



An
Coimisiún
Pleanála

Inspector's Report

ACP-324095-26

Nature of Application

Application for consent for compulsorily acquisition of a derelict site in accordance with Section 14 of the Derelict Sites Act 1990, as amended

Location

Ballinamuddagh, Ardagh, County Limerick

Local Authority

Limerick City and County Council

Notice Parties

1. Michael O'Sullivan
2. Joint Receivers Luke Charleton and Marcus Purcell, Ernst & Young

Date of Site Inspection

5th May 2026

Inspector

Gary Farrelly

1.0 Introduction

- 1.1. This case relates to a request by Limerick City and County Council for the consent of An Coimisiún Pleanála to the compulsory acquisition of the subject site at Ballinamuddagh, Ardagh, County Limerick, in accordance with the provisions of the Derelict Sites Act 1990, as amended. This case is separate to that of ACP-324096-26 which relates to the property adjoining the northeast boundary of the subject site.

2.0 Site Location and Description

- 2.1. The subject site is located within the rural townland of Ballinamuddagh, Ardagh, County Limerick, which is located within the northwest of the County approximately 7km west of the town of Rathkeale. The site comprises of a detached dormer dwelling and garden and is located opposite St. Kieran Catholic Church. My observations on the date of my site inspection were that the property was vacant, the boundary wall was in a neglected state and the front garden was overgrown. The dwelling was set back approximately 30 metres from the public road and the vehicular entrance to the property was closed.

3.0 Application for consent for acquisition

- 3.1. Limerick City and County Council has 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 under Section 8(2) on 4th February 2022 and 19th August 2024 (advising of the Local Authority's intention to enter the site on the register of derelict sites), and under Section 8(7) on 20th April 2022 and 9th November 2024 (advising of the Local Authority's decision to enter the site on the register of derelict sites).

4.0 Application and Objection

4.1. Notice of Intention to acquire

Notice of Limerick City and County Council's intention to acquire the site was served on both notice parties, in letters dated 10th December 2025, which was published in

the Limerick Post newspaper on 13th December 2025 and affixed to the site. The site was described as follows in the notices:

- A derelict site comprising a two-storey, detached, dormer style residence and surrounding land situate at Ballinamuddagh, Ardagh, County Limerick, containing 0.255 hectares or thereabouts. The said property and surrounding land are in a state of dereliction. The said derelict site is more particularly shown outlined in red on map bearing reference no. DS-142-21 in the Derelict Sites Register established and maintained by Limerick City and County Council under Section 8 of the Derelict Sites Act, 1990.

I am satisfied that the notices were in accordance with the requirements of Section 15(1)(a) and (b) of the Derelict Sites Act 1990, as amended.

4.2. Objection to Local Authority

Two objections to the proposed compulsory acquisition were submitted to Limerick City and County Council from Luke Charleton, Joint Receiver of Ernst and Young and from Michael O'Sullivan. The grounds of objection are summarised as follows:

- Luke Charleton was appointed joint receiver of the property by deed of appointment dated 5th May 2015. In his capacity as joint receiver he objects to the proposed compulsory acquisition of the property under the Derelict Sites Act 1990, as amended. He requests the local authority to reconsider its decision and engage in further discussions.
- Michael O'Sullivan outlines that he is the owner and builder of the property and also objects to the compulsory acquisition of the property. He outlines that the house would not be in a derelict state if he was in control of it. The reason he did not respond to the local authority was due to an ongoing court case regarding ownership. He requests assistance on the availability of a grant to carry out repairs and renovations to bring the property to a standard for renting.

4.3. Local Authority Application for Consent

The local authority requests the consent of the Commission to the compulsorily acquisition of the derelict site. The application for consent was submitted on 17th February 2026 and was accompanied by the following:

- Local authority compulsory acquisition report
- Copy of the section 15 notice served on the owner/occupier/lessee, dated 5th December 2025.
- Copy of the newspaper notice, within the 13th December 2025 issue of the Limerick Post.
- Copy of the objections made by Luke Charleton and Michael O'Sullivan (*summarised in Section 4.2 above*).

