



An
Coimisiún
Pleanála

Inspector's Report ABP-323823-25

Development	Derelict Site at Willow House, Drumgeely, Shannon, Co. Clare
Location	Apartment No. 8 Willow House, Drumgeely, Shannon, Co. Clare
Local Authority	Clare County Council
Notice Party	Michael Kennedy (RIP) and Margaret Mulvihill, address unknown
Objector	Nora Fitzpatrick
Date of Site Inspection	12 th February 2026
Inspector	Bébhinn O'Shea

1.0 Introduction

- 1.1. This case relates to a request by Clare County Council for the consent of An Coimisiún Pleanála to the compulsory acquisition of the subject site at Apartment No. 8 Willow House, Drumgeely, Shannon, Co. Clare in accordance with the provisions of the Derelict Sites Act 1990, as amended (hereafter referred to as 'the Act').

2.0 Site Location and Description

- 2.1. The property which is the subject of this application for consent for compulsory acquisition (referred to hereafter as the 'subject property') is Apartment No. 8 Willow House, Drumgeely, Shannon, Co. Clare, at the south western end of the settlement with views in part onto the Shannon estuary.
- 2.2. Drumgeely Hill contains 9 blocks of apartments, one of which is Willow House, a four storey apartment block finished in plaster render, with a flat roof. The subject property, Apartment no. 8, is a 2nd floor 2 bedroom unit within Willow House, stated to be 89.7 sq. m, with frontage only onto the eastern elevation of the apartment block. It is entered via a shared access on the western side of the block.

3.0 Application for Consent for Acquisition

- 3.1. Clare County Council applied to the Commission for consent to compulsorily acquire the site under Section 16 of the Derelict Sites Act, 1990, as amended. I note that this application is subsequent to the serving of notices as follows:
 - Section 8(2) Notice on 19th June 2025 (advising of the Local Authority's intention to enter the site on the register of derelict sites).
 - Section 8(7) Notice on 1st August 2025 (advising of the Local Authority's decision to enter the site on the register of derelict sites).
 - Section 15(1)(a) Notice published in a local newspaper dated 12th September 2025 notifying of the Local Authority's intention to acquire the site compulsorily.
 - Section 15(1)(b) Notice dated 12th September 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. In accordance with Section 15(1) (a) of the Act, notice of Clare County Council's intention to acquire the site compulsorily was published on 12th September 2025 in the Clare Champion. The Notice complies with the requirements of S 15(1)(a).
- 4.1.2. The Notice was addressed to Michael Kennedy (RIP) and Margaret Mulvihill (Address unknown). The information in the Notice complies with the requirements of Section 15(1)(b).
- 4.1.3. With regard to Section 15(b) the Planning Authority Report states that notice was erected on the door of the apartment block. The objection on file is in part in relation to the failure to serve the objector, Ms. Fitzpatrick, with the notice, given her claim on ownership.
- 4.1.4. I note the definition of "owner" as per Section 15 (2) of the Act:

In this section "owner" means in relation to land, a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the land, whether in possession or reversion and includes also a person who holds or is entitled to the rents and profits of the land under a lease or agreement, the unexpired term whereof exceeds three years.

- 4.1.5. I am satisfied, having regard to
- the Land Registry records naming Michael Kennedy (RIP) and Margaret Mulvihill as Leasehold owners;
 - the absence of any demonstration by Ms. Fitzpatrick of that she is for the time being entitled to dispose of the fee simple of the land;
 - the absence of any demonstration by Ms. Fitzpatrick that she is entitled to rent/profit under a lease or agreement (emphasis added)

that in terms of the owner on whom the Notice was served, the requirements of Section 15(b) of the Act have also been satisfied.

4.1.6. I consider that the notice was in accordance with the requirements of Section 15(1)(a) and (b) of the Act. I note that that the objector was sent a copy of the notice, and was able to make representations.

4.2. **Objection to Acquisition**

4.2.1. An objection to the proposed compulsory acquisition was submitted to Clare County Council (CCC) by Ms. Fitzpatrick dated 1st October 2025.. The objection can be summarised as follows:

- Ms. Fitzpatrick is the beneficial owner of the property
- Statutory notices served were not in accordance with the provisions of the Derelict Sites Act, 1990 and did not recognise Ms. Fitzpatrick's legal interest or that of her late husband.
- The property is not derelict. It was resided in until November 2024 and all services including electricity, were connected at that time.

