



An
Bord
Pleanála

Inspector's Report

ABP-318650-23

Development

Developing a Water Activity Centre,
Future Housing provision and
associated infrastructure, Compulsory
Purchase Order 2023 (No.5)

Location

Duffcarrick, Ardmore, Co. Waterford

Planning Authority

Waterford City and County Council

Applicant(s)

Waterford City and County Council.

Type of Application

Compulsory Purchase Order.

Objectors

Mr Richard Anthony Power

Mr Marie Therese Power

Date of Site Inspection

12th October 2024.

Oral Hearing

19th November 2024.

Inspector

Peter Nelson

1.0 Site Location and Description

- 1.1. The site is located within the settlement boundary of Ardmore Village. It is a green field site that also includes the front garden and entrance to a dwelling directly to the north of the site.
- 1.2. There is an existing entrance to the site accessed from a residential avenue which is off the Dungarvan Road. To the south of the site is the Dubh Carrig residential development. To the north of the site are detached dwellings and outbuilding which are included on the historic 6-inch maps from 1829-41. There is a coastal pathway to the east of the site and beyond is the Ardmore Beach. In the southeastern corner of the site is an entrance to the existing public car park.
- 1.3. A farmers market takes place on the site during part of the year.
- 1.4. The area of land subject to the Compulsory Purchase Order is a stated 1.4852 hectares.

2.0 Application of the CPO/Proposed Development

2.1. *Rationale for Acquiring the Lands*

The CPO includes for the permanent acquisition of property identified as Plots 101-105 in the relevant deposit map on file. The order is made pursuant to Section 76 of the Housing Act, 1966 (as amended) and all other necessary Acts, thereby, enabling the lands published in accordance with article 4(a) of the Third Schedule to the Housing Act, 1966 (as amended).

The stated purpose for the acquisition of the lands is for the development of a Water Activity Centre, Future Housing provision and associated infrastructure.

I note that a Part 8 application was approved for a proposed relief road, car parking and a water activity centre. The parking and the relief road are in the lands covered by this CPO. The water activity centre is located to the south of the CPO lands on a current beachfront carparking.

3.0 Planning History

A Part 8 development was approved in February 2024 for the Ardmore Relief Road, Car Park, and Water Activity Centre.

Part of the CPO site:

P.A Ref: 20959

Permission granted on the 21st of October 2021 for a single storey dwelling house, connection to mains sewer and water, entrance, and ancillary works.

Ardmore:

ABP. Ref: 321195-24

Permission sought for the construction of 39 no. dwellings at Duffcarrick, Ardmore, Co. Waterford. (Material Contravention) (affordable housing). The site is to the north of the CPO site. This application is on a first- and third-party appeal. To date no decision has been made on this application.

ABP. Ref: 314043-22

Permission granted on the 17th of July 2024 for 35 no. dwellings and new landscaping and boundary treatments, public walkway with lighting from proposed development to Tower Hill, connection to existing estate road (The Cloisters) together with all associated site works and foul & surface water drainage connections.

ABP. Ref: 305221-19

Permission refused for 36 Residential Dwellings at The Cloisters, Farrangarrett, Ardmore County Waterford due to existing deficiencies in the public water supply network at this location.

4.0 Policy Context

4.1. Development Plan

The site is zoned **GZT Zone:**

RV - Protect and promote the character of the Rural Village and promote a vibrant

community appropriate to available physical and community infrastructure.

There is a special development objective on the site:

Objective D09:

The Council shall reserve land to provide a roadway from the R673 Road to serve the existing carpark so as to alleviate traffic congestion on the Main Street and provide a new access to the beach.

Ardmore is classified as a 4A settlement. 4A settlements are described as

‘Rural towns and villages less than 1,500 pop and the wider rural region. While rural in scale these towns provide a range of employment along with commercial, cultural and community services.’

2.9 County Settlements

4A Rural Towns (500 -1500 Pop): These settlements which have developed historically as strong rural market towns serving their immediate rural hinterlands can support a maximum of c.20 houses during the life of the Development Plan subject to compliance with the policies and standards of the Development Plan.

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Rural Towns and Villages

In addition to compliance with other policy objectives and development management standards of the Development Plan, development proposals for all land use types within rural towns and villages (Class 4 & 5 in Table 2.1) will be required to demonstrate that:

- The scale of a proposed housing development is consistent with the number of housing units appropriate to the class/ typology of settlement as set out in Section 2.9 and Table 2.2.
- The proposal is compatible with the context of the site in terms of character, scale, and density.