The local authority's compulsory acquisition report is summarised as follows:

- Limerick City and County established a specialised 'Dereliction, Vacancy and Re-Use Unit' in 2017 to bring derelict and vacant properties back into use with a particular emphasis on areas of high housing demand, town and village centres and the historic core of Limerick City. Its general approach is to work proactively with property owners, with timely actions and improvement of sites through positive engagement. It is stated that the powers to compulsorily acquire lands under the Derelict Sites Act, 1990 are used only where necessary, where all reasonable alternatives have been exhausted.
- A number of issues are taken into account when progressing an acquisition case. They include; the planning history and outstanding planning permissions; evidence of efforts to address vacancy and dereliction; security, safety to the public and the general condition of the site; the conservation value of the building and requirement for remedial restoration works; and the feasibility of various actions to make good the site and find viable uses for the site.
- The site is set back from the road and there are other residential and community properties in the area which are well maintained. Located close to the derelict site is the local national school, community centre and church.

- The two storey detached property and surrounding land is vacant and in a derelict condition for a considerable period. The site detracts from the amenity, character and appearance of the well-maintained property in the area. It is the local authority's opinion that it detracts to a material degree from the character and appearance of the surrounding area and is deemed to be derelict. The front and rear gardens are overgrown. The site boundaries are planted with leylandii's trees and which have grown out of control and taken over the site and neighbouring sites. There is an absence of some guttering and downpipes leading to water running down the face of the property.
- The site has a neglected look due to its unsightly condition. Attempts to clean the site have not been in any way successful and has not been of any benefit to the surrounding area. At the rear of the site is an accumulation of motor oil waste stored at the rear boundary.
- Some indicators of dereliction present at the site include; crumbling front boundary wall capping; excessive amounts of vegetation at front boundary and throughout the site; missing/broken gutters and downpipes; dirty façade/peeling paint; plants growing on side boundaries into neighbouring properties; rotten timber; site overgrown with vegetation; collection of waste canisters in rear of site.
- Planning permission was granted on 28/04/2004 under ref. 04/624 for the construction of two dwellinghouses.
- The title to the property is comprised in Folio LK50966F and the registered owner is Michael O'Sullivan. There is a charge registered on the folio. There is a judgement mortgage registered on 14th October 2024. There is an order of the circuit court dated 28th July 2018. Appointed over the property by the charge holder are joint receivers from Ernst and Young (E&Y).
- The local authority first inspected the site on 10th December 2021 and identified it as a derelict site. Site ownership enquires were made through the land registry system and planning and developments searches were subsequently carried out.

- A Section 8(2) notice of intention to enter the land in the Derelict Sites Register was sent to the registered owner and Allied Irish Banks (AIB) on 4th February 2022. On 22nd February 2022, a representative from E&Y made contact to request remedial measures which was acknowledged on 23rd February 2022. On 2nd March 2022, E&Y stated that they would reply shortly with proposals to clean the site.
- As the site continued to be a derelict site, a Section 8(7) Notice of Entry of Land into the Derelict Sites Register was served on the owner by registered post on 20th April 2022 and affixed to the site. Subsequently, the Receivers contacted the local authority and committed to complete remedial measures. On 16th June 2022, E&Y made contact to confirm remedial measures were completed. On 22nd June 2022, the area inspector visited the site and confirmed the remedial measures required to resolve the dereliction were not carried out and a site meeting was requested with E&Y.
- On 22nd July 2022, a site meeting between the area inspector and agents for the Receivers took place where it was outlined the detailed remedial measures that were required. The agent requested time to get the works completed.
- On 28th September 2022, the area inspector visited the site and confirmed not all the requested remedial measures were carried out. The area inspector had a follow up call with the agent for the Receiver on 6th October 2022 to explain the works were not fully completed and to request the remaining works to be undertaken. On 29th November 2022, the agent for the Receiver called the area inspector explaining the required works had now been fully completed.
- On 30th November 2022, the area inspector visited the site again and confirmed that the remedial measures were still not fully carried out. The agent for the Receivers was contacted who stated that he would contact the Receivers. On 6th December 2022, the agent for the Receivers contacted the area inspector outlining that he requested the Receivers that further works were required and was awaiting an answer from them.
- On 15th March 2023, the agent for the Receivers contacted the area inspector and confirmed contractors would be starting works in the coming weeks. The said works commenced in late May 2023 and the works were completed in

August 2023. The area inspector was satisfied that the dereliction had been resolved and the local authority served a Section 8(4) Notice of Removal from the Register on 4th October 2023. It was agreed with the area inspector that a maintenance agreement would be put in place to ensure the property would not fall back into dereliction.

