Inspector's Report
ACP-324242-26

Development	Application for consent for compulsory acquisition of a derelict site in accordance with Section 16 of the Derelicts Sites Act, as amended
Location	Nos 131 & 132 Bank Place, Thomas Davis Street, Mallow, County Cork
Planning Authority	Cork County Council
Notice Party	Brian and Bernadette Downes
Date of Site Inspection	17th July 2026
Date of Oral Hearing	6th October 2026
Inspector	Michele Beirne

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1.0 Proposed Development

1.1. This case relates to a request by Cork County Council for the consent of An Coimisiún Pleanála to the compulsory acquisition of the derelict site at Nos 131 and 132 Bank Place, Thomas Davis Street, Mallow, County Cork, in accordance with the provisions of the Derelict Sites Act, 1990, as amended.

2.0 Site Location and Description

2.1. Nos 131 and 132 Bank Place, Thomas Davis Street, Mallow, County Cork (*referred to hereafter as the 'subject property'*) are semi-detached former commercial properties in Mallow town centre. The subject property fronts onto Thomas Davis Street (Main Street) and the side of No 131 is onto St. James Avenue. There is a yard to the rear of No 132 and a larger rear space behind No 131. The subject property adjoins No 133, the Former Central Hotel, which is identified as a regeneration site in the Cork County Development Plan 2022-2028. Cork County Council also applied for compulsory acquisition of this property and it is under different ownership (ACP Ref: ACP-324269-26). The total area of the subject property is approximately 0.03 hectares.

2.2. The subject property is within an Architectural Conservation Area and in the vicinity of protected structures.

2.3. On the day of my site inspection, I was unable to gain entry and observed the subject property from Thomas Davis Street and St. James Avenue. I specifically noted the following:

- There are boarded up windows and doors on the front and rear of the properties.
- The remaining first floor window on the front elevation is dirty.
- The boundary wall adjacent to No 133, the Former Central Hotel regeneration site, appears in poor condition.
- There is vegetation growing above the first floor level boarded window on the front elevation and in the gutters, the gutters appear to have been replaced.
- The roof appears to be in good condition.

- The facades are painted though some scribbles are evident on the front façades.
- There is ivy growing on the side gable and over the side window fronting St. James Avenue.
- A crack is evident in the paintwork on the side gable of No 131.
- There is fencing at the side boundary along St. James Avenue and sections of the masonry wall are damaged.
- The rear space is completely overgrown.
- I did not observe rubbish on the subject property on the day of my inspection.
- There was no activity on site on the day of my inspection.
- Based on comparison with the Derelict Site Inspection Report dated 9/01/26, I observed that painting and boards have degraded.

2.4. I note that photos and supporting documentation were received on behalf of the objector and from the Local Authority in advance of an Oral Hearing held on the 6th of October 2026. They indicate that works have recently been carried out on the subject property and are considered in my report below.

3.0 Application for Consent for Acquisition

3.1. Cork County Council has applied to the Commission for consent to compulsorily acquire the site under section 14 of the Derelict Sites Act, 1990, as amended. I note that this application is subsequent to Cork County Council serving a notice dated 27th February 2026 under Section 15 of the Act on the Derelict Sites Act, 1990, as amended, (i.e. advising of the Local Authority's intention to acquire compulsorily under the said Act, the derelict site as described).

4.0 Application and Objection

4.1.1. Notice of Cork County Council's intention to acquire the site compulsorily was sent on the 2nd of March 2026 to Brian Downes and to Ber Downes at the

address of Coolnagreine, Quartertown, Mallow and proof provided. An attempt was made to serve notice on the 7th March 2026 and this is confirmed by affidavit. The site was described as follows in the notice:

- Derelict site at Nos. 131 & 132 Bank Place, Thomas Davis Street, Mallow, Co. Cork.

Notice of Cork County Council's intention to acquire the site compulsorily was published in the Irish Examiner on the 4th of March 2026. The notice was described as follows:

- Derelict site at location known as 131/132 Bank Place, Thomas Davis Street, (Main Street), Mallow, Co. Cork.

4.1.2. I consider that 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 Acquisition**

4.2.1. Two submissions expressing objection to the proposed acquisition were submitted to Cork County Council from TG Lenihan & Co. Ltd Consulting Engineers dated 31st March 2026 on behalf of Brian and Ber Downes and from Moylan Solicitors dated 31st March 2026 on behalf of the owners. They are summarised as follows:

4.2.2. <u>TG Lenihan & Co. Ltd Consulting Engineers</u>

- The properties were purchased as an investment c2006. There were plans to develop them into retail unts and numerous meetings were held with Town Planners at the time to alter the shop fronts without success.
- It is still the intention to develop the properties.
- Significant refurbishment works was carried out: They include new ground floors, the external walls are studded, new first floors constructed, new slate pitched roofs and new flat roofs.
- The building is weathered and in exceptional condition on the inside, it has been significantly refurbished internally.
- It makes financial sense to finish the works and put them on the market.

- The site is not derelict and is kept in a neat and tidy fashion.
- The front of buildings and side facade have been painted 3 times over the past 11 years.
- Being served a CPO inflicts undue hardship and significantly impacts the properties open market value.
- The owner has been in sale negotiations with a third party over the recent past. If not successful they would look to finish out works so buildings can be offered for rental.
- An oral hearing is requested if deemed necessary.
- It is requested the Council provide evidence used to support its decision to classify the property as derelict.
- Photos of the interior and a quote for re-wiring dated 20/03/2026 accompany the objection.

4.2.3. Moylan Solicitors

- The properties are structurally sound and it is believed that TG Lenihan & Co. are writing separately and will confirm this.
- The owners had a number of consultations with the Local Authority in relation to replacing the doors and windows in the facade of the property.
- The owners are prepared to replace the four windows and two doors serving the facade in consultation with the Local Authority.
- Circa €140,000.00 has been spent on structurally renovating the interior of both buildings.
- The remaining matters requiring attention are the doors and windows, removal of metal grills and the repair of the boundary wall facing St James Avenue. These are minor matters which can be easily resolved.
- Thereafter the owners intend to either:
  - dispose of the property on the open market following an appeal decision and planning permission for a new frontage, if required or

- renovate both properties externally and lease them, following an appeal decision and subject to planning permission for a new frontage.

- Two previous fires in the adjoining property (Central Hotel) had a substantially detrimental effect on Nos. 131 and 132. €140,000 has been spent repairing the properties subsequent to those fires.
- The owners have painted the exterior of the properties on three separate occasions within the last ten years.
- Subject to installation of two doors and four windows in agreement with the Local Authority, the facade would appear to be appropriately managed.

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 was received on the 27th April 2026 and included the following:

- Application for Consent to Acquire outlining the Local Authority rationale for pursuing the compulsory acquisition of the site.
- Schedule of documents.
- Derelict site location map.
- Copy of third party objection received by Cork County Council from TG Lenihan & Co. Ltd Consulting Engineers and Moylan Solicitors.
- Local Authority response to objection received comprising of the following:

Cover letter

- It is noted the objection seeks an oral hearing and advises the properties were purchased as an investment 20 years ago in 2006. It is the Local Authorities contention that there is sufficient documentary evidence on the record to deal with this matter.

(1) Site profile

The Property Profile and Socio-Economic Case for Compulsory Acquisition Report dated 27th April 2026 is summarised as follows:

- The site is of former commercial use.
- The subject property is in an area zoned ‘Town Centre/Neighbourhood Centres’ and immediately adjacent to a regeneration site under specific objective MW-RA-02 in the Development Plan (Former Central Hotel site).
- Owners details and verification methods used are provided. The property does not appear registered with the Property Registry Authority on Land Direct search; Cork County Council Rates Departments Records; Local enquires through community representatives, local elected representatives and local Council staff.
- There are no known environmental constraints present on site.
- The Mallow Town Framework Plan 2020 is focused on balanced growth centred on people and place, encouraging thriving, resilient urban growth and life in the town.
- Mallow is recognised as a Key Town for the Southern Region under the RSES and Development Plan.
- Mallow is designated a hub town due to its significant retail function and population growth in the regional retail strategy.
- The Council's commitment to deliver compact growth within the town places a focus on better utilisation of the existing building stock; prioritisation of brownfield and under-utilised land; identification of regeneration and infill opportunities that can contribute positively to Mallow's housing stock and 30% target of 331 units. It is proposed that the 1,105 new housing units required to 2028 be delivered primarily on Residential and Mixed Use Zoning including Compact Growth Sites, supporting existing communities and maintaining the vitality of the town centre area. Such development can benefit from proximity to existing services and community facilities.
- Relevant plans or schemes in proximity include the completed Mallow Public Realm Enhancement under Call 1 of the URDF. Call 2 includes the following sub-projects: public realm plan for Davis Street and key laneways and a new public space adjacent to St. Mary's Church to animate the town centre and improve linkages; Conservation of buildings associated with the Granary

Yard within the curtilage of Mallow Castle House; Acquisition, conservation and renovation of Mallow Castle Gate Lodge. It also includes the renovation and restoration of Mallow Town Hall Theatre under the THRIVE Town Centre First Heritage Revival Scheme.

