



An  
Bord  
Pleanála

## Inspector's Report ACP-323729-25

<b>Description</b>	DS-124-18 Acquisition of 11 Saint Mary's Terrace, Cappamore, Co. Limerick city.
<b>Location</b>	11 Saint Mary's Terrace, Cappamore, Co. Limerick.
<b>Local Authority</b>	Limerick City and County Council
<b>Notice Party</b>	Kieran T. Flynn & Co. LLP, on behalf of Krzysztof Warcholek
<b>Date of Site Inspection</b>	4 December 2025
<b>Inspector</b>	Natalie de Róiste

## **1.0 Site Location and Description**

- 1.1. The site, 11 St Mary's Terrace, Cappamore, Co. Limerick, measures c. 0.048 hectares, and contains a two-storey three-bay end-of-terrace house with a single-storey rear extension, with a front and rear garden and a gated side passage. It is located on the west side of Moore Street, on the southern side of the village, some 22 km from Limerick city.
- 1.2. It has a low boundary wall to the front, and a pedestrian entrance with no gate. There is a mass concrete shed to the rear garden. The house is attached to 12 St Mary's Terrace to the north, and backs onto the rear garden of 29 St Michael's Terrace.

## **2.0 Application for Consent for Acquisition**

- 2.1. Limerick City and County Council (LCCC) has applied to the Commission for consent to compulsorily acquire the site under Section 14 of the Derelict Sites Act, 1990, as amended. I note that this application is subsequent to Limerick City and County Council serving a notice (dated 18 July 2025) on the owner on 24 July 2025 under Section 15 of the Derelict Sites Act, 1990, as amended, (i.e. advising of the Local Authority's intention to acquire compulsorily under the said Act, the derelict site as described).

## **3.0 Application and Objection**

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

- 3.1.1. Notice (dated 18 July 2025) of Limerick City and County Council's intention to compulsorily acquire the site was published in the Limerick Post of 26 July 2025. A photo on the file shows a notice attached to the door of the house (dated 24 July 2025). A copy of a letter dated 23 July 2025 (with accompanying notice, map and images) sent to Krzysztof Warcholek at an address in Tipperary town is on the file. The site was described in the notice, as follows:

- A derelict site comprising an end of terrace, two-storey dwelling and surrounding land situate at 11 Saint Mary's Terrace, Cappamore, Co. Limerick, containing 0.048 hectares or thereabouts. The said property and surrounding land is in a state of dereliction. The said derelict site is more

particularly shown outlined in red on map bearing reference no. DS-124-18 in the Derelict Sites Register established and maintained by Limerick City & County Council under section 8 of the Derelict Sites Act, 1990.

- 3.1.2. I consider the notices were in accordance with the requirements of Section 15 (1) (a) and (b) of the Derelict Sites Act 1990, as amended, having taken into account Section 6 (Service of notices, etc.).

### **3.2. Objection to Acquisition**

- 3.2.1. One submission expressing objection to the proposed acquisition was submitted to Limerick City and County Council by Kieran T. Flynn & Co. LLP on behalf of Krzysztof Warcholek.
- 3.2.2. The objection was signed and dated 14 August 2025, stamped as being received 21 August 2025, prior to the relevant deadline (29 August 2025 as stated in the notices).
- 3.2.3. The objection is summarised as follows:
- The owner has had significant health issues over the past period.
  - The owner has received derelict sites notice and has paid derelict site levies.
  - The owner intends to renovate the property and can confirm that the front portion of the property would be cleared up from its derelict nature within a period of three months, a reasonable period.

### **3.3. Local Authority's Application for Consent**

- 3.3.1. The Local Authority requests the consent of the Commission to the compulsory acquisition of the derelict site. The application for consent was received on 22 September 2025 and included the following:
- Compulsory Acquisition report, (undated), giving details of actions undertaken in the case.
  - Copy of CPA map
  - Copy of Section 15 Notice issued to Landowner
  - Copy of newspaper advert
  - Copy of objection letter

- Copy of council acknowledgment letter dated 4 September in response to objection letter, stating intention to make application to An Coimisiún Pleanála for compulsory acquisition.
- Selection of inspection photos, dated 14 May 2025, 26 March 2025, 2 December 2024, 24 January 2024, 16 August 2022, 3 February 2022, 10 November 2020, 6 March 2020, 19 July 2019, undated, 7 July 2018, 5 February 2018.

