



An
Coimisiún
Pleanála

Inspector's Report ABP-321301-24

Nature of Application

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

Location

Harbour Street, Tullamore, Co. Offaly

Local Authority

Offaly County Council

Objector

Dermot and Teresa Horan

Dates of Oral Hearing

20th May 2025 and 28th August 2025

Dates of Site Inspection

5th February 2025 and 15th April 2025

Inspector

John Duffy

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Appendix 1: Proceedings of the Oral Hearing

1.0 Introduction

- 1.1. This case relates to a request by Offaly County Council for the consent of An Coimisiún Pleanála to the compulsory acquisition of the subject site at Harbour Street, Tullamore, Co. Offaly, in accordance with the provisions of the Derelict Sites Act, 1990, as amended.

2.0 Site Location and Description

- 2.1. The site which is the subject of this proposed compulsory acquisition is located on the southern side of Harbour Street, approximately 115m west of its junction with O'Carroll Street, in Tullamore town centre. The site lies just outside the core retail area of Tullamore town centre.
- 2.2. The subject site accommodates a terraced two storey, three-bay over basement house built around 1870 and an outbuilding. The house, accessed from limestone steps, fronts directly onto the street. The property is listed on the National Inventory of Architectural Heritage (Reg. No. 14807080 refers) and is rated as being of regional importance.
- 2.3. Adjacent properties in the area are occupied and are in reasonable condition.
- 2.4. On the dates of my site inspections, the property was vacant. The front façade is discoloured, stained, graffitied and in need of repainting. The fanlight above the front door has been removed and is replaced with plywood. A large front window is also partially boarded up with plywood. Roof slates are loose. A barrier is in place to hold slates in order to prevent loose slates from falling on to the ground. There is vegetation growing from the chimneys. There is significant and extensive ivy growth on the rear elevation of the property and the area to the rear of the property which contains an outbuilding is overgrown. Internally, the property is in very poor condition with evidence of significant levels of damp and mould throughout the lower floors. I did not proceed up the second flight of stairs as they did not appear to be in sound structural condition.

3.0 Application for Consent for Acquisition

- 3.1. Offaly County Council applied to An Bord Pleanála for consent to compulsorily acquire the subject site under section 16 of the Derelict Sites Act, 1990, as amended. I note

this application is subsequent to Offaly County Council serving notices dated 13th of September 2024 under Section 15 of the Derelict Sites Act 1990, as amended, on Dermot Horan and Teresa Horan, 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 Offaly County Council's intention to acquire the site compulsorily was served on the owners of the property on the 13th of September 2024, and was published in the Tribune newspaper on the 26th of September 2024 and in the Offaly Independent on the 28th of September 2024. The site was described as follows in the notices:

- The property known as Harbour St., Tullamore, Co. Offaly being all of the property comprised in Folio 17053F of the Register Co. Offaly and comprising an area of approximately 0.0182 ha or thereabouts.

The said derelict site is more particularly shown outlined in red on a map bearing the title 'Step House,' Harbour Street, Tullamore (Ref. 001).

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. One no. objection made by JD Scanlon and Company Solicitors, on behalf of the property owners, Dermot and Terea Horan dated 25th of October 2024 was received by Offaly County Council in respect of the proposed compulsory acquisition of the subject property.

The objection may be summarised as follows -

- The Notice is invalid as it is not in the prescribed form or alternatively, the prescribed form is not in accordance with the provisions of section 15 of the Act.

- The Notice is invalid as it requires an objector to provide grounds of objection, contrary to provisions of section 16 of the Act.
- The Local Authority failed to comply with the provisions of Section 15 (1)(a) of the Act.
- The Local Authority has failed to provide the registered owners of the property evidence of publication of its intention to acquire the property compulsorily under the Act.
- The Notice is invalid as the property is not a 'Derelict Site' within the meaning of that definition in section 3 of the Act.
- The Notice has not been executed in accordance with law.
- The Local Authority has failed to act in accordance with law.
- The Local Authority has failed to take due regard of the constitutional rights of the landowners (in particular Article 43(1) and Article 43(2) of the Constitution of Ireland).
- The service of the Notice is an unwarranted interference with the property rights of the landowners.
- The landowners intend to undertake development of the property and have engaged the services of an architect.

4.3. Local Authority's Application for Consent

4.3.1. The Local Authority requests the consent of the An Bord Pleanála (now An Coimisiún Pleanála) to the compulsory acquisition of the derelict site. The application for consent was submitted on 21st November 2024 and was accompanied by the following:

- Cover letter dated 20th November 2024.
- Compulsory Acquisition Report of Offaly County Council noting, inter alia, that the property falls within the definition of a derelict site provided in Section 3 of the Derelict Sites Act 1990, as amended, and a detailed history of the derelict site case including the various notices served under the Derelict Sites Act between July 2011 and September 2024.

- A copy of the objection received dated 25th October 2024 (as set out in section 4.2.1 above).
- Acknowledgement of objection received.
- The Local Authority's response dated 20th November 2024 to the objection, which is summarised as follows:
 - The Council is satisfied that the Notice served is compliant with legal provisions / obligations.
 - Any objection received has to be considered on its merits and this cannot be done unless the grounds are stated.
 - The provisions of section 15 (1)(a) of the Act have been complied with.
 - There has been considerable engagement with the owner; section 15 is the statutory notice of intention to compulsorily acquire.
 - The Council is satisfied that the site meets the definition of a derelict site.
 - It is not accepted that the notice has not been executed in accordance with the law.
 - It is not accepted that the local authority failed to take due regard of the constitutional rights of the landowners.
 - It is not accepted that the service of notice is an unwarranted interference with the property rights of the landowners.
 - Any engagement by the landowners with their architect is a matter for them and is outside the process commenced by the Council.
- Copies of the Section 15 Notices served on each owner (dated 13th September 2024).
- Copies of the newspaper adverts, dated 26th and 28th September 2024, relating to the Section 15 Notices.
- Site Location Maps with the subject property outlined in red.
- Case photographs.
- Copy of Notices under Section 22(3) of the Derelict Sites Act issued to Dermot Horan, dated 30th January 2024 and 10th May 2023.

