



An  
Bord  
Pleanála

## Inspector's Report

### ABP-317223-23

<b>Development</b>	Compulsory Purchase (Number 2) Order 2023, Athlone Flood Alleviation Scheme - Flood Cell 1 Deerpark.
<b>Location</b>	Athlone, County Westmeath.
<b>Planning Authority</b>	Westmeath County Council.
<b>Applicant</b>	Westmeath County Council.
<b>Type of Application</b>	Compulsory Purchase Order under the provisions of the Local Government (No. 2) Act 1960, the Housing Act 1966 (as amended), the Roads Act 1993 (as amended) and the Planning and Development Act 2000 (as amended).
<b>Observers</b>	Eastshore Developments Limited. Westshore Developments Limited. Bastion Quay Management Company Limited.
<b>Date of Site Inspection</b>	28 <sup>th</sup> August 2024
<b>Inspector</b>	Dolores McCague

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## **1.0 Introduction**

### **1.1. Overview**

- 1.1.1. Westmeath County Council (WCC) is seeking confirmation by the Board of a Compulsory Purchase Order: CPO Number 2 Order 2023, entitled 'Athlone Flood Alleviation Scheme - Flood Cell 1 Deerpark'.
- 1.1.2. The CPO relates to the compulsory acquisition of lands and permanent wayleaves for the purposes of implementing a part 8 scheme for flood alleviation at the River Shannon in Athlone.
- 1.1.3. WCC has made the CPO and submitted the request for confirmation pursuant to the powers conferred on it. The CPO is made under:
- Section 76 and the Third Schedule to the Housing Act 1966, as extended by Section 10 of the Local Government (No.2) Act, 1960, and as amended by the Planning and Development Act 2000 (as amended)
- Local Government (No.2) Act, 1960, and Section 213 of the Planning and Development Act 2000 (as amended) and Section 184 of the Local Government Act 2001
- Section 10 of the Local Government (Ireland) Act 1898 as amended by Section 11 of the Local Government (No.2) Act 1960, and Section 213 of the Planning and Development Act 2000 (as amended)
- and all other acts thereby enabling.
- 1.1.4. At a meeting on 17<sup>th</sup> of September 2018,-Westmeath County Council voted in favour of adopting a Part 8 for Athlone Flood Alleviation Scheme - Flood Cell 1 – Deerpark, Athlone, (Ref LA (A) 2018-10). The proposed acquisition is intended to support the delivery of these works.
- 1.1.5. Three objections were received in respect of the CPO. This report considers the issues raised in the objections submitted to the Board and, more generally, the application to acquire lands for the stated purpose.

## **1.2. Purpose of CPO**

- 1.2.1. According to the documentation submitted with the application, the purpose of the CPO is to acquire the lands required for the Athlone Flood Alleviation Scheme - Flood Cell 1 Deerpark
- 1.2.2. The overall project, and the project of which these lands form a part, is more extensive than the subject lands. The scheme comprises 8 flood cells:
- Flood cell 1 Deerpark
- Flood cell 2 The Strand
- Flood cell 3 The Quay
- Flood cell 4 Brick Island
- Flood cell 5 Marine View
- Flood cell 6 Iona Park
- Flood cell 7 River AI (Creggan) and
- Flood cell 8 Golden Island.
- 1.2.3. Flood cell 1 Deerpark, the project within which the subject lands is located, is more extensive than the subject lands, and considerable work has been carried out within Flood cell 1 Deerpark, but not within the subject lands.

## **1.3. Accompanying Documents**

- 1.3.1. The application is accompanied by the following documentation:
- CPO schedule,
  - CPO Deposit Map (the maps were deposited at Athlone-Moate Municipal District, Civic Centre, Church Street, Athlone, Co Westmeath and [www.westmeath.ie](http://www.westmeath.ie)),
  - Newspaper Notice published in the Westmeath Independent on May 27<sup>th</sup> 2023,
  - CPO Order,
  - Chief Executive's Order 11<sup>th</sup> of May 2023 authorising the compulsory acquisition of the land and permanent wayleaves,
  - Notices dated 23<sup>rd</sup> of May 2023, together with schedules and drawings issued to all owners and occupiers,

- Certified extract from the minutes of the Monthly meeting of Westmeath Council, 17<sup>th</sup> September 2018, regarding item number 6: the members approval of the Chief Executives report on the Part 8 for Athlone Flood Alleviation Scheme - Flood Cell 1 - Deerpark, Athlone,
- Report dated 10<sup>th</sup> September 2018, from the Executive Planner to the Chief Executive in relation to the Part 8, and
- Cover Letter dated 26<sup>th</sup> of May 2023, outlining the contents of the application.
- A digital copy of the Part 8 documentation has been provided.

