



An
Coimisiún
Pleanála

Inspector's Report

ACP-322987-25

Development

Derelict Site at Cooltederry,
Portarlington, Co. Laois

Location

Cooltederry, Portarlington, Co. Laois

Local Authority

Laois County Council

Notice Parties

Edward Harty Jnr & Johnny Harty and
Martin Kavanagh & Caroline Kavanagh

Date of Site Inspection

31st October 2025

Inspector

Matthew O'Connor

1.0 Introduction

1.1. The subject case relates to a request by Laois County Council for the consent of An Coimisiún Pleanála to the compulsory acquisition of the subject site at Cooltederry, Portarlinton, Co. Laois in accordance with the provisions of the Derelict Sites Act, 1990 (as amended).

2.0 Site Location and Development

2.1. The property subject of this application for consent for compulsory acquisition (referred to hereafter as the 'subject property') is located in the townland of Cooltederry on Ballymorris Road (L-3157) in the settlement of Portarlinton, Co. Kildare.

2.2. The subject property has stated site area is 0.522 hectares comprises an existing three-bay cottage and associated grassed lands which is accessible from the Ballymorris Road (L-3157) at the southern periphery of Portarlinton. The subject property is not a Protected Structure nor is it listed on the National Inventory of Architectural Heritage (NIAH) or situated within an Architectural Conservation Area. The subject property is bounded to the south by the 'Ballymorris Court' housing estate and to the east by the 'Whitefields' housing estate. The lands to the north are currently in use as agricultural grassland.

2.3. On the day of my site inspection, the gateway at the property entrance was tied and there was at least one horse present on the land, so I did not access the lands or gain entry to the interior of the dwelling structure. From my observations on the public footpath, I am of the view that the dwelling structure is unoccupied and I specifically note the following:

- The extent of the site to the front of the dwelling structure and alongside the public road is grassed and there is some overgrowth of trees, brambles and other vegetation to the immediate side and rear of the dwelling structure.
- The dwelling structure has window opes on the front and side elevations boarded-up or screened; the front door is in poor condition and screened with ply wood; guttering to the front elevation is loose and partially fallen with some vegetation growing from the gutters; a number of roof slates are loose; and vegetation/ivy is growing up the side (south-facing) elevation.

- The rear extent of the site is in short grass and the side and rear boundaries are comprised of mature hedgerows.

3.0 Application for Consent for Acquisition

3.1. Laois County Council has applied to An Coimisiún Pleanála 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 Laois County Council serving notices as follows:

- Section 8(2) Notice dated 20th December 2023 (advising of the Local Authority's intention to enter the site on the register of derelict sites).
- Section 8(7) Notice dated 14th May 2024 (advising of the Local Authority's decision to enter the site on the register of derelict sites).
- Section 15(1)(b) Notice dated 29th May 2025 notifying of the Local Authority's intention to acquire the site compulsorily.
- Section 15(1)(a) Notice published in a local newspaper dated 3rd June 2025 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 Laois County Council's intention to compulsorily acquire the site was served upon the owners/ reputed owners on 29th May 2025 by way of being placed on the site and published in the Leinster Express Newspaper dated 3rd June 2025. The site was described in the notices, as follows:

- ***The site and premises at Cooltederry, Portarlinton, Co. Laois comprised in Folio LS17280 comprising 0.052 hectares approximately.***

4.1.2. It shall be noted in relation to the published newspaper notice that the site area is being 0.052 hectares however, the Compulsory Purchase Order Map lists the site as being 0.522 hectares. I consider, from review of the file, that the subject property relates to a site area of 0.522 hectares given that this is the approximate area of Folio LS17280. Whilst I am of the view that the notices are in accordance with the requirements of Section 15 (1)(a) and (b) of the Derelict Sites Act 1990 (as amended)

in so far as they relate to the address and location of the subject property, the extent of the site area as referred in the newspaper publication is incorrect and misleading.

