



An
Bord
Pleanála

Inspector's Report ABP-321318-24

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

11 Broad Street, Limerick

Planning Authority

Limerick City and County Council

Notice Party

Crofton Properties Limited

Date of Site Inspection

03rd March 2025

Inspector

Clare Clancy

1.0 Introduction

- 1.1. This case relates to a request by Limerick City and County Council for the consent of An Bord Pleanála to the compulsory acquisition of the subject site at 11 Borad Street, Limerick in accordance with the provisions of the Derelict Sites Act 1990, as amended.

2.0 Site Location and Description

- 2.1. The property which is the subject of this application for consent for compulsory acquisition (referred to hereafter as the 'subject property'), is located at 11 Broad Street approx. 290 m to the northeast of The Milk Market and c. 650 m to the northeast of Limerick city centre.
- 2.2. The site is located between Broad Street and Curry Lane to the east. It comprises of two-storey building which fronts onto Broad Street. It is adjoined to the north and south by a commercial / retail building. There is a private laneway on the southern side of the subject property linking Broad Street to Curry Lane at the rear. The rear boundary of the site comprises of c. 3 m high block wall and gated access to side.
- 2.3. Pursuant to site inspection, I noted that the ground floor façade and the first floor windows were boarded up, and access to the adjoining laneway was restricted by a new gate. To the rear of the site, a substantial portion of the rear of the building was removed leaving it completely open. A section of the southern boundary of the site adjacent to the lane is removed and also part of the northern boundary. No new steel frame was observed to have been installed. Construction and demolition waste was evident throughout the site.
- 2.4. The subject property is not a Protected Structure, is not listed on the National Inventory of Architectural Heritage (NIAH) and is not located within an Architectural Conservation Area (ACA).

3.0 Application for Consent for Acquisition

- 3.1. Limerick City and County Council applied to the Board for consent to compulsorily acquire the site under Section 14/16 of the Derelict Sites Act, 1990, as amended. I note that this application is subsequent to the serving of notices as follows:

- Section 8(2) on 22nd September 2022 (advising of the Local Authority's intention to enter the site on the register of derelict sites).
- Section 8(7) on 20th October 2023 (advising of the Local Authority's decision to enter the site on the register of derelict sites).
- Section 22 Notice of Valuation on 23rd February 2024.
- Section 15(1)(a) on 20th September 2024 notifying of the Local Authority's intention to acquire the site compulsorily.

4.0 Application and Objection

4.1. Notice of Intention to Acquire

4.1.1. Notice of Limerick City and County Council's intention to acquire the site compulsorily was served on the owners/occupiers/lessee on Noel Kerley Associates Ltd. the agent for the owners/occupiers/lessee, on the 20th September 2024. The site was described as follows in the notice:

- A derelict site comprising a two-storey, mixed-use premises and surrounding land situated at 11 Broad Street, Limerick, containing 0.029 hectares or thereabouts. The said property and surrounding land is in a state of dereliction. This said derelict site is more particularly shown outlined in red on a map bearing reference no. DS-106-19 in the Derelict Sites Register established and maintained by Limerick City and County Council under Section 8 of the Derelict Sites Act, 1990.

4.1.2. I consider that the notice was in accordance with the requirements of Section 15(1)(a) of the Derelict Sites Act, 1990, as amended. However, I am not satisfied that the notice was in accordance with the requirements of Section 15(1)(b) of the Derelict Sites Act, 1990, as amended, as it was not served on the owners/occupiers/lessee of the subject property. It was served on the agent Noel Kearly Associates Ltd. who was acting on behalf of the owner whom I note was identified by the Local Authority as Robert Simring.