#### **1.4. Reference to Previous Part 8 Application/Approval**

- 1.4.1. A Part 8 process previously took place under PA Reg. LA(A) 2018-10, which gave planning consent for the project. The documentation described the purpose of providing long term protection to local residents from severe flood events in the areas, enhancing the areas and providing a safer living environment.
- 1.4.2. An Appropriate Assessment Screening Report was prepared in respect of the Part 8 process, which concluded that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site and, therefore, an Appropriate Assessment (Stage 2 AA) was not required for the proposed Flood Cell 1 'Deerpark' Flood Alleviation Works.
- 1.4.3. An EIA Screening Report was prepared in respect of the Part 8 process, which determined that there would be no likely significant effects on the environment and therefore, that an EIA was not required for the proposed Flood Cell 1 'Deerpark' Flood Alleviation Works.
- 1.4.4. The Part 8 consent for the project addressed the relevant planning and environmental considerations arising.
- 1.4.5. The project accorded with the legislative requirements and is now at an advanced stage of implementation.

#### **1.5. Format of CPO Schedule**

If confirmed, the Order will authorise the local authority to:

Acquire compulsorily, for the purposes of the Housing Act 1966:

lands described in Part I, of the Schedule attached and illustrated on the deposited map drawing number MGW0249DG1012/01.

Permanent wayleave:

The right for the Local Authority, its successors in title, assigns, tenants, servants or agents, contractors or other licensees:

To pass and always repass,

To construct, lay, keep, operate, maintain, renew, repair, and inspect the flood defence works on or under the land specified in Sub-Part B, together with the right,

To enter with all necessary vehicles, plant, and machinery upon the said land at all times for any of the said purposes.

described in Part 2, of the Schedule attached and illustrated on the deposited map drawing number MGW0249DG1012/01.

Sub-Part B is a description of the land.

1.5.1. Land acquisition is also shown on drawing numbers:

MGW0249DG1012/04,

MGW0249DG1012/05,

MGW0249DG1012/06,

MGW0249DG1012/07,

MGW0249DG1012/08 and

MGW0249DG1012/12.

1.5.2. The permanent wayleaves to be acquired are also shown on drawings:

MGW0249DG1012/09 and

MGW0249DG1012/11.

## **2.0 Site Location and Description**

2.1.1. The proposed works for the Athlone Flood Alleviation Scheme - Flood Cell 1 Deerpark, is part of works which are currently underway on both sides of the river in

Athlone, comprising what are described as 8 flood cells, to defend the built-up area of Athlone town from flooding. The section of the scheme to which the CPO relates is a segment of one of those cells, close to the River Shannon, on its western bank. All lands subject to the CPO are in the townland of Athlone and Bigmeadow.

- 2.1.2. The published notice contains a reference to the CPO being related to a development under section 177AE of the Planning and Development Act 2000 (as amended) and includes related advice. This was in error as the development has been the subject of a part 8 process. There were no submissions arising from the published notice. The letters to the landowners did not contain the error.
- 2.1.3. A report for the part 8, from the Executive Planner to the Chief Executive of the Council, dated 10<sup>th</sup> September 2018 recommending the part 8, has been provided.

### **3.0 The Proposal / CPO**

- 3.1.1. The Part 8 included a map: drawing no. DG 1006-03 Rev P01, which, when printed at A3 size is to a scale of 1:1000. This map has on it a drawing of the proposed project, in this part of the overall site. It shows the proposed structures e.g.:
  - The proposed flood embankment,
  - Existing access track / wayleave to be raised by WCC following completion of flood defence works,
  - Proposed flood defence walls, etc
- 3.1.2. Although not showing the land 'outlined', this is deemed to be the map provided under Article 83 (1) (b) of the Planning and Development Regulations 2001 as amended.
- 3.1.3. The laneway to the west, the subject of the proposed permanent wayleave, is not identified as part of the project.
- 3.1.4. Other works are generally or approximately in locations subject to the CPO.