- The proposal will contribute to the visual and general/residential amenity of the settlement and its built quality.
- The proposal avoids any transgression onto land used or intended for use as public amenity.
- The proposal is accompanied by a program for developing out the site in terms of access to public water/wastewater, innovative solutions to wastewater such as integrated constructed wetlands and other services along with a completion timeframe; and,
- The proposal will not prejudice the future development of land in its vicinity and the expansion of public amenities or community land uses such as schools.
- Site selection should be informed by a sequential approach to development and the avoidance of development within flood zones. Development within flood zones should be for water compatible uses only.

In order to avoid a situation where permitted residential development may sterilise other development proposals during the lifetime of the Development Plan, we may specify the lifetime of a planning permission having regard to the program for implementing the development identified in the proposal.

5.0 The Objections

5.1. Two objections have been received.

5.2. The main points raised in the objections from Mc Court Mullane & Co. Solicitors on behalf of their clients; Mr Richard Power and Ms. Marie Therese Power can be summarised as follows:

- The CPO does not advance the common good in circumstances where others more suitable should have been identified for future housing provisions.
- The proposed development does not comply with local or national planning policies.
- There are less disruptive means to achieve the same ends.

- Waterford City and County Council have not followed the correct procedures in complying with the legal requirements to compulsorily purchase the lands.
- The Council has not demonstrated a compelling public interest in the scheme for which the lands are to be acquired.
- The Council originally intended to compulsorily acquire only parts of the lands for the construction of the relief road and Water Activity Centre, but not for future housing.
- In prior discussion with the landowners, the Council threatened to extend the area of land to be compulsorily acquired if the landowner did not agree to transfer part of the lands proposed in this CPO to them.
- The Council have now expanded the area they propose to compulsorily acquire to include an area for future social housing.
- This action constitutes an abuse of the process on the part of the Council.

6.0 Oral Hearing

- 6.1. An Oral Hearing (OH) was held via MS Teams (a Virtual Oral Hearing) on Tuesday, 19th November 2024. The two objectors were in attendance. Mrs. Marie Therese Power and Mr. Richard Anthony Power were accompanied by Mr. Barra McCabe, Barrister and Mr Tom Corrr who contributed on their behalf.
- 6.2. Waterford City and County Council were also in attendance and were represented by Mr. Michael Quinn, Director of Services, Ms Mary Quigley, Head of Property Management, Ms. Aisling O'Sullivan, Senior Executive Planner, Mr. Gabriel Hynes, Senior Road Engineer, and Ms Claire Harley Director of Services (Housing).
- 6.3. The proceedings of the Oral Hearing are detailed in Appendix 1.

7.0 Assessment

7.1. Overview

- 7.1.1. The proposed CPO is for confirmation by the Board of a Compulsory Purchase Order (CPO) for land within the Ardmore village. There are a total of 5 no. sites, and these are as indicated on the deposit map on file (Drawing no: CPO 2023-05 No.001) and details of which are set out below:

Plot No.	Area (Hectares)	Description	Owners or Reputed Owners
101	1.1247	Rural Village	Richard Anthony Power, Marie Therese Power, Anthony O'Brien
102	0.0956	Rural Village	Marie B. Power & Richard Anthony Power
103	0.0099	Roadbed	Unknown
104	0.0419	Rural Village	Dubh Carrig Estate Service Ltd.
105	0.2131	Beach	John Philip Cusack.

- 7.1.2. No objections have been received in relation to Plots No.103, 104 and 105.
- 7.1.3. Waterford City and County Council proposes to implement the Part 8 project which includes a relief road, parking, and a Water Activity Centre. The Council propose the remainder of the site subject to the Compulsory Purchase Order to be used for Future Housing provision. I note that this Part 8 was granted in February 2023.
- 7.1.4. My assessment of this case considers the issues raised in the written objections to the Board, the points made at the Oral Hearing (OH), and the general principles to be applied in assessing CPOs of this nature.
- 7.1.5. For the Board to confirm the subject CPO proposal, it must be satisfied that Waterford City and County Council has demonstrated that this CPO is clearly justified by the common good. It is generally accepted that there are five test criteria that should be applied where it is proposed to use powers of compulsory purchase to acquire land or property. These are that:
- 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.

- 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.
- Any alternatives proposed to meet 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.

7.1.6. Furthermore, the Board should consider whether the acquisition will have an excessive or disproportionate effect on the interests of the affected persons.

