



**Inspector's Report**

**CPO:** Louth County Council, in exercise of the powers conferred upon them by Section 76 of the Housing Act, 1966 and the Third Schedule thereto, as extended by Section 10 of the Local Government (No 2) Act, 1960 as amended by the Planning & Development Acts, 2000 to 2014, have made an order entitled as above. If approved, the local authority will acquire compulsorily, the lands described for the stated purpose of restoring it for social housing purposes.

**Location of Lands:** No. 9 McCreanor's Terrace, Ardee, County Louth.

**Order:** No. 9 McCreanor's Terrace, Ardee Compulsory Purchase Order 2015.

**Local Authority:** Louth County Council

**Objector:** Karen Doherty

**Inspector:** Siobhan Carroll

**Date of Site Inspection:** 12/01/2016 and 25/01/2016

**Date of Oral Hearing:** 26/01/2016

## **1.0 INTRODUCTION**

- 1.0.1 Louth County Council is seeking approval for an application which relates to a dwelling and lands at No. 9 McCreanor's Terrace, Ardee, County Louth. This report is prepared in response to the servicing of the Compulsory Purchase Order. The purpose of the CPO is stated as for the acquisition of the subject lands for social housing purposes.
- 1.0.2 One objection has been received in respect of the CPO.
- 1.0.3 An oral hearing to consider the objection/submissions was held on 26<sup>th</sup> of January 2016 in the Crowne Plaza Hotel in Dundalk, Co. Louth. An agenda was advised to the parties during the inspector's opening statement and was amended in order to address the fact that the objector to the CPO was not in attendance at the hearing. An attendance sheet was circulated at the hearing and is enclosed in the documents pertaining to the oral hearing.

## **2.0 SITE INSPECTION AND DESCRIPTION**

- 2.0.1 I carried out a site inspection on the 12<sup>th</sup> and 25<sup>th</sup> of January 2016. The subject site is located at No. 9 McCreanor's Terrace, Ardee, County Louth. McCreanor's Terrace comprises a terrace of 8 no. single storey dwellings which are situated on the southern side of The Black Ridge road. The front of the terrace addresses a grassed field bounded by a hedgerow. The site is located circa 400m to the east of the Main Street in Ardee. This area of the town is primarily residential and is accessed off the Main Street via Markethouse Lane and O'Carroll Street and Old Chapel Lane. To the east of the subject site there is 8 no. semi-detached two-storey dwellings which were developed by Louth County Council for social housing purposes. The lands immediately to the south contain the Cappocks Gate housing estate.
- 2.0.2 The land subject of the CPO contains a single-storey end of terrace dwelling. It has an area of 0.031 hectares, it extends back circa 27m and has a width of 10m. The original property was extended with a single storey extension to the rear. There is a flat roof shed to the rear of the dwelling along the western boundary. The dwelling was subject to a fire in April 2014. The fire damaged the interior of the house extensively and the windows and front and rear doorways have been boarded up. The roadside boundary of the property is formed by a low capped wall. The front and rear gardens of the property have are surfaced with decorative stone chips. The rear garden has weeds which

have grown through the stone chip surface. There is a driveway to the eastern side of the dwelling and a double gate provides access to the rear garden.

### **3.0 PURPOSE OF ACQUISITION**

3.1 The lands the subject of this CPO are being sought in order to refurbish the dwelling for habitable use for the purposes of providing social housing.

### **4.0 DETAILS OF THE CPO**

The various documents and memorandum prepared by the Council in connection with the making of the CPO and forwarded to the Board include:

- Copy of the Executive Order, No. 635/15, authorising the making of Compulsory Purchase Order, dated 9<sup>th</sup> October, 2015
- Copy of Deposit Map drawing No. CPO-ARD-001
- Copies of public notice in the Drogheda Independent, dated Wednesday, 14<sup>th</sup> October, 2015.
- Compulsory Purchase of Land memorandum from Senior Executive Officer, to Director of Services dated 2<sup>nd</sup> October, 2015.
- Copy of notice served on the landowner, dated 9<sup>th</sup> October, 2015.
- Copy of notice served on the landowner to financier, Allied Irish Bank, dated 3<sup>rd</sup> November, 2015.
- Certificate of Registered Post – dated 16<sup>th</sup> October, 2015
- First and Second Schedules containing details of quantity, description and situation of land along with owner or reputed owner, lessee or reputed lessee, occupier.

