



An  
Coimisiún  
Pleanála

## Inspector's Report ACP-323845-25

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<b>Nature of Application</b>	Application for consent for compulsory acquisition of a derelict site in accordance with Section 16 of the Derelict Sites Act 1990, as amended
<b>Location</b>	Breaffa South, Spanish Point, Co. Clare
<b>Local Authority</b>	Clare County Council
<b>Notice Party</b>	Ahakista Property Investments Ltd.
<b>Date of Site Inspection</b>	30th day of January 2026
<b>Inspector</b>	Fergal O'Bric

## 1.0 Introduction

1.1 This case relates to a request by Clare County Council for the consent of An Bord Pleanála to the compulsory acquisition of the subject site at Breaffa South, Spanish Point, in west County Clare, in accordance with the provisions of the Derelict Sites Act, 1990, as amended.

## 2.0 Site Location and Description

2.1 Spanish point is located in west County Clare overlooking the Atlantic Ocean and the western shoreline of the Country circa three kilometres south-west of Milltown Malbay and circa thirty-four kilometres south-west of the county town of Ennis. Spanish Point is on the regional route, the R482 (designated as part of the Wild Atlantic Way), a route that ties into the N67 which connects to the settlements of Lahinch, Lisdoonvara and Ballyvaughan further north within the county. Spanish Point is a vibrant coastal village and has many services and facilities including primary and secondary schools, a church, a number of local shops and businesses, local amenities including two hotels, a library, camping and caravan parks, a surfing school, a blue flag beach and a golf club.

2.2 The subject site is located outside of and north of the designated settlement boundary for the small village of Spanish Point as set out within Volume 3(d)-West Clare Municipal District within the current Clare County Development Plan 2023-2039. The site comprises a part single and part two-storey dwelling on its own ground with a detached outbuilding to its north within the site. The site is located at the end of a row of dwellings located further south towards the village which are all in a good state of repair and appear to be occupied and well maintained. The subject property, although it has its slate roof generally intact, internally is in a poor state of repair, with the floors at ground floor level missing floorboards, the front windows are boarded up, and the back door is missing and there is no glass remaining in any of the windows. The stairs to the first-floor bedroom are unstable with the handrail not fixed in place, the first-floor bedroom has had floorboards removed and there are signs of water ingress within the ceiling and floorboards within the first-floor bedroom area. The sanitary ware within the downstairs bathroom is also in a poor state of repair and an internal partition wall between the bathroom and kitchen area has been

removed. There have been some recent works completed around the chimney breast and hearth area within the main downstairs room, likely to have been a living/dining area whereby red brickwork and blockwork and fresh plastering have recently been put in place and the chimney breast area slabbed. The existing structures on site are described in the Section 8 notice as a 'detached single storey cottage and shed and surrounding site At Breaffa South, Spanish Point, County Clare, comprising an area of approximately 0.486 hectares'.

- 2.3 The dwelling has a pitched slated roof, and a smooth render painted external finish. The structure fronts directly onto the R482 (part of the Wild Atlantic Way) with a one metre tall boundary wall along the site frontage and a one metre grass verge on the roadside of the boundary wall. There is also a three metre wide vehicular entrance to the side along the northern side of the road frontage which is not gated at present. The rear garden space is long and narrow, with undefined boundaries. There is a grassed area to the front of the dwelling albeit the garden area is overgrown however, the garden area is accessible. There is a small, dilapidated detached outbuilding within the side garden space, located north of the residential unit.
- 2.4 On the date of my site inspection, the property was secured with Harris fencing in place along the inside of the front boundary wall. There was a skip in the front garden area which was full on the day with furniture and material from the clearance of the dwelling.

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

- 3.1 Clare County Council has applied to the Board for consent to compulsorily acquire the site under Section 16 of the Derelict Sites Act (DSA), 1990, as amended. I note that this application is being made subsequent to the serving of notices under Section 8(2) of the DSA, on the 22<sup>nd</sup> day of April 2004 to the then property owner's, (i.e. advising of the Local Authority's intention to enter the site on the register of derelict sites), and again under Sections 8(2) of the DSA on the 19<sup>th</sup> day of January 2023 and on the 24<sup>th</sup> day of February 2023 and under Section 8(7), on the 6<sup>th</sup> day of October 2023. Following a review of the property folio pertaining to the lands by the Local Authority, it was noted that ownership of the property has changed in 2021 and it was decided to issue new notices under Section 8 (2) of the DSA on the 18<sup>th</sup> day of January 2025 and after no response had been received from the landowners

a notice under Section 8(7), on the 4th day of March 2025 was issued, (i.e. advising of the Local Authority's decision to enter the site on the register of derelict sites).