7.1.7. The proposed CPO is assessed below 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 stated purpose for the CPO is for the development of a water activity centre, future housing, and associated infrastructure. I note that a Part 8 was granted in February 2024 for a proposed relief road, a car park, and a water activity centre. Part of the CPO site includes the relief road, parking and the access to the proposed water activity centre and existing beach car parking. I note that housing was not included to the lands south of the proposed relief road which included in the site outline in red in the Part 8 drawings. The lands to the north of the proposed relief road which are also the subject to this CPO were not included in the Part 8 site. I note that the Chief Executives report recommended that the relief road be moved 3 meters to the south towards the Dubh Carrig residential development. In this report a sketch was included which represents a preliminary view of the nature of development that the council would envisage for the entire CPO site. This indicated housing both north and south of the proposed relief road.

7.2.2. In their oral hearing presentation Waterford City and County Council (WCCC) highlighted that the relief road is an objective of the council to relieve traffic pressure on Ardmore Main Street. A relief road has been included in the Waterford City and County Development Plan as a specific development objective since 2005. Specific Development Objective D09 in the current Development Plan states that the Council 'shall reserve land to provide a roadway from the R673 Road to serve the existing

carpark so as to alleviate traffic congestion on the Main Street and provide a new access to the beach’.

- 7.2.3. In their oral hearing presentation WCCC highlighted the current traffic problems in Ardmore Village and specifically congestion and grid lock on the Main Street during summer months. It was highlighted that the proposed relief road will allow for a one-way system during peak periods, access to the water activity centre and a new access to the beach. Given the improvement in circulation that the proposed relief road would give to the village I consider that there is sufficient community need for the road and the associated car parking.
- 7.2.4. WCCC in their oral hearing submission stated that the Housing Needs Demand assessment identified a need for 928 housing in the county and the Housing Delivery Action Plan identified need for 1,216 social housing units from 2022-2026 and 366 affordable units. Of these there is a current social housing need of 34 houses in Ardmore and an affordable demand of 111 households. The council has identified a delivery pipeline of 14 social units and 24 affordable units from Part V delivery and a scheme of 20 affordable and 8 social units on a site immediately northwest of the Cloisters residential development.
- 7.2.5. Given the housing demand in the village I consider there is sufficient community need for social and affordable housing on this site.

7.3. Suitability of Lands to Serve the Community Need

- 7.3.1. As stated above the site has been identified by WCCC as suitable location for a relief road for the village for nearly 20 years. The proposed relief road in this location would allow for new direct access to the beach and to the existing beach car parking area. Given the topography of the village and the location of the CPO site on the entry to the village on the Dungarvan Road I consider that this site is suitable to provide a road that will alleviate traffic congestion on the Main Street, will allow for the introduction of temporary traffic plans during the summer months and will facilitate emergency vehicles. I therefore consider that the CPO lands are suitable to serve the community need for a relief road in the village of Ardmore.

7.3.2. Given the location of the CPO land within the settlement boundary of the village and its proximity to the village core I consider that the site would be a suitable site for residential development. The site would allow for a sequential extension of the village and provide easy pedestrian access to the Main Street of the village and the beach. The site would also allow for easy vehicular access from the Dungarvan Road. Having regard to the above I consider that the CPO land is suitable to serve the community need for housing.

7.4. Compliance with Planning Policy

- 7.4.1. As stated above, there has been a specific development objective in the development plan for a relief road for this site since 2005. The proposed CPO for a relief road on this site would comply with this planning policy.
- 7.4.2. The site is located within the development envelope of the village and is zoned RV- Rural Village in the Waterford City and County Development Plan 2022-2028. The objective of this zone is to *'Protect and promote the character of the Rural Village and promote a vibrant community appropriate to available physical and community infrastructure.'* Residential development is permitted in principle in this zoning.
- 7.4.3. I note that the county settlement strategy in the current development plan states that rural towns such as Ardmore can support a maximum of c.20 houses during the life of the Development Plan subject to compliance with the policies and standards of the Development Plan. I also note that the Council carried out of material contravention of their plan in order to grant permission for 39 no. dwellings at Duffcarrick, Ardmore. This site is to the north of the CPO site. This application is currently with An Bord Pleanála on third- and first-party appeal (ABP. Ref: 321195-24).
- 7.4.4. In Section 11.0: Zoning and Land Use of the Development Plan states that social and affordable housing schemes on land zoned Rural Village (RV) may be facilitated in addition to the requirements of the respective settlement class as set out in the settlement hierarchy (Section 2.9) of the Plan.
- 7.4.5. While the county development strategy may have an impact on the timing of future private housing, social and affordable housing may be facilitated within the lifetime of

the current development plan. Therefore, I consider that the proposed CPO for future housing on this site would comply with planning policy.

