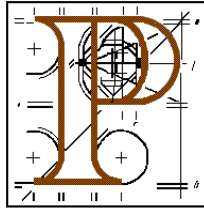


An Bord Pleanála



Inspector's Report

Compulsory Purchase Order: Louth County Council Compulsory Purchase Order for the Purposes of the Housing Act 1966 Ref 15.CH3255

Local Authority: Louth County Council

Location of Lands: 37 Doolargy Avenue, Dundalk

Objector: Mr. Martin McCreesh

Date of site visit: 26th January 2016

Date of Oral Hearing: 25th February 2016

Inspector: Juliet Ryan

Appendices: Maps, photographs, oral hearing documents, etc.

1. INTRODUCTION

- 1.1 This is an application by Louth County Council for confirmation by the Board of a Compulsory Purchase Order entitled 37 Doolargy Avenue, Dundalk, Compulsory Purchase Order 2015.
- 1.2 One objection has been received to the CPO and an Oral Hearing to consider this objection was held on 25th February 2016 in the Crowne Plaza Hotel, Dundalk. The objection was made by one of two registered owners of the property.
- 1.3 I have read the contents of the file, inspected the site and conducted the oral hearing in this case.
- 1.4 The Board is advised that this is one of a number of CPOs undertaken by Louth County Council recently, the majority of which were confirmed without objections. One concurrent case in Ardee, however, was objected to (CH3249), and has been the subject of an Oral Hearing. It remains due for decision at the time of writing.

2 DETAILS OF CPO

- 2.1 This Compulsory Purchase Order of a vacant dwelling, No. 37 Doolargy Avenue, Dundalk is made under the Housing Act, 1966 with a stated purpose of restoring the dwelling for social housing use.
- 2.2 The CPO relates to a vacant detached residential dwelling and associated garden. The dwelling has a stated area of 45.6 sq m, with the garden comprising a stated 192.4 sq m.
- 2.3 Two CPOs have been submitted in respect of the property – one in accordance with Form 1 of the Regulations and one in accordance with Form 6 of the Regulations. This would appear to be an error, and it was clarified at the Oral Hearing that just one the CPOs should have been made for the entire property (i.e. in accordance with Form 1). The Local Authority confirmed that the CPO in accordance with Form 6 should be disregarded.
- 2.4 Form 1 of the CPO states that the dwelling is “*Land consisting of a house unfit for human habitation and not capable of being rendered fit for human habitation at reasonable expense*”. It was confirmed by the Local Authority at the Oral Hearing that this was incorrectly described, and that the house was not unfit for human habitation and was capable of being rendered fit for human habitation.
- 2.5 The official seal of the Local Authority was affixed to the Order on 24th day of November 2015, signed by Louth County Council’s Director of Housing Services and seconded by Louth County Council’s Cathaoirleach. The proposed CPO was advertised in The Argus on 25th November 2015 (along

with CPOs relating to other properties), advising that owners, lessees and occupiers of the land described in the Schedule would receive individual written notice and that a copy of the Order and the map referred to could be inspected at the offices of Louth County Council, Dundalk.

- 2.6 Other documentation forwarded to the Board by the Local Authority includes deposited maps, site notice, notice to the landowner and proof of registered post, and a brief note on the history and context of the acquisition. The latter confirms that the property was originally constructed in the 1970s as part of a large local authority estate and that it appears to have been vacant for a number of years and has become a continued source of complaint from adjacent neighbours. The note states that its current condition does not contribute to good estate management of the area, and that the Council proposes acquiring it and restoring it for social housing purposes. The note submits that the proposed use is in compliance with the County Development Plan and planning legislation.

3 DESCRIPTION OF SITE

- 3.1 The subject site is located in a residential area some 2 kilometres southeast of Dundalk Town Centre. The site has a stated area of 0.019 hectares and accommodates a detached two storey dwelling. The dwelling is situated at the southwestern end of a cul de sac and abuts a terrace of similar dwellings, but differs from the latter in that it protrudes forward of the building line and its gable end addresses the street.
- 3.2 The site is adjoined by a large playing field to the west, by No.38 Doolargy Avenue to the east, and residential dwellings to the south. A rear access laneway runs between the garden boundary and those dwellings to the south.
- 3.3 A low blockwork wall defines the property's boundary with the footpath, with a small garden area situated between the house's north-western corner and the gateway to the playing fields. The garden area wraps around to the western side and rear of the dwelling, and is similarly defined by a low blockwork wall. Gated palisade fencing runs outside this boundary defining the termination of the cul de sac and providing access into the adjacent playing fields.
- 3.4 The dwelling appeared vacant with the windows and doors boarded up at the time of the site inspection. The roof appeared intact, and there was significant evergreen climber extending from ground to roof level at the eastern elevation.

4 GROUNDS OF OBJECTION RECEIVED BY THE BOARD

- 4.1 A single objection to the CPO was received from Mr. Martin McCreesh, the co-owner of the property in question, on 31 December 2015.

