



An  
Bord  
Pleanála

## Inspector's Report ABP-306336-20

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<b>Development</b>	Compulsory Acquisition of Land – Burtonport Harbour Redevelopment
<b>Location</b>	Ailt an Choráin, Contae Dhún na nGall
<b>Planning Authority</b>	Donegal County Council
<b>Applicant(s)</b>	Donegal County Council
<b>Type of Application</b>	Notice of a Compulsory Purchase Order under the Housing Act 1966, the Roads Act 1993 and the Planning and Development Act 2000, as amended
<b>Objectors</b>	(i) Mr. Charles O'Donnell (ii) Mr. Jimmy O'Donnell
<b>Date of Site Inspection</b>	10 <sup>th</sup> November 2020
<b>Date of Hearing</b>	12 <sup>th</sup> January 2021
<b>Inspector</b>	Colm McLoughlin

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## **1.0 Introduction**

- 1.1. Donegal County Council is seeking confirmation by the Board of a compulsory purchase order (CPO) entitled 'Donegal County Council (Burtonport Harbour Redevelopment) Compulsory Purchase Order 2019'. The stated purpose of the CPO is to enable Donegal County Council to acquire the said lands for the redevelopment and regeneration of the Burtonport harbour area in County Donegal.
- 1.2. The applicant states that the CPO is 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, (as substituted by section 86 of the Housing Act 1966), as amended by section 6 and the Second Schedule to the Roads Act, 1993, and as amended by the Planning and Development Act 2000, as amended. Orders are stated to have been served on owners or reputed owners, lessees or reputed lessees and occupiers, in accordance with Article 4(b) of the Third Schedule to the Housing Act, 1966.
- 1.3. Two objections were received in respect of the CPO. The objections were received from Mr. Charles O'Donnell, Lower Keadue, Burtonport, County Donegal and Mr. Jimmy O'Donnell, O'Donnell's Bar, Burtonport, County Donegal. Where there are objections to a proposed CPO, the Board may, at its absolute discretion hold an oral hearing, and this was undertaken. This report considers the issues raised in the objections submitted to the Board and more generally, the application to acquire the lands identified in the CPO application.

## **2.0 Site Location and Description**

- 2.1. The appeal site comprises lands located in the coastal village of Burtonport, approximately 6km north west of the town of Dungloe in the west of county Donegal. It primarily comprises five land parcels that are understood to be formed of 39 separate plots, within and leading to the harbour area of the village. The primary parcel subject of this CPO application, comprises various quayside areas, including carriageways and various other surfaced areas, buildings and yards, harbour walls and slipways, rock faces and the foreshore. The CPO area includes a parcel of land featuring a semi-surfaced yard area and rock face located along the R260 regional road leading to the harbour and three separate foreshore areas along the southern

side of the harbour. The quayside primarily serves a variety of boating-related activities, including ferries to Arranmore island, commercial fishing vessels and other recreational users.

### **3.0 Policy Context**

#### **3.1. National Policy**

##### **3.1.1. Project Ireland 2040 – National Planning Framework**

The National Planning Framework (NPF) is the Government's high-level strategic plan shaping the future growth and development of Ireland to the year 2040 and this is underpinned by the National Development Plan 2018-2027. National strategic objective 3 of the NPF centres on strengthening rural communities and economies.

3.1.2. Section 7.1 of the NPF addresses integrated land and maritime planning, where it notes that 'sea-fishing boats need harbour infrastructure to land their catch'. Section 7.2 of the NPF addresses the Maritime Economy, including the following National policy objectives:

- NPO 39 - support the sustainable growth and development of the maritime economy and continue to invest in the seafood sector and our Fishery Harbour Centres, particularly in remote rural coastal communities and islands;
- NPO 40 - ensure that the strategic development requirements of Tier 1 and Tier 2 Ports, ports of regional significance and smaller harbours are addressed as part of Regional Spatial and Economic Strategies, metropolitan area and city/county development plans, to ensure the effective growth and sustainable development of the city regions and regional and rural areas.

#### **3.2. Regional Policy**

##### **3.2.1. Regional Spatial & Economic Strategy for the Northern and Western Regional Assembly**

The Regional Spatial and Economic Strategy (RSES) provides a 12-year high-level development framework for the Northern and Western Region that supports the implementation of the National Planning Framework (NPF) and the relevant

economic policies and objectives of Government. The Strategy includes objectives to support tourism development, including regional policy objective (RPO) 4.5 to enhance tourist assets such as harbours and piers. Other relevant RPOs include:

- RPO 4.35 - To support the ongoing upgrade and improvement of the Region's harbours and Ports, and ensure the sustainable development of this infrastructure to enable aquaculture and seafood industry expansion responsibly.
- RPO 6.2 - Support, enhance and enable investment in the development and diversification of our network of key Airports and Seaports/Harbours, providing them with adequate and efficient capacity and ensuring they have high-quality sustainable transport connectivity, including road, rail, cycling and pedestrian infrastructure, as appropriate, and subject to environmental considerations.

### **3.3. Local Policy**

#### **3.3.1. Donegal County Development Plan 2018-2024**

Core strategy objectives CS-O-11 supports the economic growth of the county through the prioritisation of regeneration, renewal and development objectives of settlements with special economic functions. Objectives and policies for the County are set out under Part B of the Development Plan. Burtonport (Ailt an Chorráin) is identified in the Development Plan as having a special economic function in the thematic areas of the marine, tourism and the Wild Atlantic Way, as well as being identified for a town enhancement scheme to strengthen this community.

Under the heading 'seaports and ferry services' the following policy is set out:

- T-P-22 - It is a policy of the Council to promote and facilitate services at Magheroarty and Burtonport and to strengthen and further develop the strategically important ports of Greencastle and Killybegs.

Chapter 10 of the Development Plan addresses 'The Marine Resource and Coastal Management', referring to Burtonport as an important centre for fishing and fleet activity and act as vital economic catalyst for its local economy. The following objective and policy are also set out:

- MRCM-O-4 - to safeguard and enhance the role of Killybegs, Greencastle and Burtonport as centres of fleet activity, seafood processing and ancillary services;
- MRCM-P-1 - it is a policy of the Council to safeguard and enhance the roles of Killybegs, Greencastle, Burtonport and Inver, as centres of fleet activity, seafood processing and ancillary services, and, to facilitate the diversification of such locations into new areas of appropriate investment and employment opportunities, including marine-related economic activity.

## **4.0 Planning History**

### **4.1. CPO Lands**

4.1.1. The following recent planning applications relate to areas within and adjoining the CPO lands:

- ABP ref. PL05E.308382 / Donegal County Council (DCC) reference (ref.) 19/51459) permission granted to Irish Water in February 2021 by An Bord Pleanála for the demolition of blockwork walls and the construction of a wastewater pumping station and a wastewater treatment plant connected by a rising main and outfall connections at Burtonport and Leckenagh townlands;
- ABP ref. PL05E.235231 (DCC ref. 08/30837) – permission granted in March 2010 for the demolition of a fish-handling facility and processing factory and the construction of two buildings of three to four storeys (1,444sq.m), including six retail units and office accommodation at ground floor and ten upper-floor apartments, 32 car parking spaces and an on-site sewerage treatment plant. DCC ref. 14/50364 provided for the extension of duration of this permission until March 2020.