7.5. Consideration of Alternatives

- 7.5.1. Waterford City and County Council stated in their oral hearing submission that the principle and location of the relief road has been a longstanding objective of the Council and that it provides the only feasible means of alleviating traffic congestion from the Main Street and necessitates the creation of a new village streetscape and entry point to the village. Given the requirement of the relief road to alleviate traffic congestion in the village and to create a new street I am satisfied that this is most suitable location for a relief road.
- 7.5.2. In their oral hearing submission, the council stated that they investigated the feasibility of acquiring the 'Perks Site' which is at the top of the Main Street for housing. They stated that given the sites development plan objective to create a mixed-use landmark building on this site, that this would be best delivered by a private developer.
- 7.5.3. At the Oral Hearing, the objector's representative suggested that there are other lands within the settlement boundary that could be development for housing. While I accept that there are other lands in the village that could be developed for housing, I considered that the provision of the relief road on this CPO site will provide suitable areas for housing that will create a new entrance point and street scape for the village.

7.6. Proportionality and Necessity for the Level of Acquisition Proposed

- 7.6.1. During the Oral Hearing, the objectors made it clear that they have no objection to the CPO for the lands required for the relief road and the carparking and future housing to the south of the proposed relief road. They contend that the CPO of the lands to the north of the relief road including a large section of Mr Power's front garden is disproportionate and unnecessary and requested that all of the land north of the relief road remain in the ownership of the Powers.

- 7.6.2. In their submission the objectors contend that the proposal for future housing to the north of the relief road was only introduced as agreement could not be reached on the transfer of land for the relief road and lands south of the relief road.
- 7.6.3. At the oral hearing, WCCC contended that the development of the entire block will ensure the delivery of the best approach and the best return on public investment. They also consider that development on both sides of the road will ensure best value of money, will form a new village street and create an extension of the village core.
- 7.6.4. One of the objectors, Ms Power stated that the CPO of the lands to the north will restrict their proposed commercial plans for the outbuildings to the north of the CPO lands and the operation of the farmers' market which is ongoing. The sketch scheme in the Chief Executive's Report on the Part 8 for the Relief Road, Car Park, and Water Activity Centre shows a village green. Ms Power claimed in the Oral Hearing that this area would be too small for the farmer's market.
- 7.6.5. I note that in Ms Powers objection on file, drawings were included showing their planned commercial development north of the proposed relief road and a housing development south of the proposed relief road.
- 7.6.6. The proposed CPO lands include a section of Mr Powers front garden, which would reduce its length by approximately 50m leaving a front garden of 10m. I consider that this will result in a significant proportion of the front garden being taken and is disproportionate to the community need for housing.
- 7.6.7. In the oral hearing WCCC contented that if only the relief road and the lands to the south were acquired the council would not have control of the lands to the north. I do not consider this is the case as the pre-planning and planning application process affords control of development for the lands to the north of the relief site.
- 7.6.8. The CPO lands, excluding the lands to the north of the proposed relief road will provide land for future housing, a relief road and parking and will provide for a demonstrated community need.
- 7.6.9. The relief road and future housing to the south has the potential to create a village edge and the planning authority has control over the development of the land to the north of the proposed relief road through the planning application process. I therefore consider that the CPO for the lands to the north of the relief road is disproportionate

and I do not consider that there is a necessity for the level of the acquisition proposed.

7.6.10. I consider that the level of acquisition should be modified to include only the lands included in the red line boundary of the Part 8 site. This allow for a new entrance to Mr Powers dwelling as his existing entrance would be assumed into the proposed relief road.

8.0 Recommendations

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

- the acquisition of lands under the CPO schedule, excluding those outside the Ardmore Relief Road, Car Park, and Water Activity Centre- Part 8 site, would serve a community need that advances the common good,
- the particular land is suitable to meet that need,
- the proposal does not materially contravene the development plan, and
- alternatives have been considered, and that there are no alternatives which is demonstrably preferable,
- the proposed acquisition is proportionate and necessary.

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

9.0 Reasons and Considerations

Having considered the objections made to the compulsory purchase order, the written submissions and observations made at the Oral Hearing held on the 19th November, the report of the Inspector (who also conducted the Oral Hearing), the purposes for which the lands are to be acquired as set out in the compulsory purchase order, 'Waterford City and County Council Compulsory Purchase Order No.5 2023', and also having regard to the following:

- the constitutional and European Human Rights Convention protection afforded to property rights,

- the approval of ‘Ardmore Relief Road, Car Park and Water Activity Centre’ under the Part 8 Process
- the community need, public interest served and overall benefits to be achieved through the delivery of the ‘Ardmore Relief Road, Car Park, and Water Activity Centre-Part 8 and provision of future housing,
- the policies and objectives of the Waterford City and County Development Plan 2022- 2028, which is not materially contravened, and
- the submissions and observations made at the Oral Hearing,
- the report and recommendation of the Inspector,

it is considered that the permanent acquisition of the lands in question, as modified is necessary for the stated purpose, which is a legitimate objective being pursued in the public interest, and that the CPO, as modified, and its effects on the property rights of affected landowners are proportionate to that objective and justified by the exigencies of the common good.