### **5.0 OBJECTION TO THE ORDER**

5.1 There was one objection/submission received in respect of the CPO case within the appropriate timeframe. Ms Karen Doherty the owner of the property submitted an objection to the Board on the 13<sup>th</sup> of November 2015. It was stated in the objection that the dwelling was destroyed by fire in April 2014.

Currently the property is the subject of legal proceedings. Ms Doherty stated that upon resolution of the legal proceedings that it is her intention to restore and refurbish the dwelling to its former condition and then resume residing there.

## **6.0 SITE HISTORY**

There is no relevant planning history associated with the subject site.

## **7.0 PLANNING POLICY CONTEXT**

### **7.1 Louth County Development Plan 2015-2021**

- Ardee is identified as a level 2 town in the Settlement Hierarchy in the Louth County Development Plan 2015-2021 and the Retail Development Strategy for County Monaghan.
- Chapter 4 – Residential and Community Facilities

Relevant policies

RES 1 – It is the policy of Louth County Council to ensure compliance with the Housing Strategy and to facilitate the provision of housing units to sufficiently cater for social and specialist housing needs as identified in the Housing Strategy over the Plan period.

RES 6 – To encourage and promote the creation of attractive mixed use sustainable communities which contain a variety of housing types and tenures with supporting community and residential amenities, and where Part V is visually and otherwise integrated into the overall development, thus counteracting undue segregation.

RES 7 – Continue to cater for the needs of persons with special requirements including persons with disabilities and the elderly, including the concept of independent living and the development of 'lifecycle housing' i.e. housing that is adaptable for people's needs as they change over their lifetime.

RES 9 – In seeking to provide appropriate accommodation, the Council will implement the following:

- The National Housing Strategy for People with Disabilities 2011-2016,
  - North-East Homelessness Action Plan 2014-2017,
  - Time to move on from Congregated Settings: A Strategy for Social Inclusion (HSE),
  - Traveller Accommodation Programme 2014-2018.
- Appendix 3 – Louth Housing Strategy

## **7.2 Ardee Local Area Plan, 2010-2016**

The subject site is located within the urban area of the town of Ardee and is zoned 'RE' in the LAP. It is the stated objective of this zoning,

'To protect and / or enhance existing residential communities and provide for new residential communities.'

## **8.0 ORAL HEARING**

An oral hearing was held in the Crowne Plaza Hotel, Dundalk, Co. Louth on the 26<sup>th</sup> of January 2016. The hearing commenced at 10.20am and an audio recording of the proceedings was made.

### **8.0.1 Attendance**

The attendees were as follows:

- James Murphy, Solicitor representing Louth County Council
- David Storey, former Senior Executive Officer, Louth County Council and currently employed by Fingal County Council
- Emer O'Callaghan, Senior Executive Planner, Louth County Council
- Shane Boylan, Louth County Council
- Joe McGuinness, Director of Services, Housing, Louth County Council
- Donal P. O'Hagan, Solicitor representing AIB
- Rory O'Hagan, Solicitor representing AIB

## **8.1 Submission by Local Authority**

8.1.1 James Murphy, solicitor for the local authority, opened by indicating who was present to give evidence on behalf of the Local Authority. Mr Murphy went on to set the context for the CPO and to introduce each speaker.

