Inspector's Report ACP-324396-26

Nature of Application	Application for consent for compulsorily acquisition of a derelict site at Rathurd, Ballysheedy East, County Limerick in accordance with Section 14 of the Derelict Sites Act 1990, as amended
Location	Rathurd, Ballysheedy East, County Limerick
Local Authority	Limerick City and County Council
Notice Party	Mary O'Sullivan
Date of Site Inspection	9th September 2026.
Inspector	Carol Smyth

1.0 Introduction

1.1. This case relates to a request by Limerick City and County Council for the consent of An Coimisiún Pleanála to the compulsory acquisition of a site at Rathurd, Ballysheedy East, County Limerick, in accordance with the provisions of the Derelict Sites Act, 1990, as amended.

2.0 Site Location and Description

2.1. The subject property, a dwelling, is located in in the townland of Rathurd, approximately 2km south of Limerick city centre. The site is situated approximately 380 metres south of the M7 Limerick Southern Ring Road and approximately 500 metres to the east of the M20 Motorway.

2.2. The subject site comprises of a detached two storey property and is located within a cluster of detached one off rural dwellings which are generally well maintained. The site fronts onto the regional road, R-511 to the east. The overall site has a stated site area of 0.209 hectares and has a general rectangular shape.

2.3. The subject property is not a Protected Structure nor is it listed on the National Inventory of Architectural Heritage (NIAH).

2.4. On the day of my site inspection, the subject property was vacant and in a neglected condition with dirty boundary wall and rusted railings and pedestrian gate. There was vegetation growing in the front garden which appeared untidy. There is a scaffolding tower adjacent to the northern gable boundary of the dwelling and I noted that the roof had been replaced and new windows and doors installed.

3.0 Application for Consent for Acquisition

3.1. Limerick City and County Council has applied to the Commission for consent to compulsorily acquire the site under Section 14 of the Derelict Sites Act, 1990, as amended. I note that this application is subsequent to Limerick City and County Council serving a notice dated the 16th April 2026 under Section 15 of 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. Notice of Intention to Acquire

4.1.1. Notice of Limerick City and County Council's intention to compulsorily acquire the site dated 16th April 2026 was served upon the owners/ occupiers (Mary O'Donoghue) on the 22nd April 2026 and was published in the Limerick Post dated 25th April 2026. A notice was also fixed to the front door of the subject property on the 23rd April 2026. The site was described in the notices, as follows:

A derelict site comprising a detached, two storey residence and surrounding land situate at Rathurd, Ballysheedy East, Co. Limerick containing 0.209 hectares or thereabouts. The said property and surrounding land is in a state of dereliction. The said derelict site is more particularly shown outlined in red on map bearing reference no. DS-037-24 in the derelict Sites Register established and maintained by Limerick City & County Council under section 8 of the Derelict Sites Act, 1990.

4.1.2. I consider 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 expressing objection to the proposed acquisition was submitted to Limerick City and County Council by the property owner. The objection to the proposed acquisition was dated the 11th May 2026 and was received within the statutory period specified on the notice. The objection is summarised as follows:

- Objects to the compulsory acquisition of the property.
- Does not consent to any compulsory acquisition proceedings.
- States that efforts have been made to address the matters raised by the Local Authority.
- Requests that Councils allows for reasonable opportunity and time for these works to be carried out instead of proceeding with the acquisition.

4.3. Local Authority's Application for Consent

4.3.1. The Local Authority requests the consent of the Commission for the compulsory acquisition of the derelict site. The application for consent was received on 22nd June 2026 and included the following:

- Compulsory Acquisition Report.
- Derelict site location map.
- Inspection photos of the derelict site.
- Copy of the letters and Notices of Intention to Acquire to Mary O'Donaghue dated 22nd April 2026.
- Photograph of Notice of Intention to Acquire Derelict Site Compulsorily under Section 15 (1) (a) of the Derelict Sites Act, 1990 (as amended) dated 16th April affixed to the front of the subject site on 23rd April 2026.
- Copy of the advertisement in the Limerick Post dated 25th April 2026 containing Notice of Intention to Acquire Derelict Site Compulsorily under Section 15 (1) (a) of the Derelict Sites Act, 1990 (as amended) which is dated 16th April 2026.
- An objection letter from Mary O'Sullivan dated 11th May 2026 and an acknowledged response dated 26th May 2026 from the Local Authority.

