



An
Bord
Pleanála

Inspector's Report

ABP-318494-23

Development	Compulsory Purchase Order 2023 (No. 4)
Location	No. 13 Michael Street, Waterford
Planning Authority	Waterford City & County Council
Applicant	Waterford City & County Council
Type of Application	Compulsory Purchase Order under Section 216 of the Planning and Development Act 2000, as amended
Objectors	Mr William Phelan
Date of Site Inspection	22 nd February 2024
Date of Oral Hearing	23 rd April 2024
Inspector	Tomás Bradley

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Appendix A - Summary of Oral Hearing

1.0 Introduction

Under the provisions of Section 216 of the Planning and Development Act 2000, as amended (PDA), Waterford City & County Council (WCCC) has made an application to An Bord Pleanála (the Board) for the confirmation of a Compulsory Purchase Order (CPO) of No. 13 Michael Street, Waterford. The Board is required to confirm or annual the CPO.

The order was made, on the 6th of October 2023, pursuant to Section 76 of and the Third Schedule to the Housing Act, 1966 as extended by Section 10 Of The Local Government (No. 2) Act, 1960 and amended by the Planning and Development Act, 2000, as amended Local Government (Ireland) Act, 1898: Local Government Acts, 1925 to 2014 Local Government (No. 2) Act, 1960 Housing Acts, 1966 And 1996 Roads Act, 1993.

2.0 Land Description

The land to be compulsorily purchased is No. 13 Michael Street¹ which is a historic property located in the city centre of Waterford City and its core retail area. The lands are approximately 125 m². It is occupied at ground floor level by 'Finders Keepers' a retail use which primarily sells home and giftware.

The building, which fronts directly onto a pedestrianised area, is a three story, two bay terraced building with a pitched roof and extension to the rear. On visual inspection it appears intact. There was no evidence of fire damage or of the property being left open or unsecure thus making it vulnerable to trespass. All floor levels appear to be in use and being readily put into use.

The building is semi-detached with No. 12 Michael Street (vacant) adjoining it to the north. To the south, the building line is broken by an open area of land which is a former monument works yard with several smaller buildings within - it is currently vacant. A disused multi-story car park is located to the southwest of the site.

The site makes up a larger block encompassed by Michael Street, New Street, Stephen Street and Alexander Street. Save for properties fronting onto Michael

¹ Eircode: X91 H212 or Folio Number: WD46197F

Street and Alexander Street much of the block is in disuse particularly to the south and east.

3.0 Policy Context

The Waterford City & County Development Plan 2022-2028 (WCCDP) is prevailing plan for the subject lands. In the plan's Core Strategy, the city is in the 'Waterford Metropolitan Area' and the lands are included as part of the 'Core Retail Shopping Area'.

Specifically, the lands are zoned TC Town Core, which has the specific object to 'provide for the development and enhancement of town core uses including retail, residential, commercial, civic and other uses'.

The lands to be compulsorily purchased makes up a wider block which Michael Street, New Street, Stephen Street and Alexander Street. This block of approximately 1.42 hectares is identified in Appendix 21 of the WCCDP as a regeneration and opportunity sites called the '**OPS27 Michael Street Site**'². The vision for the site is as follows:

- *Development on this key city centre site should provide strong architectural design within the City Conservation Area.*
- *Create a sustainable and compact urban quarter through a mixed use high-density development with an emphasis on tourism, employment, retail, apartments and residential city living.*
- *It will be vital that pedestrian and cycle links through the site are incorporated into the design of any proposed development.*
- *Adjoining private amenity spaces of neighbouring residential properties should be protected through the design and layout of any proposal.*
- *Any development should incorporate natural assets and include potential open space and provide green infrastructure links to Wyse Park.*
- *The development should address the extensive street frontage of the site and be designed to an exceptional standard.*
- *The site has potential to accommodate taller building(s).*

It is the related regeneration policy objective of the WCCDP under **H 05**:

² It is noted that the online mapping provided as part of the Volume 4 of the WCCDP includes No. 13 Michael Street within the Regeneration and Opportunity Sites, however, the in Appendix 21 of the WCCDP it is not included.