4.2. **Objection to Acquisition**

4.2.1. An objection to the proposed acquisition was submitted to Laois County Council by Edward Harty Jnr and Johnny Harty dated 20th June 2025. The objection is summarised as follows:

- Edward Harty Jnr and Johnny Harty are the sons of the late Edward Harty Snr who claimed possession of the land over 30 years ago under squatter's rights (adverse possession) and maintained it until his passing 18 years ago.
- The Hartys have continued the occupation of the land and assert a continuation of those squatter's rights. The lands are considered to be an established part of their farm holdings.
- It is rejected that the site qualifies as being derelict under Section 3 of the Derelict Sites Acts. While not currently developed, the site has not been abandoned or neglected and remains in the Hartys' possession and care.
- For over 30 years the land has been used to keep horses and is actively maintained through feeding and grazing and management of horses which demonstrates exclusive possession and active occupation of the land by the Hartys.
- The presence of horses on the property is not only a reflection of its care but demonstrates that the site is not derelict.
- The Hartys are currently exploring options to improve and develop the site further and are open to engaging with the Council on any concerns. It is requested that a reasonable period be provided to complete any necessary works to bring the site to a standard acceptable under the Act.
- The Hartys consider that the proposed Compulsory Acquisition is premature and disproportionate given the long-standing familial claim and the ongoing efforts to maintain the property.
- Less invasive options are available to the Council such as issuing a Warning Letter or offering assistance through development/regeneration schemes.

- It is requested that the intention to acquire the site be withdrawn and allow the Hartys a reasonable opportunity to regularise and develop the land.
- Legal advice is being sought and there is an intention to pursue all available options to protect their rights regarding this property.

4.2.2. On 16th September 2025, An Coimisiún Pleanála received correspondence from Laois County Council that a letter was received on 15th August 2025 from Robert Coonan Solicitor on behalf of Martin Kavanagh and Caroline Kavanagh who believe that they are entitled to a right and interest in the site. An Coimisiún responded on 9th October 2025 confirmed that the letter received would be added to the case file and taken in consideration when determining the case. The letter of objection is summarised as follows:

- Martin Kavanagh and Caroline Kavanagh are Executors of the late Albert Kavanagh and by virtue of his last Will and Testament, devised the lands comprised in Folio LS17280 to Martin Kavanagh. The lands in question are registered in the name of William Kavanagh, the paternal uncle of Martin Kavanagh and Caroline Kavanagh.
- It is noted from publicity surrounding the Derelict Site Notice that Laois County Council received a putative claim on behalf of Edward Harty and Johnny Harty with respect to some right, entitlement or interest in the lands which appears to be based on the grazing of animals.
- Albert Kavanagh believed he owned the dwellinghouse and garden and Martin Kavanagh and Caroline Kavanagh are endeavouring to locate a Deed of Transfer which may have been executed by William Kavanagh in favour of his brother.
- Enquiries will be carried out with Laois Bar Association and statutory advertisements will be made in the Law Gazette with respect to the matter along with enquiries as to whether William Kavanagh made a Will. If a Will was made, there is a possibility that the devise to Albert Kavanagh will be in that Will.
- In the case that William Kavanagh died intestate, his Estate will be dealt with under the Rules of Intestacy and Martin Kavanagh and Caroline Kavanagh, by virtue of those rules, will be entitled to a right/interest in the lands.

- The assertions of the Harty brothers that they or their predecessors in Title may have grazed animals on the land to the extent that they have acquired some rights akin to ownership is refuted.
- If the Harty brothers have had animals grazing on the property, this was without the knowledge or consent of the registered owner or his successors in Title. The assertions of the Harty brothers amount to nothing other than bare assertions.
- Martin Kavanagh and Caroline Kavanagh wish to cooperate with Laois County Council in respect of the Derelict Site Notice and have been advised to take such steps as deemed necessary by the Council to secure the property.
- Martin Kavanagh and Caroline Kavanagh wish to secure the property from trespass by any third parties, including members of the Harty family.