4.2. Objection to Acquisition

4.2.1. An objection to the proposed compulsory acquisition was submitted to Limerick City and County Council by Crofton Properties Limited c/o Murphy Lynam Solicitors in a letter/email dated 04th November 2024. The objection can be summarised as follows:

- Noted that Section 15(1)(b) Notice was served on Noel Kerley Associates Ltd, the agent for the owner of the property, and who responded to the Property Management Department of Limerick City and County Council on 24th October 2024 highlighting ongoing works.
- On 29th October 2024 Noel Kerly received a response from the Vacant Homes Office noting that in order to make a valid objection to the Section 15 Notice, to clearly state to the council that an objection to the Section 15 Notice was being made, the stated grounds for same, and evidence of the proposed owner, lessee or occupier in accordance with Section 15(2).
- Crofton Properties Limited acquired the property by way of Deed of Conveyance on 28th June 2024. A copy of the deed provided is signed by Noel Kerley and Robert Simring “the vendor”. I note that no signature is evident on the deed by “the purchaser” Crofton Properties Limited or by the directors thereof. A copy of stamp duty is provided.
- Recent remedial and preliminary works were carried out and Noel Kerley Associates Ltd provided a statement of works and photos for same (copy provided dated 22nd October 2024).
- A structural engineer was engaged and an outline of plans for the subject property to construct a steel frame. The structural steel design was sent to Ard Precision Steel Fabricators who were appointed to manufacture and erect the steel structure on site, with works to commence in coming weeks.
- Requests the Local Authority to refrain from actioning any further steps on the basis of the efforts of the owner Crofton Properties Limited.

4.3. Local Authority's Application for Consent

4.3.1. The Local Authority requests the consent of the Board to the compulsory acquisition of the derelict site. The application for consent was submitted on the 22nd November 2024 and was accompanied by the following:

- Local Authority Compulsory Acquisition Report (i.e. Derelict Site report) which sets out the Local Authority's strategic approach to the derelict sites in the city and county, a description of the site, the background to the case and the details of the objection. The report included photographs and a map of the site area.
- Copy of Derelict Site Location Map.
- Copy of cover letter to Noel Kerley Associates Ltd. agent on behalf of owner Robert Simring dated 25th September 2024.
- Copy of the Section 15 Notice served on the owners/ occupiers/ lessee of the site dated 20th September 2024.
- Copy of the newspaper notice Limerick Leader dated 28th September 2024.
- Copy of the objection made by the owner Crofton Properties Limited.

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

- Limerick City and County Council have established a specialist 'Dereliction and Vacancy Team' to take an area-based collaborative approach to addressing vacancy and dereliction in Limerick city and in the towns and villages in the county. They seek to work proactively with property owners, with timely actions and improvement of sites through positive engagement. It is stated that the powers under the Derelict Sites Act 1990 are used only where necessary, where all reasonable alternatives have been exhausted.
- The site detracts to a material degree from the character and appearance of the surrounding area and is deemed derelict due to partially demolished / ruinous building(s), holes in roof, missing / broken/leaking rainwater gutters are down pipes, loose masonry or falling plaster, broken, missing, or boarded up windows or doors, dirty façade / peeling paint, graffiti, plants growing out of masonry or roof, accumulation of litter / waste.

- The Local Authority first inspected the property on 16th September 2020 and identified it as a derelict site.
- Following site ownership enquiries, Robert Simring was identified as the owner.
- On 08th October 2020 Noel Kerley Associates Ltd advised that a planning application relating to the subject property was applied for to demolish the subject property and re-build it. This application was withdrawn.
- On 08th March 2022, planning permission was applied for the subject property and withdrawn.
- On 22nd September 2022, Section 8(2) Notice was served on the owner and affixed to the subject property.
- On 22nd February 2024 the Area Inspector noted that the rear of the site was open to the elements with the roof removed from the rear section of the building.
- On 20th March 2024 the Area Inspector noted plywood hoarding was erected over windows and door and the rear of the site was secured.
- Following site inspections carried out on 23rd April 2024 and 28th May 2024 the Area Inspector noted that no further remedial works had been completed.
- The Local Authority continued to monitor the site in terms of progress and on the 21st June 2024 Robert Simring contacted the Local Authority to advise the Local Authority that some works would be carried out to make the site safe.
- Photos relating to site inspections carried out by the Local Authority are appended dating from 18th October 2019 to 09th July 2024. The more recent site inspections carried out in relation to the Section 15(1) Notice are 07th August 2024 and 26th September 2024.
- The Local Authority considered the objection received by the owner Crofton Properties Limited c/o Murphy Lynam Solicitors on 04th November 2024 noting the demolition works completed in January 2024, and concluding that no further works were evident since that time.