To maximise the efficient use of existing infrastructure and services and promote a positive modal shift towards sustainable transport use, we will facilitate the sustainable, compact, sequential regeneration and redevelopment of urban areas through the appropriate development of identified key infill and brownfield sites as per Table 3.2 and Appendix 21 for a mix of uses appropriate to the location. To assist in this regard, we will carry out a viability assessment for key brownfield sites during the lifetime of the development plan with a view to assisting in delivery of regeneration projects. Development proposals which are not fully consistent with the provisions of the land use zoning matrix (Volume 2 – DM Standards Table 11.2) will be considered on their own merits where it can be demonstrated that the proposed development is consistent with the ‘Vision’ for the site and is in accordance with the proper planning and sustainable development of the area.

The building on the lands in question is not a Protected Structure but is within the Waterford City Architectural Conservation Area (ACA) and General Conservation Area (GCA) as set out in the WCCDP.

It is noted that it is a policy of WCCC to carry out Active Land Management under Policy Objective **ECON 07**:

To carry out the functions of the local authority in a co-ordinated manner in order to assist in the proactive targeting of underutilised, vacant and derelict lands and buildings, and general building stock, in pursuing the achievement of the policy objectives of this Development Plan), and in order to facilitate an Active Land Management approach to the sustainable growth and development of Waterford City and County.

This will be achieved/ assisted by:

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- *The acquisition by agreement or compulsory purchase, of vacant, derelict or underutilised sites or buildings, in order to address incidents of urban decay and vacancy, ensure revitalisation and conservation of our built heritage; regeneration of underutilised sites/ buildings, and bring about long-term economic and social/ community development and sustainability;*
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4.0 Application of Compulsory Purchase Order

The stated purpose of the CPO is to acquire compulsorily this urban and commercial property for the purposes of developing the Michael Street Site for multiple uses. It is certified by Mr Kieran Kehoe, Director of Services (Planning, Corporate Services, Culture, HR & IS) for WCCC that the acquisition of No. 13 Michael Street, Waterford for the purposes of developing the Michael Street site, Waterford, for multiple uses,

is in accordance with the planning and development objectives for the area contained in the WCCDP.

At the oral hearing it was stated that WCCC has been working over many years to assemble a large opportunity site at the southern end of Michael Street to allow for an integrated extension of the city centre. WCCC expanded further on the purpose of the CPO which was to 'unlock the development potential' of adjacent properties in already public ownership.

They presented high level information on the master plan of the delivery of a mixed use urban regeneration project across the wider regeneration site, which included residential, hotel, retail and office uses. At No. 13 Michael Street, the master plan intends to provide for an office over ground floor retail use. The delivery of which required the integration of No. 12 and No. 13 Michael Street. The ground floor retail space would be divided between two units: a fashion retail unit with a floor area of 303 sq.m.; and a food store retail unit with a floor area of 464 sq.m. The overhead office space would be arranged over two floors and would have a total floor area of 1,426 sq.m.

WCCC already owns the adjacent property No. 12 Michael Street, and the open yard immediately to the south at No. 14-15 Michael Street. It is the opinion of WCCC that given that the corner of Michael Street and Alexander Street is the closest point of this block to the retail core, it is considered that it presents the most suitable location to develop a new retail offering as part of the wider opportunity site redevelopment proposal. It is also stated by WCCC that the CPO would facilitate direct access to the redeveloped disused car park from Michael Street.

The lands to be compulsorily purchased are described in the schedule to the CPO as land other than land consisting of a house or houses unfit for human habitation and not capable of being rendered fit for human habitation at reasonable expense. In other words, according to the CPO, the buildings on the lands are in reasonable condition and generally fit for human habitation.