8.1.2 David Storey, Senior Executive Officer read his statement into the record, a copy of which is appended to this report. The main issues raised concern the following;

- There is significant pressure for social housing in the County. There are approximately 4,800 households who are eligible and qualify for social housing support and over 500 are from the Ardee municipal area.
- In order to meet the community need the Council has taken the decision to target vacant units for use as social housing units.
- The subject property is adjacent to a social housing scheme in Ardee. The property has been vacant for some time and was damaged by fire.
- The Council undertook works under the Local Government (Sanitary Services), Act 1964 in relation to dangerous structures. The Council secured the roof and boarded up the property.
- The Housing Authority decided to use Compulsory Purchase powers to acquire this property with the intention to renovate it and possibly extend it to accommodate disability use.
- There are a number of households on the Local Authority's housing list who are in urgent need of single storey accommodation. There are few available alternatives on the open market or within the housing stock of the Council or Approved Housing Body stock.
- The subject property is suitable to meet the requirements of the Local Authority and be further renovated and extended to meet specific requirements.
- All alternative methods of meeting this need have been considered and the acquisition is in accordance with the Council's statutory purposes, the County Development Plan and Housing Strategy.

### 8.1.3

Emer O’Callaghan, Senior Executive Planner for Louth County Council, read her statement into the record, a copy of which is appended to this report. The main issues raised concern the following;

- The statutory Development Plan governing Louth is the Louth County Development Plan 2015 – 2021. It is a policy of the Development Plan to ensure that the County has sufficient units to cater for social housing over the plan period.
- Policies RES 1, RES 6, RES 7 and RES 9 of the Louth County Development Plan 2015 – 2021 were cited as relevant policies in relation to the CPO of the subject lands.
- Policy RES 1 refers to the requirement to provide sufficient social housing in accordance with the Housing Strategy.
- Policy RES 6 refers to the requirement to encourage and promote mixed use sustainable communities with a variety of housing types and tenures and ensure that housing provided in accordance with Part V is integrated into schemes to counteract segregation.
- Policy RES 7 refers to the requirement to provide housing for persons with special requirements including persons with disabilities and the elderly.
- Policy RES 9 refers to the Council’s intention to implement the provisions of The National Housing Strategy for People with Disabilities 2011-2016, North-East Homelessness Action Plan 2014-2017, Time to move on from Congregated Settings: A Strategy for Social Inclusion (HSE) and Traveller Accommodation Programme 2014-2018.
- The subject site is located within the plan area of the Ardee Local Area Plan 2010-2016 and it is zoned residential.
- There is no planning history relating to the site. A number of neighbouring dwellings within McCreanor’s Terrace have been granted permissions for extensions and these have been constructed.
- It is the intention of the Local Authority to renovate the property and possibly extend it to accommodate disability use. The Housing Authority have a number of households which urgently need to be housed in single storey accommodation.

- The CPO is considered in accordance with the policies and objectives of the Louth County Development Plan 2015 – 2021 and the Ardee Local Area Plan 2010-2016.

8.1.4 Following on from the Council's presentations, the Inspector questioned the Local Authority as follows:

- In response to a question by me regarding the submission originally of two separate CPO's, one in accordance with Form 1 and one in accordance with Form 6 of S.I. No. 454/2000 – Housing Act, 1966 (Acquisition of Land) Regulations, 2000, Mr James Murphy on behalf of the Local Authority clarified that the making of an order in accordance with Form 6 was an error.
- On questioning with regards to the wording chosen by the Local Authority to describe the condition of the house which is the subject of the CPO the response was that in making the CPO the house was deemed unfit for habitation and not capable of being rendered fit for human habitation at reasonable expense in accordance with the wording under Form 1 of S.I. No. 454/2000 – Housing Act, 1966 (Acquisition of Land) Regulations, 2000.
- Mr James Murphy on behalf of the Local Authority further responded that as a survey of the property had not been carried out that there was no evidence to provide for the costing of the renovations to definitely prove that the house was not capable of being rendered fit for human habitation at reasonable expense. Therefore Mr Murphy stated that if the Board is of the opinion that the house described in the order as being unfit for human habitation and not capable of being rendered fit for human habitation at reasonable expense ought not to be so described they may choose to modify the order so as to authorise the housing authority to acquire the house and to pay compensation for it in accordance with Part II of the Fourth Schedule to the Housing Act, 1966.
- In response to a question by me regarding the consideration of the use of the Derelict Sites Act, 1990, Mr David Storey stated that the Local Authority had considered the use of the powers under the Derelict Sites Act, 1990 to address the condition of the lands at a number of locations in the County. He stated that the under the Derelict Sites Act the onus is on



