



An
Bord
Pleanála

Inspector's Report ABP-318950-24

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| Development | Donegal County Council (Tús Nua Regeneration Project) Compulsory Purchase Order 2024. |
| Location | Carndonagh, Co. Donegal. |
| Planning Authority | Donegal County Council |
| Applicants | Donegal County Council |
| Type of Application | Compulsory Purchase Order |
| Objectors | Kevin Miller Sandra Miller North West Gas Company Limited Joseph Butler |
| Date of Site Inspection | 2 nd May 2024 |
| Oral Hearing | 10 th September 2024 |
| Inspector | Ronan O'Connor |

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1.0 Site Location and Description

- 1.1. This is an application by Donegal County Council (DCC) for confirmation by the Board of a Compulsory Purchase Order (CPO) for properties and land within Carndonagh town centre ('the subject sites').
- 1.2. There are a total of 5 no. sites and these are as indicated on the deposit map on file (Dwg. No. 'Tús Nua/2024/CPO 01 Rev A'), and details of which are set out below:
 - Plot 1: Former Commercial Premises and Curtilage (Area 0.185 Ha)
 - Plot 2: Former Commercial Premises and Curtilage (Area 0.022 Ha)
 - Plot 3: Open Space (Area 0.006 Ha)
 - Plot 4: Derelict Building and Curtilage (Area 0.142 Ha)
 - Plot 5: Commercial Curtilage (Area 0.009 Ha)
- 1.3. The sites in question are located in the designated town centre area of Carndonagh, in the area of Bank Place, Pound Street, the Painter's Way and the SuperValu Retail Complex.
- 1.4. The Board has received 4 no. objections to the CPO as follows:
 1. Joesph Butler (in respect of Plot No. 4 as listed above)
 2. Kevin Miller (in respect of Plot. 5 as listed above)
 3. Sandra Miller (in respect of Plot No. 5 as listed above)
 4. Conor and Mary Kelly (North-West Gas Company Limited) (in respect of Plot No. 1 as listed above)
- 1.5. This report considers the issues raised in the objection submitted to the Board and more generally the application to acquire the sites in question above.

2.0 Application of the CPO / Proposed Development

Rationale for Acquiring the Lands

- 2.1. The CPO includes for the permanent acquisition of the property identified as Plots 1 to 5 on 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 compulsory purchase of lands published in accordance with article 4(a) of the Third Schedule to the Housing Act, 1966 (as amended).

- 2.2. The stated purpose for the acquisition of the lands is to assist in delivering the approved Part 8 project (Tus Nua Regeneration Project) as described below.
- 2.3. Certain local authority projects are subject to a public consultation process, known as the Part 8 process under the Planning and Development Regulations, 2001 (as amended). The procedure is set out in Part 11, section 179 of the Act.
- 2.4. The Part 8 application in question was permitted on 16th November 2020 and gave consent to the following development.
 - Partial demolition of the former Leprechaun Bar to create a through access and change of use (of retained structure) to amenities including a changing places facility,
 - Restoration, refurbishment, alteration and extension of the McDonagh Bros. Department Store and associated outbuild the rear providing for:
 - a new Digital Fabrication Laboratory (FabLab) and co-working Hub, office space, board room training room/exhibition space, kitchenette and toilets,
 - a community Kitchen,
 - Communal storage, and
 - A public realm courtyard with sensory garden.
 - Creation of a new Pedestrian Street and public realm park between Pound Street/Bank Place and the Supervalu Retail Complex and the restoration, refurbishment and alteration of an existing stone outbuilding adjoining same to a Creative Makers Hub including a communal workshop and retail space for creative and craft industries;
 - New demountable canopy feature(s) in the existing Diamond area civic space;
 - New public realm improvements on Back Lane connecting the Diamond to the Town Car Park and Bridge Street including new surface materials, lighting scheme, murals, demolition of existing car park boundary wall and construction of a new replacement car park boundary wall; and

- All associated ancillary works to include site drainage, connection to public water supply and other services, landscaping, development related signage & public art, connection & discharge to the public sewerage network.

2.5. The application included the subject sites (Plot No's 1-5). The Part 8 Consent addressed the relevant planning and environmental considerations arising. The specific works on lands that are subject to the CPO are as follows:

Plots 1, 2 and 3 (south of Pound Street/Bank Place)

- Redevelopment of the McDonagh & Co Ltd site (Mary Reids) and former Leprechaun Bar to provide a new Co-working space including a Digital Hub, a Fabrication Lab ("FabLab"), Offices, Youth Space, Community Kitchen, Public Realm, Storage; Public Amenities including a Changing Places facility and Through Access.
- A public realm courtyard with sensory garden.

Plots 4 and 5 (north of Pound Street/Bank Place)

- Creation of a new Pedestrian Street and public realm park between Pound St/Bank Place and the Supervalu Retail Complex (Plots 4 and 5)
- The restoration and alteration of a stone outbuilding to a Creative Makers Hub for creative and craft industries (Plot 4)

Statutory Basis

- 2.6. The CPO has the seal of the Council affixed on the 19th January 2024 and was advertised on the 24th January 2024 in the Irish Times. Formal notice was issued by post to the affected landowners on 22nd January 2024. I would note also that formal notice was issued by hand to Alan Doherty and Yvonne Doherty on 16th February 2024 (in respect of Plot No. 5).
- 2.7. The application was lodged with An Bord Pleanála on the 29th January 2024.
- 2.8. The Board decided to hold an Oral Hearing, which took place on 10th September 2024.

Application Documentation

- 2.9. The application documentation includes the following:

- 2 no. copies of the sealed map (Dwg. No. 'Tús Nua/2024/CPO 01' Rev A)
- 2 no. copies of the sealed order.
- 1 no. copy of the Inish Times, 24th January 2024, in which the notice of the making of the CPO was published.
- 1 no. copy of the prescribed notices served on owners, lessees and occupiers and a copy of the deposited map attached to the each notice (unsigned and unsealed) [in respect of Plots 1 to 5]
- Proof of postage.
- Cover letter.

3.0 Planning History

Carndonagh Town Centre

Part 8 Application - PG20/20 - Part 8 granted on 16th November 2020 for restoration, refurbishment, alteration and refurbishment of former McDonagh Bros. Department Store and associated outbuildings to the rear to provide for the following elements:

- Partial demolition of the former Leprechaun Bar to create a through access and change of use (of retained structure) to amenities including a changing places facility,
- Restoration, refurbishment, alteration and extension of the McDonagh Bros. Department Store and associated outbuild the rear providing for:
- a new Digital Fabrication Laboratory (FabLab) and co-working Hub, office space, board room training room/exhibition space, kitchenette and toilets,
- a community Kitchen,
- Communal storage, and
- A public realm courtyard with sensory garden.
- Creation of a new Pedestrian Street and public realm park between Pound Street/Bank Place and the Supervalu Retail Complex and the restoration, refurbishment and alteration of an existing stone outbuilding adjoining same to a

Creative Makers Hub including a communal workshop and retail space for creative and craft industries;

- New demountable canopy feature(s) in the existing Diamond area civic space;
- New public realm improvements on Back Lane connecting the Diamond to the Town Car Park and Bridge Street including new surface materials, lighting scheme, murals, demolition of existing car park boundary wall and construction of a new replacement car park boundary wall; and
- All associated ancillary works to include site drainage, connection to public water supply and other services, landscaping, development related signage & public art, connection & discharge to the public sewerage network.

