



An
Bord
Pleanála

Inspector's Report ABP-321930-25

Development

Derelict Site - Land at Gregory House,
Clash West, Tralee - DS 2024-6

Location

Gregory House, Clash West, Tralee,
Co. Kerry

Planning Authority

Kerry County Council

Notice Party

John Flynn

Date of Site Inspection

24th April 2025

Inspector

Clare Clancy

1.0 Introduction

- 1.1. This case relates to a request by Kerry County Council for the consent of An Bord Pleanála to the compulsory acquisition of the subject site at Gregory House, Clash West, Tralee, Co. Kerry in accordance with the provisions of the Derelict Sites Act 1990, as amended.

2.0 Site Location and Description

- 2.1. The property which is the subject of this application for consent for compulsory acquisition (referred to hereafter as the 'subject property'), is located at Gregory House, Clash West, approx. 1 km to the east of Tralee town centre.
- 2.2. The subject property comprises of a detached single storey dwelling which fronts onto the Clash Road. There is a cul de sac road (Clash West) bounding the subject property to the south which provides access to a number of dwellings along this road. There is an existing dwelling to the west of the site and to the north. The site has an existing vehicular access onto the Clash Road and there is a low block wall defining the roadside boundary of the site. The southern boundary of the site is defined by a low block wall which increases in height to the rear. There is a block wall c. 1.8 m in height separating the subject property from the adjoining dwelling to the north. There is a public footpath adjacent to the front boundary of the site. There is a flat roof structure adjoining the northern elevation of the existing dwelling which appears to be a garage.
- 2.3. It was observed at time of site inspection that the existing access was widened and a new concrete slab was constructed at the front of the dwelling. Steel fencing was erected inside the roadside boundary of the site, and along the southern boundary of the subject property. It appeared that a newly constructed block boundary wall c. 1.8 m was erected to the front of the dwelling between the subject property and the neighbouring property to the north to the front of the dwelling. Other ground works carried out at the front of the dwelling included ground clearance works to the garden area. Spoils of soil and bark mulch were noted to be in situ. New windows and cills and a door were fitted on the existing dwelling. The window and door on the adjoining flat roof garage were boarded up. Rain water goods were fitted to the roof however no down pipe chutes were in place. The front façade was discoloured and dirty.

3.0 Application for Consent for Acquisition

3.1. Kerry County Council applied to the Board for consent to compulsorily acquire the site under Section 14/16 of the Derelict Sites Act, 1990, as amended. I note that this application is subsequent to the serving of notices as follows:

- The subject property was first entered onto the Derelict Sites Register (DSR) in 2009 and remained on it without any progress for c. 15 years and was then removed from the DSR early 2024¹. Following a review of the subject property it was decided to re-enter it on to the Derelict Sites Register as follows:
 - Section 8(2) Notice on 05th April 2024 (advising of the Local Authority's intention to enter the site on the register of derelict sites).
 - Section 8(7) Notice on 13th May 2024 (advising of the Local Authority's decision to enter the site on the register of derelict sites).
 - Section 22 Notice of Valuation on 23rd February 2024.
 - Section 15(1)(b) Notice on 25th November 2024 notifying of the Local Authority's intention to acquire the site compulsorily.
 - Section 15(1)(a) Notice on 27th November 2024 published in a local newspaper notifying of the Local Authority's intention to acquire the site compulsorily.

4.0 Application and Objection

4.1. Notice of Intention to Acquire

4.1.1. Notice of Kerry County Council's intention to acquire the site compulsorily was served on the owners/occupiers/lessee on The Estate of the late Georgina Stephens on the 25th November 2024 and was published in the Kerryman newspaper dated 27th November 2024. The site was described as follows in the notice:

- A derelict site comprising a semi-detached bungalow and the curtilage of the dwelling house situate at Gregory House, Clash West, Tralee, Co. Kerry, V92NY52

¹ It is stated in the Derelict Site File History section of the Compulsory Acquisition Report, that the subject property was removed from the DSR on 08th May 2024, however this appears to conflict with the dates that the Local Authority issued the Section 8(2) and Section 8(7) Notices.

containing 0.07 hectares or thereabouts. The said property and surrounding land is in a state of dereliction. This said derelict site is more particularly shown outlined in red on a map bearing reference no. DS/2024/02 in the Derelict Sites Register established and maintained by Kerry County Council under Section 8 of the Derelict Sites Act, 1990 (as amended).