The Compulsory Acquisition Report from Limerick City and County Council confirms that the subject property, was entered on the Derelict Sites Register on the 8th June 2022. The Local Authority's Report states that following a refusal of consent to compulsorily acquire the property by ABP under Reg. Ref. 317494-23 on the 16th July 2024 no progress has been made by the owner to remove the dereliction. The Local Authority notes that notwithstanding the engagement with the owner since April 2021 the site remains in a derelict condition. On that basis the Council seek the consent of the Commission to compulsorily acquire the property.

4.4. Objector's Submission

4.4.1. None

4.5. Oral Hearing

4.5.1. No request has been received for an Oral Hearing.

5.0 Planning History

5.1. There following planning history relates to the subject site.

ABP-317494-23

Consent refused for the compulsorily acquisition of a derelict site at Rathurd, Ballysheedy East, Co. Limerick

6.0 Legislation and Policy Context

6.1. Derelict Sites Act 1990 (as amended)

6.1.1. The Derelict Sites Act 1990, as amended, makes provision to prevent land being or becoming a derelict site. Amongst other things, it enables local authorities to require landowners or occupiers to take measures on derelict sites and, in certain circumstances, to acquire derelict sites compulsorily.

6.1.2. Section 3 of the Act defines 'derelict site' as:

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

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

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

(c) the presence, deposit or collection on the land in question of any litter, rubbish, debris or waste, except where the presence, deposit or collection of such litter, rubbish, debris or waste results from the exercise of a right conferred by or under statute or by common law."

6.1.3. 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. **Limerick City and County Development Plan 2022 to 2028**

6.2.1. The subject site is located within the boundary of the Limerick City and Suburbs as set out in the Limerick City and County Development Plan 2022-2028 (referred to hereafter as the Development Plan). The subject site is zoned 'Existing Residential'.

6.2.2. <u>Objective CGR O4 – Active Land Management</u>

It is an objective of the Council to:

a) Promote an active land management approach through cooperation with relevant stakeholders and infrastructure providers to deliver enabling infrastructure to achieve compact growth.

b) Support and facilitate the reuse and revitalisation of derelict, vacant and underutilised sites and disused buildings throughout Limerick for residential, economic, community and leisure purposes.

c) Establish a database of strategic brownfield and infill sites in the City Centre to be updated on an annual basis to monitor the progress of the active land management measures.

6.2.3. Objective CGR O6 – Derelict Sites

It is an objective of the Council to utilise the provisions of the Derelict Sites Act 1990, including the maintenance of a Derelict Site Register and CPO powers to address instances of dereliction and decay in the urban and rural environment and bring properties back into active re use.

7.0 **Assessment**

7.1. Site Inspection

7.1.1. The following assessment is based on a site inspection carried out on the 9th September 2026. I inspected the site from R-511 onto which the property fronts. At the time of the site inspection, I was not able to access the rear of the property.

7.1.2. On the day of my site inspection, the subject property was vacant. A scaffolding tower has been erected adjacent to the northern gable boundary of the dwelling. New windows and doors have been installed throughout. A new roof and rainwater goods have been installed and the house has been recently painted. The front of the property is in an untidy state and comprises unmaintained vegetation. The front boundary has been partially removed and the remaining wall is dirty with railings and a pedestrian gate that are rusty.

7.1.3. The boarding from an unglazed window to the side of the porch has been removed, leaving the property unsecured and potentially accessible. This allowed a limited view of the interior of the structure from the porch area. However, access to the full interior was obstructed by timber sheets and builders' waste. Internally works appear ongoing, the ground floor has been excavated and the ceilings on the ground floor have been partially removed. Some floorboards from the upper floor have also been removed.

7.1.4. Despite the building having been recently painted, the installation of a new roof, windows, doors and rainwater goods. The structure which is vacant and has a neglected, unsightly and objectionable appearance from the public road due to appearance of the front garden and the boundary treatment.

