



An  
Bord  
Pleanála

## Inspector's Report ABP-322274-25

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### Development

DS-039-21 - Derelict Site comprising two storey, end of terrace house and surrounding land containing 0.010 hectares

### Location

at 28 St. Lelia Street, Limerick

### Planning Authority

Limerick City and County Council

### Notice Party

Daniel Vaughtan

### Date of Site Inspection

16<sup>th</sup> June 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 28 St. Lelia Street, Limerick City in accordance with the provisions of the Derelict Sites Act 1990, as amended.

## **2.0 Site Location and Description**

- 2.1.1. The property which is the subject of this application for consent for compulsory acquisition (referred to hereafter as the 'subject property'), is located at 28 St. Lelia Street in Limerick City. St. Lelia Street is located north of the junction with Clare Street which is a busy regional road the R455. O'Briens Park is located immediately to the east of St Lelia Street, and there is an access to the Park Canal recreational amenity route and to O'Briens Park at the end of St. Lelia Street.
- 2.1.2. The subject property forms part of a terrace of 4 no. dwellings located to the east of St. Lelia Street. It comprises of a vacant, mid-terrace, two storey semi-detached dwelling positioned between a single storey dwelling to the north and a two storey dwelling to the south. There is an existing private laneway off St. Lelia Street adjacent to the adjoining single storey dwelling which provides access to the rear of subject property and to the adjoining dwellings. There is an existing housing scheme (Saint Lelia Place) located to the east of the site.
- 2.1.3. The subject property has a stated area of 0.010 ha. There is pedestrian access to the subject property off St. Lelia Street. There is a private amenity space located adjacent to the front of the dwelling that is enclosed by a low block wall with steel/iron fencing mounted on top. Access to same is via the existing pedestrian gate.
- 2.1.4. There is a public footpath adjacent to the subject property and on-street pay and display car parking along the road. Access to the rear of the site is via a gated laneway to the side of the adjoining single storey dwelling to the north.
- 2.1.5. 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).

2.1.6. On day of my site inspection, I was unable to gain entry to the interior of the dwelling or to the rear of subject property. My observations include the following:

- The subject property appeared vacant.
- The front façade appeared to have been painted.
- Cracks were evident on parts of the plaster on the front façade.
- The timber windows at ground floor and first floor were in place as was the front door.
- The roof appeared to be in good condition, there did not appear to be any loose or broken tiles.
- Vegetation was evident around the lower part of the front door.
- The private amenity space at the front of the dwelling which comprises of a decorative hard-standing area, was overgrown with vegetation/weeds.
- The boundary wall, gate and railings appeared to have been repainted.
- The gable wall was noted to be cracked and unpainted.
- It did not appear that rainwater goods were fitted to the roof.

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

3.1. Limerick City and County Council has applied to the Board for consent to compulsorily acquire the site under Section 14/16 of the Derelict Sites Act, 1990, as amended. I note that this application is subsequent to the serving of notices under Section 8(2) on 21<sup>st</sup> May 2021, advising of the Local Authority's intention to enter the site on the register of derelict sites, under Section 8(7) on 30<sup>th</sup> June 2021 advising of the Local Authority's decision to enter the site on the register of derelict sites.

### **4.0 Application and Objection**

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

4.1.1. Notice of Limerick City and Council's intention to acquire the site compulsorily was served on the owners/occupiers/lessee on (Daniel Vaughan) c/o Mary Long, Scarriff,

Co. Clare, and McMahon O'Brien Tynan Solicitors acting for the owners/occupiers/lessee (Daniel Vaughan) on 12<sup>th</sup> February 2025. The site was described as follows in the notices:

- A derelict site comprising a two-storey, mid-terraced house and surrounding land situate at 28 St. Lelia Street, Limerick, containing 0.010 ha 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-039-21 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 newspaper notice was in accordance with the requirements of Section 15(1)(a) of the Derelict Sites Act, 1990, as amended.