- Statutory or third party licences are not applicable at this stage.
- Infrastructural / services provision required is not applicable. This is a town centre site with services available.
- Priority 4 of Pillar 1 of the Delivering Homes, Building Communities 2025-2030 the Action Plan, targets increasing supply of additional housing by working towards ending dereliction and vacancy. This means Local Authorities must take a proactive and systematic approach to identify, engage with owners and bring vacant and derelict properties back into use. This is supported by Town Centre First Policy, Our Rural Future Policy, the National Development Plan, the National Planning Framework and the Development Plan, all of which advocate for sustainable development, compact growth, regeneration and a focus on tackling vacancy and dereliction.
- The property is in a desirable location and there are ample schemes to support owners to bring properties such as this back into use. Yet the owners have made no effort to render the property non derelict nor to avail of any of the financial supports available to do so.
- The property continues to remain derelict and to detract from the character and amenity of Mallow Main Street.
- If acquired, given the high demand for social and affordable housing at this location, the Council would seek to develop the property and remedy the dereliction for the provision of social or affordable housing.
- There is no recent planning history.
- Details of non-statutory and statutory correspondence are highlighted. The records show that correspondence commenced 9 years ago in 2017. They are outlined in the timeline of engagements below.

- The subject property has no dangerous structure history.
- The subject property is within an ACA.
- Regarding the marketability of the site, the property is in a desirable location in the centre of Mallow Town with close proximity to local amenities such as schools, shopping centres, healthcare services and public transport. There are no known deficits in services infrastructure.
- This property would likely be eligible for planning exemption under the Planning and Development (Amendment) (No.2) Regulations 2018 - S.I. No. 30 of 2018 . This provides an exemption for the change of use of certain vacant commercial premises to residential use.
- The property would likely be eligible for the Vacant Property Grant Refurbishment Scheme (Croi Conaithe) launched in 2022 and the recent Vacant Over the Shop Scheme.
- A valuation of €100,000 was received from Avison Young in July 2023, no appeal to the assigning of this value was made by the owners.
- The Annual Derelict Sites Levy stands as a charge on the title of the property and the Council is unaware of any other charges or burdens.
- Funding under the Capital Acquisitions Scheme would be leveraged by the Housing Directorate to regenerate this site for social or affordable housing.
- The derelict site is in a key location in the centre of Mallow's historic core. It has been left vacant since its acquisition as an investment property in 2006. Over this time the exterior of both properties in an ACA has visibly degraded, although this is masked to a degree by infrequent painting of the facades.
- The most recent authorised officers report (January 2026) demonstrates the derelict nature of the property, in line with the definition contained in the Derelict Sites Act 1990.
- Streetview images from Google maps are provided for May 2009, May 2011, August 2019, October 2021 and July 2022.

(2) Timeline of engagements:

The timeline dated January 2026 sets out the various engagements between Cork County Council and the owners over a 9 year period, commencing in 2017. This timeline and engagement set out in the Property Profile report is summarised below:

Initial engagement

- 10th March 2017, Informal letter sent to reputed owner: Brian Downes Coolnagreine, Quartertown, Mallow, Co. Cork.
- 14th August 2017, Response to John Moylan Solicitors query, recommending contact with the planner for pre-planning details. Advised completion of works as previously requested. The owner is interested in the Streetscape Painting, Signage & Improvement Scheme 2017, an application form for the scheme was provided to the owner.

Section 8(2) Notice

- 23rd August 2023 - Eng Inspection conducted by Denis Beecher dated 14th July 2023 and 23rd August 2023 recommended full redevelopment to remove dereliction.
- 8th September 2023 - Section 8(2) issued (DOS order 444/2023) giving notice of the Council's intention to place the property on the Derelict Sites Register and requiring a written response.
- 12th September 2023 - Received a call from Mrs Ber Downes requesting a list of works required and inquiring about the possibility of redeveloping the site for social housing. A request for an on-site meeting was made.

  E-mail was sent to the owner including a copy of the Engineers report with list of required works and information on available grants.

  A further e-mail issued to owner clarifying that only written submissions in writing can be added to the file regarding the issued notices.

Section 8(7) Notice

- 3rd October 2023 Section 8(7) issued (DOS order 548/2023) giving notice that the Council is entering this site onto the derelict sites register for County Cork (No response received).

Section 22 Notice

- 21st December 2023 Section 22 Notice issued. Avison Young provided a valuation of €100,000 in July 2023. (No response received).
- 24th July 2024 Section 22(3) issued (DOS order 557/2024) (No response received).
- 10th September 2024 Levy Reminder issued (No response received).
- 7th November 2025 - Section 22(3) issued seeking payment of annual levy (No response received).

Documents and particulars comprising

(1) Statutory notices served

Copy of notice dated 2nd March 2026 (and proof).

Copy of newspaper notice dated 4th March 2026.

(2) Correspondence

- Correspondence from Cork County Council Kanturk Mallow Municipal District to Brain Downes dated 10th March 2017.
- Correspondence dated 14th August 2017 to Mr Moylan Solicitors on Nos 131 and 132.
- Internal CCC correspondence dated 29th May 2023 and 1st June 2023 to follow up on site and on contact details.
- Derelict sites notice dated 8th September 2023.
- Emails to Mrs Downes from CCC dated 12th September 2023 sending report, link to funding scheme and response to her queries.
- Email to Mrs Downes dated 13th September 2023 advising only written submissions can be put on file.
- Correspondence to Mr Downes on levee demands dated 24th July 2024, 10th September 2024 and 7th November 2025.

(3) Technical reports and photographic surveys

- Property Profile and Socio-Economic Case for Compulsory Acquisition 27/04/2026 (outlined above).
- Derelicts Sites Inspection Report, Cork County Council 9/01/2026.
- Derelicts Sites Report, Cork County Council 23/8/2023.
- Derelicts Sites Report, Cork County Council 14/7/2023.
- Avison Young Estimates of Compensation Report 10/07/2023.

4.3.2. Three Derelicts Sites Inspection Report are on the case file dated 9/01/2026, 23/8/2023 and 14/7/2023. The most recent report dated 9/01/2026 contains photos of the site and is summarised as follows:

- The site meets the criteria for derelict status under section 3 (a) (b) and (c) of the Derelict Sites Act 1990.
- There are boarded up windows and doors on the front facade on the Main Street and Heras fencing on sections of the damaged masonry boundary wall adjacent to St. James Avenue.
- No works appear to have been completed since the last derelict sites assessment report in 2023.
- The entire site is still overgrown with vegetation and in a derelict state.
- The site remains unsightly and detracts, to a material degree from the amenity, character and appearance of the land in the neighbourhood.
- Having regard to the duration of dereliction, the lack of meaningful engagement by the owners regarding remediation works, and the non-payment of the derelict sites levy, compulsory acquisition under Section 15 of the Derelict Sites Act is the only likely means of resolving the enduring derelict nature of these properties.
- Cork County Councils engagement with the owners is outlined from March 2017. This largely reflects the timeline of engagement submitted to support the case for compulsory acquisition.

4.3.3. The Derelict Site report dated 23/8/2023 stated the site meets the criteria for derelict status under section 3 (a) (b) and (c) of the Derelict Sites Act 1990. It

states full redevelopment will be required to remove from the register. No further minor works.

4.3.4. The Derelict Site reports and 14/7/2023 stated full redevelopment will be required to remove from register. No further minor works.

4.4. Objectors Submission

4.4.1. ACP received a submission from TG Lenihan & Co. Ltd Consulting Engineers on behalf of Mr Brian Downes dated 19th May 2026 and from Moylan Solicitors enclosing a copy of correspondence to Cork County Council to treat as a further objection on behalf of the owners dated 19th May 2026. They are summarised as follows:

4.4.2. <u>TG Lenihan & Co. Ltd Consulting Engineers</u>

- The objector is disappointed and feels unfairly dealt with.
- It was the intention to do up these buildings and let them out for retail purposes. Many meetings were had with the Council Planners with no successful outcome. A sizable sum of money investing in the structural upgrade of the buildings has been carried out. This involved a new pitched slate roof and PVC flat roof, building walls, putting down ground floors. Actions demonstrate willingness to maintain the buildings as a going concern.
- The owner has now agreed to sell the properties to a third party for €340,000.
- The buildings are not derelict. The letter from the Council dated 10th March 2017 and provided in an Appendix A outlined certain items to be dealt with to render both properties non-derelict. The objectors response to items are as follows and it is stated the objector actioned most items, those he didn't were not practicable at the time.