3.3.2. The council notes the site was identified as derelict on 5 February 2018, and notes that a previous application for compulsory purchase was refused by An Bord Pleanála on 31 May 2024, to allow the Notice Party time to address the dereliction on site.

3.3.3. Subsequent inspections have found the site remains derelict, and no meaningful efforts or works have been carried out to resolve the dereliction, leading to a second notice of intention to compulsorily acquire the site. The property is continuing to deteriorate and is attracting negative attention in a key town, and impacting negatively on neighbouring residents. The assertion that a three-month stay will be sufficient to resolve the dereliction does not reflect the track record of the owner as witnessed by the council. There is a failure of duty on behalf of the property owner, and the only option open to the council is to acquire this property compulsorily and bring it back into productive use. On that basis the Council seek the consent of the Commission to compulsorily acquire the property.

#### 3.4. **Objector's Submission**

3.4.1. The objector's solicitor was invited by An Coimisiún Pleanála (by letter dated 26 September 2025) to respond to the Local Authority's comments on the objection. No letter was received by the stated deadline of 16 October 2025.

#### 3.5. **Oral Hearing**

3.5.1. No request is on file for an Oral Hearing.

### 4.0 **Planning History**

4.1. A search of the Local Authority planning register website on 22 January 2026 revealed no planning applications at 11 Saint Mary's Terrace.

4.2. The following application for consent for compulsory acquisition was made on 20 December 2021:

- ABP-312365-22

Consent for compulsory acquisition refused on 29 May 2024 for the following reasons and considerations:

*“Taking account of the evidence of the ongoing efforts being made by the notice party to address the dereliction on site, the Board does not consider it reasonable that the local authority now seeks to compulsorily acquire the land as provided by Section 14 of the Derelict Sites Act, 1990”*

This followed an Inspector’s Report which found that the site did not come within the definition of a derelict site as defined in the Act, following a site visit on 30 November 2023.

## 5.0 Policy Context

### 5.1. Limerick City and County Development Plan 2022-2028

- 5.1.1. The site is zoned as ‘Existing Residential’, with the objective *‘to provide for residential development, protect and improve existing residential amenity’*.
- 5.1.2. The site does not lie within an Architectural Conservation Area. The building is not on the Record of Protected Structures. It does not lie within the Zone of Notification of any archaeological monument. There are no special development objectives associated with the site.
- 5.1.3. Chapter 2 deals with the Core Strategy, and states that Cappamore is designated as a Level 4 Large Village in the Settlement hierarchy (Table 2.4).
- 5.1.4. Chapter 3 deals with the Spatial Strategy for the City and County.
- 5.1.5. *Section 3.3.2 Active Land Management* notes the role of active land management in fulfilling the spatial aims of the plan, promoting compact settlement and preventing sprawl.

*Objective CGR O4 Active Land Management It is an objective of the Council to:*

*a) Promote an active land management approach through cooperation with relevant stakeholders and infrastructure providers to deliver enabling infrastructure to achieve compact growth.*

*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.*

*c) Establish a database of strategic brownfield and infill sites in the City Centre to be updated on an annual basis to monitor the progress of the active land management measures.*

- 5.1.6. Section 3.3.2.2 *Derelict Sites* notes the purpose of the Derelict Site Levy, and sets out the entitlements and responsibilities of the Local Authority regarding derelict sites.

*Objective CGR O6 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 re-use.*

- 5.1.7. Chapter 4 deals with housing.

*Objective HO O4 Re-use of Existing Buildings It is an objective of the Council to encourage redevelopment and reuse, including energy retrofitting, of existing housing stock and conversion of other suitable buildings to sustainable housing accommodation.*

- 5.1.8. Volume 2b of the plan deals with Level 4 Large Villages Zoning and Development Objectives. In the section on Cappamore, it notes there is some vacancy, neglect and dereliction in the village, and the primary focus of the development strategy is to support the proportionate growth of and to strengthen and consolidate the village.