4.1.3. 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. The Section 15(1)(b) Notice was issued to the Notice Party Daniel Vaughan who is the owner, c/o McMahon O'Brien Tynan Solicitors, the agent who is was acting on behalf of the owner. Therefore I do not that the notice was in accordance with the requirements of Section 15(1)(b) of the Derelict Sites Act, 1990, as amended

4.1.4. The Section 15(1)(b) Notice was also served to the Notice Party Daniel Vaughan, c/o Mary Long, Scarriff, Co. Clare. It is not clear from the Local Authority Compulsory Acquisition Report or supplementary documentation if the address given, i.e. c/o Mary Long, Scarriff, Co. Clare was furnished by the owner, and is the address at which the owner ordinarily resides at. As there does not appear to be any documentary evidence to indicate otherwise, it cannot be establish if this address was furnished by the owner Daniel Vaughan to the Local Authority. In that regard I am not satisfied that service has properly been effected to comply with the requirements of Section 15(1)(b) of the Derelict Sites Act, 1990, as amended.

#### **4.2. Objection to Acquisition**

4.2.1. An objection to the proposed compulsory acquisition was submitted to Limerick City and County Council by McMahon O'Brien Tynan Solicitors in a letter dated 28<sup>th</sup> February 2025. The objection can be summarised as follows:

- Their client was in the process of commencing works on the subject property to bring it out of a state of dereliction and for that reason did not want the subject property to be compulsorily acquired.

#### **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 10<sup>th</sup> April 2025 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 addressed to McMahon O'Brien Solicitors on behalf of Daniel Vaughan dated 12<sup>th</sup> February 2025.
- Copy of cover letter addressed to Daniel Vaughan c/o Mary Long Scarriff, Co. Clare dated 12<sup>th</sup> February 2025.
- Copy of the Section 15 Notice served on the owners/ occupiers/ lessee of the site dated 07<sup>th</sup> February 2025.
- Copy of the newspaper notice Limerick Leader dated 15<sup>th</sup> February 2025.
- Copy of the objection made by McMahon O'Brien Solicitors on behalf of Daniel Vaughan dated 28<sup>th</sup> February 2025.
- Copy of letter of acknowledgement dated 14<sup>th</sup> March 2025 to McMahon O'Brien Solicitors on behalf of Daniel Vaughan.
- Copy of further response from McMahon O'Brien Solicitors on behalf of Daniel Vaughan dated 14<sup>th</sup> March 2025 in regard to their letter of 28<sup>th</sup> February 2025.

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 surround area. The site is deemed to be derelict by definition under Section 3 of the Derelict Sites Act 1990, as amended. Some indicators of dereliction on the site were noted to include partially demolished / ruinous building(s), missing/broken/leaking rainwater gutters or downpipes, dirty façade/peeling paint, rotten timber, accumulation of litter/waste, site overgrown with vegetation, unsightly boundaries (damaged/broken/rusted railings).
- The Local Authority first inspected the subject property on 13<sup>th</sup> April 2021 and identified it as a derelict site. A Notice of Enquiry was affixed to the site on 13<sup>th</sup> April 2021 and a neighbour informed the Area Inspector of the owner.
- On 17<sup>th</sup> May 2021, the Local Authority served the reputed owner Daniel Vaughan with a Section 8(2) Notice of intention to enter the subject property onto the Derelict Sites Register on 30<sup>th</sup> June 2021 served and affixed the Section 8(7) notice to the subject property advising that the site had been entered into the Derelict Site Register.
- On 17<sup>th</sup> July 2021, the Local Authority spoke with the reputed owner Daniel Vaughan to discuss the derelict site notice.
- On 20<sup>th</sup> July 2021 the Area Inspector met the owner at the subject property who advised that he was considering selling the subject property.
- On 10<sup>th</sup> December 2021, the Local Authority received a call from an auctioneer who were to represent the owner Daniel Vaughan to potentially sell the property on his behalf.
- On 04<sup>th</sup> October 2022, the Area Inspector noted that some painting work had commenced describing the standard as very poor.
- On 21<sup>st</sup> April 2023 the Area Inspector inspected the rear of the subject property observing that it was completely overgrown, untidy and unkept.