4.4. Objectors Submission

4.4.1. A submission was made to the Board (via email) by Crofton Properties Limited c/o Murphy Lynam Solicitors on 25th February 2025 in response to the Compulsory Acquisition Report of Limerick City & County Council dated 13th November 2024 submitted to An Bord Pleanála. This can be summarised as follows:

- Since 2020, the owner and previous owner have submitted four separate planning applications for the subject property and were withdrawn. Details of P.A. Refs. 20/512 and 22/310 are provided demonstrating engagement with the planning authority on the redevelopment of the subject property.
- The proposed development falls under Article 10(6)(a) exemption (change of use from commercial to residential) and a application for exemption is made.
- Details in relation to the proposed project are provided which include amended layout plan, steel floor plan, ground and first floor plans, and a breakdown of costs.
- The Seven Day BCMS Notice has been deemed valid, the property is put forward for change of use exemption and works are imminent.
- Crofton Properties Limited acquired the site June 2024. The most recent site inspection carried out by the Local Authority was July 2024 noting litter, rubbish, debris and waste on site. Appended photos demonstrate that that is no longer the case. Photos are included taken during the time an engineer carried out ground condition inspection.
- It is the property owner's intention to redevelop the subject property, it would be impractical to immediately replace the current windows and install doors. The entrance to the site is boarded up, warning signs erected to make the property safe and restrict public access.
- It is the intention of the property owner to reactivate the use of the site for residential use, this is demonstrated by several planning applications. Progress is made including fire safety compliance report (included with submission). Such a project is being done on a phased basis, the landowner has invested resources in terms of site purchase, site security, design and planning.

- The proposed project and funding already invested is at risk if the property is acquired through the compulsory purchase process. It is submitted that there is no legal basis for same and that it is unacceptable that the project must contend with mounting legal costs to defend its position.

5.0 Planning History

- 5.1.1. P.A. Ref. 20/512 – application withdrawn. Related to the demolition of the existing building and construction of 6 no. apartments.
- 5.1.2. P.A. Ref. 22/310 – application withdrawn. Related to the demolition of existing building and the construction of 6 no. apartments.

6.0 Policy and Legislation Context

6.1. Limerick Development Plan 2022-2028

- 6.1.1. The subject property is zoned ‘City Centre’ in the Limerick Development Plan 2022-2028, the objective for which is ‘to provide for residential development, protect and improve existing residential amenity’.

Land Use Zoning – City Centre

Objective: To protect, consolidate and facilitate the development of the City Centre commercial, retail, educational, leisure, residential, social and community uses and facilities.

Purpose: To consolidate Limerick City Centre through densification of appropriate commercial and residential developments ensuring a mix of commercial, recreational, civic, cultural, leisure, residential uses and urban streets, while delivering a high-quality urban environment which will enhance the quality of life of residents, visitors and workers alike. The zone will strengthen retail provision in accordance with the Retail Strategy for the Limerick Shannon Metropolitan Area and County Limerick, emphasise urban conservation, ensure priority for public transport, pedestrians and cyclists, while minimising the impact of private car-based traffic and enhancing the existing urban fabric.