Painter's Way, Churchland Quarters, Carndonagh Lifford PO, Co. Donegal
(incorporating part of Plot No. 1)

ABP Ref: 317335 (PA Reg Ref 2350404) REFUSE OUTLINE PERMISSION for (1) Demolition of three outbuildings, (2) Demolition of two small extensions, (3) Alteration of rear double storey wing for 1 no. reason as follows:

- 1. The proposed development seeks outline permission for the demolition of three number outbuildings and alterations to existing derelict stone outbuildings to the rear of an existing building (Mc Donough and Company Limited) Churchland Quarters, Carndonagh which listed on the National Inventory of Architectural Heritage as being of Regional Importance (register number 40805019) to accommodate 10 number apartment units and associated development. Notwithstanding that the application is for outline permission and not full permission, on the basis of the information submitted with the application and appeal, and having regard to the characteristics of the proposal, the Board is not satisfied that the development would support and facilitate the reuse of the existing vacant National Inventory of Architectural Heritage structure and consider that insufficient detail is provided within the application to illustrate the level of interventions required to the existing buildings to the west of the site to accommodate the proposed residential development and associated residential amenity standards. The proposed development is, therefore, considered to be contrary to Policy BH-P-4 of the Donegal County Development Plan 2018-2024 (as varied) which seeks "to*

ensure the repair, reuse and appropriate refurbishment of vernacular and/or historic buildings not included on the Record of Protected Structures which make a positive contribution to the built heritage of the area including those as referred to on the National Inventory of Architectural Heritage".

4.0 Policy Context

4.1. National Policy

National Planning Framework (NPF) - Project Ireland 2040

The National Planning Framework (NPF) is the Government's high-level strategic plan for shaping the future growth and development of our country out to the year 2040.

Relevant National Policy Objectives (NPOs) include:

- NPO 7 Apply a tailored approach to urban development, that will be linked to the Rural and Urban Regeneration and Development Fund, with a particular focus on *inter alia* Encouraging population growth in strong employment and service centres of all sizes, supported by employment growth; Reversing the stagnation or decline of many smaller urban centres, by identifying and establishing new roles and functions and enhancement of local infrastructure and amenities.
- NPO 16 Target the reversal of rural decline in the core of small towns and villages through sustainable targeted measures that address vacant premises and deliver sustainable reuse and regeneration outcomes
- NPO 18a To support the proportionate growth of and appropriately designed development in rural towns that will contribute to their regeneration and renewal, including interventions in the public realm, the provision of amenities, the acquisition of sites and the provision of services
- NPO 45 - In co-operation with relevant Departments in Northern Ireland, support and promote the development of the North West City Region as interlinked areas of strategic importance in the North-West of Ireland, through collaborative structures and a joined-up approach to spatial planning.

Town Centre First – A Policy Approach for Irish Towns (February 2022)

The Town Centre First policy aims to create town centres that function as viable, vibrant and attractive locations for people to live, work and visit, while also functioning as the service, social, cultural and recreational hub for the local community

Towns will be supported to deliver on their TCF plans through substantial funding made available to support TCF implementation, particularly via funds such as the Urban Regeneration and Development Fund and the Rural Regeneration and Development Fund.

Our Rural Future – Rural Development Policy 2021-2025

Our Rural Future outlines a vision to support the regeneration and development of rural towns and villages to contribute to local and national economic recovery, and to enable people to live and work in a vibrant environment.

4.2. Regional Policy

Regional Spatial and Economic Strategy (RSES) for the Northern and Western Region 2020-2032

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

Relevant Regional Policy Objectives include:

- RPO 3.4 To support the regeneration and renewal of small towns and villages in rural areas
- RPO 3.13 To support the role of smaller and medium-sized towns, which demonstrate an important role in terms of service provision and employment for their catchments within the economic function of the county. Such settlements will be identified through the Development Plan process as part of the Settlement Hierarchy and the Core Strategy

4.3. Local Planning Policy

Donegal County Development Plan 2024-2030

The relevant plan is the County Donegal Development Plan 2024-2030.

Carndonagh is designated as a “Service Town” within the Core Strategy. Section 3.3.3 ‘Service Towns’ notes that such service towns provide important local retail and employment functions.

Chapter 5 - Towns and Villages County Development Plan

The County’s towns and villages are at the centre of rural communities because they are important locations for service delivery, gathering, expression of identity, rural enterprise and social and community supports. This Plan recognises the importance of rural towns and villages in supporting the wider rural community and therefore seeks to enable their revitalisation and regeneration as a key strategic intervention.

Section 5.2.1 Regeneration Project refers to the Tús Nua Regeneration Project.

Table 5.2 includes the Tús Nua Regeneration Project as a project funded under the Rural Regeneration and Development Fund.

Page 45 of the Plan includes a map entitled ‘Carndonagh Regeneration Opportunity Area’ which includes the Part 8 Lands (and lands which are subject to the CPO) and these are highlighted as ‘Regeneration Opportunity – As supported by CS-0-7(c)

Relevant Objectives and Policies of the County Development Plan 2024-2030 include:

S-0-4 To prioritise regeneration and renewal of the County’s towns, villages and rural areas in order to support vibrant and strengthened communities and drivers of economic growth.

CS-O-2 To support the growth of a network of county growth drivers and service towns as key locations of population growth providing for an additional approximate 5500 persons by 2030.

CS-O-7 To support economic growth throughout the County through: a. The establishment of Letterkenny as a centre for economic growth across the sectors, in particular through the promotion of the existing business park, consolidation of the town centre including the prioritising of improvements to public realm, the delivery of

key road and access infrastructure, through a proactive approach to enable the delivery of key regeneration sites. b. To continue to support 'County Growth Drivers and 'Service Towns' as critical drivers of growth outside of Letterkenny. c. To continue to support the regeneration, renewal and development of the County's towns and villages over the life of the Plan. d. To continue to identify and harness opportunities arising as a consequence of the impact of Brexit for new economic investment particularly within the border region

CS-P-3 To support and facilitate the provision of: a. additional wastewater treatment capacity and water supply upgrades b. public realm improvements, c. new/enhanced civic, cultural, green, amenity, and recreational infrastructure, d. initiatives to tackle vacancy and dereliction e. active and sustainable transport infrastructure and visitor facilities in our coastal/Wild Atlantic Way settlements

TV-O-6 - To implement all projects funded under the Urban Regeneration and Development Fund, the Rural Regeneration and Development Fund, Town Centre First, Town and Village Renewal and similar funding schemes, including those identified this Chapter.

The Seven Strategic Towns Local Area Plan 2018-2024

The Seven Strategic Towns Local Area Plan remains the statutory LAP for Carndonagh¹.

