Inspector's Report

ACP-324357-26

Development	Proposed Compulsory Acquisition of a Derelict Site.
Location	O'Shea's Acres, Broadford, Co. Clare.
Local Authority	Clare County Council.
Notice Party	Declan Durack.
Date of Site Inspection	10th September 2026.
Inspector	C. Daly.

1.0 Introduction

1.1. This case relates to a request by Clare County Council for the consent of An Coimisiún Pleanála to the compulsory acquisition of the subject site at O' Shea's Acres, Broadford, Co. Clare, in accordance with the provisions of the Derelict Sites Act, 1990, as amended.

2.0 Site Location and Description

2.1. The subject site, of area 0.288ha., consists of a pitched roof bungalow with rear flat roof element, rear partially demolished concrete wall shed, small wooden shed to side and caravan set back from the site with grass mainly surrounding the dwelling, a driveway accessed from the south and a pedestrian gate from the western site boundary.

2.2. The lands rises to the east away from the side of the dwelling. There are some mature trees towards the rear of the site. The site is adjacent to the R465 regional road to the west and there is a local road adjacent to the south with the site forming a corner junction between the two roads.

2.3. There is a detached dormer bungalow adjacent and uphill to the east and a line of three dwellings on the other side of the road over a distance of c.125m. There is a dwelling directly opposite to the west and there are a number of dwellings in the vicinity to the north and south with the site located c.120m to the north of the built-up edge of Broadford village.

3.0 Application for Consent for Acquisition

3.1. Clare County Council applied to the Commission to compulsorily acquire the subject property under Section 14 of the Derelict Sites Act, 1990, as amended. I note that this application is subsequent to Clare County Council serving a notice on 20th April 2026 under Section 14 of the Derelict Sites Act, 1990, as amended, advising of the

Local Authority's intention to compulsorily acquire under the Act, the derelict property as described.

4.0 Application and Objection

4.1. Notice of Intention to Acquire

4.1.1. Notice of Clare County Council's intention to compulsorily acquire the property was served upon the owners/ occupiers (Declan Durack) on the 20th April 2026 and was published in the Clare Champion newspaper dated 24th April 2026. The property was described in the notices, as follows:

- The property known as O' Shea's Acres, Broadford, Co. Clare, V95 DXP2, and comprising an area of approximately 0.288 ha.

4.1.2. I consider 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 Acquisition

4.2.1. One submission (on behalf of the property owner) expressing objection to the proposed acquisition was submitted to Clare County Council by Meehan Moroney Solicitors.

4.2.2. The objection to the proposed acquisition was submitted and received on 24th April 2026, the deadline was advised as on or before one month and one day of the date of the notice.

4.2.3. The objection can be summarised as follows:

- The Council were previously informed that the owner has agreed to transfer the property to his nephew who intends to develop the property and reside there with his young family.
- The owner lives abroad and there was an issue clarifying the potential tax liability from the proposed transfer but this has now been clarified and the owner is in a position to proceed with the transfer.
- The prospective owner is travelling abroad to meet the owner on 17th May to sign the relevant transfer documents.

- As soon as the transfer documents are received, the deed will be stamped and the property will be transferred and the new owner will immediately commence works on the property.
- The new owner has been ready to commence work on the property for some months.
- In these circumstances they formally object to the proposed acquisition of the property.

4.3. Local Authority Application for Consent

4.3.1. The Local Authority requested the consent of the Commission to the compulsory acquisition of the derelict site on 11th June 2026. This included a report of the Council including the history of the file, efforts made to engage with the owner and the compulsory purchase order process followed to date. It also includes:

- the Land Registry folio for the subject property,
- the objection dated 23rd April 2026 made by the land owner's solicitor to the Council and receipt,
- the letter and notice of intention to compulsorily acquire the property by the Council to the owner and associated map dated 20th April and 24th April 2026,
- the recommendation of the Council to acquire the property which includes a history of the dates of engagement with the owner dated 10th February 2026,
- copies of photos of the subject property dated 13th November 2025,
- copies of email correspondence with the owner dated 13th and 6th May 2025,
- the derelict property report and recommendation of 11th March 2025.
- Letter dated 28th November 2024 to owner enclosing Section 8(7) notice with map and confirmation that the property is on the Derelict Sites Register.
- Recommendation to enter the property on the Derelict Sites Register dated 28th November 2024.
- Derelict Site report dated 6th November 2024.
- Site visit photos report dated 21st October 2024.