- 6.1.2. The following objectives are considered relevant;

Strategic Objective 4

‘....Support and facilitate revitalisation and consolidation of the City, towns and villages, through public realm and placemaking initiatives. Address vacancy and dereliction to create compact attractive, vibrant and safe environments in which to live, work, visit and invest’

Objective CGR 04 Active Land Management

It is an objective of the Council to:

b) Support and facilitate the reuse and revitalisation of derelict, vacant and underutilised sites and disused buildings throughout Limerick for residential, economic, community and leisure purposes.

Objective CGR 06 Derelict Sites

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

6.2. Derelict Sites Act 1990 (as amended)

6.2.1. The Derelict Sites Act 1990, as amended, makes 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.

6.2.2. Section 3 of the Act defines ‘derelict site’ as:

“Any land...which detracts, or is likely to detract, to a material degree from the amenity, character or appearance of land in the neighbourhood of the land in question because –

(a) the existence on the land in question of structures which are in a ruinous, derelict or dangerous condition, or

(b) the neglected, unsightly or objectionable condition of the land or any structures on the land in question, or

(c) the presence, deposit or collection on the land in question of any litter, rubbish, debris or waste, except where the presence, deposit or collection of such litter, rubbish, debris or waste results from the exercise of a right conferred by or under statute or by common law.”

6.2.3. 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.

7.0 Assessment

7.1. Site Inspection

7.1.1. On the 04th March 2025, I carried out a site inspection. Internal access to the property was restricted due to construction activity taking place within the site. In general, the condition of the site is relatively the same when compared to the last photographs taken by the Local Authority dated 26th September 2024.

7.1.2. My observations of the site include the following:

- The subject property is secured from public access. The windows at first floor level and the ground floor unit / shop front are boarded up with freshly painted plywood.
- The first floor façade is unpainted and dirty.
- Construction works were taking place at time of site inspection at the rear of the subject property. Almost the entire rear block of the subject property has been demolished and is open to the elements.
- No new steel frame structure was noted to be installed / constructed.
- Construction and demolition waste was evident throughout the site.
- Access to the adjoining private lane which links Broad Street to Curry Lane to the rear is restricted by a timber gate which appears new.
- A section of the southern boundary of the site is removed as well as part of the northern boundary of the site.
- To the rear of the property, there is a c. 3 m high block boundary wall with gated access to side.

7.1.3. The subject site is located in a prominent location. It fronts on to Broad Street which is a busy city centre area. The area is characterised by similar style structures which are in better condition and better maintained. Construction works were being undertaken to the rear of the property, and it was evident that the rear of the property was substantially demolished and the internal of the subject building was gutted and entirely open to the elements. The works carried out since the application was submitted have not addressed the state of dereliction.

7.2. Category of Dereliction

- 7.2.1. I note that the Local Authority considered that the property and lands fell under Category (a) and (b) of Section 3 of the Derelict Sites Act 1990, as amended.
- 7.2.2. Based on my site inspection, it is my view that the subject property and lands may be considered to still fall within Category (a) and (b) of Section 3 of the Act.
- (a) The structure is in a ruinous, derelict or dangerous condition.
 - (b) The neglected unsightly or objectionable condition of the land or any structures on the land in question.
- 7.2.3. Other than the boarding up of windows at first floor level and the front façade at ground floor level with painted hoarding, the front façade of the subject property remains in an neglected and unsightly state, thus significantly impacting negatively on the streetscape and on the visual amenities of the area. Also, the addition of a timber gate/ fencing which closes up the private laneway adjoining the subject property to the south, further materially detracts from the amenities of the area. The demolition works carried out to the rear of the property has left the subject property exposed and unsightly. The site therefore continues to be in a derelict condition, materially detracting from the visual amenities of the area.
- 7.2.4. No litter or rubbish was evident due to the enclosed nature of the site. I therefore consider that the site does not fall under Category (c) of Section 3 of the Derelict Sites Act 1990, as amended.
- 7.2.5. Having regard to Category (a) and (b) above, it is my consideration that the structure and lands are detracting to a material degree from the amenity, character, and appearance of land in the neighbourhood of the land in question.