## **5.2. National Inventory of Architectural Heritage**

- 5.2.1. The house was recorded by the NIAH on 6/10/2007, and given a construction date of c. 1910. The description noted the slate roof, rendered walls, timber sash windows, timber battened door, and wrought-iron railings and gate. The appraisal was as follows: *'The modest size and scale of this house is characteristic of urban houses of*

*its era in Ireland. This houses [sic] forms part of a terrace, though it is the only one to retain its features. The various sized openings and continuous sill course are further characteristic features. Retaining notable early features such as the timber sash windows and door, it makes an interesting addition to the streetscape and is enhanced by the retention of the wrought-iron railings and gate to site.'*

### **5.3. Derelict Sites Act 1990 (as amended)**

5.3.1. 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.

5.3.2. 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."

5.3.3. 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 Commission.

## **6.0 Assessment**

### **6.1. Site Inspection**

- 6.1.1. The following assessment is based on a site inspection carried out on 4 December 2025. I inspected the site from the public road, and from a neighbouring premises. I was unable to gain access to the interior of the building, or to the rear garden. The site is secured, save for the front garden.
- 6.1.2. The roof was intact, and had no visible major defects, front or rear. I saw one broken slate to the rear pitch. Render is spalling off the gable chimneystack. The roof, the chimneystack, and the barge boards had moss growth. The rear extension had a corrugated metal roof in good order. The gutters are rusted, and the timber fascia and soffit has lost much of its paint. There was evidence of failure of the rainwater goods to the rear extension, with significant staining to the walls. The render walls to the front elevation had stains and peeling paint, with significant staining to the first floor gable. The sill course, sills, door surround and plinth course were all badly



peeling, down to bare render in parts. The door surround is missing a chunk from the top right inner corner, with a gap between it and the door. The remains of ironmongery (which was used to board up the windows and doors) is embedded in the front elevation, and is rusting. I did not observe any broken or missing windows to front or rear, with uPVC windows fitted, and the front door (also uPVC) was intact and secured (save for the gap in the doorcase). The windows are covered with bedsheets.

- 6.1.3. There was sparse grass to the front garden, and some litter and detritus. The front gate and railings are missing, and the plinth wall has spalling render. The rear garden had long grass, but was not significantly overgrown. There was detritus (including an old timber door, an old steel door, a washing machine on its side, building waste, and a lifted manhole cover) in the rear garden close to the house. The rear garden is visible from neighbouring houses, but not from the public road. A solid timber gate has been fitted to the side passage, blocking access to, and views of, the side door to the house.
- 6.1.4. I have considered the images provided by the council, and found some evidence of recent improvements on my site visit. Compared with the most recent site photos on the file (time stamped 19 June 2025), the front and rear garden are both less overgrown, though I note it is currently outside of growing season. The side passage has been secured, with a solid timber gate, padlocked. Rusted ironwork brackets which had been used to support the steel door to the front door have been removed, as has a rusted satellite dish to the front. (The screws from the brackets remain embedded in the walls). Trailing cables have been removed from the front elevation.
- 6.1.5. The site is located in a moderately prominent location. It is more visible from the south, the approach road to the town, with the gable on view due to its location forward of the terrace to the south. It is seen in raking views along the street, as part of the terrace, and does not terminate any vista or form part of a view from any public open spaces or amenity area. It is highly visible locally, given the low boundary walls, the proximity to the street, and the proximity to neighbouring residences. There were a number of pedestrians and visitors to neighbouring residences on Saint Mary's Terrace on the afternoon of my site visit, and while some neighbouring premises also suffer from stained paintwork and moss growth they are clearly well tenanted and in active use.