- 4.1.2. I consider that the notice was 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. An objection to the proposed compulsory acquisition was submitted to Kerry County Council by John Flynn c/o Liston & Co. Solicitors dated 20th January 2025. The objection can be summarised as follows:

- Acknowledged the Section 15(1)(b) Notice to compulsory acquire the subject property and noted that they act on behalf of John Flynn who claims to be the owner of the property.
- Noted that the Local Authority wrote to John Flynn on 12th June 2023 advising of various grants and schemes available to address vacant or derelict property and referenced the meeting between the Local Authority and John Flynn at the subject property (on 12th September 2023 as reference in the Compulsory Acquisition Report).
- The matter of the title of the subject property is explained and in this regard it is noted that John Flynn is not the registered owner of the property to date. The registered owner of the property is deceased. John Flynn carried out works to the dwelling and in lieu of payments, it appears that John Flynn accepted the subject property as payment. This matter of claims to ownership is ongoing between John Flynn and the registered owner of the subject property's son and is pending.
- Kerry County Council notified the objector of various grants and schemes for vacant properties and derelict properties however there was difficulty with applying for such grants, as John Flynn is not the registered owner of the subject property.

- Outlines remediation measures to be carried out to the subject property by 22nd January 2025 which includes for clearance works to the front garden, waste and rubbish removed and the erection of steel fencing.
- By 28th February 2025, the subject dwelling will be painted, windows and front door to be replaced, and replace fascia, gutters and down pipes.

4.2.2. The Local Authority acknowledged and noted the letter of objection on 30th January 2025 and advised that the subject property would be inspected before 22nd February 2025 to assess the progress of works, and also requested an update on progress relating to legal proceedings, by 17th February 2025.

4.3. **Local Authority's Application for Consent**

4.3.1. The Local Authority requests the consent of the Board to the compulsory acquisition of the derelict site. The application for consent was submitted on 20th February 2025 and was accompanied by the following:

- Local Authority Compulsory Acquisition Report (i.e. Derelict Site report) which sets out the Local Authority's strategic approach to the derelict sites in the county, a description of the site, the background to the case and the details of the objection. The report included photographs and a map of the site area.
- Copy of Derelict Site Location Map.
- Copy of cover letter to The Estate of the late Georgina Stephens dated 25th November 2024.
- Copy of the Section 15 Notice served on the owners/ occupiers/ lessee of the site dated 25th November 2025.
- Copy of the newspaper notice The Kerryman date 27th November 2024.
- Copy of the objection made by the claimed owner of the subject property John Flynn c/o Liston & Co. Solicitors.

4.3.2. The derelict site report can be summarised as follows:

- Kerry County Council established a Vacant Homes Office to seek to address vacancy and dereliction in the county. Through working with private property owners and through the application of various assistance schemes such as the

Croí Cónaithe Vacant Property Refurbishment Grant, the Repair and Lease Scheme and the Buy and Renew Scheme, the aim is to reduce dereliction and to increase restoration, renovation and refurbishment of derelict properties.

- The Kerry County Council Derelict Sites Office was reassigned to the Housing Directorate early 2024 and a compulsory acquisition scheme was identified as a key priority to address vacancy and dereliction. In this regard, properties that were identified as being in a state of dereliction for an extended period of time and where the other schemes were deemed not appropriate, or where there was no engagement from a registered owner or any parties within an estate or interest in or right in respect of the derelict site, the use of compulsory acquisitions would act to address the dereliction, but only where absolutely necessary.
- The subject property was first inspected and identified as a Derelict Site c. 2009 and has been vacant for over 15-16 years.
- The following was observed by the Area Inspector on the day of the most recent site inspection which appears to be 17th September 2024:
 - The roof was intact, no apparent tiles missing, moss growth on ridge caps and an overgrown tree adjacent to the south western gable and over the front of roof slope.
 - Rainwater goods were missing or damaged, and fascias, soffits, bargeboards were not maintained and were damaged.
 - The façade of the dwelling was not maintained and discoloured and the windows and door opes were boarded up and window surrounds, reveal and sills were not maintained.
 - The front garden was overgrown.
 - The roadside boundary wall was not maintained and had cracks, broken plaster and caps missing, and was dirty.
 - No litter, rubbish, debris or waste was noted.
 - Properties in the immediate area were noted to be in good condition and well maintained with very low levels of property vacant.

