



An
Bord
Pleanála

Inspector's Report ABP-304019

Development	Leitrim County Council Compulsory Purchase (Public Realm Improvement Works Project) Order (No.1), 2019
Location	Townparks, Carrick on Shannon, Leitrim
Planning Authority	Leitrim County Council
Type of Application	Compulsory Purchase Order
Objectors(s)	1) Lucy Donegan & Sheila Talty Deane
Observer(s)	Cllr. Des Guckian
Date of Site Inspection	5 th June 2019
Date of Oral Hearing	19 th June 2019
Inspector	Suzanne Kehely

Contents

1.0 Introduction.....	3
2.0 Statutory Basis.....	4
3.0 Site Location and Description	5
4.0 Part 8 Development Process	5
5.0 Compulsory Purchase Order	7
6.0 Planning Policy Context.....	8
7.0 Objections to the Order.....	11
8.0 Oral Hearing	13
9.0 Assessment.....	29
9.5. Is there a community need that is to be met by the acquisition of the site in question?.....	30
9.6. Is the particular site suitable to meet that community need?.....	33
9.7. Would the works to be carried out accord with or at least not be in material contravention of the provisions of the statutory development plan?	33
9.8. Alternatives - Have any alternative methods of meeting the community needs been considered and are they demonstrably preferable (taking into account environmental effects, where appropriate)?.....	35
10.0 Remaining Issues Raised in the Objection.....	37
11.0 Conclusion	39
12.0 Recommendation	40
13.0 Reasons and Considerations	40

1.0 Introduction

1.1. This report addresses Leitrim County Council Compulsory Purchase (No.1) Order, 2019 in relation to the Public Realm Improvement Works Project in Carrick on Shannon, namely the provision of a public car park and access thereto, on lands to the rear of Main Street and Bridge Street in an area known locally as Flynn's field and which is north of a Primary Care Centre under construction. The Order relates to lands that are part of a larger bank of lands subject of more extensive Public Realm Improvements Works within the town centre and along the River Shannon in the town boundaries which have been approved under Part 8 of the Planning Regulations. The overall Part 8 works are listed as:

1. Public Realm Improvement Scheme within the town centre to enhance the existing streetscapes of Main Street and St. George's Terrace to include the junction of both streets with Bridge Street. The Scheme extends from Main Street onto the Old Dublin Road, Lower Summerhill. The Leitrim Road, Priest's Lane and Church Lane. The nature of the Public Realm Improvement Scheme includes inter alia, the widening of the footpath, introduction of shared surface space at identified locations, to provide enhanced pedestrian crossings, to replace existing road surfaces, to replace existing street lighting, the provision of soft landscaping measures and street furniture and to the reduce the extent of on-street car parking provision.

2. To provide a public car park (105 spaces no. car parking spaces) as described above. (The CPO relates to lands for this area.)

3. To replace the existing fixed boardwalk along the River Shannon at the property of le boat/Emerald Star and Carrickcraft boating companies (the Marina, St. George's Terrace or Townparks Townland) and to provide a public floating boardwalk at this location inclusive of landscaping measures and accommodation works. The proposed public boardwalk will connect to the existing car parking area of the quayside.

1.2. Overall there will be a net increase of 58 car park spaces and enhanced permeability in addition to the visual upgrading.

1.3. To facilitate the works in relation to the car park and the comprehensive implementation of the improvement works project, the CPO would entail the permanent land acquisition of a number of parcels of land in the hinterland area. The

lands being acquired relate to portions lands to the rear of both the southern properties along Main street and western properties along Bridge Street. The CPO also relates to extinguishment of private rights of way.

- 1.4. One party has objected to the CPO of its lands. The objections pertain to the proposed acquisition of lands identified as land plots, as numbered on the deposited map, numbers 104a.1 and 104b.1. The objections relate to alleged collateral rezoning and land devaluation, conflict with development plan and national policy and statutory guidance, flawed Part 8 approval process, no EIA or AA, breach of human rights, land locking and CPO procedures.
- 1.5. The Compulsory Purchase Order had the seal of the Council affixed on 4th March 2019 and was publicly advertised on 7th March 2019. Formal notices of the CPO were issued by Leitrim county Council and served on the individual landowners, lessees and occupiers of the lands affected by the CPO.

2.0 Statutory Basis

- 2.1. Under Part XIV of the Planning and Development Acts 2000-2018 including Section 213(2)(a) of the Planning and Development Act, 2000 (as amended) and all Acts enabling, a local authority may, for the purposes of performing any of its functions (whether conferred by or under this Act, or any other enactment passed before or after the passing of this Act), including giving effect to or facilitating the implementation of its development plan, acquire land, permanently or temporarily, by agreement or compulsorily.
- 2.2. Compulsory Purchase Orders are made pursuant to the powers conferred on the local authority 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 (substituted by section 86 of the Housing Act 1966) and amended and extended by the Planning and Development Acts, 2000-2018, the Roads Act, 1993-2015, Local Government Acts 1925-2016 and Housing Acts 1966-2015. Orders are served on owners, lessees and occupiers in accordance with Article 4(b) of the Third Schedule to the Housing Act, 1966.

- 2.3. The Housing Act of 1966 provides for an oral hearing such that 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.

3.0 Site Location and Description

- 3.1. The site subject of this CPO for the proposed car park and associated accesses extends to an area of 0.6ha. The site, known locally as Flynn's Field, is substantially a roughly rectangular in shape and is low-lying ground. It is located to the rear of Main Street and Bridge Street. And north of the River Shannon. There are three spurs extending from this area; one to the north to the Main street public footpath, one to the south to a new public road off the N4 Quay Road and one to the east alongside new apartments to a new public road linking the Quayside to the Main street.
- 3.2. The site includes part of a newly constructed wall bounding Canon House a Protected Structure.
- 3.3. The plots encompass private gated paths to the proposed car park site,
- 3.4. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location during extreme flooding.

4.0 Part 8 Development Process

- 4.1. The proposed Public Realm Improvement Scheme has been subject to the process set out under Part XI of the Planning and Development Act, 2000, as amended, and Part 8 of the Planning and Development Regulations, 2001. Part 8 was approved by the Council on 11th February 2019.
- 4.2. On the 28th November 2018 and 17th January, the Council publicly advertised the proposed works as described in points 1-3 in section 1.1 above and displayed drawings and details of the scheme at the county Council offices and on the website. The closing date for submissions was 31st January 2019.
- 4.3. The Planning Report prepared for the Part 8 process appraised the scheme having regard to the nature and purpose of the scheme, planning policy with particular

reference to the Local Area Plan for Carrick on Shannon, expert reports regarding traffic, architectural context and environmental factors and feedback from the consultation stage. It concluded with a recommendation to proceed with the scheme subject to conditions.

- 4.4. The development was subject to **AA screening** whereby it was determined that the proposed public realm improvement scheme by itself or in combination with other plans and projects in light of best scientific knowledge in the field will not in view of the site's conservation objectives have a significant effect on any European Site. Consequently, a Stage II Appropriate Assessment was not warranted. This screening report is included in documentation submitted to the Board in respect of the Part 8 procedures.
- 4.5. The scheme was also **screened for EIA**, and the planning authority concluded that the proposed development does not require an EIA and will not be likely to have significant effect on the environment.
- 4.6. Notwithstanding the EIA screening decision, a number of specialist reports were prepared to inform the process which include:
 - **Architect's Report** which describes the design and rationale for the entire public realm improvement scheme. Flynn's Field is one of 5 parcels of land – the others relate primarily to road space. A set of maps and drawings showing indicative layout, movement, detailed landscaping proposals and contextual townscape further illustrate the scheme in detail
 - **Traffic and Transport Assessment** which concluded that the existing road network operates within capacity at present and is capable of accommodating the generated flows when the car park opens and in 15 years. Aside from the N4 there are two other possible access points (the access to the Landmark Hotel car park and the northern access to the Shannon Lodge) which are both minor accesses and because of sufficient capacity in the road network intensive use is not envisaged. It is however recommended that signage for the proposed car park or the health centre would not be placed on these minor routes.
 - Ecological Impact Assessment
 - Flood Risk Assessment of proposed car park at Flynn's Field

- Copies of letters to prescribed Bodies

- 4.6.1. Chief Executive's Report 11th February: A detailed planning report on the Part 8 application was prepared and circulated to the elected members in advance of the elected members meeting of 11th February 2019 whereupon the report was discussed. This planning report addressed in detail the public consultation process, the 28 submissions / observations and issues arising. It concluded with a recommendation that the scheme proceed in accordance with plans, particulars, details and specifications subject to some amendments to design conditions in relation to conservations, traffic and safety measures. Following a comprehensive discussion, as minuted, the Council declared the resolution to approve the proposed development in accordance with section 179 of Planning Act 2000-2018 and Part 8 of the Planning and Development Regulations.
- 4.7. The scheme was formally adopted on by the elected representatives of Leitrim County Council on 11th February 2019 subject to minor amendments. The CPO drawings and particulars relate the car park and access areas as shown in these drawings.

