



An  
Bord  
Pleanála

## Inspector's Report

### ACP-323730-25

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| <b>Description</b>             | DS-121-23 Acquisition of 2 Rosbrien Terrace, Limerick city. |
| <b>Location</b>                | 2 Rosbrien Terrace, Limerick.                               |
| <b>Local Authority</b>         | Limerick City and County Council                            |
| <b>Notice Party</b>            | Stephen J. Daly Solicitors, on behalf of PJ Murphy          |
| <b>Date of Site Inspection</b> | 3 December 2025   |
| <b>Inspector</b>               | Natalie de Róiste   |

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## 1.0 Site Location and Description

- 1.1. The site measures c. 0.024 hectares, and is occupied by a terraced two-bay single-storey red brick house with dormer attic. It is located on the south-east side of Rosbrien Road, in a terrace of 6 houses known as Rosbrien Terrace, close to Punch's Cross in Ballinacurra, in Limerick city. It is bordered to the north-east by 1 Rosbrien Terrace, a recently refurbished end-of-terrace house, and to the south-west by 3 Rosbrien Terrace.
- 1.2. Rosbrien Road is largely residential, with commercial uses (restaurant, pub) at Punch's Cross, where Rosbrien Road meets Ballinacurra Road, O'Connell Avenue and New Street.
- 1.3. The house has a two-storey flat-roofed rear extension and a single-storey rear extension with a corrugated-iron lean-to roof (this latter extension may be original to the house). It has a small front garden with a crenellated stone boundary wall and a wrought-iron pedestrian gate (closed and secured with a cable tie). It has a rear garden some 20 metres in length, with a concrete panel fence to the north-east boundary and a planted boundary to the south-west. There is a small concrete block shed to the rear garden.
- 1.4. The interface between this site and its neighbour to the north-east is somewhat unusual; the edge of the single-storey extension lines up with the presumed gable party wall between the houses (as shown by the shared chimneystack) and the neighbouring two-storey extension. The block wall forming the boundary between the two gardens does not continue on from this line, but is set off by some 700 mm. This is not reflected in the submitted map (at 1:1000 scale), but is clearly visible in the council photograph on the file timestamped 13 December 2023 09:45.
- 1.5. On the date of the site visit, I observed the house to be in poor condition to front and rear. Major clearance of vegetation has been undertaken to the rear garden, compared with the photographs on the council file.

## 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 on 18 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 dated 26 July 2025. A photo on the file shows a notice attached to the door of the house, and a letter being hand delivered into the house (both photos dated 24 July 2025). Copies are on the file of 3 identical letters dated 23 July 2025 (with accompanying notice, map and images). These were sent to Stephen J. Daly Solicitors, and to the LPR (legal personal representative) in the estate of Mary Murphy (deceased) at an address in Croagh County Limerick, and at the Rosbrien address. The site was described in the notice as follows:

- A derelict site comprising a mid-terrace dormer dwelling and surrounding land situate at 2 Rosbrien Terrace, Rosbrien Road, Limerick, containing 0.024 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-121-23 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 Stephen J. Daly Solicitor on behalf of PJ Murphy.

3.2.2. The objection was signed and dated 21 August 2025, stamped received 26 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 presence of the property on the Derelict Sites Register since 16 January 2024 is noted.
- The executors of the will of the late owner were the parents of PJ Murphy. His father is dead, and his mother is incapacitated.
- The objector's solicitors are obtaining the original will to take the necessary steps to extract a Grant of Probate to regularize title to the property.
- The objector is willing to liaise with the council to address the dereliction, and the council is requested to advise the extent of works required to have the site removed from the Derelict Sites Register.
- The council is requested to delay or withdraw the notice to allow the solicitors to deal with the administration of the estate.

### **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 Notices issued to Landowner and objector's solicitor
- Copy of newspaper advert
- Copy of objection letter

- Copy of council acknowledgment letter dated 4 September 2025 in response to objection letter, stating intention to make application to An Coimisiún Pleanála for compulsory acquisition.
- Selection of inspection photos, dated 10 October 2023, 16 October 2023, 8 November 2023, 13 December 2023, 15 January 2024, 13 November 2024, 10 March 2025 (these attached to the Section 15 Notices), 4 June 2025.

3.3.2. The council notes the site was identified as derelict on 10 October 2023, and notes that while the objection states that steps are being taken to regularise the title, no actions have been taken to address the dereliction of the site. There is ongoing neglect and decay, the property is unsightly, and elements are becoming ruinous, to the detriment of adjoining neighbours and the local community in a key area of Limerick city. 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 26 January 2026 revealed no applications at 2 Rosbrien Terrace.

## 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 3 deals with the Spatial Strategy for the City and County.
- 5.1.4. *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.*

- 5.1.5. *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.*

- 5.1.6. 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.*

## 5.2. Derelict Sites Act 1990 (as amended)

5.2.1. 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.