- Email dated 23rd April 2024 to redacted name regarding potential options for the property.
- Letter of intention to enter the property on the Derelict Sites Register and Section 8(2) Notice dated 28th March 2024, including map, to property owner inviting representations in relation to the carrying out of the works and timeframe for same.
- Email dated 28th November 2023 to redacted address detailing the availability of the refurbishment grant for vacant/derelict properties and stating that the owner's plans for the property need to be outlined.
- Letter of 20th October 2023 outlining concerns to the owner regarding that it is considered derelict.

4.4. **Objector's Submission**

4.4.1. None received.

4.5. **Oral Hearing**

4.5.1. No request has been received for an oral hearing.

5.0 Planning History

5.1. None relevant.

6.0 Legislation and Policy Context

6.1. **Derelict Sites Act 1990 (as amended) (the Act)**

The Derelict Sites Act 1990, as amended, makes provision to prevent land being or becoming a derelict site. It, inter alia, 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."

Other relevant provisions of the Act are summarised below:

- Section 8 of the Act requires Local Authorities to establish a register of derelict sites in their functional area and to serve notices on occupiers/ owners of their intention to do so.
- Section 9 of the Act places a duty on every owner and occupier of land, to take all reasonable steps to ensure that the land does not become or does not continue to be a derelict site.
- Section 10 of the Act places a similar duty on Local Authorities to take all reasonable steps, including the exercise of any appropriate statutory powers, to ensure that any land in their functional area does not become or continue to be a derelict site.
- Section 11 of the Act enables Local Authorities to serve a notice on an owner or occupier of land, requiring them to take specified measures to prevent land becoming or continuing to be a derelict site.
- Section 14 provides that a local authority may acquire by agreement or compulsorily any derelict site situated in its functional area.
- Section 15 sets out arrangements for giving notice if the local authority intends to acquire a derelict site compulsorily.
- Section 16 sets out arrangements if the owner/occupier wishes to object to the acquisition and it provides that if an objection is made, then the derelict site shall not be acquired compulsorily by the local authority without the consent of the Board.

6.2. **Clare County Development Plan 2023-2029 (the CDP)**

Volume 1

Section 4.2.2 relates to Compact Growth and includes, inter alia, that "…*this requires the integration of land use and transport, an intensification of use of existing underutilised lands and the consolidation of the built environment through the development of brownfield and infill lands, as well as the reuse of vacant and derelict buildings in urban settlements…*"

Objective CDP 4.3 includes that it is an objective to support "*initiatives that facilitate the regeneration of derelict buildings and vacant sites for the provision of high-quality, environmentally friendly Near Zero Energy Buildings (NZEB) affordable housing*".

Objective CDP 4.7 *It is an objective of Clare County Council: a) To promote the consolidation of the existing large villages through brownfield reuse/redevelopment and through compact growth within the appropriate land use zoning and/or the areas identified for village growth*…

Objective CDP 4.8 *It is an objective of Clare County Council: a) To promote the consolidation of the existing small villages through brownfield reuse/redevelopment and through compact growth within the designated village growth areas*.

Refurbishment of a Derelict House/Structure in the Countryside

CDP 4.18 Subject to 7 conditions "*It is an objective of Clare County Council: To permit applications for the refurbishment of a derelict house/structure in the countryside…"*

Objective CDP 5.2 *To prioritise the reuse of existing housing stock in the Plan area and the renovation and re-use of obsolete, vacant and derelict homes*

Objective CDP 9.14 *It is an objective of Clare County Council: To improve the visual appearance of towns and villages, protect their character and maximise their tourism potential by the continuation of environmental and public* realm programmes, design management and improvement of identified derelict sites.