Correspondence relating to the agreement to the sale of the property and payment of the mortgage balance are included.

4.3. **Local Authority's Application for Consent**

4.3.1. The Local Authority requests the consent of the Commission to the compulsory acquisition of the derelict site. The application for consent is dated 23rd October 2025 and is accompanied by the following:

- **Site location map**
- **Compulsory acquisition map**
- **Newspaper notice** published in the Clare Champion newspaper dated 12th September 2025
- **Detailed Local Authority Report** from Clare County Council along with excerpt from file DS24-09(a) from Clare County Council including:
 - Land Registry Details
 - Copy of Death notice of Michael Kennedy

- CCC Report confirming the site is derelict within the meaning of Section 3 (b) and (c) of the Act and recommending service of notice under Section 8 (2).
Photographs of inside apartment Dated 9th June 2025.
- Chief Executives Order 78/2025 to serve notice of Intention to Enter Land as a Derelict Site under Section 8 (2) of the Act. Dated 19th June 2025.
- Copy of Notice under Section 8 (2) of the Derelict Sites Act, erected on site of intention to enter the land in question in the Derelict Sites Register. Dated 19th June 2025
- Statement of Service of Notice under Section 6 (1) of Entry of the Land on the Derelict Sites register under Section 8(7) of the Derelict Sites Act, by erection on property. Dated 19th June 2025
- CCC Report recommending actions for the placement of the site on the Derelict Sites Register and following same commencement of the CPO process. Dated 25th July 2025. Photographs of inside apartment.
- Chief Executives Order 105/2025 for Service of Notice under Section 8 (7) of Entry of the Land on the Derelict Sites register. Dated 1st August 2025
- Copy of Notice under Section 8 (7) of the Derelict Sites Act of Notice of Entry of land as a Derelict Site in the Derelict Sites register. Dated 1st August 2025
- Statement of Service of Notice under Section 6 (1) of Entry of the Land on the Derelict Sites register under Section 8(7) of the Derelict Sites Act. Dated 1st August 2025
- Report and Recommendation to acquire the site under Section 14 of the Derelict Sites Act. Dated 5th August 2025.
- Chief Executive Order 114/2025 to proceed to acquire compulsorily the site under Section 14 of the Act, to service a notice and publish notices under section 15 of the Act. Dated 5th August 2025.
- Copy of correspondence from Ms Nora Fitzpatrick dated 20th August 2025 claiming to be beneficial owner of the property.
- Copy of correspondence to Ms Nora Fitzpatrick dated 26th August 2025 from CCC.

- Copy of correspondence to Ms Nora Fitzpatrick dated 10th September 2025 advising of notice of compulsory acquisition and including Copy of Notice of Intention to Acquire Derelict Site Compulsorily dated 12th September 2025
- Copy of correspondence received by Clare County Council 26th September 2025 from Ms. Fitzpatrick, from John Tobin Solicitors and Micheal J Kennedy in relation to the agreement to sell the property to Anthony Fitzpatrick (dated 2002) and the payment of the outstanding loan on the property by Anthony Fitzpatrick (dated 2005),
- Copy of letter of objection from Ms Nora Fitzpatrick dated 1st October 2025

4.3.2. The Local Authority Report can generally be summarised as follows:

- The apartment is one of 12 within the block. A number of blocks of these apartments were built to a high standard in the 1960s at Drumgeely Hill as part of the investment in the new town of Shannon. An extract from the online history of Shannon airport outlines the history of the blocks. The other apartment blocks have been upgraded over the years and are mostly occupied, and well sought after when marketed.
- Willow House is to the front of the Drumgeely Hill development. It is stated to have been vacant for a number of years and in a derelict condition throughout. The apartments are served by a main entrance door, stairwell and common corridors. In 2024 CCC made efforts to deal with derelict properties in the County, and this block was identified. There are structural issues on the property with leaking roof and as a result the apartments were vacated over the years.
- The Freehold of the apartment block is held by a Management Company, now dissolved. Clare County Council is making an application to the Courts on this matter and in is in the process of acquiring the apartments and will require control of the overall site. Any development would be subject to the owners agreeing to dispose of their leasehold interests.
- CCC has researched ownership of the 12 apartments which are all leasehold. Contact is ongoing with owners, where contactable, with a view to acquiring the

12 apartments, seek funding from the department to acquire and refurbish them and provide housing for the local community.