- A copy of a letter addressed to Dermot and Teresa Horan dated 24th July 2023 advising that the Council is considering exercising its powers in accordance with section 14 of the Act and Derelict Site Regulations, and requesting contact be made.
- A Demand for 2019 Derelict Sites Levy dated 22nd October 2019 and addressed to Dermot Horan.
- Site map and Folio details of subject property (17053F).
- A number of letters from the Local Authority addressed to Dermot Horan (from 2012 to 2019) guiding how the building could be rendered non-derelict by the carrying out of specific works, and requesting that the landowner contact the Local Authority with a definite timeframe for completion of proposed works.
- Copy of Section 8(2) Notice (i.e. notification of intention to enter property onto Derelict Site Register) dated 25th July 2011.
- Copy of Section 8(7) Notice (i.e. notification of entry of property onto Derelict Site Register) dated 5th January 2012, noting that the property was entered onto the Derelict Sites Register on 24th November 2011.
- Copy of a letter to Dermot Horan dated 8th August 2008 stating that the Council is concerned that the property in question may constitute a derelict site and that proposals to remedy the situation should be submitted.

4.3.2. The timeline for the serving of notices under the Derelict Sites Act, 1990 by Offaly County Council is set out as follows:

- Section 8(2) Notice of intention to enter land in Derelict Sites Register: 25th of July 2011.
- Section 8(7) Notice of Entry of Land in Derelict Sites Register: 24th November 2011.
- Section 22 Notices of Valuation: 16th August 2018, 22nd October 2019, 10th May 2023 and 16th January 2024.
- Section 15(1) a Notice of Intention to Acquire Derelict Site Compulsorily: 13th September 2024.

4.4. Objector's Submission

4.4.1. An objection to the compulsory acquisition is made by Dermot and Teresa Horan, the owners of the site, and they are represented by JD Scanlon and Co. Solicitors.

4.4.2. The objector's response to the application, as submitted by the Local Authority, may be summarised as follows:

- It is intended that the property will be brought back into use by renovating it over the next 24 months.
- The services of an architect have been engaged.
- The service of the Notice is an unlawful interference with the property rights of the owners.
- Compulsory Acquisition powers are not necessary as the owners intend to bring the property back into use.
- Offaly County Council refused planning permission to develop the property on two previous occasions. One of the refusal reasons related to the heritage value of the steps. The Council later delisted the listed building order because the steps are not of architectural value. Permission should not have been refused; this prevented the landowner from developing the property.
- The refusal reason also noted that the proposed development would seriously injure the amenities and depreciate the value of properties in the area, however it is considered the renovation would greatly increase the value of neighbouring properties.
- The landowners were not informed of the de-listing of the property. This had the effect that the costs for renovation of the property were significantly higher than when the property had no protected status.
- The subject property is valuable, located in a prime area, and following renovation, it will be rented to fund the landowner's retirement.
- The owners have previously repaired the roof tiles, installed a roof guard and power-washed the building, and repaired the door / windows. The building was later graffitied, and windows were broken.

- The owners were under the impression the Council was considering purchasing the property for €350,000.

5.0 Planning History

5.1. Subject site

Planning Authority Reg. Ref. TU40464 refers to a November 2004 decision to refuse permission for renovation and extension of Step House, to comprise 3 no. 1 bedroom apartments and 3 no. commercial units. The works involved the alteration to existing front elevation comprising removal of stone steps, relocated door and windows, floor level changes. Permission was refused for two reasons, summarised as follows:

1. The proposed development by reason of removal of important features including stepped entrance, fanlight, basement and chimneys, and the resultant form, design and proportions would constitute a radical change in the façade which forms an important feature of the streetscape, would be visually obtrusive, would seriously injure the amenities and depreciate the value of properties in the vicinity, would contravene materially Development Plan policy.

2. Having regard to the length and height of the proposed 2½ storey extension and its location in relation to existing adjoining terraced properties, the nature of the proposed uses on site, it is considered the proposed development would overbear and overshadow the adjacent properties, would constitute overdevelopment of the site and result in a substandard level of amenity to persons occupying the proposed dwelling units. The proposal would be injurious to the amenities of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

- 5.2. While the objector contends that a second planning application was made subsequent to Reg. Ref. TU40464, I was unable to locate any further subsequent planning application relating to the subject site on the Planning Authority's website. I note also that Offaly County Council, during the Oral Hearing, indicated that it had no record of a subsequent application relating to the subject lands.

6.0 Policy Context and Legislative provisions

6.1. Offaly County Development Plan 2021-2027

6.1.1. The subject property is zoned 'Town Centre / Mixed Use' in the Offaly County Development Plan 2021-2027, with the objective as articulated in LUZO-02 to 'Provide for, protect and strengthen the vitality and viability of town / village centres, through consolidating development, encouraging a mix of uses and maximising the use of land, to ensure the efficient use of infrastructure and services.

6.1.2. Relevant objectives/policy in the Offaly County Development Plan 2021 – 2027;

SSP-03 It is Council policy to strengthen the core of settlements and encourage the compact growth of settlements by way of the development of infill sites, brownfield lands, under-utilised land / buildings, vacant sites, and derelict sites within the existing built-up footprint of the settlements, and develop outwards from the centre in a sequential manner.

RTCO-01 It is an objective of the Council to encourage the continued vitality and viability of town centres by:

- Identifying and promoting key town and village centre Opportunity Sites for development;
- Promoting the revitalisation of vacant and derelict properties/shop units;
- Promoting ongoing environmental improvements to the public realm;
- Preventing overdevelopment of particular non-retail uses such as fast food outlets, amusement arcades / centres, off licences and betting shops in core retail areas;
- Promoting activities including events, festivals, street markets and farmer's/country markets in appropriate town and village centres in the county; and
- Facilitating sustainable mobility, accessibility and permeability improvements.

RP-01 It is Council policy to promote the regeneration of settlements by making better use of under-utilised land and buildings, particularly within the existing built-up areas where a transformational difference in the sustainability of a settlement can take place through compact growth.

RP-02 It is Council policy to promote and encourage the suitable redevelopment of derelict and vacant sites as an alternative to new build on greenfield sites.

RP-03 It is Council policy to promote and facilitate the habitation of vacant homes in accordance with the Council's Vacant Homes Action Plan.