Section 17.1 Strategic Aims notes that it is policy to "achieve the beneficial reuse of vacant, derelict or under-utilised sites, particularly the identified Opportunity Sites".

Section 17.2.7 Addressing Vacancy

Building vacancy in towns and villages has become increasingly prevalent, resulting in the demise of the historic vibrancy and vitality of town and village centres. The re-use and regeneration of these buildings are essential catalysts for transforming the capacity and potential of these settlements. It is important to secure a beneficial use for vacant properties in the Plan area in order to ensure that they do not fall into disrepair and begin to have a negative impact on the appearance of their environs.

Section 17.2.10 Derelict Sites

Objective CDP 17.10 Derelict Sites *It is an objective of Clare County Council:*

a) To use all mechanisms available to it as appropriate and to work with Derelict Site owners to identify opportunities to bring derelict sites back in to use;

b) To use the Derelict Sites Act 1990 where appropriate to require owners of derelict property to carry out suitable improvements, and to implement the provisions of the Act to prevent or remove injury to amenity arising from derelict sites;

c) To prepare improvement plans and design briefs for larger derelict areas incorporating an Invasive Alien Species Management Plan if deemed necessary; and

d) To seek to acquire properties which are appropriate to the Council's Capital Programme in order to carry out improvements to derelict sites and revitalise the surrounding areas in compliance with the objectives and requirements of the Habitats Directive and in a manner which protects other sites or habitats of national, regional or local importance.

Volume 3c – Killaloe Municipal District Settlement Plans

The section on Broadford includes the following,

In anticipation of being approved funding under this funding stream it is considered appropriate to zone lands to accommodate future growth and to deliver on the investment associated with providing this infrastructure. Water is supplied to Broadford through the Broadford Public Water Supply. The TFI Local Link Limerick Clare bus service (C10 Scarriff Sixmilebridge-Shannon) stops in Broadford twice on Thursdays.

7.0 Assessment

7.1. Site Inspection

7.1.1. On the date of my site visit, I was able to view the outside of the property including its front and rear gardens and its side areas. I was unable to gain access to the inside of the house although I did manage to view some rooms through the external windows. The property is towards the outskirts of Broadford along the R465 regional road at its junction with a local road.

7.1.2. On the date of my visit I noted significant signs of disrepair to the dwelling and property including significant overgrowth on two sides of the house, some visible damp patches on external walls, wooden window frames in poor repair, broken parts of the gutters, roof tiles in poor condition, external walls in need of painting, largely inaccessible area to the rear of the property due to significant overgrowth and some overgrowth of the garden and driveway, mainly towards the northern corner and north-east boundary. I also noted that a wooden shed was placed adjacent to a side wall and window of the dwelling. I observed the remnants of a vehicular entrance gate at the north-west end of the property.

7.2. Category of Dereliction

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

7.2.1. I note that category (a) of Section 3 of the Act relates to structures which are in a derelict, ruinous or dangerous condition. I note the dwelling is currently vacant, is in a poor condition as I have noted above such that I consider that significant works would be required, at the least, to bring it from a poor structural and/or functional condition, to that of an accessible and readily useable habitable structure. I consider that the building/house on the property meets the criteria of category (a) above.

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

7.2.2. I have noted above the overgrowth of plants on the property of the dwelling including some which have grown up on two sides of the walls of the dwelling. Noting this, together with the poor condition of the externals walls and roof of the dwelling, I consider that the property and the house meet the criteria of category (b).

(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.

7.2.3. While I note that the L.A. noted the deposit of waste on the property, I did not observe this on my site visit. Nor did I observe litter, rubbish or debris. Noting this, I do not consider that the category (c) criteria are met in this case.