7.3. Action of Local Authority

- 7.3.1. The Compulsory Acquisition Report of the Local Authority dated 13th November 2024 in the History of the Derelict Site Case, indicates that there was active engagement with the landowner. I note that the overall process of the Local Authority commenced on 16th September 2020. Section 8(2) Notice was served on the owner 22nd September 2022, advising of the Local Authority's intention to enter the site on the Derelict Site Register. A Section 8(7) Notice was subsequently served on the owner on 20th October

2023 advising that the site had been entered on the Derelict Sites Register. A Section 22 Notice of Valuation was issued on 23rd February 2024.

7.3.2. The Section 15(1) Notice dated 20th September 2024 was served on the agent Noel Kerley Associates Ltd. the agent for the owners/occupiers/lessee on 25th September 2024 and published in the Limerick Leader on 28th September 2024. I note that it was not served on the owner of the subject property, in accordance with the provisions of Section 15(1)(b) of the Derelict Sites Act 1990, as amended for the following reasons:

- I note that the Local Authority identified the owner of the site as Robert Simring.
- The agent Noel Kerley Associates Ltd. does not appear to be the correct owner in this case when the Section 15(1)(b) Notice was served. I note that Noel Kearly Associates Ltd was the agent acting on behalf of Robert Simring when the Notice dated 20th September 2024 was served.

7.3.3. Notice of Limerick City and Council's intention to acquire the site compulsorily was erected on the front façade of the subject property served on Noel Kerley Associates Ltd. the agent for the owners/occupiers/lessee, on the 20th September 2024. The site was described as follows in the notice:

- A derelict site comprising a two-storey, mixed-use premises and surrounding land situated at 11 Broad Street, Limerick, containing 0.029 hectares or thereabouts. The said property and surrounding land is in a state of dereliction. This said derelict site is more particularly shown outlined in red on a map bearing reference no. DS-106-19 in the Derelict Sites Register established and maintained by Limerick City and County Council under Section 8 of the Derelict Sites Act, 1990.

7.3.4. I consider that the notice was in accordance with the requirements of Section 15(1)(a) of the Derelict Sites Act, 1990, as amended. However, I do not consider that the notice was in accordance with the requirements of Section 15(1)(b) of the Derelict Sites Act, 1990, as amended, as it was not served on the owners/occupiers/lessee of the subject property. Rather, it was served on the agent Noel Kearly Associates Ltd. who was acting on behalf of the owner whom I note was identified by the Local Authority as Robert Simring.