- 4.2 The Objector states in his brief written submission that he has sold the property and that contracts are with his solicitor. He further submits that he was responsible for the boarding up and tidying of the house due to damage created by Third Parties. He concludes by stating his rejection of and objection to the CPO.

5 PLANNING POLICY CONTEXT

5.1 Strategic Policy

5.1.1 The Social Housing Strategy 2020: Support, Supply and Reform

The Social Housing Strategy was launched by the DoECLG in November 2014 and details a strategy for social housing provision to 2020. The strategy sets out three pillars on which it is based, the first of which relates to new social housing provision. It seeks to provide some 35,000 no. additional social housing units in two phases, as follows:

- 1,800 units by 2017
- A further 1,700 units by 2020

Among the various means by which such new units are to be provided is acquisition of dwellings by local authorities.

5.2 Statutory Policy

5.2.1 Dundalk & Environs Development Plan 2009-2015

This Plan remains current until it is replaced by a new Local Area Plan by virtue of the provisions of *the Electoral, Local Government and Planning and Development Act 2013* (as discussed during the Oral Hearing – excerpt copies of Section 11A appended). Under this Plan, the lands are zoned Res 1 as follows:

“To protect and improve existing residential amenities and to provide for suitable infill and new residential developments”

Residential use is permitted in principle under this zoning objective.

The subject site is also located in the identified Muirhevnamor RAPID area per Section 6.4 of the Dundalk & Environs Plan (see map appended). The RAPID programme is coordinated by the Local Authority’s Social Inclusion Unit and is being implemented in association with various other bodies and seeks to promote social inclusion in disadvantaged areas that have been identified as needing regeneration.

5.2.2 Louth County Development Plan 2015-2021

The County Development Plan sets out the core strategy for Louth County as a whole, with policy SS2 expressing the objective of maintaining Dundalk and Drogheda's positions at the top of the County's settlement hierarchy.

With particular regard to social housing provision, Policies Res 1 and Res 9 of the County Plan have the stated aim of implementing the County's Housing Strategy and to have regard to various strategic policy documents in this regard.

Policy Res 2 seeks that every household will have access to affordable and suitable housing in a good environment and, as much as possible, in the tenure it prefers.

Policy Res 3 has the stated aim of providing social and specialist housing through various methods.

5.2.3 Louth County Housing Strategy

Table 1.2 of the Louth County Housing Strategy sets out the annual number of housing completions from all sectors in the period 1996 – 2011. The highest output was in 2004 with 2,328 no. units completed, whereas just 257 no. units were completed in 2011. Allied to this, Section 4.2 of the Strategy projects that the population of Dundalk, which was 37,816 no. persons in 2011 will be 47,200 no. by 2022 (an increase of 9,384 no. persons). The Strategy notes that the shortfall of houses versus demand has direct implications for affordability.

Section 5.13 of the Strategy expressly recognises the purchase of new or second hand dwellings as a means of meeting housing need, stating:

"In the potential absence of new build opportunities in the short term, all sources of supply from vacant and unfinished estates, unsold affordable units and the turnaround of casual vacancies will have to be explored in detail" (LHS S.5.13 p.38)

6 PLANNING HISTORY

No planning history pertains to the subject site.

7 THE ORAL HEARING

7.1 The Housing Act of 1966 provides if an objection has been made to a compulsory purchase order, the Board will facilitate the person making the objection to state their case at an oral hearing.

7.2 General

An Oral Hearing was held on 25th February 2016, in the Crowne Plaza Hotel, Dundalk. The hearing opened at 11h00. A digital sound recording was made of the hearing, which is included with this file, and should be consulted for a full representation of proceedings. There follows below a summary of the main areas covered and issues arising.

The Objector was present and represented himself at the Hearing. Representation on behalf of the Parties was as follows-

7.2.1 Attendees

Louth County Council

Mr Laurence Steen – James McCourt & Sons Solicitors

Mr Joe McGuinness – Director of Housing Services

Mr Terence Savage – SEO, Planner

Objector

Mr Martin McCreesh

In addition to the above Parties, the following Observers requested permission to make submissions during the course of the hearing:

Cllr Kevin Meehan – local councillor for the area (supporting CPO)

Mr Brian Carroll – Sherry Fitzgerald Carroll (representing Receivers over the property)

7.3 Submission of Louth County Council

7.3.1 Mr Laurence Steen introduced the Local Authority and accepted that everything already on file was taken as read. He introduced **Joe McGuinness, Director of Housing Services** who read out a statement (*Item 1* – appended), which may be summarised as follows:

- Significant Housing pressure in area
- Typically, those on waiting list remain in private rented sector until property becomes available, thus influencing market and rent levels