4.3. Local Authority's Application for Consent

4.3.1. The Local Authority requests the consent of An Coimisiún Pleanála to the compulsory acquisition of the derelict site. The application for consent was received on 9th July 2025 and includes the following:

- Photographs of the Notice of Intention to Enter Land as a Derelict Site, description of lands and Site Map affixed to the subject property with a photograph date listed as 20th December 2023.
- Copy of Land Registry Folio LS17280 relating to the subject property.
- Extract from Google Streetview (undated) showing condition of subject property.
- Copy of Notice of Intention to Enter Land as a Derelict Site in the Derelict Site Register letter dated 23rd May 2023 and signed by the Senior Planner.
- Copy of Site Map relating to the subject property dated 19th December 2023, Not to Scale and stating DS 23/04.
- Copy of Site Notice relating to Notice of Entry in the Derelict Sites Register (Ref. No. DS 23/04) signed by the Senior Planner and dated 14th May 2024.
- Photographs of Notice of Entry in the Derelict Sites Register (notice dated 14th May 2024) and Site Map of lands affixed to the subject property.

- Copy of the Local Authority Chief Executive Officer Order signed by the Director of Services dated 26th May 2025 and stating that the Common Seal of the Council be affixed to Drawing Ref. No. 2025/02 for the subject site.
- Copy of a Local Authority Memo dated 27th May 2025 approved by a Director of Services which states the subject property has been on the Derelict Sites Register since 14th May 2023 and that no works have been carried out or any efforts made to stop the site being becoming derelict since that time. Noting that the owner is deceased and all previous correspondence has been posted to the site with no response received from any interested parties. The Housing Section have confirmed that they are interested in the property for housing purposes and recommending that a Section 15 Notice of Local Authority's intention to acquire the property be served on the owner and a copy of the notice placed in a local paper.
- Copy of the Local Authority Chief Executive Officer's Order dated 27th May 2025 that the properties of the subject land be acquired compulsorily; that a Notice of Intention of Acquire Compulsorily be prepared and that the seal of the council be affixed to the relevant maps; that the Notice of Intention of Acquire Compulsorily be published and served in accordance with the Derelict Sites Act 1990 (as amended); and, that a copy of the Notice be affixed in a conspicuous position on the land.
- Copy of Map (Drawing Ref. No. 2025/02) of subject lands relating to the Compulsory Purchase Order with Official Seal of Laois County Council signed by the Cathaoirleach and County Secretary dated 28th May 2025.
- Copy of Notice of Intention to Acquire Derelict Site signed by the Town Regeneration Officer dated 29th May 2025.
- Copy of letter issued to 'The Owners' of the property at Cooltederry, Portarlinton, Co. Laois notifying that Laois County Council is proceeding to compulsorily acquire the property dated 29th May 2025.
- Copy of Newspaper Notice from the Leinster Express published on 3rd June 2025.
- Photographs of the Letters, Notices and Map affixed to the subject property.
- Copy of Objection to the proposed compulsorily acquisition lodged by Edward Harty Jnr and Johnny Harty dated 20th June 2025.

- Copy of the Local Authority Cover Letter to An Coimisiún Pleanála in respect of the proposed compulsory acquisition and comments on Objection Letter dated 7th July 2025.

4.3.2. As previously indicated, subsequent to the application for consent being received An Coimisiún Pleanála received correspondence from Laois County Council on 16th September 2025 with a letter from Robert Coonan Solicitor on behalf of Martin Kavanagh and Caroline Kavanagh who believe that they are entitled to a right and interest in the site. This correspondence is dated received on 15th August 2025.

4.4. **Objector's Submission**

4.4.1. A submission by Johnny Harty and Edward Harty Jnr forwarded by Laois Travellers Action Group was received by the Commission on 29th July 2025 in response to the application for compulsory acquisition. The submission is summarised as follows:

- Formal objection to the proposed acquisition
- While not registered owners, claim is asserted under adverse possession having had continuous, open and exclusive use and occupation lands for over 30 years
- The property has been recently cleaned and painted and brought into a respectable condition which demonstrates an ongoing commitment to maintaining and caring for the site.
- In relation to the timeline of notices between December 2023 and May 2025, it is stated that notices were not received. The notices were not addressed to the Hartys and to their knowledge were placed on the front gate which is a public pathway whereby they could have been removed or tampered with by any member of the public. There was no opportunity to formally respond at the time.
- The Hartys are currently in the process of seeking to regularise their title to the property and it is intended to continue with improvements.
- The Commission is asked to consider the Hartys position carefully and allow them to pursue their legitimate and lawful claim rather than permitting compulsory acquisition of the site that they have long regarded and maintained as part of their family heritage.