The building is occupied and it appears to be in generally good repair. It is in a city centre area and the amenities which come with such a location. It is certified by Mr. Michael Quinn, (Director of Services Economic Development) that the lands are

suitable for the purpose for which they are being acquired and that their acquisition is necessary for that purpose.

5.0 Oral Hearing

An oral hearing was held on 23rd of April 2024. A summary of the proceedings can be found in Appendix A of this report.

6.0 Objections

WCCC served notices on the following:

- **Owner(s) or Reputed Owner(s)** – Mr William Phelan
- **Lessee(s) or Reputed Lessee(s)** – Ms Lisa Connolly, Mr Luke Marsh
- **Occupier(s)** – Ms Lisa Connolly, Mr Luke Marsh

An objection was received from Mr William Phelan. Mr Phelan's objection was submitted by the following representatives in the form of two individual submissions:

1. HD Keane Solicitors, 21st December 2023
2. Ciarán Sudway & Associates, Charter Surveyors, 11th December 2023

In summary, Mr Phelan objects to the making of any CPO on his lands is of the view that the notices served are invalid and of no consequence for the following reasons:

1. the notices served include signatures by unnamed individuals and it is unclear whether the 'Mayor' has executive powers to sign such an order.
2. the notices served does not include a map and neither does the notice published in the relevant newspaper.
3. the notice served does not indicate here the order and map can be viewed and neither does it indicate where objections are to be sent and by which date etc.
4. The acquiring authority should stipulate the precise nature any adaptations they perceive might be required.
5. the notices served do not make any reference to my client's entitlement for compensation.

Mr Phelan states that he is in a position to develop his lands in accordance with the provisions of the WCCDP and therefore a CPO is not required.

7.0 Assessment

This assessment considers the issues raised in the written objection submitted to the Board, the points made at the oral hearing, and the four general principles to be applied in assessing CPOs of this nature, which are whether:

- there is a community need to be met by the acquisition of the property.
- the particular property is suitable to meet the community need.
- the works carried out accord with the relevant Development Plan.
- any alternative methods of meeting the community need.

For the Board to confirm the subject CPO, it must be satisfied that, as set out in the judgement of Geoghegan J. in *Clinton v An Bord Pleanála (No. 2) (2007) 4 IR 701*, WCCC has demonstrated that the CPO is clearly justified by the “common good”.

Furthermore, as set out by Garrett Simons in ‘*Planning and Development Law, Second Edition (2007)*’, the Board should consider whether the acquisition will have an excessive or disproportionate effect on the interests of the affected persons.

7.1. Community Need

The stated purpose of the CPO is to facilitate land assembly which would allow for the controlled and complete delivery of the regeneration and opportunity site at Michael Street as identified in the WCCDP. It is considered, generally, that land assembly to facilitate the strategic delivery of community needs at a regeneration site may be appropriate and necessary in certain circumstances. However, in this instance, it needs to be established whether it is appropriate and necessary to necessitate a CPO of the land in order to deliver this community need.

Specifically, WCCC stated at the oral hearing, that No. 13 Michael Street would provide for commercial units in the context of the masterplan (at several floor levels) at No. 12 and No. 13 Michael Street and in addition provide access to the multi-story car park. While the provision of larger and modern floor space between No. 12 and No. 13 Michael Street may be optimum and desirable to the wider community need to regenerate the wider Michael Street site, it is my view that WCCC have not adequately demonstrated that it is necessary to the delivery of the wider community need or would impede the delivery of said community need in the absence of compulsory purchase.

No. 13 Michael Street is actively managed by the objector with a tenant in situ. The building is in good repair visually and is currently occupied by a retail use which, in my opinion, contributes positively to the character of Michael Street. Given the lands are in active use, it is considered the building, in of itself, is not expressly in need of regeneration.