- The property continued to be monitored by the local authority, however, the promised maintenance plan was never put in place and the property fell back into a state of dereliction. On 12th August 2024 the area inspector contacted the Receivers and AIB Finance to confirm if they still had an interest in the property. A call was also made to the agent for the Receivers, who stated he will get contractors back on site.
- As no reply was received from the Receivers, a Section 8(2) Notice of Intention to enter the property on the register was sent to the owner Michael O'Sullivan and AIB on 19th August 2024. A representative of E&Y, on behalf of the Receivers, made contact on 12th September 2024 to explain that they will get contractors once again to clean the site.
- On 20th February 2025, a site meeting was arranged by the area inspector with the agent for the Receivers where remedial measures were gone through and a detailed list was requested by the agent from the local authority. On 18th March 2025, the requested detailed list of remedial measures was sent to the agent for the Receivers who acknowledged the email and confirmed he will revert once he gets confirmation to commence works from E&Y.
- No response was received in the next 6 months and on 15th September 2025 a follow up email was sent to E&Y and the agent for the Receivers seeking an update. On 30th September 2025, the representative of E&Y contacted the local authority to inform it that further remedial works would be carried out in the coming weeks. To date these works have not occurred.
- As the land continued to be in a derelict state, the local authority exercised its powers of compulsory acquisition under Section 14 of the Derelict Sites Act 1990 (as amended) and gave notice of its intention to acquire the derelict site compulsorily to the owner and advertised the same in the Limerick Post newspaper on 13th December 2025.

The Commission should note that the 'history of the derelict site case' within the report does not outline that a further Section 8(7) notice was served prior to the issuing of the Section 15 Notice. However, page 7 does confirm that a Section 8(7) Notice was served on 9th November 2024.

- On 21st January 2026, a letter stating an objection to the proposed acquisition was received from Luke Charleton as Joint Receiver of E&Y which was duly acknowledged. The only stated rationale for objecting was to request that the local authority reconsider its decision and to engage in further discussions on the matter. On 21st January 2026, a letter stating objection was received from Michael O'Sullivan which was duly acknowledged.
- While the bank, the Receiver and the owner argue and disagree over the land, the neighbours of this derelict site and the rest of the local community live with and endure the ongoing neglect, decay, and unsightly nature of this property. It detracts from their own well-kept residences and impacts on the enjoyment of their locality of which they are most proud. The statement in the letter of objection from the Receiver requesting further engagement does not hold up. The local authority has engaged with the Receivers for almost 4 years in what has been a most drawn out process, with a failed remedial works programme and maintenance schedules which have never been adhered to. Unfortunately, it appears to the local authority that Michael O'Sullivan may not have the capacity to deliver the property back to residential use either.
- It is the contention of the council that the inaction of property owners and failure of their duties under the Derelict Sites Act that jeopardises the future use of properties in the area due to their continued neglected and derelict state. In this case, the property continues to deteriorate and attract negative attention in a key village of Coolcappagh, Ardagh. This case demonstrates a failure of duty on behalf of the property owner and the Receivers appointed by the charge holder to remove this property from dereliction leaving the only option available to the council to acquire this property compulsorily and bring it back into productive use.

4.4. Objection to the Commission

The Commission issued a letter to the notice parties on 20th February 2026 advising that further observations could be made in response to the lodgement of the application by the local authority. No further submission was received by the Commission.

5.0 Relevant Planning History

Planning Authority reference 04/624

Michael O'Sullivan was granted permission for the construction of two dwellinghouses.

6.0 Limerick Development Plan 2022-2028

Objective CGR 04 Active Land Management

It is an objective of the Council to:

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.

Objective CGR 06 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 reuse.

Policy CGR P4 Revitalisation of Towns and Villages

It is the policy of the Council to:

a) Actively address issues of vacancy and dereliction in settlements across Limerick.

7.0 Derelict Sites Act 1990 (as amended)

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.

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."

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 wish 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 Board.