Table 1: Response to correspondence dated 10/03/2017 outlining works considered necessary to render both properties non-derelict

No	Works listed in 2017	Response
1	Window and door opes should be sealed off and secured with waterproof ply and painted.	Done. Plywood secured and painted
2	All cracks on the plasterwork should be repaired.	Done. There were very few cracks on the plasterwork at the time, minor cracks that were identified were repaired.
3	All exposed blockwork should be plastered.	There was no blockwork exposed. Those blocks that were exposed were plastered.
4	All woodwork to the front face of the building should be treated, repaired where necessary and painted.	Done. Most of the woodwork was in good condition.
5	The building should be painted in keeping with the streetscape.	Done may times. 2017, 2021 and 2024. All these painting jobs have been vouched. Council grant aided the paint work in 2017 and advised on preferred colour.
6	All rainwater goods front and rear, including gutters and downpipes should be cleaned, vegetation removed, repaired were necessary and painted where appropriate.	Actioned. All downpipes were replaced with new ones.
7	All side walls should be made safe.	Described as a minor issue and is not immediately connected with the

No	Works listed in 2017	Response
8	Heras fencing should be removed and the site adequately screened and secured.	building which can be dealt with going forward. Not actioning this small item should not render the building derelict.
9	The vehicular access along St James Avenue should be securely fixed.	
10	The overgrowth to the rear of the property should be removed.	Done at time however, growth is continually growing and is a yearly exercise. Plants to the side of the building are decorative plants.
11	All debris within the site should be collected and dispose of correctly.	Done at time and on a by-monthly basis, unsociable activities are a constant in Mallow where rubbish is tossed in over the Heras fencing.

- An email to a Councillor (Appendix B) shows money spent painting the building. The property is not derelict having been painted so frequently.
- The Council letter dated July 2023 (Appendix C) makes it clear that a full development would be required to remove this from the register. This is considered completely unfair. The building is structurally robust, not in threat of falling down and painted on a frequent basis.
- Correspondence to the Council dated 31/03/26 is attached (Appendix D).
- The objector has not been afforded due process. Communication was poor from the Council, issued infrequently and without notice.
- As a Structural Engineer, it is stated the building is not in a derelict state from a structural perspective.
- The valuation of €100,000 is a derisory offer. This was not effectively communicated, the objector had no opportunity to dispute the valuation.
- A bid of €340,000 was made on the property in 2023 and this offer still stands. This figure may now be reduced due to CPO proceedings.

- Most of the works requested in 2017 were carried out. It was understood that dereliction concerns were dealt with given that no further correspondence was received until July 2023, which has swiftly led to the present situation.
- The owner has taken all reasonable steps to prevent the building falling into a ruinous state. These efforts have ensured that the property still retains its value and will be returned to retail use in the near future.

4.4.3. Moylan Solicitors

- This is a copy of correspondence to the Council stating the owners consider the Avison Young dated July 2023 to be historical and a gross undervaluation. There was a recent third party offer of €340,000.
- The valuation was not attached to the Councils property profile. A copy of correspondence issued to the owners in respect of the valuation is requested. As the timeline for the making of submissions to ACP is the 20th May 2026, please respond to this e-mail.
- A schedule of works carried out in response to the Councils letter of 10th March 2017 is attached. Completed works were undertaken in 2017 and 2018. It is intended to complete works on St. James Avenue shortly.

4.5. Oral Hearing

4.5.1. An Oral Hearing was held on Tuesday the 6th October 2026. The objector and their representatives and Cork County Council were represented at the hearing and oral submissions were heard by both parties.

4.5.2. In advance of the Oral Hearing Lenihan Engineers on behalf of the objector submitted emails dated 2nd and the 5th October 2026 with photos of the subject property. They were circulated to the Local Authority.

4.5.3. In advance of the Oral Hearing the Local Authority submitted an email dated 5th October 2026 with Cork County Council's photographs taken on Thursday 1st October 2026. They were circulated to the objector and their representatives.

4.5.4. In advance of the Oral Hearing three emails were submitted from John Moylan Solicitors on behalf of the objector dated 5th October 2026 with photos and

correspondence. They were circulated to the Local Authority, objector and second representative. Correspondence is summarised as follows:

(1) Correspondence to the Commission dated the 5th October 2026:

- The necessary works to the two properties have been completed.
- 23 photographs of the properties taken on Saturday 3rd /Sunday 4th of October 2026 by the contractor who completed works are attached. The photographs supersede those taken by Tim Lenihan.
- The Councils Property Profile and Socio-Economic Case for Compulsory Acquisition dated 27th April 2026 states 'the records show that correspondence commenced in 2017'. This refers to the "Without Prejudice" letter dated 10th March 2017 sent to Brian Downes at his home address.
- This letter sets out 11 separate actions required by the owners of the properties to render both properties non derelict.
- The necessary works on St. James' Avenue have now been completed, as shown in photographs submitted.
- The owners submit that the works required by the Council to render both properties non derelict have been carried out and both properties are no longer derelict.
- The owners wish to bring to the attention of the Commission the dereliction effect caused to 131/132 by the three fires which consumed the immediately adjoining property to the west, the former Central Hotel. No 132 shares a party wall with the former Central Hotel premises (photos attached). The effect of these three fires on Nos. 131/132 cannot be overstated and the owners expended circa €140,000.00 on internal and external renovations. This is referenced in correspondence dated 31st March 2026.
- It is noted the Commission has no role or jurisdiction in the determination, or the assessment, of compensation and that no discussion regarding compensation will be facilitated. Notwithstanding the submission outlines points relating to compensation.

(2) Correspondence from Cork County Council dated 10th March 2017.

(3) Correspondence dated 31st March objecting to the proposed compulsory acquisition.

(4) Correspondence dated 19th May 2026 objecting to proposed compulsory acquisition.

(5) Correspondence from Peppard Investment (i) dated the 5th October stating we have an agreement to purchase the site for €300,000 'on the back of planning permission' granted for a mixed use development of retail and residential development and that they are planning on lodging an application within the next 6-8 weeks and (ii) dated the 18th May 2026 stating they are in negotiations with the owners for the properties and these depend 'solely on the fact that the property does not get possessed by Cork County Council under a Compulsory Purchase Order'.

(6) Copy of the Councils property profile and case for compulsory acquisition.

4.5.5. As the presiding Inspector, I commenced proceedings with an opening statement. Participants were informed that the purpose of the hearing was an information gathering exercise to assist in the consideration of the merits of the case and in drafting the report and recommendation to the Commission. It was explained that the purpose of the hearing was to deal with the CPO process only i.e. the merits, or otherwise, of the proposed acquisition of the lands by the Local Authority. Participants were also reminded that the Commission has no role or jurisdiction in the determination of compensation.

4.5.6. The proceedings of the oral hearing are summarised in Appendix A of this report and referenced, where necessary, in the assessment below under Section 7.0.

5.0 Planning History

- None

6.0 Cork County Development Plan 2022-2029

6.1. Cork County Development Plan 2022-2028:

Zoning:

6.1.1. The subject property is in an area zoned 'Town Centre/Neighbourhood Centres.' The objective for this zoning is:

(a) Promote the development of town centres and neighbourhood centres as the primary locations for retail and other uses that provide goods or services principally to visiting members of the public. The primary retail areas will form the main focus and preferred location for new retail development, appropriate to the scale and function of each centre and in accordance with the Retail Strategy. Residential development will also be encouraged particularly in mixed use developments while the use of upper floors of retail and commercial premises in town centres for residential use will in particular be encouraged.

(b) Recognise that where it is not possible to provide the form and scale of development that is required on a site within the core area, consideration can be given to sites on the edge of the core area based on sequential approach.

6.1.2. The following provisions of the Development Plan are considered relevant:

Volume 1

- County Development Plan Objectives CS 2-7: Network of Settlements – Higher Order Settlements:

Strategic Aim: To sustainably strengthen the employment-led growth and town centre-led regeneration of Mallow as a regional economic driver, leverage its strategic location and accessibility on inter-regional road and rail networks to build upon inherent strengths, in particular food production and tourism potential, while protecting and enhancing the natural environment of the Blackwater Valley

Retail: Support and develop the role of Mallow as an important retail centre in the North of the County while ensuring the vitality and vibrancy of its town centre is retained and enhanced.