A notice of intention under Section 15(10)) (a), to acquire the derelict site compulsorily under the Derelict Site Act, 1990 was issued on the 4th day of September 2025. A site notice was also placed on the site on this date, and a newspaper notice was published in the 'Clare Champion' dated the 5<sup>th</sup> day of September 2025. advertising the notice of intention to acquire the derelict site compulsorily.

#### **4.0 Application and Objection**

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

4.1.1 Notice of Clare County Council's intention to acquire the site compulsorily was served on the owners (Ahakista Property Investments Ltd) in correspondence dated the 4<sup>th</sup> day of September 2025 and was published in the 'Clare Champion' newspaper on the 5<sup>th</sup> day of September 2025. The site was described as follows in the notices:

- Property at Breaffa South, Spanish Point, County Clare comprising a detached single storey cottage and shed and surrounding site comprising an area of approximately 0.486 hectares.

4.1.2 I consider that the notices are in accordance with the requirements of Section 15(1)(a) of the Derelict Sites Act 1990, as amended.

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

4.2.1 An objection to the proposed acquisition was submitted to Clare County Council by a Planning Consultant on behalf of Ahakista Property Investments Ltd in correspondence dated the 1<sup>st</sup> day of October 2025. The objection can be summarised as follows:

- The objection arises due to exceptional and unforeseen circumstances that have impeded the landowner's ability to advance the approved works within the anticipated timeframe.

- A five-year planning permission for the redevelopment of the property was permitted by Clare County Council under planning reference number 22/666. The permission provides for the partial demolition of the dwelling and the construction of an extension.
- The principal company shareholder with responsibility for decision making and funding has been suffering from ill-health. This has significantly delayed his ability to authorise and implement the necessary works on the property.
- The company's agent who was engaged to prepare and submit the commencement notice and oversee the works has also suffered ill-health.
- The financing of the project has taken time to arrange but is now resolved and funds are now available to carry out the permitted works.
- These circumstances were exceptional and beyond the control of the property owner/agent.
- It is the intention of the property owners to proceed with the works to bring the property into compliance and remove it from the derelict sites register.
- The property owner is now in the process of submitting a commencement notice.
- In light of the exceptional health circumstances outlined above, they are requesting that Clare County Council reconsider the proposed compulsory acquisition of the site and to allow a reasonable period of time to complete the works.

4.2.2 On the 14<sup>th</sup> day of October 2025, the agent for the landowners corresponded with Clare County Council informing them that they had submitted a commencement notice for the works permitted under 22/666 and this had been validated by the Local Authority.

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

4.3.1 The Local Authority requests the consent of the Coimisiún for the compulsory acquisition of the derelict site. The application for consent was submitted on the 30<sup>th</sup> day of October 2025 and was accompanied by the following:

- A Local Authority Certificate of Inspection and Compulsory Acquisition Report prepared by an official within their Property Management Unit setting out the provisions of Section 3 of the Derelict Sites Act 1990, as amended, details that were observed during a number of site inspections, an inventory of works that should be completed to render the property non-derelict, seeking a response from the property owner(s) and recommending that that Derelict Site notices to this effect are affixed on site. The report included photographs and a map of the site and area. The sequence of events as stated by the Local Authority is as follows:
  - Copy of the notices under Section 8(2) of the Derelict Sites Act 1990, as amended, were served on the owner(s) of the site at that time, dated 22<sup>nd</sup> day of April 2004. The notices were returned and marked 'Gone away with no forwarding address'.
  - On 30/9/2022-a review of the derelict sites file was conducted as was a site inspection.
  - 13/10/2022-An engagement letter was sent to the owners of the site advising them of the vacant property refurbishment scheme.
  - 14/11/2022-engagement with solicitors acting on behalf of the landowners. It was reported that Ahakista Property Investments Ltd were in the process of acquiring the property.
  - 19/1/2023-Copy of notices under Section 8(2) of the Derelict Sites Act 1990, as amended served on the owner(s) of the site. The notices were returned as 'not called for'.
  - 20/1/2023-Site inspected and no improvement works had been carried out.
  - 24/2/2023-Copy of notice under Section 8(2) of the Derelict Sites Act 1990, as amended was erected on the site.
  - 4/4/2023-E mail correspondence sent to planning agent advising of the Section 8(2) notice served on the site and requested they make a submission to the Local Authority.
  - 14/4/2023-Email response from landowner's agent advising that they were preparing to submit a commencement notice for the works on site.