7.2.4. Noting that I consider that categories (a) and (b) of Section 3 of the Act have been met, then I consider that the land detracts to a material degree from the amenity, character and appearance of the property in the context of the local neighbourhood.

7.3. **Action of Local Authority and Responses**

7.3.1. I note a Council letter of 20th October 2023 to the owner which noted that the Council considered the property to be derelict following a site inspection. This followed a site inspection of 12th July 2023 as noted in the Council submission to ACP. I note a letter to the owner dated 28th March 2024 informing him of the intention to enter the property on the Derelict Sites Register and it was recommended for entry on the register on 28th November 2024. The Council's ACP submission states that this was on the basis of the criteria under Section 3(a) and 3(b) of the Derelict Sites Act 1990 as amended.

7.3.2. I note correspondence on the file including, inter alia, an email from the owner's solicitor of 6th May 2025 stating that the owner intends to transfer the property to his nephew who will immediately commence its renovation.

7.3.3. I note that the Council report dated 10th February 2026 based on a site inspection date of 13th November 2025 considered the building to be in poor condition and need of refurbishment. It considered the property around the house to be unsightly with waste ground around it. It noted well maintained properties along the road in the vicinity. It considered the property to be derelict as defined by the Derelict Sites Act, 1990. It also noted no evidence of works being undertaken since the previous visit in May 2025. to render the property non-derelict or to transfer or sell.

7.3.4. I note the Council's references to Development Plan policy relating to Broadford, compact growth in villages, refurbishment of houses in the countryside, living in

towns and villages and to derelict sites. I note their reference to national policy, 'Delivering Homes, Building Communities 2025-2030 Government of Ireland Action Plan on Housing Supply and Targeting Homelessness' and Section 4.1 thereof in relation to the Compulsory Purchase Order Activation Programme – Addressing vacancy and dereliction. It also references the Compulsory Purchase Order (CPO) Activation Programme (2023) as well as the Vacant Homes Action Plan 2023 to 2026, Department of Housing, Heritage and Local Government.

7.3.5. I note that the Council's submission sets out in date order the engagement with the owner of the property and the series of actions that led to their decision to compulsorily acquire the property. The Council's submission to ACP notes that despite the commitments made to transfer the property to a nephew who was to commence refurbishment works, the property remained derelict with no works having been commenced and the national policy on dereliction.

7.3.6. Section 8 of the Council submission to ACP notes their response to the response from the owner's solicitor which is consistent with the above reasons given to commence the CPO process. I note that the Council considered, given the commitments made since the end of 2023, it reasonable to expect an application for the Vacant Property Refurbishment Grant to have been made in this time as well as a planning application with the owner's consent.

7.3.7. I note the application of the Council for the compulsory acquisition of the property dated 10th June 2026.

7.4. Issues of Proportionality

7.4.1. I have reviewed the actions of the Local Authority and I consider they gave sufficient time and opportunity to address the issues it communicated to the owner. In my opinion the L.A. actively engaged with the owners in this regard. I note that the requirements to serve notice on every owner, lessee and occupier have been satisfied. I note that the owner failed to follow through on the commitments made in the responses to the L.A. and that while it was stated the property would be transferred to the owner's nephew who would immediately commence work on the property, there is no evidence that this happened.

7.4.2. I note that constitutional protections apply to individual property rights per Articles 40 and 43 of the Constitution. Based on case law, should the Commission consider that

allowing the compulsory purchase of the property is justified based on any of the categories of dereliction assessed in Section 7.2 above, it should also be satisfied that the following tests are met to ensure the proportionality and reasonableness of the proposed action.

- 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.

County Development Plan

7.4.3. Noting Development Plan policy, I note that it seeks to address dereliction, particularly of brownfield lands such as the subject property. It seeks the re-use of derelict sites and to improve the visual appearance of villages. It specifically mentions using all the means available to work with derelict site owners to bring such sites back into use and the use of compulsory acquisition carry out improvements to such sites. In relation to Broadford it notes the intention to zone lands for accommodate future growth.