5.0 **Compulsory Purchase Order**

- 5.1. On 1st March 2019, The Chief Executive of Leitrim County Council signed an order that the land take required for the Public Realm Improvement Works be acquired by CPO. Powers were delegated by Order on 4th March 2019. The Official Seal of the Local Authority was affixed to the Order on 4th March and then, the Director of Services, Economic development, Planning and Transportation, Leitrim County Council, signed an Executive Order on 6th March 2019 ordering that approval be given for the compulsory acquisition of lands for the Public Realm Improvement Works with respect to the provision of a car park. The proposed CPO was advertised in the Irish Independent on 7th March 2019, advising that objections were to be submitted to the Board in writing on or before 2nd April 2010. The advertisement in the Irish Independent included details of Parts I and III of the Schedule which set out the plot areas of land to be acquired and a description of the Private Rights of Way to be extinguished.
- 5.2. If confirmed the Order will authorise the Local Authority to:

- a) Acquire compulsorily the plots of land described in Part I of Schedule to the Order which plots of land are shown outlined in red and coloured in grey on Deposit Map Drawing No COS-PRP-001 entitled “Leitrim County Council Compulsory Purchase Public Realm Improvement Works Project Compulsory Purchase (No.1) Order - 2019 Land Acquisition”.
- b) Extinguish the private right of way described in Part III of the Schedule as shown between the lines A1/A1 and A2/A2, between B1/B1 and B2/B2 and between C1/C1 and C2/C2 on the Deposit Map Drawing No COS-PRP-001 entitled “Leitrim County Council Compulsory Purchase Public Realm Improvement Works Project Compulsory Purchase (No.1) Order - 2019 Rights of Way.

5.3. All of the said lands described in the Schedule are situated in the townland of Townparks in the Administrative County of the Local Authority.

5.4. The 7 plots of land permanently affected by the CPO are listed in Part 1 of the Schedule of the CPO and are shown in Deposit Drawing Map. The net area of land to be permanently acquired as described in Part I of the Schedule is approximately 0.6 hectares.

6.0 Planning Policy Context

6.1. National Planning Framework

6.1.1. The National Planning Framework encourages the consolidation of urban areas and the making of stronger urban areas. National Policy Objective 4 encourages the creation of attractive, liveable, well designed, high quality urban places. National Policy Objective 27 seeks to: “Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages.”

6.2. **Smarter Travel-A Sustainable Transport Future 2009-2020**

- 6.2.1. Smarter Travel sets out a transport policy for Ireland. Sustainable transport modes are strongly promoted with an emphasis on alternatives to the car. Accordingly, investment in cycling and pedestrian friendly actions is promoted.

6.3. **Design Manual for Urban Roads and Streets**

- 6.3.1. The Design Manual for Urban Roads and Streets (DMURS) sets out the manner in which roads and streets in urban and suburban areas should be designed in a manner which ameliorates the historic dominance of the private car and other motorised forms of transport. The Transport Strategy is required to put forward complementary policies and objectives, which will, at the regional level, facilitate the implementation of DMURS at the local and district level.

6.4. **The Regional Planning Guidelines for the Border Region 2010-2022**

- 6.4.1. Carrick on Shannon is on the border of two regional authority areas. The town centre and environs within Leitrim fall within the Border Region. The Regional Planning Guidelines refer to the challenge of population decline but recognises the exception of Carrick on Shannon which experienced population growth. It is classed as a strategic town in that it has a supporting role for the gateways and hub towns in the region. A strategic role is promoted in terms of residential, employment, administrative and other public service functions in Carrick on Shannon where benefits of an intra-regional rail service to Sligo are acknowledged. This rail is only one of two intra-regional routes. The N4 by-passing of the town remains an objective. The Guidelines set out the regional policy parameters and key principles for the direction of economic growth in the GDA. A Key strategic aim is

- To ensure the development of the Gateways, Hubs, Drogheda and Carrick-on-Shannon as the strategic drivers of growth for the Region and to facilitate integrated sustainable development between urban and rural areas; set out a comprehensive vision for the development of the Greater Dublin Area. This emphasis underlines the approach to investment in infrastructure.

- 6.4.2. **Sustainable Transport Modes:** Development Plans should be developed in unison with Integrated Land Use and Transportation Studies (ILUTS) for all key urban

settlements within the Region. To assist in the consolidation of the roles of the Gateways, the Hubs and the towns of Drogheda and Carrick-on-Shannon in the achievement of sustainable travel practices, Local Authorities in the Region should apply appropriate parking standards in these urban areas. These standards, in conjunction with improved land use planning, development controls, traffic management and improved public transport, will greatly assist in reducing car use and car dependency.

- 6.4.3. **Cycling and Walking** Throughout the Region, but particularly within the key settlements, a cycle and pedestrian network should be established and developed in line with the Governments Smarter Travel Policy Document.
- 6.4.4. **Flooding:** In terms of approaching the risk of Fluvial flood in Riverside areas in Carrick on Shannon it is recommended that plans permit only appropriate development subject to mandatory flood risk assessment in identified flood risk areas. A review of indicative flood levels based on climate change is recommended.

6.5. **Leitrim County Development Plan and Carrick on Shannon LAP.**

- 6.5.1. The Carrick on Shannon Local Area Plan 2010-2016 came into effect on 6th June 2016. Following an extension to its life it remained in force until 6th June 2016. This plan is consistent with the Leitrim County Development Plan 2015-2021.
- 6.5.2. The site of the proposed car park falls within the 'Mixed-Use' land-use objective and such lands are area identified on the core of the town within which a mix of residential and commercial activity takes place. Adaptable buildings are encouraged but all development is predicated on its suitability and environmental impact on neighbouring uses. Within this class of use car park are acceptable in principle. The LAP identifies the lands known as Flynn's field as having the potential for frontage development which is part been achieved onto a public roadway in the primary care centre under construction. Car parking should be to the rear or underground.
- 6.5.3. The site is contiguous to an architectural Conservation Area. Canon House is a protected structure. Objectives of relevance to the proposed development are cited by the Council in their submissions and set out later in this report:

7.0 Objections to the Order

7.1. **Lucy Donegan and Sheila Talty Deane**, owners of .43 hectares of land at Flynn's Field, Townspark, Carrick on Shannon. Reidy Associates Solicitors lodged a written objection on behalf of the landowners concerning plots. The basis for the objection to the proposed acquisition is that the development is inconsistent with the local and national policy and would be an inefficient use of land and accordingly, a disproportionate interference with the landowner's property rights. These points in addition to procedural matters are elaborated in more detail:

7.1.1. Land-use justification: A detailed planning report sets out the following arguments.

- The use of the town centre site solely as a car park is under-development in the context of the mixed-use zoning and previous grants of permission for the land and accordingly devalues the land.
- The pattern of development fails to have regard to national and regional policies and guidelines with respect to consolidation of urban areas and redeveloping a brownfield site as advocated in policy objectives 11 and 35 of the National Planning Framework (NPF), Objectives 1, 12 and 13 of Draft Regional and Economic Strategy for the Northern and Western Regional Assembly regarding revitalisation and re-inhabitation of urban cores within settlement footprint and Guidelines for Urban Development and Building Heights in terms of building up areas.
- A surface car park on this basis is inconsistent with the development plan whereas the local authority has a duty of compliance with such plan. The case is made that it is the last undeveloped site in the town and its underdevelopment will displace intended development to the outskirts of the town contrary to multiple provisions for best practice. This is elaborated in the attached planning report which refers to specific policies that require sequential release of lands to ensure consolidation (section 4.2.2.5, 5.1.2, and 4.2.1 and policy 6 of the Development Plan), provision of active round floor uses in the backlands, shared car parking uses, integrated parking strategy and provision of new urban frontage – section 2.04 and map 4 of LAP.