- A Section 22 Notice of Valuation was issued on 06<sup>th</sup> August 2024.
- On 07<sup>th</sup> October 2024, a letter was sent to the owner to arrange a site visit/meeting but was not responded to.
- On 16<sup>th</sup> January 2025, a site inspection was carried out by the Local Authority and noted that no change had occurred to the condition of the subject property and concluded that it remained a derelict site.
- A Section 15(1) Notice of Intention to Acquire the derelict site compulsorily was served on 12<sup>th</sup> February 2025.
- The report concluded as follows:
  - The subject property has been vacant for several years and is located in a prominent location in Limerick City. It further shows clear signs of degradation and deterioration and detracts significantly from the surrounding urban environment.
  - The subject property continues to deteriorate and attract negative attention in this key area of the site.
  - The inaction of the owner has demonstrated a failure of duty on their behalf to address the state of dereliction.

#### **4.4. Objection to Submission**

None.

#### **5.0 Planning History**

None.

#### **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 of—

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

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

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

6.2.3. 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 of Issues**

### **7.1. Site Inspection**

7.1.1. Internal access and rear access to the property was not possible on the date of my site inspection on 24<sup>th</sup> April 2025, however I was able to view the subject property from the public road (St Lelia Street).

7.1.2. My observations include the following:

- The subject property appeared vacant.
- The front façade was painted.
- Cracks were evident on parts of the plaster on the front façade.
- The timber windows at ground floor and first floor were in place as was the front door.
- Vegetation was evident around the lower part of the front door.
- The private amenity space at the front of the dwelling which comprises of a decorative hard-standing area, was overgrown with vegetation/weeds.
- The boundary wall, gate and railings appeared to have been repainted.
- The gable wall was noted to be cracked and unpainted.

- It did not appear that rainwater goods had been fitted to the roof.

7.1.3. It is noted that some works were carried out since the Section 15 Notice was served. While the front façade of the dwelling requires further maintenance and attention to improve its appearance, overall I consider that the condition of the front facades has improved since the last site inspection of the Local Authority, as indicated on the photo taken 21<sup>st</sup> January 2025. The north facing gable elevation however remains in poor condition and vegetation was further observed in the private amenity area at the front of the dwelling.

7.1.4. The subject property is located in a mature residential area off the adjoining regional road R445, which is a busy arterial road through the city centre serving Castletroy and the University of Limerick to the east. The Limerick School of Art and Design is also located to the south of the subject property and there are recreational amenities located in close proximity of the subject property, namely O'Briens Park to the east and the Park Canal walk is located to the north, with access to same at the end of St. Lelia Street to the north. The buildings and dwellings in the immediate surrounds were noted to be reasonably well maintained with the majority appearing to be occupied.

## **7.2. Category of Dereliction**

7.2.1. I note the Local Authority considered that the property and lands fell under Category (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 be in a neglected, unsightly and objectional condition, as set out under Category (b) of Section 3 of the Derelict Sites Act 1990, as amended:

(b) The lands and structure are still neglected, unsightly and objectionable condition.

7.2.3. Having regard to (b) above, it is my consideration that the appearance of the subject property addressing St. Lelia Street has improved since the Section 15 Notice was issued. On that basis, I do not consider that the subject property and lands are detracting to a material degree from the amenity, character and appearance of land in the neighbourhood in question.

- 7.2.4. Although I was not able to view the rear of the subject property on the day of site inspection, I note the Local Authority photos dated 16<sup>th</sup> January 2025 which show the curtilage of the subject property to the rear of the dwelling in a neglected unsightly or objectionable condition. Notwithstanding, the subject property was not noted to be in a ruinous / derelict / dangerous condition by the Local Authority. In this regard, I am satisfied that the subject property, in particular the front of the property facing onto St. Lelia Street, does not fall under Category (a) of the Derelict Sites Act 1990, as amended.
- 7.2.5. I did not notice any litter or rubbish within the curtilage of the subject property, or any evidence of waste being stored externally. Therefore I am satisfied that the site does not fall under Category (c) of the Derelict Sites Act 1990, as amended.