the property owner to carry out the works to address the condition of the property and that a charge could also be placed on the property owner. As there had been a fire at the property the owner had been advised by the Local Authority that there were issues in relation to the condition of the property. In relation to this particular property the Local Authority considered the CPO was the appropriate course of action to take.

- On questioning with regards to the structural condition of the house, Mr Murphy stated that no structural survey was carried out but that the property was badly damaged as a result of the fire. The Local Authority carried out works on the dwelling to secure it following the fire.
- In response to a question by me regarding the estimated costs of refurbishment, Mr Storey stated that the cost could range from €30,000 - €50,000 and that it would be a higher cost to provide for disability use.
- On questioning with regards to whether there are any specific objectives in the Louth County Development Plan 2015 – 2021 and the Ardee Local Area Plan 2010-2016, Ms O'Callaghan stated that there were no specific objectives in relation to the property but that there are objectives in the plans in relation to social housing.
- In response to a question by me regarding what is the need to acquire this specific house for social housing purposes, Mr Storey stated that there is significant demand for social housing in Co. Louth with 4,800 persons on the housing list and the Housing Authority is going through a process of acquiring housing in this manner.
- On questioning with regards to whether there was a document produced by the Local Authority where this policy of compulsorily acquiring properties was set out, Mr Storey responded that there was no written policy in relation to this current programme of acquiring dwellings under the CPO process.
- In response to a question by me regarding whether the current programme of acquiring dwellings under the CPO process was discussed at the Housing Strategic Policy Committee it was confirmed by Mr Joe McGuinness, Director of Services, Housing that the matter was not discussed at the Committee. Mr. Storey stated that the Local Authority have notified the Department of Environment, Community and Local Government that they are seeking to acquire housing in this way be relying on the legislative power of acquisition.

- In response to a question by me regarding how and why it was decided to seek to acquire property for social housing purposes in this manner rather than using other powers available to the Local Authority under Part V of the Planning and Development Act, 2000, as amended and the Urban Regeneration and Housing Act, 2015, Mr Storey responded that due to the demand for social housing the Local Authority are using this process along with Part V and a building programme to provide social housing.
- On questioning with regards to whether the Local Authority have considered an alternative method of meeting the community need including alternative locations, Mr Storey responded that the Local Authority have purchased some properties in Ardee and also entered into discussions regarding obtaining housing under Part V and there is funding available from the Department of Environment, Community and Local Government for a programme of housing provision.

8.1.5 In the absence of the objector Ms Karen Doherty at the oral hearing the Inspector read Ms Doherty's letter of objection to the compulsory acquisition of land at no. 9 McCreanor's Terrace into the record.

8.1.6 In response to letter of objection Mr James Murphy on behalf of the Local Authority stated that the owner of the property had made no effort so far to restore the property in order to continue to live there.

8.1.7 Mr Donal O'Hagan Solicitor acting for AIB Mortgage Bank addressed the hearing and stated that there are ongoing legal proceeding in relation to the property. Ejectment Title Proceedings in the Eastern Circuit County of Louth 2013/-092EJ. Mr O'Hagan stated that the proceedings had been adjourned until the 17<sup>th</sup> of February 2016 and that he was in attendance at the hearing to observe the proceedings.