- In a normal year, Council will only deliver c. 120 units in County
- Council have taken approach of targeting vacant dwellings
- Vacant units reduce supply thus causing rent increases
- Subject property has been vacant for some time and alleged incidents of squatting have taken place
- Subject property has been subject to anti-social behaviour including drug dealing and has detrimental impact on area and on uptake of housing offers in area
- Results in Doolargy Avenue being one of most difficult places to have offer of housing accepted
- By CPOing the property and renovating for social housing use it would address a housing need and improve general estate management of the area
- Nearby properties have been successfully acquired for this purpose
- Unit is originally a local authority unit so it is considered suitable for social housing purpose
- Works proposed will accord with proper planning and sustainable development of area
- Mr McGuinness corrected description in CPO noting that dwelling is considered habitable

7.3.2 Mr Steen invited second submission from Local Authority by **Terence Savage, SEO**, in respect of planning matters (**Item 2** – appended). The contents of this submission may be summarised as follows:

- Sets out Strategic and Statutory Planning Policy
- Confirms that site is zoned residential
- Confirms that there is no planning history associated with site
- Confirms that house is vacant and has experienced problems with vermin etc with an adverse impact on residential amenity

7.3.3 This Inspector queried Mr Savage in respect of the currency of the various Development Plans, and, particularly, the applicability of the Dundalk and Environs Plan 2009-2015. Mr Savage confirmed that the Dundalk and Environs Plan remained the statutory plan and that this was provided for in legislation. He agreed to revert with exact legislative reference.

7.4 Submission of Mr Martin McCreesh

7.4.1 Mr McCreesh's verbal submission may be summarised as follows:

- No objection to CPO in principle
- Willing to negotiate with Local Authority
- Had been in negotiations with Local Authority and had agreed purchase but never received conditions of sale
- Subject property is one of 8 no. properties about which Mr McCreesh is in discussions with the bank
- Willing to negotiate with local authority once he has concluded discussions with his bank

7.4.2 This inspector questioned Local Authority whether it wished to proceed with CPO given Objector's stated willingness to negotiate. Mr Steen stated that it considered the subject objection related to the issue of compensation, which was a matter for the property arbitrator, and that the Local Authority wished to proceed with the CPO.

7.4.3 In response, Mr McCreesh confirmed that his objection remained.

7.4.4 Mr McCreesh stated that there were Lis Pendens on the property, which meant that it could not be sold.

7.4.5 Mr Steen for the Local Authority noted that per current PRAI Registration there were no burdens registered against the property. Confirmed that he downloaded and certified himself as of today (day of Hearing, 25th February 2016) and would supply copy for Hearing.

7.4.6 Mr Steen noted that notice was served on the bank regarding the CPO.

7.5 Observation from Mr Brian Carroll (Sherry Fitzgerald Carroll, Dundalk)

7.5.1 At this point Mr Brian Carroll requested to make a submission as follows:

- Mr Carroll was appointed by the Receivers over the subject property
- Property is now at advanced stage of sale pending final sign-off
- The Receivers have a deed of appointment over the property
- Subject CPO is premature pending sale of property

7.5.2 Mr Steen on behalf of Local Authority notes that bank had not objected to CPO

7.5.3 Mr Carroll submits that he is acting on behalf of the Receivers who wish to proceed with the sale

BREAK

7.6 PRAI Details (certified copy 25th February 2016 – *Item 3 - appended*)

This Inspector recommences Hearing by reading into record details of property's PRAI registration (Folio 15177F) circulated by Mr Steen on behalf of Local Authority. Certified and downloaded 25th February 2016.

7.7 Mr McCreesh notes that he wasn't served notice of the CPO but was made aware by his neighbour and business partner (and co-owner of subject property) and accepts that notice therefore served its purpose.

7.8 Mr McCreesh contests Mr Carroll's connection with property and submits that Receivers were appointed illegally and that he has issued a motion to prevent sale of property.

7.9 Inspector addresses Mr Carroll stating that a submission would be accepted from him provided that it was made in writing and forwarded to the offices of ABP, and that it established his locus standi in respect of the subject CPO.

7.10 Observation by Councillor Kevin Meehan

Councillor Meehan confirmed that he was in support of the CPO and wished to make a submission supporting the Local Authority's case. The submission may be summarised as follows:

- Various types of housing tenures in area but most problematic tends to be privately rented houses due to transient population it fosters
- Private rented houses are also more difficult for local authority to manage
- States that subject house has been subject to squatting and open drug dealing
- Submits that subject property contributes to 'geographic depression'
- States that subject property is longest standing derelict house in Muirhevnamor area

7.10.1 Upon questioning by this Inspector Mr Meehan confirms his contention that anti-social behaviour and housing need are linked because the former depreciates the value of neighbouring houses and adversely affects the community in general

7.11 Mr McCreesh's response to Mr Meehan's Observation:

Mr McCreesh's response may be summarised as follows:

- He purchased the property for €125,000
- There was significant anti-social behaviour occurring prior to his involvement in the property
- He boarded up the dwelling himself
- He was assaulted on the premises

7.12 Inspector's Questions:

This Inspector proceeded to question the Local Authority as follows:

1. Notes that two CPOs were made and asks why.

Mr McGuinness confirms that this was error and that only Form 1 should be used and that Form 6 should be disregarded. Also notes that the dwelling was incorrectly described as being unfit for human habitation.