- 7.3.5. 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 situated in their functional area does not become or continue to become a derelict site.* The policy of the Local Authority as expressed in the compulsory acquisition report, is to work proactively with property owners to seek timely actions to improve and activate sites through positive engagement, using powers under the Derelict Sites Act 1990, as amended, except where necessary.
- 7.3.6. It is over 2 years since communications between the owner / representatives of the owner and the Local Authority commenced in relation to the derelict state of the subject property. The Local Authority noted the planning history of the site, in particular two planning applications that were made to redevelop the site which sought to address the dereliction of the subject property, that were subsequently withdrawn. In reference to the planning history of the site and the objection received by the Local Authority from the owner, it was noted by the Local Authority that the owner of the subject property refers to engagement with relevant professionals to take reasonable steps to address the dereliction. It is evident that the Local Authority waited for the outcome of the relevant planning permissions made on the subject property to seek to address the dereliction of the site. 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 that the Limerick Development Plan 2022-2028 specifically Policy CGR P4 and Objectives CGR 04(b) and CGR 06, seeks to address instances of dereliction and decay in the urban and rural environment, seeks to reuse and revitalise derelict, vacant and underutilized sites and disused buildings and bring properties back into active reuse. Therefore I consider that the subject property and proposed compulsory acquisition would be consistent with the policies and objectives of the development plan, and 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 that owners/occupiers have obligations (under Section 9 of the Act) to “*take all reasonable steps to ensure that the land does not become or does not continue to be a derelict site*”. From the evidence on file including the photos taken by the Local Authority appended to the Compulsory Acquisition report, it is evident that the subject property was in a derelict state and in an unsightly, dangerous and neglected condition which detracted considerably from the character and visual amenities of the area at the time that the application to acquire the site was lodged.
- 7.5.2. I note that an objection to the proposed acquisition of the subject property was made to the Local Authority by the owner Crofton Properties Limited c/o Murphy Lynam Solicitors in a letter/email dated 04th November 2024. The basis of the objection to the compulsory acquisition of the subject property was to confirm when the owner acquired the property which I note was 28th June 2024, and since taking ownership, outlined how the new owner progressed with steps to remediate the derelict site to meet their statutory obligations under Section 9 of the Derelict Sites Act 1990, as amended. I note that this comprised of works to the front façade, internal works and demolition of the property to the rear.
- 7.5.3. I note that a further objection was made to the Board on 25th February 2025 by the owner Crofton Properties Ltd. c/o Murphy Lynam Solicitors stating since 2020 that four separate planning applications for the subject property were made, two of which were withdrawn (P.A. Refs. 20/512 and 22/310). It is further expressed that considerable investment was made by the owner to carry out surveys e.g. archaeological survey, new plans, layouts and surveys for the aforementioned planning applications. It is also stated that the subject property falls within Article 10(6)(a) Exemptions – change of use from commercial to residential and that the owner has proceeded with an application for exemption on this basis. Photographic evidence is provided to show that litter, rubbish, debris is removed, and progress within the site to the rear in terms of site clearance works. A fire safety compliance report is appended to the submission.
- 7.5.4. Having inspected the site on 03rd March 2025, it was evident that substantial demolition and site clearance works have taken place to the rear of the subject property. Other than the boarding up of windows at first floor level and the placing of hoarding at ground floor level on the front façade, it was not apparent that any further

significant works had been undertaken to address the appearance of the subject property since 04th November 2024 (when correspondence was received on behalf of the Notice Party). To the rear of the subject property, I note that the steel frame referred to in the submissions was not in place at time of site inspection. Large sections of the boundary walls along the northern and southern boundaries of the site are not in place. I would further note that the works that have been undertaken do not appear to relate to the implementation of a permitted development, having regard to the planning history of the site.

- 7.5.5. It is c. 4 years since the derelict condition of the property came to the attention of the Local Authority. It is c. 9 months when the current owner Crofton Properties Ltd acquired the subject property which was registered as a derelict site at time of purchase (Section 8(7) Notice 24th October 2023). I note that the stated intention is to redevelop the site to provide for residential accommodation and that significant expense has been incurred and invested for the redevelopment of the site. I note the planning history of the site whereby two planning applications were made by the owner, both of which were withdrawn. I note that it is the view of the owner that the proposed change of use from commercial development to residential development is exempted development. I have reviewed the Limerick City and County Council's planning register and to date I note that no further planning application or a certificate of exemption under Section 5 of the Planning and Development Act 2000 (as amended) have been registered.
- 7.5.6. It has been c. 6 months since the Local Authority served the Section 15 Notice of intention to acquire the site compulsorily. Having inspected the site and having regard to the details on the file and the submissions, I do not consider that there is significant evidence of any further works carried out to render the site non-derelict. In particular, there was no evidence of steel frame works having been installed or constructed within the subject property. It is also not clear the extent of expenses incurred as no specific details of outlay has been provided. I therefore consider that there is no material change to the site on foot of such expenses and that the derelict nature of the site has not been remedied.
- 7.5.7. It is further noted that the local authority has powers under Section 11 of the Derelict Sites Act 1990, as amended, to require the owner to take specified measures to address any outstanding issues contributing to the dereliction of the property, should

this be deemed necessary. Having regard, therefore, to all of the information available on the file and the continued appearance and condition of the subject property, it is concluded that the property constitutes a derelict site.