8.1.8 Mr. James Murphy on behalf of the Local Authority made a closing statement.

8.1.9 Inspector closed the Hearing.

## **9.0 ASSESSMENT**

9.0.1 The statutory powers of the local authority to acquire land are contained in section 213(2)(a) of the Planning and Development Act 2000, as amended. Under its provisions the planning authority *may acquire land compulsorily for the purpose of performing any of its functions including giving effect to or facilitating the implementation of its development plan....* It is accepted that there are four criteria that should be applied where it is proposed to use powers of compulsory purchase to acquire land or property.

- There is a community need, which is met by the acquisition of the property in question.
- The particular property is suitable to meet the community need.
- The works to be carried out accord with the Development Plan.
- Any alternative method of meeting the community need.

9.0.2 These criteria will be applied to the compulsory acquisition of land currently before the Board for confirmation prior to addressing the issues raised by objector.

## **9.1 Community Need**

9.1.1 With regards the issue of need, the Local Authority in their submissions on file and also in their submissions to the hearing state that there is significant demand for social housing in County Louth.

9.1.2 As stated at the oral hearing there are circa 4,800 households who are eligible and qualify for social housing support in the County and with more than 500 households from the Ardee municipal area. The requirement for social housing to accommodate disability use was also highlighted by the Local Authority.

9.1.3 By way of background information regarding the number of households nationally who qualify for social housing support the report produced by

the Housing Agency in 2013 entitled “Summary of Social Housing Assessments” provides the following information. In May 2103 a total of 89,872 households were assessed as qualified for housing support. This represented a significant increase above the 2008 figure of 56,249. Table A2.6 of the report provides data on the specific accommodation by Housing Authority in 2013. In the case of Co. Louth 3,809 is the number of households who are eligible and qualify for social housing support with 240 having disability related requirements.

9.1.4 Accordingly, it is clear that there is an urgent need for social housing provision both nationally and in County Louth. It should be noted that the number of households who are eligible and qualify for social housing support has risen by almost 1,000 in the period 2013 - 2016. Therefore the requirement for housing units to address this demand does constitute an overall community need. However, further examination is required to establish whether an adequate case and justification has been made for the CPO of the subject lands and the intervention into private property rights. It is my opinion that a case for acquisition needs to be clearly and fully demonstrated by the local authority in order to justify the CPO.

## **9.2.0 Land Suitable for Proposed Development**

9.2.1 The subject lands are located to the east of the Main Street in Ardee, within the town centre. The lands are zoned objective ‘RE’, ‘To protect and / or enhance existing residential communities and provide for new residential communities’ as stated in the Ardee Local Area Plan, 2010-2016. There are no special designations pertaining to the lands and no development constraints have been identified. In terms of built heritage, there are no recorded or national monuments within the vicinity of the subject lands, nor are there are sites of potential archaeological interest.

9.2.2 The Local Authority have identified that the condition of the house which is the subject of the CPO was deemed unfit for habitation and not capable of being rendered fit for human habitation at reasonable expense in

accordance with the wording under Form 1 of S.I. No. 454/2000 – Housing Act, 1966 (Acquisition of Land) Regulations, 2000.

9.2.3 The Local Authority confirmed following my questioning on the matter that no structural survey was carried on the subject property but that it was badly damaged as a result of the fire. It was also stated that the Local Authority carried out works on the dwelling to secure it for safety reasons following the fire. Therefore, a detailed conditional survey of the property was not available to definitively establish that the property was not capable of being rendered fit for human habitation at reasonable expense. Mr. Murphy representing the Local Authority acknowledged that this was the case and stated that the Board in determining the CPO may choose to modify the order so as to authorise the housing authority to acquire the house and to pay compensation for it in accordance with Part II of the Fourth Schedule to the Housing Act, 1966 should they consider that the appropriate course of action.

9.2.4 In response to my questioning regarding the estimated cost of restoring and refurbishing the property for habitable use, Mr. Storey of the Local Authority stated that the estimated costs refurbishment, Mr Storey stated that the cost could range from €30,000 - €50,000. It was advised that cost of extending the dwelling and providing for disability use would be higher.