2. Has Structural Survey been carried out? Is local authority sure of cited floor area of 45.6 sq m?

No survey was carried out, but Mr McGuinness expresses confidence that all figures are correct, noting that the house was originally a local authority property so they are familiar with its specifications.

3. Is local authority satisfied that all correct procedures re. Notification vis a vis ownership were observed?

Mr McGuinness confirms yes.

4. Inspector queries Local Authority regarding their strategic approach to social housing provision and how prospective houses were identified etc

Mr McGuinness confirmed that vacant houses were being targeted specifically, and that there was a vacancy rate of 12% in the administrative area. Stated that a funding submission to DoE had been approved for the acquisition of 24 no. of such vacant properties with a budget of 3.2 million allocated for same. He noted that there was a prevalence of estate management issues associated with such properties, noting that estate management and housing provision were linked functions of the authority under the Housing Act 1966. He further submitted that the estate management problems arising from such vacant dwellings materially affected housing need and cited the example of 40 no. unsuccessful offers for a comparable property in the area. As such, CPOing these properties and bringing them back into use was part of the strategic solution.

- 5. Inspector queried whether funding submission to Department was public document and whether any paperwork in respect of same could be made available.**

Mr McGuinness confirmed that he would seek copies to circulate to the Hearing.

- 6. Inspector sought confirmation that there was no planning history pertaining to the site**

Mr McGuinness confirmed that site had no planning history but that house opposite had received permission for extension and that it was used by the community and was the community resource in the area.

- 7. Inspector asked Local Authority if the report dated 19th November 2015 from Mr David Storey, SEO and referred to in Chief Executive's Order No. 765/15 dated 24th of November could be made available to the Hearing.**

Mr McGuinness confirmed that said report would be circulated (*Item 4 – appended*).

- 8. Inspector queried if Local Authority had any comment to make on alternative approaches given its obligations under the Derelict Sites Act**

Mr McGuinness stated that when Planning Enforcement staff had visited the dwelling it was found to be in use for squatting and was therefore not considered to fall under Section 3 of the Derelict Sites Act.

- 9. Inspector queried whether less intrusive approach (i.e. other than CPO) had been considered**

Mr McGuinness confirmed that acquisition by consent had been pursued initially.

- 10. Inspector asked local authority about laneway to rear of property and its status**

Mr McGuinness confirmed that laneway was a rear access in the control of the Local Authority and that no change to its status was proposed.

- 11. Inspector asked Mr Savage if it was the County Housing Strategy that was applicable**

Mr Savage confirmed that it was, and also confirmed that the legislation providing for the continued currency of the Dundalk and Environs Development Plan 2009-2015 was as follows:

Electoral Local Government and Planning Act 2013, S.28(11)(a) and subsections 2(a) and 2(b).

- 12. Inspector questioned local authority as to proportionality of proposal (and why THIS property in THIS location)**

Mr McGuinness referred to the missing memo from Mr David Storey (SEO Housing Officer) and stated this would explain. Also noted that some 2,231 no. applicants on the housing list were eligible for properties in the Dundalk area.

BREAK

7.13 Mr McCreesh – Circulates Additional Material (*Items 5, 6A and 6B-appended*)

Upon recommencement of the Hearing after break, Mr McCreesh circulates and reads into the record three items (5, 6A and 6B) as follows:

Item 5

Correspondence from MrMcCreesh's solicitors re. High Court Record No.2013/13379P (27 March 2014)

Item 6A

Copy of High Court Record No. 2013/13379P
Memorandum of Appearance in General
Between Martin McCreesh and ACC Bank, Receivers and Associates
Dated 25th March 2014

Item 6B

Copy of High Court Record No.2015/4555P
Notice of Motion
Between Declan Taite and Martin McCreesh
Dated 19th February 2016 and giving notice of proceedings on 18th April 2016

Mr McCreesh submits that per the circulated paperwork, the case against the bank is ongoing

7.13.1 Mr Steen for the Local Authority states that Louth County Council is not party to the High Court proceedings but that the matters at issue would appear to relate to the various interests in the property, and that if the CPO is confirmed, that these issues would relate to compensation. Reiterates that bank did not object to CPO and are not the registered owner. Further, refers to S. 216 of PDA, 2000 and notes that ABP should not entertain issues that would be more properly dealt with by property arbitrator.