10.0 Schedule

- 10.1. The Compulsory Purchase Order shall be modified to omit the lands outside the red line boundary of the Ardmore Relief Road, Car Park, and Water Activity Centre- Part 8 site.

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.

Peter Nelson
Senior Planning Inspector

9th December 2024

Appendix A: Proceedings of the Oral Hearing.

[Note: The following is a brief summation of the proceedings of the Oral Hearing and the persons in attendance. It is not intended to be a comprehensive overview of the proceedings and should be conjunction with the main body of the report above.]

1. Background

An Oral Hearing (OH) was held on Tuesday, 19th November 2024 in relation to the proposed compulsory acquisition sought by Waterford City and County Council (WCCC) – ‘Compulsory Purchase Order 2023 No.5’. The Hearing virtually via MS Teams. The persons listed below were in attendance and made submissions / witness statements at the Oral Hearing.

2. Submissions on behalf of Waterford City and County Council (WCCC)

- Mr. Michael Quinn, Director of Services
- Ms Mary Quigley, Head of Property Management
- Ms. Aisling O’Sullivan, Senior Executive Planner
- Mr. Gabriel Hynes, Senior Road Engineer
- Ms Claire Harley, Director of Services (Housing)
- Mr Richie Walsh, Head of Rural Development.
- Mr Morris Conway, Senior Architect

3. Submissions by the Objector

- Mrs. Marie Therese Power and
- Mr. Richard Anthony Power
- Mr. Barra McCabe, Barrister who contributed on their behalf.
- Mr Tom Corr

4. Opening of Oral Hearing

The Inspector formally opened the hearing at 10.00am. Introductory remarks, and confirmation of attending parties.

5. Submission by Waterford City and County Council

Mr. Michael Quinn, Director of Services

Mr Quinn introduced the presentation for WCCC.

He stated that the catalyst for the acquisition of the land and the CPO procedure was twofold. WCCC has been granted funding for projects within Ardmore including the Water Activity Centre and the Relief Road. The Town Centre First Plan highlighted the need for housing in the Ardmore settlement.

Ms Mary Quigley, Head of Property Management

Ms Quigley detailed the negotiations between the council and Richard Power and Marie Therese Power before the CPO process began. The Powers were first approached by the council with the intention of purchasing land for the new relief road. The landowner submitted their own proposal that included the road to be developed by the council and the lands to the south of the road to be developed for housing by the owner and the lands to the north to remain undeveloped for the time being. WCCC were hoping for a broader masterplan for the overall site but were willing to compromised on the layout if a negotiated agreement could be reached. Negotiations were ongoing in 2022 and 2023 with offers made by WCCC which were rejected. A final offer was made in 2023 which was rejected.

Ms Quigley then highlighted the CPO process that the Council carried out. The CPO included the full site so WCCC could make a more considered and strategic approach to the delivery of the project.

Ms. Aisling O'Sullivan, Senior Executive Planner

Ms O'Sullivan outlined the National Planning Policies and commented that this site offers a unique opportunity to integrate transport land use and infrastructure planning. She highlighted the zoning objective of the site and three objectives that

are relevant. One of these included the road objective which has been an objective since the 2005 Development Plan.

Ms O'Sullivan highlighted that the relief road will act as a catalyst for development of the surrounding lands, will create a new entry point for the village and improve connectivity and permeability throughout the village.

She commented that the proposed road will form a new village street and create an extension of the village core. The site will allow for the delivery of social and community infrastructure. The road layout will allow for an appropriate street scape and the development of the entire block will ensure the best return on public investment. The development on both sides of the road will ensure best value of money. If the road was moved south closer to the wall of the exiting estate it would not be keeping with character of the village.

With regard to alternatives Ms O'Sullivan commented that the location of the road has been a long-standing objective of the Council and provides the only feasible means to relieve the traffic from Main Street and entry point to the village.

The council investigated the possibility of acquiring another site for housing however given the mixed-use objective for that site it was considered that it would be best delivered by a developer.

Mr. Gabriel Hynes, Senior Road Engineer

Mr Hynes states that he was in negotiations with the landowners for over two years. The council were hoping that the provision of the road would be developer led. The catalyst to develop the road was the funding for the water activity centre. Given the constraints in the area there is only one feasible corridor for the relief road.