The Strategic Objective of the SSTLAP relating to Carndonagh is, 'to promote the sustainable growth of Carndonagh as a service and tourism destination in northeast Donegal, recognizing its status as the second largest town on the Inishowen Peninsula and its strategic location along the Wild Atlantic Way.'

Section 8.4 Town Centre refers to a 'heath check survey undertaken in March 2017 which indicates that, within the town centre, 22% of building stock is vacant, with vacancy being particularly notable along Pound Street.

The SSTLAP states that it is important to ensure targeted measures and efforts are introduced to reverse vacancy and dereliction where possible and to further support

¹ As confirmed by Donegal County Council at the Oral Hearing and as confirmed by the Council's Brief of Evidence. I would also refer the Board to the relevant section of the Donegal Council website which confirms the Plan remains in place until a new Plan is adopted
<https://www.donegalcoco.ie/services/planning/planningpolicy/sevenstrategictownslap2018-2024/>

appropriate commercial development in the town centre, thereby, contributing to the overall sustainability and attractiveness of the settlement as a whole.

Zoning Map 5 of the SSTLAP identifies Pound Street, Chapel Street, Bridge Street and Malin Street areas as 'Areas in Need of Regeneration'.

Relevant Objectives and Policies include:

Objective CN-TC-1: It is an objective of the Council to ensure that the town centre of Carndonagh is promoted as the economic driver of the settlement.

Objective CN-TC-2: It is an objective of the Council to ensure that Carndonagh town centre continues to develop as a high quality and pedestrian friendly urban environment that is an attractive location for business.

Objective CN-TC-3: It is an objective of the Council to seek the development and renewal of areas within Carndonagh that are in need of regeneration, in order to prevent – (i) adverse effects on existing amenities in such areas, in particular as a result of the ruinous or neglected condition of any land, (ii) urban blight and decay, (iii) anti-social behaviour, or (iv) a shortage of habitable houses or of land suitable for residential use or a mixture of residential and other uses; in particular those areas identified on the land use zoning map for Carndonagh (Map 5 refers).

Policy CN-TC-2: It is a policy of the Council to consider proposals for the sensitive and appropriate redevelopment of vacant and derelict buildings and sites within the town. Any proposals in this regard must demonstrate: (a) that the proposal will integrate effectively with the surrounding area and that there will be no over-development of the site or inappropriate densities, (b) that the development is appropriate in the context and setting and that the scale, massing, footprint and height is appropriate and that it does not detract from the character, amenity and design of the surrounding neighbourhood including the character and amenities of surrounding buildings, and (c) that the development would otherwise comply with all relevant policies of this Local Area Plan.

Objective CN-ED-1: It is an objective of the Council to promote and support economic development in Carndonagh in order to reinforce the role of the town as a service and tourism destination in northeast Donegal.

Objective CN-EH-1: It is an Objective of the SSTLAP to protect important natural, built and archaeological heritage environments within Carndonagh for the enjoyment of present and future generations.

5.0 The Objections

5.1. 4 no. objections have been received by the Board. The main concerns raised are summarised as follows:

Kevin Miller (with reference to Plot No. 5)

- Council failed to consult prior to presenting a completed plan
- Aghast to find property designated as part of the plan
- Plans to develop the site at the rear of restaurant
- Development would have an adverse effect on the business

Sandra Miller (with reference to Plot No. 5)

- Council failed to consult prior to presenting a completed plan
- Aghast to find property designated as part of the plan
- Plans to develop the site at the rear of restaurant
- Development would have an adverse effect on the business

North West Gas Co. Ltd (with reference to Plot No. 1)

- First became aware of the Tus Nua Regeneration Project circa 2018-2019.
- Had some limited contact with DCC in relation to including site as part of the project
- No progress was made and there was very little engagement with the Council
- Very surprised to receive the compulsory purchase order notice from Donegal County Council
- Placed the property on the market for sale c October 2023
- Clear that DCC is using the CPO in an attempt to unlawfully block the sale of the property

- DCC are aware that it is highly unlikely that any third party would buy the property when it is subject to a CPO
- We have no confidence that the project will proceed in the short term
- Placing of a CPO on the property makes it impossible to realise the value of the property by way of an open market sale
- There is no guarantee that if Donegal County Council is granted a CPO it will actually implement that order
- Documentation does not set out any rational basis that would justify the said acquisition
- It is submitted that ABP has no jurisdiction in the absence of a rational basis to justify the taking of the property under the compulsory acquisition procedure
- Request that ABP consider whether on the basis of the information lodged that there is any rational basis underlying the application under Section 76 of the Housing Act 1996/Whether it is fair and appropriate that the persons affected should be required to engage when Donegal County Council has failed to disclose such justification and need for the scheme.
- Submit that the entire proceedings are fundamentally flawed and invalid and there was a failure to properly address considerations necessary for the making of the CPO
- Of the view that DCC are using the CPO as an abuse of process/object to the CPO being made

Joesph Butler (in relation to Plot No. 4)

- Proposed scheme will impact vehicular access to the rear of property/provides access for off-street parking and vehicles servicing the property/will inhibit future development of the retained lands
- Proposed CPO includes a very significant portion of land and will severely impact any future development options as a landowner
- Retained property includes 2 no. commercial units and three no. residential units/sole access to two of the residential units is located to the rear of the building via a narrow gate which is subject to this CPO/access to these dwellings

will no longer be via a private and gated passageway/would be a passageway that is open to the public

- Anti-social behaviour/create an intimidating or dangerous route to the residential properties/security issues for retained properties
- Will restrict access to the main sewer running along rear northern boundary
- Options for gardens for the retained properties are eliminated/impact on enjoyment/rental potential
- Will impact on town garden/use the garden as an apiary/will impact on same
- Purchase price of the property is subject to capital gains tax/will not be in a position financially to purchase an equivalent plot in another town centre location
- Have previously advised the Council I am not interested in selling
- Agreed in principle to allow access to the lands/Council stated that I did not sell amendments to the design would be made
- Did not lodge an objection to the Part 8/However do not want to sell the lands
- Does not appear to have been any other designs considered despite DCC owning the Mart which could provide a similar pedestrian link.

6.0 Oral Hearing

Background

- 6.1. An Oral Hearing (OH) was held via MS Teams (a Virtual Oral Hearing) on Tuesday, 10th September. All of the objectors were in attendance. Mrs. Sandra Miller and Mr. Kevin Miller, were accompanied by Mr. Gerard Moyne, who contributed on their behalf. Mr. Joesph Butler was accompanied by Mrs. Donna Butler, who contributed on his behalf. Mr. Kelly (North-West Gas Company) represented himself.
- 6.2. Donegal County Council were also in attendance and were represented by Mr. Ivan Toner, BL, Mr. Ardal McDermott (Senior Executive Engineer) and Frank Sweeny (Senior Executive Planner).
- 6.3. Oral submissions were heard by, and on behalf of, the parties during the course of the hearing.

