Inspector's Report

ACP-324393-26

Development	Proposed Compulsory Acquisition of a Derelict Site.
Location	Clonamirran, Mountshannon, Co. Clare.
Local Authority	Clare County Council.
Notice Party	Liam Mulvaney.
Date of Site Inspection	10th September 2026.
Inspector	C. Daly.

1.0 Introduction

1.1. Clare County Council applied to the Commission on 22nd June 2026 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 23rd 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.

2.0 Site Location and Description

2.1. The subject property, of area 0.222ha., consists of a pitched roof bungalow and rear/side garage. There was moss, or similar, visible on part of the roofs of the dwelling and garage and there was a broken window on the rear elevation of the dwelling. There was some overgrowth visible on the south gable wall of the dwelling, as well as in close proximity to the front, rear and side facades as to partially obscure them from view. There was some wood debris towards the northern front corner and some fencing scattered in the rear garden area towards the north-east boundary.

2.2. There is a front and rear garden which is mostly overgrown and there are mature trees located in the vicinity of the south-west boundary and along the north-east side boundaries. There is mature hedgerow along the front and rear boundaries as well as along the south-west side boundary.

2.3. There is a partly overgrown vehicular entrance along the front boundary which adjoins the R352 regional road and the site also adjoins the local Clonamirran Road to the south-west. The property is c.600m north of Lough Derg and is c.39km east of Ennis.

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 (Liam Mulvaney and Damien Mulvaney) on the 23rd 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 Clonamirran, Mountshannon, Co. Clare, V94 Y22E, and comprising an area of approximately 0.222 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 by Liam Mulvaney expressing objection to the proposed acquisition was submitted to Clare County Council.

4.2.2. The objection to the proposed acquisition was submitted and received on 20th May 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 works to date, at considerable expense, including the clearance of trees and overgrown brush demonstrate a strong commitment to the improvement, preservation and future use of the property.
- An architect has been engaged with a view to developing the property into a family run bed and breakfast under a lease with a tenant. The project should be finalised shortly including a planning application.
- Practical difficulties with the property include that he lives in Dublin and extreme difficulty getting a contractor to deal with the invasive species leylandii surrounding the site.

- The property has not been abandoned as demonstrated by the continuous electricity connection and that Local Property Tax has been continually paid.
- In the circumstances, compulsory acquisition is premature, unnecessary and disproportionate.
- The property will be restored and developed in a manner that positively contributes to Mountshannon and the surrounding area. He requests that the Council advises him of any assistance available with this.
- He remains committed to working with the Council toward a positive resolution that benefits all parties.
- Requests that the Council reconsiders the proposed compulsory 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 22nd 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. The documents submitted also includes:

- Land register folio for the property.
- Council letter of 21st April 2023 relaying concerns in relation to the condition of the property to Mr L Mulvaney and providing an opportunity to discuss any proposals for improving its condition and timeframe for same and providing a link to government grants available for first time buyers of derelict and vacant properties.
- Email of 21st May 2023 from L Mulvaney to Council advising them of recent visit and that all possibilities are being considered.
- Email response of Council on 13th June 2023 in response to follow up email of the same day. The Council advised of a new Vacant Property Refurbishment Grant and details of how to apply.