RP-04 It is Council policy to support initiatives that promote the reuse, refurbishment and retrofitting of existing buildings within urban centres.

HP-01 It is Council policy to facilitate the housing needs of the existing and future population of County Offaly through the management of housing development in the county in accordance with the Housing Need Demand Assessment, Core Strategy and Settlement Strategy.

HP-03 It is Council policy to encourage the reuse of upper floors above commercial premises for residential accommodation.

HP-04 It is Council policy to promote the retention of town centre residential units and to discourage their conversion into non-residential uses.

HP-17 It is Council policy to encourage the compact growth of settlements; to promote healthy placemaking; to increase the liveability factor of a place; to encourage the most efficient use of land; to ensure a mixture of residential unit types that are designed and constructed on the principles of universal design, life-long adaptability and energy efficiency; to support permeability and sustainable mobility with priority for pedestrians and cyclists; and in general to support the transition to a low carbon economy by way of reduction of greenhouse gases.

6.2 Offaly County Council – Climate Action Plan 2024 – 2029

6.2.1 Relevant objectives / policy includes:

BE2.4.1 Address Vacancy & Dereliction - under URDF and Vacancy Property Refurbishment Grant schemes.

BE2.4.2 Refurbishment of derelict building as greener option than new builds & brown field sites.

BE2.4.4 Vacant/Derelict Properties - Incorporating energy efficient designs into the refurbishment and retrofitting of buildings.

6.3. Tullamore Regeneration Framework 2024

6.3.1 This has identified Harbour Street as an area in need of regeneration with the aim to tackle vacancy and dereliction.

6.4 **Derelict Sites Act 1990 (as amended)**

6.4.1. 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.

6.4.2. 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.”

6.4.3. 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.

6.4.4. 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.

6.4.5. 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.

- 6.4.6. 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.
- 6.4.7. Section 14 of the Act provides that a Local Authority may acquire by agreement or compulsorily any derelict site situated in their functional area.
- 6.4.8. Section 15 of the Act sets out arrangements for giving notice if the Local Authority intend to acquire a derelict site compulsorily.
- 6.4.9. 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 Oral Hearing

- 7.1 An Oral Hearing was opened on Tuesday 20th May 2025. The Objector and Offaly County Council were represented at the hearing. The Objector, Mr. Dermot Horan, was unable to attend for health reasons (and provided medical documentation in this regard) and the Objector's agent requested that the Oral Hearing be deferred. The Inspector agreed and the Oral Hearing was adjourned. The re-opening of the Oral Hearing was rescheduled to the 5th June 2025, however in advance of that date, the Objector's agent notified An Bord Pleanála (now An Coimisiún Pleanála) that Mr. Horan would not be in a position to attend for health reasons and requested the hearing be rescheduled. The re-opening of the Oral Hearing was rescheduled to the 28th August 2025 and oral submissions were heard by both parties on that date.
- 7.2 In advance of the Oral Hearing scheduled for 20th May 2025 the Local Authority submitted the following documents which were cross-circulated to the Objector's agent:
- A Statement setting out relevant policy and the strategic context in connection with this compulsory acquisition case.
 - A document outlining, inter alia, relevant sections of the Derelict Sites Act 1990, as amended, photographs of the site stated to be from 2007 to 2025, the timeline of measures taken to seek engagement with the site owner, the planning history pertaining to the site, relevant national, regional and local

policies applicable to the case, potential end uses for the property and a response to the grounds of opposition.

- Maps showing the location of the site relative to Tullamore Town Centre and Opportunity Sites identified in the planned Tullamore Regeneration Framework.

7.3 In advance of the re-opened Oral Hearing on 28th August 2005 the Objector's agent submitted the following documents which were cross circulated to the Local Authority:

- A legal submission which contends that the CPO process is disproportionate because of the hardship it would cause the Objectors. It is stated that the Objectors are in a financial position to undertake the works, which must be considered. The submission refers to details of funds available to the Objectors for the works to the property.
- Copies (redacted) of bank and Credit Union statements in the Objectors names or in the name of their business.
- A copy of a Credit Union letter confirming an approved loan facility amount.
- A copy of a letter from a finance company indicating a preliminary loan amount, in advance of completion of a formal application.

7.4 A summary of the Oral Hearing is included in Appendix 1 of this report. As the presiding Inspector, I commenced proceedings with an opening statement. Participants were informed that the purpose of the Oral Hearing was an information gathering exercise to assist in the consideration of the merits of the case and in drafting the report and recommendation to the Commission in relation to the compulsory acquisition case. It was explained that the purpose of the Hearing was to deal with the compulsory acquisition process only. i.e., the merits, or otherwise, of the proposed acquisition of the lands by the Local Authority. Participants were also reminded that An Coimisiún Pleanála has no role or jurisdiction in the determination of compensation.

7.5 During the Oral Hearing the Objector elaborated on their grounds of objection and raised new grounds of objection, summarised as follows:

- Evidence is provided of finances and funds in place to facilitate works to the property and an undertaking is given by the owners to commence the works within 1-2 years.

- It would be faster for the Objector to do the works than the Local Authority, which is required to go through a lengthy and slow procurement and tendering process should it take on the property. This process could also be the subject of a legal challenge.
- The alternative to compulsory acquisition of the site is that the Objector undertakes the works and this should be considered in the context of the undertaking provided. This option is a viable alternative to the making of a CPO.
- The site forms part of the Objector's pension plan. The compulsory acquisition of the property would be financially detrimental and have a disproportionate impact on the Objector. As such, the Objector should be permitted to undertake the works to both meet the social need of housing and additionally to provide for his own pension thereafter.
- The Objector was not advised that the property was de-listed from the Record of Protected Structures (RPS). That designation was an impediment which prevented the owners prevented him from being able to undertake works to the property at an earlier date.

7.6 The proceedings of the Oral Hearing are summarised in Appendix A of this report and referenced, where necessary, in the assessment below under Section 8.0.

8.0 **Assessment**

8.1 Site Inspections

8.1.1. I carried out site inspections on 5th February 2025 and 15th April 2025. I carried out my site inspection from the public road on the 5th February. Internal access to the property was possible on the 15th April and I was also able to access the gated side access which allowed me to view the rear elevation of the property and its back yard.