## **5.0 Objections**

5.1. Objections to the CPO were received by the Board on the 23<sup>rd</sup> day of January, 2020, from Mr. Charles O'Donnell and on the 30<sup>th</sup> day of January, 2020, from Mr. Jimmy O'Donnell. The objections can be summarised as follows:

Mr. Charles O'Donnell

- the location of the objector's chip van forms part of the CPO lands and this has operated from this location since 2002;
- the objector wishes to remain in the area and continue their business;
- the objector is concerned that their chip van business would be forced to stop and that this would impact on their income and livelihood. Relocating the chip van would not be possible as they are reliant on toilet facilities and electricity from O'Donnell's Bar;
- the chip van has become a pivotal part of the local community, as a meeting place;
- fishermen are being forced to move from the main slipway to a smaller slipway, with a storage area to be provided for them 200m from this smaller slipway;
- the smaller slipway is being used for recreational purposes and future use by fishermen will lead to confrontation between these parties;
- removal or demolition of buildings would reduce protection within the village from storms;
- the demolition of buildings is only required to facilitate car parking, despite other facilities being warranted;
- the proposals would force businesses out of the area, thereby reducing footfall in the village;
- the Arranmore island redevelopment proposals incorporate a greater variety of facilities than the Burtonport Harbour redevelopment proposals;
- more facilities need to be considered as part of the redevelopment to enhance and add value to the overall socio-economics of the village.

Mr. Jimmy O'Donnell

- the land, including storage buildings and yard areas have been in the objector's family for generations;

- the acquisition of the land would restrict the development potential of the objector's family lands, by creating difficulties for access and restricting frontage;
- Donegal County Council appear to consider that they own the land adjacent to the entrance and access at the side of O'Donnell's Bar. This is not the case and in the future it is intended to develop apartments above the bar and use this area to the side for car parking for these apartments. The Board should confirm that this area would be available in future to allow the expansion of the business;
- the objector uses the main slip primarily for docking their small fishing vessel and the smaller slip would not be suitable due to the incline and tides;
- the safety of fishermen would be compromised by having to use the new proposed yard 200m from the smaller slipway;
- use of the smaller slipway by fishermen will lead to confrontation with recreational users of this slipway;
- the buildings proposed to be demolished offer shelter and protection for the village from storms and they should be conserved and renovated to attract businesses into the area;
- phase 1 of the redevelopment would primarily comprise car parking, but it is unclear how long-term parking might be managed;
- refuse facilities have not been provided for.

## **6.0 Written Submissions**

### **6.1. Donegal County Council**

6.1.1. Prior to the Oral Hearing on the 11<sup>th</sup> day of January, 2021, Donegal County Council submitted the following documents to the Board and these documents were drawn upon by Donegal County Council in its submissions to the Oral Hearing:

- Brief of Evidence – Senior Engineer;
- Appendix 1 – Table of Objectors' Plots and Requirement for each;



- Appendix 2 – Book of Drawings;
- Appendix 3 – CPO Plot Drawing.

6.1.2. The Brief of Evidence included computer-generated images and photographs of the site, as well as extracted drawings for the harbour redevelopment project (phases 1 and 2).

## **6.2. Objectors**

6.2.1. Prior to the Oral Hearing on the 8<sup>th</sup> day of January, 2021, the objector, Mr. Charles O'Donnell, submitted the following documents to the Board, which were referenced by the objector in their submissions to the Oral Hearing:

- Copy of correspondence between representatives of Mr. Jimmy O'Donnell and Donegal County Council;
- Photographs of the area;
- Images of redevelopment plans for the area;
- Summary of concerns raised by Mr. Charles O'Donnell.

6.2.2. Prior to the Oral Hearing on the 11<sup>th</sup> day of January, 2021, the stated agent for the objector, Mr. Jimmy O'Donnell, submitted the following documents to the Board, which were referenced by the objector's representative in their submissions to the Oral Hearing:

- Copy of extracts from Donegal County Development Plan 2018-2024;
- Burtonport Regeneration – Summary View;
- Burtonport Harbour Regeneration;
- Copy of the objection by Mr. Jimmy O'Donnell.

## **7.0 Oral Hearing Summary**

7.1. An oral hearing was held on the 12<sup>th</sup> day of January, 2021, via an online communications platform. The following section provides a broad outline of the issues covered by each of the parties in their statements and during questioning. A more detailed summary of the statements presented and discussions is provided in

Appendix A to this report, as well as being considered, where applicable, within the assessment below. The Board retained the services of Mr. Pierce Regan, Artane Recording Studio, to record the proceedings. This constitutes the official record of the proceedings.

#### Donegal County Council

- the subject harbour redevelopment project, is part of a major phased regeneration plan for Burtonport Harbour and its environs, including Arranmore island, and it is not simply about addressing car parking;
- following broad public support and feedback during consultation, the key objectives for the scheme were identified as providing benefits to the fishing industry, economic resilience, harbour infrastructure and functionality, infrastructural deficiencies, cultural heritage and public realm;
- the scheme is needed to address the underutilisation of buildings and infrastructure, traffic movement, loss of services, limited area for parking, poor roads layout and health and safety matters;
- the area for the project needs to address the existing harbour area. The options considered included do-nothing, do-minimum and do-something scenarios. Following independent economic appraisal, the do-something option was considered to best provide for the realisation of the identified public needs;
- the CPO relates to the land required for phase 1 (public realm, public amenities and car parking) and phase 2 (demolition and infrastructure works, an enterprise building, a ferry terminal building and public services). Phase 3 of the project (topslip works and a pontoon) are not part the CPO lands;
- details of the actual land requirements for the CPO and the rationale for including the objectors' plots were outlined, including the infrastructural (public realm, footpaths, buildings and roads) needs, the regularisation and provision of certainty regarding ownership, and the means of undertaking construction due to site constraints;
- Mr. Charles O'Donnell's chip van can be facilitated, including during the construction phases in an adjacent area;

- the CPO lands, buildings or structures do not have conservation status and from a planning perspective the project would make a positive contribution to the area and it would not contravene objectives and policies of the Development Plan;
- any structural issues with the existing ferry slipway would be addressed by the Council following completion of a consultant structural engineer's report;
- coastal flood events are common in harbour areas such as this, and the project would involve design features to alleviate impacts, including elevated finished floor levels to buildings;
- the detailed design of the project layout and parking is based on relevant technical requirements, as well as the needs identified during consultation and following advice of Council staff, including the current harbour master.