8.0 Assessment

Site Inspection

- 8.1. The Commission should note that I inspected the site on 5th May 2026 and observed that the property was vacant. The gates to the property were closed, however, I observed the property from the public road. The front boundary was in a neglected state with the wall in a weathered condition. The lawn of the front garden was in an overgrown state. I did not observe any significant dereliction to the detached residential property.

Category of Dereliction

- 8.2. The Commission should note that within the local authority's letter accompanying the Section 15 Notice it considered that the property and lands fell under Category (b) of Section 3 of the Derelict Sites Act 1990, as amended (herein referred to as "*the Act*"). Based on my observations on the date of my site inspection, as set out in paragraph 8.1 above, and to the photographs provided by the local authority, I consider that the subject property falls under Category (b) of Section 3 of the Act:

- The lands and boundary wall structure are in a neglected, unsightly and objectionable condition.

- 8.3. I observed that the residential property itself was not in a ruinous, derelict or dangerous condition. I also observed no significant deposition of litter, rubbish, debris or waste. Therefore, I am satisfied that the property does not fall under Categories (a) or (c) of Section 3 of the Act.

- 8.4. Whilst I acknowledge that the lands and front boundary wall are in a neglected, unsightly and objectionable condition, having regard to my observations set out within paragraph 8.1 above, 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. Therefore, it is my view that the compulsory acquisition of the site by the local authority is not necessary in order to render the site non-derelict.

Actions of Local Authority

- 8.5. Notwithstanding the above, and if the Commission is minded to reach a different conclusion, I will now consider whether the actions of the local authority have been fair and reasonable, whether it has taken all reasonable steps to ensure that the property does not become or continue to be a derelict site.
- 8.6. Having reviewed the information on file including the Local Authority Compulsorily Acquisition Inspector's Report, I note that the local authority first inspected the property on 10th December 2021 and identified it as a derelict site. On 4th February 2022, a Section 8(2) notice under the Act was sent to the registered owner and AIB. As the site continued to be derelict, a Section 8(7) notice under the Act was sent to the owner by registered post and affixed to the site on 20th April 2022.
- 8.7. I note that the local authority undertook numerous site inspections and arranged various site meetings with the Receiver's agent detailing the remedial measures required to bring the property out of dereliction. A further site inspection from the area inspector noted that the remedial works were completed in August 2023. The area inspector was satisfied that the dereliction was resolved, and I note that the local authority removed the site from the Derelict Sites Register on 4th October 2023.
- 8.8. The property continued to be monitored by the local authority, and a maintenance agreement was put in place to ensure the property did not fall back into dereliction. However, the local authority noted that the promised maintenance plan was never put in place and the property fell back into dereliction. It contacted the Receivers again to confirm whether they still had an interest in the property. The local authority then issued its second Section 8(2) Notice for the property on 19th August 2024, followed by its second Section 8(7) Notice on 9th November 2024.
- 8.9. The Commission should note that a further site meeting was arranged by the area inspector with the agent for the Receivers on 20th February 2025. On 18th March 2025, the agent for the Receivers was emailed a detailed list of the required remedial measures. The local authority did not receive a response to this (with the exception of an acknowledgement) and a further email was sent on 15th September 2025 where a representative for the Receivers informed the local authority on 30th September 2025 that further remedial works would be carried out in the coming weeks. I note that the

local authority outlines that these works have not taken place to date and as a result exercised its powers under Section 14 of the Act.

- 8.10. The Commission should note that having regard to the information on file, and to the processes and procedures undertaken by the local authority, including the ongoing correspondence with the Receivers, the undertaking of site meetings to discuss the issues and to the timelines accommodated, I am satisfied that the local authority has been reasonable and fair in this regard. I am also satisfied that the serving, as well as the removal, of the statutory notices were all in accordance with the requirements of Section 6 and Section 8 of the Act.
- 8.11. However, having regard to my conclusions under paragraph 8.4 above, I am not satisfied that the compulsorily acquisition of the site by the local authority would be fair or reasonable as I do not consider that the site is so unsightly and objectionable that it detracts to a material degree from the amenity and character of the neighbourhood.