8.1.2. The subject property is located on one of the main streets within Tullamore town centre. Neighbouring properties appear to be reasonably well maintained and are in good condition. The property has a neglected, unsightly and objectionable appearance from the public road. The front façade is dirty, stained, graffitied and is in need of

cleaning and repainting. Window frames on the front façade are in a poor state and require repair / replacement and cleaning/painting. Part of a front window is boarded-up with plywood. Roof slates appear to be loose and there is a barrier in place to catch falling slates, to prevent them falling onto the road / footpath below. There is significant and extensive ivy growth on the rear elevation of the property. Vegetation is growing from the chimneys. The area to the rear of the property is overgrown. The subject property detracts significantly from the character and appearance of Harbour Street.

- 8.1.3. Internally, the property is in a very poor state. Damp and mould appear to be widespread at ground and first floor levels.

8.2 Category of Dereliction

- 8.2.1. Based on the condition of the subject property which I observed during my site inspection, I consider that the site falls within category (a) of Section 3 of the Derelict Sites Act, 1990 due to the structure being in a derelict or dangerous condition. In this regard, there is a risk of roof slates falling onto the footpath below, notwithstanding the installation of the guard at eaves level. Internally, I did not consider it safe to proceed up the second flight of stairs, after considering advice from the owner and my own risk assessment.
- 8.2.2. In conclusion, I consider that the property is in a derelict and dangerous condition and in my view it demonstrably detracts from the amenity, character and appearance of land in the vicinity of the site, which in my view, renders it derelict under Section 3 of the Act.

8.3. Action of the Local Authority

- 8.3.1. From documentation on the file, the property first came to the attention of Offaly County Council in 2008. Having reviewed the 'Street View' function on Google Maps, I note that dereliction would appear to be an issue at the subject site at least since 2009, and possibly before. The Local Authority's Compulsory Acquisition Report in relation to the site, and included on the file, sets out the various actions undertaken and the statutory notices served.

- 8.3.2. The first letter on file to the Objector from the Local Authority raising concerns regarding the condition of the property and requesting that contact is made by the owner is dated 8th of August 2008. A Section 8(2) notice was served in July 2011 advising of the Local Authority's intention to enter the site on the Derelict Sites Register. A Section 8(7) Notice was subsequently served in November 2011 advising that the site had been entered on the Derelict Sites Register. There is evidence on file that the Local Authority wrote to the landowner providing guidance on measures to be taken which would potentially make the site non-derelict (letters dated 8th March 2012, 16th January 2015 and 22nd October 2019 refer). Section 22 Notices of Valuation were served in August 2018, October 2019, May 2023 and January 2024. Finally, Section 15(1)(a) Notices regarding the Local Authority's intention to acquire the site compulsorily, were issued on the 13th of September 2024 and published in the Tribune and in the Offaly Independent on the 26th and 28th of September 2024 respectively.
- 8.3.3. 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." It is almost 14 years since the subject site was entered on the Derelict Sites Register. I also note that the Local Authority issued guidance to the Objector setting out specific measures required to address the condition of the property and sought direct engagement with the owner on a number of occasions. 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.

8.4 Compliance with Development Plan

- 8.4.1 I note that the Offaly County Development Plan 2021-2027, and specifically Policy / Objectives SSP-03, RTCO-01 and RP-02 seek to address dereliction through development and revitalisation of derelict sites to address the impact of a derelict site / structure upon the amenity of an area. In its Compulsory Acquisition Report, the Local Authority state that their approach is to work proactively with property owners to seek timely actions to improve and activate derelict sites and that the powers available under the Derelict Sites Act 1990, as amended, are invoked only where necessary. The property has been in a derelict state for a significant time period and it detracts to

a material degree from the character and appearance of the surrounding area.

Therefore, I consider that the compulsorily acquisition of the subject property would be consistent with the policies and objectives of the County Development Plan and will ensure that the lands do not continue to be in a derelict condition.

8.5. Action of the Owner to Address Dereliction

- 8.5.1. I note the objections to the proposed acquisition of the site made to the Local Authority in the first instance and directly to An Bord Pleanála (now An Coimisiún Pleanála), by Dermot and Teresa Horan, through their representatives, on foot of the circulation of the Local Authority's application to acquire the site compulsorily.
- 8.5.2. The Objector contends that the refusal of permission for a mixed use development at the site has prevented the lands being developed by them and they expressed frustration in this regard during the Oral Hearing. I note that the decision to refuse permission was made almost 21 years ago in 2004, and that two detailed refusal reasons were given. It was, however, open to the Objector at that time to lodge an appeal against the planning authority decision to refuse permission. Having regard to the foregoing, I do not accept that this refusal of permission prevented the landowners from making subsequent substantive efforts to render the site non-derelict.
- 8.5.3. While I note that the submissions provided on behalf of the Objector states that they have, in the past, repaired roof tiles, windows and the front door, installed a roof guard and power-washed the building, there is no evidence that these works have been undertaken in recent times. At the time of my inspections of the subject property (February and April 2025) I noted no evidence of measures to address the poor condition of the property. Having reviewed the file, it is apparent that the owners have not engaged with the Local Authority in relation to this matter in a meaningful way.
- 8.5.4. I note that owners 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." It is noted that no substantive works have taken place to the subject property. It is now approaching 14 years since the subject site was entered on the Derelict Sites Register and in excess of 16 years since the Local Authority raised concern with the Objector that the property may constitute a derelict site. It has also been over 12

months since the Local Authority served the Section 15 Notice of intention to acquire the site compulsorily. Having inspected the site, there is no evidence of any attempt to render the site non-derelict and the property remains in a neglected and unsightly condition.