Mr Hynes states that the road is needed especially in peak weekend during the summer as the traffic comes to a halt on Main Street. Currently emergency vehicles have difficulty reaching the beach and harbour in these peak weekends.

The relief road will provide a new access to the beach and allow for a one-way management system during peak weekend and will facilitate emergency vehicles, encourage active travel, and provide additional parking and allow for Ardmore to develop.

Mr Hayes states that there is no alternative route which would provide this piece of essential infrastructure.

Ms Claire Hartley Director of Services (Housing)

Ms Hartley stated that the WCCC Housing Strategy informs the housing need from 2022 to 2028 and it identified a need of 928 houses per annum in Waterford.

The live list identifies 34 households needing social housing in the Ardmore Area.

There is a demand for 111 affordable housing in the Ardmore Area.

Ms Hartley highlighted the pipeline delivery of social and affordable units in the Ardmore Area: 14 social units and 24 affordable units. She highlighted the total demand as being 34 social and 11 affordable units.

Ms Hartley highlighted the Ready to Build Scheme where local authorities will make serviced sites in towns and villages available to potential individual purchasers (self-builders). The council see that this scheme would be an option for the subject site.

Mr Richie Walsh, Head of Rural Development

Mr Walsh highlighted the national policy documents for Rural Development: *Our Rural Future* and *Town Centre First*. Ardmore is included as a priority town for regeneration.

He stated that WCCC has created a new town team and a Town Centre First Plan and have been successful in gaining funding. A Part 8 for a Water Activity Centre, Relief Road and works to the Public Realm was passed by WCCC in February 2024.

He highlighted the main elements of Town Centre First Plan and funding which include more housing, economic & tourism development, improved traffic management, public realm, and recreation facilities. A dedicated location for the farmers market, improvement to St. Declan's Way, combatting social erosion, vacancy and dereliction were also highlighted.

Mr Walsh stated that the proposed plan meets the above elements.

Mr Morris Conway, Senior Architect

Mr Conway stated that the intention of the proposal was to extend the road network in Ardmore and create connectivity within the town centre. The intention is to reinforce the village core and create a new street and will include a mixed use of residential amenity and commercial. He stated that the project is an exercise in town centre thinking and an integrated urban project with connected pieces.

Mr. Michael Quinn, Director of Services

Mr Quinn gave a summary of their submission and stated that there were extensive negotiations with the landowners and options were explored before the CPO process was initiated.

Mr Quinn raised a number of points arising from the objectors Affidavit. He stated that the WCCC had extensive negotiations with the landowner, and it was only at the end of negotiations that the CPO was presented. It was never intended as a threat.

WCCC is supportive of the development of the agriculture out buildings to the northeast of the site and the CPO would not prevent this.

He believes that the process was fair with ample opportunity for negotiation.

The Inspector asked for a number of points of clarification relating to the provision of housing. The council confirmed that exact proposals have not been confirmed however there are options for a variety of unit types which could be delivered in three years, however the objective for the site is to provide future housing.

6. Submission from the Objector

Mr Barra McCabe

Mr Mc Cabe highlighted the main points of the submission and stated the council were disproportionate in the amount of land proposed to acquire, failed to follow the regular process, the council approach has been heavy handed and unfair, there has not been sufficient analysis of alternative sites, and the stated future housing need has not been adequately defined.

He stated that the council have retrospectively tried to qualify the need, and their approach does not serve the common good.

Mr McCabe stated that the objectors have no issue with the handover of land required for the relief road, the promenade, and the water activity centre and even the lands south of the relief road. They do not believe that the Council established a need for the lands north of the relief road including the 50% of Mr Powers curtilage.

Mr McCabe request that all the land north of the relief road save that required for the promenade remain in the ownership of the Powers.

Mr McCabe then questioned Mr Power relating to the process of negotiations with the council. Initially the council did not inform Mr Power of a master plan for the entire site and that the Council's need for the lands north of the relief road only was evident at the time of the CPO proceedings. Mr Power states concerns relating to future house abutting his house.

Mr McCabe then questioned Ms Power. Ms Power said that the council only discussed the road and car parking to make up of loss of car parking due to the proposed water activity centre. She stated that she first learnt of the council decision to take the lands to the north of the site officially at the CPO stage, but it was said at a meeting with the council that if they were not to go along with the transfer of land for the road that they would CPO the whole field.

Ms Power stated that she had a meeting after the initiation of the CPO process with the Council and she confirmed that the council indicated that they didn't need the lands to the north of the proposed road. She stated that the CPO of the lands to the north will restrict their proposed commercial plans for the outbuildings and the operation of the farmers' market. She claimed that the remaining area would be too small for the farmer's market.