7.1.2. Inadequate reasoning and Breach of Human Rights:

- The case is made that landowners rights are unreasonably impacted given that the property is not suitable to meet the needs that advance common good and given that alternatives have not been reasonably explored.
- There should have been transparent criteria for site selection.
- Alternatives should have included other sites as elaborated on in the planning report, underground and multi-storey development of site permitting partial development by landowner and a lease arrangement,
- An alternative detailed plan for the site is attached to submission.
- Failure to provide documented evidence of reasoned decision in view of potential range of alternatives and planning framework.

7.1.3. Failure to provide an EIA or AA for the Public Realm Improvement Scheme (Part 8):

- It is argued that the screening decisions in the EIA screening statement and the AA screening statement are both flawed and erroneous which renders the CPO process flawed and unlawful.

7.1.4. Land-locking of lands

- It is argued that lands of the same landowner that are not subject of the CPO stand to be landlocked and will be rendered unfit for development. The compromising of access and development of such strategic land is similarly contrary to the strategy of land-use consolidation.

7.1.5. Failure to follow fair and correct procedure

- Firstly, the Local authority letter to the landowner did not include reference to rights of way to be extinguished and no map with ref no COSPRP002 or was a map with rights of way proposed to be extinguished supplied to the landowners compromising assessment of impact by and on landowners.
- It is also pointed out that the newspaper notices did not include any map with the above references either.
- The effect was not clearly indicated.
- No evidence of delegation of powers to nominated officer Samantha Healy who made the CPO.

For the above reasons the CPO is consider ultra vires and void.

8.0 Oral Hearing

8.1. An oral hearing was held in the Landmark Hotel on 19th June 2019. Commencement of the hearing was deferred until 10.55 a.m. to facilitate both parties. An audio recording of the proceedings was made. With respect to the order of the hearing, the Local Authority was first asked to state its case by addressing issues listed in the agenda that was circulated in advance and by responding to the objections. The objectors and their representatives were then asked to state their case. This was followed by one submission from an observing party at the discretion of the inspector. This was then followed by question from the objector to LCC who then declined an opportunity to question the Objectors. Finally, the inspector asked questions of both parties for clarification and information gathering purposes. The hearing concluded without closing statements.

8.2. The following parties made submissions to the oral hearing:

a) On behalf of Leitrim County Council

- Conleth Bradly, Barrister
- Maura Henry, DHB Architects
- Bernard Green Senior Planner, LCC
- Shay O'Connor, Senior Engineer. LCC

b) On behalf of Objectors

- David Browne, Barrister
- David Mulcahy, Planning Consultants (Plot)
- John Reidy, Reidy Solicitors

c) Others

- Councillor Des Guckian (LCC) who had no direct legal interest in any of the plots and who was not a formal objector to the scheme requested to make a submission to the hearing. He stated he was an elected representative and claimed to represent unspecified persons with property interests along Main

street who were affected by the loss of on-street parking consequent on the Part 8 scheme. At the inspector's discretion, this was permitted.

8.3. The main points arising during the course of the oral hearing are summarised below.

8.4. **Leitrim County Council**

8.4.1. **Maura Hanley Architect** presented her brief of evidence to the hearing which emphasised the background research, the design approach and description of the overall scheme of which the car park on subject lands forms an integral part. The benefits of the scheme are highlighted. Main points:

- The architects have a background in public realm projects that have ultimately contributed to the vibrancy of towns.
- Cognisant of the historic origin in the town centring on Bridge Street and the later Georgian development. Flynn's field comprised former back gardens of these properties and was part of the natural flood plain.
- At analysis stage, the aim was on identifying possible connections for connectivity and permeability, potential quality streets for people and celebrating the heritage – this being part of best practice. The proposal strengthens the town's infrastructure while being rooted in the fabric of the town. By improving visitor facilities and facilitating footfall, commercial activity is encouraged. The Main Street is seen as a cultural axis, and there is a need therefore to be respectful of its scale, fabric and function so that the town development is orderly and essentially, evolutionary rather revolutionary. It is identified as vital to improve the pedestrian experience (e.g. using wider footpaths and landscaping) along the main arteries while also improving traffic flow.
- Flynn's field is notably a back-land area but proximate to the main routes.
- By relocating parking to a back-land area, it frees up the Main traditional street for pedestrian, visitor and residents and removes dominance of traffic (takes traffic from the N4,) yet parking remains close to the heart of the town. The site also offers the opportunity for multi-functional space and has an amenity use. It is a pivotal element in the town.
- Boundaries are recognised as being of utmost importance in the context of needing to raise ground levels by 1m, location of entrances and exits to facilitate

peripheral frontage development, linking new road serving the primary care centre, maintaining a green belt and ultimately opening up land rather than land-locking.

- Important to use some of the lane-ways to connect with Main Street at the same time being accessible from the N4.
- Layout is in tandem with HSE parking area.
- Need to relocate parking to improve Main street.
- This follows other work which has commenced in Bridge street such as undergrounding of cables.
- Emphasis is on good design quality with support facilities and connectivity to river front and seamless connection to the town
- The scheme is in the interest of public.

8.4.2. **Bernard Greene, Senior Planner** presented a comprehensive submission in both written and oral format. The written statement includes Appendices. The purpose of the statement is to respond to the objections and issues raised and to set out justification for the making of the order and land acquisition by reference to national policies, need, alternatives, overall managing of car parking and access in town, site development and compatibility with statutory plans and objectives.

Site Selection and alignment

- The proposed car park forms an integral part of a comprehensive Public Realm Improvement Scheme for the town centre
- The development of a car park necessitates the acquisition of the access roads alongside the Primary Care Centre under construction. It is explained that the pedestrian access from the proposed car park will be through the common area of the Archway Apartments onto Main Street.
- The inclusion of unregistered and registered waste ground and realignment of the side boundary of Canon House (Main Street) effectively squares-off the site and makes it more regular.
- It is explained how the part 8 approved scheme relates to a mapped area that excludes some of the access area as this use was already permitted or existing. The intention was however clear in the consultation process of the part 8 application.

Strategic Compliance

- As evidence of compliance with statutory planning guidelines and best practice it is pointed out that the project scored highly in terms of meeting the criteria for URDF funding. This was assessed by the Department of Housing, Planning and Local Government and the project was assessed to be of a high standard based on a range of strategic criteria. It was determined that:
 - The project responded well to all of the core assessment criteria of the fund as the quality of the proposal was high
 - It was an appropriate response to the NPF – location/catalyst project)
 - Quality of the proposal offered leverage in the right location being a city/regional driver)
 - The Vision effect was highly rate (scoring set out in appendix to Mr. Green’s submission.)
- While accepting the potential for commercial development on a central vacant site, it is considered the site could not accommodate residential development owing to flood risk concerns. It is further pointed out that office demand is not there due to a more than adequate supply on outskirts of town.
- The overall scheme seeks to enhance the overall quality of life in the urban core and in this approach to placemaking supports urbanism and creation of enhanced and attractive town centres in line with the NPF. The overall scheme also seeks to enhance pedestrian and cyclist realm which accords with objective 27 of the NPF seeking to ensure integration of safe alternatives to the car.
- The public realm enhancement in overall terms will be a catalyst for economic rejuvenation of the town centre in the short to medium terms with sustainable long-term impacts. This will be achieved by increasing footfall and visitors’ facilities through new links and enhanced experiences. The design is also sympathetic to the built heritage of the town centre. The architects of the scheme observe that ‘the possibility of providing over 100 off-street parking spaces at a stone’s throw from the town centre without any negative impacts, visual or otherwise on the town’s historic fabric is too good to miss.’
- With respect to national transport policy on encouraging sustainable modes of transport it is pointed out that Carrick on Shannon is set up to so: It is served by both rail and bus and bus stops are factored into the scheme. The Council is

acutely aware of sustainable transport. The town has recently used a SMARTER Travel grant to provide €400,000 worth of infrastructural projects in provision of cycle lanes around the town.