4.5. Oral Hearing

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

5.0 Planning History

5.1. None.

6.0 Legislation and Policy Context

6.1. Derelict Sites Act 1990 (as amended)

6.1.1. The Derelict Sites Act 1990 (as amended), makes provision to prevent land being or becoming a derelict site. Amongst other things, it enables Local Authorities to require landowners or occupiers to take measures on derelict sites and, in certain circumstances, to acquire derelict sites compulsorily.

6.1.2. Section 3 of the above Act defines a 'derelict site' as:

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

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

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

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

6.1.3. Other relevant provisions of this Act are briefly 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 (now An Coimisiún Pleanála).

6.2. Planning Policy Context

Laois County Development Plan 2021-2027

- 6.2.1. The subject site is located within the settlement of Portarlinton which is categorised as a Self -Sustaining Growth Town in the Settlement Hierarchy. The following Objectives of Chapter 4: 'Housing' are considered to be of relevance to the subject proposal.

Objective HPO 5 To engage in active land management and site activation measures, including the implementation of the vacant site levy on all vacant residential and regeneration lands, and address dereliction and vacancy to ensure the viability of towns and village centres, i.e. Portlaoise, Portarlinton, Mountmellick and Graiguecullen

Objective HPO 14 Promote residential development addressing a shortfall in housing provision through active land management and a coordinated planned approach to developing appropriately zoned lands at key locations including regeneration areas, vacant sites,

and underutilised sites. This includes backland development, thus promoting a more efficient use of zoned land.

Objective REG 3 Use the Derelict Site legislation to identify and address issues of dereliction within the towns and villages of the County.

Portarlington Joint Local Area Plan 2025 – 2031

- 6.2.2. The subject site is within the boundary of the Portarlington Joint Local Area Plan 2025-2031. This Joint Local Area Plan was made by Offaly County Council on 16th June 2025 and Laois County Council on 30th June 2025 and is effective from 28th July 2025 within the functional area of the Offaly County Council and 11th of August 2025 within the functional area of Laois County Council respectively.
- 6.2.3. The subject site is covered by two land use zoning categories under this Joint Local Area Plan with the curtilage of the dwelling structure being zoned ‘Residential 1 – Existing Residential’ and the remaining surrounding lands being zoned ‘Residential 2 – New Proposed Residential’. The objective of ‘Residential 1’ lands is to *‘protect and enhance the amenity of developed residential communities’*. The objective of ‘Residential 2’ lands is to *‘provide for new residential development, residential services and community facilities’*. The following policies are deemed to be applicable:
- Policy 7.2 Promote and encourage compact growth in Portarlington through the sustainable intensification and consolidation of the town centre.*
- Policy 10.4 Support the effective and efficient use of land in Portarlington, prioritising compact growth through the development and regeneration of vacant and underutilised brownfield/infill land and buildings within the existing built-up footprint of the town.*
- Policy 11.4 Seek to address vacancy, dereliction, and the underutilisation of land and buildings in the town centre by supporting an appropriate mix of other alternative uses such as enterprise and business start-ups, offices, tourism and culture, hospitality, residential etc., subject to compliance with proper planning and environmental considerations.*
- Policy 14.6 Promote and encourage heritage-led regeneration in Portarlington, and tackle dereliction and vacancy so as to improve the quality of life and the interesting and attractive uniqueness of the town.*

7.0 Assessment

7.1. Site Inspection

7.1.1. I carried out my site inspection on 31st October 2025. Internal access to the building was not available. As there was At least one horse present on the land, I conducted an external visual observation of the property from Ballymorris Road. I walked along the front of the property. The timber post and rail fence to the front of the lands was sound and stock proof. The area to the front of the dwelling structure was grassed which has been grazed down. The area to the side (south) and rear (east) of the dwelling house was partially overgrown and unkempt with vegetation and trees. The dwelling structure has its opes either boarded up or screened from access. There are weeds growing from the front gutter which is partially collapsed and a number of roof slates are loose and out of position. Ivy is also growing on the side (south) elevation. I also observed the adjoining field to the rear of the dwelling structure and observed it to be grazed down with hedgerow boundaries.