### **7.3. Action of Local Authority**

- 7.3.1. I note the actions of the Local Authority and the statutory notices served on the owner/occupier in respect of the subject property. The Compulsory Acquisition Report of the Local Authority in the History of the Derelict Site Case indicates that there was active engagement with the landowner which commenced after a Notice of Enquiry was affixed to the subject property on 13<sup>th</sup> April 2021.
- 7.3.2. Section 8(2) Notices were served on the owner on 21<sup>st</sup> May 2021, advising of the Local Authority's intention to enter the site on the Derelict Sites Register. Section 8(7) Notices were subsequently served on the owner on 30<sup>th</sup> June 2021 advising that the site had been entered on the Derelict Sites Register. Having regard to the above, I am satisfied that the Local Authority complied with the requirements of Section 8(2), Section 8(7) of the Derelict Sites Act 1990, as amended.
- 7.3.3. The Section 15(1) Notice dated 07<sup>th</sup> February 2025 of Limerick City and Council's intention to acquire the site compulsorily was erected on the front façade of the subject property and was served on the owner c/o Mary Long, Scarriff, Co. Clare, and McMahon O'Brien Tynan Solicitors on 12<sup>th</sup> February 2025, and published in the Limerick Post newspaper dated 15<sup>th</sup> February 2025 regarding the Local Authority's intention to acquire the site compulsorily. The site was described as follows in the notice:

- A derelict site comprising a two-storey, mid-terraced house and surrounding land situate at 28 St. Lelia Street, Limerick, containing 0.010 ha 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-039-21 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 note that the Section 15 Notice 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:

- The Section 15 Notice was served on the agent McMahon O'Brien Tynan Solicitors who act on behalf of the owner Daniel Vaughan.
- The Section 15 Notice was sent by post to the owner Daniel Vaughan c/o Mary Long, Scarriff, Co. Clare. Having regard to the provisions of Section 6(1) of the Derelict Sites Act 1990 as amended, the address as 'c/o Mary Long, Scarriff, Co. Clare' cannot be established as having been furnished by the owner Daniel Vaughan as the address at which he ordinarily resides at.

7.3.5. Having regard to the foregoing, 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.

7.3.6. I note that Local Authorities have a duty (under Section 10) "to take all reasonable steps (including the exercise of any appropriate statutory powers) to ensure that any such land does not become/continue to be a derelict site". The policy of the Local Authority, as expressed in the Compulsory Acquisition report, is to positively engage with the owners of a derelict site and to avoid using powers under the Derelict Sites Act, except where necessary. It is c. 3.5 years since communications between the owner of the subject property and the Local Authority commenced in relation to the derelict state of the property. 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 Strategic Objective 4, and Objectives CGR 04(b) and CGR 06, seeks to address instances of dereliction and decay in the urban and rural environment, seeks to reuse and revitalise derelict, vacant and underutilised sites and disused buildings and bring properties back into active reuse. I consider that the subject property detracts to a material degree on the character and appearance of the surrounding area. 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 direct condition.

#### **7.5. Action of the Owner to Address Dereliction**

- 7.5.1. I note that an objection to the proposed acquisition of the site was made to the Local Authority by the owner Daniel Vaughan c/o McMahon O'Brien Tynan Solicitors on 28<sup>th</sup> February 2025. The basis of the objection was that the owner was in the process of commencing works on the subject property to address the state of dereliction. A further submission was made to the Local Authority on 14<sup>th</sup> March 2025 advising that the owner had carried out three quarters of the work required for the removal of the house from the Derelict Sites Register. No schedule of works were outlined in either of the submissions.
- 7.5.2. 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*”. I noted from my site inspection on 16<sup>th</sup> April 2025 that it was apparent that works had been undertaken to address the appearance of the subject property since the Local Authorities site inspections carried out on 21<sup>st</sup> January 2025 and on 13<sup>th</sup> February, prior to the issuing of the Section 15(1) Notice on 12<sup>th</sup> February 2025.
- 7.5.3. Having inspected the site and notwithstanding that access to the rear of the subject property was unavailable, it was evident to me that the appearance of the subject property had been enhanced which would improve the state of dereliction. These actions included the repainting of the front façade of the subject property, the clearance of rubbish and extensive vegetation growth in the private amenity space at the front of the subject dwelling and other vegetation growth that had grown

extensively up along the front elevation of the subject property, and the repainting of the boundary wall, gate and railings. In this regard, I do not consider that the condition of the subject property has deteriorated further since the application was lodged. Having regard to the above assessment and to my inspection of the lands, and having regard to the Local Authorities determination of the subject property under Category (b) of Section 3 of the Derelict Sites Act 1990, as amended, I acknowledge that the subject property has been vacant for sometime however, I am satisfied that the condition of the site is not so unsightly and objectionable that it detracts to a material degree from the amenity and character of the neighbourhood and in this case. It is therefore considered that it would not be appropriate to consent to the compulsory acquisition of the site at this point in time.