9.2.5 Therefore if the lands in question were acquired by the Local Authority the property would be restored to a habitable condition and it would form part of the social housing stock of the Council and accommodate a household in need of accommodation. Accordingly, the lands would be suitable for the proposed use by the Local Authority subject to restoration and refurbishment being carried out and completed. It should also be noted in this context that the objector Ms. Doherty also proposes to restore and refurbish the property for the purposes of taking up residence there again. Having regard to all of the above, I am satisfied that in principle, the lands are suitable for the proposed scheme.

9.2.6 In relation to the suitability of the lands the Local Authority also highlighted in their submissions to the Hearing that their acquisition of the lands would result in the restoration of the condition of building and the lands which would be significantly beneficial to the neighbouring residents and the wider community.

### **9.3.0 Compliance with Development Plan and housing policy**

9.3.1 The Local Authority Senior Executive Planner, Ms. Emer O'Callaghan in her submission to the Hearing stated that the proposal is in compliance with all relevant policies of the Louth County Development Plan 2015 – 2021 and the Ardee Local Area Plan 2010-2016. In the submission to the hearing specific reference was made to policies RES 1, RES 6, RES 7 and RES 9 of the County Plan. Policy RES 1 refers to the requirement to comply with the Housing Strategy. Policy RES 6 refers to the requirement provide mixed use sustainable communities containing a variety of housing types and tenures. Policy 7 refers to the requirement to cater for persons with special requirements including persons with disabilities and the elderly. Policy RES 9 refers to the requirement to provide appropriate accommodation in accordance with national strategies and programmes.

9.3.2 In relation to the Ardee Local Area Plan 2010-2016 it was stated that the subject lands are zoned residential, that the property is not a protected structure and that it is not within an Architectural Conservation Area. In response to my questioning regarding whether there were any specific objectives in County Development Plan and the Local Area Plan relating to the lands it was stated that there were no specific objectives.

9.3.3 In the absence in documentation provided in support of the case for confirmation of the CPO from the Local Authority, in order to establish how the Louth County Council came to the policy decision of acquiring private property for social housing purposes it was necessary to explore

the matter at the Hearing. Firstly, for information purposes, the Board should note that to date a total of eleven other similar CPO's have been made by Louth County Council to acquire properties for social housing purposes these are CH3245, CH3246, CH3248, CH3250, CH3251, CH3255, CH3256, CH3257, CH3258, CH3259 and CH3260 of these only two have received objections. They are CH3255 and CH3257 and Hearings are set to be held on the 25<sup>th</sup> of February 2016 in Dundalk.

9.3.4 At the hearing I questioned the Local Authority as to whether there was a policy document available which set out the current policy of compulsorily acquiring properties. It was confirmed that there was no written policy in relation to the current programme of acquiring dwellings under the CPO process. I further sought clarification as to whether the programme of acquiring dwellings under the CPO process was discussed at the Housing Strategic Policy Committee. Mr. Joe McGuinness the Director of Services of the Housing Department stated that the matter had not been discussed at the Committee. Accordingly, it is clear that there is no detailed documentation in terms of supporting this process, its nature or extent. Furthermore, it did not form part of policy discussions at the Housing Strategic Policy Committee where staff members of the Housing Department and elected members meet to discuss such matters and other matters in relation to the Housing Directorate.

9.3.5 While it is not a documented policy per se, Mr. Storey stated that the Louth County Council have notified the Department of Environment, Community and Local Government that they are seeking to acquire housing through the CPO process. The Department of Environment, Community and Local Government provides funding allocation to the Local Authorities for new social housing. The Department has ear marked €57,224,354 provisional funding allocation for Louth County Council for the period 2015-2017 with the target to provide 778 housing units. The 2014 publication of the Department of Environment, Community and Local Government entitled "Social Housing Strategy 2020" is a six year national

