. Town Centre Delivery Projects were identified. Delivery Project No. 1 relates to the Main Street and Key Spaces –

Terraces and Thresholds. Together with Arthurs Square and Town Thresholds to the East and West, this includes the Captains' Hill area and the area around Ralph Square, including the subject property.

6.2.12. The Proposals in Detail for the Captains Hill and Ralph Square Areas are set out on pages 55, 56 and 59 of the Masterplan. With specific reference to Ralph Square the following proposals are of note:

- Proposed Public Realm improvements to include the creation of a new public space at Ralph Square,
- Proposed new landscaped space at Ralph Square and a Landscaped Pedestrian Route to the front (east) of the subject property (see proposed image on page 56),
- Provision of a Heritage Play Trail on the Northern Bank of the River Liffey to the South of the subject property and accessed via Ralph Square (see page 68).

7.0 **Assessment**

7.1. Site Inspection

7.1.1. I carried out my site inspection on 23rd August 2024. Internal access to the 2 no. buildings was not available. I inspected the front, sides and rear of 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 subsection (a) of Section 3 of the Derelict Sites Act, 1990, as amended, 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.

7.2.2. In respect of subsection (b) of Section 3 of the Act I note that although some works have been carried out to address the indicators of dereliction particularly the cleaning and painting of the front elevations, window and door surrounds and boards to said openings, I further note the general appearance of the remainder of the property

having a neglected, unsightly and objectionable condition and I consider that the site falls within subsection (b) of Section 3 of the Derelict sites Act, 1990. I particularly note that the subject property is located alongside buildings which are for the most part attractive and well maintained.

7.2.3. I do not consider the property falls within subsection (c) of Section 3 of the Act as there was no rubbish evident at the time of my inspection.

7.2.4. In conclusion, I consider that the property detracts 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. Under Section 10 of the Derelict Sites Act 1990, as amended, it is noted that the Local Authority has a duty *'to take all reasonable steps (including the exercise of any appropriate statutory powers) to ensure that any land situate in their functional area does not become or continue to become a derelict site.'*

7.3.2. I note the stated chronology of events as set out in the Local Authority comments dated 4th July 2024 in response to the letter of objection dated 1st July 2024. Of particular note are the apparent stated intention of the owners on 15th February 2023 to lodge a planning application and masterplan, the stated erection of a Pre-Compulsory Purchase Order (CPO) Notice on the property on 27th September 2023, the stated decision of the Local Authority in or around 17th October 2023 not to proceed with the compulsory acquisition owing to further commitments provided by the owners to submit a masterplan by the end of 2023 followed by a planning application in early 2024, correspondence from the Local Authority to the owners on 22nd April 2024 seeking an update and the reasoning to proceed with the compulsory acquisition on 23rd May 2024 which included stated complaints from members of the public, further Local Authority investigations and previous commitments made by the owners in respect of the lodgement of a planning application/ masterplan.

7.3.3. A Notice of the Local Authority's intention to Compulsorily Acquire the property under Section 15 1) a) of the Derelict Sites Act, 1990, as amended, dated 23rd May 2024, was issued by registered post to the Owners (Moriarity Investments Limited) on 23rd May 2024 and published in the Leinster Leader Newspaper dated 28th May 2024. The Notice refers to the subject property/ site having been entered on the Derelict

Site Register established and maintained by Kildare County Council under Section 8 of the Derelict Site Act, 1990 (as amended). I am satisfied that the Notice is clear and unambiguous and complies with the provisions of Section 15 of the Derelict Sites Act, 1990, as amended.

7.3.4. I have reviewed the Derelict Sites Register dated 13th August 2024 which is available from Kildare County Councils' website, and I note that the subject property is indicated to have been entered onto the Register on 25th September 2023, ref. no. DS-2023-06.

7.3.5. I note the concern raised by the owners in respect of the availability of documentation as raised in both of the owners' objection submissions. I further note the response of the Local Authority to this issue and I am satisfied that the owners were afforded ample opportunity to view all available documentation pertaining to the subject compulsory acquisition.

7.3.6. I note that in using its powers to Compulsorily Acquire the property, as set out in the Derelict Site Report/ Memo, the Local Authority quote a relevant objective/ action (RET A3) and state that they consider that the Compulsory Acquisition of the subject property would accord with the objectives of the Kildare County Development Plan, 2023 to 2029. I further note that in the same said Report/ Memo that reference is made to Objective TCR 1 of the Leixlip Local Area Plan 2017 to 2023 (extended to 2026) and that the subject lands are zoned 'town centre' where it is an objective of the Local Authority to '*tackle vacant residential and derelict sites within town centres.*'

7.3.7. I accept that the Local Authority has taken steps in consultation with the Owners' of the subject property to bring the property out of dereliction.