- The Leasehold owners of no. 8 are Micheal Kennedy (RIP) and Margaret Mulvihill. Efforts to contact the remaining living owner or representatives of the owners have not succeeded.
- The subject property was entered on the Derelict Sites Register on 1st August 2025 and a decision was made to seek the compulsory acquisition of the property.
- One objection to the proposed Compulsory Acquisition was received from Ms. Nora Fitzpatrick who claims to be the owner. CCC engaged with Ms. Fitzpatrick (see page 9/10 of the Local Authority Report), but refutes her claim to ownership.
- CCC comments on the objection on page 11 of the LAR. To summarise,
 - The apartment was vacant for many years and subsequently squatted in.
 - There is no evidence of ownership of the property by Ms. Fitzpatrick.
 - There is no evidence of the sale of the property to the late Mr. Fitzpatrick.
 - Ms. Fitzpatrick does not meet the definition of “owner” under the Act.
 - There has been no application for title based on possession.
 - No payment of stamp duty on a transfer document is evident.
 - The notice and its service meet the requirements of the Act.
 - There has been no tenancy registered with the PRTB.
 - An electricity connection does not mean a property is not derelict.
- The report concludes that dereliction is a key issue for CCC, with an objective in its County Development Plan, and a duty under the Act, to deal with dereliction. At a national policy level there are targets for local authorities to with regard to the activation of land and derelict/vacant buildings. The aim is to return recoverable properties back to viable use, increase the supply of housing and revitalise communities.
- In relation to the subject property the Local Authority Report states (page 13) “All of the twelve apartment units and common areas (hallways and stairwells) are in a derelict condition with a significant amount of water ingress, dampness and mould

on the walls particularly the fourth floor and rear apartments. The redevelopment of the block can only be undertaken if all 12 apartments are acquired off the respective owners and the Freehold title is acquired through the Courts process from the dissolved Management Company.”

- The Local Authority Report re-iterates the property is derelict as defined by the Derelict Sites Act. Ms. Fitzpatrick does not meet the definition of owner. Even if Ms. Fitzpatrick were to establish ownership, she has not engaged in relation to finding a solution to the condition of the subject property.

4.4. Objector’s Submission

A submission has been received from Ms. Nora Fitzpatrick which can be summarised as follows:

- It is accepted that Michael Kennedy and Margaret Mulvihill still appear on the Folio as registered owners. However, Ms. Fitzpatrick’s late husband purchased the property in 2010 for an amount equivalent to the redemption of the mortgage. Since that date they have been in possession of the property and in receipt of rent/profit from same. Upon Mr. Fitzpatrick’s death Ms Fitzpatrick became the beneficial owner.
- The definition of owner in Section 15 of the Derelict Sites Act 1990 is not a legal definition of ownership and therefore limited in its application. Section 15 (2) cannot apply to the property as the title of the property is Leasehold and therefore not fee simple. This section also refers to “and includes also a person who holds or is entitled to rents and profits”
- CCC is not in a position to comment on occupation of the property.
- The property has been occupied since acquired by Mr. Fitzpatrick. One tenancy ran from 2006 – 2010. A photograph of the tenant and letter from the tenant is included. Another tenant occupied it from 2010 until his death in 2024. Evidence of this tenancy is offered (proof of address, bills, HSE correspondence, text messages, photographs) and a letter confirming the discovery of the tenant’s death there in November 2024 from An Garda Siochana
- The property was let prior to the existence of the PTSB.

- The agreement with the previous owner was to acquire the property for the amount equivalent of the redemption figure of the mortgage.
- The loan was redeemed and title documents forwarded to Mr. Fitzpatrick, which is evident the sale agreement concluded.
- Section 15 of the 1990 Act does not deal with objections. Section 16 does. Ms. Fitzpatrick is entitled to make an objection, as a notice party.
- Ms Fitzpatrick may make an application to Táilte Eireann for title based on possession at any point.
- Stamp duty can be paid at any time, subject to payment of interest and penalties
- It is not agreed that the property is derelict. The apartment was not squatted it. It was occupied by a tenant who kept the apartment in an unkept manner.
- Ms. Fitzpatrick is available to engage with CCC in relation to any problems with the property.
- Sufficient evidence has been provided and is available to show that Ms. Fitzpatrick is the beneficial owner of the leasehold interest of the property by virtue of undisputed occupation, memorandum in writing, payment and possession of title deeds, handed over to the late Mr. Fitzpatrick by First Active Building Society who held the mortgage on the property.

