



An
Bord
Pleanála

Inspector's Report ABP-320505-24

Development	Compulsory Purchase Order 2024 (No. 3), Port na hAbhann, Cappoquin, Co. Waterford.
Location	Port na hAbhann, Cappoquin, Co. Waterford.
Planning Authority	Waterford City and County Council
Applicant(s)	Waterford City and County Council.
Type of Application	Compulsory Purchase Order
Objectors	Twig Bog Ltd
Date of Site Inspection	18 th March 2025.
Inspector	Jennifer McQuaid

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1.0 Introduction

Overview

- 1.1.1. This is an application by Waterford City and County Council for confirmation by the Board of a Compulsory Purchase Order (CPO), entitled “Port na hAbhann”.
- 1.1.2. The CPO relates to the compulsory acquisition of rights over land in the townland of Cappoquin, Co. Waterford and it is made pursuant to the powers conferred on Waterford City and County Council under Section 216 of the Planning and Development Act 2000 as amended.
- 1.1.3. One number objection to the CPO has been received and given the nature of this objection the Board determined an Oral Hearing was required to consider the objection and this was held on the 8th May 2025 via teams in an online platform. The report considers the details of the objection raised.

1.2. Purpose of CPO

- 1.2.1. The purpose of the CPO is to facilitate a new 1km circular walking trail at Cappoquin on the western periphery of Cappoquin, along the banks of the River Blackwater. The design will include:

- Provision of safe vehicular access to Cappoquin Boat House and residential property.
- Pedestrian link via access track or secondary path and steps to main walking trail.
- Maintain privacy for neighbouring properties.
- Well-lit to allow year-round safe access.
- Increased biodiversity through appropriate planting.
- Creation of a River Blackwater viewing area.
- Open space for the residents of Port na hAbhann.

1.3. Accompanying documents

- 1.3.1. The application was accompanied by the following:
 - Compulsory Purchase Order and Schedule thereto, dated 9th August 2024

- Application Cover Letter
- CPO Maps
- Newspaper notice, published in the Dungarvan Observer dated 9th August 2024.
- Copy of site notices erected and details of specific locations erected along the route.
- Copy of notice sent to Landowners.
- Copy of registered postal receipt for service of each CPO notice.

1.4. Format of CPO and Schedule.

- 1.4.1. The CPO states that the lands are required for the purposes of formalising the ownership of land that has been taken in charge by Waterford City & County Council at Port na hAbhann, Cappoquin, Co. Waterford, for Cappoquin Walking Trail, Co. Waterford.
- The lands described in Part 1 of the Schedule 1 is land being permanently acquired.
 - Lands described in the Schedule 1 is land other than land consisting of a house or houses unfit for human habitation and not capable of being rendered fit for human habitation at reasonable expense.
 - Schedule 2 assigns an identification number to the plot of land and describes the quantity, type, townland, owner or reputed owner, lessees or reputed lessees and occupier of the plot, as relevant.

2.0 Site Location and Description

- 2.1. The site is located to the northwest of Cappoquin, Co. Waterford and along the banks of the River Blackwater. It is bounded to the north by the N72, and at the end of Port na hAbhann estate cul de sac. The site is adjacent to residential dwellings and a derelict property. During my site visit, the site was being used to facilitate the ongoing works for the walking trail.

3.0 Proposed Development

- 3.1. Waterford City and County Council wish to CPO this section of land in order to facilitate a new 1km circular walking trail: The Railway Bridge Loop Walk. The trail will incorporate the Old Red Bridge with safe access and egress, use of the existing footpath over Avonmore Road bridge and along Tourin Road, an enhanced and new route within the grounds of Cappoquin Rowing Club. In addition, to providing safe vehicular access to Cappoquin Rowing Club.

4.0 Planning History

ABP-313623-22: Section 177(AE) application granted for development of a looped walk on the western periphery of Cappoquin along the banks of the River Blackwater.

14101: Permission granted for the construction of a boat house, which has been constructed, on the east side of the river adjacent to the slipway.