- 8.5.5. Turning to the points made by the Objector during the course of the Oral Hearing, I do not necessarily concur with the view that they would be in a position to renovate the property in a timelier manner than the Local Authority, which already has the benefit of a framework of contractors in place for the refurbishment of vacant properties across the County and as such would likely be in a position to progress site works relatively quickly.
- 8.5.6. I note the Objector has no plans and drawings prepared and no architects are engaged to progress a proposed development, which would very likely require planning permission. In this regard, the exact nature and detail of the proposal is unknown, other than possible conversion of the building into 3 no. apartment units, as stated at the Oral Hearing. The builder's quote provided is for the restoration and renovation of the property and it lacks detail in terms of the scope of works for the project. While I acknowledge the applicant has given an undertaking to commence remedying the dereliction within one to two years, given the long history of inaction relating to this town centre property, I have a real concern that the long-standing derelict nature of the subject site would continue.
- 8.5.7. Concerns relating to the value of the property is a matter for an arbitrator and not for the Commission. However, I note the figures for restoration works to the building as set out in the builder's quote provided by the Objector, which are significant. The Objector has stated their intention to use savings and a loan facility to undertake the renovation works. In the event that consent is given for the compulsory acquisition of the derelict site, the Objector would avoid having to undertake the works and the associated costs. Overall, as concluded in section 9.3 below I consider that the acquisition of this derelict site by the acquiring authority would not be unreasonable or disproportionate.
- 8.5.8. It is regrettable that the Objector appears not to have been notified of the removal of the property from the RPS when that occurred. I agree that if the Objector was informed of the delisting of the property from the RPS, this may have made financing for the redevelopment of the site easier to achieve. However, I do not

consider this to be a material factor which would have prevented the implementation of measures to take the property out of its derelict state. Having regard to the photographs provided by the Local Authority which depict the property between 2004 and 2025, it is apparent that minimal works to maintain the building have been undertaken since it was purchased by the Objector in 2004.

- 8.5.9. Having regard, therefore, to all of the information available on the file and the continued appearance and condition of the property, which as stated constitutes a derelict site, I consider it appropriate that the Local Authority's application for consent to compulsorily acquire the site at Harbour Street, Tullamore, Co. Offaly is granted.

9.0 Conclusion

- 9.1. I am satisfied that the process and procedures undertaken by Offaly County Council have been fair and reasonable, that the Local Authority has demonstrated the need for the lands and that the lands being acquired are both necessary and suitable to ensure that the lands do not continue to be a derelict site.
- 9.2. Having regard to the Constitutional and Convention protection afforded to property rights, I consider that the acquisition of the Derelict Site at Harbour Street in Tullamore, Co. Offaly, as set out in the Derelict Site Notice issued under Section 15(1)(b) of the Derelict sites Act 1990, (as amended) and dated 13th of September 2024 and on the associated map (Ref. 001), 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.
- 9.3. I am also satisfied that the acquiring authority has demonstrated that the means chosen to achieve that objective impair the property rights of affected landowners as little as possible. In this respect, I have considered alternative means of achieving the objective referred to in submissions to the Commission, 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 made by the acquiring authority unreasonable or disproportionate.
- 9.4. The effects of the compulsory acquisition on the rights of the 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 Offaly County Development Plan 2021-2027, and specifically Policy / Objectives SSP-03, RTCO-01 and RP-02 which seek to address dereliction. Accordingly, I am satisfied that that the grant of consent to compulsorily acquire the site is clearly justified by the exigencies of the common good.

10.0 Recommendation

Having regard to the observed condition of the application site, in particular the neglected, unsightly and objectionable state of the land and the structure thereon, I consider that the site materially detracts from the amenity, character and appearance of land in Tullamore town centre and it is therefore a derelict site within the meaning of Section 3 of the Derelict Sites Act, 1990, as amended. I consider that it is reasonable that the Local Authority seeks to compulsorily acquire the land, as provided by Section 14 of the Act. I recommend that the Commission grant consent to Offaly County Council to compulsorily acquire the site.

11.0 Reasons and Considerations

11.1. Having regard to the neglected, unsightly and objectionable state of the land and structure thereon, evidenced by the poor condition of the front façade of the property which is discoloured, dirty, stained and graffitied, the poor condition of the windows including the partially boarded up front window, the missing fanlight, the poor condition of the roof including broken and missing slates, and the overgrown vegetation to the rear of the dwelling, and 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 Offaly County Development Plan 2021 – 2027,

it is considered that the site detracts to a material degree from the amenity, character and appearance of land in the neighbourhood and Tullamore town centre 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.

John Duffy
Planning Inspector

18th September 2025

Appendix 1: Proceedings of the Oral Hearing

1. Background

An Oral Hearing (OH) was initially opened on 20th May 2025 in relation to the proposed compulsory acquisition of a derelict site at Harbour Street, Tullamore, Co. Offaly. It was held remotely at the offices of An Bord Pleanála using Microsoft Teams Software. An agenda was posted out to relevant parties in advance of the OH and a copy of this is available on file.

The following were in attendance:

On behalf of Offaly County Council (MCC)

- Gerard Reidy – Solicitor representing OCC.
- David Ledwith – Executive Engineer.
- Lorraine Mitchell – Acting Senior Planner.

On behalf of the Objector

- Robert Scanlon (Solicitor) of JD Scanlon and Company Solicitors.

At the outset of the OH, Robert Scanlon of JD Scanlon and Company Solicitors on behalf of the Objector, Dermot and Teresa Horan, confirmed that his client Dermot Horan was unable to attend for health reasons and requested an adjournment. This request was granted. The re-opening of the OH was rescheduled for 5th June 2025, however in advance of that date Robert Scanlon of JD Scanlon and Company Solicitors notified An Bord Pleanála that Dermot Horan remained unwell and would not be in a position to attend. Therefore, the re-opening of the OH was deferred to 28th August 2025 when it was held remotely at the offices of An Coimisiún Pleanála using Microsoft Teams Software. Dermot Horan was in a position to attend on that date.

2. Attendance

The following were in attendance and/or made submissions at the Re-opened Oral Hearing on the 28th of August 2025:

On behalf of Offaly County Council (MCC)

Submissions made by:

- Gerard Reidy – Solicitor representing OCC.
- David Ledwith – Executive Engineer.
- Lorraine Mitchell – Acting Senior Planner.

On behalf of the Objector

- Dermot Horan (Objector and Property Owner).
- Ruadhán Ó Ciaráin – Barrister-at-law.
- Robert Scanlon of JD Scanlon and Company Solicitors.