Opportunity Sites

- Objective PL 3-2 'Encouraging Sustainable and Resilient Places' provides that as part of the Council's commitment to deliver compact growth and resilient

places, the Plan supports (c) Addressing vacancy within the existing building stock.

Approach to Cork County's Settlement Hierarchy

Brownfield sites and Regeneration

- Paragraph 4.9.13 states that 'the Council will use various mechanisms to resolve issues of title including Compulsory Purchase Orders to resolve long standing vacancy/ dereliction, however, it must be recognised that such powers are less efficient to progressing redevelopments than on a willing partnership basis'.

Delivering Increased Density

- Paragraph 4.11.4 states that land activation measures including the use of statutory powers will be used to address vacancy and dereliction.

Vacancy and Regeneration

- Objective TCR 9-2: Vacancy and Regeneration states under (g) In relation to Derelict Sites the council will endeavour to use all mechanisms available to it as appropriate in order to maximize the potential of such lands.

Volume 3 North Cork

Section 2.4 give planning policy guidance on future development in Mallow. The following provisions are considered relevant:

Vision and Strategic Context

- Section 2.4.1 'Mallow is designated as a Key Town in the Regional Spatial and Economic Strategy (RSES) for the Southern Region. The overall vision for Mallow is to sustainably strengthen the employment-led growth and town centre-led regeneration of Mallow as a regional economic driver, leverage its strategic location and accessibility on inter-regional road and rail networks to build upon inherent strengths, in particular food production and tourism potential, while protecting and enhancing the natural environment of the Blackwater Valley. It aims to ensure new development delivers enhanced quality of life for all, based on high quality residential, working and recreational environments, respectful of

the unique character and heritage of the town and supported by a good range of services and community facilities...'

Population and Housing

- Section 2.4.7 'As part of the Council's commitment to deliver compact growth within the town, a new focus is placed on the better utilisation of the existing building stock, prioritisation of brownfield and under-utilised land and identification of regeneration and infill opportunities that can contribute positively to Mallow's housing stock and 30% target of 331 units. It is proposed that the 1,105 new housing units required to 2028 be delivered primarily on Residential and Mixed- Use Zoning including Compact Growth Sites.'

Section 2.4.103 General objectives for Mallow include:

- MW-GO-01: Deliver on the vision set out for Mallow as a Key Town in the RSES. To sustainably strengthen the employment-led growth and town centre-led regeneration of Mallow as a regional economic driver, leverage its strategic location and accessibility on inter-regional road and rail networks to build upon inherent strengths, in particular food production and tourism potential, while protecting and enhancing the natural environment of the Blackwater Valley. Plan for development to enable Mallow to achieve its target population to 15,351 persons. Provide a balance between the provision of housing and employment uses in the town, to support Mallow's development as an integrated live/work destination.

Volume 2 Heritage and Amenity, Volume 6 Maps

- The site is within the Mallow – Main Street Architectural Conservation Area. The ACA is outlined on Table 2.2.1 of Volume 2 Heritage and Amenity and shown on the CDP Map Browser in Volume 6 Maps.
- The site is in the vicinity of Protected Structures, the closest being David J. O'Meara & Boundary Wall (RPS ID 2,412) on the other side of St James Avenue.

6.2. **Derelict Sites Act**

6.2.1. 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 required landowners or occupiers to take measures on derelict sites and, in certain circumstances, to acquire derelict sites compulsorily.

6.2.2. Section 3 of the Act defines ‘derelict site’ as:

“Any land…which detracts, or is likely to detract, to a material degree from the amenity, character or appearance of land in the neighbourhood of the land in question because of−

a) the existence of 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.”

6.2.3. Other relevant provisions of the Act are summarised below:

- Section 8 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 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 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 Commission.

7.0 **Assessment**

7.1.1. The subject property is in a key location at the junction of Thomas Davis Street and St. James Avenue in Mallow town centre. It is in the vicinity of Protected Structures and in the Mallow Main Street Architectural Conservation Area.

7.1.2. I carried out my site inspection on the 17th July 2026. I was unable to gain entry to the overall site and observed the subject property from Thomas Davis Street and St. James Avenue. I observed the following:

- There are boarded up windows and doors on the front and rear of the properties.
- The remaining first floor window on the front elevation is dirty.
- The boundary wall adjacent to No 133, the Former Central Hotel regeneration site, appears in poor condition.
- There is vegetation growing above the first floor level boarded window on the front elevation and in the gutters, the gutters appear to have been replaced.
- The roof appears to be in good condition.
- The facades are painted through some scribbles are evident on the front façades.
- There is ivy growing on the side gable and over the side window fronting St James Avenue.
- A crack is evident in the paintwork on the side gable of No 131.
- There is fencing at the side boundary along St. James Avenue and sections of the masonry wall are damaged.

- The rear space is completely overgrown.
- I did not observe rubbish on the subject property on the day of my inspection.
- There was no activity on site on the day of my inspection.
- Based on comparison with the Derelict Site Inspection Report dated 9/01/26, I observed that painting and boards have degraded.

7.1.3. The adjoining property, No 133 is a partially demolished site and a designated regeneration site in the Cork County Development Plan 2022-2028. I observed that other properties in the town centre were generally well maintained.

7.1.4. Recent photos were submitted on behalf of the objector and Local Authority in advance of an Oral Hearing on the 6th October 2026. The photos from the Local Authority are dated 1st October 2026. I note that it is stated by the objectors representatives that photos submitted by Moylan Solicitors and taken on the 3rd and 4th October 2026 supersede those submitted by Lenihan Engineers. I have considered these photos along with all other material on the file and found evidence of the following improvements since my site visit:

- Painting has recently occurred on the front façades and at ground level on the side gable of No 131.
- The vegetation growing above the first floor level boarded window on the front elevation has been removed.
- The wall has been substantially repaired along St. James Avenue, though there is no capping and the wall is at a different height to the existing wall.
- The fencing has been removed and a gate has been installed.
- The rear is no longer completely overgrown.
- Ivy on the side of No 131 has been cut back and no longer covers the side window fronting St. James Avenue.
- I note that photos submitted by the Local Authority and received by Lenihan Engineers on behalf of the objector in advance of the hearing show material to the rear of the subject property. I also note that at the hearing the objector Mr Downes stated the site is cleaned regularly, that there is debris on site

relating to recent works and this is to be addressed when the builder returns from holiday at the weekend (following the hearing on the 6th October).

7.1.5. I note that Mr Mc Kechnie, Barrister for Cork County Council, referred to the 2023 Derelict Site Report which suggested the need to have a full redevelopment of the site and the 2026 Derelict Site Report which stated given the duration of dereliction, the lack of meaningful engagement by the owners regarding remediation works, and the non-payment of the derelict sites levy, there is no alternative but to go down the route of compulsory acquisition. Following an inspection of the site on the 1st Of October 2026, the Local Authority is of the view that the site is still derelict for the following reasons:

- The building is vacant and windows and doors are boarded up which is indicative of dereliction. It was stated at the hearing that this was recommended in 2017 to prevent anti-social behaviour. It was noted that there will be revenue legislation next year that if a building is boarded up it follows that it is derelict.
- The wall onto St. James Avenue hasn't been fully repaired. The repaired wall height does not match the existing wall and there is no capping on the wall.
- It is noted a gate has gone up and the fencing is gone.
- There are still wall defects on the east side of the building as there is a prominent crack on the gable end facing St. James Avenue.
- Vegetation is still in the gutters.
- It is noted that in January 2026 there was considerable ivy growth on the gable wall, this has since been cut back but is still considerable.
- Debris has shifted at the rear and there has been debris on a consistent basis in the last 20 years.

7.1.6. I also note that the Local Authority Property Profile and Socio-Economic Case for Compulsory Acquisition dated 27th April 2026 outlines that non statutory correspondence was issued dated 10th March 2017 outlining works 'considered necessary to render both properties non-derelict'. Mr Moylan and Mr Lenihan, in their submissions and at the oral hearing on behalf of the objector, referred to this correspondence. It has been submitted that significant works were carried

out in 2017 and 2018 which related to the interior, new slate pitched and flat roofs and gutters. The properties have been painted 4 times, 3 times in the last 9 years, one of which was grant aided by the Local Authority. Following recent works, they now submit that the works required by the Local Authority in 2017 have been carried out and both properties are no longer derelict. At the hearing, the objector Mr Downes and his representatives also acknowledged that capping and debris removal were outstanding. It was stated by Mr Downes that this is to be done by the builder on return from holiday at the weekend, following the hearing on the 6th October. It was also stated that boards on the doors and windows were installed as per the 2017 letter and for security reasons and there are windows behind these boards. I also note that Mr Moylans submission to the Local Authority dated 31st March 2026 stated the owners are prepared to replace the windows and doors serving the facade in consultation with the Local Authority.