- The Council is also conscious of a rural hinterland and the need to provide adequate and appropriately located car parking to ensure a functioning town centre.
- The need for the car park arises from a desire to significantly reduce the extent of on-street car parking along Main street so that a significant increase in the share and quality of road space can be dedicated to the needs of pedestrians.
- The proposal is designed to remove car journeys from the historic centre by way of location and access to car park from N4.
- Connectivity is provided by new public pedestrian links. e.g. between the new quarter to the rear of the Landmark Hotel and Cryan's Hotel on the Main street. Only a private gated route exists and that is controlled by the Bush Hotel.
- It is pointed out that since the permission 15 years ago the understanding of flood risk has increased dramatically. The traffic environment has also changed as a result of the development of the health centre and the projected traffic movements associated with the combined car parking arrangements. Intensification of traffic and impact on N4 capacity may be an issue with further development.
- To obtain funding, the project had to demonstrate consistency with the 10 strategic outcomes of the NPF which it did so with a score of 40 out of 50 (see appendix for detailed scoring)
- It is accepted that the original overall site of which the subject site forms a part was considered suitable for mixed use development. This has been partly developed by the construction of the health centre and this reframes the building context in terms of height and layout.

LAP compatibility

- The approach is consistent with the LAP urban design strategy as the scheme seeks to conserve and enhance the historic core of the town, ensure that the town centre expands into backland and peripheral areas and that the quality of public space is of the highest quality.

- In rejecting the allegation of attempted collateral rezoning, a number of supporting policies and objectives for the overall scheme and for the car parking are listed in relation to urban design, car parking and pedestrian linkages. This includes:
 - Policy 4.2 which states that it is policy of the Council to investigate the possibility of developing an integrated urban design scheme for the town core in order to enhance the public domain.
 - Policy 5.1f - It is the policy of the Council to facilitate the provision of adequate public car parking in the town centre and elsewhere as needed so as to ensure the town continues to thrive as a commercial, cultural and recreational centre.
 - Objective 5.2hi - It is an objective of the Council to seek to have new pedestrian routes linking Bridge Street, Main Street and the Dublin Road with the back lands area. The Council will seek to establish these routes in co-operation with property owners and tenants. However, the Council may use its powers of compulsory acquisition...
 - Objectives 5.2l, m, p, q, r and 7.2b also apply to related design and facilities.
- In the LAP the mixed-use zoning and reference to opportunity for new urban frontage is acknowledged. It is pointed out that car parking is acceptable in principle and that the new Primary Care Centre has created a new streetscape.

Development Plan 2015-2021 compatibility

- The overall scheme accords with the following policies and objectives:
 - To protect, maintain and enhance the quality of the built and natural environment.
 - To promote the regeneration and the reuse of derelict and obsolete sites and buildings.
 - To recognise that Leitrim's archaeological, natural and built heritage are important elements in the long-term economic development of the county and to promote their conservation and enhancement, public access and enjoyment.

- To safeguard existing businesses by among other things, strengthening the towns through population growth and improving the demographic profile and providing for their development and expansion.
- To provide for additional and improved retail and commercial development whilst maintaining the viability and vitality of town centres.
- To develop tourism by encouraging sustainable use of natural attractions and facilitating the provision of appropriate infrastructure, accommodation and facilities which will extend, consolidate and diversify the tourism industry.
- To relieve traffic congestion.
- To provide adequate car parking facilities towns and villages throughout the county to meeting current and future needs.
- More specifically:
 - Objective 42 states it an objective of the Council to seek to upgrade and augment car-parking facilities in town and villages
 - Objective 43 requires electric car charging which has been factored into the design for current and future demand.
 - Objective 61 refers to the need for urban design initiatives to improve attractiveness and mobility in town as part of the retail strategy.
- The development plan accordingly provides the framework for the car park and is reinforced in the LAP.
- The CPO does not impact materially or otherwise on the land use zoning objective and the car park is considered to be compatible with the land use zoning objectives.

Alternatives

- It is submitted that at no stage did the owners of the land engage in pre-application discussion for an alternative development.
- The planning authority had met with representatives 3 times before a decision was taken to develop a surface car park. It was generally felt beneficial to include this vacant site – the remaining part of Flynn’s field as part of the regeneration and overall scheme.

- The alternative scheme which is noted, would appear to relate to a larger size (difficulty with 1:1750 scale) outside the CPO lands and in any event, is considered as unsuitable on the basis that a new library site is no longer needed due to a Part 8 approved scheme for extension of the existing library.
- The proposed residential element is an unsuitable use in view of the flood risk by reference to table 3.2 of the Flood Risk Management Guidelines. While the planning authority was satisfied that the Primary Care Centre at application stage had addressed Flood Risk (through design measures which mitigate risk from groundwater, drainage systems, fluvial and pluvial and climatic change factors,) the more recent flood events during which access roads in the area were fully submerged for 4-5 weeks during flooding are cause for concern. These roads would serve the subject site and this risk poses considerable challenges for development of the nature proposed by the objectors. Furthermore, measures to address flood risks are likely to be beyond the control of the existing owners.
- The Council has an approved scheme for flood relief works but would not raise ground above flood level of 2009. To raise beyond that level, would have an impact on other properties. In any event funding is not currently available
- Emergency access remains outstanding for the Primary Care centre
- The proposed development would generate parking demand in excess of that proposed. It would have a requirement of 158 spaces so the provision of 105 space supposed in lieu of the public car park provide by the acquired lands would in fact result in a deficit of 53 space below current levels. There is no proposal to address a scheme in lieu of this.
- Furthermore, the design details indicate potential site constraints in terms of size and conflict with rights of way and provision for adequate circulation. There is also possible encroachment on development potential of surrounding sites.
- A basement car park is considered problematic due to flood risk, fire certification, foul drainage and construction on poor ground thereby being cost prohibitive. A multi-storey block would also be cost prohibitive and would have a dead frontage.
- Land-locking of objector's lands is refuted as the design is future proofed to provide servicing of surrounding lands, the boundaries will remain in the ownership of adjacent landowners and will have the opportunity for direct access

onto the access road forming part of the proposed layout. Frontage development onto this access road is schematically shown in the objectors' proposals. The remaining land accordingly would be unaffected by the car park.

- While sequential testing is typically applicable to retail development rather than for car parking, it is pointed out that the reduction of car parking to 22 spaces on Main Street means that proximity to this street is critical to offset this loss. The other nearby site off Church Lane was considered too small at .16 hectares. (This is further addressed by Mr. O'Connor LCC.)
- Justification is based on the loss of 47 spaces due to rebalancing of road space for pedestrian and amenity uses such as outdoor dining and the need to serve the commercial heart of the town. The net increase of 58 spaces will address disquiet of owners of private hotel car parks due to capacity and likely future restrictions (e.g. barrier controls).
- The multi-functional use of the car park as outdoor entertainment venue is also appropriate at this town centre location.
- The Chief Executive Report also addresses planning assessment of the public realm project.
- The objector cannot seek to challenge the part 8 process via the CPO process. Notwithstanding, the planning authority is satisfied that the EIA and AA screening was adequate and that neither an EIAR or a stage II Appropriate Assessment was required for the approved scheme.

8.4.3. **Shay O'Connor, Senior Engineer** presented his submission in written and oral formats. In these he addressed the justification and responds to objections.