7.14 Observation from Mr Brian Carroll representing Receivers over Property

Mr Carroll reads his submission (*Item 7 - appended*) into the record, which may be summarised as follows:

- Represents Receivers appointed by bank in 2012
- There is a current court order against Mr McCreesh
- Mr Carroll is Selling Agent
- Has been in negotiation with investor re. portfolio of 5 no. properties (including subject property)
- Offer made 15th February 2016

- Loan owned by ACC Bank
- No Objection in principle to CPO

7.14.1 Both the Local Authority and Mr McCreesh query why the Observer's submission is being allowed, and note that he is not Party to the CPO and that the bank did not object to the CPO.

7.14.2 This Inspector notes that a key element of Mr McCreesh's objection is that the property has been 'sale agreed'. There appears to be a dispute as to the ownership of the property. Whilst certain matters, particularly compensation, are outside the remit of ABP, the fact that there appears to be a current valid offer of purchase does speak to the need for the CPO and it would be in the interest of evidence-based decision making to have facts in respect of the property's status in this regard.

7.14.3 I question Mr Carroll regarding his submission and why the Receiver does not object to the CPO in principle. Mr Carroll confirms that they consider CPO premature pending imminent sale.

7.14.4 Local Authority note that Mr Carroll's submission confirms that the Receivers have no objection in principle to the CPO.

7.14.5 This Inspector queries the Local Authority about the valid offer of purchase and imminent sale of the property and whether this undermines the need for the CPO. The Local Authority submits that the sale would not appear to be straightforward and that the CPO would be the most efficient means of bringing the property into use and it is therefore imperative that it is confirmed. Mr Steen further states that given the dispute as to who is entitled to sell the property, there appears to be much uncertainty and therefore the possible sale cannot be relied upon.

7.14.6 Mr McCreesh outlines the history of anti-social behaviour and disrepair of the property.

7.15 Local Authority Submission – Housing Construction Programme

Mr McGuinness circulates correspondence from DoECLG regarding the Local Authority Housing Construction Programme (*Item 8* - appended) and reads it into the record. This may be summarised as follows:

- Department had requested proposals for delivery of housing units
- Approval has been given for construction / acquisition / turnkey projects
- Sets out various terms
- Funding will only be granted if terms are met

- Thanks Local Authority for continued co-operation in implementation of Social Housing Strategy
- Appendix refers to purchase of 24 no. vacant units in Dundalk with estimated cost of €3,100,000

7.16 Concluding Remarks

7.16.1 Mr Steen for the Local Authority alludes to my request that there be no repetition and confirms that all items have been covered and that the Local Authority has nothing further to add.

7.16.2 Mr McCreesh submits that he initiated negotiations with the Local Authority in respect of the property through Councillor Meehan and that they had been progressing negotiations. He needs more time to deal with other matters but has no problem dealing with Louth County Council in the future.

7.16.3 I set out what will happen next; thank all present for their participation, and close the Hearing.

8 ASSESSMENT

8.1 Preliminary Matters

8.1.1 This is a CPO of a vacant habitable dwelling in an established housing estate in Dundalk. The dwelling has two registered owners, one of whom has objected to the CPO. The Objector does not object to the CPO in principle, but seeks more time to regularise other matters with his bank, and to continue to negotiate with the Local Authority regarding the sale of the dwelling.

8.1.2 It would appear that prior to the CPO, the Objector had initiated discussions with the Local Authority regarding negotiating the sale of the property (among others in which he has an interest).

8.1.3 The issue of ownership of the property is a contentious one, which was discussed in some detail at the Oral Hearing. Whether the property is or is not in receivership and / or owned by the bank is a point of contention, and there are separate High Court proceedings in this regard. Indeed, a number of such issues were raised during the course of the Hearing; many of which are not necessarily pertinent to the Board's assessment of the subject CPO. One issue that is prescient, however, is that there would appear to be a valid offer of purchase over the property with the potential of an imminent sale. This will be addressed further below where relevant.

8.1.4 I do not consider it within the remit of the Board nor material to the subject CPO to resolve the issues of title. Given that an up to date and certified Land Registry Folio was presented at the Hearing (cf Item 3, appended), which confirms the Objector as one of two registered owners and does not show any

Lis Pendens associated with the property, I am satisfied that Mr McCreesh is a registered owner for the purposes of the CPO. Whether or not this changes imminently is a separate matter and not material to the assessment of the subject CPO. Furthermore, any issues pertaining to compensation and to whom this should be paid is beyond the remit of the Board and would be a separate matter for the property arbitrator should the Board decide to confirm the CPO.

8.1.5 Previous Board decisions and case law have established four key areas upon which a CPO is typically assessed, as follows:

1. Does the CPO serve a community need?
2. Is the property in question suitable to meet that community need?
3. Does the stated purpose / proposed use / works accord with the Development Plan for the area?
4. Have alternative means of meeting the community need been explored?

I will address these in turn below, along with any other issues arising.