While the designers of the scheme related to the community need may not see its current use and layout as optimum, it is providing a retail offering. WCCC has not demonstrated that the existing retail offering or the layout of building is suboptimum. There is no evidence to suggest that the building, in its current form, would be detrimental to the community need.

The views set out above may be different were No. 13 Michael Street the only way to provide access to the regeneration site. But the facts of the matter are that there are several reasonable alternatives to provide access to the regeneration site It is difficult to reconcile submissions of WCCC in relation to car park access when there is an open plot, in their ownership, and break in the building line to the south. Similarly, were the building simply derelict and vacant, a justification for compulsory purchase can be made – but the building is currently in active use and does not expressly need regeneration. It is also evident, from the previous planning permission, that a scheme for the wider Michael Street Site can be successfully, progressed in the absence of No 13. Michael Street.

In effect, the desire for optimum floor space or certain access does not equate to a exigency in the context of compulsory purchase. The planning authority have not successfully demonstrated any urgent or common good exigencies for a retail or office use, for any defined floor space or access requirements that would be provided by the regenerated site.

On balance, it is considered that WCCC has not adequately demonstrated that the compulsory purchase of No. 13 Michael Street, in of itself, meets a community need or is required to meet the wider community need for the Michael Street site. It is considered that No. 13 Michael Street is not explicitly needed for the Michael Street site and that the community need could be met in the absence of compulsorily purchasing No.13 Michael Street.

It is therefore concluded that that the community need for the CPO has not been established.

7.2. Extent and Suitability of lands to meet Community Need

As set out above, it is considered that the community need for the CPO has not been established. Regardless, I am satisfied that No. 13 Michael Street is capable of being developed for the purposes of providing retail and office units, and were a community need for the CPO met, I consider this to be an appropriate use of the existing structure in the zoned and established commercial core of Waterford City which is close to a range of services and facilities.

7.3. Whether or not the works to be carried out accord with the Development Plan

As set out above, it is considered that the community need for the CPO has not been established. Regardless, it is considered that the works in respect of the land would accord generally with the WCCDP policies and objectives, in particular the Regeneration Policy Objective H 05 and the general objective for regeneration and opportunity site OPS27 Michael Street Site as set out in Appendix 21 of the WCCDP.

7.4. Consideration of Alternatives

Given the protection accorded to private property ownership in Ireland, the compulsory acquisition of any property should generally be seen as a last resort having considered other alternatives first. In this regard, I consider that the onus is on WCCC to demonstrate that alternative methods are not available to them. WCCC did not provide any material information or evidence on alternative methods to incorporating the building into the scheme in written or oral submissions.

WCCC has not demonstrated that amalgamating No. 13 into the wider site for regeneration is the best option with significant advantages and/or significantly less adverse effects. This then raises the question of disproportionality as while the overall objective of the CPO may be legitimate, rationally the CPO of No 13. Michael Street Site is not necessarily required in achieving that end. There are less invasive ways to achieve the overall objective of regenerating the Michael Street site and that could include excluding No. 13 Michael Street and simply making do with the land available. However, no evidence has been provided to any end that this would or would not work.

It is considered that WCCC has not adequately demonstrated any alternative methods of meeting the community need. It is considered that No. 13 Michael Street, in the absence of evidence to the contrary, is not explicitly needed for the regeneration of the Michael Street site and that the community need could be met in the absence of compulsorily purchasing No.13 Michael Street. Therefore, the acquisition of the property is not justified by the exigencies of the common good.

7.5. Conclusion

I am satisfied that the process and procedures undertaken by WCCC have been fair and reasonable, however, WCCC has not demonstrated that the need for the lands being acquired are necessary to facilitate the development of the Michael Street Site for multiple uses.

Having regard to the constitutional and Convention protection afforded to property rights, I consider that the acquisition of No. 13 Michael Street, Waterford as set out in the CPO and on the deposited maps does not pursue, and is not rationally connected to, a legitimate objective in the public interest, namely development of the Michael Street Site for multiple uses.