- Vacant Homes Officer carried out site inspection and met the owner on 12th September 2023 who outlined proposals to address dereliction.
- Following the restructuring of services within the Council, the subject property was removed from the Derelict Sites Register early 2024 pending a review of the file and reassessment of the subject property.
- On 05th April 2024 a Section 8(2) Notice was issued to the registered owner and affixed to the subject property advising of the Local Authority's intention to enter the site on the register of derelict sites.
- On 08th May 2024 the subject property was entered on the Derelict Sites Register.
- A Section 8(7) Notice was issued on 13th May 2024 advising of the Local Authority's decision to enter the site on the register of derelict sites.
- On 28th May 2024 the son of the registered owner contacted Kerry County Council in response to the Section 8(7) Notice advising the council of matters relating to landownership.
- On 17th September 2024 the Area Inspector carried out a site inspection and concluded that no works had been undertaken to address dereliction.
- Having regard to the condition of the existing dwelling on site, it was determined that the existing structure was in a derelict condition and therefore the subject property came within the scope of Section 3, category (a) of the Derelicts Sites Act 1990, as amended. In addition, having regard to the general appearance of the dwelling and curtilage of the property primarily due to the ruinous and derelict state of the dwelling, and the non-maintenance of the curtilage, the subject property was determined to be in a neglected, unsightly, and objectionable condition, falling within the scope of category (b) of the Derelicts Sites Act 1990, as amended.
- It is the contention of the Local Authority that the subject property continues to materially detract from the amenity, character and the appearance of the land in the surrounding environs, and in an area where there is a significant demand for additional residential properties, due to the existence of substantial services, and commercial/industrial employment. It is also concluded that the inaction of

the property owner(s) and failure to address dereliction has continued for a substantial period of time c. 16 years which has resulted in the property remaining derelict. It is the view of the Local Authority that the dereliction will not be addressed in a timely manner.

- A Section 15(1)(a) Notice was issued on 27th November 2024, notifying of the Local Authorities intention to acquire the site compulsorily and a S15(1)(b) Notice was placed in the local newspaper The Kerryman on 25th November 2024.

4.4. Objectors Submission

4.4.1. A submission was made to the Board (by email) by John Flynn c/o Liston & Co. Solicitors on 14th March 2025 in response to the Compulsory Acquisition Report of Kerry County Council dated 21st February 2025 submitted to the Board. This can be summarised as follows:

- Repeats the content of the objection submission to Kerry County Council.
- Windows and doors were replaced and the site has been cleared.
- A driveway would be installed once piping is replaced.
- Ceilings have been removed internally.
- The electricity will be reconnected.
- The fascia, soffits and gutters will be replaced.
- The sills have been replaced.

Photographs of the front elevation of the subject property are appended to the submission.

4.4.2. It is submitted that once works are completed in relation to the dwelling house that it will be occupied by a family member and that the matter of title to the property is ongoing. It is submitted that given the expenses incurred by John Flynn to address the state of dereliction, that the subject property will not be compulsorily acquired.

5.0 Planning History

None.

6.0 Legislation and Policy Context

6.1. Kerry County Development Plan 2022-2028

6.1.1. Volume 1 Written Statement

The following policies and objectives are relevant:

Strategic Objectives

KCDP 4-1

Support and facilitate the objectives and actions in Housing for All (HfA) to regenerate towns and villages, to tackle dereliction, vacancy, to deliver site assembly opportunities and to promote the sustainable development of land to achieve compact growth and increased population in these centres and to engage with the Land Development Agency (LDA), where appropriate, in the identification, planning and co-ordination of strategic, publicly owned land banks to achieve compact growth, sustainable development, and urban regeneration.

Section 4.3.4 Derelict and Vacant Properties

- Sustainable development practices require vacant or derelict sites within urban areas to be developed prior to greenfield sites on the outskirts of urban areas where development of such sites is achievable.
- The development of derelict sites and underutilised sites and buildings will be encouraged in urban areas in the interest of achieving the most efficient use of urban lands and to stimulate regeneration.
- It is a policy of the Plan to identify sites in a poor state of repair or neglect under the Derelict Sites Act 1990. Derelict properties may be used as homes for wildlife such as swifts, bats and barn owls.