## **4.0 Policy Context**

### **4.1. National Planning Framework (NPF) – Project Ireland 2040**

- 4.1.1. The National Planning Framework (NPF) is a high-level strategic plan for shaping the future growth and development of the country. It includes:

Strategic Flood Risk Assessment (SFRA)

The National Flood Policy of 2004 and the EU Floods Directive have been key drivers in how Ireland manages flood risk. The Catchment Flood Risk Assessment and Management (CFRAM) programme was developed in response to the requirements of these drivers and has both provided a comprehensive assessment of high flood risk areas and proposed plans to mitigate and reduce flood risk in Ireland. In parallel to the CFRAM programme, and to mitigate further inappropriate development in areas of high flood risk, the Planning System and Flood Risk Management Guidelines were published in 2009.

### **4.2. Regional Spatial and Economic Strategy (RSES) for the Eastern and Midlands Regional Assembly (ERMA) 2020-2032**

- 4.2.1. The RSES is a strategic plan which identifies regional assets, opportunities and pressures and provides appropriate policy responses in the form of Regional Policy Objectives. At this strategic level it provides a framework for investment to better manage spatial planning and economic development throughout the Region.

Relevant provisions include:

Flood Risk Management Plans (FRMPs) - The national Catchment Flood Risk Assessment and Management (CFRAM) programme is central to the medium to long-term strategy for the reduction and proactive management of flood risk in Ireland. The programme delivers on core components of the National Flood Policy and on the requirements of the EU Floods Directive and was undertaken in cooperation with local authorities and other public bodies, and was co-ordinated with the implementation of the EU Water Framework Directive (WFD).



RPO 7.13: EMRA will work with local authorities, the OPW and other relevant departments and agencies to implement the recommendations of the CFRAM programme to ensure that flood risk management policies and infrastructure are progressively implemented.

#### **4.3. Development Plan**

4.3.1. The Athlone Town Development Plan 2014-2020 is the operative plan. Per section 11 C (a) of the Planning and Development Act, the Athlone Town Plan 2014-2020 still applies, being that of a dissolved body, not reviewed or replaced.

4.3.2. Relevant provisions include:

The subject lands are zoned sporting and recreational, open space and existing residential.

Flood Risk Management - in Athlone, the most common causes are seasonal flooding of the River Shannon, flooding from the AI River, and the inadequacy of existing stormwater pipe networks to cope with extreme rainfall events. The frequency, pattern and severity of flooding are expected to increase as a result of climate change. Accordingly, it is more important than ever to take account of flood risk in spatial planning.

The Shannon Catchment Flood Risk Assessment and Management Study (CFRAMS) is one of seven such River Basin District (RBD) studies being carried out to meet the requirements of the EU Floods Directive (Directive 2007/60/EC). The Plan will define the levels of existing and future flood risk in the Shannon River Basin District area (RBD) and set out how this will be managed both now and into the future. The study will focus on areas known to have experienced flooding in the past and areas that may be subject to flooding in the future either due to development pressures or climate change. The study was commissioned in 2011 and is due for completion in 2015 with the publication of the Flood Risk Management Plans (FRMP).

P-FL4 It is the policy of the Council to implement the recommendations of the Shannon CFRAM study, when published.

#### **4.4. Natural Heritage Designations**

- 4.4.1. The nearest European sites are the River Shannon Callows SAC (site code 000216) and the Middle Shannon Callows SPA (site code 004096), which directly adjoin the subject lands to the south.

#### **5.0 Planning History**

- 5.1.1. None given for the CPO lands.

#### **6.0 Objections to the Compulsory Acquisition of Lands**

- 6.1.1. There are three objections to the CPO.