7.2. Category of Dereliction

7.2.1. Based on the property condition which I observed during my site inspection, I do not consider that the site falls within category (a) of Section 3 of the Act, which relates to structures which are in a ruinous, derelict or dangerous condition. I have formed this view having inspected the site and reviewed the material on the file and therefore, I do not consider that the dwelling structure is likely to be in a dangerous condition, or that it could be considered ruinous. Other than the dwelling structure having some loose roof slates and partially collapsed gutters, I note that the walls and roof are intact. Therefore, I do not consider that the condition of this structure results in the wider property being considered to fall under category (a) of Section 3 of the Act.

7.2.2. In respect of category (b) of Section 3 of the Act, I note the condition of the dwelling structure whereby the front elevation (facing the Ballymorris Road) has been recently painted. The window opes are boarded up/screened; gutters are partially collapsed, weeds area growing from the gutters, roof slates are loose/dislodged and there is general overgrowth to the immediate side and rear of the dwelling structure. I am of the view that the general appearance of the dwelling structure is of a neglected, unsightly and objectionable condition, when viewed in the context of this peripheral area of Portarlinton where neighbouring residences are well maintained. I consider

that this element of the subject property, namely the dwelling structure, detracts to a material degree from the amenity, character and appearance of land in the neighbourhood, which in my view, renders it derelict under Section 3 of the Act. That said, I am of the view that the grassland area of the subject property is in a reasonable condition and is being grazed by at least one horse. I do not consider that this considerable part of the property falls within category (b) of Section 3 of the Derelict sites Act, 1990.

7.2.3. I do not consider the property to fall within category (c) of Section 3 of the Act as there was no rubbish evident at the time of my inspection with the exception of a children's bike in the front curtilage area.

7.3. Action of Local Authority

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

7.3.2. The letter received with the request by Laois County Council for the consent of An Coimisiún Pleanála sets out the undertakings of the Local Authority with this property. The subject property was identified as being 'derelict' under the provisions of Section 3 of the Derelict Sites Act due to its unsightly appearance. It was identified that the registered owner (of Folio LS17280) is deceased. A Section 8(2) Notice advising of the Local Authority's intention to enter the site on the register of derelict sites was placed on the site dated 20th December 2023. It is stated that there was no contact from any interested party. On 14th May 2024, Laois County Council served a Section 8(7) Notice advising of the Local Authority's decision to enter the site on the register of derelict sites. This notice was placed on the site, and it is stated that there was no contact from any interested party. On 29th May 2025, Laois County Council served a Notice notifying of the Local Authority's intention to acquire the site compulsorily. This notice was placed on the site and published in the Leinster Express on 3rd June 2025. According to the Laois County Council, there was no attempt made from 14th May 2024 to 29th May 2025 to clean up the site or the dwelling structure and that no contact was made from any interested parties during this time period.

7.3.3. I note that in using its powers to Compulsorily Acquire the property, a Memorandum from the Local Authority dated 27th May 2025 has erroneously stated that the site is on the Derelict Sites Register since 14th May 2023. It is also stated that the Housing Section have confirmed that they are interested in the property for housing purposes and has included an email essentially stating same. In the request by Laois County Council for the consent of An Coimisiún Pleanála, it is stated that permission to proceed with the compulsory purchase of this site is sought as part of active land management to achieve the objectives of compact growth and the proper and sustainable development of this area. In this letter, Laois County Council also provide a response to the objection letter received from Edward Harty Jnr and Johnny Harty who claim possession of the land under squatter's rights. It is contended by the Local Authority that the objection received from the Hartys is not valid as improvement works have been undertaken and the site remains derelict in the meaning of the Derelict Sites Act 1990.

7.3.4. I acknowledge that the Local Authority has taken steps to consult with the Owners/Reputed Owners of the subject lands to bring the subject property out of dereliction and I am also satisfied that the Local Authority has provided the sufficient time and opportunities to address the dereliction. I am therefore satisfied that the efforts of the Local Authority have been fair and reasonable in this particular regard.