Section 4.3.5 Repair & Leasing Scheme

- The purpose of the Repair and Leasing Scheme is to bring vacant properties in need of repair, back into use for social housing. The scheme aims to rejuvenate properties suitable for town centre housing that would otherwise slip from vacancy and low repair costs into dereliction and prohibitive repair costs. The scheme provides a positive contribution to the socio-economic development of the county's towns.

Section 4.3.6 Buy & Renew Scheme

- As an alternative and to complement the Repair and Leasing Schemes the "The 'Buy and Renew' scheme aims to support Local Authorities and Approved Housing Bodies (AHBs) to purchase and renew housing units that require remediation and make them available for social housing use in areas of housing need.
- The focus under the scheme, is on older stock, and in particular derelict properties which when complete will improve streetscapes and provide much needed accommodation.

Active Land Management

KCDP 4-26

Implement a programme of active land management to tackle dereliction, vacancy and underutilisation of lands and fragmented patterns of land ownership up to and including compulsory acquisitions and support the implementation of policies included in Housing for all – A New Housing Plan for Ireland in relation to active land management, dereliction and vacancy, including the emerging Residential Zoned Land Tax.

KCDP 4-31

Promote the development of vacant residential and regeneration sites in all development centres in the County, as appropriate, in accordance with the provisions of Housing for All – A New Housing Plan for Ireland.

KCDP 4-32

Use the Derelict Site legislation to identify and address issues of dereliction within the towns and villages of the County and actively seek to use CPO where necessary.

KCDP 4-33

Encourage the development and renewal of areas, identified in the Town and Local Area Plans, having regard to the Core Strategy, that are in need of regeneration, in order to prevent: Adverse effects on existing amenities in such areas, in particular as a result of the ruinous or neglected condition of any land Urban blight and decay Anti-social behaviour and A shortage of habitable houses or of land suitable for residential use or a mixture of residential and other uses.

KCDP 4-34

Encourage residential, social and employment uses in existing under-utilised or vacant building stock as a mechanism to combat vacancy in town centres.

KCDP 4-35

Encourage and support the use of town & village centre regeneration schemes, including:

- Repair & Leasing scheme
- Buy & Renew scheme
- Living over the shop scheme
- Croí Cónaithe fund.

Renovation and Restoration of Buildings

KCDP 5-30

Facilitate and support the objectives and actions of the plan “Housing for All, a New Housing Plan for Ireland” to tackle vacancy and the efficient use of existing housing stock in relation to vacant, derelict structures including heritage buildings.

Visitor Accommodation

KCDP 10-30

Encourage the sensitive redevelopment and / or return to suitable use, of derelict, vacant or redundant buildings, in appropriate locations in order to provide for visitor accommodation and tourism development. As part of this, potential for impact on wildlife should be taken into account as outlined in S 4.3.4 of this plan.

6.1.2. Volume 2 Town Development Plans

Tralee Town

The subject property is zoned 'R2 Existing Residential' in the Kerry County Development Plan 2022-2028.

Land Use Zoning – Existing Residential

Objective: Provide for residential development and protect and improve residential amenity

Purpose: For existing predominately residential areas allowing for the protection of existing residential amenity balanced with new infill development. May also include a range of other ancillary uses for residential, particularly those that have the potential to foster the development of residential communities. These are uses that benefit from a close relationship to the immediate community, such as crèches, some schools and nursing homes. A limited range of other uses that support the overall residential function of the area may also be considered

6.2. Derelict Sites Act 1990 (as amended)

6.2.1. 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.

6.2.2. 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 –

(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.”

6.2.3. 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.

7.0 Assessment

7.1. Site Inspection

7.1.1. On the 24th April 2025, I carried out a site inspection. Internal access to the property and external access to the rear of the subject property was not available. My observations of the site are as follows:

- The subject property was secured by steel fencing erected along the southern and eastern boundaries of the site.
- A new block boundary wall has been constructed along the shared boundary of the subject property and the adjoining dwelling to the northeast.
- Clearance works were undertaken in the garden area at the front of the dwelling and a new concrete slab was laid in the driveway.
- The existing access has been widened. The roadside boundary wall is cracked in parts, dirty in appearance and unpainted.
- New windows, a front door and cills have been fitted on the front elevation of the existing dwelling.
- The door and the window on the flat roof structure on the northern end of the dwelling are boarded up.
- Rain water goods were noted to be installed along the roof on the front elevation however no down pipe chutes were noted to be in place.
- The front elevation has a pebble dash finish which is discoloured and dirty.
- Access to the rear of the site was restricted.
- The front garden remains unfinished and in poor state, but has been cleared of vegetation over-growth. Bark mulch and spoil heaps were stockpiled in the garden.
- The roof appeared to be in relatively good condition, no holes or missing tiles were evident.
- There was no construction or demolition waste observed or other waste within the site.