- 25/5/2023-Site inspection carried out and no works had commenced on site.
- 12/6/2023-Email correspondence from agent stating that there is a delay with the commencement notice process due to a delay with a mortgage application.
- 18/9/2023- Site inspection carried out and no works had commenced on site.
- 6/10/2023- Copy of notices under Section 8(7) of the Derelict Sites Act 1990, as amended were erected on the site and also served on the landowners on the same date.
- 30/11/2023-Phone call to agent to advise if any progress had been made. Agent stated that financial affairs remained to be sorted out and no start date for the works was possible in those circumstances.
- 2024-Review of the case file and found that ownership of the lands had changed in 2021.
- 16/1/2025- Copy of notice under Section 8(2) of the Derelict Sites Act 1990, as amended was served on the new landowners by registered and normal post.
- 3/3/2025-Report from a Senior Officer within the Local Authority stating that no submission had been received in response to the Section 8(2) notice.
- 4/3/2025- Copy of notice under Section 8(7) of the Derelict Sites Act 1990, as amended was served on the new landowners of the site by registered and normal post advising them of the derelict site levy of 7%.
- 17/7/2025-Recommendation to proceed to Compulsory purchase of the site as no works had commenced on site and it was stated that the landowners had the same company directors. Correspondence advises the property owners of the Local Authority's intention to make an application to An Coimisiún Pleanála for the compulsory acquisition of the site.

4.3.2 The certificate of inspection and derelict site report prepared by the Local Authority, reference number DS03-40 can be summarised as follows:

- A site inspection was carried out by an official within the Property Management Unit within Clare County Council.
- The property is located in Breaffa South, a short distance away from Cledagh Bridge along the R482, a key scenic route along the Wild Atlantic Way.
- It is stated that the property is located on the road edge of one of the most scenic routes and a key route in the busy tourist season. Clare County Council has completed significant work in promoting Spanish Point under the Council's tourism promotion remit and has recently adopted the 'Clare Tourism Strategy'.
- It is stated that the 'property was vacant for over twenty years, and no improvement works had been carried out as observed during a number of site inspections carried out on site between 2004 and 2025.
- It is stated that the property comprises a single storey cottage, shed and surrounding site at Breaffa South, Spanish Point, Co. Clare
- Between 2004 and 2021 the Local Authority did not take any further action under the Derelict Sites Act 1990 on this property as they had no contact details for the property owners.
- In 2004 the property was identified as a derelict site and the Local Authority set out a number of works that should be carried out to deem the property non-derelict. The dwelling was beige in colour and glazing in the windows was broken at that time.
- The Local Authority issued a number of Section 8(2) notices on dates between April 2004, January and February 2023 and January 2025 (see Section 4.3.1 above) stating its intention to enter the property onto the Register of Derelict Sites and Section 8(7) notices in May and October 2023 and March 2025 to advise that the property had been entered onto the Derelict Sites Register.
- It was decided to issue a Section 15 Notice of intention to acquire the property compulsorily under the Derelict Sites Act 1990, on the 4<sup>th</sup> day of September 2025.

- An objection to this notice was received from the landowner's agent on the 1<sup>st</sup> day of October 2025. This correspondence stated that it is Ahakista Property Investment Ltd, s intention to proceed with the necessary works to bring the property into compliance and have it removed from the Derelict Sites Register and to renovate the property in the coming months to bring the property to a habitable state.
- The Local Authority intends to pursue the compulsory acquisition of the derelict site.

#### 4.4 Objector's Submission

None received.

#### 5.0 Planning History

##### 5.1 On site

Planning reference 22/666-Planning permission was granted for the demolition of art of the existing dwelling and the construction of an extension and for connection to the septic tank on site. Permission is stated to have been granted by Clare County Council in January 2023.

##### On adjacent lands

I am not aware of any recent relevant planning history in the surrounding area.

#### 6.0 Policy Context

##### 6.1 Development Plan

- 6.1.1 The relevant Development Plan is the Clare County Development Plan 2023 – 2029. Chapter 3 of the Plan sets out the Core Strategy and Settlement Policy. Section 3.4 sets out the settlement hierarchy. Spanish Point is identified as a Tier 6– Small Village in the Settlement Hierarchy. The following is set out with Section 4.2 re: Small Villages 'The Small Villages of County Clare have a predominantly rural character, with some public/community services such as a church, school,

shop, etc....The village boundaries are illustrated on the individual settlement land use plans, which can be found in Volume 3 of this Plan, and a long-term timeframe for the development of these villages is considered to be appropriate. The settlement statements and land use plans for the small villages and the associated Village Growth Area (VGA) designations seek to achieve compact growth through brownfield redevelopment and the regeneration of underutilised sites, to address issues such as dereliction and vacancy, to promote the shift to sustainable transport modes and to enhance the connectivity to, and the viability of, local shops and services.