7.3.4. However, I note that the Local Authority has not explicitly outlined how the Compulsory Acquisition of the overall land relating to Folio LS17280 (i.e. the dwelling structure and grassed field) accords with policies and objectives of the Laois County Development Plan 2021-2027 to address vacancy and/or dereliction in County Laois or that any reference has been made to general Government Policy in terms of housing or the need to acquire the subject dwelling structure and the associated lands.

7.4. Compliance with Development Plan

7.4.1. I note the provisions of Laois County Development Plan 2021-2027 specifically Objective HPO 5; Objective HPO 14; and Objective REG 3 which essentially seek to utilise Derelict Site legislation to identify/address issues of dereliction in County Laois; engagement in active land management/site activation measures to address dereliction and vacancy to ensure the viability of settlements; and promote residential development through active land management in a coordinated manner on

appropriately zoned lands at key locations such as vacant/underutilised sites to promote an efficient use of zoned land.

7.4.2. In addition to the above, I also note the provisions of the Portarlington Joint Local Area Plan 2025 – 2031 which is relevant to the subject site and in particular Policies 7.2; 10.4; 11.4 and 14.6 which respectively seek to promote/encourage compact growth in Portarlington, support efficient use of land through the development and regeneration of vacant and underutilised brownfield/infill land, address vacancy, dereliction, and the underutilisation of land and buildings (in the town centre) and promoting heritage-led regeneration and tackling dereliction and vacancy so as to improve the quality of life and the interesting and attractive uniqueness of the town.

7.4.3. Therefore, I consider that the compulsory acquisition of property would be consistent with the policies and objectives of the Development Plan to ensure that such lands do not continue to be in a derelict condition and would be applicable to the dwelling structure on the subject property.

7.5. Action of the Owner to Address Dereliction

7.5.1. I note that owner/occupiers have obligations under Section 9 of the Derelict Sites Act 1990 (as amended) to *'take all reasonable steps to ensure that the land does not become or does not continue to be a derelict site'*.

7.5.2. The correspondence received from the respective objectors assert claim on the subject property. The objection to the proposed compulsory acquisition lodged by Edward Harty Jnr and Johnny Harty dated 20th June 2025 states that their father claimed possession of the subject lands over 30 years ago under squatter's rights (adverse possession). It is stated the lands are considered to be an established part of their farm holdings and is actively maintained through the feeding, grazing and management of horses. The objection states that Edward Harty Jnr and Johnny Harty are currently exploring options to improve and develop the site and are open to engaging with Laois County Council on any concerns. Reasonable time is requested to complete any works to bring the site to an acceptable standard under the Derelict Sites Act. It is further stated that the proposed Compulsory Acquisition is premature and disproportionate given the long-standing familial claim and the ongoing efforts to maintain the property. The objection concludes by stating that legal advice is being

sought and there is an intention to pursue all available options to protect the rights of Edward Harty Jnr and Johnny Harty regarding this property.

- 7.5.3. An Coimisiún Pleanála received correspondence from Laois County Council on 16th September 2025 with an objection letter received from Robert Coonan Solicitor on behalf of Martin Kavanagh and Caroline Kavanagh (dated received 15th August 2025) who believe that they are entitled to a right and interest in the subject site. The Kavanaghs are the Executors of the late Albert Kavanagh (brother of William Kavanagh, the registered owner) who devised the lands comprised in Folio LS17280 to Martin Kavanagh. The letter states that the late Albert Kavanagh believed he owned the dwellinghouse and garden. The Kavanaghs endeavour to locate a Deed of Transfer which may have been executed by William Kavanagh in favour of his brother and state that enquiries will be carried out with the Laois Bar Association and that statutory advertisements will be made in the Law Gazette with respect to a Will. It is stated that in the case that William Kavanagh died intestate, his Estate will be dealt with under the Rules of Intestacy and the Kavanagh, will be entitled to a right and interest in the lands. The letter refutes any rights, interests or claims asserted by Edward Harty Jnr and Johnny Harty. The objection states that the Kavanaghs wish to cooperate with Laois County Council in respect of the Derelict Site Notice and have received advice to secure the property from trespass (including members of the Harty family).
- 7.5.4. In relation to the two objections received, I note that no supporting evidence or corroborating material has been provided by either party in support of their respective statements to address the dereliction. Based on my site observations of the property, I am of the view that no substantive works have taken place at the dwelling structure to render it non-derelict.
- 7.5.5. Notwithstanding, in considering the overall subject property, I note that the works which would be required to address the condition of the dwelling structure, specifically those previously outlined, are not structural or significant in nature and I am of the view that such works could be carried out within a reasonably short period of time. I am also of the view that the remaining extent of the lands which comprise a grassed field are in a suitable condition and in my opinion are not derelict. Given the respective claims of the objectors, I recommend that sufficient time should be afforded to resolve the matter of title and to enable the owners to undertake works to render the dwelling