7.2. **Category of Dereliction**

7.2.1. Having inspected the site and having reviewed all material on file and submitted in advance of the hearing, I consider that Nos 131 & 132 Bank Place, Thomas Davis Street, Mallow are not likely to be in a dangerous condition/ considered ruinous. Significant works were carried out in 2017 and 2018 which related to the interior, new slate pitched and flat roofs and gutters. The wall has recently been substantially repaired and fencing has been removed. At the hearing Mr Mc Kechnie, Barrister for Cork County Council, noted the objectors structural engineer stated the building is structurally robust and that the Local Authority have never said the contrary. I also note no structural report has been submitted by the Local Authority to suggest the contrary. Having regard to the above, I therefore consider that the subject property does not fall within category (a) of Section 3 of the Act, which relates to structures which are in a ruinous, derelict or dangerous condition.

7.2.2. In respect of category (b) of Section 3 of the Act, I note the list of 11 works considered necessary to render both properties non-derelict in non-statutory correspondence from the Local Authority to the owner and dated 10th March

2017. While there are items outstanding relating to the wall and vegetation in the gutter, I am satisfied that the owner has substantially completed these works and I do not consider that outstanding works relating to the wall or vegetation are an indication of dereliction. I note that windows and doors were boarded up in response to a request by the Local Authority and that they have been tidied in recent works and appear maintained. I consider them acceptable in these circumstances and that the subject property does not look neglected. I therefore consider that the site does not fall within category (b) of Section 3 of the Derelict sites Act, 1990.

7.2.3. In respect of subsection (c) of Section 3 of the Act, I did not observe rubbish or waste being stored externally on my site inspection, though the site was completely overgrown. I note that recent photos submitted by the Local Authority and objector in advance of the hearing on the 6th October 2026 show material to the rear of the subject property. I also note that at the hearing Mr Mc Kechnie, Barrister for Cork County Council, stated there is a history of fly-tipping on the subject property and in response the objector Mr Downes stated the site is cleaned regularly, that debris on site relates to works and this is to be addressed by the builder when he returns from holiday at the weekend, following the hearing on the 6th October. Having regard to my site inspection, evidence of recent works and efforts by the objector, I do not consider that the property falls within category (c) of Section 3 of the Act.

7.2.4. In conclusion, I note that the subject property is in a prominent town centre location and within an ACA and that the streetscape is for the most part attractive and well maintained. Based on my site inspection and recent works on site, it is my view that the subject property and lands have substantially improved since the Section 15 Notice was issued. On that basis, I do not consider that the subject property and lands are detracting to a material degree from the amenity, character and appearance of land in the neighbourhood in question.

7.3. Actions of the 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 Property Profile and Socio-Economic Case for Compulsory Acquisition Report and supporting documentation. The report refers to initial engagement in 2017 and to the serving of a Section 8(2) notice on the owner in September 2023 giving notices of the Council's intention to place the property on the Derelict Sites Register and requiring a written response. Correspondence from the Local Authority note an email was sent to Mrs Downes in 2023 with a copy of the Engineers report with list of required works and information on available grants and a further email was issued stating only written submissions can be added to the file. A Section 8(7) notice issued in October 2023 stating the sites entry onto the derelict sites register. Section 22 notice with a copy of the market valuation was issued in December 2023. A levy demand was issued in July 2024 with a reminder in September 2024. A levy demand was also issued in November 2025.

7.3.2. I note no response was received to statutory notices and at the hearing the objector Mr Downes stated that the Local Authority may have tried to communicate but they were not received by him, it was stated he is in Dublin full time and his wife works full time. There is however no evidence on file that correspondence was not received. I also note the submission to the Commission from Lenihan & Co. Ltd Consulting Engineers on behalf of the owners refers to correspondence received in 2023 and I note no alternative address was provided to the Local Authority. Along with notification by post, the notice of intention to acquire the site compulsorily was fixed to the property. I note that at the hearing Mr Downes fully acknowledged the notice affixed to the subject property and that the Local Authority received an objection to the proposed compulsory acquisition on the 31st March 2026 within the stipulated period specified in the Section 15 Notice.

7.3.3. It is c.9 years since there was initial engagement and 3.5 years since statutory notices in relation to the derelict state of the property. Having regard to the actions outlined above, I am satisfied that the Local Authority gave the property owner sufficient time and opportunity to address the dereliction. I am satisfied that the efforts of the Local Authority have been fair and reasonable.

7.4. Criteria relevant to determination of a CPO case

7.4.1. I have also considered the objection in relation to the criteria which are relevant to the determination of the Commission in a CPO case. The criteria may be summarised as follows:

- The works to be carried out should accord with, or at least not be in material contravention of, the policy and objectives contained in the statutory development plan relating to the area.
- There is a community need that is to be met by the acquisition of the lands in question.
- The project proposed and the associated acquisition of lands is suitable to meet the community need.
- Any alternatives proposed to meet the community need have been considered but are not demonstrably preferable.
- The extent of land-take should have due regard to the issue of proportionality.

7.5. Compliance with Development Plan

7.5.1. The Cork County Development Plan 2022-2028 is the relevant statutory plan for the proposed compulsory application. Cork County Council have indicated that given the high demand for social and affordable housing at this location and having regard to Priority 4 of Pillar 1 of the Delivering Homes Building Communities 2025-2030 Action Plan, that sets out increasing supply of additional housing by working towards ending dereliction and vacancy, they would seek to redevelop the property for social and affordable housing if consent is given to acquire this site. Under the Development Plan, there are several objectives which either directly or indirectly support social or affordable housing provision that would be facilitated by the proposed compulsory acquisition:

7.5.2. The Development Plan identifies Mallow as a key town in the settlement strategy, the strategic aim for Mallow includes for town centre-led regeneration

under the County Development Plan Objective CS 2-7 Network of Settlements– Higher Order Settlements, consistent with the Regional Spatial and Economic Strategy for the Southern Region. The strategic aim is reinstated in Section 2.4 of Volume 3 North Cork Section which give planning policy guidance on future development in Mallow (Section 2.4.1 Vision and Strategic Context). Objective PL 3-2 'Encouraging Sustainable and Resilient Places' provides that as part of the Council's commitment to deliver compact growth and resilient places and the Plan supports addressing vacancy within the existing building stock.

7.5.3. As part of the approach to Cork County's Settlement Hierarchy, Paragraph 4.9.13 notes that the Local Authority will use various mechanisms to resolve issues of title including Compulsory Purchase Orders to resolve long standing vacancy/ dereliction and Paragraph 4.11.4 states that land activation measures including the use of statutory powers will be used to address vacancy and dereliction.

7.5.4. Whilst no proposals for housing have been included in the submission, I note the Local Authority state if consent is given, funding under the Capital Acquisitions Scheme would be leveraged to regenerate this site for social or affordable housing provision. This would support the objective in the Development Plan for Mallow that commits to town centre-led regeneration, to plan for development to enable Mallow to achieve its target population to 15,351 persons, to provide a balance between the provision of housing and employment uses in the town and support Mallow's development as an integrated live/work destination (MW-GO-01).

7.5.5. With regard zoning and specific objectives, the subject property is in an area zoned Town Centre/Neighbourhood Centres. Appropriate uses of the zoning objective include residential uses and the reuse the site for social and or affordable housing accords with the land use zoning.

7.5.6. Having regard to the sites Town Centre/Neighbourhood Centres zoning objective and the above stated objectives that seeks to address dereliction, town centre regeneration and compact growth, I consider that the proposed acquisition and redevelopment of the site for social and affordable housing complies with the Cork County Development Plan 2022-2028.

7.6. Community Need

7.6.1. Within the Property Profile and Socio-Economic Case for Compulsory Acquisition Report, Cork County Council have stated the need for housing and the strategic aim to grow Mallow as a key town in the County. They outline that Priority 4 of Pillar 1 of the Delivering Homes, Building Communities 2025-2030 Action Plan targets increasing supply of additional housing by working towards ending dereliction and vacancy; the Council's commitment to deliver compact growth, the prioritisation of brownfield and under-utilised land; and that the Development Plan identifies regeneration and infill opportunities that can contribute positively to Mallow's housing stock and 30% target of 331 units. I also note it is proposed that the 1,105 new housing units required to 2028 be delivered primarily on Residential and Mixed Use Zoning and Compact Growth Sites, which supports existing communities and maintaining the vitality of the town centre area. Subject to consent, the Local Authority would seek redevelop the property for social and affordable housing. Cork County Council also provided information on adjacent plans/schemes including a completed Mallow Public Realm Enhancement under Call 1 of the URDF and Call 2 sub-projects include a public realm plan for Davis Street and key laneways and a new public space adjacent to St. Mary's Church to animate the town centre and improve linkages, that would also contribute to town centre regeneration and benefit the population.