## **8.0 Conclusion**

- 8.1.1. 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 lands and that all the lands being acquired are both necessary and suitable to ensure that the lands do not continue to be a derelict site.
- 8.1.2. Having regard to the Constitutional and Convention protection afforded to property rights, I consider that the proposed acquisition of the Derelict Site comprising a comprising a two-storey, mid-terraced house and surrounding land situate at 28 St. Lelia Street, Limerick, containing 0.010 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 13<sup>th</sup> February 2025 and on the deposited maps DS-039-21 pursues, and is rationally connected to, a legitimate objective in the public interest, namely, to ensure that the lands do not continue to be in a derelict condition.
- 8.1.3. 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.
- 8.1.4. It is further acknowledged that at the time of the lodgement of the application with the Board, the acquiring authority had adequately demonstrated that the means chosen

to achieve that objective would have impaired the property rights of affected landowners as little as possible, and that the effects of the compulsory acquisition on the rights of affected landowners were proportionate to the objective being pursued at the time.

- 8.1.5. However, having regard to the actions undertaken to date which have improved the state of dereliction, I am no longer satisfied that this is still the case. In this respect, I have considered alternative means of achieving the objective referred to in the submissions to the Board and am satisfied that the alternatives are such as to render the means chosen and the compulsory acquisition by the acquiring authority unreasonable or disproportionate.
- 8.1.6. Having regard to the efforts made to date by the owner to address the matters that gave rise to the derelict condition of the site, the progress made on site which includes for the repainting of the front façade of the subject property, the clearance of rubbish and extensive vegetation growth in the private amenity space at the front of the subject dwelling and other vegetation growth that had grown extensively up along the front elevation of the subject property, and the repainting of the boundary wall, gate and railings, I am no longer satisfied that the grant of consent to the compulsory acquisition is justified by the exigencies of the common good at this point in time. I am of the opinion that, given the works carried out to date on site, it would be appropriate to allow time to progress matters on site.
- 8.1.7. Notwithstanding the above, having regard to the wording of Section 15(1)(b) of the Derelict Sites Act, 1990, as amended, I am not satisfied that the Section 15 Notice has been served upon the 'owner' of the subject property, but instead has been served upon the agent acting on the owners behalf (McMahon O'Brien Tynan Solicitors), and served at an address (c/o Mary Long, Scarriff, Co. Clare) where it cannot be established that the aforementioned address is where the property owner ordinarily resides at, having regard to Section 6(1) of the Derelict Sites Act 1990, as amended. 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 unsightly and objectionable condition of the site which detracts to a material degree from the amenity, character and appearance of the streetscape and surrounding land in the neighbourhood, taking account of the evidence of the ongoing efforts being made by the Notice Party to address the dereliction on the site and to bring the property back into use which include for the repainting of the front façade of the subject property, the clearance of rubbish and vegetation growth in the private amenity space at the front of the subject dwelling and other vegetation growth that had grown extensively up along the front elevation of the subject property, and the repainting of the boundary wall, gate and railings which was evident from site inspection, I do not consider it reasonable that the Local Authority now seeks to compulsorily acquire the land at this point in time, as provided by Section 14 of the Act. I recommend, therefore, that the Board refuses consent to Limerick City and County Council to the compulsory acquisition of the site.
- 9.1.2. Notwithstanding the above, 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(1) Notice was issued to the agent McMahon O'Brien Tynan Solicitors, acting on the owners behalf, and served at an address c/o Mary Long, Scarriff, Co. Clare, where it cannot be established that the aforementioned address is where the property owner ordinarily resides at, having regard to Section 6(1) of the Derelict Sites Act 1990, as amended. 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.
- 9.1.3. 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.

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Clare Clancy  
Planning Inspector

24<sup>th</sup> June 2025