##### **6.2. Eastshore Developments Limited**

- 6.2.1. Eastshore Developments Limited, have made an objection, which includes:

The proposed compulsory acquisition is disproportionate because it will render impossible to carry out the existing and permitted development on their land that is now substantially complete. They have not seen any consideration in any of the documentation grounding the making of the compulsory purchase order as to the consideration that the acquiring authority applied in this regard and accordingly the order cannot be confirmed when a fundamental issue, namely the question of proportionality, was not addressed in the documentation grounding the making of the compulsory purchase order.

It is a fundamental requirement before a compulsory purchase order is proceeded with that the parties, and in particular the acquiring authority, try to secure the land voluntarily. In this case the parties were involved in mediation in respect of the issue, the subject matter of the proceedings. That mediation was still continuing and there was an expectation and a significant basis to expect that there would be a resolution. It is in those circumstances both premature and ultra vires the acquiring authority to proceed by compulsory purchase order in the manner that forms the matter of this submission where these negotiations and discussions had not concluded.

The development the subject matter of the compulsory purchase order is a specified development under schedule 5 of the planning and development regulations 2001 for the purpose of the Environmental Impact Assessment Directive. There has been no Environmental Impact Assessment carried out in respect of the scheme that complies with the requirements of the Directive. Accordingly, the said compulsory purchase order cannot be confirmed in the absence of such an assessment having been completed.

There is no authorisation for the scheme the subject matter of the compulsory purchase order. The scheme as presently constituted requires, on the face of the draft compulsory purchase order, our client's land which lands have never been subject to any assessment or any consideration in any statutory process other than that initiated by their clients. In those circumstances, the board cannot approve a scheme which has never been the subject of any authorisation which would define the need and the suitability of the lands for the purposes of that scheme..

Insofar as the acquiring authority may seek to rely on the part 8 process, the extent of the lands the subject matter of that part 8 process and the lands part of the compulsory purchase order are not coterminous and therefore no reliance can be placed on that procedure for the purposes of grounding the compulsory purchase orders sought to be confirmed in this case.

There has been no assessment in respect of the scheme underlying the compulsory acquisition for the purposes of the Habitats Directive. Accordingly, the Board cannot proceed to determine a compulsory acquisition which seeks to permit the acquiring authority to acquire land part of which is located within a European site and all of which will materially affect the conservation objectives of that European site without the necessary procedures comprised in the Habitats Directive having been complied with.

### **6.3. Westshore Developments Limited**

#### **6.3.1. Westshore Developments Limited, have made an objection, which includes:**

The proposed compulsory acquisition is disproportionate because it will render impossible to carry out the existing and permitted development on their land that is now substantially complete. They have not seen any consideration in any of the

documentation grounding the making of the compulsory purchase order as to the consideration that the acquiring authority applied in this regard and accordingly the order cannot be confirmed when a fundamental issue, namely the question of proportionality, was not addressed in the documentation grounding the making of the compulsory purchase order.

It is a fundamental requirement before a compulsory purchase order is proceeded with that the parties, and in particular the acquiring authority, try to secure the land voluntarily. In this case the parties were involved in mediation in respect of the issue, the subject matter of the proceedings. That mediation was still continuing and there was an expectation and a significant basis to expect that there would be a resolution. It is in those circumstances both premature and ultra vires the acquiring authority to proceed by compulsory purchase order in the manner that forms the matter of this submission where these negotiations and discussions had not concluded.

The development the subject matter of the compulsory purchase order is a specified development under schedule 5 of the planning and development regulations 2001 for the purpose of the Environmental Impact Assessment Directive. There has been no Environmental Impact Assessment carried out in respect of the scheme that complies with the requirements of the Directive. Accordingly, the said compulsory purchase order cannot be confirmed in the absence of such an assessment having been completed.

There is no authorisation for the scheme the subject matter of the compulsory purchase order. The scheme as presently constituted requires, on the face of the draft compulsory purchase order, on their land which lands have never been subject to any assessment or any consideration in any statutory process other than that initiated by their clients. In those circumstances, the board cannot approve a scheme which has never been the subject of any authorisation which would define the need and the suitability of the lands for the purposes of that scheme.

Insofar as the acquiring authority may seek to rely on the part 8 process, the extent of the lands the subject matter of that part 8 process and the lands part of the compulsory purchase order are not coterminous and therefore no reliance can be placed on that procedure for the purposes of grounding the compulsory purchase orders sought to be confirmed in this case.