Mr McCabe then questioned Tom Corr who explained his experience with CPOs.

Mr Corr stated that it is commonplace in negotiations for road projects for Councils to use the threat of a CPO. Mr Corr stated that he has no issue with this, and that the Council did not use non-statutory arbitration in this case. Mr Corr stated that he

did not understand why the Council expanded the area for the CPO when agreement could not be reached on the transfer of the land for the road.

He considers that the objectors very reasonable in not objecting to the CPO of the lands to the south of the proposed road for housing.

Mr Corr considers that the council has retrofitted a need to justify taking the entire so that they can fulfil the threat to take the entire site. He stated that the powers of the Council to CPO lands for future development should be used very carefully and it is his opinion that they have been used inappropriately.

When questioned by Mr McCabe, about the stated need for the creation of a two-sided street, Mr Corr commented that it is not correct to state that the Council are the only people who can properly develop these lands is the Council. He stated that an acceptable development could be carried out by the Power family in consultation with the council and through the planning process and does not require CPO.

Mr Corr considers that it was a deliberate overuse and inappropriate use of the Council's power.

7. Questioning between Parties

The objecting parties were afforded the opportunity to question Waterford City and County Council and its representatives.

Several items were discussed and expanded by the parties upon during this part of the agenda. I have summarised same below. Relevant points of interest are referred to in the assessment section of this report above.

Question

Mr McCabe to Waterford City and County Council (WCCC)

Were the Powers made aware of a broader strategic master plan for the site during the negotiations?

Response

Mr Hynes (WCCC) stated that when the Council started negotiations in summer of 2021 at a meeting, the Powers put forward a proposal for housing on the south side of the proposed road and at that meeting the Council planners would have put forward their wish to have housing on the north side in order to achieve a street scape. Mr Hynes stated that Mr Power commented that he would consider housing on the south side and the road but was against housing on the north side. At that stage Mr Hayes reluctantly agreed that the council would develop the road and the Powers develop housing on the south side. After that, the Powers submitted plans showing the road and housing on the south side. Mr Hayes stated that council would concede housing on the north of the road in order to get a speedy delivery of the road.

Question

If it is the case, as you were in negotiations on the relief road and housing on the south side of the relief road does that not demonstrate a lack of need of the part of the council for the land on the north side of the road?

Response

Mr Hayes responded that this was not the case as Mr Power expressed a serious concern and that he was not in favour of housing on the north side of the road given the proximity to his family houses. Mr Hayes objective was to provide the relief road and that if the housing on the north side was excluded agreement may be reached for the road and land to the south side.

Question

Is the Powers submission that all the initial negotiation were around the road only, true?

Response

Mr Hayes stated that this was incorrect and that negotiations included the development of the old outbuildings and the housing to the south of the proposed road. This also included access onto the relief road and parking. All the drawings of the proposed developments came from the landowner. The negotiations continued over a two-year period. It was Mr Hayes understanding that the local authority would

develop the relief road which would allow the Power family to develop the housing to the south side of the road and the development of the old outbuildings. Negotiation broke down and then the CPO process was initiated.

Question

Mr McCabe again asked Mr Hayes to confirm if all the discussions related to the road and housing to the south of the road and not housing to the north of the road.

Response.

Mr Hayes stated that as part of the agreement on the delivery of the road the council were happy to concede on housing to the north of the road. When negotiation failed at the start of November 2023 the masterplan for the entire CPO site came into play. Mr Kearan Keogh (WCCC) offered to buy the entire site. The landowners' solicitor then emailed the council terminating the negotiations, four weeks before serving the CPO procedure.

Further Response for Ms. O'Sullivan.

Ms. O'Sullivan stated that at the start of the process the Planners always said that development had to happen on both sides of the road. This was suggested to the landowner who did not want housing on the north side of the road. The landowners were also told that the council would be favourably disposed to the redevelopment of their stone buildings, however there needed to be enabling infrastructure. It was always the contention that the north side of the road would have to be developed and it appears now that the only way this can happen in a coherent sustainable way is if it is taken in one composite landbank.

Question

Why did the council not CPO the lands for the relief road and south of the relief road only?

Response.

The council reiterated that the acquisition of the entire land bank will ensure the delivery of the housing on both sides of the road. If only the relief road and the lands to the south were acquired the council would not have control of the lands to the north.

Question

Why couldn't a private developer be taken on to develop the lands in a more sympathetic way than that being proposed?

Response

As a large amount of public investment is being channelled to this land, it is the right thing to do to ensure delivery, that as the council would have full control of the land. If the land is not included in the CPO, it may never be developed.