Objector - Mr. Charles O'Donnell

- the intended investment in the area is acknowledged, but this needs to be undertaken in the correct manner based on what is actually wanted and not what is pushed onto people;
- the project should not proceed in advance of the structural defects of the existing slipway being addressed;
- the project would still present some problems including health and safety issues, loss of buildings and the restriction of the future development potential of lands.

Objector - Mr. Jimmy O'Donnell

- the option of developing seven acres of other Council-owned lands opposite the harbour has not been addressed;
- proposals could be redesigned, including a revised path alignment to avoid the need to use Mr. Jimmy O'Donnell's property;
- proposals would demolish buildings of significant architectural and cultural heritage, including a 19<sup>th</sup>-century steamer shed that should be central to the project design;
- parking is only an issue in the area during peak summer periods;

- flooding is an issue in the CPO area;
- proposals would be premature pending a decision on the proposed Irish Water wastewater treatment project before An Bord Pleanála (ABP ref. PL05E.308382).

## **8.0 Assessment**

### **8.1. Introduction**

- 8.1.1. The following section entails a review of the CPO made by Donegal County Council for the Burtonport Harbour Redevelopment project, as well as the two objections to the CPO, with due consideration of the documentation submitted to An Bord Pleanála by each party in advance of the Oral Hearing, my visit to the site and its surroundings and the proceedings of the Oral Hearing itself.
- 8.1.2. As part of their written submission for the oral hearing Donegal County Council has amended the CPO to include details of an additional reputed owner of plots 002a, 002b and 002e.
- 8.1.3. An assessment of the CPO will be undertaken under the following headings:
- whether or not there is a justifiable common good;
  - proportionality and necessity for the level of acquisition proposed.

### **8.2. Whether or not there is a Justifiable Common Good**

- 8.2.1. For the Board to confirm the subject CPO proposal or otherwise, it must be satisfied that Donegal County Council has demonstrated that this CPO is clearly justified by the common good. For this to occur an objective assessment is required to determine whether the restrictions on an individual's property rights are reasonably proportionate to the ends sought to be achieved and this is undertaken below, based on whether or not minimum criteria are satisfied.

#### Community Need

- 8.2.2. Firstly, there must be a community need to be met by the acquisition of the lands in question. Along its seafront, Burtonport features a pier projecting southwest into the

sea and providing support and shelter for boats to dock along this and within the harbour area. Two boats currently provide ferry services from the harbour to and from Arranmore island and an array of other boats utilise the harbour, including fishing trawlers and pleasure boats. A local road (L5973) situated between a steep rockface and the quayside leads southeast from the main pier area and ferry slip towards fish factories southeast of the harbour. Along this roadway there are buildings of varying scales, enclosed and open storage areas, as well as several steel containers. During my site visit, the primary activity and use of the harbour would appear to have centred on the fishing industry and ferry boats, although it is widely acknowledged that there has been an increasing number of visitors to the area on the back of the success of the Wild Atlantic Way tourist route.

8.2.3. Donegal County Council state that the redevelopment of Burtonport harbour is part of a larger regeneration project for the area, including lands situated on Arranmore island. The objectors contest the necessity of the harbour regeneration project for the community, asserting that it is the needs of the Council that would be met by the project and that the actual community needs have not been truly considered by the Council. The Council state that consultation was undertaken with the public and elected representatives as part of the Part 8 planning application process for the harbour redevelopment aspect of the project, a fact that is not contested by parties to the CPO, and this allowed for the specific needs of the community to be identified for the harbour area. The needs identified to be addressed included the underutilisation of existing buildings and harbour infrastructure, obstructed access and movement along the harbour, the loss of services and commerce in the village, the limited area for parking and traffic movement for competing users, including fish processing facilities and ferry traffic, leading to traffic congestion and disruption to activities, and a confusing roads and parking layout that can impact on the health and safety of users and the efficient operation of activities. Key objectives for the project were assigned based on these needs.

8.2.4. The objectors to the CPO also assert that the identified community need to address car parking could be addressed via greater ability for the harbour master to police the area and as the car parking issue only arises during several peak periods of the summer. In response Donegal County Council clarified that car parking was only an element of the phased harbour regeneration project.

- 8.2.5. The regeneration of the harbour area would address the competing and transitioning demands for the harbour space, while addressing traffic congestion issues, providing a safer harbour area for all users and improved public services, as well as providing enterprise space and a designated yard for the fishing industry. The needs of the various community and commercial groups would be consolidated into defined areas within this constrained harbour side space, in turn creating a more coherent and manageable environment.
- 8.2.6. Having reviewed the information submitted and having conducted an oral hearing, I am satisfied that there is an identified community need for the regeneration of the harbour area. This would address existing issues constraining the area and the competing evolving needs of the area, by creating a more legible, user-friendly and safer environment, as well as providing improvements to the appearance of the harbour amenities. Accordingly, I am satisfied that Donegal County Council has demonstrated a clear and pressing community need that would be met by the project and would be facilitated by the acquisition of rights over the lands in question.

#### Suitability of Land to Meet Community Need

- 8.2.7. The second criteria to consider is whether the particular site is suitable to meet the stated community need for the CPO. The CPO would involve the permanent acquisition of 39 plots amounting to 1.5 hectares. These plots comprise open grounds, pavements, a pier, roads, rockfaces, yards and various buildings and structures. Six landowners or reputed landowners have been identified, as well as seven occupiers, with Donegal County Council identified as the landowner or reputed landowners for the majority of the CPO area and it is likely that there are burdens associated with much of these Council lands. The majority of the lands are located within the immediate harbour and waterside area, although three plots (005a, 005b and 005c) are located approximately 120m to the northeast of the main pier area.
- 8.2.8. The project relates to the regeneration of a specific harbour area and Donegal County Council submitted a Book of Drawings (appendix 2 to their Brief of Evidence) setting out the anticipated works envisaged for phases 1 and 2 of the project. The extent of the land that would be acquired under the order is primarily determined by the identified needs of the project, including the buildings and services to be

provided and the associated specifications for the proposed roads layout and the quantum of parking.

- 8.2.9. During the oral hearing Donegal County Council gave evidence of the various standards and surveys used to design the parking and roads layout as part of phase 1 of the project, including the Design Manual for Urban Roads and Streets. The quantity of land required to provide a fully integrated system of roads, ferry stacking areas and parking for the various modes of transport to be accommodated, including cars, fishing industry parking, ferry traffic, long-term parking, bus parking, taxi bays, electric-vehicle charging, mobility-impaired parking and RV parking, is based on a rational approach using technical standards and available information to address an identified community need. Phase 2 of the harbour regeneration project would provide for the new building elements, including the new harbour building and an enterprise building, and to facilitate these buildings and works, rockface areas (plots 002a, 002c and 002g) would need to be acquired primarily for construction and maintenance purposes.
- 8.2.10. I am satisfied that the rationale set out by Donegal County Council to address the identified needs of the community would appear reasonable and the extent of land required would appear to reasonably equate to the actual land to be acquired. Furthermore, I am satisfied that the land-take for the proposed CPO is necessary and proportional to ensure the delivery of the proposed project to the appropriate standards. An excessive area of land would not be required for the project based on the details provided and the identified needs. Further consideration of the potential effects on the interests of the affected persons is provided in section 8.3 below.
- 8.2.11. As outlined in my discussion regarding community need, the use of the subject properties would provide much-needed scope to address an increased, evolving and ongoing demand for services in the area, including those associated with ferry activity, recreational boating and other waterside activities, as well as commercial fishing. Furthermore, safety issues were flagged as being of specific concern in this area, given the potential conflict between the various traffic converging on the area, including visitors, recreationalists, commercial fishermen and local communities. Consequently, I am satisfied that the lands proposed for this project would be suitable to address the identified community needs and would meet this criterion.