There has been no assessment in respect of the scheme underlying the compulsory acquisition for the purposes of the Habitats Directive. Accordingly, the Board cannot proceed to determine a compulsory acquisition which seeks to permit the acquiring authority to acquire land part of which is located within a European site and all of which will materially affect the conservation objectives of that European site without the necessary procedures comprised in the Habitats Directive having been complied with.

#### **6.4. Bastion Quay Management Company Limited**

- 6.4.1. Bastion Quay Management Company Limited, have made an objection, which includes:

The property owners believe that less land would have been sufficient to complete the works.

The property owners are not clear that the flood defence works that are being proposed will be fit for purpose. More clarity is needed in this regard.

There is an increased security risk to Bastion Quay due to top of the proposed new wall being conducive to members of the public climbing and accessing Bastion Quay when the demountable flood defence is not in place. There is a lack of clarity in relation to the finish of the wall. A better design on the wall top would deal with this matter.

There is a lack of clarity with regard to the retention of the pedestrian access point from Bastion Quay to the walkway.

The details of the wall in terms of height and width need further clarification as this matter is unclear.

There is a lack of clarity in relation to the location and storage of the demountable pieces when not in use.

There is a lack of clarity in relation to the footpath/cycle path in the vicinity of the wall.

The wall should have been built closer to the river so as to protect the footpath/cycle path.

The wall is not being built to the specification or location detail as outlined in the Part 8.

There are significant privacy concerns for apartment owners, particularly for ground floor apartments. In addition to the work on the wall and subsequent potential for anti-social behaviour at the wall, there is a greenway planned.

Such other relevant matters that may arise when more detailed design information is made available.

## **7.0 Assessment**

### **7.1. Overview**

- 7.1.1. The proposed CPO relates to works which are part of Athlone Flood Alleviation Scheme at Flood Cell 1 - Deerpark. The Compulsory Purchase Order relates to the compulsory acquisition of lands and the creation of permanent wayleaves.
- 7.1.2. The approved Part 8 works are part of a larger scheme comprising Flood Cells 1-8. The CPO lands are required for a section of the works within Flood Cell 1 which include the provision of a reinforced concrete wall, a flood defence embankment, flood gates, road / footpath raising, and a culvert,
- 7.1.3. For the Board to confirm the subject CPO, it must be satisfied that the following criteria are addressed:
  - There is a community need that is to be met by the acquisition of the lands in question.
  - The project proposed and associated acquisition of lands is suitable to meet the community need.
  - Any alternative methods of meeting the community need have been considered but are not demonstrably preferable.
  - The extent of land-take should have due regard to the issue of proportionality.
  - The works to be carried out should accord with or at least not be in material contravention of the policies and objectives contained in the statutory Development Plan relating to the area.

- 7.1.4. The proposed CPO is now assessed in the context of the above tests prior to addressing the specific issues raised in the objections lodged.

## **7.2. Community Need**

- 7.2.1. The proposed CPO acquisition is intended to support the delivery of the permitted Part 8 which is part of the Athlone Flood Alleviation Scheme. None of the objectors have challenged the need.

## **7.3. Suitability of Lands to Serve Community Need**

- 7.3.1. Works to implement the Part 8 have advanced to the boundary of the subject lands. The subject lands are on the banks of the River Shannon. The works proposed on these lands will extend from the ongoing works to the west, which are part of the Athlone Flood Alleviation Scheme, as far as the bank of the river, and will extend along the river to join with existing flood defences to the north. In order to operate to prevent flooding, the flood defences must be completed. The lands are suitable for this community need.

## **7.4. Compliance with Planning Policy**

- 7.4.1. As stated in the NPF, the Catchment Flood Risk Assessment and Management (CFRAM) programme has provided a comprehensive assessment of high flood risk areas and proposed plans to mitigate and reduce flood risk in Ireland.
- 7.4.2. It's implementation is supported by Regional Planning Objective 7.13 of the Regional Spatial and Economic Strategy and policy P-FL4 of the current Athlone Town Development Plan.