I am also not satisfied, given the absence of evidence, that the acquiring authority has established alternatives to the CPO. This renders the means chosen and the CPO made by the acquiring authority unreasonable or disproportionate.

The effects of the CPO on the rights of affected landowners are not proportionate to the objective being pursued. Accordingly, I am not satisfied that that the confirmation of the CPO is clearly justified by the exigencies of the common good.

8.0 Procedural Issues Raised by the Objector

The objector raised a number of procedural issues in respect of the manner in which the CPO was served and the contents and terminology therein. Having regard to the relevant legislation, the response to the procedural issues by WCCC in the oral hearing and my own review of relevant legislation. I am satisfied that the notices appear to be correctly served and the information within meets the requirements of the legislation. It is noted that Mr Phelan was notified, lodged a valid submission and participated fully in the process.

9.0 Recommendation

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

10.0 Decision

Having considered the objections made to the Compulsory Purchase Order, the report of the person who conducted the oral hearings into the objections, the purpose for which the lands are to be acquired as set out in the Compulsory Purchase Order and also having regard to the following:

- the constitutional and European Human Rights Convention protection afforded to property rights.
- the current and active use of No. 13 Michael Street as a retail premises and its general upkeep and condition.
- the inadequate case made to justify the need for the proposed compulsory purchase at this time in terms of overriding public need and potential usage.
- the purpose of the compulsory acquisition to provide for multiple uses at No. 13 Michael Street, Waterford City.
- the policies and objectives of the Waterford City & County Council Development Plan 2002-2028.

It is considered that the Waterford City & County Council has not sufficiently demonstrated at this time that a case for the compulsory purchase of lands to provide for multiple uses and to meet the stated need has been made. It is therefore considered that the acquisition by the Local Authority of the lands which are the subject of the Compulsory Purchase Order is not justified and that the compulsory purchase order shall be ANNULLED.

Professional Declaration

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.

Tomás Bradley,

Senior Planning Inspector

2nd May 2024

Appendix A Summary of Oral Hearing

An oral hearing was held on 23rd of April 2024, commencing at approximately 10.00 am. It was held remotely at the offices of the Board using Microsoft Teams. The following were in attendance and made submissions:

WCCC

6. Paul Johnston, Acting Director of Services for Planning, Corporate, Culture, Human Resources & Information Services, WCCC
7. Michael Walsh, Chief Executive Officer, WCCC
8. Liam McGee, Senior Planner, WCCC
9. Mary Quigley, Administrative Officer, WCCC
10. David O'Connor, Solicitors, Nolan Farrell & Goff

On behalf of Mr Phelan

11. Ciaran Sudway, Ciaran Sudway and Associates Ltd. (Charter Surveyors)

Other Participants on the Call

12. Luke Marsh
13. Lisa Connolly

The proceedings followed an agenda which had been circulated to participants prior to the date of the oral hearing. The agenda included five modules which were adhered to on the day of the oral hearing and are used in the summary below for consistency.

10.1. Opening of Hearing by Inspector

This module included an opening statement by the Inspector and facilitated introductions, setting out of the case file before the oral hearing, taking of attendance, queries on and changes to the agenda and the setting out of process rules, conduct and general housekeeping issues for the oral hearing.

It was noted that, aside from the representatives for WCCC and Mr. Phelan, other participants were on the call. Such persons were invited to identify themselves and state if they wished to make observations at this oral hearing. No such request to make observations was made at that time.