## Alternatives

- 8.2.12. There are two issues to be considered when assessing the alternative methods for meeting the community need in this case. Initial assessment must consider whether or not this is the appropriate location to address the community needs and secondly whether or not alternative methods should be recommended to address the community needs. The alternatives considered by Donegal County Council included 'do-nothing', 'do-minimum' and 'do-something' options and these were subject of an independent economic appraisal in relation to cost-benefit analysis, as well as an assessment of risks and uncertainties. The Council's preferred 'do-something' option was considered to deliver the most impact for the least risk and the highest non-monetary scores (social and physical benefits). As part of the alternatives considered, the Council did investigate the potential to utilise the higher ground above the rockface along the harbour.
- 8.2.13. The Council own other undeveloped reclaimed lands stated to amount to seven acres, opposite the main harbour area and adjoining to the south of plots 006b and 006c. According to Donegal County Council, contractual constraints do not allow for these lands to be available for phases 1 and 2 of the harbour regeneration project. The risk of flooding has been raised by objectors as a concern for the location of the project. Evidence of historical coastal flood events have been referenced by objectors and identified in the area, and the Council acknowledge that recurring flood events arising from specific environmental conditions would be likely to occur along the harbour into the future, in a similar capacity to other harbour facilities.
- 8.2.14. In considering the options available to address the identified needs of the community, the location of the project is predicated on technical engineering and financial constraints, as well as the regeneration of the subject harbour area. The identified needs are specific to the resolution of issues in this location and cannot be readily addressed in alternative locations, including areas disconnected from the primary harbour facilities and the higher grounds above the rockface that feature extensive areas of exposed rock.
- 8.2.15. Objectors to the CPO contend that deficiencies in the structural capacity of the main slipway would place doubts on the present positioning of the project at the existing harbour location. It is asserted by objectors that if such deficiencies could not be



addressed, the redeveloped harbour infrastructures could be situated in the wrong location, as an alternative slip location would have to be provided, and this may entail use of the lands opposite the harbour in the vicinity of plots 006b and 006c. Donegal County Council has outlined that procedures for undertaking a structural survey of the slipway have been commenced and if issues arise, such as the need for repairs and/or replacement, these would be addressed in situ by the Council. This work, if required, and matters relating to the management of the existing slipways, do not form part of the project subject of this CPO, and, accordingly, would not impact on the suitability of the lands in addressing the community needs.

- 8.2.16. Issues relating to the status of buildings to be demolished within the CPO lands and the potential means to avoid acquisition of certain plots are addressed further below. Notwithstanding this, I am satisfied that the location of the project represents a logical, reasonable and proportionate proposal to address a community need. I am further satisfied that a relatively robust and comprehensive assessment of alternatives was undertaken by Donegal County Council taking into consideration the numerous constraints in relation to environmental, technical and cost-related matters.

#### Planning Policy Context

- 8.2.17. Objectors to the CPO raised concerns relating to the necessity for the demolition and the removal of buildings within the CPO area, including the potential for this to be contrary to the provisions of section 7.2 to the Development Plan, addressing the built heritage of the county. The buildings to be demolished include an ice house, currently used by the Council's harbour master, five storage buildings of varying sizes situated abutting the rockface, and an auction hall. No residential buildings would be removed and three portacabins would be moved from the CPO lands as part of the project. The objectors assert that the auction hall is a former steamer shed (building DB1 on the 'Burtonport Harbour Redevelopment' drawing no.P1607-002) associated with historical railways connecting the harbour area, and this should not be demolished and should be omitted from the project. Policies and objectives within the Development Plan set out supports towards the protection, conservation and recording of historical buildings in the county, including those associated industrial and maritime activities. It is not unusual for historical buildings to be either demolished or maintained as part of regeneration proposals, with the merit of

maintaining these often dictated by their present condition and any assigned conservation status. The Marinepro storage building (building ref. DB4) along the harbour had previously been subject to a permission allowing for its demolition (ABP ref. PL05E.235231 / DCC ref. 08/30837), although this permission lapsed in 2020 (DCC ref. 14/50364). The subject buildings to be demolished, including the former steamer shed, do not currently have conservation status. The Development Plan refers to the intention to add structures to the Record of Protected Structures with specific reference to those included within the National Inventory of Architectural Heritage (NIAH). The subject buildings are not included at present in the NIAH. Structural details of the buildings were not provided and based on historical photographs submitted with the written submissions to the application, the buildings appear to have been subject to various interventions. While the Development Plan supports maintaining of historical buildings where possible, there would not appear to be a strict necessity or exceptional circumstances to avoid demolition of the subject buildings, albeit subject to the recording of these structures on scaled drawings and in photographs.

- 8.2.18. The Development Plan recognises the special marine and tourism economic functions of Burtonport, as well as the need for an enhancement scheme to strengthen this community. Support for the existing harbour facilities are provided for under objective MRCM-O-4 and policies T-P-22 and MRCM-P-1 of the Development Plan. The CPO lands are primarily within the settlement framework boundaries for Burtonport and no specific land-use zoning objectives have been set for these lands. Policy CS-P-5 of the Development Plan states that development should occur in a sequential manner, outwards from the core area in order to maximise the utility of existing and future infrastructure provision, promote the achievement of sustainability, avoid leap-frogging to more remote areas and to make better use of under-utilised land. The proposed works would largely provide for a similar range of uses to the existing uses on the CPO lands, regenerating the core of Burtonport in compliance with the stated provisions of the Development Plan.

### **8.3. Proportionality and Necessity for the Level of Acquisition Proposed**

- 8.3.1. Donegal County Council have indicated that the plot areas have been kept to the minimum required in order to construct and operate the harbour facilities based on

the identified community need. The representative for Mr. Jimmy O'Donnell sought repositioning of the roads and footpaths to avoid demolition of the former steamer shed/auction hall (building reference DB1 on drawing no. P1607-002) and two small store buildings to the south of this (buildings DB2 and DB3). During the oral hearing parties referred to the necessity to continue to facilitate heavy goods vehicles (HGVs) along this new road system given the location of fish factories to the southeast of the harbour. The roads are stated by Donegal County Council to have been designed to comply with technical documents and requirements, including the Design Manual for Urban Roads and Streets, while the parking requirements, as stated above, are based on identified needs and technical standards. To meet the design standards, it is apparent that the former steamer shed/auction hall (building DB1) would have to be removed in order for a suitable safer road curvature to be provided leading through the harbour area. Maintaining the two smaller buildings (DB2 and DB3) proposed to be demolished would directly restrict the area to be used for bus and taxi parking/set down facilities and their associated turning areas. Shifting the footpath around these smaller storage buildings (DB2 and DB3), as suggested by the owner's representative at the oral hearing, would also have direct effects for the parking and roads layout, within a substantially constrained area. Consequently, given the intended need that this would address, a proportional and necessary area of land is proposed to be acquired, including those areas containing buildings to be demolished (DB1, DB2 and DB3).