social housing strategy. The Strategy sets out to restore the State to a central role in the direct provision of social housing through a resumption of building on a significant scale. It is the first pillar of the Strategy to support the acquisition, building or leasing of 35,000 new units over the period to 2020. It is set out in the Strategy that due to the time lag associated with construction projects, that it will be necessary to acquire properties and to bring properties into use in order to increase supply. This will be achieved by refurbishment, acquisition, NAMA delivery through leasing and Part V as well as Approved Housing Bodies and Local Authorities returning vacant stock to use in the very short term. Having reviewed the Strategy, I would advise the Board that while it is a policy to acquire properties to provide for social housing there is no specific reference to the compulsory acquisition of properties.

9.3.6 While it is acknowledged that there is funding available from the Department to acquire housing units in this manner and the legislative provision are there under Housing Act, 1966, there are no specific policies regarding the compulsory acquisition of properties for social housing purposes set out in the County Development Plan, Local Area Plan or the Louth Housing Strategy. Furthermore the Local Authority has no documentation on the subject and the matter has not been discussed at the Housing Strategic Policy Committee.

9.3.7 Therefore, while the principle of providing social housing is in accordance with Development Plan policies and objectives and the policies and objectives of the Louth Housing Strategy there are no references in relation to the compulsory acquisition of properties for social housing purposes.



#### **9.4.0 Alternatives Assessed**

- 9.4.1 The issue of alternative means of meeting the community need for social housing was explored at the Hearing. In response to questioning by me as to whether the Local Authority had considered using other powers available to them under Part V of the Planning and Development Act, 2000, as amended and the Urban Regeneration and Housing Act, 2015, to acquire social housing Mr. Storey on behalf of the Local Authority stated given the demand for social housing the Local Authority are using the CPO process along with Part V and a building programme to provide social housing.
- 9.4.2 On questioning at the Hearing with regards to whether the Local Authority had considered the use of the powers under the Derelict Sites Act, 1990 to address the condition of the lands he stated that they had considered using the Derelict Sites Act to address the condition of lands at a number of locations in the County. In relation to the subject lands it was not considered appropriate to use the Derelict Sites Act because the onus is placed on the property owner to carry out the works to address the condition of the property and also a charge may be placed on the owner. It was stated that the owner had been advised by the Local Authority of the issues regarding the condition of the property following the fire in April 2014 and that no measures had been taken to rectify the situation. It was on that basis that the Local Authority considered the compulsory acquisition of the property was the appropriate course of action to take.
- 9.4.3 Returning to the matter of alternative means to meet the community need in the case of the subject CPO the Local Authority did not provide any firm alternatives including alternative sites and locations within Ardee or the county. This matter was not explored either in the documents submitted with the CPO or in their submissions at the Hearing or during the course of questioning. I consider that the response given was somewhat inadequate

in this regard and it has not been adequately demonstrated to me that a robust analysis of alternative sites was conducted by the Local Authority.

## **9.5 Issues Raised by Objector**

9.5.1 The main issue raised by the objector in their submission received by the Board on the 13<sup>th</sup> of November 2015 relate to the history and current status of the property. It was stated in the objection that the dwelling was destroyed by fire in April 2014. Currently the property is the subject of legal proceedings. Ms Doherty stated that upon resolution of the legal proceedings that it is her intention to restore and refurbish the dwelling to its former condition and then resume residing there. Accordingly, it is the owner's clear and stated objective to rectify the situation regarding the condition of the property and the lands and return the property to habitable use. Therefore the objector's aim is the same as the Local Authority's in relation to the property i.e. to return it to habitable use. Therefore the issues which would differ in relation to the objector remaining in ownership of the lands or the Local Authority acquiring the lands is firstly that should the Local Authority acquire the lands the condition of the property could possibly be restored more quickly given the time delay resulting from the current legal case relating to the property and secondly that the property would move out of private ownership to provide social housing.