- 7.1.2. The subject property is a single storey detached dwelling along Clash Road. The immediate area is characterised by similar type dwellings on the same side of the road while on the opposite side, there are two storey semi-detached and detached dwellings which I noted were generally well maintained. The subject property occupies a prominent position along the Clash Road which is a busy road that links the MTU Kerry South Campus and Tralee Community College with the town, and other employment generating uses to the northeast.
- 7.1.3. The subject property is not a Protected Structure, is not listed on the National Inventory of Architectural Heritage (NIAH) and is not located within an Architectural Conservation Area (ACA).
- 7.1.4. Having regard to the foregoing, I consider that the condition of the site has not deteriorated further when compared to the photographs last taken by the Local Authority dated 26th September 2024 attached to the Local Authority's submission. I further consider that a reasonable amount of works have been undertaken which has improved the appearance of the existing dwelling and its curtilage.

7.2. Category of Dereliction

- 7.2.1. I note the Local Authority considered that the property continued to be a "*derelict site*" within the meaning of the Act, and that the property falls under category (a) and (b) of Section 3 of the Derelict Sites Act 1990, as amended.
- 7.2.2. Based on my site inspection, it is my view that the subject property and lands may be considered to still fall under Category (a) and (b) of Section 3 of the Act.
- (a) The existence on the lands of structures which are in a ruinous, derelict or dangerous condition.
- (b) The neglected unsightly or objectionable condition of the land or any structures on the land in question.
- 7.2.3. The façade of the subject property facing the adjoining public road has been improved with the replacement of boarded up windows with new windows, window cills and a front door. The front garden was noted to be cleared and spoils of soil and bark mulch were in-situ and a new concrete driveway was constructed.

7.2.4. Having regard to (a) above, it is my view that the works carried out have significantly addressed the state of dereliction and I consider that the subject property is no longer in a state of dereliction. Having regard to (b) above, it is my consideration that while the subject property continues to detract to a material degree from the amenity, character and appearance of land in the neighbourhood, to the rear of the subject property, substantial works have been undertaken which I consider has improved the appearance of the subject property and its curtilage. Notwithstanding, it is my view that the subject property and lands continue to detract to a material degree from the amenity, character and appearance of land in the neighbourhood.

7.3. Action of Local Authority

- 7.3.1. The Compulsory Acquisition Report of the Local Authority in the History of the Derelict Site Case, outlined that the subject property has been vacant c. 15 years and was first entered onto the Derelict Sites Register in 2009. I note that following a period of restructuring of services within Kerry County Council, the Derelict Sites function of the Local Authority was reallocated from the Planning Directorate to the Housing Directorate in early 2024. Following on from that, I note that the subject property was reassessed and re-entered onto the Derelict Sites Register on 13th May 2024. It is therefore evident that the subject property has been in a vacant and derelict state for a considerable period of time.
- 7.3.2. The Compulsory Acquisition Report of the Local Authority indicates that there was engagement with the beneficial owner of the subject property on 12th September 2023. Following on from that, I note that the overall process of the Local Authority commenced on 05th April 2024 with Notification of the Local Authorities intention to place the subject property on the Derelict Sites Register. Subsequently, the Local Authority gave Notice of Intention to acquire the subject property compulsorily by issuing a Section 15(1)(a) and (b) Notices, and it is noted that there was no further engagement between the Local Authority and the beneficial owner until the objection was made by the beneficial owner on 21st January 2025 in response to the Section 15(1)(a)(b) Notices.
- 7.3.3. I note the matter raised in the Objection to the Acquisition which relates to the ongoing matter of the beneficial ownership of the subject property and notwithstanding, it is

evident that there was positive engagement by the Local Authority in this regard. However, the report recommends that the property be Compulsorily Acquired under the Derelict Sites Act 1990, as amended.