5.2.2. 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.”

5.2.3. 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 Commission.

## 6.0 Assessment

### 6.1. Site Inspection

6.1.1. The following assessment is based on a site inspection carried out on 3 December 2025. I inspected the site from the public road, and from the rear garden. I was unable to gain access to the interior of the building, or to the front garden. The site is secured, save for gaps in the hedge with a neighbouring property.

6.1.2. The roof ridge has a sag in the centre, and the front pitch is sagging in the centre. There are loose, missing and broken slates to both the front and rear pitches. There is vegetation growing from the chimneystacks, from the interface between the front dormers and the roof, and in the front gutter. The council photograph of 04 June 2025 shows tall weeds in the gutter on the single-storey rear extension, and the loss of the gutter to the rear roof pitch – the weeds had been removed and the gutter reinstated by the date of my site visit (although the gutter was bowed and twisted). There is staining, moss growth, and saturated walls to the front of the building, with a patch of efflorescence to the brickwork below the eaves course. There is peeling paint, moss, and staining to the rendered walls to the rear elevation, with cracked render to the single-storey extension. A comparison with the council photos of 4 June 2025 shows increasing damp, discolouration and moss growth to the single-

storey rear extension walls since that date. Some of the staining and water damage indicates failure of the rainwater goods.

- 6.1.3. The windows and doors to front and rear are unbroken and secured, although the ground floor rear windows are timber with cracked and peeling paint, with a badly rotted lower rail to one window on the single-storey extension. Both front and rear doors have peeling paint, down to bare wood. The letter box has been boarded up. The pedestrian gate is rusted and peeling. The front garden was moderately littered on the date of the site visit, and was being recolonised with weeds having been cut back (relative to the overgrowth shown on the council photos dated 04 June 2025). Similarly, the rear garden has been significantly cleared compared with the photos from that date, with large amounts of scrub, undergrowth and brambles removed, and trees lopped. It was also littered. The concrete shed was unsecured, with a badly rotted window and door.
- 6.1.4. I have considered the images provided by the council, and found evidence of improvements on my site visit. There has been considerable removal of overgrown vegetation from the rear garden and from the front garden. The council photos dated 04 June 2025 show rusted corrugated sheets to the rear garden; I did not see these on site on my visit. Weeds have been removed from the rear extension gutter. Regarding works to the house, the letter box has been sealed; it is questionable whether this can be considered an improvement, visually. The front gate has been closed and secured with a cable tie – it is shown unsecured on the council photo from 16 October 2023.
- 6.1.5. The site is not located in a particularly prominent location. It is visible but not prominently so, from the junction to the south-west. 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 however 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 Rosbrien Terrace on the afternoon of my site visit, and while some neighbouring premises also suffer from water staining, moss growth, and wind-blown litter, 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, detracting from the amenity, character, and appearance of land in the neighbourhood, including immediately adjacent neighbours. The front garden was heavily littered, with the secured gate preventing removal of detritus, detracting from the amenity, character or appearance of the public realm.
- 6.2.3. Regarding category (a), I note the council report (page 5) refers to a neighbour's concerns regarding the property, and the fall of slates from the roof in proximity to her front door. Given the terraced nature of the property, in direct proximity to neighbouring residences, the danger from falling roof slates is greater than it otherwise might be, notwithstanding that this is a single reported incidence. The council has not found that the structure is in a ruinous, derelict or dangerous condition, although they have stated in their report that elements of the structure are now becoming ruinous. Having read the history provided by the council (which is not disputed by the objector), I can infer that the house has been uninhabited certainly for over two years now, and most likely for over three years and nine months (since the death of the owner in April 2022). In my view, having regard to this sustained period of disuse, the slipping and missing roof slates, the water damage to the walls, and the dilapidated and decaying condition of the rear, I consider that the structure is derelict, and that the site is also derelict under category (a), as it is detracting to a material degree from the amenity of neighbouring land (the immediate neighbouring residential properties, as set out in the council report).
- 6.2.4. In conclusion, I consider that the property is derelict under Section 3 of the Act, as it contains a structure in derelict condition, is in neglected, unsightly and objectionable condition, and there is litter, rubbish, debris and waste on the site, which detracts to a material degree from the amenity, character or appearance of lands in the neighbourhood, which is a largely residential one.