## 6.2 Section 3 (d) West Clare Municipal District

6.2.1 A settlement Plan for the small village of Spanish Point is set out within Volume 3(d) of the Clare County Development Plan 2023-29. Section 4 specifically relates to small villages and includes Spanish Point. Among the key objectives contained within the Plan include that of 'Compact growth and Regeneration'.

As per the mapping provided within Section 3(d) for small villages, the subject site is located north of and outside of the designated settlement boundary, being located approximately 750 metres north of the settlement boundary. Therefore, the subject site does not have the benefit of any particular land use zoning objective within the Plan.

## 6.3 Derelict Sites Act 1990 (as amended)

6.3.1 The Derelict Sites Act 1990, as amended, makes provisions 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.

6.3.2 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.”

6.3.3 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 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 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 their functional area. Section 15 sets out arrangements for giving notice, if the local authority intend to acquire a derelict site compulsorily, and Section 16 sets out arrangements if the owner/occupier wishes to object to the acquisition. Specifically, Section 16, as amended, provides that where an objection is made, the derelict site shall not be acquired compulsorily by the local authority without the consent of the Coimisiún.

## 7.0 **Assessment**

7.1 Internal access to the dwelling was possible on the date of my site inspection. I gained access to the dwelling from the rear of the structure where internal access could be safely gained.

7.2 The house is vacant and has the appearance of not having been inhabited for some period of time, stated to be in excess of twenty years by the Local Authority. Both

externally and internally the dwelling has a neglected, unsightly and objectionable condition. This is because the front windows and front door are boarded up and the rear door is missing and the glass within the windows that are not boarded up has been broken. Some of the floorboards within the ground and upstairs bedroom area have been removed. An internal partition wall between a bathroom and kitchen area and some of the internal, skirtings, doors and architraves have been removed, the handrail of the stairs is unstable and at first floor level there are signs of water ingress within the first-floor bedroom area, the ceiling and floorboards are heavily water stained. The render on the external walls is in reasonable condition however, it would benefit from painting/cleaning, the roof is largely intact, with only a small number of slates missing. The window frames of the dwelling are in place however, the glass has been broken in all panes, and they would benefit from replacement.

- 7.3 The subject site is located within a row of dwelling houses along the R482 facing west towards the Atlantic Coast shoreline. The dwelling houses in the surrounding area, particularly to the south of the site are well maintained and occupied, and the road in general has an attractive appearance facing onto the Atlantic Ocean. Having regard to the foregoing, I, therefore, consider that the application site detracts to a material degree from the character and appearance of the surrounding area.
- 7.4 The house is in poor repair internally and has the appearance of been derelict for a number of years.
- 7.5 Having regard to the above, I would not consider that the site falls within category (a) of Section 3 of the Derelict Sites Act, 1990 as the dwelling on site is not ruinous or dangerous, albeit it would be considered derelict. However, I would consider that the site falls within category (b) of Section 3 of the Derelict Sites Act, 1990 due to the land and structure being in a neglected, unsightly and objectionable condition. Having inspected the site, and from the photographic evidence, I consider that the structure is in a neglected, unsightly and derelict condition, given the external walls and front boundary wall would benefit from repainting or being washed down, and the garden areas which are not being maintained. Therefore, it is considered that the structure is in a neglected, unsightly and objectionable condition and, therefore, would be considered to fall within category (b) of the Act. There was some evidence of litter, rubbish, debris within the front garden area on site. However, on balance, it is not considered that the site would fall within category (c) of Section 3 of the Act. In

conclusion, I consider that the property demonstrably detracts from the amenity, character, and appearance of land in the vicinity of the site, which in my view, renders it derelict under Section 3 of the Act.