8.3.2. Plots 002a, 002c and 002g of Mr. Jimmy O'Donnell's landholding would not be used for specific uses as part of phases 1 and 2 of the regeneration project, however, these plots are clearly necessary to enable the construction and maintenance works associated with the proposed adjoining buildings and their inclusion in the CPO lands would not be excessive as part of the measures proposed. Having reviewed the information submitted, I am satisfied that the overall size and scale of the proposed lands to be acquired permanently are necessary and proportionate in the context of meeting the identified community need.

8.3.3. Lands opposite the harbour (plots 006a, 006b and 006c) are stated to be required for acquisition as part of a future phase of the regeneration project, specific details of which have not been provided with the application. The stated owners/reputed owners of these plots are public bodies who have not objected to their acquisition,

and I am satisfied that the acquisition of these plots by Donegal County Council would allow for the orderly functioning of the area, potentially as part of future phases of the project.

- 8.3.4. Mr. Charles O'Donnell referred to the project potentially restricting income derived from his chip van operating at plot 001f. As part of the oral hearing Donegal County Council outlined that during the construction phase of the project, which would only feature limited works comprising paving at plot 001f, Mr. Charles O'Donnell's chip van could be facilitated and subject to licensing there would remain scope to facilitate the chip van on an ongoing basis.
- 8.3.5. The objections submitted assert that the proposed land-take would have a detrimental effect on the development potential of other lands adjacent to O'Donnell's pub (northwest of plot 001f), in particular via restriction of access and reduced scope for private parking. In this regard, I note that the project would entail improved access within the harbour area, as well as the provision of a new public parking area, northwest of O'Donnell's bar. Extensive lands would remain available and accessible within the adjoining areas for alternative private uses, including those within the settlement framework boundaries for Burtonport, as detailed in the Donegal County Development Plan 2018-2024.
- 8.3.6. In conclusion, I am satisfied the measures proposed under this compulsory purchase order would not have an excessive or disproportionate effect on the interests of the affected persons.

## **9.0 Recommendation**

- 9.1. Arising from my assessment above, I consider that An Bord Pleanála should confirm the CPO before it without modification based on the reasons and considerations set out below. I am satisfied that the process and procedures undertaken by Donegal County Council are reasonable and that Donegal County Council has demonstrated the need for the acquisition of lands and that the lands acquired are both necessary and suitable. I am also satisfied that the proposed acquisition of the said lands would be in the public interest and the common good by regenerating this harbour area and improving facilities and amenities in this harbour area, consistent with the policies and objectives of both strategic and statutory planning policy.

**9.2.** In summary, I am satisfied that the lands are required by Donegal County Council for the purposes of performing its statutory functions to enhance and regenerate the harbour infrastructure and I recommend that the Board confirm the CPO without modifications.

## **10.0 Reasons and Considerations**

**10.1.** Having considered the objections made to the compulsory purchase order and the report of the person who conducted the oral hearing into the objections, and having regard to the provisions of the Donegal County Development Plan 2018-2024, it is considered that the acquisition of lands by Donegal County Council is necessary for the purposes stated in the order, and the objections cannot be sustained having regard to the said necessity.

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Colm McLoughlin  
Planning Inspector

12<sup>th</sup> May 2021

## **11.0 Appendices**

### **11.1. Appendix A – Proceedings of Oral Hearing**

11.1.1. An Oral Hearing was held in respect of the compulsory acquisition of lands. The hearing was held on Tuesday 12<sup>th</sup> January, 2021, on the Microsoft Teams online communication platform. The speakers attending this public Oral Hearing were:

- Representatives on behalf of Donegal County Council;  
Mr. Patrick McMullin, VP McMullin Solicitors;  
Ms. Clíodhna Campbell, Senior Engineer;  
Mr. Frank Sweeney, A/Senior Executive Planner;  
Mr. Paul Kelly, Senior Executive Planner.
- Objector - Mr. Charles O'Donnell.
- Representative on behalf of Mr. Jimmy O'Donnell;  
Mr. Seán Boner, Seán Boner & Company Solicitors.

### **11.2. Inspector's Opening Remarks**

11.2.1. The hearing commenced at 10:07am with the Inspector opening the hearing and setting out an outline of the proposed agenda. The purpose of the hearing was to provide for a brief overview of the project and to focus on the objections received in respect of the compulsory acquisition of lands. The Inspector then requested Donegal County Council to commence its formal submission at the hearing. The following is a summation of the various statements, questions and responses by each party.

### **11.3. Submission by Donegal County Council**

#### Opening Statement by Mr. Patrick McMullin on behalf of Donegal County Council

11.3.1. Mr. Patrick McMullin of VP McMullin Solicitors, set out the opening remarks on behalf of Donegal County Council, setting out the speakers on behalf of Donegal County Council and the matters to be addressed, before calling upon two technical experts to present their statements of evidence at the hearing.

### Statement of Evidence from Ms. Cliodhna Campbell, Senior Engineer

11.3.2. Ms. Campbell outlined the background for the harbour redevelopment project. The statement notes the level of activity in around the harbour area and Burtonport, including the year-round activity associated with the working fishing port and the two ferry company operations, trips by islanders travelling to and from the mainland and pleasure boats and the increased activity associated with the success of the Wild Atlantic Way. It is stated that the Local Authority has developed a major phased regeneration plan for Burtonport Harbour and its environs, including Arranmore island, and this is collectively known as the 'Harbour to Island' regeneration project. At Burtonport the project would involve the removal of redundant and obstructing buildings and it would also provide a new modernised, safer and more efficient access and egress to the harbour and the slipways. At Arranmore the project would involve provision of shorefront amenities that would not require a CPO. The statement provided details of the progress achieved in the overall phased project both at Burtonport and Arranmore. Subject to acquisition, phase 1 of the project at Burtonport would involve a new multi-user public realm with modern transport infrastructure, public amenities and car parking, phase 2 would involve the construction of a ferry terminal building and public services, an enterprise building with four mixed-use units and the demolition of an Ice House and the completion of infrastructure works. The CPO includes all lands required for phases 1 and 2, but does not relate to Phase 3. The Phase 2 building footprints would be hard surfaced during the phase 1 works.