- In justifying the need for acquisition of the particular lands, a number of alternative locations were assessed on the basis of size, access, traffic generation. A map of these sites is appended to the written submission. The nearest site is to the rear of the Poitin Stil off the Main St and was dismissed on the above grounds. Other sites such as the football pitch, the Fire station, the Bush Hotel and the site at the roundabout at the N4 were even less suitable having regard to factors including the lack of net increase in parking, existing

amenity uses, patterns and nature of existing car park use, traffic generation and or convenience. For example:

- Site at roundabout off N4 – This is a private site adjacent to roundabout and could provide around 200 spaces (drawing 0003 in appendix 3 shows indicative layout) but is unsuitable due to: entrance off the N4 roundabout, capacity issues and 10 min walk to main street which would not improve parking for town centre business.
- Council land N4 – This could accommodate 120 spaces (drawing 002 Appendix 4 indicative layout) but is not suitable due to entrance off N4 and there would be capacity issues as it is already subject to delays during peak areas. 6-minute walk so would not improve parking for town centre business.
- The Dep. of Social Welfare adjacent to south already has an underground car park – This could be used at weekend when not used by staff but the option is rejected as car parking for 7 days a week is needed.
- The alternative site development formats such as underground and multi-storey formats are dismissed due to flood risk and the need to raise the site level, the potential displacement of floodwater in an underground development, challenging ground conditions due to peat and silt, need for tanking, need for grey water and overall costs which would be prohibitive.
- With respect to lease arrangements this is submitted to be not satisfactory due to the uncertainty of nature and time of development, lack of control and lack of car parking in the interim. It is explained how a significant portion of parking is subject to private control already. (544 public spaces and 321 private spaces.) This is not acceptable for a public funded scheme.
- The public pay and display will be down 47 spaces with the street improvement scheme. However, the proposed car park will increase public parking space to 602 spaces. (refer to Appendix 5)
- Other measures to improve access for outlying residential areas include active travel measures such as cycle lanes and footpaths as illustrated in Appendix 7 of Mr. O'Connor's submission. Traffic management measures within the town include the recent one-way system and diversion of HGVS. There is also a local link bus service and bus stops have been factored into design and access.

- It is a reasoned design as documented in a range of reports which formed the basis for the application for URDF funding and its subsequent approval and the part 8 application and approval process which included the feedback from consultation and the Chief Executive Report which was approved by the elected members.
- The Chief Executive's Order confirming delegation of powers in respect of the CPO process is appended to the submission.

8.4.4. **Conleth Bradley** clarified remaining legal issues in both written and oral format. He circulated his submission to give an opportunity for objectors to question. In essence he states that:

- The totality of the objections relates to compensation and by reference to the judgement in the case of Jackson Way Properties Ltd v. Minister for Environment and Local Government [1999], the concerns are more properly matters to be set before the property arbitrator.
- The objectors can't seek to challenge part 8 approval as the scheme enjoys the presumption of validity. The objector cannot collaterally challenge something that is approved, and this view has authoritative support in a number of judgments, namely, Goonery v. Meath County Council [1999], Kinsella v. Dundalk Town Council [2004], Nawaz v. Minister for Justice, Equality and Law Reform [2013] and notably in seeking to dismiss these objections, the High Court judgement is cited in the case of North East Pylon Pressure Campaign Ltd. and anor. v. An Bord Pleanala [2017].
- It is submitted that the local authority is simply exercising its legislative powers under section 213 of the PDA 200 as amended. The case Clinton v. An Bord Pleanala (no.2) is applicable as it is an authority which deals with the justification test insofar as it was only necessary in that case, which related to the acquisition of land for regeneration of O'Connell Street, to demonstrate that the CPO was desirable in the public interest to achieve that purpose.
- McDermott and Woulfe (Compulsory Purchase and Compensation in Ireland: Law and Practice, 2013) are cited from page 127 of their text in respect of the justification test; where the local authority is satisfied it requires certain land for the performance of its functions and the commercial alternative of buying the

property by agreement is not followed, the local authority may consider using compulsory acquisition powers on the basis that it is justified by common good. – The statutory purpose, being public interest and common good, is manifested by the integral role of the car park in the overall public realm improvement scheme as addressed in detail in the evidence of the Council.

- It is finally submitted that there are no grounds for objections on the basis of procedures. Among a number of statements of compliance, it is submitted that the notices were published in accordance with Housing Act. It is further pointed out that the legislative term ‘deposited map’ refers to that deposited at the offices of the local authority which in this case was done.

8.5. Objector Submissions

8.5.1. **David Browne, Barrister** gave a brief introduction explaining his instruction by Reidy Solicitors. He also circulated his legal submissions to further support arguments.

8.5.2. **David Mulcahy, Planning Consultant**, presented his submission in written and oral format. He makes the following points against the CPO:

- The centrally located, vacant and underutilised brownfield site with two previous permissions for large scale development which included 535 car park spaces is evidence that mixed use development of this nature is acceptable and appropriate. In fact, a planning report for the health centre to the southern side acknowledges it as a most central available site in the commercial core.
- It is submitted that in the Part 8 approval process there was no planning report demonstrating accordance with national policy and local objectives.
- It is pointed out that the NPF and regional guidance seeks compact development to avoid urban sprawl. E.g. Building up infill sites. Planning guidance, Guidelines for Urban Development and Building Height also promotes building upwards. The Development Plan and LAP are consistent with these strategies in the mixed-use zoning and seeking new development with active ground floor uses. The strategy to reinforce rather than extending outwards is supported by objective 2.3a which supports mixed use in a 2-4 storey format. For vitality of town centre, the

objective in the subject back lands is for new frontage development onto streets with active ground level. Car parking should be to rear or underground.

- The subject lands are identified in Map 4 for new or frontage development in Appendix A of LAP. In this way it serves to extend the town centre.
- In view of the foregoing, a car park is a gross underutilisation.
- No justification test for car parking requirements has been carried out. A sequential test is warranted if this is really the best site.

8.5.3. **David Browne** gave a supplementary planning opinion to the written submission and makes the following points:

- It is stressed that there is a demonstrably better alternative option as prepared by C. and W. O'Brien Architects that would be a more efficient use of this key site while also facilitating public car parking. It is preferential for the landowner to retain ownership and develop the land commercially and this alternative mixed-use development would be consistent with spatial strategies. Critically, in the alternative scheme, there would be no loss of car parking – In the order of 208 spaces could be provided. In this way both commercial and public objectives could be met for the land owners and the Council respectively.
- Vacant underutilised site by reference to the planning history: Notwithstanding changes in circumstances outlined by Mr O'Connor, two permissions for mixed use demonstrate a better use consistent with the mixed-use zoning objective. There is no reason in principle to not permit a mixed-use scheme in the nature proposed. The proposed surface car park is contrary to national, regional and local policy and guidance for spatial development of towns. The Board is reminded, by reference to the Planning Acts, of its statutory obligation to have regard to the NPF principles (Page 22 of the document) any other regional and economic strategy in force and specifically the requirement for more efficient use of land. Reference is made for example to target 40% of housing within built up areas so as to mitigate urban sprawl and its strategic environmental impacts.(Reference is made to the SEA for Project Ireland 2040)
- The Board must be satisfied that the development is consistent with all plans and that there is not a material contravention and in this regard it is further submitted

that a single car park as proposed manifestly contravenes the mixed-use objective. The proposal ultimately serves the private motorist.

- Section 15 of the PDA Act requires a planning authority to refrain from taking steps that would be inconsistent with relevant plan as supported in O'Mahony v. An Bord Pleanala.
- A Part 8 scheme under section 178 of the PDA Act cannot materially contravene the development plan and this is supported in the quashing of the Part 8 approach in the case of Carman's Hall Community Centre Interest Group and Ors. v. Dublin City Council.
- The statutory basis for acquiring the land for the particular purpose is disputed by reference to the Supreme Court understanding of purpose (being in that case expressly permitted by the Oireachtas) in the case of Clinton v. An Bord Pleanala (No.2).
- The CPO cannot be a disproportionate interference with owners' rights. The case is made that this CPO is a disproportionate approach given a willingness of the landowners to engage and provide an alternative for the Council to achieve the same car parking objectives. Priority should be given to reaching an agreement in these circumstances. As the alternative is demonstrably preferable (for planning and private property reasons) it is effectively submitted, by reference to cases of Lord Ballyedmond v. Commission for Energy Regulation, there is no basis for the CPO
- The CPO is deficient due to discrepancies of ownership details and discrepancies in annexed maps.

8.6. Observations

- 8.6.1. **Councillor Des Guckian** made a submission which questioned the benefits of loss of car parking along the main street. He submitted on behalf of some unspecified shop owners that the loss of on -street parking serving their premises was not in the interests of the public. He also criticised the part 8 process with particular reference to the consultation stage.