9.5.2 On the basis of the information provided at the Hearing the Local Authority did not provide clear detail in order to establish the process or mechanisms which were used to formulate this current policy of seeking to compulsorily acquire private properties for social housing purposes. There would appear to be no systematic analysis of how this approach of compulsorily acquiring private properties assists in meeting social housing targets. The Local Authority did not provide sufficient detail at the Hearing as to how and why this specific property and other properties were

identified in this manner. Furthermore the Local Authority did not provide any details regarding the number of properties involved in this process and also what the timeframe was for its implementation.

9.5.3 While I accept the reasoning behind the proposed CPO, I would suggest that further analysis and demonstration of need is required in a more comprehensive manner particularly given the lack of a specific Council policy in relation to the compulsory acquisition of private properties for social housing purposes. In the absence of a satisfactory examination of alternatives I consider that adequate justification has not been put forward by the Local Authority for the acquisition of this private property.

9.5.4 For the Boards attention, I note that the objector Ms. Doherty submitted an email dated the 8<sup>th</sup> of February 2016 stating that she requests a review of the decision and a right to be heard as she was unable to attend the Hearing on the 26<sup>th</sup> of January 2016 due to exceptional circumstances. A letter of response from the Board to the objector dated the 12<sup>th</sup> of February 2016 stated that Ms Doherty's letter of objection had been read into the record of the Hearing by the Inspector. It was further stated that the Board will not be re-opening the Hearing in relation to the CPO, but that it should be noted that the letter of objection will be taken into consideration by the Board.

9.5.5 In conclusion, while I note the general arguments put forward by the Local Authority, I consider the specific information available to the Board to be insufficient to justify the overriding public need for the proposed acquisition of this private property at this time. Under the provisions of the legislation pertaining to this CPO case the onus is on the Local Authority to make and demonstrate an overriding case for public acquisition over private property rights.

## **10.0 CONCLUSION AND RECOMMENDATION**

10.0.1 Having regard to all of the above, I am not satisfied that Louth County Council have demonstrated the need for the public acquisition of lands and that the lands being acquired are necessary at this time. I consider that adequate justification has not been put forward by the Local Authority for the acquisition of this private property. While the proposed acquisition of properties for social housing purposed would be consistent with the policies and objectives of the Louth County Council Development Plan 2015 – 2021 and the Ardee Local Area Plan 2010-2016, it has not been adequately demonstrated in terms of the general approach taken and the lack of thorough examination of alternative methods of meeting the community need such as the use of powers available under other legislative provisions. Accordingly, these matters were not fully explored and the Local Authority did not fully examined other suitable alternatives including alternative sites.

## **11.0.0 DECISION**

I recommend that the Board ANNUL the above Compulsory Purchase Order based on the reasons and considerations set out below.

## **REASONS AND CONSIDERATIONS**

Having considered the objections made to the compulsory purchase order and not withdrawn, the report of the person who conducted the oral hearing into the objections, the purpose for which the lands are to be acquired as set out in the compulsory purchase order and also having regard to the following;

- (a) The policies and objectives of the Louth County Development Plan 2015-2021 and the Ardee Local Area Plan 2010-2016
- (b) The policies and objectives of the “Social Housing Strategy 2020” publication of the Department of Environment, Community and Local Government, 26<sup>th</sup> of November 2014
- (c) The absence of a demonstrated, public interest and overall benefit to be achieved from the proposed acquisition
- (d) The insufficient information available and inadequate case which has been made particularly regarding the use of alternative legislative provisions and other suitable alternatives including other lands to justify the need for the acquisition at this time
- (e) The submissions and observations made at the Oral Hearing held on 26<sup>th</sup> of January 2016 in Dundalk
- (f) The letter of objection which indicates their clear and stated objective to rectify the situation regarding the condition of the property and the lands and return the property to habitable use;

It is considered that, the acquisition by the local authority of the lands in question, as set out in the order and on the deposited map, has not been justified and are not necessary for the purposes stated.

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**Siobhan Carroll,**  
**Inspectorate**  
**18<sup>th</sup> of February 2016**