- 6.4. As the presiding Inspector, I commenced proceedings with an opening statement. Participants were informed that the purpose of the Hearing was an information gathering exercise to assist in the consideration of the merits of the case and in drafting the report and recommendation to the Board in relation to the CPO order. They were also advised that the planning merits of the Part 8 Scheme have already been determined by a separate approval process. It was explained that the purpose of the Hearing was to deal with the CPO process only. i.e., The merits, or otherwise, of the proposed acquisition of the lands by the Planning Authority. Participants were also reminded that the Board has no role or jurisdiction in the determination of compensation.
- 6.5. The proceedings of the Oral Hearing are summarised in Appendix A of this report and referenced, where necessary, in the assessment below under Section 7.0.

Modifications

- 6.5.1. During the course of the hearing (and in a written submission made to ABP on Thursday 5th September (Donegal County Council's Brief of Evidence - Ardal McDermott and Johnny Nelis), Donegal County Council requested that the CPO as published be modified to omit Plot No. 5 in it's entirety. A revised Schedule to the Compulsory Purchase Order was appended at Appendix 2 of the Council's Brief of Evidence and this is on file.

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 properties and land within Carndonagh town centre ('the subject sites'). There are a total of 5 no. sites and these are as indicated on the deposit map on file (Dwg. No. 'Tús Nua/2024/CPO 01 Rev A'), and details of which are set out below:
- Plot 1: Former Commercial Premises and Curtilage (Area 0.185 Ha)
 - Plot 2: Former Commercial Premises and Curtilage (Area 0.022 Ha)
 - Plot 3: Open Space (Area 0.006 Ha)

- Plot 4: Derelict Building and Curtilage (Area 0.142 Ha)
- Plot 5: Commercial Curtilage (Area 0.009 Ha)

- 7.1.2. I would note that the Council, in response to objections received from Mr. and Mrs. Miller, has proposed modifications to the CPO, which have the effect of removing Plot 5 from the CPO schedule. This is land owned by Mr and Mrs Miller.
- 7.1.3. The 5 no. sites in question are located in the designated town centre area of Carndonagh, in the area of Bank Place, Pound Street, The Painter's Way, and the Supervalu Retail Complex. No objections were received in relation to Plots No. 2 and 3.
- 7.1.4. Donegal County Council, in proposes to implement the Part 8 project as described in Section 2.4 above. I would refer the Board to Section 2.4 which provides detail of the Part 8 scheme. I would note that this Part 8 granted on 16th November 2020.
- 7.1.5. The Part 8 works to be carried were outlined in detail by Mr. Ardal McDermott (Senior Executive Engineer) of Donegal Council at the Oral Hearing, and is as set out in the Council's Brief of Evidence (a copy of which is on file). A copy of the Part 8 Documentation is also on the file.
- 7.1.6. 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.
- 7.1.7. For the Board to confirm the subject CPO proposal, it must be satisfied that Donegal 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:
- i. There is a community need that is to be met by the acquisition of the lands in question.
 - ii. The project proposed and associated acquisition of lands is suitable to meet the community need.

- iii. The works to be carried out should accord with, or at least not be in material contravention of, the policy and objectives contained in the statutory Development Plan relating to the area.
- iv. Any alternatives proposed to meet the community need have been considered but are not demonstrably preferable.
- v. The extent of land-take should have due regard to the issue of proportionality.

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

7.1.9. 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 community need for the project was set out by Donegal County Council at the hearing (and is referenced in the Council's Brief of Evidence), with a high level of vacancy rates within Carndonagh Town Centre referred to in the hearing. It was stated that in 2017 the Council carried out a Town Centre Health Check which established that the town had 19 vacant units equating to 22% of available stock, with variations ranging from 14% to 38% in the highest area including Pound Street. The Council also set out at the hearing that the scheme is designed to benefit Carndonagh Town, by bringing properties back into use, creating space for employment and to improve the public realm and pedestrian linkages.

7.2.2. There were no dissenting voices heard at the hearing, nor within the written objections, to the contention that Carndonagh was in need of regeneration and inward investment. However, all of the objectors were of the view that insufficient consultation was carried out in relation to the project, and some parties were of the view that the Part 8 in its entirety should be subject to re-consultation, and the scheme take into account a far wider range of views. Concern was also raised by objectors that justification for the project was reliant on out of date vacancy statistics, with the report on same dating from 2017.

7.2.3. In my opinion, the main community benefit which would be delivered through permitting the acquisition of these lands, would be the potential full realisation of the

Tus Nua Regeneration Scheme. As set out by Donegal County Council at the Oral Hearing, this is a scheme that has Part 8 approval and is a fully funded scheme, with detailed designs that are at an advance stage.

- 7.2.4. In relation to the issue of consultation, I would note that the Part 8 was subject to a consultation process, and the Council noted at the hearing that the reaction was general positive, with only one party submitting negative feedback in relation to a potential impact on a creche business (I would note that this party is not affected by this proposed CPO). While the Part 8 itself is not subject to adjudication before the Board, I am of the view the generally positive reaction from the local community in relation to same would lend some weight towards the community need for the project. While the objector's feel they were misled by the Council in relation to the potential purchase of their properties, and hence they did not object to the Part 8 proposals, such conversations or communications between the objectors and the Council are not a matter for consideration for the Board.
- 7.2.5. While I note concern was raised by the objectors in relation to the use of vacancy statistics gleaned in 2017, there was no evidence put forward, either in the written submissions, or at the hearing itself, that the vacancy rate in Carndonagh had improved in any material respect. I would note that the substantial buildings on Plots 1 and 4 respectively, are vacant (in relation to Plot 1) or in a somewhat derelict state (in relation to Plot 4) and I am of the view that the confirmation of the modified CPO would allow this situation to be improved, by way of the implementation of the Part 8 Scheme. I would note that the former Leprechaun Bar (Plot 2) is also vacant.
- 7.2.6. In relation to the proposed modifications proposed by Donegal to the CPO (i.e. the omission of Plot 5, a relatively small strip of land adjacent to the SuperValu retail centre), should the Board accept same, any impacts on Mr. and Mrs Miller, as a result of this CPO process, are negated. While Mr. and Mrs Miller have stated at the hearing that the implementation of the Part 8 scheme may result in adverse impacts on them, this is not a matter for consideration for the Board. Mr. and Mrs Miller welcomed the removal of their land from the proposed CPO. I see no reasons why the Board should not accept the proposed modifications the CPO (I have considered this matter in other sections of this report also).