7.6.2. Having regard housing targets, provisions in the Plan to deliver compact growth and the demand for housing, I consider that the community need is clearly established by the Local Authority.

7.7. Suitability of lands to meet the community need

7.7.1. Section 2.4.7 (Population and Housing) of Development Plan also outlines the Council’s commitment to deliver compact growth within the town that can contribute positively to Mallow’s housing stock and 30% target of 331 units.

7.7.2. Given the high demand for social and affordable housing in the location, the Local Authority would seek to develop the subject property and remedy the dereliction for the provision of social or affordable housing. Notwithstanding the

fact that approval under the Part VIII process has not been sought prior to this application for consent, I would highlight that objectives to support town centre regeneration and the delivery of compact growth and a settlement strategy have been clearly established under the Development Plan and subject to the sanction of Elected Members of Cork County Council in their making of the Development Plan.

7.7.3. I am therefore satisfied as to the suitability of the subject property in meeting the community need and confirmation of the compulsory acquisition would facilitate meeting a community need.

7.8. Consideration of alternatives

7.8.1. Given the protection afforded to private property ownership in Ireland, the compulsory acquisition of any property should generally be seen as a last resort. The subject property is in a key location in the centre of Mallow's historic town centre. I note that at the hearing the objector Mr Downes stated the properties were purchased separately in 2006 and 2008. I note that Mr McKechie, Barrister for Cork County Council, stated nothing happened until 2017 when an informal letter was sent to the owners and that there has been a pattern of neglect over the years.

7.8.2. Three Derelicts Sites Inspection Reports are on the case file dating from 2023 (dated 9/01/2026, 23/8/2023 and 14/7/2023). The most recent Derelict Site Report in January 2026 outlines the ongoing derelict nature of the property in line with the definition contained in the Derelict Sites Act 1990 and it is stated that having regard to the duration of dereliction, the lack of meaningful engagement by the owners regarding remediation works, and the non-payment of the derelict sites levy, compulsory acquisition under Section 15 of the Derelict Sites Act is the only likely means of resolving the enduring derelict nature of these properties. If consent is given to acquire the site, the Local Authority indicated funding under the Capital Acquisitions Scheme would be leveraged to regenerate the site for social or affordable housing provision. This would be subject to a Part VIII proposal.

7.8.3. I note that Mr McKechnie, Barrister for Cork County Council, stated at the hearing that the Local Authority is of the view that the site is still derelict for the reasons set out in Section 7.1.5. He also stated that the previous Derelict Site Report 2023 outlined that full redevelopment will be required to remove the site from the register.

7.8.4. It is the owner and their representatives contention that works required by the Local Authority have been carried out and both properties are no longer derelict, as outlined in Section 7.1.6 above. They submit that the owner has taken all reasonable steps, remaining matters are cosmetic and it is unfair that full redevelopment would be required. Mr Moylan also submitted in advance of the hearing correspondence from the owners of No 133 Peppard Investment dated the 5th October 2026. This states there is an agreement to purchase the properties for €300,000 'on the back of planning permission' granted for a mixed use development of retail and residential development and that they are planning on lodging an application within the next 6-8 weeks. They also submitted a letter dated the 18th of May 2026 stating Peppard are in negotiations with the owners for the properties and these depend 'solely on the fact that the property does not get possessed by Cork County Council under a Compulsory Purchase Order'.

7.8.5. I note that no current planning application has been lodged but it is my view that a mixed use development is in principle appropriate and compatible with the zoning of this town centre site.

7.8.6. I note that at the hearing the objector Mr Downes also stated attempts were made to lease or sell. They are more than happy to dispose of the property if they get a fair market value for it and their submissions refer to compensation value. In this regard I would highlight that the Commission has no role or jurisdiction in the determination of compensation.

7.8.7. In terms of the objectors alternative, I note that at the hearing Mr McKechnie, Barrister for Cork County Council, stated that Peppard own the adjoining site No 133 and have been in negotiations with the Local Authority since 2022 but nothing has come of these negotiations. It was questioned by the Local Authority why a sale of the subject property had not gone through. It was stated

that the Local Authority were seeking a compulsory acquisition of the adjoining site No 133. Cork County Council do not have confidence in this as an alternative. They do not have confidence in the current or perspective owners lifting the sites out of dereliction.

7.8.8. In relation to the adjoining site No 133, I note that the Commission recently refused the compulsory acquisition of this site (ACP Ref: ACP-324269-26). Regardless, I consider that this application relating to two semi-detached former commercial properties is not comparable to No 133 which is a partly demolished hotel site and designated as a regeneration site in the County Development Plan. It is also my view that all cases are assessed and determined on their own merits, having regard to the receiving environment and the specifics of the proposal.

7.8.9. At the oral hearing the objector and representatives stated fires at No 133 destroyed the roof of No 132 and partially destroyed the roof of No 131 and destroyed the interior of the property. It was necessary for the owners to carry out a refurbishment of the property. In relation to redevelopment of the site, the objector referred to meetings with planners in the past but I note no plans advanced. I note that no recent grant schemes or advice from the Council was sought to redevelop the site. I also note it is the view of the objector that Nos 131, 132 and 133 are the one block and hands have been tied in the development or disposal of the properties until there is a satisfactory conclusion on the hotel site. I consider that the issue of selling the subject property separate to the matter before me. I note that this is also the view of the Local Authority.

7.8.10. While I note the concerns raised by the Local Authority, I also note that significant works were carried out in 2017 and 2018 which related to the interior, new slate pitched and flat roofs and gutters, that the properties have been painted on a number of occasions and have substantially improved since the Section 15 Notice was issued: Painting has recently occurred on the front façade of the subject property and at ground level on the side gable of No 131; The vegetation growing above the first floor level boarded window on the front elevation has been removed; The wall has been substantially repaired along St. James Avenue; The fencing has been removed and a gate has been installed;

The rear is no longer completely overgrown and ivy on the side of No 131 has been cut back. The objector has also put forward evidence of an agreement to sell the property subject to planning permission. Having regard to the above, I am not satisfied that options other than compulsory acquisition can be ruled out and that there is no other viable alternative available.

7.9. **Proportionality**

7.9.1. As I have already outlined, I am satisfied that the Local Authority have properly followed all procedures, demonstrated that there is a community need for the acquisition and that the site is suitable to address this need.

7.9.2. I note that owners/occupiers have obligations (under Section 9 of the Act) to "take all reasonable steps to ensure that the land does not become or does not continue to be a derelict site".

7.9.3. As previously stated, I consider that the owner has substantially completed works required by the Local Authority in the non-statutory correspondence dated the 10th of March 2017.

7.9.4. It is the objectors position that they have made a significant investment and taken all reasonable steps to ensure the property still retains its value. I note that in written submissions and at the hearing the objector referred to the effect caused by fires at the adjoining property No 133, the Former Central Hotel regeneration site. It was stated that the owner spent €140,000 on the properties and now a further 20,000 for the wall.

7.9.5. Based on my site inspection and recent works on site, it is my view that the subject property and lands have substantially improved since the Section 15 Notice was issued. Although I accept that there is a risk that the sale or redevelopment may not occur, it is evident that that the owner has made reasonable efforts and that there had been mitigating circumstances due to the impact of fires at the adjacent property. I therefore consider that the proposed compulsory acquisition would have a disproportionate impact on the property owner in this instance.

7.10. Conclusion

7.10.1. Having regard to the Constitutional and Convention protection afforded to property rights, I consider that the proposed acquisition of the Derelict Site comprising a proposed acquisition of the Derelict Site at Nos 131 & 132 Bank Place, Thomas Davis Street, Mallow, County Cork containing 0.03 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 27th February 2026 and on the deposited maps, 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.

7.10.2. 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 Cork County Development Plan 2022-2028, and specifically Objective PL 3-2 Encouraging Sustainable and Resilient Places and Objective TCR 9-2 Vacancy and Regeneration 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.

7.10.3. 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.

7.10.4. 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.

8.0 Recommendation

8.1. Taking account of the evidence of the efforts made by the Notice Party to address the dereliction on the site, 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 to Cork County Council to the compulsory acquisition of the site.

9.0 Reasons and Considerations

9.1. Having regard to the current condition of the site and 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 Cork County 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 objection made can 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.

Michele Beirne

Planning Inspector
20th October 2026

Appendix A: Oral Hearing proceedings

[Note: The following is a summation of the proceedings of the Oral Hearing and the persons in attendance. It is not intended to be a comprehensive overview of the proceedings and should be read in conjunction with the main body of the report above.]