8.2 Community Need

8.2.1 Louth County Council's case for the CPO as originally received by the Board relied largely upon a brief summary of the history and context of the acquisition, and reference to an internal memo from Mr David Storey, SEO, which recommended that the land be the subject of a CPO for the purposes of providing a social dwelling unit. During the course of the Oral Hearing, issues relating to the community need for the subject CPO were addressed in more detail by the statement of Mr Joe McGuinness, Director of Housing Services (Item 1), by Mr Terence Savage's submission in respect of the planning policy context (Item 2) and by the circulation of the aforementioned memo from Mr David Storey (Item 4). This information was further supplemented following questioning by this Inspector with a copy of correspondence from the DoECLG regarding the Housing Construction Programme (Item 8).

8.2.2 Arising from the above, the key tenets of the local authority's position are that it is under considerable pressure regarding the provision of social housing, with its housing list currently containing over 4,000 no. qualified households with some 2,231 no. of these eligible for housing in the Dundalk area. The Council submits that vacant units adversely affect supply and contribute to increased rent levels. This is further complicated by the adverse impact on the residential amenity of an area that long-term vacant units have, with the unit in question having been the subject of alleged squatting, anti-social behaviour, and drug dealing. This produces difficulty in letting houses in the area, and a vicious circle results. The local authority cites the example of a nearby house having been the subject of forty different offers in 2014/2015 before a tenant accepted occupancy.

8.2.3 The local authority considers the subject CPO would serve community need in two ways: by addressing an urgent housing need, and by also improving

residential amenity and estate management. This position was supported by a local councillor for the area, Cllr Kevin Meehan, during the Oral Hearing. He was strongly of the opinion that housing need and anti-social behaviour arising from vacant dwellings were inextricably linked; and that the subject vacant dwelling depreciated the value of adjacent houses and was a scourge on the community in general, resulting in the Muirhevnamor area suffering from 'geographic depression'.

- 8.2.4 The points above are reasonably made, and were generally not disputed; although the Objector, Mr McCreesh, did question the origin of the anti-social behaviour and commented that there had been a long history of same prior to his purchase of the property (of which he was unaware at the time).
- 8.2.5 The stated purpose for the subject CPO is for restoration and use for social housing. The Council has at all times in its documentation and during the course of the Hearing linked this stated purpose with the issue of good estate management and the anti-social behaviour alleged to be emanating from the vacant unit. Whilst on the face of it these may seem to be separate matters, I am in agreement with the Local Authority that there is a certain synergy of issues at play here, and that there is a connection between the perceived attractiveness of an area and the uptake in offers for housing therein. As such, I am satisfied that the 'good estate management' referred to by the Local Authority is a material consideration in terms of addressing social housing provision.
- 8.2.6 Given the property's relatively prominent location, proud of the building line at the end of a cul de sac, I would agree that its vacant nature does have a detrimental impact on the street and the residential amenity of the area. As such, I would accept that renovating it and bringing it back into active residential use would have a positive impact on the community. Whether this is one and the same as serving a 'community need' is perhaps best considered in terms of proportionality. In this regard, the Objector's interests must be balanced against the need to provide social housing as well as the continued adverse impact that the vacancy of this property produces. It would appear to me that the benefits to be achieved in acquiring this property and renovating it for social housing would indeed serve a community need, by making appropriate use of an existing serviced dwelling; by improving the streetscape and ending anti-social behaviour; by providing a social housing unit to an eligible household (thereby contributing to the local authority carrying out one of its statutory functions). In addition, and as confirmed by Mr McGuinness and Cllr Meehan, the ending of vacancy and associated anti-social behaviour would go towards making the wider area more attractive to future tenants. Proportionally speaking then, it would appear that the benefits would be considerable.
- 8.2.7 The Board is referred to the DoECLG's *Social Housing Strategy 2020* (excerpt copies appended), which acknowledges that actions taken by public bodies in the area of social housing can have a significant impact on the overall housing market. The strategy acknowledges the vital role that local authorities must play in the provision of new social housing, and explicitly recognises that

acquisition of units is part of this. In this regard the correspondence circulated by the local authority from DoECLG in respect of funding under the Housing Construction Programme (Item 8) demonstrates Departmental support for the strategic approach taken by Louth County Council in the targeting of vacant dwelling units, with the purchase of 24 no. vacant units at various locations in Dundalk expressly cited as approved with a dedicated budget for their acquisition. It would appear, therefore, that the local authority's purchase of the subject property is supported (and funded) by DoECLG and accords with the policies of its *Social Housing Strategy 2020*.

- 8.2.8 Further, with regard to the community need for the subject CPO, the correspondence from DoECLG refers to a programme to 2017. The Board is also referred to Section 5.1.1 above, which notes that the Department's strategic approach to housing provision is broken into two phases – up to 2017, and then 2017-2020. Funding for the subject acquisition falls into the first phase, and as such, it would appear that time is of the essence in respect of bringing this property back into use and using the budget allocated for same.
- 8.2.9 Arising from the above, I am satisfied that the stated purpose of the subject CPO, i.e. – the provision of a social housing dwelling unit, will serve an identified community need, and that the potential positive impacts (direct and indirect) outweigh the interference with the Objector's property rights. Whether the subject CPO is the appropriate means of meeting this community need will be addressed further below.