- 7.3.4. I note the actions of the Local Authority and the statutory notices served on the owner/lessee/ occupier in respect of the property as set out in Section 3.1 above.
- 7.3.5. A Notice of the Local Authority's intention to Compulsorily Acquire the property under Section 15 of the Derelict Sites Act 1990, as amended, was served on 25th November 2024 and published in the Kerryman newspaper on 27th November 2024.
- 7.3.6. Notice of Kerry County Council's intention to acquire the site compulsorily was erected on the front façade of the subject property served on The Estate of the late Georgina Stephens on 25th November 2024. The site was described as follows in the notice:
- A derelict site comprising a semi-detached bungalow and the curtilage of the dwelling house situate at Gregory House, Clash West, Tralee, Co. Kerry, V92NY52 containing 0.07 hectares or thereabouts. The said property and surrounding land is in a state of dereliction. This said derelict site is more particularly shown outlined in red on a map bearing reference no. DS/2024/02 in the Derelict Sites Register established and maintained by Kerry County Council under Section 8 of the Derelict Sites Act, 1990 (as amended).
- 7.3.7. I consider that the notice was in accordance with the requirements of Section 15(1)(a) of the Derelict Sites Act, 1990, as amended in accordance with the requirements of Section 15(1)(b) of the Derelict Sites Act, 1990, as amended.
- 7.3.8. Under Section 10 of the Derelict Sites Act 1990, as amended, it is noted that the Local Authority has a duty *'to take all reasonable steps (including the exercise of any appropriate statutory powers) to ensure that any land situate in their functional area does not become or continue to become a derelict site.* The policy of the Local Authority as expressed in the compulsory acquisition report, is to work proactively with property owners to seek timely actions to improve and activate sites through positive engagement, using powers under the Derelict Sites Act 1990, as amended, except where necessary.
- 7.3.9. I note that in using its powers to Compulsorily Acquire the subject property as set out in the Compulsory Acquisition Report, the Local Authority consider the said

Compulsory Acquisition accords with policies and objectives of the Kerry County Development 2022-2028. I note that the Local Authority identified the property as a derelict site on 05th April 2024. Following the issuing of a Section 8(7) Notice of Entry of Land on the Derelict Site Register 13th May 2024 I am satisfied that the Local Authority gave the property owner sufficient time and opportunity to address the state of dereliction. Therefore, I am satisfied that the efforts of the Local Authority have been fair and reasonable.

7.4. Compliance with Development Plan

I note that the Kerry County Development Plan 2022-2028 specifically Objectives KCDP 4-1, KCDP 4-26, KCDP-32 and KCDP 5-30, seek to address instances of dereliction and decay in the urban and rural environment, and to reuse and revitalise derelict, vacant and underutilised sites and disused buildings and bring properties back into active reuse. Therefore I consider that the subject property and proposed compulsory acquisition would be consistent with the policies and objectives of the development plan and will ensure that the lands do not continue to be in a derelict condition.

7.5. Action of the Owner to Address Dereliction

- 7.5.1. I note that owners/occupiers have obligations (under Section 9 of the Act) to “*take all reasonable steps to ensure that the land does not become or does not continue to be a derelict site*”. From the evidence on file including the photos taken by the Local Authority appended to the Compulsory Acquisition report, it is evident that the subject property was in a derelict state and in an unsightly, dangerous and neglected condition which detracted considerably from the character and visual amenities of the area at the time that the application to acquire the site was lodged.
- 7.5.2. I note the objection to the proposed acquisition of the subject property made to the Local Authority dated 20th January 2025. The basis of the objection was to highlight the background to the title of the subject property and the consequent delay in addressing the issues raised regarding the state of dereliction. It set out a programme of works to be completed by 22nd January 2025 and 28th February 2025.

- 7.5.3. I note a further submission made to the Board on 14th March 2025 which referred to the objection of the 20th January 2025 and the ongoing legal matter to address the title of the property and works undertaken, some of which I noted from my site inspection.
- 7.5.4. I note that the subject property has been vacant for c. 16 years and as a result is in a state of dereliction. It has been c. 6.5 months since the Local Authority served the Section 15 Notice of intention to acquire the site compulsorily. I acknowledge that there was engagement between the beneficial owner of the property John Flynn and the Local Authority, and that the works undertaken to remediate the state of dereliction of the subject property which were prompted on foot of the issuing of the Section 15 Notice on 25th November 2024. I note the legal issues in relation to the title of the property and the ongoing delays in regard to same. In addition the extent of expenses described that were incurred by John Flynn is unknown as no specific details of outlay have been provided.
- 7.5.5. Having inspected the site and having regard to the details on the file and to the submission in objection to the acquisition and to the submission made to the Board, I note the following:
- While the subject property was first entered onto the Derelict Sites Register in 2009 and remained on it without any improvement for c. 15 years, I am satisfied that there is evidence of substantial progress works carried out to the subject property in the past 5 months, since the Section 15(1)(b) Notice was issued on 25th November 2024 in seeking to bring the subject property back into active use.
 - I acknowledge that the matter of title to ownership is ongoing and I note is not being disputed by any party, and notwithstanding, the improvement works were carried out.
- 7.5.6. Having regard to the foregoing, I consider that there is significant evidence of works carried out to render the site non-derelict, resulting in a material change to the site, and it is my consideration that these works have significantly addressed the state of dereliction.