Background

An Oral Hearing was held on Tuesday, 6th October 2026 in relation to compulsory acquisition sought by Cork County Council of a site at Nos 131 & 132 Bank Place, Thomas Davis Street, Mallow, County Cork under the Derelict Sites Act 1990 as amended. The Hearing was held virtually via MS Teams. The persons listed below were in attendance at the Oral Hearing:

Cork County Council

- Noelle Desmond, Senior Executive Officer, Town Regeneration, Economic Development and Strategic Planning, Cork County Council
- Conor Buckley, Executive Solicitor, Cork County Council
- Vincent McKechnie, Barrister for Cork County Council
- Connie Keller, Executive Engineer, Town Regeneration, Economic Development and Strategic Planning, Cork County Council
- Michael Browne, Senior Staff Officer, Town Regeneration, Economic Development and Strategic Planning, Cork County Council

Mr Vincent McKechnie, Barrister for Cork County Council took the lead on behalf of the Local Authority.

Objector and their representatives

- Brian Downes, Objector
- John Moylan, Richard Moylan and Co Solicitors
- Tim Lenihan, T.G. Lenihan & Co. Consulting Engineers

Opening of Hearing

The Inspector formally opened the hearing at 10.01am. Cork County Council had technical issues which were resolved and the Inspector gave an opening statement which included introductory remarks, confirmation of attendees, purpose of the hearing, agenda format, details for the effective running of the hearing and the general code of conduct. An opportunity for any questions about the agenda or procedure followed and there were no questions.

Submission by Cork County Council

Vincent McKechnie, Barrister for Cork County Council

- It is appreciated that the submission is not to repeat of what is on file but a number of things happened in the last couple of days and so will briefly outline the context of the last 9 years before addressing recent events.
- It is understood the properties were formerly in commercial use and purchased in 2006, it is understood the property is not registered but Mr Downes has the property.
- Nothing happened until 2017 when an informal letter was sent to Mr Downes outlining 11 issues to address and giving notice it might have to go on the register.
- A response was given on the 14th August 2017 to Mr Moylan on what is necessary to occur for the property to be non derelict.
- Not much happened and it was noted Mr Beechers of CCC 2023 report had a number of findings and these were outlined at the hearing. It was Mr Beechers view that the site was derelict under the 3 headings of Section 3 of the act.
- Details of non-statutory and statutory correspondence set out in the case file were highlighted. It was noted this included a call received from Mrs Ber Downes requesting a list of works that could be done a few days after CCC sent correspondence, that CCC sent an email in response, a further email was sent to Mrs Downes stating if there is any submissions they should be made in writing. No further submissions were received in writing.

- In January 2026 Mr Keller of CCC visited the site and found similar signs of dereliction as Mr Beecher and the findings of this report on file were detailed.
- In relation to alternatives, it is Mr Keller opinion that given the duration of dereliction, the lack of meaningful engagement by the owners, and the non-payment of the derelict sites levy and engagement on this, there was no alternative but to go down the CPO route.
- An objection was received from Mr and Mrs Downes stating a number of works have been completed and it is noted works were predominately inside the building.
- It is noted that there were a number of fires in the adjacent building No. 133, which required works.
- It is noted the objection dated May 2026 outlined that a number of works have taken place outside in the past.
- The items set out in CCC correspondence dated March 2017 were outlined and comments on the current situation made.
- In relation to correspondence March 2017, Windows are done but this leads to a difficulty for CCC that the site is derelict as a result of it being boarded up.
- It is noted the owners received grant aid and painted the properties 4 times.
- It is noted the response of May 2026 stated items 7-11 would be done shortly.
- It is CCCs understanding, from Mr Kellers recent inspection and from photos given by the objector, that a level of work has gone on.
- CCC say the following:
  - Windows and doors are boarded up which is indicative of dereliction.
  - Photos indicate some reconstruction of the wall. The repaired wall height does not match the existing wall height and there is no capping on the wall.
  - It is noted a gate has gone up and fencing is gone.
  - There are still wall defects on the east side of the building as there is a prominent crack on the gable end facing St. James Avenue.
  - Vegetation is still in the gutters.

- It is noted that in January 2026 there was considerable ivy growth on the gable wall, this has since been cut back but is still considerable.
- Debris has shifted at the rear.

- It is noted Mr Beecher 2023 report suggested a full redevelopment of the site and Mr Keller is of the view that the site is still derelict.
- By way of an alternative, CCC were informed last May there were prospective purchasers but not informed who they were. CCC were informed by letter 5/10/26 which ACP received of an agreement with Peppard Investments to purchase the properties for €300,000 on the back of planning permission. It is noted CCC were previously told the offer was €340,000 in 2023.
- The difficulty by way of alternative to lift the site out of dereliction is confidence that sites would be sold to Peppard Investments and developed.
- CCC say that nothing has been done over the previous 20 years, if there had been solid offer in 2023, CCC wonder why it has not gone through.
- Further, Peppard own the site No 133 and have been in negotiations with CCC since 2022, nothing has come of these negotiations and CCC are seeking to CPO the site No.133. It is noted that there has been plenty of engagement with the owners of No. 133.
- It is noted correspondence from Mr Lenihan says there were certain negotiations with town planners but no plan since has been forthcoming.
- CCC do not see the current or perspective owners lifting the sites out of dereliction.

Submission by Brian Downes and representatives

John Moylan, Moylan and Co Solicitors

- Photos were taken which indicate that items are entirely rectified. It is asked that the photos be carefully examined to establish the situation.
- The concern raised about the wall, height and no capping are noted. Works on the wall are reasonably evident from the photos. From a personal perspective the work looks clean and tidy.

- The recent photos indicate the current façade onto Thomas Davis Street. It is submitted that the building has been painted on 3 separate occasions in the last 7-8 years. This is visible from the CCC property profile report.
- The owners have made every effort to maintain the front of the property.
- It is noted there is a small amount of plant debris in the gutters on the front façade. It should be noted that all gutters and hardware have been replaced and any debris was created this year. It is normal to have growth on an annual basis and to clean annually.
- The boarding up of windows was carried out as per the 1st item in CCCs letter of March 2017 and on CCC instructions. No instructions have been received from CCC to remove the boarding.
- The 2 properties are effectively twins and are old properties. It is not the first occasion that damage has been caused to old properties on the Main Street when it loses the support of an adjoining property.
- Regarding the adjoining Former Central Hotel Site (No 133), it is understood that 3 fires took place in the property in 2010, 2016 and 2020. On one if not two occasions, the county fire services obtained access through these properties. All water poured into the hotel entered No 131/132. Fire destroyed the roof of No 132 and partially destroyed the roof of No 131 and completely destroyed the interior of the property. It was necessary for Mr and Mrs Downes to carry out a complete refurbishment of the property.
- It was pointed out to CCC that €140,000 was spent on refurbishment work, the wall has taken another €20,000. The owner has spent €160,000 on keeping the properties in good order.
- It is accepted there may be minor things such as grass growing in gutters.
- It is very evident that every effort has been made by the owners to the best of their ability and in accordance with the requirements of CCC.
- The point is taken that the exterior of the building is the issue for dereliction. At the same time, it can be appreciated that the exterior cannot be repaired if the interior is not replaced.

- It is suggested that the only substantial issue is that windows are boarded up.
- There is an offer on the property at €300,000 from owners of No 133. This was reconfirmed in a letter submitted to ACP.
- The owners wish to have the matter resolved. Their view is that the properties will be demolished as part of any redevelopment in the area, it would be impossible for any developer of No 133 to carry out development without huge costs of propping up Nos 131/132 or alternatively acquiring the properties.
- The owners are happy to dispose of the property provided they get market value for it. The valuation provided by CCC in 2023 of €100,000 is unrealistic. The market value is similar to an offer of €300,000. (*The Inspector at this point reminded them that ACP has no role or jurisdiction in the determination or assessment of compensation. This was accepted.)*
- The owners have made every effort to renovate the property. They are more than happy to dispose of the property if they get a fair market value for it and are making no attempt to interfere with the property been disposed of or renovated.
- Photos from last Saturday show the state of the property at this time. It is stated the owners have complied with the requirements of the letter of CCC of March 2017. Having complied, the property is no longer derelict within the meaning of the Derelict Sites Act.

Tim Lenihan, T.G. Lenihan & Co. Consulting Engineers

- It is my view as a structural engineer that the buildings are structurally robust.
- I consider the owner is being unfairly treated and the properties are far from being derelict.
- The only main issue is the boarding up of windows. This can be easily resolved, remaining matters are cosmetic.
- In comparison to other buildings in Mallow, they are in exceptional condition structurally.