- 7.2.7. In relation to the remaining landowners, I accept there may be some adverse impacts on the owners of said lands if the property acquisition were to be approved, and these impacts would potentially be most felt by Mr. and Mrs. Butler, given that they retain lands adjoining the Part 8 lands, and Mr. and Mrs Butler set out these potential impacts at the hearing, and relate to potential anti-social impacts, management and maintenance of the lands, impacts on the existing residential units and impacts on vehicular access. However, the relevant test here is whether – on balance – the overall benefits accruing to the wider community outweigh the localised impact on the individual. I would note that at the hearing, the Council committed to working with Mr. and Mrs. Bulter on addressing these concerns, including looking at a potential shared surface arrangement to allow Mr. and Mrs. Butler to continue to have vehicular access to the remaining landholding. I would also note that a separate scheme of compensation is available as a form of redress to compensate for any loss incurred.
- 7.2.8. Therefore, and in having regard to the benefits outlined above, it is my view that the proposed project would constitute an appropriate means of meeting the stated objectives of the Part 8 ‘Tus Nua Regeneration Scheme’ and would be in the interests of community need and of the common good. The proposed acquisition of Plots 1, 2, 3 and 4 is in accordance with national, regional and local policy, including several planning objectives outlined in the County Development Plan and the relevant LAP (see discussion in 7.4 below). I see no need or reason not to accept the modification to the CPO as proposed by the Council and therefore I recommend that, should the Board be of the view to confirm the CPO, the modification to CPO (which omits Plot No. 5) should be accepted. The proposed modification to omit Plot No. 5 from the CPO would not prevent delivery of the Part 8 project, as confirmed by Donegal County Council at the hearing, with alternative designs possible that would deliver the same benefits (i.e. improved pedestrian links). I accept that this is the case.
- 7.2.9. Overall, I consider that the implementation of the project would help to deliver an enhanced public realm for the town centre, improve the overall streetscape, promote employment, improve the commercial environment and would improve accessibility between Pound Street/Bank Place and the SuperValu Retail complex. In relation to Mr. Kelly’s property (Plot No. 1 - former McDonagh Department Store site), it would

also bring a building of architectural merit back into active use, noting said building is listed in the NIAH survey as being of 'Regional Importance'.

7.2.10. In summary, a failure to acquire Plot No's 1 to 4 would prevent the full delivery of the Part 8 project. Failure to acquire Plot's 1 to 4 would take away from the other public realm enhancements and streetscape improvements which can be implemented and would result in an inferior town centre and pedestrian environment overall.

7.2.11. I conclude that the proposed modified CPO would benefit the wider community and that it is justified in the interests of the common good. I conclude that 'the community need' for this scheme has been established and this principle in terms of assessing the CPO has been shown to be met.

7.3. Suitability of Lands to Serve the Community Need

7.3.1. One of the CPO tests requires consideration of whether the proposed acquisition of the lands would serve the community need, and whether the lands is suitable to meet this need. During the hearing, and as set in the Council's Brief of Evidence, the Council set out the various options considered by the Council, in relation to the Part 8 project (see also discussion of 'Alternatives' in Section 7.5 of this report). In relation to the Option 1 (which includes *inter alia* the McDonagh Department Store site, Plot No. 1) it set out that these buildings were considered suitable for the project as they were vacant, provided the opportunity to bring a heritage building back into use and was a substantial property which included a number of buildings and provided the maximum accommodation option. It was concluded that this option was suitable for the 'co-working and Fab Lab' element of the Part 8 project. Option No. 6 (which includes *inter alia* vacant lands and a derelict stone barn, Plot No. 4, and Plot No. 5) was considered suitable at it gave greater scope to address level changes, and ensure accessibility, it connected directly with the required origins and destinations, it provided additional accommodation to provide space for a creative makers hub, and it adjoined the Mart site, with potential linkages to same.

7.3.2. I would note that the proposed modification to the CPO (i.e. the proposed omission to Plot 5) would not impact on the suitability or otherwise of the remaining plots to accommodate the Part 8 project.

7.3.3. No objectors questioned the suitability of their buildings or sites to accommodate the Part 8 project, and I have no evidence before that would demonstrate that the sites or buildings in question would not be suitable. Given same, and having regard to the considerations above, I am satisfied that the properties and site which are subject to this CPO are suitable and required to accommodate the proposed project and that this is in the interest of serving the community need.

7.4. Compliance with Planning Policy (including County Development Plan)

- 7.4.1. The delivery of the Tus Nua Regeneration Project would meet several national and regional policy-based objectives. In relation to national policy, of particular note are those objectives relating to regeneration of smaller towns and villages, and as set out in the NPF (NPO 7, 16 and 18a in particular). The 'Town Centre First – A Policy Approach for Irish Towns' as published in February 2022 recognises the importance of town centres and set out strategies to fund their regeneration. 'Our Rural Future – Rural Development Policy 2021-2025' also recognises the importance revitalising town centres in rural areas. Regional policy as set out in the Regional Spatial and Economic Strategy (RSES) for the Northern and Western Region 2020-2032 sets out similar policy support for the regeneration of rural towns, with Regional Policy Objectives 3.4 and 3.13 being of particular relevance.
- 7.4.2. At a local level, the Donegal County Development Plan 2024-2030 has a number of high-level policies that support town centre regeneration including Objectives S-O-4, CS-O-2, CS-O-7 and TV-O-6. Other policies of relevance include CS-P-3. I would note that, in relation to the Tus Nua project in particular, Page 45 of the Development Plan includes a map entitled 'Carndonagh Regeneration Opportunity Area' which includes the Part 8 Lands (and lands which are subject to the CPO) and these are highlighted as 'Regeneration Opportunity – As supported by CS-O-7(c).
- 7.4.3. In relation to the Seven Strategic Towns Local Area Plan 2018-2024, this contains a number of relevant Policies and Objectives as relates to Carndonagh. I would note that at the hearing, Mr Moyne (on behalf of Mr and Mrs Miller) stated that it was his view that the LAP had expired in July 2024. However, Mr Sweeny confirmed that the Seven Strategic Towns LAP remains the strategic plan for Carndonagh. In relation to same, I refer both to the Council's submission at the hearing, and Brief of Evidence

(i.e. confirmation that the LAP remains in place) and to Donegal Council's website which sets out that the LAP was effectively extended for a further period of 2 years². I am satisfied the LAP remains in place as a statutory plan. Relevant policies therein including Objectives CN-TC-1, CN-TC-2, CN-TC-3 and Policy CN-TC-2. I note also that, with reference to Map 5 of the LAP, Plots 1- 5 are zoned 'Town Centre', with an objective to 'To sustain and strengthen the defined town centre area as the centre of commercial, retail, cultural and community life' and the regeneration project is in compliance with same, and no parties have raised any contrary opinions in relation to compliance with the zoning objectives for the sites. I would note also that an area along Pound Street and Bank Place is designated as an 'Area in Need of Regeneration', with reference to Map 5 of the LAP.

- 7.4.4. In conclusion, I am satisfied that the purpose of the proposed CPO is in compliance with national, regional and local planning policy, including the Donegal County Development Plan 2024-2030 and the Seven Strategic Towns Local Area Plan 2018-2024.

7.5. Consideration of Alternatives

- 7.5.1. There are three alternatives in this case; i.e., the 'do-'nothing' scenario, which would be annulment of the CPO, to approve the CPO and therefore permit the Council to compulsorily acquire the sites in question (Plots 1 – 5) or to approve the approve the modified CPO (i.e. with the omission of Plot No. 5) and therefore permit the Council to compulsorily acquire Plots 1-4 but not acquire Plot 5. The Council has made it clear at the hearing that they no longer require Plot No. 5, and have proposed modifications to the CPO, as set out above.
- 7.5.2. The 'do nothing' scenario would mean the Part 8 Regeneration Scheme as approved, would not be implemented, with the subsequent benefits of same, as outlined in Section 7.2 not being realised. This would not prevent other streetscape enhancements and works from taking place, however. Conversely, the acquisition of Plots 1 to 4 (as per the modified CPD scheme) would facilitate the full extent of the proposed regeneration project, albeit with the slight modifications to same as described by the Council in the hearing.