7.3.8. 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 Kildare County Development Plan, 2023 to 2029, and specifically Objective/ Action RET A3, which seeks, inter alia, to address dereliction, reduce vacancy and encourage and facilitate appropriate redevelopment. I also note the

Leixlip Local Area Plan, 2017 to 2023 (Extended to 2026 and, in particular, Objectives UCR2.7, TCR1 and BH1.9 which relate to the re-use and regeneration of derelict land and buildings in the Architectural Conservation Area (ACA), the use of active land management measures including use of the Derelict Sites Act, 1990, as amended and measures to address dereliction, vacancy and the promotion of the sensitive re-use and rehabilitation of Protected Structures. I further note the Public Realm Improvements set out in Section 5.5.3 and specifically Public Realm Objective 3 which relates to Ralph Square.

- 7.4.2. The subject property is in a derelict state and is understood to have been vacant for a considerable length of time.
- 7.4.3. 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 Owners (Moriarity Investments Limited) which was received by the Local Authority by letter dated 1st July 2024. I further note the Objection lodged directly to the Board on behalf of the Owners (Moriarity Investments Limited) received on 1st August 2024.
- 7.5.2. Having inspected the site, it is my opinion that the recent works which have been carried out to the property are effectively curtailed to the front elevation of the structures in the form of cleaning and painting. No other recent significant works are evident.
- 7.5.3. The Owner refers to their stated intention to lodge a planning application in respect of the subject property not later than September 2024 and, in this regard, the objection submission received on 01st August 2024 is accompanied in Appendix C by preliminary drawings pending finalisation. I note that the owners had twice previously committed to the preparation and lodgement of a planning application and a masterplan on 15th February 2023 and 17th October 2023 respectively as documented in the response submission of the Local Authority dated 4th July 2024.

Although it is accepted that the Owners have encountered difficulties in respect of the appointment of a Project Architect, it is my view that the delay in the preparation and lodgement of a planning application and the apparent lack of any formal meaningful engagement with the Local Authority, by means for example of any documented pre-planning consultation, serves to indicate there is no great sense of urgency on behalf of the Owners in respect of the future redevelopment of the subject property.

7.5.4. I note the concern raised by the owner that the purpose of the proposed compulsory acquisition is not to address dereliction but to acquire vacant homes. I note the response of the Local Authority in this regard, and I am satisfied as to the explanation provided whereby the Vacant Homes Team and the Derelict Sites Team fall within one remit within the Housing Department of the Local Authority.

7.5.5. Notwithstanding the latest commitment of the Owners to lodge a planning application by September 2024 and the stated anticipated commencement date of late 2025 or early 2026, I am not satisfied that the lodgement of a planning application alone or indeed a Grant of planning permission will serve to guarantee the future and appropriate redevelopment of the subject property. The mere granting of a planning permission is not, in my view, sufficient in of itself to demonstrate that the dereliction is being addressed.

7.5.6. Having regard to the foregoing, I am not satisfied as to the likelihood of a timely resolution and in this regard I particularly note the considerable length of time that the subject property has remained derelict/ vacant and the lack of any significant progress on behalf of the Owners to address dereliction.

8.0 Conclusion

8.1. I am satisfied that the process and procedures undertaken by Kildare County Council have been fair and reasonable, that the Local Authority has demonstrated the need for the land to be 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 comprising the site and premises situate at and known as No. 1 Ralph Square and No. 2 Ralph Square,

Leixlip, County Kildare, containing 0.04 hectares or thereabouts, as set out in the Derelict Site Notice issued under Section 15(1)(a) of the Derelict sites Act 1990, (as amended) and dated 23rd May 2024 and on the Compulsory Acquisition Deposited Map relating to the subject site dated 23rd May 2024, File Ref. No. 23-102, 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 also satisfied that the acquiring authority has demonstrated that the means chosen to achieve that objective impair the property rights of affected landowners as little as possible. In this respect, I have considered alternative means of achieving the objective referred to in 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 compulsory acquisition by the acquiring authority unreasonable or disproportionate.
- 8.4. The effects of the compulsory acquisition on the rights of affected landowners are proportionate to the objective being pursued. I am further satisfied that the proposed acquisition of these lands would be consistent with the policies and objectives of the Kildare County Development Plan 2023-2029 and the Leixlip Local Area Plan 2017 to 2023 (Extended to 2026) and specifically Objective/ Action RET A3 and Objective TCR 1, which seek, inter alia, to address dereliction, reduce vacancy and encourage and facilitate appropriate redevelopment. Accordingly, I am satisfied that the grant of consent to compulsorily acquire these lands is clearly justified by the exigencies of the common good.

9.0 Recommendation

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

10.0 Reasons and Considerations

10.1.1. Having regard to the derelict, unsightly and objectionable condition of the site, it is considered that the site detracts to a material degree from the amenity, character and appearance of land in the neighbourhood and, therefore, comes within the definition of a derelict site as defined in Section 3 b) of the Derelict Sites Act, 1990, as amended, and that the acquisition of the site by the Local Authority is necessary in order to render the site non-derelict and to prevent it continuing to be a derelict site. It is also considered that the objection made cannot be sustained, having regard to that said necessity 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.

Frank O'Donnell
Planning Inspector

30th August 2024