7.4.4. In this policy context, I consider that the building works required to make the property non-derelict would not contravene the CDP and that such works would be consistent with its policies and objectives.

Community Need and Suitability

7.4.5. I note the CDP references the need to accommodate growth in the towns and villages of the county and the need to zone land for development in Broadford. As I consider that bringing the dwelling on the property back into use would accommodate this type of growth, and in the context of housing policy, I consider

that the proposed compulsory acquisition would meet a community need in relation to the provision of housing.

7.4.6. In my opinion, the sustainable re-use of the building as a house would be suitable as a means of seeking to address housing need in the area.

Alternatives

7.4.7. I note that no viable or timely alternatives to the proposed acquisition of the property have been put forward by the owners. I note no evidence to suggest that the owner's suggested course of action has commenced over two years after they suggested it.

Land Take

7.4.8. In relation to the site area of 0.288ha for the detached house, noting that the property is not serviced and is located towards the edge of Broadford, I do not consider the proposed land take to be excessive noting that the acquisition is both necessary and suitable to ensure that the lands do not continue to be a derelict site.

8.0 Conclusion

8.1. I am satisfied that the process and procedures undertaken by Clare County Council have been fair and reasonable, that the local authority has demonstrated the need for the lands and that all the lands being acquired are both necessary and suitable to ensure that the lands do not continue to be a derelict site.

8.2. Having regard to the constitutional and convention protection afforded to property rights, I consider that the proposed acquisition of the Derelict Site comprising of the property at O' Shea's Acres, Broadford, Co. Clare, of area 0.288ha., as set out in the Derelict Site Notice issued under Section 14 of the Derelict sites Act 1990, (as amended) and dated 24th April 2026 and on the deposited maps (DS 23-50), pursues, and is rationally connected to, a legitimate objective in the public interest, namely, to ensure that the lands do not continue to be in a derelict condition.

8.3. I am also satisfied that the acquiring authority has demonstrated that the means chosen to achieve that objective impair the property rights of affected landowners as little as possible. In this respect, I have considered alternative means of achieving the objective referred to in the submissions to the Commission and am satisfied that the

acquiring authority has established that none of the alternatives are such as to render the means chosen and the compulsory acquisition by the acquiring authority unreasonable or disproportionate.

8.4. The effects of the compulsory acquisition on the rights of affected landowners are proportionate to the objective being pursued. I am further satisfied that the proposed acquisition of these lands would be consistent with the policies and objectives of the Clare County Development Plan 2023-2029, specifically Objective CDP 17.10, which seek to actively address instances of dereliction and decay in the urban and rural environment and bring properties back into active re-use and to revitalise towns and villages. Accordingly, I am satisfied that that the grant of consent to compulsorily acquire these lands is clearly justified by the exigencies of the common good.

9.0 Recommendation

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

9.2. I consider that it is reasonable that the Local Authority seeks to compulsorily acquire the land, as provided by section 14 of the Act. I recommend that the Commission grant consent to Clare County Council to compulsorily acquire the property.

10.0 Reasons and Considerations

10.1. Having regard to the ruinous and derelict condition of the structure and the derelict, dangerous, neglected, unsightly and objectionable state of the structure and land, having considered the objection made to the compulsory acquisition, and also:

a. The constitutional and Convention protection afforded to property rights,

b. The public interest, and

c. The provisions of the Clare County Development Plan 2023-2029,

it is considered that the property detracts to a material degree from the amenity, character and appearance of land in the neighbourhood and, therefore, comes within the definition of a derelict site as defined in sections 3(a) and 3(b) of the Derelict Sites Act, 1990, as amended, and that the compulsory acquisition of the property by the local authority is necessary in order to render the property non-derelict and to prevent it from continuing to be a derelict property. It is also considered that the objection made to the Council cannot be sustained, having regard to that said necessity and that the compulsory acquisition and its effects on the property rights of affected landowners are proportionate to that objective and justified by the exigencies of the common good.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

Ciarán Daly
Planning Inspector

30th September 2026