10.2. Submission by Waterford City & County Council

Mr Johnston made the opening oral submission on behalf of WCCC. This largely followed a written document, which is available on the file, and was shared on screen for participants to view. Mr Sudway was asked whether he could view it clearly – Mr Sudway said he was able to see it and happy to proceed. Mr Johnston's submission largely followed the written submission which was read into the record and covered the following:

- Relevant provisions of the WCCDP including its primary zoning objectives which is 'Town Core' and its specific development objective as Opportunity Site OPS27 - Michael Street Site.
- The relevant planning history including the 2016 planning permission for a mixed use development which excluded No. 13 Michael Street. A 2006 mixed use development planning permission was also highted.
- The history of site assembly in the immediate vicinity was described. It was stated Acquisition of No. 13 Michael Steet is required to unlock the development potential of adjacent properties in public ownership and the larger development area to the rear which has been assembled by WCCC.
- The details of a masterplan for the wider Michael Street Site which includes for the delivery of a mixed use urban regeneration project across the wider regeneration site, which included residential, hotel, retail and office uses.
- It is stated that delivery of the proposed retail units with first and second floor office accommodation above, at the north-eastern corner of the Masterplan area, requires the integration of No. 13 Michael Street into the larger opportunity site area.
- In respect of the Community Need to be met, it is stated that the acquisition of No. 13 Michael Street would enable the full potential of the site already assembled by WCCC to be realised for the benefit of the development.
- In 2022, WCCC undertook an Expression of Interest competition for the purposes of developing this strategic location. Following this competition, a strategic partner has been identified.
- The acquisition aligns with WCCDP, the Regional Spatial and Economic Strategy (MASP Objectives 1a, 1b, 4) and with national objectives contained within the National Planning Framework (NPO 3b, 4, 6)

- In justifying the acquisition, WCCC stated
 - it owns both properties north and south of No. 13 Michael Street. Acquisition of No. 13 Michael Street would facilitate the integrated redevelopment of these properties.
 - The redevelopment the No. 13 Michael Street would facilitate direct access to the redeveloped multi-storey car park from the pedestrianised shopping precinct of Michael Street.
 - Given that the corner of Michael Street and Alexander Street is the closest point of this block to the retail core of the City Centre, it is considered that it presents the most suitable location to develop a new retail offering as part of the wider opportunity site redevelopment proposal.
- In the detailing the works that would be facilitated by the CPO, it is stated:
 - The acquisition of No. 13 Michael Street would facilitate the development of a modern retail offering at the corner of Michael Street and Alexander Street, with office space overhead, in accordance with the Masterplan for the redevelopment of the larger 1.42 hectare opportunity site.
 - The ground floor retail space would be divided between two units: a fashion retail unit with a floor area of 303 sq.m.; and a food store retail unit with a floor area of 464 sq.m. The overhead office space would be arranged over two floors and would have a total floor area of 1,426 sq.m.
 - The CPO would facilitate direct access to the redeveloped multi-storey car park from the pedestrianised shopping precinct of Michael Street.

A second oral submission was made by Mr David O'Connor, the legal representative for WCCC who sought to respond on the technical legal issues raised by Mr William Phelan in his written submissions.

- The notices served on interested parties were in the standard format required by legislation. It was noted that notice sent to Mr Phelan by registered post was return to the sender marked 'gone away'. But it is noted Mr Phelan is aware of the CPO and has fully engaged with the process.
- It is suggested by WCCC that issue raised by Mr Phelan in relation to its signing and information included may relate to the CPO itself rather than the notice served.

- In relation to the notice served and newspaper notice in the Munster Express, WCCC consider that they are in line with that prescribed under legislation and this does not require that a map be sent with a notice serviced or published with a newspaper notice. It is noted that is WCCC practice to include a map in notices serviced and that this was done in this case.

After the conclusion both oral submissions, the Inspectors asked whether there was anyone else from WCCC who wish to make a submission. WCCC confirm there was no one else to speak.

As an administrative matter WCCC was asked to formally submit the written document which Mr Johnston presented. WCCC undertook to email it to the Board.

10.3. Break

In the interest of expediency, and in the context of the short agenda, both parties were asked to forgo a break. No parties objected and Mr Sudway was happy to be heard instantly.