## 6.2. Category of Dereliction

- 6.2.1. I note the definition of 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 one of three reasons.
- 6.2.2. I note that the local authority considered that the property and lands fell under Category (b) and Category (c) of Section 3 of the Derelict Sites Act 1990, as amended. I concur with this assessment. The site is in neglected, unsightly, and objectionable condition to front and rear, detracting from the amenity, character, and appearance of land in the neighbourhood, including the land of immediately adjacent neighbouring residents. The front garden was lightly littered on the date of my site visit, but there is no evidence that this is an ongoing problem. However, the rubbish, debris and waste in the rear garden is significant in scale and duration (observed on site in December 2026, and seen on council photos of 24 January 2024 and 26 March 2025). Due to the urban location and close proximity to neighbouring residents, this detracts to a material degree from the amenity, character or appearance of neighbouring land, notwithstanding that it is not visible from the public realm.
- 6.2.3. Regarding category (a), the existence of structures in a ruinous, derelict or dangerous condition, the council has not invoked this reason. I note the spalling concrete from the chimneystack, the long period of vacancy, the evidence of failed rainwater goods, and the reference in the previous Inspector's report to fire damage in 2018. While it is likely that the structure is uninhabitable and deteriorating, this has not been asserted by the Local Authority, and I was unable to access the interior or the rear of the building to verify. In any case, the condition of the interior is not detracting to a material degree from the amenity, character or appearance of land in the neighbourhood.
- 6.2.4. In conclusion, I consider that the site is in neglected, unsightly and objectionable condition, and contains rubbish, debris or waste, which detracts to a material degree from the amenity, character or appearance of lands in the neighbourhood, including neighbouring residential lands, which renders it derelict under Section 3 of the Act.

### 6.3. Action of Local Authority

The Compulsory Acquisition Report submitted from Limerick City and County Council states that the property was inspected and identified as a Derelict Site on 5 February 2018. Following site ownership enquires, and an offer to purchase the property in 2018 under the Buy and Renew Scheme, a Section 8(2) Notice of intent to enter the site on the Derelict Sites Register was affixed to the site on 27 November 2018. Notice pursuant to Section 8(7) was served on 29 July 2020. Following an email from the owner (27 March 2021) with a commitment to carry out works within 2 months, another site inspection was carried out on 27 September 2021, following which a Notice of Intention to Compulsorily Acquire the Derelict Site was served on the owner on 21 October 2021. Following an objection to this from the owner's solicitor, application for consent was made to An Bord Pleanála (ABP-312365-22) on 20 December 2022.

This consent was refused on 29 May 2024, as the Board took into account evidence of ongoing efforts to address the dereliction on site, and did not consider it reasonable to seek the compulsory acquisition of the lands.

Additional site visits were undertaken by the council on 24 January 2024, 2 December 2024, 26 March 2025, 14 May 2025 (stated as 14 May 2024 in the report), and 19 June 2025, and the council found no meaningful efforts or works undertaken during this period, and served the owner for a second time with a Section 15 notice.

Following an objection by the owner's solicitor to the council on 14 August 2025, the council acknowledged receipt and made this application to An Coimisiún Pleanála on 22 September 2025.

I note the actions of the Local Authority, since 2018, including their correspondence and conversations with the owner, and their numerous site inspections (including 5 inspections in 2024 and 2025, four of them following the Board's decision). I note the objection of the owner. Nonetheless, the local authority has afforded the owner more than a year to complete the relevant works, or provide details of plans to restore the property to an acceptable condition. Having regard to the foregoing I am satisfied that the Local Authority gave the property owner sufficient time and opportunity to address the dereliction.

- 6.3.1. I am satisfied that the local authority complied with the requirements of Section 6, Section 8(2), Section 8(7) and Section 15 of the Derelict Sites Act 1990, as amended. I am satisfied that the Local Authority has been fair and reasonable, giving the owner the time and opportunity to address the dereliction.

**6.4. Compliance with Development Plan policy**

- 6.4.1. Relevant policy is noted above; a compulsory purchase order in this instance would comply with policies *CGR O4 Active Land Management*, *CGR O6 Derelict Sites*, and the zoning of the site, where the objective is to *provide for residential development, protect and improve existing residential amenity*.

**6.5. Actions by the owner to address dereliction**

- 6.5.1. I have considered the site inspection photos provided by the Local Authority, the objection submitted on behalf of the owner, and the contents of the previous file ABP-312365-22. The previous Inspector's report sets out in detail the works undertaken by the owner prior to the date of her site visit on 30 November 2023.
- 6.5.2. Between that date and 24 January 2024, the skip was removed from the front garden. Other than this, I see no evidence of improvements in the council photographs over the following 18 months, and in certain matters (spalling of render from chimneystack, overgrown grass to the front and rear, accumulation of waste and debris to the rear which was not mentioned in the previous council report or Board Inspector's report) the site deteriorated (as per date-stamped photos 24 January 2024, 2 December 2024, 26 March 2025, 14 May 2025, 19 June 2025).
- 6.5.3. Following the last council photograph set in June 2025, and the submission of the current application for compulsory acquisition in September of that year, the side passage has been secured, with a solid timber gate which is padlocked. Rusted ironwork brackets which had been used to support the steel door to the front door have been removed (although the screws embedded in the walls remain), as has a rusted satellite dish to the front. Trailing cables have been removed from the front elevation. However, given the time periods involved, the previous assurances given, the pattern of long periods of inactivity, and the overall length of time that the site has been identified as derelict, I have concerns about the return of this property from a