² <https://www.donegalcoco.ie/services/planning/planningpolicy/sevenstrategictownslap2018-2024/>

7.5.3. Donegal County Council, as summarised in the hearing, and as set out in detail in the written Brief of Evidence, refer to a number of different site options, prior to progressing the Part 8 scheme (7 options are set out in total). The assessment of the options considered factors such as meeting the criteria of the funding application, in particular a focus on identifying existing vacant and derelict properties within the town centre, and those which could deliver public realm and accessibility improvements.

7.5.4. A total of 7 No. options were described by Donegal Council. These include:

- Option No.1 Consisting of 3 plots (including the former Leprechaun Bar and McDonagh Department Stores) at Churchland Quarters;
- Option No.2, Vacant Property at Bank Place;
- Option No.3 – Former Centra Retail Shop at Malin Road;
- Option No.4 – Route option to the rear of existing commercial premises.
- Option No.5 – Greenfield lands within curtilage of existing restaurant & B&B business at Bank Place;
- Option No.6 – Consisting of vacant lands and a derelict stone barn to the rear of a mid-terrace dwelling and 2no. commercial retail units at Bank Place;
- Option No.7 – Route Option through Inishowen Co-Op (Agricultural Mart).

7.5.5. It is set out that various options were then discounted on the basis of limited size, potential displacement of existing business, compatibility with the funding criteria or other various factors. I would note that Mr. Butler, at the hearing, queried why the Mart Site was not considered for the proposed pedestrian link. This was a valid point, in my view, given the site is in Council ownership. I took the opportunity to question the Council further on this issue at the hearing. The Council set out that the Mart site was not an optimal solution, and made reference to the written Brief of Evidence as submitted to the hearing. It is set out therein that the Mart site is the subject of a long-lease to the Inishowen Co-Op, which runs an agricultural mart on same. As such the use of the site would result in footfall through the yard of same, and did not follow a natural desire line. I would note the Mart Site is identified as an opportunity site within the LAP. However, there is no evidence before me to indicate that development is coming forward on same in the short to medium term, and this may

be due to the leasing arrangements as set out by the Council. I accept that the reasons as set out by the Council, in not bringing forward this site into the Part 8 Scheme, are valid and I have no reason to question same.

- 7.5.6. As set out earlier in this report, the Council has put forward a modified CPO scheme, which omits the requirement to acquire Plot No. 5. While no alternative designs were presented at the hearing, the Council were satisfied that an alternative design (in terms of pedestrian access to the SuperValu site) was feasible, and I am satisfied that this is the case, and it would appear that only slight modifications would be required to facilitate same.
- 7.5.7. Overall, and having regard to the above considerations, and having regard to matters raised in the hearing, and having regard to those matters raised in the written submissions, I am satisfied that the Council has considered alternatives to acquiring the lands that they are now seeking to acquire under the modified CPO proposal, I am satisfied that the relevant test in relation to consideration of alternatives has been shown to be met.

7.6. Proportionality and Necessity for the Level of Acquisition Proposed

- 7.6.1. One of the criteria required to be satisfied is consideration of whether the measures proposed under a Compulsory Purchase Order will have an excessive, or disproportionate effect, on the interests of the affected person(s).
- 7.6.2. As noted above, there are unfortunately negative impacts on the third parties impacted upon, in this instance a loss of land (in relation to impacts on Mr. Kelly, and Mr. and Mrs. Butler), and other potential adverse impacts on Mr. and Mrs Butler, as raised during the hearing, in their written submission and as set out in Section 7.2 above, as a result of their retained lands having a boundary with, and being proximate to, the Part 8 scheme. Such impacts on private property can only be justified and necessitated by the exigencies of the common good, and that the CPO application process must have regard to the principles of social justice and proportionality. As set out above, the omission of Plot 5 from the CPO schedule would negate any impacts on Mr. and Mrs. Miller, as relates to loss of land.
- 7.6.3. The deliver of the Tus Nua Regeneration Project will deliver those benefits as set out in Section 7.2 above, and as described by Donegal County Council at the Oral

Hearing, and would benefit a wide section of the community, including local people, in terms of employment and social benefits, increased footfall, improved streetscape and public realm as well as improved accessible pedestrian linkages within the town centre. It would also bring a building of architectural merit back into function use (i.e. the McDonagh Building).

- 7.6.4. In conclusion, then, whilst I accept that there would be certain negative, but unavoidable, impacts caused by the CPO on the affected landowners I consider its overall impact proportionate to the objective being pursued. I am satisfied that the extent of the proposed amount of land-take is acceptable and does not exceed the requirement of the scheme.
- 7.6.5. Following the CPO process, I note that affected landowners may be liable for compensation. I would note that Mr. Kelly raised a number of matters in his written submission in relation to the value of his property, as a result of it being subject to a CPO. Mr. Butler also raised matters in his written submission relating to the purchase price of his property. However, as confirmed during the Oral Hearing, this is a matter for a separate forum. I note that such issues relating to arbitration and compensation payable lie outside the scope of this case, which is exclusively concerned with land acquisition matters only. However, it would provide potential redress for the landowners and compensate for loss incurred.

7.7. Conclusion

- 7.7.1. In summary, I am satisfied that the process and procedures undertaken by the Local Authority as part of this CPO application process have been fair, reasonable and proportionate. Donegal County Council has demonstrated the need to acquire the lands and that the property sought to be acquired is both necessary and suitable to facilitate the Tus Nua Regeneration Project as approved under the Part XI process. I acknowledge that there would be certain an unavoidable, but necessary impact incurred by the landowners in question. However, the impacts are proportionate to the objective being pursued, in my opinion, when considered on balance against the benefits that would be derived by the community.

- 7.7.2. I am also satisfied that the acquisition of the site lands and extinguishment of the identified rights of way is consistent with national, regional, and local planning policy, as outlined in Section 7.4 of my report above.
- 7.7.3. In summary, I consider that Donegal County Council has demonstrated that the CPO meets the relevant criteria for establishing that the proposed acquisition of Plots 1 to 4 (as per the modified CPO Schedule) is justified by the common good. I conclude that the CPO is necessary and proportionate to the community need and I do not consider that the extent of land-take proposed is excessive for its intended purpose.

7.8. Additional Issues Raised by the Objectors

Procedural Issues as relates to notification of the CPO

- 7.8.1. During the hearing, Mr. Moyne (on behalf of Mr. and Mrs. Miller) objected to the serving notice on parties that had no ownership interest in the lands in question (in this case Plot No. 5) and set out that the actions of the Council had caused considerable distress on said parties. The Council apologised for said actions but set out that the notice was served on parties that were understood at the time to have an interest in the lands, but this interest was subsequently removed unbeknownst to the Council. I would set out that the land in question is proposed to be removed from the CPO Schedule. Notwithstanding, I accept that the owners of Plot No.5 (Mr. and Mrs. Miller) were given notice of the proposed CPO in accordance with required procedures, and the actions of the Council in relation to the other parties, as described above should not be of relevance to the Board in their consideration of the merits, or otherwise, of this CPO.