8.7. Questions by Objectors to LCC

- 8.7.1. The objectors questioned the rationale for compatibility of a standalone car park with the development plan objectives and national strategy. The Council responded with reference to the reports in the part 8 process and with particular reference to the primacy of the pedestrian and benefits for town in the overall public realm scheme. In this context it is satisfied that the car park adheres to plans.
- 8.7.2. Consideration of efficiency was questioned in light of previous permissions for more intensive development. The Council explained that the previous permission was for a more extensive site which has been partly developed with the construction of the health centre to the south. There has also been a change in flood risk.
- 8.7.3. The Council was queried in respect of its knowledge that advisors of the landowners indicated willingness to sell. The Council representatives did not recall this, however the alternative proposal, as part of the objection to the CPO, was considered and for reasons already stated, is generally not appropriate. The Council made repeated reference to flood risk and unsuitability for residential use and to the existing library extension.
- 8.8. The Council was of the understanding that there was a willingness to sell due to the site going back to the market.

8.9. Inspector's Question to Objectors

- 8.9.1. Clarity was sought in respect of land ownership. John Reidy for the objector clarified the entire holding – it was further pointed out in this context that access rights of way to the residual land would be effected.
- 8.9.2. John Reidy for the objector clarified that the subject lands were in ownership for about a year or year and a half and had not been developed for economic reasons. It was speculated that economic conditions did not permit development on foot of planning permissions

8.10. Inspector's Question to LCC

- 8.10.1. Clarity was sought on the development plan status and also status of relevant transport and pedestrian objectives within plans.

- It was explained that the development plan was extended in 2015 by a further 3 years. The Council is awaiting the regional strategy to progress review of the development plan and LAP.
- A Local transport Plan with NTA (as referenced in Development Plan) is pending and the completion of the regional economic and spatial strategy.
- The scheme is part of the pedestrianisation development plan objectives. It was explained how existing pedestrian access is gated and privately controlled at present

8.10.2. Clarity was sought on flooding, surface water management, boundary treatment, rights of way, impact on other traffic plans, recent permissions and capacity for full electric charging among other issues.

- There are a number of surface water outlets and upgrades required in the area of the site.
- The site is in Flood Zone B. This based on C-frame depth of flooding 1/1000 and car park level of 45mOD. 1/100 event but no account of climate change.
- The experience of health centre was factored into Jacobs flood risk assessment.
- Nature of flooding means that SUDs unsuitable as ground water could come up through the site.
- Flood Risk in Part 8 addresses impact of raising car park ground level.
- Part 8 addressed landscaping. Road and site layout permits peripheral development, retaining walls, ramping and maximum tree retention where needed.
- Phase 2 in the submissions refers to funding stages for town
- No further consents required.
- No archaeological findings in the health centre site due to land comprising built-up ground.
- Holding 102A1 has no historic significance. Old maps do not show the current delineation of holding. This was investigated at research stage.
- No other rights away effected.
- No conflict with cycling lanes.
- No further land interests affected.
- Link bus parking has been factored in.

- No permissions will impact or be impacted upon.
- No impact on Roscommon.

8.11. Closing of Hearing

- 8.11.1. Neither party wished to make a closing submission and the inspector accordingly formally closed the hearing at 3.45pm.

9.0 Assessment

9.1. Overview

- 9.1.1. The statutory powers of the Local Authority to acquire land are contained in section in S11(7)¹ of the Local Government Act 2001 and sections 212 and 213 of the Planning and Development Act 2000, as amended. Under S212 of the Planning and Development Act 2000 a Local Authority may, in order to carry out its functions, powers and duties, carry out forms of development and in so doing a Local Authority is entitled to use CPO powers. S212(1) of the Act confirms the general power of a Planning Authority to develop, secure or facilitate the development of land and may do one or more of the following (a) secure, facilitate and control the improvement of the frontage of any public road by widening, opening, enlarging or otherwise improving; (b) develop any land in the vicinity of any road or public transport facility which it is proposed to improve or construct; (c) provide areas with roads, infrastructure facilitating public transport and such services and works as may be needed for development.
- 9.1.2. Section 212(2) of the Planning and Development Acts states that a Planning Authority may provide or arrange for the provision of (c) transport facilities, including public and air transport facilities, and (d) any services which it considers ancillary to anything which is referred to in paragraph (a), (b) or (c).
- 9.1.3. Under S213(1)(i) of the act, in terms of land acquisition, the power conferred on a Local Authority to acquire land shall be construed to acquire land, permanently or

¹ Local Government Act 2001 (7) A Local Authority to which subsection (3) or (4) relates shall (a) continue to be a body corporate with perpetual succession and power to sue and be sued in its corporate name and to acquire, hold, manage, maintain and dispose of land or any interest in land,

temporarily, by agreement or compulsorily. Section 213(2)(a)² of the act states that a Local Authority may, for the purposes of performing any of its functions including giving effect to or facilitating the implementation of its development plan, acquire land, permanently or temporarily, by agreement or compulsorily.

9.1.4. Where it is proposed to use powers of compulsory purchase to acquire land or property there are four test criteria³ that are typically be applied by the Board in its consideration of whether or not to confirm a CPO. It must be satisfied that the local authority has demonstrated that a CPO “is clearly justified by the common good” and in reaching this decision the degree of application, if any, of the following scenarios is a useful appraisal framework:

- 1) There is a community need, which is met by the acquisition of the property in question.
- 2) The particular property is suitable to meet the community need.
- 3) The works to be carried out should accord with or at least not be in material contravention of the provisions of the statutory development plan
- 4) Alternative methods of meeting the community need have been considered but are not available.

9.2. **Is there a community need that is to be met by the acquisition of the site in question?**

9.2.1. The justification for the CPO by Leitrim County Council is based on the benefits of the car park as part of an overall Public Realm Improvement Scheme. The site is located to the rear of the Main Street and Bridge Street properties and could, with minimal disruption in the town, facilitate the replacement and augmentation of on-street car parking along the Main Street with nearby accessible off-street car parking. In this way the Main Street at the heart of the town centre can be enhanced by allowing for more pedestrian space and environmental improvements which will

² 213(2) (a) A Local Authority may, for the purposes of performing any of its functions (whether conferred by or under this Act, or any other enactment passed before or after the passing of this Act), including giving effect to or facilitating the implementation of its development plan or its housing strategy under section 94, do all or any of the following: (i) acquire land, permanently or temporarily, by agreement or compulsorily, (ii) acquire, permanently or temporarily, by agreement or compulsorily, any easement, way-leave, water-right or other right over or in respect of any land or water or any substratum of land, (iii) restrict or otherwise interfere with, permanently or temporarily, by agreement or compulsorily, any easement, way-leave, water-right or other right over or in respect of any land or water or any substratum of land, and the performance of all or any of the functions referred to in subparagraphs (i), (ii) and (iii) are referred to in this Act as an “acquisition of land”.

³ McDermott & Woulfe, Compulsory Purchase and Compensation: Law and Practice in Ireland (Butterworths, 1992)

contribute to the liveliness of the street - a LAP objective that is supported in regional and national strategies. The pedestrian access between the car park and Main Street and the linkage and permeability with the Quay - also subject of enhancements - is envisaged to further enhance the visitor experience and enliven the Main Street. The associated traffic management benefits in terms of diverting parking from the Main Street in conjunction with the one-way system (recently implemented) together with HGV diversions also provides a more cycle friendly environment which serves to reinforce the investment in the cycle networks in line with transport policy focused on modal shift.

- 9.2.2. I note that the Part 8 Planning Report addresses the car parking issues on the Main Street. On page 11 reference is made to the existing character of Main Street suffering from traffic congestion, particularly for pedestrians because of the narrow footpaths and proximity of parked cars. The widening of the footpaths will improve visibility and pedestrian safety. During the hearing the Council further clarified that there is a deficiency in car parking in the town and that the on-street car parking along the Main Street is at capacity. The deficiency is likely to be exacerbated due to the present reliance on private hotel parking which may soon be restricted from public use due to demand pressures. I accept therefore that there is a risk of loss of vitality along the Main Street at the core of the town centre due to existing traffic and parking patterns.
- 9.2.3. The objector makes the case that the community is not best served by the proposal in so far as a mono car parking as a land-use at this location compromises the realisation of, above all, the national planning framework objectives and statutory guidance which advocate a strategy of urban consolidation. The proposal accordingly constitutes an under-utilisation of core urban land and thereby contributes to urban sprawl.
- 9.2.4. The proposed car park will provide a total of 105 public car spaces which is a net increase of some 58 spaces following the Main Street enhancement works. There are some 44 bus journeys serving the town per week in addition to an intra and inter-regional train service. There are also recent and on-going measures to serve the suburban areas with cycle routes as part of the Smarter Travel programmes. Notwithstanding these services, it is explained how the town serves and relies on a

rural hinterland that has little or no public transport facilities and is car dependant. National strategy supports serving this community.