derelict state in any kind of a timely fashion. I note no plastering or painting had been undertaken to the front of the property, nor the bedlinen taken down from the windows within the three months referred to in the objection submitted on 14 August 2025. The fabric of the building is deteriorating, with the spalling of the chimneystack occurring since the previous application to the Board was refused. I note the council's reference to 'significant fire damage in 2018' on the previous application, which has not been disputed by the owner or his solicitor, indicating significant works are likely to be required.

- 6.5.4. I have sympathy for the objector's situation, given the delays on foot of the pandemic, and his own ill-health. I note the efforts made to address the dereliction since 2018. However, the owner has not disputed the history provided by the council, which notes the sporadic nature of the works, and has made no response to their application when invited to by the Commission. He has provided the Commission with no indication of plans to bring the house out of dereliction, or provided any timeline, despite an invitation to make such a submission being sent to the owner's solicitor.

## **7.0 Conclusion**

- 7.1. 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 that the acquisition of the site is necessary to ensure that the lands do not continue to be a derelict site.
- 7.2. Having regard to the Constitutional and Convention protection afforded to property rights, I consider that the proposed acquisition of the Derelict Site comprising the site and premises situate at 11 Saint Mary's Terrace, Cappamore, Co. Limerick covering an area of 0.048 hectares 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 18 July 2025 and on the deposited map ref. DS-124-18, 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.
- 7.3. I am also satisfied that the acquiring authority has demonstrated that the means chosen to achieve that objective impair the property rights of affected landowners as

little as possible. In this respect, I have considered alternative means of achieving the objective referred to in the submissions to the Commission and I 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.

- 7.4. The effects of the compulsory acquisition on the rights of affected landowners are proportionate to the objective being pursued. I am further satisfied that the proposed acquisition of these lands would be consistent with the policies and objectives of the Limerick City and County Development Plan 2022-2028, and specifically Objective CGR O6 which seeks, inter alia, to address dereliction. Accordingly, I am satisfied that the grant of consent to compulsorily acquire these lands is clearly justified by the exigencies of the common good.

## **8.0 Recommendation**

- 8.1.1. Having regard to the observed condition of the site, in particular the neglected, unsightly or objectionable condition of the land and structure, and the presence of rubbish, debris, or waste, I consider that the site materially detracts from the amenity, character or appearance of land in the neighbourhood and is therefore a derelict site within the meaning of Section 3 (b) & (c) of the Derelict Sites Act, 1990, as amended.
- 8.1.2. I consider it reasonable that the Local Authority seeks to compulsorily acquire the land, as provided by Section 14 of the Act. I recommend that the Commission grant consent to Limerick City and County Council to compulsorily acquire the site.

## **9.0 Reasons and Considerations**

- 9.1.1. Having regard to the derelict, unsightly and objectionable condition of the subject property, which detracts to a material degree from the amenity, character or appearance of lands in the neighbourhood, having considered the objection made to the compulsory acquisition, and also:
- A) the constitutional and convention protection afforded to property rights,
  - B) the public interest, and

C) the provision of Limerick City and County Development Plan 2022-2028

it is considered that the site detracts to a material degree from the amenity, character or appearance of land in the neighbourhood and, therefore, comes within the definition of a derelict site as defined in Section 3 b) & 3 c) of the Derelict Sites Act, 1990, as amended, and that the compulsory acquisition of the site by the Local Authority is necessary in order to render the site non-derelict and to prevent it continuing to be a derelict site. It is also considered that the objection made cannot be sustained, having regard to that said necessity and that the compulsory acquisition and its effects on the property rights of affected landowners are proportionate to that objective and justified by the exigencies of the common good.

*I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.*

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Natalie de Róiste

Planning Inspector  
27 January 2026