EIA Screening (as relates to the Part 8 application).

- 7.8.2. Mr. Moyne (on behalf of Mr. and Mrs. Miller) raised a concern in relation to the EIA Screening which was carried out, as related to the Part 8 Process. I am of the view that this is not a matter that is under consideration by the Board, in the determination of this CPO, as it relates to the previously approved Part 8 project, which is not under consideration here.

8.0 Recommendation

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

- the acquisition of lands (Plot Nos 1 to 4) under the modified CPO schedule 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 is no alternative 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

9.1. Having considered the objections made to the compulsory purchase order, the written submissions and observations made at the Oral Hearing held on the 10th September, 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 modified compulsory purchase order, 'Donegal County Council (Tús Nua Regeneration Project Compulsory Purchase Order 2024', and also having regard to the following:

- i. the constitutional and European Human Rights Convention protection afforded to property rights,
- ii. the approval of 'Tus Nua Regeneration Project' under the Part 8 Process (Reg. Ref. PG20/20),
- iii. the community need, public interest served and overall benefits to be achieved through the delivery of the 'Tus Nua Regeneration Project',
- iv. the policies and objectives of the Donegal County Development Plan 2024-2030, and The Seven Strategic Towns Local Area Plan 2018-2024, which are not materially contravened, and
- v. the submissions and observations made at the Oral Hearing,

vi. the modifications made to the CPO Schedule as set out in Appendix 2 of Donegal County Council's Brief of Evidence, which omits Plots No. 5 from the proposed CPO Schedule and

vii. the report and recommendation of the Inspector,

it is considered that the permanent acquisition of the lands in question (Plots No. 1 to 4), as set out in the Order, the Modified Schedule, and deposited map by Donegal County Council, 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

The Compulsory Purchase Order shall be modified as per the modifications made to the CPO Schedule as set out in Appendix 2 of Donegal County Council's Brief of Evidence, which omits Plots No. 5 from the proposed CPO Schedule.

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.

Rónán O'Connor
Senior Planning Inspector

18th September 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.]

Background

An Oral Hearing (OH) was held on Tuesday, 10th September 2024 in relation to the proposed compulsory acquisition sought by Donegal County Council (DCC) – ‘Donegal County Council (Tús Nua Regeneration Project) Compulsory Purchase Order 2024’. The Hearing virtually via MS Teams. The persons listed below were in attendance and made submissions / witness statements at the Oral Hearing.

1. Submissions on behalf of Donegal County Council (DCC)

- Mr. Ardal McDermott, Senior Executive Engineer
- Mr. Ivan Toner, BL
- Mr. Frank Sweeny, Senior Executive Planner

2. Submissions by the Objector

- Mrs. Donna Butler (on behalf of Mr. Joesph Butler)
- Mr. Moyne (on behalf of Mr. and Mrs. Miller)
- Mr. Kelly ((North-West Gas Company Limited)

3. Opening of Oral Hearing

- The Inspector formally opened the hearing at 10.00am. Introductory remarks, and confirmation of attending parties.
- Following some technical issues with objector’s microphones, the Inspector adjourned the hearing for approximately 6 minutes. Technical issues were resolved. The Inspector then reopened the hearing at approximately 10.15am. It was requested that the Local Authority make its formal submission.

4. Submissions by Donegal County Council

- Mr. Ardal McDermott (Senior Executive Engineer) – Reference made to Brief of Evidence as submitted by email to ABP on Wednesday 4th September,

and as circulated to all parties on Thursday, 5th September, in advance of the hearing). Mr McDermott set out a detailed overview of the Part 8 Scheme and a detailed overview of the proposed CPO. Mr McDermott made reference to a proposed modification to the CPO (to Omit Plot 5). Mr McDermott then made reference to project options considered (section 4.3 of Brief of Evidence) and set out the Council's justification for the chosen options (Options 1 and 6). Mr. McDermott then set out a detailed response to written submissions made by objectors (section 7 of Brief of Evidence).

- Mr. Ivan Toner (BL)– Mr. Toner made reference made to proposed omission of Plot 5 from CPO Schedule as set on Page 34 (Appendix 2 – Modified CPO Schedule).
- Mr. Frank Sweeny (Senior Executive Planner) – Mr. Sweeny set out a detailed overview of relevant local planning policy in place at time of Part 8, including the County Donegal Development Plan 2018-2024 and 'The Seven Strategic Towns Local Area Plan 2018-2024' . Mr Sweeny confirmed that the Seven Strategic Towns LAP remains the strategic plan for Carndonagh. Mr. Sweeny noted that the current County Donegal Development Plan, 2024-2030, the Tus Nua Regeneration site is identified as lands that area open for regeneration.

[A copy of the submissions made by Donegal County Council, which were submitted in advance of the Oral Hearing on Wednesday, 4th September was circulated via email to all parties on Thursday, 5th September] This is available on file for the Board to review, as appropriate.]

- I would note that, during this session of the hearing, the Inspector sought confirmation from Donegal County Council that the Seven Strategic Towns Local Area Plan 2018-2024 LAP remained the statutory LAP for Carndonagh and this was confirmed by Donegal County Council.

5. Submissions by the Objector, elaborating on written submissions

Mr. Joesph Butler [in respect of Plot. No. 4]

- Mrs. Donna Butler made a submission on behalf of Mr. Joesph Butler, which provided elaboration the previous written objection made to the Board (received on 15th February 2024).
- The concerns raised therein are generally summarised in Section 5.1 of this report, and assessed in further detail in Section 7 of the report. Mrs. Butler outlined her communications to Donegal County Council, in 2023, seeking clarity on what other options were considered. Mrs. Butler was told that while other options were considered, no formal options report was completed. Was advised that options were restricted so as not to materially deviate from the Part 8 Design. Mrs. Butler put forward that Donegal County Council would never have been able to explore other options should they have decided they didn't wish to sell. It was stated that the Butlers feel that verbal commitments made have not been followed through and that that they have been denied the opportunity to defend themselves. It was set out that they only had one site meeting on 8th September 2020 with the Part 8 formally published 2 weeks later. It was reiterated that the property has been in family for 4 generations and it was stated that they were not given sufficient time to make a decision in relation to the property. The Butlers feel the project was rushed through. Mrs. Bulter elaborated on other concerns including rise in costs of construction/20-25% increase over the last 4 years and expressed concern that there won't be funding to develop the scheme. Further concern was expressed over which elements would be removed from the scheme/if linkage was removed/how would lands be disposed of/would they have the option to buy the lands back?/concerns in relation to the maintenance of the area/impact of anti-social behaviour on retained properties/met with Ardal and Hugh (DCC)/mitigation measures including boundary treatment and lighting/do not feel that this is sufficient/the introduction of high walls will leave an long, narrow, unwelcoming walkway/enquired about CCTV/told that this was not being considered/should measures prove insufficient there will be no recourse.