8.3 Suitability of the Site

- 8.3.1 The subject property is an existing residential unit in an established urban housing area. It is zoned for residential development. As such, it is in principle suitable for use as a housing unit.
- 8.3.2 Whilst no structural survey was undertaken by the Local Authority, the Director of Housing Services confirmed that they have significant knowledge of the property, given that it was originally constructed by Louth County Council in the 1970s.
- 8.3.3 Having inspected the site, I would agree that the dwelling, whilst boarded up and in need of renovation, is capable of being made habitable. In forming this opinion I note that the roof appeared intact during site inspection, and that the outside of the building appeared structurally sound. I am therefore satisfied that the site is capable of being renovated for the purposes of providing a social housing unit, and I consider this to be a wholly appropriate use of this existing dwelling unit in a zoned and established residential area.

8.4 Accordance with Planning Policy

- 8.4.1 The Board is referred to Section 5 above, which outlines the planning policy context. It is clear that there are various strategic and statutory policies promoting the re-use (and acquisition, where necessary) of existing dwellings in order to meet housing need.
- 8.4.2 With regard to the residential zoning of the site and its stated objective, I am satisfied that the acquisition and renovation of the property for social housing accord with the zoning and would contribute to the protection and improvement of the existing residential amenity of the area
- 8.4.3 The proposed use would also accord with the RAPID programme outlined in the Dundalk and Environs Plan which seeks to promote social inclusion and regeneration in identified areas.
- 8.4.4 The renovation of the subject dwelling for social housing use would go towards meeting the Policy Res 2 of the County Plan, which seeks that every household has access to affordable and suitable housing in a good environment.
- 8.4.5 The proposed use of the subject unit would accord with (and contribute to the implementation of) the Louth County Housing Strategy. Further, the acquisition of existing vacant units is explicitly acknowledged as a possible means of meeting housing need in Section 5.13 of the Strategy.
- 8.4.6 Notwithstanding my overall opinion that the subject CPO accords with various strategic and statutory policy, I would note that nowhere is it explicitly stated that acquisition of vacant units should be carried out *compulsorily*. Having said that, neither does any of the policy prohibit such an approach. Accordingly, I would consider that acquisition by consent would seem to be the reasonable first step; and that the CPO route would only be a reasonable avenue having first explored less intrusive alternatives.

8.5 Use of Alternative Methods

- 8.5.1 Given the protection accorded to private property ownership in Ireland, the compulsory acquisition of any property should generally be seen as a last resort having considered other alternatives first. The onus would be on the local authority to demonstrate facts in this regard. Further, as raised by this Inspector at the Oral Hearing, the Local Authority has responsibilities under the Derelict Sites Act, and, given the circumstances of the subject CPO, the Board should be satisfied that the latter would not have been a more appropriate course of action than the CPO route.
- 8.5.2 Upon questioning regarding its duties under the Derelict Sites Act, 1990 during the Hearing, the Director of Housing Services commented that this course of action had been considered, but when Housing Enforcement Officers visited the site they found it to be in use for squatting and therefore

considered that it did not conform with Section 3 of the Derelict Sites Act. The latter states the following:

3.—In this section “derelict site” means any land (in this section referred to as “the land in question”) 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 statute or by common law.

8.5.3 It can be seen that the definition does not contain any reference to whether the property is lived in (by squatters or otherwise) or not. Therefore I am not entirely satisfied with the Local Authority’s explanation as to why the Derelict Sites Act was not pursued, particularly given that 3(b) above would appear to depict accurately many of the problems the Local Authority submits arise from the subject property’s vacancy.

8.5.4 Notwithstanding my reservations with regard to the Local Authority’s explanation, I would agree that the Derelict Sites Act was perhaps not the most appropriate means of achieving the stated purpose of the subject CPO – i.e. provision of social housing, given the relative speed with which the CPO would achieve the purpose compared with the former (and given that the Derelict Sites Act’s purpose is not linked to the provision of social housing). In forming this opinion I would refer the Board to my comments in S.8.2.8 above.

8.5.5 Given that the subject CPO is made in response the Department’s Social Housing Strategy 2020, which sets specific targets to 2017 (for which funding has been allocated), combined with the evident urgent need for social housing units in the Dundalk Area, I am satisfied that the CPO route is appropriate in this instance. In forming this opinion I am mindful that the Local Authority had pursued the alternative of purchase by consent and were in negotiations with the Objector, but that these seemed to have stalled. Given the various discussions and submissions made at the Hearing regarding ownership, disputes over ownership, and various High Court proceedings, it would appear that the uncertainty and delays in negotiating a purchase show no immediate sign of resolution, and in these circumstances, I would tend to concur that CPO is the most reasonable route to progress matters. I am satisfied that the Local Authority has considered alternatives and that these have not been found to be appropriate in the subject circumstances.