- 9.2.5. The overall public realm scheme is not however just about a car park. It is about town centre enhancement and the car park is an integral element. In order to permit delivery of the overall scheme and secure funding the land needs to be turned into a car park and the lands need to be acquired to do so. The further acquisition of lands with associated extinguishment of rights of way secures the permeability of the site and its function as an ancillary area to the Main Street.
- 9.2.6. The other aspect of the development is the alternative functions of the site in a community context. The site also has the potential to act as public open space and accommodate public events.
- 9.2.7. I consider the stated purpose of the land for primarily car parking serves a community need that has been generated by deficient and misplaced parking along the Main Street that has in turn contributed to its reduced environmental quality. The Public Realm Improvement Scheme will I consider, serve an identified community need and has the potential for a number of benefits to the community.
- 9.2.8. There is also possibly a residual benefit of providing some flood relief in extreme events given the nature of the use, the retention of the site level as a local low spot (despite raising of ground level by 1m and negligible loss of the flood plain) and the provision for attenuation within the site although this is not a stated reason for the acquisition.
- 9.2.9. In overall terms, the acquisition of the site enables the completion of a comprehensive public realm enhancement scheme that serves to act as a catalyst for development.
- 9.2.10. Given the deficiencies of the existing car parking together with the need to rejuvenate the Main street environs in a manner that is in the interest of public safety and compatible with improvements in traffic safety, the upgraded public realm and links in with the existing pedestrian and road network and key destinations in the vicinity, it is considered that the case for the community need for the proposed car park has been established and can be justified by the exigencies of the common good.

9.3. Is the particular site suitable to meet that community need?

- 9.3.1. The proposed car park site has a pivotal location and role in the overall public realm improvement scheme which extends along Main Street and Bridge Street to the north and to the quay side to the south of the site. The site is of a size and location that is accessible for both motorists being off the N4 and for the pedestrian having connectivity to the commercial and amenity areas. It is a back-land site and will not detract from the main thoroughfares. Furthermore, it is vulnerable to flooding being in Flood Area B and a surface car park use with capacity for occasional public event use is appropriate in this context.
- 9.3.2. The scheme of which the car park forms an integral part is further endorsed by the Department of Housing, Planning and Local Government in its funding allocation for the proposed works. This was based on decision-making criteria which included compatibility of vision with the NPF and integration in a local and regional context I refer in this regard to the Department's URDF funding approval scoring table appended to Mr. Green's submission at the oral hearing.
- 9.3.3. I am satisfied that the CPO lands are suitable for their intended use to facilitate the provision of a car park. I am also satisfied that the extent of land take is justified and has been kept to the minimum to facilitate the proposed works and potential future adjacent development in an orderly manner while minimising impacts on the surrounding area.

9.4. Would the works to be carried out accord with or at least not be in material contravention of the provisions of the statutory development plan?

- 9.4.1. LCC explains that the proposal is compatible with the development plan on a number of fronts.
- 9.4.2. During the course of the Oral Hearing, LCC confirmed its view that the proposed development was wholly in accordance with the County Development Plan and the proper planning and sustainable development of the area.
- 9.4.3. Furthermore, by reference to specific objectives to upgrade and augment car parking facilities in towns and more specifically to policies 4.2 and 5.1f of the LAP which refer to urban design improvements in the town core as well as car parking and which in

overall terms accord with national policy and guidance, (NPF and Smarter Travel programme,) the proposed car park, by itself and in conjunction with measures to enhance the pedestrian and cycling experience, cannot be viewed as conflicting with transport policy which advocates a multi-modal approach to transport.

- 9.4.4. The objectors however dispute the compatibility with town centre zoning and objectives for infill development for this specific and pivotal site. A car park is however a permissible use in the mixed-use zoning – in this regard it is explained by LCC that the former permission was for a larger site of which the subject site forms a part that is governed by the mixed use zoning. The Primary Care Centre under construction also falls under the zoning and its development has achieved some backland intensification. Significantly, the provision of a car park is included in the development plan and LAP. In these circumstances I do not consider the site can be looked at in isolation. While there are I accept arguments against the land-extensive use at a micro level in the context of national policy for town centres and their consolidation, it seems clear that the overall development is about revitalising the town centre and in this context, the proposed car park does accord with many policies, objectives and strategies for urban consolidation.
- 9.4.5. The compatibility with the strategic aims of town core consolidation is further underlined by the potential for facilitating frontage development along the perimeter of the site. The site layout serves to open up these lands for development by facilitating building new frontage development along the access route and near the pedestrian laneways which interconnect the site with the Main Street.
- 9.4.6. While I accept that the greater intensity of development would also accord with objectives of the plan, I do not consider the car park in the manner proposed and as part of an integrated town centre enhancement scheme to be inconsistent with the development plan to the extent that it would be a material contravention. I further note that the Department of House, Planning and Local Government, while applying broader criteria in its URDF funding approval, did not find the overall scheme to be in direct conflict with statutory plans and to be consistent with good planning practice for town centres. I am satisfied therefore that the proposed development is, on balance, compatible with the policies and objectives of the Development Plan.

9.5. Alternatives - Have any alternative methods of meeting the community needs been considered and are they demonstrably preferable (considering environmental effects, where appropriate)?

- 9.5.1. In assessing applications for compulsory purchase of lands, the Board should satisfy itself that the lands are suitable to accommodate / facilitate the proposed development for which the compulsory acquisition of lands and rights of way are being sought and that the applicant has explored and examined feasible alternatives. In this case such alternatives relate to location, site development and traffic management. The agent for the objectors raises this in the context that there are many alternatives: There are firstly, other sites and secondly if the subject site is the only location then there are alternative means to providing additional car parking.
- 9.5.2. The objectors propose that the site could be developed by the current landowner in a mixed-use scheme incorporating a basement car park as presented in detailed drawings.
- 9.5.3. The local authority in its response, explains in detail the considered rationale for dismissing the suggested alternative sites. It also dismisses the option of leasing of part or all of the site.
- 9.5.4. A number of sites around the town area are listed as potential alternatives and this was reviewed in detail by Shay O'Connor in his submission during the oral hearing. It is explained that the sites have traffic management and safety issues such as being accessed from a busy roundabout junction at a critical point and generating additional traffic on the narrow town core streets. Some are too small or not as convenient and some are already operating as car parks providing limited net increase. The option of leasing is dismissed as the site development is part of an integrated scheme over which the Council preferably has sufficient control for efficient and timely delivery. The need for 24/7 access is also stressed. Furthermore, an uncertainty over control would not be appropriate for a publicly funded scheme.
- 9.5.5. With respect to a multi-storey development it is argued by the Council that without prejudicing a subsequent application for permission, there are a number of issues with the feasibility of the presented scheme. It is considered by the Council that it would be cost prohibitive to develop in light of the ground conditions experienced in the construction of the adjacent health centre on the same type of peaty/silty ground

conditions. The site is also subject to flooding and in terms of Flooding Guidelines, residential development on the site is unsuitable. There is no current demand for offices due to an adequate supply elsewhere in the town. The new library use is also dismissed on the basis of the approved extension of the existing library. Furthermore, such a scheme would in itself generate car parking that would result in a reduced net increase in car parking for the Main Street catchment. In fact, there would be an exacerbated car parking deficiency due primarily to additional parking demands of the new development together with limitations of the site in relation to circulation and layout as flagged by the Council. Accordingly, the purpose of the acquisition would not be achieved in this scenario.