4.5. **Oral Hearing**

No request has been received for an Oral Hearing.

5.0 **Planning History**

No recent relevant planning history.

6.0 **Policy and Legislation Context**

6.1. **Development Plan**

6.1.1. The Clare County Development Plan 2023 to 2029 is the operative plan and includes the following of relevance:

Development Plan Objective: Compact Growth in the Limerick-Shannon

Metropolitan Area CDP 4.3 It is an objective of Clare County Council: To achieve compact growth in the Limerick Shannon Metropolitan Area through:

c) Supporting initiatives that facilitate the regeneration of derelict buildings and vacant sites for the provision of high-quality, environmentally friendly Near Zero Energy Buildings (NZEB) affordable housing

Development Plan Objective: Facilitating the Housing Needs of the Population

CDP5.2 It is an objective of Clare County Council:

c) To prioritise the reuse of existing housing stock in the Plan area and the renovation and re-use of obsolete, vacant and derelict homes

Development Plan Objective: Urban Tourism CDP9.14 It is an objective of Clare County Council: To improve the visual appearance of towns and villages, protect their character and maximise their tourism potential by the continuation of environmental and public realm programmes, design management and improvement of identified derelict sites.

Development Plan Objective: Derelict Sites CDP17.10 It is an objective of Clare County Council:

- a) To use all mechanisms available to it as appropriate and to work with Derelict Site owners to identify opportunities to bring derelict sites back in to use;
- b) To use the Derelict Sites Act 1990 where appropriate to require owners of derelict property to carry out suitable improvements, and to implement the provisions of the Act to prevent or remove injury to amenity arising from derelict sites;
- c) To prepare improvement plans and design briefs for larger derelict areas incorporating an Invasive Alien Species Management Plan if deemed necessary; and
- d) To seek to acquire properties which are appropriate to the Council's Capital Programme in order to carry out improvements to derelict sites and revitalise the surrounding areas in compliance with the objectives and requirements of the Habitats Directive and in a manner which protects other sites or habitats of national, regional or local importance

6.2. Local Area Plan

- 6.2.1. The Metropolitan Town of Shannon has a Local Area Plan, Shannon Town and Environs Local Area Plan 2012-2018 (as amended), hereafter referred to as the LAP. Preparation of the Shannon Town and Environs Local Area Plan 2024-2030 commenced with a Pre-Draft Issues Paper with submissions taken until 4th September 2023, but no draft LAP has been published since.
- 6.2.2. The site is zoned Existing Residential in the LAP: The use of land for existing residential development and uses that enhance existing residential communities.
- 6.2.3. Housing aims within the LAP include:

To encourage the innovative refurbishment of the older housing stock in Shannon, including the provision of energy efficiency measures.
- 6.2.4. Local Area Plan Objective 9.6 is: To encourage the facilitation and active and appropriate reuse of vacant structures within the Plan area

6.3. Built heritage

The site is not within any Architectural Conservation Area, and the building is not on the Record of Protected Structures.

6.4. Derelict Sites Act 1990 (as amended)

- 6.4.1. 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.
- 6.4.2. Section 3 of the Act defines 'derelict site' as:

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

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

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

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

6.4.3. 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.

7.0 Assessment

7.1.1. Site Inspection

Internal access to the subject property was not possible on the date of my site inspection. However I was able to view the subject property from the public road. The apartment block is a 4 storey block containing 12 apartments. Apartment 8 is a Second Floor apartment with single frontage.

7.1.2. My observations of the subject property on the day of site inspection include the following:

- The apartment appeared vacant.
- Windows on the elevation were intact. One window was ajar.
- Some soft furnishings (curtains) were visible internally.
- A satellite and external wires were visible.
- There was minor damage to cladding on one of the balconies.
- External paintwork appeared to be splitting or uneven in two places; over the lintel of the main window, and on the ceiling of balconies where some damage or wear and tear of plasterwork was evident.

7.1.3. I note the definition of 'derelict site' above. I do not consider that the condition of the apartment, as described above, "detracts to a material degree from the amenity, character or appearance of land in the neighbourhood of the land in question". This is due to the elements of disrepair not being visible externally to great extent, or detracting from the overall block within which it is situated.