8.0 Conclusion

- 8.1.1. Having regard to the Constitutional and Convention protection afforded to property rights, I consider that the proposed acquisition of the Derelict Site comprising a semi-detached bungalow and the curtilage of the dwelling house situate at Gregory House, Clash West, Tralee, Co. Kerry, containing 0.07 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 and dated 25th November 2025 and on the deposited maps DS/2024/02, pursues, and is rationally connected to, a legitimate objective in the public interest, namely, to ensure that the lands do not continue to be in a derelict condition.
- 8.1.2. I am further satisfied that the proposed acquisition of these lands by the acquiring authority, which are currently in an unsightly and objectionable condition, was consistent with the policies and objectives of the Kerry County Development Plan 2022-2028, and specifically Objectives KCDP 4-1, KCDP 4-26, KCDP 4-32 and KCDP 5-30 which seek to actively address instances of dereliction and decay in the urban and rural environment, and to bring properties back into active re-use and to revitalise towns and villages. However, I am not satisfied that the condition of the site is so unsightly and objectionable that it detracts to a material degree from the amenity and character of the neighbourhood.
- 8.1.3. Therefore, I am not satisfied that the process and procedures undertaken by Kerry County Council have been fair and reasonable, or that the local authority has demonstrated the need for the lands, or that all the lands being acquired are both necessary and suitable to ensure that the lands do not continue to be a derelict site. It is further acknowledged that the acquiring authority has not adequately demonstrated that the means chosen to achieve the objective in the public interest would have impaired the property rights of affected landowners as little as possible, and that the effects of the compulsory acquisition on the rights of affected landowners were proportionate to the objective being pursued at the time.
- 8.1.4. In this respect, I have considered alternative means of achieving the objective referred to in the submissions to the Board and am satisfied that the alternatives are such as to render the means chosen and the compulsory acquisition by the acquiring authority unreasonable or disproportionate. Having regard to the efforts made by the beneficial owner to address the matters that gave rise to the derelict condition of the site and to

the progress made on site, I am no longer satisfied that the grant of consent to the compulsory acquisition is justified by the exigencies of the common good at this point in time. I'm of the opinion that, given the works carried out to the subject property, it would be appropriate in this case to allow time to progress further improvements of the subject property.

9.0 Recommendation

Notwithstanding the current unsightly and objectionable condition of the site which detracts to a material degree from the amenity, character and appearance of the streetscape and surrounding land in the neighbourhood, taking account of the evidence of the ongoing efforts being made by the beneficial owner to address the dereliction on the site and to bring the property back into use, which include for the fitting of new windows, window cills, front door, rain water goods, ground clearance works of the significantly overgrown front garden, and the construction of a new concrete driveway, I do not consider it reasonable that the local authority now seeks to compulsorily acquire the land at this point in time, as provided by Section 14 of the Act. I recommend, therefore, that the Board refuses consent to Kerry County Council to the compulsory acquisition of the site.

10.0 Reasons and Considerations

Having regard to current unsightly and objectionable condition of the site and having considered the objection(s) made to the compulsory acquisition, and also:

- a) The constitutional and Convention protection afforded to property rights,
- b) The public interest, and
- c) The provisions of Kerry County Development Plan 2022-2028,

it is considered that the site does not detract to a material degree from the amenity, character and appearance of land in the neighbourhood and, therefore, that the compulsory acquisition of the site by the local authority is not necessary in order to render the site non-derelict. The Board is not satisfied, therefore, that the objection made cannot be sustained, having regard to that said necessity or that the compulsory

acquisition and its effects on the property rights of affected landowners are proportionate to that objective and justified by the exigencies of the common good.

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

Clare Clancy
Planning Inspector

13th June 2025