8.0 Conclusion

- 8.1. I am satisfied that the process and procedures undertaken by Limerick City and County Council have been fair and reasonable, that the Local Authority has demonstrated the need for the land to be acquired are both necessary and suitable to ensure that the lands do not continue to be a derelict site. However, I am not satisfied that the Section 15 Notice was served upon the owner in accordance with the provisions of Section 15(1)(b) of the Derelict Sites Act, 1990, as amended as I note that it was served on the agent Noel Kerley Associates Ltd on behalf of the owner Robert Simring.
- 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 a two-storey, mixed use premises and surrounding land situated at 11 Broad Street, Limerick, containing 0.029 ha or thereabouts, as set out in the Derelict Site Notice issued under Section 15(1)(b) of the Derelict sites Act 1990, (as amended) and dated 20th day of September 2024 and on the deposited map (DS-106-19) pursues, and was rationally connected to, a legitimate objective in the public interest, namely, to ensure that the lands do not continue to be in a derelict condition.
- 8.3. I am further satisfied that the proposed acquisition of these lands was consistent with the policies of the Limerick Development Plan 2022-2028 specifically Policy CGR P4 and Objectives CGR 04(b) and CGR 06 which seek to actively address instances of dereliction and decay in the urban and rural environment and bring properties back into active re-use and to revitalise towns and villages.
 - 8.3.1. 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.

- 8.3.2. I note the change in ownership of the subject property which occurred on the 28th June 2024, after the subject property had been entered on the Derelicts Sites Register as per the Section 8(7) Notice served 20th October 2023. In that regard the owner would have been aware and informed that the subject property was on the Local Authorities derelict site register, prior to acquisition. Having regard to my site inspection on 03rd March 2025, it was not apparent that further works had been undertaken to address the appearance of the subject property since it was acquired by the owner.
- 8.3.3. 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 Limerick City and County Development Plan 2022-2028, and specifically Objectives CGR 04, Objective CGR 06 and Policy CGR P4 which seek to actively address instances of dereliction and decay in the urban and rural environment and bring properties back into active re-use and to revitalise towns and villages.
- 8.3.4. However, having regard to the wording of Section 15(1)(b) of the Derelict Sites Act, 1990, as amended, I am satisfied that the Section 15 Notice has not been served upon the 'owner' of the property, but instead has been served upon the agent acting on the owners behalf. I am therefore not satisfied that the Local Authority complied with the provisions of Section 15(1)(b) of the Derelict Sites Act, 1990, as amended in this case.

9.0 Recommendation

- 9.1.1. Notwithstanding the current observed condition of the subject property, in particular the ruinous and derelict condition of the structure, and the neglected, unsightly and objectionable state of the land and the structure thereon which I consider materially detracts from the amenity, character and appearance of land in the neighbourhood and is therefore a derelict site within the meaning of Section 3 of the Derelict Sites Act, 1990, as amended, I am satisfied that the Local Authority, in seeking to compulsorily acquire the land, as provided by Section 14 of the Act, has failed to issue the Section 15 Notice in accordance with the provisions of Section 15(1)(b) of the Derelict Sites Act, 1990, as amended. The Section 15 Notice was issued to Noel Kerley Associates

Ltd, an agent, acting on behalf of the owner as required in Section 15(1)(b) of the Derelict Sites Act, 1990, as amended.

- 9.1.2. Having regard to the foregoing, I recommend that the Board refuse consent to Limerick City and County Council to compulsorily acquire the site.

10.0 Reasons and Considerations

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

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

it is considered that the Section 15 Notice was not served upon the owner in accordance with the provisions of Section 15(1)(b) of the Derelict Sites act, 1990, as amended, and the application for compulsory acquisition by the Local Authority has therefore not complied with the provisions of the Act.

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.

Clare Clancy
Planning Inspector

25th March 2025