### 6.3. Action of Local Authority

- 6.3.1. The Compulsory Acquisition Report submitted from Limerick City and County Council states that the property was inspected and identified as a Derelict Site on 10 October 2023. A Notice of Enquiry seeking details on ownership was affixed to the site on 16 October 2023 (photograph provided). On 8 November 2023, the council served the owner by post with notice of their intention to enter the site into the Derelict Sites Register, and affixed a Section 8(2) notice to the site (photograph provided). The site was reinspected on 13 December 2023, (including the rear, which was found to be very overgrown). The Council Inspector recommended the site be placed on the Derelict Sites Register.
- 6.3.2. On 8 January 2024, a phone call was received from a man who said he was the godson of the deceased owner, and that a number of parties had an interest in the site. He was advised to write in to update the case file.
- 6.3.3. On 22 January 2024, a Section 8(7) Notice of Entry of Land in Derelict Sites Register was served, by hand delivery to site, and by affixing the notice to the site. (No photograph or copy of this notice has been provided).
- 6.3.4. On 1 March 2024 the council took a phone call from another relative of the deceased owner, who said she had found the section 8(7) notice and letter. She said the family were trying to take care of the place. She was invited to make a written submission (or ask the solicitor dealing with the estate to do so) setting out the current status of the property and future plans for it.
- 6.3.5. On 13 May 2024, the Area Inspector visited the site and noted it remained derelict. No photographs are on the file for this date.
- 6.3.6. On 11 October 2024, the council received correspondence from the solicitor acting for the objector, who is a nephew of the deceased owner, seeking an update. (The report states this happened on 11 October 2025, but judging from the context, this is a typo). The council responded requesting details on the person responsible for remedial works, and again on 12 December 2024 and 17 January 2025. (This correspondence has not been provided on the file, but I note it is not disputed by the objector.)

- 6.3.7. On 4 June 2025, the Area Inspector re-inspected the site, and met a next-door neighbour who expressed concern about the state of the property and told the Inspector slates had fallen from the roof and landed in front of her front door. The Inspector was able to view the rear of the property, and observed missing roof slates, likely water ingress, and overgrowth (photographs provided).
- 6.3.8. Notice of Intention to Acquire the Derelict Site Compulsorily was given to the LPR (legal personal representative) in the estate of the deceased owner, and advertised in the Limerick Post. The report states this was advertised on 24 July 2025; the copy provided is dated 26 July 2025.
- 6.3.9. The report lists a Section 22 Notice of Valuation, served on 10 March 2025, among the notices served (p. 6 of their report) but makes no reference to it in the narrative.
- 6.3.10. I note the actions of the Local Authority, including their efforts to ascertain the owner and contact same, their correspondence and conversations with the objector's solicitor, and contacts with members of the family, and their numerous site inspections. I note the objection received. Nonetheless, the local authority afforded the objector over 9 months since his initial contact to provide details of plans to restore it to an acceptable condition. Having regard to the foregoing I am satisfied that the Local Authority gave the objector sufficient time and opportunity to address the dereliction.
- 6.3.11. 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 property owners 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 *'to provide for residential development, protect and improve existing residential amenity'*.

## 6.5. Actions by the owner to address dereliction

6.5.1. The works undertaken (from a comparison of council photographs and my own photographs on the site visit in December) are as follows:

- The clearing of large amounts of undergrowth from the rear garden
- The cutting back of trees in the rear garden
- The clearing of overgrowth in the front garden (several times over the two-year period)
- The removal of weeds from the gutter to the single-storey rear extension
- The blocking up of the letter box to the front door
- The reattachment of a broken gutter to the rear roof pitch

6.5.2. I have sympathy for the objector's situation, given the relatively recent bereavement, and the complications involved in the probate. I note the efforts made to address the dereliction, with considerable works undertaken to the rear garden in particular. However, the building fabric is becoming increasingly run down and water damaged, and apart from the clearing of weeds from the extension gutter, and the reinstatement of one slipped gutter to the rear elevation, there is no evidence of works having been undertaken to halt this.

6.5.3. I consulted the probate register available on [www.courts.ie](http://www.courts.ie) on 26 January 2026. In a search for any relevant grant of probate issued (ie, in the name of the deceased, with a Limerick address) since the objection was made in August 2025, I found no results. I also note that there has been no update on this issue, or any other submission made to the commission.

6.5.4. Nor is there any evidence of plans to undertake works to the house. The objection to the council requested advice from the council on the extent of works required to have the property removed from the Derelict Sites Register; however, no further information has been submitted to the Commission setting out plans for the property, despite an invitation to make such a submission being sent to the objector's solicitor. I note the council states they requested information on the person responsible for remedial works on three occasions, but did not get a response.

6.5.5. Notwithstanding the recent garden clearance and weed removal, given the derelict nature of the site, the continuing deterioration of the built fabric, and the lack of any stated projects or plans to rehabilitate, I am recommending a grant of consent.

## 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 2 Rosbrien Terrace, Limerick covering an area of 0.024 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-121-23, 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 derelict condition, and the unsightly and objectionable condition of the structure thereon, 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 (a), (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 a) 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  
26 January 2026