- I do not consider that the apartment falls within the definition of Section 3(a) of the Act; the apartment does not display signs of ruinous, derelict or dangerous condition.
- In relation to Section 3 (b) while an extent of disrepair is visible and could be described as neglected, unsightly or objectionable, I do not believe that is of such an extent or significance that it detracts to a "material degree" from the amenity, character or appearance of land in the neighbourhood, which I have described above.

- In relation to Section 3 (c) There is no evidence of the presence, deposit or collection in the apartment of any litter, rubbish, debris or waste.

- 7.1.4. I have considered the comments of CCC: “All of the twelve apartment units and common areas (hallways and stairwells) are in a derelict condition with a significant amount of water ingress, dampness and mould on the walls particularly the fourth floor and rear apartments.”
- 7.1.5. I note the internal photographs of the apartment from the local authority (dated July 2025) and the objector (dated November 2025) which support the above statement. I do not dispute that there is mould evident or that there has been water ingress. However there is no clear manifestation of this damage on the external appearance of Apartment no. 8 such that detracts to a “material degree” from the amenity, character or appearance of land in the neighbourhood.
- 7.1.6. There is no detail within the Local Authority report, (e.g. structural report, photographs of roof) demonstrating the damage to the roof of the apartment block and related water ingress and its extent and link to the subject property.
- 7.1.7. Having regard to the definition and categories of dereliction as set out under Section 3 of the Act it is my view that the structure does not meet the definition of derelict.
- 7.1.8. In relation to the overall block, Willow House, all other apartments in the block also appeared vacant. Some windows were broken. The external paintwork appeared dirty in places. While in a state of disrepair, I again am not of the view that the overall block meets the definition of derelict under Section 3 of the Act; it does not fall with category 3 (a), (b), or (c). Although in disrepair it does not at present detract to a material degree from the amenity, character or appearance of land in the neighbourhood. Evidence of roof leakage and structural damage are not clearly evident on the exterior of the building.
- 7.1.9. Willow House is one of nine apartment blocks in an open parkland-type setting on Drumgeely Hill. I note the public area of Drumgeely Hill appeared generally in need of increased maintenance and tidy up; planting was failing, road surface was poor in places and some common areas/footpaths require clearance of weeds/moss. I noted most of the other apartment blocks appeared occupied. External condition of these blocks varied. Repairs to plasterwork of some suggest structural issues.

7.2. Actions of the Owner to Address Dereliction

- 7.2.1. The owner as identified by CCC could not be contacted.
- 7.2.2. The photographs submitted by Ms Fitzpatrick with her objection of 24th November 2025 show the apartment clear of refuse and clothes. It is not stated who carried out the removal of these materials. The surfaces within the apartment remain unchanged in condition.
- 7.2.3. There is no indication of any individual having undertaken works to address the disrepair of the property. I note again that works the leakage in the roof or water ingress however would be beyond the extent of the ownership of the subject property.

7.3. Action of Local Authority

- 7.3.1. I note the actions of the Local Authority, including their efforts to ascertain the owner and contact same as outlined in the Local Authority Report of 23rd October. I note that the objector, Ms Fitzpatrick is described as the owner of another apartment in the report of CCC dated 25th July 2025. I note that CCC engaged with the objector in relation to substantiating ownership of the subject property. In addition, the objector was sent a copy of the Compulsory Purchase Acquisition notice issued, for information. I consider that the above actions of the Local Authority were fair and reasonable in the above regard.
- 7.3.2. No notice was served under Section 11 of the Act to require specific works to be carried out to the apartment. Given the owners were not deemed contactable I consider this acceptable. Given the main issue relates to water ingress from the roof of the apartment block, which is beyond the ownership of the subject property, a Section 11 Notice relating to the subject property is likely to be ineffective. I note the Management Company with freehold title is stated to have been dissolved. I am satisfied that a Section 11 Notice was not appropriate in the above regard.
- 7.3.3. The Local Authority Report does not include any evidence of progress in acquiring the freehold interest or the other leasehold interests. In this regard, this application appears to be in insolation and, as stated above, on its own would not bring the overall block out of disrepair.