- 7.6 I note the actions of the Local Authority, and the statutory notices served on the owner/occupier in respect of the building. Section 8(2) notices were served on the owners on dates in April 2004, January and February 2023 and January 2025, advising of the Local Authority's intention to enter the site on the Derelict Site Register. Section 8(7) notices were served in October 2023 and again in March 2025 advising the owners that the site had been entered on the Derelict Sites Register. Finally, Section 15(10)(a) notices were served on 4<sup>th</sup> the day of September 2025 and published in the Clare Champion Newspaper on the 5<sup>th</sup> day of September 2025 regarding the Local Authority's intention to acquire the site compulsorily.
- 7.7 An objection was received from the landowners agent on the 1st day of October 2025 to the proposed acquisition of the property, stating their regret regarding the lack of progress which he states has occurred due to unforeseen health, technical and financial circumstances beyond their control. I acknowledge that some initial preparatory works have commenced in the form of the works on the chimney and hearth area in the main living/dining room within the property. I also acknowledge that the landowners had secured the property through the erection of Harris fencing to minimise the possibility of anti-social behaviour and un-authorized access to the property. The landowners have also commenced cleaning out the property as there was a skip located at the front of the property (containing items of furniture, bedding and sofas) which had been removed from the dwelling. However, no significant renovation or maintenance works such as plastering, re-wiring, re-plumbing or insulation has taken place within the property, and the windows or doors have not been repaired or replaced. Having inspected the site, there is some evidence of an attempt to render the site non-derelict however, the house remains in a ruinous and derelict state. The front and rear garden areas remain overgrown. I, therefore, consider that the site remains in a neglected, unsightly and objectionable condition.
- 7.8 I note the content of the submission that the landowners agent has made on their behalf received by the Local Authority on the 1<sup>st</sup> day of October 2025. The landowners have referenced an extant planning permission that pertains to the site for the partial demolition of the existing dwelling and the construction of an extension

to same. This permission was granted in January 2023 and, therefore, has approximately two years remaining to be implemented. The landowners have also submitted details of a commencement notice for the carrying out of the permitted work which was submitted to the Local Authority in October 2025. Details of exceptional and unforeseen circumstances have also been submitted in terms of the ill-health of the principal company shareholder with responsibility for decision making and funding and also the ill-health of their agent who would oversee works to the cottage. The funds are also now stated to be available to carry out the necessary development works. It is now the stated intention of the landowners to proceed with the necessary works to bring the property into compliance and have it removed from the Derelict Sites Register.

7.9 In conclusion, having regard therefore, to all of the information available on the file and notwithstanding the continued unsightly appearance and poor condition of the property, which as stated constitutes a derelict site, I acknowledge the existence of an extant planning permission in the site for the redevelopment of the dwelling, the submission of the commencement notice to the Local Authority for the carrying out of development works and the consideration of the exceptional and unforeseen health and financial circumstances beyond the control of the land owners, and the fact that the landowners have secured the site, have commenced cleaning out the property and some minor internal works in the internal chimney area have been carried out, I consider that it is appropriate that the Local Authority's application for consent to compulsorily acquire the site at Breaffa South, Spanish point, Co. Clare is refused in this instance and that the objection made on behalf of the landowner be sustained.

## 8.0 **Recommendation**

8.1 Having regard to the observed condition of the application site, in particular the neglected, unsightly and objectionable condition of the land and the structure thereon, I consider that the site materially detracts from the amenity, character and appearance of land in the neighbourhood and is, therefore, a derelict site within the meaning of Section 3 of the Derelict Sites Act, 1990, as amended.

8.2 However, having regard to the details submitted by the landowners(s), I do not consider that it is reasonable that the Local Authority seeks to compulsorily acquire the land, as provided by Section 16 of the Act. I recommend, therefore, that the

Board refuse consent to Clare County Council to compulsorily acquire the site in this instance.

## 9.0 **Reasons and Considerations**

9.1 Notwithstanding the neglected, unsightly and objectionable condition of the subject property, and acknowledging that the site detracts to a material degree from the amenity, character and appearance of land in the locality, 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 provisions of the Clare County Development Plan 2023-2029,

it is considered that the property comes within the definition of a derelict site as defined in Section 3 (b) of the Derelict Sites Act, 1990, as amended, but that the compulsory acquisition of the site by the local authority is not necessary in this instance in order to render the site non-derelict and to prevent it continuing to be a derelict site. It is considered that the objection received from the property owner(s) can be sustained having regard to the existence of an extant planning permission pertaining to the redevelopment of the dwelling on site, the submission of the commencement notice to the Local Authority, demonstrating an intent to carry out works on site to render the dwelling habitable and that the funds are stated to be available to allow works to commence and the stated intention of the landowners to commence the works on site in a timely fashion and the fact that the landowners have secured the site, have commenced cleaning out the property and some internal works to the internal chimney area have been carried out in order to render the site non-derelict and to prevent it from continuing to be a derelict site. It is considered that the objections from the landowner(s) made can be sustained in this instance having regard to effects on their property rights which in this instance are considered disproportionate and unjustified 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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Fergal Ó Bric

Planning Inspectorate

11<sup>th</sup> day of February 2026