3. Re-opening of Oral Hearing

The Inspector formally re-opened the hearing at approximately 10.05 am. Following some introductory remarks, it was requested that the Local Authority make its formal submission.

4. Submission by Offaly County Council

Mr. Reidy

- Opened by advising of the attempts made by the Local Authority to engage with the Objector in relation to the site which commenced in 2008. The property was entered on the Derelict Sites Register (DSR) on 24th November 2011 and no works have been done since that time. Notice of intention to acquire the property was served on 13th September 2024. OCC are requesting for consent to compulsorily acquire the property in accordance with the provisions of the Derelict Sites Act 1990, as amended.
- The onus is on the Council to satisfy the relevant criteria as set out in *Compulsory Purchase and Compensation in Ireland* (2nd Edition) authored by Eamon Galligan and Michael McGrath, as follows. There is a community need to be met by the acquisition of the property in question and the property is considered suitable to meet that community need. Alternative methods to meet the community need have been considered and are not demonstrably preferable. Works should accord with or not be in material contravention with the statutory Development Plan. It is considered that these criteria have been met.

- Section 3 of the Derelict Sites Act 1990, as amended, defines a derelict site. Section 9 sets out a general duty of the owner and occupier of land to ensure it does not be, become or continue to be a derelict site. Section 10 outlines the Council's obligation in relation to derelict sites. Section 14 refers to the power of the Local Authority to acquire compulsorily any derelict site in their functional area. Section 15 refers to the notice of intention to compulsorily acquire a derelict site. Section 15(1) of the Planning and Development Act 2000, as amended, refers to the general duty of the planning authority to secure the objectives of the Development Plan.
- The Courts have considered the question of proportionality, and case law in this regard includes *Egan v An Bord Pleanála* (2011) and *Meadows v Minister for Justice*.
- The Objector has set out 10 grounds of objection, mainly relating to legal points, in a letter dated 25th October 2024 from Robert Scanlon, Solicitor. Each ground of objection is rebutted and the Council is satisfied that all relevant procedures and statutory obligations were complied with and that the proposed acquisition is connected to a legitimate objective in the public interest, namely that the property does not continue to be in derelict condition.
- Further reference is made to *Egan v An Bord Pleanála* (2011) in which the High Court found that the indication that work would be done was not enough to render the acquisition impermissible and that the acquisition of the property would be justified by the exigencies of the common good.
- The owners have not taken any steps in relation to the property and its acquisition is clearly justified by the exigencies of the common good. The property is required for a particular purpose which involves taking it out of dereliction. What is proposed is consistent with the general policy and objectives in the County Development Plan. There is sufficient justification for the CPO in the absence of any reasonable alternative remedial steps taken by the owners over a very lengthy period of time. There is an urgent need for housing and the acquisition of this property would assist in that regard.

Mr. Reidy directs Mr. Ledwith

- Mr. Ledwith introduces himself as the Executive Engineer within OCC working in the Regeneration Section. He outlines the objectives of the Regeneration Section as being to address vacancy and dereliction and promote compact growth in towns and town centres and enhancing urban resilience.
- Mr. Ledwith confirms it is the view of OCC that the property is derelict, and that no works or actions have been undertaken to remedy the matter. There has been no direct engagement by the owners with OCC between 2011 to date. In terms of efforts made by the Local Authority to engage with the owner, the file shows that correspondence specifying works to make the property non-derelict was issued to the owner in 2012, however no response was received. Similarly in 2015 engagement was requested along with a site meeting to discuss the matter, however no response was received. In 2018, 2019, 2021, 2023 and 2024 derelict site levies were issued in respect of the property and engagement with the owner was sought in these years, however no responses were received. In 2024, the CPO notice was issued in respect of property in September 2024.
- Mr. Ledwith confirms that photographs were taken of the property in March 2012, April 2015, October 2019, September 2021, May 2023, January 2024, September 2024 and May 2025. They demonstrate the property has been neglected, and remains derelict as per the definition of dereliction in the Derelict Sites Act.
- The Offaly County Development Plan supports making better use of underutilised land, vacant and derelict properties and under-occupied buildings to facilitate town centres to be more compact and attractive places to live. The Tullamore Regeneration Framework 2024 has identified a number of projects including the redevelopment of the Grand Canal Harbour, across the road from the subject property, to make it a more vibrant economic and social quarter for. Furthermore, the Market Square Public Realm Enhancement Scheme has identified spaces for upgrading which will result in a more attractive environment in which to live and work.
- Funding is available to the Local Authority to facilitate remediation of the property includes the Urban Regeneration Development Fund - Call 3, a specific fund for tackling vacancy and dereliction. At present there is a high housing need in Tullamore and a lack of properties to rent or purchase in the area. There is a

community need for the property in terms of residential use. There is no evidence that efforts have been made by the owner to bring the property back into use since 2012. There are levies of €18,200 outstanding on the property for the years 2023 and 2024. It is considered that the property should be acquired by the Local Authority.

Mr. Reidy directs Ms. Mitchell

- Ms. Mitchell introduces herself as the Acting Senior Planner in OCC. She reads the introduction of her submission to the OH into the record. She also reads out NPO 14 of the NPF which relates to the objective to regenerate and rejuvenate cities, towns and villages as environmental assets that can accommodate, inter alia, changing roles and functions, increased accommodation and employment activity.
- Reference is made to the Regional Spatial and Economic Strategy (RSES) and its aims including renewal and regeneration of under-used, vacant or derelict town centre lands. The Offaly County Development Plan supports making better use of under-utilised land and buildings including vacant and derelict and under-occupied buildings. Relevant policies and objectives include SPP03, RTC01, RP02 and RP04. The proposed CPO is considered to be consistent with the objectives set out in the Development Plan. The subject property would be suitable for regeneration and would complement the Harbour Canal site.
- A planning application by the owner was made in 2004 for renovation and extension to Step House (the subject property) to include 3 no. 1 bed apartments and 3 no. office / commercial units. Permission was refused in 2004 for two reasons, which were read into the record. No further planning applications were made relating to the site.
- Ms. Mitchell reads the conclusion of her submission to the Oral Hearing into the record.