structure non-derelict. It is considered, therefore, that it is appropriate to refuse the Local Authority's application for consent to compulsorily acquire the site at Cooltederry, Portarlington, Co. Laois.

8.0 Conclusion

- 8.1. Having regard to the Constitutional and Convention protection afforded to property rights, I consider that the proposed acquisition of the Derelict Site comprising the premises and land at Cooltederry, Portarlington, Co. Laois (0.522 hectares), as set out in the Derelict Site Notice issued under Section 15 of the Derelict Sites Act 1990 (as amended) dated 29th May 2025 and on the deposited map (File No. 2025/04) dated 28th May 2024, 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.
- 8.2. I am further satisfied that the proposed acquisition of these lands by the acquiring authority, particularly with respect to the dwelling structure, which is currently in an unsightly and objectionable condition, is consistent with the policies and objectives of the Laois County Development Plan 2021-2027 specifically Objective HPO 5; Objective HPO 14; and Objective REG 3 which seek to utilise Derelict Site legislation to identify/address issues of dereliction in County Laois; engage in active land management/activation measures to address dereliction and vacancy to ensure the viability of settlements; and promote residential development through active land management in a coordinated manner on appropriately zoned lands at key locations such as vacant/underutilised sites to promote an efficient use of zoned land.
- 8.3. However, I am not satisfied that the overall condition of the subject property is so unsightly and objectionable that it detracts to a material degree from the amenity and character of the neighbourhood. The grassed field that occupies the majority of the lands is in a suitable condition and not derelict in my opinion. Moreover, having regard to the nature and extent of the works required to address the matters that gave rise to the derelict condition of the dwelling structure, I consider that it would be appropriate to allow time to progress matters on site. As such, I am not satisfied that the grant of consent to the compulsory acquisition is justified by the exigencies of the common good at this point in time.

8.4. In addition, I am not satisfied that the local authority has reasonably demonstrated the specific need for the lands, or that the entirety of the lands being acquired are both necessary and suitable to ensure that the lands do not continue to be a derelict site.

9.0 Recommendation

9.1. Notwithstanding the current unsightly and objectionable condition of the dwelling structure on the subject lands 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 nature and extent of works which are required to address the dereliction on this portion of the site, 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. Therefore, I recommend that the Commission refuses consent to Laois County Council to the compulsory acquisition of the site.

9.2. In addition, the Commission may be minded to annul the request for compulsory acquisition of the subject site on the basis that the published Notice of Intention to Acquire the Derelict Site is not in accordance with section 15 (1)(a) of the Derelict Sites Act 1990 (as amended) as the description of the land is inaccurate with respect to the prescribed site area.

10.0 Reasons and Considerations

Having regard to the derelict, unsightly and objectionable condition of part of the subject property, namely dwelling structure, 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 Laois County Development Plan 2021-2027

it is considered that the overall site does not detract to a material degree from the amenity, character and appearance of land in the neighbourhood and, having regard to the nature and extent of works which are required to address the dereliction of the dwelling structure, that the compulsory acquisition of the site by the Local Authority is not necessary in order to render the site non-derelict. The Commission is not satisfied, therefore, 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.

Matthew O Connor
Planning Inspector

6th November 2025