## **7.5. Consideration of Alternatives**

- 7.5.1. The Part 8 documentation for the Athlone Flood Alleviation Scheme - Flood Cell 1 Deerpark, states that:

The findings of the Shannon CFRAM study was used as the basis for the assessment of required flood defence at Flood Cell 1 'Deerpark'. The proposals in the CFRAMS study and the Option Appraisal Report for Athlone have been further refined by modelling conducted by RPS.

The works for Deerpark comprise of a permanent RC flood defence wall/ flood gates, earthen embankments, culverts with non-return valves, road raising and a bridge replacement. The proposed works are shown in drawings MGW0249DG1006-01-07.

### 3.1 Design Description

RPS have undertaken a detailed review of the proposed works location, consisting of a desk study, site visits and stakeholder consultation with the following bodies; Westmeath County Council, Office of Public Works (OPW), National Parks & Wildlife Services (NPWS) and local residents/ landowners.

- 7.5.2. Alternatives are not presented for the Board's consideration. Having regard to the fact that the works on the project have reached as far as the western end of the subject lands, that the River Shannon is to the east, and that there are existing flood defences to the north, it is my opinion that there is no reasonable alternative to the route of the project, through these lands. The permanent wayleave being acquired is at two existing access laneways and there is no reasonable alternative to these routes.

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

- 7.6.1. I am satisfied that the process and procedures undertaken by Westmeath County Council have been fair and reasonable, that Westmeath County Council has demonstrated the need for the lands and that all the lands being acquired are both necessary and suitable to facilitate the Athlone Flood Alleviation Scheme - Flood Cell 1 Deerpark, as approved under the Part 8 process.
- 7.6.2. Having regard to the constitutional and Convention (ECHR) protection afforded to property rights, I consider that the acquisition of lands and permanent wayleaves as set out in the compulsory purchases order, schedule (Parts I, II and III) and on the deposited maps, pursues and is rationally connected to, a legitimate objective in the public interest, namely flood alleviation in Athlone in accordance with the Part 8 scheme, developed further to the Shannon Catchment Flood Risk Assessment and Management Study.
- 7.6.3. The effects of the CPO on the rights of affected landowners are proportionate to the objective being pursued.



- 7.6.4. I am further satisfied that the proposed acquisition of these lands and the permanent wayleaves would be consistent with the policies and objectives of Athlone Development Plan which expressly provides for the implementation of the recommendations of the Shannon CFRAM study, when published (policy P-FL4). Accordingly, I am satisfied that the confirmation of the CPO is clearly justified by the exigencies of the common good.

## **7.7. Issues Raised by Objectors**

### Procedural/Legal Matters

- 7.7.1. A number of the observations on the CPO raise the issue of the obligation on the acquiring authority to try to secure the land voluntarily. They state that they were involved in mediation which was still continuing with an expectation of resolution.
- 7.7.2. Works on the Athlone Flood Alleviation Scheme are currently underway on both sides of the river in Athlone. Works which are part of the project: Flood Cell 1 Deerpark, have been carried out as far as the western end of the subject lands. It therefore appears that lands have been acquired voluntarily, and that this CPO is necessary to secure the remaining lands and permanent wayleaves necessary for the project completion. The objections acknowledge that efforts were made to secure the lands voluntarily. I am satisfied that this was the case.

### Design Details

- 7.7.3. The objections to the CPO raise concern in relation to design details: lack of clarity in relation to the development; lack of clarity in relation to retention of the pedestrian access point from Bastion Quay to the walkway; lack of clarity in relation to the height and width of the wall; that the wall is not being built to the specification or location detail as laid out in the Part 8 procedure; that the wall will impact on privacy; lack of clarity in relation to the location and storage of the demountable pieces; that property owners are not clear that the proposed flood defence works are fit for purpose.
- 7.7.4. The design of the proposed project is set out within the permitted Part 8 scheme. The CPO is generally/approximately in accordance with the part 8 scheme. The part 8 scheme is not subject to review by the Board.

### Extent of Land Acquisition

- 7.7.5. The objections to the CPO argue that the land take for the scheme is excessive.
- 7.7.6. Having reviewed the drawings submitted with the CPO application and the proposed scheme drawings, I am satisfied that the extent of lands which the Local Authority is seeking to acquire is necessary to facilitate the scheme.