10.4. Submission by Mr William Phelan

Mr Sudway noted the technical legal submission of Mr O'Connor in respect of the manner in which the notices were served. However, he disagreed, that a notice could be served without a map. The points made in the written submission still stand.

It is considered that the CPO was done in haste and the timing of same is questionable. The subject lands were put on the property market on 16th October 2023. It is clear the property has significant value in the context of the over regeneration site. The CPO was served on the 10th of November, a month after putting the property on the market and it is clear WCCC were a potential interested purchaser. The CPO had an impact on Mr. Phelan's ability to find purchasers generally in the market.

Whether the CPO is valid or not, Mr Phelan is open to negotiating with WCCC with regard its sale. It is stated that this has not happened and raises the question for the need for a CPO at all.

10.5. Questioning between Parties

Mr Sudway had no questions to raise with WCCC at this time.

WCCC had no questions to raised with Mr Phelan's representative. They did, however, wish to clarify that they did make an offer before it was put on the market. That offer was rejected. Mr Sudway interject to state that the only offer he is aware of is of December 2023 and is based on its existing use value and restricts his clients right to seeks it potential use value. Mr Sudway was clear he is aware the matter of compensation is not a matter for the Board but wished to clarify as WCCC raised it. The Inspector once more offered both parties the opportunity to ask any questions of one and other and it was stated there was none.

The Inspector then posed a number of questions to WCCC.

- The intended purpose of the CPO was clarified to Inspector as both to provide amalgamated of properties and access to the rear of the proposed car park. The amalgamation of properties provided retail opportunity and better integration into the wider site.
- WCCC was queried on different alternatives to the CPO and in particular methods to access the car park. The council stated that the adjoining southern property (monument works) which is in their control was not viewed as an alternative to the CPO. Both properties complement each other and serve to deliver the overall objectives.
- The Inspector raised queries about the 2016 planning permission which excluded the site. The council said it will not be relying on that and it will be bringing a separate Part 8 proposal which will include the site. It was stated the landscape has changed since in terms of viability of certain uses which has been influenced by the NPF and RSES.
- It was clarified that this is the only and remaining property that the council sees as needing a CPO to deliver the proposed scheme.

The Inspector then posed a number of questions to Mr Phelan's representative.

- In respect of other uses at other floor levels, Mr Sudway said he was not instructed by to the occupiers of the building and was unsure how they were using them.
- Mr Sudway was asked to elaborate on the point that he was in a position to develop the land in accordance with the development plan given he now intended selling the property. It was clarified the Mr Phelan was always

prepared to participate in the wider redevelopment of the site circumstances have since changed. He now lives abroad and would like to sell the property. He reiterates the making of the CPO is frustrating this ability to sell. Mr Phelan is still prepared to engage with the council on the basis of a suitable offer.

The Inspector once more offered both parties the opportunity to ask any questions of one and other and it was stated there was none.

10.6. Closing Comments

Mr Sudway had no material comments to make as a closing statement. He commended the council for engaging with the oral hearing in the manner in which it did without extensive legal representatives as has become common place. He thanks the Board for the manner in which the hearing was held.

Mr O'Connor recapped on the objective of the CPO and asked that it be confirmed. The acquisition of the property is required to unlock the development potential of the adjacent properties which are already in public ownership and to facilitate the integrated development of the properties to provide for a strong commercial presence on this site. There is a clear public benefit in the council in facilitating this regeneration at this location. The CPO is proportionate to the objective trying to be achieved. He thanked for the manner in which the oral hearing was conducted

10.7. Closing of Hearing by Inspector

The Inspector made a closing statement and thanked everyone for their participation.

Mr Sudway asked if the submission of WCCC that was requested can be sent to him as Mr Phelan's representative. The Inspector advised the Board would email it to him once received, however, he is reminded no further submission will be accepted on it. Mr Sudway said he understood.

The hearing was closed.