11.3.3. A description of the location of the development relative to roads infrastructure follows and this refers to the constraints of the site being limited to an area between the harbour and a rockface, which is currently occupied by buildings, open storage, harbour and roads infrastructures. It is stated that the need for the scheme primarily arises from the following:

- underutilisation of existing buildings and harbour infrastructure, obstructing access and movement along the harbour;
- loss of services and commerce has been a feature of the village;

- limited area for parking and traffic movement for competing users, including fish-processing facilities and ferry traffic, leading to traffic congestion and disruption to activities;
- confusing roads and parking layout can impact on health and safety of users and the efficient operation of activities.

11.3.4. Following consultation with elected members of the Local Authority and the public, the key objectives for the scheme are stated to be as follows:

- to strengthen and support the fishing industry;
- to strengthen economic resilience by facilitating diversification and up-scaling in the tourism and leisure sectors;
- to improve harbour infrastructure and functionality and reduce dereliction;
- to deliver key infrastructural and place-based interventions, which support reversal of negative demographic trends;
- to protect cultural heritage and deliver a high-quality public realm.

11.3.5. Detailed descriptions of the interventions to be undertaken in attempting to achieve these key objectives were stated by Ms. Campbell, as well as the targeted outcomes of each intervention. Detailed descriptions of the interventions to be undertaken in attempting to achieve these key objectives were stated by the Senior Engineer, as well as the targeted outcomes of each intervention. The options considered to address the needs of the harbour and its users were stated as follows:

- do-nothing – this would not address the needs identified;
- do-minimum – this conformed to the low-cost solution, primarily involving using the existing lands available to the Local Authority and undertaking marking of layouts and parking to address ad hoc parking, but this would not provide alternative or additional car parking;
- do-something – this conformed to the preferred option, taking into account the identified needs and addressing constraints. To address the needs it was identified that this would require the acquisition of lands addressing congestion, parking and safety problems. Lands initially considered to achieve this included those sitting above the rockface and remote from the



harbour, which were considered to be at a disconnect from the harbour and unsuitable for the project. The do-something option would provide for realignment of roads, ferry stacking, additional and alternative parking, public realm improvements, new fishing industry space, a new harbour building and commercial units.

11.3.6. Following independent economic appraisal, the do-something option would provide for the realisation of the identified needs, the most impact for the least risk, as well as multiplier effects. Phases 1 and 2 would be subject of Part 8 planning applications and the book of drawings for the proposed works were referenced (as part of the circulated written submission) to describe the project, including the area covered. Phase 1 would involve:

- demolition and removal of structures and the relocation of ferry service portacabins, recycling facilities and fishermens' storage units;
- realignment of approximately 180m of road, pedestrian paths and crossings, hardsurfacing of proposed buildings footprints;
- provision of a total of 89 car parking spaces, including mobility-impaired, recreational-vehicle (RV) and electric-vehicle spaces;
- provision of hard and soft landscaping, street furniture, signage, drainage, lighting.

Phase 2 would involve:

- construction of a harbour building, including harbour master's accommodation, ferry, tourism, public waiting room and toilet facilities, multi-purpose community room, staff and Council meeting room accommodation;
- construction of four enterprise units with mezzanine level storage areas.

11.3.7. The Senior Engineer outlined the consultation, briefings and planning process undertaken as part of the project and the general feedback received during this. It was stated that the Part 8 planning application process was confirmed for the Phase 1 scheme at a Council plenary meeting in July 2019. Further commentary with respect to funding was provided.

11.3.8. The statement provides details of the actual land requirements for the CPO, including the difficulties faced in acquiring the lands due to lands not been registered with the Property Registration Authority (PRA) and a lack of clarity regarding ownership. The CPO would facilitate the construction of both phases 1 and 2 to the project, and the area involved encompasses 39 plots amounting to 1.5 hectares, with six landowners and reputed landowners identified, as well as seven occupiers. The Local Authority were notified of an additional party with an interest in three plots (002a, 002b and 002e) and an amendment to the schedule was submitted, as circulated.

11.3.9. The Senior Engineer's statement addressed the concerns raised in the objections to the CPO, which can be summarised as follows:

Mr. Jimmy O'Donnell

- plot 002a – this is required to extend the footpath area and to regularise the ownership, which is uncertain. Access or frontage to O'Donnell's pub would not be altered;
- plots 002b, 002c and 002e – these plots are required to facilitate the construction of the realigned road, the public realm, footpath and parking;
- plots 002d, 002f, 002g and 003e – the plots would not impact on the use of the lands accessed by Mr. Jimmy O'Donnell;
- plots 001f (chip van) and 002a – the proposed acquisition would provide a safe set down area for public transport and festival space and the overall project would provide for additional parking in the area supporting local businesses;
- objections are also raised to matters that are asserted not to be valid to the consideration of this CPO. The statement addresses these matters by referring to the alternative and increased provisions being made for fishermen as part of the project, the increased safety provided by the project, the function of existing buildings and scope to be facilitated within phase 2 buildings, car parking management proposals and the intention to review rubbish bin necessity.

Mr. Charles O'Donnell (plot 001f – chip van)

- queries with regards to ownership and compensation are outside of the scope of the CPO;
- while parking of a chip van on a public footpath is not provided for in the relevant regulations, the Local Authority will not be requiring this chip van to be removed as part of the scheme and the casual trading arrangements can be regularised in the future;
- the objector can only object with respect to CPO matters and not planning matters, notwithstanding this, the statement addresses the alternative and additional proposals to be provided for fishermen, the provision of replacement buildings, the potential to identify other more suitable locations for a playground in future, businesses are not being asked to relocate and the proposals would not preclude other development beneficial to the community.

11.3.10. Finally, the Senior Engineer referred to the CGIs, photographs and drawings submitted as part of the Brief of Evidence and provided a response with respect to the individual plots that the objectors have referred to in their submissions and the necessity to acquire same as part of the CPO, including the regularisation of ownership (plot 001f), residual space required for practical and safe working/construction/landscaping (plots 002a, 002c, 002d, 002f), the realignment of roads infrastructure (plots 002b and 002e) and the facilitation of the new harbour building, enterprise building and adjoining car park (plots 002g and 003e).

Statement of Evidence from Mr. Frank Sweeney, A/Senior Executive Planner

11.3.11. The statement from Mr. Sweeney specifically relates to the planning context for the CPO scheme and initially set out the social, economic and cultural benefits that the project is envisaged to support for the local community. Mr. Sweeney stated that the Burtonport Harbour Redevelopment project would deliver on five national strategic objectives (NSOs) of the NPF, including NSO1, NSO3, NSO4, NSO5 and NSO7. It is noted that maximising the quality and integrity of the visitor experience is part of the priorities along the Wild Atlantic Way for this region under the NPF and the project has been identified as enabling this. It is also stated that in removing and repurposing publically-owned assets the project would bring transformational 'place-making impacts' for Burontport and Arranmore. Mr. Sweeney stated that the project

would be consistent with the objectives of the 'growth framework' outlined within the Regional Spatial & Economic Strategy for the Northern and Western Regional Assembly. Furthermore, the project strongly supports the special economic functions identified in the Donegal County Development Plan 2018-2024 for Burtonport and the area, including the harbours and islands, building on sectoral strengths, providing balanced development safeguarding the marine and leisure tourism resources and generating economic benefits. In conclusion, it is stated that in making a positive contribution to the area, the project would not contravene objectives and policies of the Development Plan and would be compliant with objectives and policies relating to tourism, marine resource and coastal management, as well as community, culture and the Gaeltacht. This completed Donegal County Council's formal brief of evidence at the Oral Hearing.