### Environmental Impact Assessment (EIA) / Appropriate Assessment (AA)

- 7.7.7. The objections to the CPO argue that EIA is required.
- 7.7.8. Environmental Impact Assessment Screening, which was carried out as part of the part 8 process, determined that there would be no likely significant effects on the environment, and therefore that EIA was not required for the proposed Flood Cell 1 'Deerpark' Flood Alleviation Works. This is not subject to review by the Board.
- 7.7.9. The objections to the CPO argue that no assessment of the scheme was carried out as required under the Habitats Directive (AA).
- 7.7.10. An Appropriate Assessment Screening Report was prepared in respect of the Part 8 process, which concluded that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site and, therefore Appropriate Assessment (Stage 2 AA) was not required for the proposed Flood Cell 1 'Deerpark' Flood Alleviation Works. This is not subject to review by the Board.

### Part 8

- 7.7.11. The objections to the CPO argue that there is no authorisation of the scheme the subject of the CPO. No assessment or any statutory process was carried out with regard to their lands. Insofar as the acquiring authority may seek to rely on the part 8 process, the extent of the lands the subject matter of that part 8 process and the lands part of the compulsory purchase order are not coterminous and therefore no reliance can be placed on that procedure for the purposes of grounding the compulsory purchase orders sought to be confirmed in this case.
- 7.7.12. As stated under section 3 above, the Part 8 included a map: drawing no. DG 1006-03 Rev P01, which shows the proposed structures generally or approximately in locations subject to the CPO. The Part 8 is the authorisation relied on for the scheme.

## **7.8. Conclusion**

7.9. I am satisfied that the process and procedures undertaken by the Local Authority have been fair and reasonable, that the Local Authority has demonstrated the need for the lands and that all the lands being acquired are both necessary and suitable. I consider that the proposed acquisition of these lands would be in the public interest and in the interest of the common good and would be consistent with the policies and objectives of the Athlone Development Plan 2014 – 2020.

## **8.0 Recommendation**

8.1. Having regard to the above, I conclude that:

- the acquisition of lands and permanent wayleaves under the CPO would serve a community need that advances the common good,
- the particular land is suitable to meet that need,
- there is no alternative which is preferable,
- the proposal does not materially contravene the development plan, and
- the proposed acquisition is proportionate and necessary.

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

## **9.0 Reasons and Considerations**

9.1. Having considered the objections made to the compulsory purchase order, the purpose for which the lands are to be acquired as set out in the compulsory purchase order, to implement the Athlone Flood Alleviation Scheme - Flood Cell 1 Deerpark, and also having regard to the following;

- (i) The constitutional and European Human Rights Convention protection afforded to property rights,
- (ii) The community need, public interest served and overall benefits, especially in terms of providing long term protection to local residents from severe flood

events in the areas, enhancing the areas and providing a safer living environment, to be achieved from the proposed works,

- (iii) The design response, which has been appropriately tailored to the identified need,
- (iv) The suitability of the lands and the necessity of their acquisition to facilitate the provision of Athlone Flood Alleviation Scheme - Flood Cell 1 Deerpark.
- (v) Policy Objective 7.13 of the Regional Spatial and Economic Strategy for the Easter Midlands Regional Assembly 2020-2032 to work with local authorities, the OPW and other relevant departments and agencies to implement the recommendations of the CFRAM programme to ensure that flood risk management policies and infrastructure are progressively implemented.
- (vi) The policies and objectives of the Athlone Town Development Plan 2014-2020 including policy P-FL4 To implement the recommendations of the Shannon CFRAM study, when published.
- (vii) The report and recommendation of the Inspector,

It is considered that the permanent acquisition of the land in question and the permanent wayleave, as set out in the Order, Schedule (Parts I, II and III) and on the deposited map by Westmeath County Council, as set out in the compulsory purchase order and on the deposited maps, is necessary for the purpose stated, which is a legitimate objective being pursued in the public interest, and that the CPO and its effects on the property rights of affected landowners are proportionate to that objective and justified by the exigencies of the common good.

In reaching this conclusion, the Board agrees with and adopts the analysis contained in the report of the inspector.

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

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Planning Inspector

25<sup>th</sup> September 2024