8.6 Issues Raised By Objector

- 8.6.1 At the outset I would reiterate that the Objector does not object to the principle of the subject CPO. He is willing to sell his share of the property to the Local Authority, but seeks more time to resolve matters with his bank prior to so doing. Accordingly, it would appear his concerns relate to his locus standi in respect of the property and his ability to negotiate (and be compensated) in this regard. Whilst these are reasonable concerns, I would comment that per article 5(2) of the Third Schedule, objections should not relate to matters which would be more appropriately addressed by the property arbitrator. Further, I would repeat my understanding that the CPO in question has been pursued following failed negotiations for acquisition by consent. Upon questioning by this Inspector the Local Authority confirmed that they wished to pursue the CPO notwithstanding the Objector's stated willingness to renegotiate, and commented that there were various uncertainties surrounding the property and that the CPO process would be the only means by which the property could be guaranteed of being brought back into use. Given the various discussions and submissions during the Hearing concerning High Court proceedings and disputes as to title, I would tend to agree with this.
- 8.6.2 Arising from the above, and notwithstanding the very reasonable concerns of the Objector, I would consider the subject CPO is supported on many levels and that it is a last resort following the unsuccessful pursuit of other avenues. I would note once again that Mr McCreesh does not object to the principle of the CPO.

8.7 Other Issues

- 8.7.1 The Objector submitted at the Oral Hearing that he never received notice of the CPO but was informed by his neighbour and co-owner of the property. The local authority confirmed that the original notice letter had been returned and that a second letter had issued to the subject property. Upon questioning by this Inspector, Mr McCreesh accepted that the notice had served its purpose (i.e. he was aware of the process). I am satisfied that correct procedures were followed by the Local Authority, and given that Mr McCreesh was in a position to make a written objection to the CPO, his rights have not been adversely affected. I am further satisfied that all requirements of the Third Schedule have been complied with.
- 8.7.2 Per Mr Carroll's observation on behalf of the Receivers over the property, there would appear to be an imminent purchaser for the property. This would call into question the need for the subject CPO, and it is for this reason that I allowed Mr Carroll's submission at the Oral Hearing. That submission confirmed that the Receiver had no objection to the principle of the CPO, but considered it premature given the possible imminent sale. When I put this to the Local Authority, they noted that there appeared to be a dispute as to who was entitled to sell the property, and any potential sale would not therefore

appear to be straightforward. As such, they remained of the opinion that the subject CPO was needed for its stated purpose and it was imperative that it be confirmed. They further reiterated that the Receivers were connected with the bank, who had been a notice party to the CPO and had not objected.

- 8.7.3 Having considered these various arguments and counterarguments, I am of the opinion that the subject CPO arises largely from the lack of progress in negotiations for purchase by consent. Given this track record, and given the various uncertainties and ongoing proceedings in connection with the property, I would have reservations as to the certainty surrounding any imminent sale. I would therefore tend to agree with the local authority that the only way in which this vacant dwelling unit can be brought back into residential use with any degree of confidence and efficacy is via the subject CPO. In forming this opinion I am again mindful of the lack of objection in principle to it.

CONCLUSIONS AND RECOMMENDATION

I am satisfied that the process and procedures undertaken by the Local Authority have been fair and reasonable and that Louth County Council has demonstrated the need for the CPO and that the property being acquired is both necessary and suitable. I consider that the proposed acquisition of this property would be in the public interest and the common good and would be consistent with the policies and objectives of both strategic and statutory planning policy.

In short, I am satisfied that the subject property is required by the Local Authority for the purposes of performing its statutory functions, that it is needed as a social housing unit, and that the requirements of the Third Schedule have been complied with. I recommend that the Board confirm the CPO subject to the modifications as set out in the attached Schedule.

DECISION

Confirm the above Compulsory Purchase Order based on the reasons and considerations set out below.

REASONS AND CONSIDERATIONS

Having considered the objection made to the compulsory purchase order and the report of the person who conducted the oral hearing into the objection, and having regard to the provisions of the current *Louth County Development Plan 2015-2021*, *Dundalk and Environs Development Plan 2009-2015*, and the DoECLG's *Social Housing Strategy 2020*, it is considered that the acquisition by the local authority of the property in question is necessary for

the purposes stated in the order and the objections cannot be sustained having regard to the said necessity.

SCHEDULE

The schedule for the Compulsory Purchase Order shall be amended to provide for a revised description confirming that the house is fit for human habitation.

Reason: To take account of submissions made acknowledging errors in the original description of the property

Juliet Ryan
Senior Planning Inspector
14 March 2016