7.1.5. I note the photographs on file from Limerick City and County Council dated, 5th February 2021, 20th April 2021, 11th May 2021, 6th September 2021, 9th November 2021, 27th May 2022, 19th January 2023, 4th May 2023 and 4th July 2024, 28th July 2025, 24th October 2025, 24th March 2026 and the 23rd April 2026. I consider that the overall condition of the property has improved. Having visited the site I note that since the photographs taken on the 23rd April 2026 by the Local Authority on file the external render on the property has been painted.

7.2. Category of Dereliction

7.2.1. With respect to the nature of dereliction, I am of the opinion that the site falls within category (b) of Section 3 of the Derelict Sites Act, 1990, (as amended) due to the land and structure being in a neglected, unsightly and objectionable condition.

7.2.2. There was no litter evidenced to the front of the site or evidence of waste being stored externally, I therefore do not consider that the site falls within category (c) of Section 3 of the Act.

7.2.3. There is no obvious evidence of significant cracking or structural damage to the external walls, and the roof structure appears to be generally intact. With regard to category (a) this relates to structures which are in a ruinous, derelict or dangerous condition; having inspected the site, I do not consider that the structure is in a dangerous condition, nor in the absence of any visible evidence of structural damage could be considered ruinous.

7.2.4. I consider that the property detracts to a material degree from the amenity, character and appearance of land in the vicinity, which in my view, renders it derelict under Section 3 of the Act.

7.3. Action of the Local Authority

7.3.1. I note the actions of the Local Authority, and the statutory notices served on the owners in respect of the property. The Local Authority's Compulsory Acquisition Report details that the site was first inspected the site on 5th February 2021. Section

8(2) notices were affixed to the site on 21st May 2021 after an initial letter of enquiry sent on 23rd April 2021 sent to the Owner was returned “uncalled for” on 29th April 2021.

7.3.2. The Compulsory Acquisition Report sets out that the Local Authority engaged with the Owner throughout November 2021. The Report notes that works were untaken to remove the vegetation from the property in November 2021 and that the Owner informed the Local Authority that there were plans to refurbish the house in July/August 2022.

7.3.3. Following complaints from neighbours the Local Authority further inspected the site in May and June 2022 noting no progress being made. A Section 8(7) notice of entry of land on the Derelict Sites Register was served on the Owner on the 9th June 2022 and a Section 15 notice was affixed to the site on 4th May 2023.

7.3.4. On the 8th of September 2022 the Owner and their Architect Brian O’Donaghue met with the Local Authority where commitments were made to carry out works to the property. On the 11th March 2023 Brian O’Donaghue wrote to the Local Authority stating that the works were due to start in June 2023.

7.3.5. Nothwithstanding the Local Authority gave notice of its intention to acquire the derelict site compulsory to the Owner and advertised the same in a local newspaper on the 4th May 2023. An application was subsequently lodged with ABP.

7.3.6. On the 4th of July 2024 the Local Authority visited the site and noted that some works had taken place but evidence of dereliction remained.

7.3.7. Following a refusal of consent to compulsorily acquire the property by ABP under Reg. Ref. 317494-23 on the 16th July 2024, the site was again inspected on the 24th October 2025 where it was found that no further works had taken place.

7.3.8. On the 6th November 2025 the Owner contacted the Local Authority and outlined that there were issues with builders and they had not completed the works.

7.3.9. On the 17th February 2026 following an inspection the Local Authority found that no further works had been carried out and the property remained in a derelict condition. A Notice of Intention to Acquire Derelict Site Compulsorily under Section 15(1)(b) of the Derelict Sites Act, 1990 was issued to the owner on the 22nd April 2026, was

affixed to the front of the property on 23rd April 2026 and published in the Limerick Post dated 25th April 2026.

7.4. Action of the Owner to Address Dereliction

7.4.1. During my site inspection I noted that new windows and doors have been installed throughout the property, a new roof has been installed and new rainwater goods in the form of guttering and downpipes have also been installed. Therefore, the owner has made some progress in enabling the property to be removed from the Derelict Sites Register. I further note since the previous refusal for the compulsorily acquire the site on the 16th July 2024 under Ref. ABP 317494-23 the Local Authority considers that little progress has been made in addressing the outstanding matters to remove the property from dereliction.