5. Submission by the Objector

Mr. Ó Ciaráin directs Mr. Horan

- In terms of engagement with the Council, Mr. Horan confirms there was some indirect engagement. Mr. Brian Cowen (former Taoiseach) and Mr. Barry Cowen

T.D. made representations previously. Mr. Barry Cowen suggested the Council may look at the possibility of purchasing the property. Mr. Horan understood the Council were considering the matter; however, the CPO notice was thereafter received.

- In terms of works done to the property, the Council requested that the roof be repaired. Slates on the roof and eaves were repaired and a slate catcher was installed in the event slates became loose again. The front window and door were also repaired following vandalism. Plywood was installed to the front window. Most of the items were repaired following the notification received from the Council. No further communication relating to required repairs was received from the Council.
- Mr. Ó Ciaráin asks Mr. Horan whether he was prepared to give an undertaking that he would commence works in relation to the property renovation and to have it in a proper state of repair within one year from the date of this OH. In response Mr. Horan states he has funds available to renovate the property and indicated a 1-2 year timeframe as the Council may indicate planning permission would be required for the development.
- Mr. Ó Ciaráin notes the Council would have to go through a lengthy and slow procurement and tendering process should it take on the property. Mr. Horan agrees with Mr. Ó Ciaráin that if a private party was to undertake the works, it would be probable that the works would be completed quicker when compared to the Council. Mr. Horan also considers that the works would also be completed at a cheaper cost.
- Mr. Horan confirms that finances are available / in place for the development, as per details submitted to the Commission prior to the OH. Reference also made to the quotation received in the amount of approximately €180,000 regarding works proposed to the building.
- Mr. Horan states his business relates to stone working and he is familiar with foundation work, plastering and working with concrete. He is interested in converting the building into housing. He expresses frustration in terms of the 2004 refusal of planning permission, which he considers was flawed. Mr. Horan advises that he bought the property to provide him a pension to care for his family. While it was thought that the steps to the property were original, it later transpired that this was not the case. A preservation order on the building was later removed, however

Mr. Horan states he was not advised of this change and that this affected his capability of having the property renovated. Costs were higher due to the preservation order being attached to the building. Further, as the site was deemed to be derelict, this impacted availability of funds to remedy the situation.

- Mr. Horan notes that he wanted to renovate the property 20 years ago and considers he has been hindered in doing this and unfairly treated. In this regard, he refers to the derelict site levies pertaining to the site and the preservation order which related to the building. Mr. Horan states that his hard-earned income serviced the loan on the property and that he wants the chance to renovate the building so that he is in a position to provide a pension to support his wife and family. Mr. Horan reiterates that finances are now in place to do the works and repeats an undertaking to do the works / commence works within 1 – 2 years. He notes that planning permission may be required.
- Mr. Horan also states that he tried to interact with the Council in relation to a renovation grant but was advised to have his solicitor contact the Council's solicitor. He believes this is unfair. He has submitted the grant application and is hoping it will be approved.
- Mr. Ó Ciaráin states that the public procurement process is slow and expensive and he considers the social need is better met if Mr. Horan can do the works, and he has demonstrated his financial ability to do so.
- In terms of the issue of proportionality Mr. Horan indicates it would be financially devastating if he is not permitted to do the works to both meet the social need of housing and additionally to provide for his own pension thereafter. This should be considered in the context of the undertaking provided.
- The arbiter is legally obliged to consider the alternatives to the making of a CPO. It is submitted that there is a viable alternative of Mr. Horan doing the works. He has finance in place, he is clearer on the process and has given an undertaken in relation to housing provision, so the Council's need is met. It is considered this can be delivered in a quicker timeframe than if the Council was to become involved.

6. Offaly County Council's Response to Objector Submission

Mr. Reidy

- In relation to the time scale comparison made by the Objector, funding is available to the Council and there is a framework of contractors in place which would be used. Further, the Council has in-house expertise to oversee works.
- In response to points raised in the Objector's submission to the OH, relating specifically to disproportionality of the CPO, available alternatives and that the Objector would complete the works, reference is made to a High Court case (*Egan v An Bord Pleanála*), a Supreme Court case (*Meadows v Minister for Justice*) and a decision of An Bord Pleanála (ABP-318616-23), which are considered relevant to this case.

7. Questioning between Parties

Mr. Ó Ciaráin interjects at this stage and clarifies that Mr. Horan would use the funds which are in place to engage contractors to undertake the works.

OCC to Objector

- Mr. Reidy queries the number of applications made in relation to the site. Mr. Horan states that another planning application was made subsequent to the initial application. Mr. Reidy notes that OCC had no record of such an application.
- Mr. Reidy queries if other steps were taken in relation to the property apart from those mentioned previously. Mr. Horan notes he fixed the roof and slates, repaired the eaves and window, power-washed the building and removed overgrown trees from the rear.
- Mr. Reidy notes that derelict site levies apply and queries if that prompted action. Mr. Horan states other people did work on his behalf and notes he was constrained by the preservation order and particularly by the derelict sites order and it is only in recent times that approval for finance was received from an outside bank.
- Mr. Reidy notes the Objector never attended a meeting with OCC, until very recently, relating to the site. Mr. Horan notes that a meeting was scheduled previously but he could not attend and that Mr. Barry Cowen TD had attended it. He reiterates that he had no funds to do works previously but that funds are available in recent times to undertake the works.
- Mr. Reidy notes the Objector stated that he would engage with the Council to check what their planning requirements would be in advance of works but notes that such

engagement has not happened over the last 20 years during which an architect could have been engaged. Mr. Reidy observes that it is only in the last few days that any proposals have been received by OCC. In response Mr. Horan states that he has engaged architects after the permission was refused and the Council indicated then that the front of the property was to be retained.

- Mr. Reidy queries the specification of works in terms of the estimate provided by the Objector. Mr. Horan advises the builder examined the property throughout and clarifies that no plans/drawings were used to inform the estimate. Mr. Horan reiterates that he was hindered by the Council in renovating the building and was unable to get finance due to the actions of the Council including a flawed refusal of permission.
- Mr. Reidy queries whether Mr. Horan had appealed the 2004 refusal of permission to An Bord Pleanála. Mr. Horan states he was advised not to appeal but that in hindsight he should have submitted an appeal. In reality, the steps to the building are not of architectural merit and the case would have been over-turned if an appeal had been lodged.