- Email from L Mulvaney of 22nd June 2023 stating that he is in the process of hiring a contractor to clear the grounds and of his intention to avail of available grants and that they are doing costings and plans.
- Council email of 10th January 2024 requesting an update on the improvement works for the property.
- Council Derelict Site Report (including site photos) of 31st January 2024 noting that some tree felling has taken place and recommending serving a Section 8(2) notice due to what it states are little changes made since June 2023.
- Council Section 8(2) Notice dated 13th March 2024 of intention to enter the property as a derelict site on the Derelict Sites Register.
- Council letter and Section 8(2) notice (with map) of 22nd March 2024 to L Mulvaney inviting representations within 21 days.
- Email from L Mulvaney of 24th April to Council outlining his plan to put the property on the market.
- Copy of property listing dated 1st July 2024.
- Email of 1st August 2025 from the auctioneer in response to request for update where he states they removed the property from sale and did not sell it.
- Council letter to owners and Section 8(7) order dated 19th September 2025 ordering the property be entered onto the Derelict Sites Register.
- Council letter of 19th September 2025 advising the property owners of the Section 8(7) notice and of the annual derelict sites levy of 7% of the property value until deemed non-derelict. It also outlines that it will consider required actions including compulsory acquisition of the property.
- Council email of 17th October 2025 to L Mulvaney noting the intention to apply the levy from 2026, of the Council's powers of compulsory acquisition and noting the house was for sale but this is no longer the case.
- Council order dated 10th November 2025 that a notice under Section 22(3) be served on the property owners, notice of same date of property valuation of

€175,000 and letter of same date enclosing said notices outlining the amounts of the levy due and of right to appeal against the determination of value.

- Photo of property dated 25th February 2026.
- Council Notice under Section 15 dated 2nd March 2026 of intention to compulsorily acquire the property it considers a derelict site.
- Council recommendation to compulsory purchase the property signed 3rd March 2026.
- Council letter of 23rd April 2026 to owners outlining that it can no longer allow the property to remain derelict and thus has taken a decision to compulsorily acquire it. Enclosed Notice under Section 14 of intention to compulsorily acquire the property and that an objection can be made within one month and one day of the notice date and that if an objection is made, the site may not be acquired without ACP consent.
- Council letter of 23rd Apil 2026 to property owners outlining its intention to compulsorily acquire the property and enclosing a notice of intention in this regard with a timeframe of one month and one day for an objection to be made and that the site may not be acquired without ACP consent.
- Letter of objection from Liam Mulvaney dated 19th May 2026.
- Council letter of 22nd May 2026 to L Mulvaney acknowledging the objection and that it will be submitted to ACP who will determine the matter.

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)**

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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.

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The section on Mountshannon includes general objectives one of which is "*To ensure that existing permanent population levels and services are maintained and expanded*".

7.0 Assessment

7.1. Site Inspection

7.1.1. On my site visit, I viewed the subject property by walking around its grounds with accessibility difficult on foot due to significant overgrowth. It was not possible to access inside the property. I noted moss, or similar, on parts of the roof of the dwelling and garage, significant overgrowth around the property which made walking around the grounds difficult and which overgrowth also partly impeded access to the site.

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. Category (a) above of Section 3 of the Act relates to ruinous, derelict or structures in a dangerous condition. From my site visit, I observed the dwelling to be vacant. I noted moss, or similar, on significant portions of the roof and a broken window on the rear façade of the dwelling. The garage appeared not to be in a poor condition. I therefore consider that 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 that my access to the site and around the site was difficult due to significant overgrowth around the property. I note that this overgrowth would significantly impeded access to the dwelling and garage and that it did not appear possible for a vehicle to access the property on my visit. I note also the overgrown

plants on the property partly obscured views of the dwelling from the property boundaries.

7.2.3. In my opinion the overgrowth around the buildings on the site and at the vehicular entrance gate resulted in the property appearing significantly neglected, unsightly and in an objectionable condition. Therefore I consider that the structure has an unsightly and neglected appearance that meets the criteria of category (b) above.

(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.

7.2.4. On my site visit I observed the presence of wood debris in the front garden towards the northern site corner. In the rear garden I observed some fallen over fencing debris. Therefore, in my opinion the criteria under category (c) above are met in this case.

7.2.5. Based on my assessment above, I consider that the criteria of categories (a), (b) and (c) of Section 3 of the Act have been met. In my opinion 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 the L.A. correspondence to the property owners of 21st April 2023 outlining their concerns in relation to the property and requesting proposals for improving it and the timeframe for same. I note the correspondence on the file including the notice and letter of 22nd March 2024 regarding the intention to enter the property on the Derelict Sites Register. I note the owner's response of 24th April 2024 where he stated the property was being put up for sale.