7.4.2. Since the Local Authority's application to the Commission to compulsorily acquire the site, as evidenced in the photographs on file and from my site visit, the Owner has painted the property externally. Notwithstanding, as a result of the boarded-up windows on the porch and the untidy state of the front garden of the property including unmaintained vegetation, dirty front boundary, the rusted railings and gate and the internal condition of the house I am of the opinion that the site remains in a derelict condition.

7.4.3. On balance, while I acknowledge that the subject site is still derelict as defined under Section 3 of the Derelict Sites Act 1990, as amended, it is my view that the Owner of the land is taking reasonable steps to ensure that the land does not continue to be a derelict site. It is my view that it would be appropriate to give further time for the site owner to complete the redevelopment of the site.

8.0 Conclusion

8.1. I am satisfied that the process and procedures undertaken by Limerick City and 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 a

detached two storey residence and ancillary outbuildings and surrounding land situate at Rathurd, Ballysheedy East, Co. Limerick, containing 0.209 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 16th day of April 2026 and on the deposited maps (DS-037-21), pursues, and was rationally connected to, a legitimate objective in the public interest, namely, to ensure that the lands do not continue to be in a derelict condition.

8.3. Although the acquiring authority, at the time of application, demonstrated that the means chosen to achieve that objective impairing the property rights of affected landowners as little as possible, having regard to the works undertaken onsite which include the installation of a new roof, the installation of new windows and doors and the installation of new rainwater goods and the external painting of dwelling the I am not satisfied that this is still the case. In this respect, I have considered alternative means of achieving the objective referred to in the submissions to the Board, and I am satisfied that the acquiring authority has established that none of the alternatives are such as to render the means chosen and the CPO made by the acquiring authority unreasonable or disproportionate.

8.4. The effects of the CPO on the rights of affected landowners were therefore proportionate to the objective being pursued. I am further satisfied that the proposed acquisition of these lands was consistent with the policies and objectives of the Limerick Development Plan 2022-2028, and specifically Objectives CGR 04 and CGR 06 which seeks to address instances of dereliction and decay in the urban and rural environment, seeks to reuse and revitalise derelict, vacant and underutilised sites and disused buildings and bring properties back into active reuse.

8.5. Notwithstanding this, having regard to the efforts made to date by the owners to address the matters that gave rise to the derelict condition of the site, the progress made on site, I am no longer satisfied that the confirmation of the CPO is justified by the exigencies of the common good at this point in time. I am of the opinion that, given the works carried out to date on site, it would be appropriate to allow further time to progress matters on site.

9.0 Recommendation

9.1.1. Having regard to the observed condition of the site, in particular the derelict condition of the structure and to the neglected, unsightly and objectionable state of the land and structure thereon, I consider that the site materially detracts from the amenity, character and appearance of land in the neighbourhood and is therefore a derelict site within the meaning of Section 3 of the Derelict Sites Act 1990, as amended. It is further considered that the acquisition of the site by the local authority would be warranted in order to render the site non-derelict and to prevent it continuing to be a derelict site.

9.1.2. However, as per my assessment and having regard to all the information available, the current appearance and the works undertaken to remedy the condition of the property with the installation of a new roof, the installation of new windows and doors, the installation of new rainwater goods, and the external painting of the dwelling, I do not consider it reasonable that the local authority seeks to compulsorily acquire the land, as provided by Section 14 of the Act. I therefore consider it appropriate to refuse the local authority's application for consent to compulsorily acquire the site at Ballysheedy East, County Limerick.

10.0 Reasons and Considerations

10.1. Having regard to the current unsightly and objectionable condition of the site, 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,

(c) the provisions of the Limerick Development Plan 2022-2028, and

(d) the information presented by the objector,

it is considered that, having regard to the nature and extent of works which are required to address the dereliction on the site, to the information presented by the objector, and the works undertaken to remedy the condition of the property with the installation of a new roof, the installation of new windows and doors, the installation of new rainwater goods, and the external painting of the dwelling, 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 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.

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

Carol Smyth
Planning Inspector

8th October 2026