9.5.6. In view of the planning history for the site, whereby multi-storey development was permitted, it is understandable that the landowners would seek to pursue such a form of development. Such a strategy is indeed supported by the advocated policies for urban consolidation. There are, I accept legitimate development constraints and time issues – warranted to some extent by the already delayed delivery of a permitted scheme and by the experience of the adjacent site and also by the flood risk and statutory guidance for such. I am satisfied that the scheme, albeit in a less intense form, allows, by virtue of its immediate hinterland location and interconnectivity, improved facilities that will serve as a catalyst for regeneration and accordingly allow for a revitalisation of the town core. The format also opens up land for development to the advantage of the objector and other neighbouring landowners. This is, on balance, in accordance with national strategy. I would however not necessarily rule out future development potential of the site in the longer term pending demand for space and flood risk assessments (and in this regard I refer to section 6 of the Jacobs report which refers to the potential re-designation of the site as being in Flood Zone C following raised ground level works, although this is tempered by the 2009 flood events and uncertainty due to climate changes). The delivery of the car park as part of a public realm enhancement is imminent and will have immediate and possible long-term benefits for the town centre. I consider the possible longer-term potential is a not a reason to refuse the CPO. Such potential is a matter for the property arbitrator.

9.5.7. I am satisfied that the Council has considered all reasonable alternatives to the proposed car park provision and has attempted to reach an agreement with the

landowners. The CPO is, accordingly, a reasonable option in terms of enhancing the public realm without compromising the wider environment and transport strategies. Furthermore, it is part of a considered and integrated traffic management and urban design approach that has identified a parking need at this this location while being respectful of town amenity and vibrancy, building heritage, river environs and natural heritage. Therefore, the subject lands are considered suitable and necessary for the construction of the car park and implementation of the overall Public Realm Improvement Scheme. In conclusion, I consider that the alternative methods of meeting the car parking have been considered and are not demonstrably preferable.

10.0 Other Issues

10.1. A number of these remaining issues relate to the access and procedures relating to both the CPO and the scheme approved under the Part 8 process on which, it is argued that the CPO relies for its justification.

10.2. Access

10.2.1. The objectors claim that their remaining lands which I note are about 0.21 hectares will be effectively landlocked by the acquisition of the said lands and accordingly their rights particularly in relation to development will be unduly compromised. The local authority disputes this on the basis of the proposed site layout and access road and in this regard, I have already noted that the lands can be accessed from the car park which has been designed to open up development along its perimeter. I would also point out that extinguishment of a gated right of way potentially enhances access to the objector's land. The Council will I accept own land bounding the objector's land and while there will be some disruption to access, pending and during construction, I do not consider this issue to be grounds to annul the order. The Council has indicated that funding is approved and commencement is imminent. In any event, limitation on access can be settled by the property arbitrator.

10.3. **Procedural CPO Issues**

- 10.3.1. These issues are raised by the objector in respect of delegation of powers, publication of rights of way map and absence of same in the correspondence from the Council to the landowners.
- 10.3.2. Conleth Bradly, for the LCC responded to the generality of this in his precis of evidence. Shay O'Connor LCC also explained the process.
- 10.3.3. With respect to the delegation of powers I am satisfied that the local authority took the required steps to delegate powers as evident in the dated order on file.
- 10.3.4. With respect to the publication of maps I note that the public notice includes a map of the lands subject of acquisition but excluded the plot numbers and mapping/labelling of extinguishment of rights of way as described in detail in schedule 3. The labelled deposited map was ultimately available on the public file as required. It is clear from the correspondence and the oral hearing that the nature and extent of the acquisition and extinguishment of rights of way were clear to the landowners.

10.4. **Part 8**

- 10.4.1. There is an objection to the legitimacy of the approved scheme under Part 8. The objectors make the case that the Part 8 process was flawed in so far as an EIS and AA were screened out. This argument is not advanced in any detail. The approval is also questioned in the basis on material contravention and compatibility with plans in force however in view of my foregoing assessment I do not concur. In any event, I do not consider the validity can be reasonably revisited as part of consideration of this CPO.

10.5. **Flooding**

- 10.5.1. The Jacobs consulting engineers examined flood risk and impact within and external to the site in a report – Flynn's' Field Flood Risk and Drainage Assessment. In this report the existing site level is stated to be 41.3mOD whereas the River Shannon Flood levels range from 41.74mOD for a 1 in 10-year event, 42.31mOD for a 1 in 100 event and 42.86mOD for a 1 in a 1000-year event. It is proposed to raise the ground to 43.1m at a minimum with a marginal reduction in the flood plain but it is

stated that it will not result in new low spots in the surrounding area. While the design involves a moderate raising of ground level, the on-site attenuation to control drainage run-off will be increased due to the impermeable surface with no impact from the field site arising in any flood risk source (pluvial, fluvial or otherwise). The report concludes that while further assessment is needed of groundwater pressure and the finished profile of the car park to allow the nature of the its drainage network to be fully developed, it is concluded that both flood risks and impacts associated with the proposed car park are low and negligible and full mitigation can be provided to ensure no increase in run-off from the site by the provision of run-off attenuation. It is explained that the site is currently in Flood Zone B based on CFRAM maps and data but potentially could be in Zone A based on changing climatic events. The raising of the ground level will however place the car park site in a C Zone thereby negating the need for a justification test. The proposed use is appropriate as a form of less vulnerable development, however, climatic change may result in a re-designation to Zone B in the longer term. I am satisfied that a justification test is not needed in the context of the flood risk for a car park and that drainage in the area will not be adversely affected by the proposed works associated with its development.

10.6. **Conditions**

- 10.6.1. The case is made that it is a disproportionate approach given the incongruity of a private car-based plan with the town centre strategies and moreover the willingness of the landowner to provide car parking in a lease arrangement. This is advanced by a detailed schematic proposal. Confirmation of the CPO could be conditional on the completion of the entire scheme so as to ensure that is not simply an additional car park. However, this I consider would be superfluous given the basis for funding of the scheme and the totality of the scheme as presented.

11.0 **Conclusion**

- 11.1. I am satisfied that the process and procedures undertaken by the Local Authority have been fair and reasonable and that Leitrim County Council has demonstrated

the need for the lands and that all the lands being acquired are both necessary and suitable.

- 11.2. The overall community benefit would, in my judgement, be positive. The scheme will significantly enhance car parking in an accessible but backland location and indirectly enable the completion of enhancements to the public realm through enhanced pedestrian facilities and resident and visitor experiences in the area. By facilitating diversion of traffic off the Main Street, it will also improve pedestrian safety. The proposed site is considered fit for purpose and the proposal minimises adverse impact on the environment, land and property owners.
- 11.3. I consider that the proposed acquisition of these lands and associated extinguishment of rights of way would be in the public interest and the common good and would be consistent with the policies and objectives of the Leitrim County Council Development Plan 2015-2021 and the Carrick on Shannon Local Area Plan 2010-2019 as extended. The acquisitions proposed under the CPO to enable this project to be implemented would, thus, in principle be reasonably justified.

12.0 Recommendation

- 12.1. I recommend that the Board **CONFIRM** the above Compulsory Purchase Order without modifications, based on the reasons and considerations set out below.

13.0 Reasons and Considerations

- 13.1. Having considered the objection(s) made to the compulsory purchase order, 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 purpose of the compulsory acquisition for a public car park which will facilitate public realm improvement works along the Main Street including provision of new and extended footpaths, introduction of shared surface space and carriageway resurfacing, landscaping, public lighting and a significant reduction in on-street parking.

b) The present shortage of car parking in the town centre and the resultant improvement arising from the provision of 58 additional spaces in a manner that is consistent with on-going and proposed road and traffic improvements that are in the interest of pedestrian and cyclist safety.

c) The design of the proposed car park constituting a design response that is appropriate to the surrounding lands and properties with respect to permeability, public and private access, visual amenity, historic fabric and potential for future frontage development.

d) The community need, public interest served and overall benefits to be achieved from the proposed development works of which the car park is an integral element.

e) The policies and objectives of the Leitrim County Development Plan 2016-2022 and the Carrick on Shannon Local Area Plan 2010-2019 as extended.

f) The location of the site in a flood risk area.

g) The submissions and observations made at the Oral Hearing held on 19th June 2019 at the Landmark Hotel, Carrick on Shannon.

h) The report and recommendation of the Inspector.

13.1.1. It is considered that, the permanent acquisition by the Local Authority of the land in question and the extinguishment of private rights of way, as set out in the order, schedules and on the deposited map, are necessary for the purposes stated and the objections cannot be sustained having regard to the said necessity.

Suzanne Kehely

Senior Planning Inspector

20th August 2019