Brian Downes, Objector

- The properties were purchased separately in 2006 and 2008 at a substantial price. Considering the investment, any return on the properties will be a fraction of the cost.
- We have been compliant as best we can.
- We would have sold or leased the buildings and attempted to lease and sell them on a number of occasions.
- No one was going to touch them in the circumstances. Mr Moylan stated there were 3 fires on No 133 but in fact there were 5 fires in the adjoining property and 3 were substantial fires. We are conjoined in the sense that Nos 131, 132 and 133 are the one block. The hotel was demolished this summer. No one was going to lease or purchase the property and run the risk of more fires. Our hands have been tied in the development or disposal of the properties until there is a satisfactory conclusion on No 133, the hotel site.
- In the interim we have continued to pay insurance and repainted 4 times, 3 times in the last 9 years.
- It is easy to tick boxes on dereliction.
- Mr Downes first sight of the report by Mr Beecher was in the submission to ACP and queried why he was not furnished the report in 2023.
- There has been a lack of communication but this has not been one way.
- When the boarding of windows was first requested, we asked CCC what colour to paint them which shows engagement. CCC suggested the colour with black to highlight the windows.
- Today I am told that boarded windows are evidence of dereliction. No communication was sent by CCC to remove the hoarding. If the 2017 letter is obsolete no one told us.
- The owners of No 133 are anxious to buy, but they will not buy a property under a CPO.
- There has been unfortunate circumstances and a series of fires, we have spent considerable money and unable to do more in the circumstances.

- CCC recent photos show grass in the gutters. The gutters were cleaned early last spring, grass is acknowledged.
- Litter to the rear of the building is not caused by the owner. Fly-tipping occurs and is cleaned up regularly, for example 6 weeks ago. The debris there now is a result of rebuilding the wall. The builder is on holidays and returning this weekend and his first job when back will be to remove this debris.
- Mr Downes is aware the capping needs to be finished, it should be acknowledged that life goes on too.

Response from Cork County Council

Vincent McKechnie, Barrister for Cork County Council

- Regarding communication, the pack sent to ACP shows emails to Mrs Downes and that Mr Beechers report was given in 2023. CCC had one address for Mr Downes and statutory notices were sent to that address. Mr Downes had previously said he was not given the valuation but sent to address, CCC have not been given any other address. Mrs Downes was aware as she called CCC four days after correspondence in 2023 and Mr Beechers report was sent. CCC refute that it came as a surprise.
- It is indicative of the problem - The site has been deteriorating for 20 years. Nothing was done and a couple of days before the hearing a number of repair works were done. To say the builder will do this when back from holidays when a letter was sent 9 years ago outlining the dereliction is where CCC lack confidence.
- CCC appreciate that the Downes want as much money for their property as possible. That does not negate that the property is derelict and certain things need to be done to make it non-derelict.
- Regarding vegetation in the gutters, just because they were done in Spring does not mean they should not be done again.
- The property has been degrading.

- It was suggested in 2017 to board up the windows to address antisocial behaviour. A building that is not used is going to lend itself to anti-social behaviour and this is not the fault of CCC.
- The hands tied point on disposal is separate to whether it is derelict or not.
- Hands were not tied with what could be done with the property. It is facile to suggest it is up to CCC to indicate all to be done, it is up to the owner to make them non derelict.
- Attempts may have been made to lease or sell but nothing has happened in 20 years.
- Mr Lenihans stated the building is structurally robust. CCC have never said the contrary.
- Mr Lenihan suggests cosmetic changes are to be done and CCC ask why they haven't been done, the process has been piecemeal.
- It is noted there is no remit to discuss valuations but it is pertinent to suggest it is difficult to think No 133 to be developed without Nos 131 and 132 in conjunction.
- As noted, there is an application before ACP in relation to No. 133 as there is a lack of faith in No 133 rising from dereliction by the owner, who are proposed purchaser for the buildings.
- Comments on the capping and height are noted, nothing has been addressed about the crack on the gable.
- To say the builder is on holidays is fair enough but the timeline has been extraordinary, even though it was outlined in 2017.

Questioning between parties

Items were expanded upon by the parties during this part of the agenda. I have summarised same below. Relevant points of interest are referred to in the assessment section of this report above.

Objector questioning CCC

John Moylan, Moylan and Co Solicitors

Mr Moylan had no question for CCC but wished to point out that the question before the Commission is whether the building is derelict at this time. It is submitted the owner spent money necessary, the photos taken and submitted to ACP on the 5th October would clearly suggest the property at this time is not a derelict property.

CCC were asked by the Inspector if they had any further comments on photos:

Mr Vincent McKechnie, Barrister for Cork County Council

It is acknowledged works have taken place in the last few days but it is CCCs view that the site is still derelict for several reasons: There is vegetation in the gutters. The building is not in use and windows are boarded up. CCC note that there will be revenue legislation next year and if a building is boarded up it follows that it is derelict. The photos indicate a crack on the gable onto St James Avenue and the wall onto St James Avenue hasn't been fully repaired. Mr Downes says debris is at the back of the building which he says is a result of builders, but there has been debris on a consistent basis in the last 20 years. He also says the debris is a result of fly-tipping but as owners it is their responsibility to ensure it is not there.

Objector questioning CCC cont.

Brian Downes, Objector

Mr Downes had no questions but in response to CCC stated that we have done everything and it not true that it was done at the last minute. It is difficult to get people to do works. He also stated that the gutters require a cherry picker and clearance from CCC, there is a process that doesn't happen overnight. It is acknowledged there is grass in the gutters, this is continuous and we do look after it. It was never suggested that fly-tipping is not the owners responsibility and we make every effort to clear it out and to keep it as tidy and secure until such time as we sell or lease. It has not been possible due to the dangerous structure on the adjoining site, which was only demolished this summer. We are conjoined with No 133. The crack is not as suggested and structurally there is nothing there. The properties are painted. There are new gutters. Boarding on windows is necessary for security reasons and I disagree that it is a sign of dereliction. CCC would view it poorly if the property was

not insured or secure.

Regarding communication, CCC have a Mallow address and assume communications were by registered letter. Mr Downes pointed out he is in Dublin full time and his wife works full time. He did not receive any emails to his wife. CCC may have tried to communicate but it didn't happen.

Mr. Lenihan, Lenihan & Co. Consulting Engineers

Mr Lenihan added based on experience it is his view the properties do not meet the categories of dereliction in the act. It is unfair to deem them derelict due to fly-tipping. Gutters are cleaned this time of the year.

CCC to objector and representatives

Question

Do you ever visit the property Mr Downes?

Response

Yes. Mr Downes confirmed he drives by weekly on return from Dublin and owns the commercial property directly opposite. His wife works across the street and can view of property.

Question

If you do visit property, it is noted all statutory notices were affixed to the property?

Response

Mr Downes is aware of those and fully acknowledge them.

Inspector to objector and representatives

Question

The correspondence to ACP notes that CCC grant aided paint work, were you aware of other grants available and in a position to apply for them?

Response

No, not aware of other grants.

Question

It is noted you propose to sell, did you seek any recent advice / pre-planning advice from the Council on redeveloping the site?

Response

After clarification of the question, Mr Downes stated there was no question of redeveloping it given the current circumstances of the block. Considerable money has been spent on maintenance and upkeep, waiting for an outcome on the central hotel site, it was his view that no one is going to buy or redevelop until there is a plan for that part of town.

Closing comments

Objector and representatives

Mr. Moylan, Richard Moylan and Co Solicitors

As mentioned previously, the photos show that this is not a derelict property at this time and he would urge the Commission to take the photos into consideration when making a decision.

Cork County Council

Mr Vincent McKechnie, Barrister for Cork County Council

It is appreciated that Mr and Mr Downes find themselves between a rock and a hard place and what they really want to do is sell the properties. That is a separate point to making these properties non derelict. Regarding the boarding up of the premises, an alternative is to install windows. There is a pattern of neglect over 20 years. This has been taken as a last resort by CCC and CPO is the only manner in which building will be refurbished and redeveloped. All manner of grants and knowledge of grants have been communicated to Mrs Downes certainly over the years. This is all coming late in the day and is indicative of a pattern of behaviour which doesn't fully appreciate the seriousness of the site being derelict and its impact on the community. CCC see no alternative to apply for the CPO.

Objector

Brian Downes, objector

Mr Downes added that there are glass windows behind the hoarding but public liability insurance will not be obtainable without the hoarding. It is a chicken and egg situation, we are doing our best to maintain the property and make it secure and safe and would rather error on the side of safety.

CCC were asked if they had any further closing comments, of which they replied no.

Closing

The Inspector closed the Oral Hearing at 11.17am.