Ms. Hartley (Director of Housing) stated that there is an immediate need for housing in Ardmore. If the CPO delivered the land, it is the council intention to start immediately to deliver housing.

Question

The inspector asked the council if they envisaged that they would develop the housing on the north side and the south side of the road at the same time.

Response

Ms. Hartley stated that they would look to develop the site in its entirety.

Question

Mr McCabe asked that is it not the case that the Powers could not develop the land north of the road and pay development levies to the council?

Response

Ms. O'Sullivan stated that in theory yes, but the site would not be developed in a composite block and there would be no control over the timing of the delivery of the development and that the land may never be developed.

Question

Mr McCabe asked if the nature of the development could change if the CPO was confirmed.

Response

The council initiated the CPO with a clear mix of needs in mind. The design and application process which could lead to variation in the configuration of the development, however there is an immediate housing need in the area.

Ms O'Sullivan stated that in the Part 8 proposals indicative housing on the north side of the relief road was shown.

Question

The inspector asked if the site for the proposed future housing to the north of the relief road was included in the Part 8 site outline in red.

Reply

Ms O'Sullivan confirmed that it was not included in the site outlined in red but indicative housing was shown which indicated the council's intention. It was also stated that the Powers would be very familiar with the concept plan development of Ardmore.

Question

Mr McCabe asked where there is a future housing need and it is not defined, where do the council get the power for that?

Reply

Ms. Hartley replied that housing powers are underpinned by the Housing Act.

Question

Mr McCabe asked what analysis was carried out on the housing need for this location.

Reply

The need is currently assessed under the Housing Need Demand Assessment 2022-2026 and the Housing Delivery Action Plan 2022-2026. In terms of future need the council undertake a summary of the social housing assessment on an annual basis and that informs the ongoing need. There are currently 1500 on the social housing list.

Question

The inspector asked Ms Hartley about the permitted housing in the village of Ardmore.

Reply

Ms Hartley responded that the Local Authority have entered into a tender process for a site with 28 units and will have Part 5 delivery under planning application 21/604 which still falls short of the current housing need.

Question

Mr McCabe stated that only one alternative site for housing was put forward however there is about 200 acres zoned as rural village, why were no more sites considered?

Reply

Ms O'Sullivan stated that the development of a relief road presents an opportunity for development on both sides of the road and a land bank close to the village core. There are no other land banks of that size available close to the village bar the Perks site already discussed.

Question

Mr Corr asked is it not an inappropriate and overuse of council powers to CPO the front curtilage of Mr Power home for housing?

Reply

Mr Quinn reply that the council have to CPO front garden for various reasons. It is perhaps a consequence of enabling orderly development. In this case it allows for the full development of the site and allows for housing on both sides of the proposed relief road.

Waterford City and County Council were afforded the opportunity to question objecting parties and its representatives.

Question

Mr Hynes asked why when the council offered to meet on two occasions on the 20th of September 2023 for further discussion did Mr Mullane decline to meet and terminated negotiations.

Reply

Mr Mullane responded that his clients thought that they had been asked to donate the road for no cost, which he thought was unfair. He then received from the council's solicitors the transfer of the field with no payment for the road. He wrote to the council and stated that his clients would not be donating the road to the council.

Question

Mr Walsh asked that at the meeting in August 2024, it was agreed that Anthony and Marie Power would look at option for the site and revert to the council with alternative proposals. Why did Marie Power say she was waiting for a map when there was no such map proposed by the council?

Reply

Ms Power replied that she requested a map because she was not sure of change to the size of the road so she could give it to her auctioneer to get a value for the road.

Question

The inspector asked Mr McCabe if his clients are seeking an exclusion of the northern portion of the land only or are they objecting to the entire CPO lands.

Reply

Mr McCabe stated that they were only objecting to the northern section of the land above the relief road.

8. Closing Comments

The following parties made closing statements, and these are summarised as follows:

WCCC reiterated the point that there were extensive negotiations and various proposal were explored. The overall objective was the development of both sides of the road. The CPO was to enable to orderly development of the site to meet both housing need, the need for the road and the water activity centre.

Mr McCabe stated that the masterplan was not put to his client early in the process and the conduct of the council in its negotiations was strong armed and overbearing. While they were willing to negotiate in relation to the relief road and the lands to the south and a section of the promenade it was their understanding, until the CPO, that the land north of the relief road did not form part of the negotiations. The objectors' belief that it is disproportionate in terms of the need and the council has retrospectively created a need for future housing without proper analysis and disagree substantially that the council proposed to CPO land right up to the front of Mr Power's house.

9. Closing

The Inspector closed the Oral Hearing at 12:16 pm.