Sandra Miller and Kevin Miller [in respect of Plot No. 5]

- Mr. Moyne made a verbal submission on behalf of Sanda and Kevin Miller and elaborated on the written submission that was sent to the Board on the 9th September 2024, and circulated to all parties on the same day. A copy of this submission is on file for the Board's perusal. The oral presentation also elaborated upon the previous written objections made to the Board (received on 16th February 2024).
- Had a meeting with the Council which was framed as a consultative process/on premises of a company which was already approved as a tenant for this project/impact of works on Butler's land/concerns in relation to how CPO notice was served/hand delivered to a home of a relative who has no ownership or interest in the property or business/included names within public notices including the newspaper notice/refers to previous FOI request/no documents exist that show any consultation was carried out prior to September 2020/PA has made numerous decision, and has had numerous meetings but has not kept any records/No pre-screening or preliminary examination on file in relation to the need for an EIA, as required by the Directive/state that the plan is flawed/little or no demonstrated benefit to the community as a whole/plan does not address the issues which would have become apparent had a EIA been carried out.
- Little doubt that the town required inward investment/no input from the community on the plan/direct the Council to the Open Government Partnership in Ireland/should have this plan looked at by the OGP
- Appeal to the Board to reject the CPO
- In addition to the contents of their previously submitted written submissions, Mr. Moyne noted the Council's statement in relation to the LAP and was of the view that, in technical terms, this expired in July 2024 as it lasted for a period of 6 years from August 2024

Mr. Kelly (North-West Gas Company Limited) [in respect of Plot No. 1]

- Agree with Mrs Butler
- Objection relates to how the process was carried out.

- 10.1.1. I note that the issues raised by the Objectors are covered within the main body of my report above. No significant new issues outside of the written submissions made to the Board were identified by the submitters during this part of the OH.
- 10.1.2. The written submissions are on file and available for the Board. However, the objecting parties took the opportunity to expand upon written submissions during the proceedings and, in some cases, posed questions to the Local Authority to clarify certain matters, as detailed below.

7. Questioning between Parties

- 10.1.3. The objecting parties were afforded the opportunity to question Donegal County Council and its representatives.
- 10.1.4. 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 (Section 8).

Question

Mrs Butler to Donegal – Unused lands/how will they be disposed of/maintenance of the area/mitigation measures for anti-social behaviour

Response

Donegal- Mr. McDermott – No intention for the scheme to have any unused lands/fully funded scheme/intended to progress to purchase of the lands/progress to construction stage/not proposed to phase the scheme or do it in sections/in relation to the maintenance arrangements/no formal procedures in place at the moment/are in discussion with DCC Area Roads/will be maintained by Roads/proposing the space will be a well-lit public space/issues can be monitored and dealt with as the need arises

Question

Mr. Moyne to DCC – project to improve main arterial route into the town was commenced in 1963 and has yet to be completed/No public consultation/no documents exist/need for an EIAR/why is there vast amount of communications and documents missing?

Response

Mr. McDermott – Project is funded/detailed design is at an advanced stage/has been landowner negotiations and communication/Has been a Part 8 process allowed for submissions.

Question

Mr. Kelly to DCC – In relation to the CPO/Timeframe for progression/Business that has bills and interest rates to pay/concerns in relation to the viability of their investment/does the funding for the project have a run out date?

Response

Mr. McDermott – would see these matters as matters for negotiation or failing agreement through to arbitration/it can progress quickly.

Question

DCC to Mrs. Butler – Ivan Toner – are they satisfied that have been given an opportunity within this forum?

Mrs. Butler – Feel they have missed the opportunity at the Part 8 process due to mistrust that they have put in place/don't feel that they have had opportunity to submit to the Part 8 process/CPO process OH process feel that they have been given the opportunity.

Question

Mr Toner to Mr. Moyne – do they accept property is not part of the CPO process and do they accept that they are not going to be adversely affected in terms of losing their property?

Response

Mr. Moyne – previous question wasn't answered about the lack of consultation/it will adversely affect on property/any works on Butler Property/Business has been stymied/has caused inordinate stress/happy that property has been removed/has not been a good process.

Question

Inspector to Council – Satisfied that DCC can deliver Part 8 in light of the proposed modifications? Note the pedestrian crossing coming off the Miller

lands/was an alternative to the acquisition of the Miller lands considered prior to the CPO/

Response

Mr. McDermott – confident that they deliver an amended design/have carried out a draft design onto SuperValu car park/can rearrange pedestrian access.

Question

Inspector to Council – Alternative and access through the Mart/is Council Land/draft designs alternatives that show access through the Mart lands/potential alternative going through/what designs were considered

Response

Mr. McDermott – refers to page 17 of the Brief of Evidence/Refers to the Mart site/was ruled out as being sub-optimal

Question

Inspector to Council – Procedural issue raised by the Millers in relation to the CPO notification/

Response

Mr. McDermott – at the time of issue did a land registry search/4 names were on the folio at that time/this has changed since/Council were not aware of this until yesterday (9th September)/Apologised for this happening.

Question

Inspector to Council – Specific details of measures to mitigate on Butler's Lands

Response

Mr. McDermott – need to discuss further – may be an access issue/shared surface with limited access/may be resolved through compensation

Question

Inspector to Council – Updated studies in vacancy rates/options considered for the McDonagh Building/Mr. Butler's Buildings

Response

Mr. McDermott – Refers to Brief of Evidence/Section 7 – Page 13 Project Options/Options 1 and 6/Walking the site shown evidence of high vacancy rate/refers to the closure of 5 no. businesses highlights the need for regeneration.

7. Closing Comments

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

Mr and Mrs Butler – Would like to know how Council conducted themselves in meeting onsite/did they conduct themselves in a fair and proper way/Council colleague turned up late for meeting/feel as if they were rushed/Council has not addressed this/Compensation is not the answer to all the solution/problems are going to ongoing/Unless gates are locked there is going to be a major problem.

Mr Moyne – Commitments are wishy/washy – consider the whole community/really be going back to the community so that there are more voices involved in this/the operations of the Mart will impact on the project including smells from same/still no understanding of the benefits to the community in the long term.

Mr. Kelly – Would like to reiterate Mr and Mrs Butler/were verbally informed that if they did not agree to the project they would not have to sell.

Donegal County Council – Ivan Toner/scheme is designed to benefit Carndonagh Town/in particular by bringing properties back into use/helping to regenerate town/create space for innovators and entrepreneurs/also aim to make area more pedestrian friendly/shown by link between the Super value complex and the centre of town/In a scheme like this there will be people who will be more adversely affected/have heard concerns on site and again this morning/in terms of the options considered/7 options were considered/2 brought forward/was subject to Part 8 Planning/Was subject to a consultation on the 10th Sep 2020/88 people attending/1 individual gave negative feedback in relation to impact on creche/some issues raised this morning can be dealt with by way of compensation/is a matter for an independent arbitrator if needed/Council keen to bring the process forward as quickly as possible/in relation to access and vehicular access/Council are open to open to providing vehicle access to the rear of the property/Scheme will be a well lit

pedestrian way/anti-social behaviour can be monitored/Issues raised by the Millers do not raise issues in relation to this CPO.

8. Closing

The Inspector closed the Oral Hearing at 11:55am.