#### **11.4. Submission by objector, Mr. Charles O'Donnell**

- 11.4.1. At 12:24 the Inspector invited the submission from Mr. Charles O'Donnell. The objector acknowledged the intention of Donegal County Council to invest in the area, which is considered to be badly needed, but that this would need to be undertaken in the correct manner. It is stated that the primary issues facing the harbour area related to mismanagement of the resource, but that the employment of a harbour master had improved the situation, albeit they require additional powers. Mr. Charles O'Donnell requested that the plot occupied by the chip van would be left untouched, while also highlight structural defects of the existing slipway, which he considered to inhibit the future potential of this for use in ferrying. A more appropriate location for the project and slipway could be provided for on other lands formed during previous dredging works opposite the main harbour. It is stated that during consultation very little altered in the project design and it was considered that the removal of buildings would not be to the benefit of the community, while the location of the fisherman's yard would still present health and safety issues with HGVs continuing to have to pass through the harbour area. In conclusion, the objector stated that while the project would facilitate additional parking, the potential acquisition of the lands by Donegal County Council would restrict the future development of the subject area for tourism and accommodation purposes.

## **11.5. Submission on behalf of objector, Mr. Jimmy O'Donnell**

### Submission by Mr. Seán Boner, Seán Boner & Company Solicitors.

- 11.5.1. At 12.31 the Inspector invited the submission from the representative of the objector Mr. Jimmy O'Donnell. Mr. Boner set out the context for the CPO and the settlement of Burtonport, asserting that this was one of three CPO processes, including a CPO for an Irish Water project, and the CPO of seven acres of reclaimed lands following dredging on the opposite side of the harbour. It is stated that the Council had approximately 15 years previously considered use of the seven acres for parking having reached agreement with an adjacent landowner to provide access into this area. This option for the project is not presented by Donegal County Council according to the objector's representative, despite the fact that it is now proposed to knock buildings of significant architectural and cultural heritage in a constrained and limited area along the harbour.
- 11.5.2. It is stated that there is a problem with parking in the area, but that this only occurs during the August bank holiday weekend and during Burtonport festival week, and this parking issue could be addressed by a bye-law addressing ferry times. The existing car park at the harbour is too small and is known to flood and it is stated that the CPO to create a car park would not attract tourists to Burtonport and the proposed parking would be in areas susceptible to flooding. The project would turn Burtonport into a badly-built car park of no benefit to local people.
- 11.5.3. Mr. Boner highlights that it is proposed to demolish a nineteenth-century steamer shed that is of historical and unusual value in a county and national context, and replacing this with a building featuring architectural references to acknowledge the value of this steamer shed, despite clear provisions and policies within the Development Plan unambiguously supportive of the protection of such buildings of heritage and also despite no evidence that the Council's Heritage Officer has provided input to this process. Scope to route traffic around this steamer shed was not considered by the Council.
- 11.5.4. According to the objector's representative, it is unclear how the proposals would tie in, particularly wastewater associated with public toilets, if the CPO for an Irish Water project does not proceed, a project that is awaiting a hearing date with An Bord Pleanála. The necessity to replace the existing harbour master's office and public

toilets, and provide an oversized waiting room that would not be in demand is questioned, along with the limited provision of shower facilities for docking fishing industry personnel. The project would simply remove existing buildings of merit and provide nothing for Burtonport, with visitors shepherded around by the traffic scheme.

11.5.5. The Local Authority are simply using the difficulties in identifying relevant landowners for the CPO plots as an excuse for the CPO itself, with no proper searches undertaken and no opportunity for parties to give evidence of title. The objector states that the CPO process is a handy means to effectively take over his client's lands and fails to respect the responses during consultation for the project and the provisions of the Development Plan. There is a need to revisit the project and look at the whole picture rather than split the overall project, involving cumulative consideration of the three CPO processes that does not ignore the seven acres previously earmarked for car parking.

## 11.6. Questions

### Questions of objector, Mr. Charles O'Donnell, to Donegal County Council

1.) What is the expected availability of the slipway for ferry use from a structural perspective, given that the project to be facilitate by the CPO is all about this?

Response: The Senior Engineer stated that asides from the normal maintenance works, following the procured structural engineer's assessment any issues arising would be addressed by the Council.

### Questions of objector, Mr. Jimmy O'Donnell, to Donegal County Council

1.) Does the Council accept that one of the reasons for the CPO is the fact that some of the lands are unregistered and that it is the register of deeds that are applicable in such cases?

Response: The Council's legal representative stated that the registry of deeds is applicable and that the CPO process would provide certainty should anyone claim title, such as in the case regarding plot 001f (chip van).

2.) Is the project subject of the CPO predicated on the existing slipway being continued to be available for two ferry companies simultaneously?

Response: The Senior Engineer stated that the associated project is a regeneration project and would be about much more than use of the slipway by two ferry companies.

3.) Should difficulties arise such that the existing slipway could no longer be used, would the upgraded harbour facility be in the wrong location?

Response: The Senior Engineer stated that the slipway would be repaired or reconstructed in situ, if necessary following the consultant structural engineer's response.

4.) Did Donegal County Council consider using the other 'seven acres' of land behind the crab factory to facilitate the project subject of the CPO and at what stage did the Council decide not to proceed to use these lands?

Response: The Senior Engineer stated that the associated project is a regeneration project for the harbour area of Burtonport, providing parking to facilitate the needs of visitors to the harbour and the other lands referred to by the objector's representative are not subject of this CPO.

5.) Did the Council consider development elements of the project relative to the CPO in the context of the previous planning permission relating to the Marinepro building along the harbour (DCC ref. 14/50364)?

Response: The Senior Engineer stated that they were aware of the permission that had since expired and they did not consider developing along the lines of it, as it was for a completely separate development relating to residential development.

6.) How would the wastewater element of the project to be facilitate by this CPO be affected by the Irish Water proposals in front of An Bord Pleanála?

Response: The Senior Engineer stated that such matters would be addressed in detailed design if required. The Inspector advised that the merits of such applications were not subject of this CPO process.

7.) Is Donegal County Council aware that the existing car parking facility on higher grounds is often subject to coastal flood events?

Response: The Senior Engineer stated that this existing car park was not part of the CPO lands and they advised that while they are aware of issues relating to flooding,

this is understood to be caused by a blocked drain which are issues addressed through the municipal district team.