Compliance with development plan policy

- 8.12. I will now determine whether the proposed acquisition would be in accordance with the policies and objectives of the Limerick Development Plan 2022-2028 (*herein referred to as "the LDP"*). The Commission should note that it is the stated policy of the local authority to actively address issues of vacancy and dereliction in settlements across the county. This is set out in Policy CGR P4 (Revitalisation of Towns and Villages) of the LDP. Furthermore, I note that objective CGR O4(b) (Active Land Management) of the LDP seeks to support and facilitate the reuse and revitalisation of derelict, vacant and underutilised sites and disused buildings in the County for purposes including residential and community. Moreover, objective CGR O6 (Derelict Sites) of the LDP seeks to use the provisions of the Derelict Sites Act, including compulsory acquisition powers, in order to address dereliction and decay and bring properties back into use.
- 8.13. Therefore, it is my view that the policy and objectives of the LDP do support the compulsory acquisition of derelict properties in order to bring them back into use for a residential and community benefit. However, as already stated above, 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.

Actions of the Owner to address dereliction

- 8.14. The Commission should note that the registered owner has outlined an ownership dispute with AIB since 2013 and states that the property would not be in a derelict state if he was in control of his business. He outlines that he did not contact the local authority before now because of an ongoing court case regarding ownership of the property. He has requested details from the local authority of the grant available to carry out repair and renovations in order to bring the house up to standard for renting.
- 8.15. The Commission should note that the Receivers do not outline any grounds for objection only a request for the local authority to reconsider its decision and engage in further discussions. I note that the Receivers did engage with the local authority after the serving of the first Section 8(2) and 8(7) Notices, including the undertaking and completion of works between May and August 2023 which satisfied the local authority to remove the property from the register under Section 8(4) of the Act on 4th October 2023.
- 8.16. After the local authority contacted the Receivers on 12th August 2024, as it considered the property fell back into dereliction, the Receivers did not respond directly. A representative responded on 12th September 2024, after the serving of the second Section 8(2) Notice on 19th August 2024. It was outlined to the local authority that contractors would be hired again to clean the site. After a site meeting on 20th February 2025 and email correspondence on 18th March 2025, to which the agent for the Receivers acknowledged, there was no further response from them until 30th September 2025 where they informed the local authority that further works would be carried out in the coming weeks. The Commission should note that the local authority has outlined that these works have not occurred.
- 8.17. Notwithstanding the above, having regard to the condition of the site on the date of my inspection 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. Therefore, I do not consider a compulsorily acquisition of the lands to be reasonable at this point in time.

9.0 Conclusion

- 9.1. 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-storey, detached, dormer style residence and surrounding land at Ballinamuddagh, Ardagh, County Limerick, containing 0.255 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 the 5th day of December 2025 and on the deposited maps DS-142-21, 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.
- 9.2. I am further satisfied that the proposed acquisition of these lands would be consistent with the policies and objectives of the Limerick Development Plan 2022-2028, and specifically Policy CGR P4 (Revitalisation of Towns and Villages), Objective CGR O4(b) (Active Land Management) and Objective CGR O6 (Derelict Sites), which seek to actively address instances of dereliction and decay in the urban and rural environment and bring properties back into active reuse and to revitalise settlements. 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.
- 9.3. I am not satisfied, therefore, that the process and procedures undertaken by the local authority 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 compulsorily acquisition on the rights of affected landowners were proportionate to the objective being pursued at the time.
- 9.4. In this respect, I have considered alternative means of achieving the objective referred to in submissions to the Commission and am satisfied that the alternatives are such as to render the means chosen and the compulsorily acquisition by the acquiring authority unreasonable or disproportionate. Having regard to the current condition of

the site, I am no longer satisfied that the grant of consent to compulsorily acquire the lands is justified by the exigencies of the common good at this point in time.

10.0 Recommendation

10.1. 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 the land as provided by Section 14 of the Derelict Sites Act 1990, as amended. I recommend, therefore, that the Commission **Refuses** consent to the compulsory acquisition of the derelict site.

11.0 Reasons and Considerations

Notwithstanding the current unsightly and objectionable condition of the site, having considered the objections made to the compulsory acquisition, and also:

- The constitutional and Convention protection afforded to property rights,
- The public interest, and
- The provisions of the Limerick Development Plan 2022-2028,

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 objections 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.

Declaration

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.

Gary Farrelly
Planning Inspector
9th June 2026