7.3.2. I note that following Council enquiries with the auctioneer in August 2025 that it was confirmed the property had been removed from sale, that a letter of 19th September 2025 was issued advising of the property's entry on the Derelict Sites Register. I note the Council letter to the owners of 23rd April 2026 advising of their intention to compulsorily acquire the property and details of how to object.

7.3.3. I note the objection of the owners including that they cleared the site at considerable expense, their proposal to develop it for letting as a bed and breakfast, that it has not been abandoned and that it can be developed in a way that positively contributes to the area, among other matters.

7.3.4. I note the Council's response to the objection of the owners. This included in relation to the clearance of trees and bushes that it considered that no visible improvement to the roof of the dwelling took place between 12th April 2023 and 25th February 2026. In relation to the owner's development plans, it noted it had not been made aware of such plans prior to receiving the objection, that he previously advised of his intention to sell the property and that no application for planning permission has been made.

7.3.5. In relation to the difficulties cited by the owner due to his residing in Dublin, the L.A. considered these would remain and in relation to the leylandii it considered that they did not preclude the refurbishment of the dwelling. In relation to the electricity bills and property tax, the Council noted complaints in relation to lack of occupation for 15 and 20 years. The Council also refutes that significant remediation works have been carried out.

7.3.6. It does not consider its decision premature, unnecessary or disproportionate given that the owner advised that selling the site was the best decision given the difficulties in making improvements. The L.A. noted the general duty on such property owners to ensure their property does not become or continue to be derelict.

7.3.7. I note also the Council's refers to Development Plan policy including Section 17.2.9 (Derelict Sites) which includes using the Act to require owners of derelict property to carry out suitable improvements and to acquire properties in order to carry out improvements and revitalise surrounding areas.

7.3.8. 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.

7.4. Issues of Proportionality

7.4.1. Having reviewed the actions of the L.A., I consider that they allowed sufficient opportunity and time for the owners to address the issues that they raised. In my opinion they actively engaged with the property owner. I note that the requirements to serve notice on every owner, lessee and occupier have been satisfied.

7.4.2. I note that while the property was advertised for sale in July 2024 that the sale process was abandoned. I note that some site clearance works took place as can be seen by the photos on the file but that by the time of my site visit the benefits of such clearance had been overtaken by new overgrowth on the site. I also note that in the considerable timeframe given by the L.A. that the owners have not undertaken works to render the site continuously non-derelict.

7.4.3. 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.

<u>County Development Plan</u>

7.4.4. I note that CDP policy seeks to address issues of dereliction, particularly relating to the maintenance of permanent population levels. It outlines policy to use all

available means to work with derelict site owners to bring such sites back into use and for compulsory acquisition to be used to carry out improvements to such sites.

7.4.5. Noting the local policy context, it is my opinion that the site works required to make the property non-derelict would not contravene the Development Plan and that such works would be consistent with its policies and objectives.

Community Need and Suitability

7.4.6. I note that the objective of the Council is to bring the dwelling back into habitable use. I consider that returning the property into active residential use, in the context of housing policy, via a compulsory acquisition would meet a community need in relation to the provision of housing and maintenance of the population of the area.

7.4.7. 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

7.4.8. I note that the owner's alternative proposal of selling the property was withdrawn and that no significant progress has been demonstrated in relation to the proposal to develop the property as a bed and breakfast facility for letting. I note this would also require planning permission and that, based on the file, no application has been lodged.

Land Take

7.4.9. I note the site area of 0.222ha. on which the house sits. In the rural context, I note that such site sizes are standard and often required to allow for wastewater treatment systems. In my opinion the proposed land take is not 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 Clonamirran, Mountshannon, Co. Clare., of area 0.222ha., 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 23-14), 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 derelict, neglected, unsightly and objectionable state of the land with the presence of debris noted, 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,

10.2. 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 section 3(a), 3(b) and 3(c) 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

16th October 2026