Objector to OCC

Mr. Ó Ciaráin

- Mr. Ó Ciaráin asks Mr. Ledwith to explain the process for drawing down funds for the renovation. Mr. Ledwith states that OCC have access to specific funding under urban development regeneration. Mr. Ó Ciaráin queries the timeframe involved. Mr. Ledwith indicates a 10 month timeframe applies, which strikes Mr. Ó Ciaráin as quite quick given previous experience. Mr. Ledwith states that the fund is rolling and continuous and that money is available immediately to de-risk the property and that works can begin upon appointment of a contractor through a procurement process.
- Mr. Ó Ciaráin queries whether OCC would have to go through a procurement process. Mr. Ledwith notes that contractors are already procured on a framework and that an in-depth assessment of contractors has already occurred for the purposes of the existing framework. Mr. Ó Ciaráin notes that a contractor could challenge in court the awarding of a contract to the winning tenderer. Mr. Ledwith states that the awarding of the contract would be straightforward and that no

challenges would be envisaged. Mr. Ó Ciaráin seeks further clarity on this issue. Mr. Ledwith states the framework is a county-wide general framework for refurbishment of vacant properties in Offaly. Access to this framework is available should it be needed in this case. After further query from Mr. Ó Ciaráin, Mr. Ledwith accepts that a challenge could happen but that the framework in place endeavours to eradicate such issues.

- Following questioning from Mr. Ó Ciaráin, Mr. Ledwith does not accept that a private contractor could provide housing more quickly than the Local Authority.

Inspector to OCC

- The Inspector requests the Council to elaborate on the use proposed for the property / site. Mr. Ledwith outlines a number of potential uses, firstly, activation of the property for sale on the open market. Should that fail, the Council could retain for social use or for use by community based groups.
- The Inspector notes the property was included on the Record of Protected Structures (RPS) previously and queries when and the reasons why the property was removed from the RPS. Ms. Mitchell states that the structure remains on the National Inventory of Architectural Heritage (NIAH), that the property was not removed from the RPS prepared in relation to the current County Development Plan and it was obviously removed at some earlier stage. The Inspector asks what the Council's process is in terms of advising an owner that their property is removed from the RPS and in this regard notes from information on the file that the owner was not notified. Ms. Mitchell advises that under current legislation the owner is notified, and that in this particular case she is unaware when it was removed. The Inspector asks whether the owner was or was not notified in this case and in response Ms. Mitchell states she is not in a position to answer that question.

Inspector to Objector

- The Inspector queries when the property was last occupied and when it was acquired by the current owner. Mr. Horan indicates he cannot answer that question, it was possibly not in use just prior to him purchasing it in 2004.
- Mr. Horan confirms he did not receive notification that that the property was removed from the RPS.

- The Inspector queries the nature of the renovation works proposed by the owner. Mr. Horan states that conversion of the building to apartments was proposed. The Inspector queries how many units are proposed and Mr. Horan indicates at least three units are envisaged.

8. Closing Statements

Objector

Mr. Ó Ciaráin

- The obligation to consider alternatives is reiterated, namely for Mr. Horan to undertake the works. Mr. Ó Ciaráin states he has not seen evidence of a formal process or decision-making process in relation to the alternative of Mr. Horan doing the works.
- In terms of what was stated regarding the time period which has elapsed, Mr. Horan now has the financing in place to undertake the works. It is noted that the preservation order is gone and it appears that Mr. Horan was not informed of its removal. If Mr. Horan had known earlier that there was no longer a preservation order on the property, he could have then set about obtaining financing to renovate the property. Mr. Horan has stated that the preservation order put on the property in relation to the steps was the impediment that prevented him from being able to undertake works to the property at an earlier date.
- A CPO may only be made in the context of community need and originally it was stated that housing was a particular need. Mr. Horan could deliver the social need of housing more quickly than the Council could as he has the funds available and he is not hampered by the procurement process in the way the Council would be.
- Referring to the Council's submission and the three options relating to how the property could be used, it is considered that no definite need is identified and it does not seem to be a certain position from the Council that there is a definite community need.

- Reference is made by the Council to photographs before the Inspector and it is emphasised that any photographs referred to would need to be seen in the file by the Inspector. The Inspector confirms that the said photographs are on file.
- In conclusion, Mr. Ó Ciaráin reiterates the above-mentioned points and notes that Mr. Horan has given an undertaking to do the works.

OCC

Mr. Reidy

- This case has arisen due to the inactivity on the part of the Objector who has owned the property for over 20 years. Apart from making one unsuccessful planning application and doing some very minor remedial works, nothing has been done to the property.
- At the last hour, Mr. Horan has provided financial statements and a very brief invoice from a builder. He has not retained an architect and has no plans other than he might achieve three apartments in the property. Decided case law does not favour Mr. Horan. The site meets the definition of a derelict property.
- The alternative in this case is that the owner would carry out the works himself. He has not done so and in the absence of that it falls on the Council in discharging their obligations under the legislation to consider a CPO. The fact that Mr. Horan may now have the finances in place is not the main issue.
- While the property was at some stage taken off the list of Protected Structures, Mr. Horan made no inquiries in relation to when that may have happened.
- In terms of community need issue, Mr. Ledwith sought to give examples of what might happen in this case. The option of putting the property on the market would involve minor remedial works being undertaken by the Local Authority and then the matter being put to the Elected Members for approval, and a sale may or may not take place. If no sale takes place, the Council would add the property to its own stock, undertake the works and the property would almost certainly be used for housing. In the unlikely event that neither of those options applied, there would be a community need. However, in this case, given the urgent need for housing, one of the first two alternatives would take place.
- Given that the property, located in the middle of Tullamore and left in a neglected state for a long period of time and having regard to planning policies that identify

the obligations on Local Authorities to take appropriate steps which are now being taken, the proposed CPO is consistent with the statutory Development Plan and other plans. Alternatives have been considered and there is a community need. Development proposals are made at a late stage and they lack sufficient detail and this should be taken into consideration.

9. Closing of Oral Hearing

The Inspector makes some brief final comments and thanks everyone for their participation. The Oral Hearing is subsequently closed.