7.4. Proportionality

- 7.4.1. In relation to proportionality, I note the obligations of local authorities to address dereliction, and also national and local policy objectives (to activate derelict/vacant sites and increase the supply of housing and revitalise settlements) in the interest of the common good.
- 7.4.2. I note that the cause of disrepair to this apartment (and others in the block) preventing its use for housing, is stated to be leakage and water ingress from the roof. Reference to structural issues is also made in the Local Authority Report, however there is no specific detail. The subject property is on the 2nd floor (storey three) of a four storey block and is removed from the roof structure. The compulsory acquisition of the subject property will not enable the repair of the apartment block roof, being beyond the extent of the property. The acquisition and control of the subject property alone cannot fully address the disrepair of the subject property, prevent dereliction, or increase housing supply. I therefore consider the acquisition of the subject property unreasonable.
- 7.4.3. The Local Authority Report states that “The redevelopment of the block can only be undertaken if all 12 apartments are acquired off the respective owners and the Freehold title is acquired through the Courts process from the dissolved Management Company.” It is evident from the foregoing that the matter of the Freehold Title also requires to be addressed to enable the disrepair of the subject property and overall apartment block to be resolved. The acquisition of the Freehold title therefore appears to be an alternative to the compulsory acquisition of the subject property.
- 7.4.4. Therefore I conclude that the need and interest of the common good would not be met by the proposed acquisition of the subject property. I therefore consider the proposed compulsorily acquisition of the subject property disproportionate to the end to be achieved.
- 7.4.5. I also note the stated intention of CCC to acquire and upgrade the properties and provide them for housing. This is a positive objective, consistent with national and local policy. However, the Commission is limited to consideration of the purpose of the Derelict Sites as set out.

8.0 Conclusion

- 8.1.1. Having regard to the Constitutional and Convention protection afforded to property rights, I consider that the proposed acquisition of the Derelict Site comprising a two bedroom apartment at No. 8 Willow House, Drumgeely, Shannon, Co. Clare of 89sqm 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 12th September 2025 and on the deposited maps DS24-09(a) pursues, and is rationally connected to, a legitimate objective in the public interest, namely, to ensure that the lands do not continue to be in a derelict condition.
- 8.1.2. I am further satisfied that the proposed acquisition of these lands by the acquiring authority, which are currently in an unsightly and objectionable condition, was consistent with the policies and objectives of the Clare County Development Plan 2023-2029 and specifically development plan objectives CDP 4.3, CDP5.2, CDP9.14 and CDP17.10 which seek to actively address instances of dereliction and decay in the urban and rural environment and bring properties back into active re-use and to revitalise towns and villages. However, I am not satisfied that the condition of the site is so unsightly and objectionable that it detracts to a material degree from the amenity and character of the neighbourhood.
- 8.1.3. I am not satisfied, therefore, that the process and procedures undertaken by Clare County Council have been fair and reasonable, or that the local authority has demonstrated the need for the lands, or that all the lands being acquired are both necessary and suitable to ensure that the lands do not continue to be a derelict site. It is further acknowledged that the acquiring authority has not adequately demonstrated that the means chosen to achieve the objective in the public interest would have impaired the property rights of affected landowners as little as possible, and that the effects of the compulsory acquisition on the rights of affected landowners were proportionate to the objective being pursued at the time.
- 8.1.4. In this respect, I have considered alternative means of achieving the objective referred to in the submissions to the Commission and am satisfied that the alternatives are such as to render the means chosen and the compulsory acquisition by the acquiring authority unreasonable or disproportionate. Having regard to the current condition of the site, I am no longer satisfied that that the grant of consent to

compulsorily acquire the lands is justified by the exigencies of the common good at this point in time.

9.0 Recommendation

9.1. Notwithstanding the current unsightly condition of the site, the site does not detract to a material degree from the amenity, character and appearance of the streetscape and surrounding land in the neighbourhood. I do not, therefore, consider it reasonable that the local authority seeks to compulsorily acquire that land as provided for in Section 14 of the Derelict Sites Act. I recommend, therefore, that the Commission refuses consent Clare County Council for the compulsory acquisition of the site.

10.0 Reasons and Considerations

Notwithstanding the current unsightly and objectionable condition of the site, 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 Clare County Development Plan 2023 - 2029

it is considered that the site does not detract to a material degree from the amenity, character and appearance of land in the neighbourhood and, therefore, 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 or 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 me, directly or indirectly, following my professional

assessment and recommendation set out in my report in an improper or inappropriate way

Bébhinn O'Shea
Planning Inspector

27th February 2026