8.) Did Donegal County Council consider revising the timing of ferries in order to manage the car parking situation in the harbour?

Response: The Inspector requested that the questions need to remain focussed on the CPO process and questions relating to the lands subject of the CPO.

9.) What is envisaged for Phase 3 of the regeneration project?

Response: The Senior Engineer stated that the CPO does not relate to Phase 3 and that it was envisaged that this would relate to development of the topslip and a pontoon to facilitate smaller boats and pleasure cruisers.

10.) If the funding for later phases of the regeneration project are not received what would be the implications of this?

Response: The Senior Engineer advised that the building footprints subject of the phase 2 proposals would be hard surfaced as public realm space and not parking spaces to facilitate their development at a later stage subject to the funding being made available, which they are confident of receiving.

#### Questions of Inspector to Representative of Mr. Jimmy O'Donnell

1.) Please can you identify the location of the 'seven acres' of land you have referenced?

Response: The objector's representative, Mr. Boner, identified these as the lands in the foreground of the bird's-eye image on page 13 of the Brief of Evidence main document.

#### Questions of Inspector to Donegal County Council

1.) Please can you clarify the necessity and rationale for the inclusion of plots 006a, 006b and 006c within the CPO?

Response: The Senior Engineer advised that while these lands would not form part of the present project, following discussions with the Department (of Agriculture, Food and the Marine) it was decided to regularise ownership issues and it was considered timely to undertake this.



2.) Please can you clarify if there are any other lands available adjoining or adjacent to the CPO lands that Donegal County Council are in ownership or control of?

Response: The Council's legal representative advised that the only lands (other than those subject of easements) would be the 'seven acres' which were subject a separate CPO process that was not subject of an objection and therefore the Board would not have been privy to this. These lands were reclaimed following dredging works having previously been underwater and as the registered owners they are subject to contractual commitments that do not make the lands freely available for Donegal County Council to use as part of the regeneration project.

3.) Please can you clarify the locations of the 'proposed fisherman's yard' and the existing 'top slip'?

Response: The Senior Engineer identified the locations using the drawings submitted as part of the Brief of Evidence.

4.) How long would the works required for phase 1 require and could Mr. Charles O'Donnell's chip van be accommodated during this period?

Response: The Senior Engineer stated that the works for phase 1 would be relatively minor at the chip van plot and the Council could co-ordinate with Mr. Charles O'Donnell to accommodate his chip van for a temporary period in the adjacent lands at the edge of the project.

5.) Is there any conservation status assigned to buildings or structures within the CPO lands?

Response: The A/Senior Executive Planner stated that there are no such designations within the CPO lands.

6.) What policy documents were referred to when considering the design of streets and parking within the CPO lands?

Response: The Senior Engineer stated that the Design Manual for Urban Roads and Streets, the Design Manual for Roads and Bridges, the Traffic Management Guidelines and the technical standards of the Development Plan were used.

7.) How was the quantum of parking required within the CPO lands arrived at?

Response: The Senior Engineer stated that the parking was subdivided into two areas. The northern end car park (plots 005a, 005b and 005c) was originally not included but was identified as being required by local residents and businesses following consultation and it was considered that this would be an appropriate RV parking location, avoiding these vehicles having to travel into the harbour area. The insight of the harbour master regarding the actual parking requirements in the harbour area based on demand from staffing, islanders, businesses and locals. Additional parking would also be provided to facilitate increasing visitor numbers in a user-friendly manner. The harbour master would be in a much better position to manage these areas when a proper layout and signage for the various forms of parking is installed.

8.) Was a flood risk assessment undertaken with respect to the CPO lands forming part of the project?

Response: The Senior Engineer stated that flooding associated with heavy rains would be addressed as part of the project design and with regard to coastal flood events there would be very little that could be achieved in this regard. Mr. Paul Kelly Senior Executive Planner for Donegal County Council advised that during preparation of the Part 8 application no coastal flood events were noted from mapping for the area and a site specific flood-risk assessment was not considered necessary, although the finished-floor level of buildings would be designed to climate-proof the buildings and the road design would manage the risks.

## **11.7. Closing Statements**

### Donegal County Council's Closing Statement

11.7.1. Mr. McMullin made a closing statement on behalf of Donegal County Council and stated that the CPO was required to facilitate a project regenerating the land around the harbour and was not simply about car parking, as it would fulfil the detailed objectives required following the consultation exercise and a project solely providing car parking would be unlikely to fulfil funding requirements. Following extensive consultation it was clear that there was widespread local support for the project and feedback received was incorporated into the project. The nature of the project regenerating the harbour area constrains the area suitable for the project and also

presents a need to address the physical constraints of the site. The Council has given a clear commitment to facilitate Mr. Charles O'Donnell and his chip van and in relation to Mr. Jimmy O'Donnell the Council has elaborated on the need for the scheme and the lands required. The Council would not be looking for more land than would be required, there is clear public support for the project with no objections from others with private lands in the CPO area and the foreshore lands would regularise existing public-owned lands to be provided to Donegal County Council to deal with any issues arising.

Objector, Mr. Jimmy O'Donnell, Closing Statement

11.7.2. The closing submission from Mr. Boner on behalf of Mr. Jimmy O'Donnell stated that the design of the roads and footpath layout could be revised to avoid the necessity to require his client's lands and based on the principle of proportionality the Council are attempting to acquire more than would be necessary. The steamer shed should have been a central piece in the project design, it should not be demolished and should be included in the record of protected structures (RPS), along with other buildings in Burtonport that have not already been included in the RPS. The demolition of this building is in breach of Development Plan provisions relating to the built heritage of the county. Flooding remains a problem in the area, as evidenced in the images submitted by Mr. Charles O'Donnell and circulated for comment to the parties, and the Council is aware of this issue, which should have triggered a flood risk assessment. The entire development would be premature pending the Irish Water wastewater treatment project and other questions remain regarding funding availability, the longevity of fishing industry, coronavirus impacts and the tying of the project with Arranmore. While visitor numbers may potentially increase the project has not been well thought out and the CPO should be refused.

11.7.3. In response to the flood images Ms. Campbell from Donegal County Council stated that the CPO lands are in a seaside location, similar to many other locations along the coast where parking is provided, and it was not unusual or unexpected for overtopping or flood events to occur in such areas in certain conditions.

Objector, Mr. Charles O'Donnell, Closing Statement

11.7.4. In his closing statement Mr. Charles O'Donnell agreed with the comments of Mr. Jimmy O'Donnell's representative and stated that during flood events it was clear

that the parking would simply be displaced further up into the village, which would impact on local people. The project should not be allowed to go ahead in advance of the proper structural report on the slipway being received and an open mind should have been taken for the project, as it should be about what people want and not about what the Council want the people to have.

## **11.8. Closing of the Oral Hearing**

11.8.1. The Inspector made a short closing statement thanking the parties for their participation before formally closing the hearing at 15:29 hours.