PL24.225934: (PA: 07110): Permission refused for demolition of an existing dwelling and construction of 4 no. 2 storey townhouses over 4 no. single storey apartments and associated site works for the following reason:

It is the policy of the planning authority as set out in section 9.12 of the Waterford County Development Plan 2005-2011 to encourage the protection, appreciation and appropriate revitalisation of the vernacular heritage of County Waterford. The inclusion of the existing dwelling in the National Inventory of Architectural Heritage with a “regional” rating confirms the structure’s special character and architectural heritage value. Having regard to the nature of the proposed development it is considered that demolition of the existing dwelling on site would contravene the policy of the Planning Authority, would seriously injure the amenities of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.

011226: Outline permission refused for four townhouses and associated developments.

Adjacent site to northwest:

2360055: Cappoquin Rowing Club permission granted for the removal of existing water training tanks and the erection of a shed for the storage of rowing boats.

03482: Cappoquin Rowing Club permission granted permission to build an access ramp for wheelchairs at The Boat House.

02424: Cappoquin Rowing Club permission granted permission to rebuild former annex to club house for use as a gymnasium.

98559: Permission granted for alterations to roof covering, renew side cladding to river front elevation of Club House & construct 30m gabion wall to river edge & concrete ramp.

Adjacent site to south:

041702: Permission granted to demolish an existing storage sheds, boiler and engine houses and construct 14 no. two-storey dwellings, site entrance, connection to public sewer and public water supply and all ancillary works.

5.0 Policy Context

5.1. Waterford County Development Plan 2022-2028 (CDP)

- 5.1.1. Cappoquin is identified as a Rural Town in the Settlement Strategy described as rural in scale but providing a range of employment along with commercial, cultural and community services. It is zoned RV (Rural Village) with the following objective:

“Protect and promote the character of the Rural Village and promote a vibrant community appropriate to available physical and community infrastructure”.

Specific Development Objectives

CPD01 it is an objective of the Council to protect and promote the amenity and pedestrian access to the river Blackwater and enhance existing public walkways and riverside routes subject to compliance with Articles 6 and 10 of the Habitats Directive and ensuring no negative impact on the integrity on the River Blackwater SAC.

CPD09 It is an objective of the Council to support the preparation and implementation of the Cappoquin Rural Regeneration Plan. In particular, the following are of note:

- The extension of the Glenshelane River Walk from the current trail head in Glenshelane Wood into Cappoquin town.
- The development of a Biodiversity Park on the lands between the road and the River Blackwater just south-east of the road bridge and north of the Railway Bridge.
- The development of a community trail encompassing what is called the Railway Loop and the old railway bridge, lands adjacent to the Blackwater, an existing right of way to the rear of Port na hAbhann and other lands associated with Cappoquin Rowing Club.

Chapter 10 – Landscape, Coast/Marine and Blue Green Infrastructure, Section 10.4 of the CDP recognises the importance of maintaining established rights of way and supports initiatives for establishing new walking routes/trails/outdoor recreational amenity and enhanced accessibility subject to best practice principles and no adverse impacts on ecological integrity including the Natura 2000 network.

Objective BGI 10 Trail Development and Public Rights of Way

We will protect public rights of way which give access to seashore, mountain, lakeshore and riverbank or other place of natural beauty or recreational utility. We will work in collaboration with state bodies, development agencies, landowners and local communities to support the maintenance and promotion of existing trails and outdoor recreational amenities. We will examine the sustainable environmental and economic development potential of additional trails and outdoor recreational amenities and associated infrastructure whilst ensuring adherence to best practice principles in relation to upland path repair and management. Derived proposals will ensure no adverse impacts on ecological integrity including the Natura 2000 Network.

Objective BGI 13 Community Engagement and Sustainable Amenities

We will support communities and ensure recreational trails and outdoor recreational amenities, and associated facilities are developed in sympathy with the natural environment and do not pose adverse impacts on habitats, species, the ecological integrity of the Natura 2000 Network and landscape amenity or affect ecosystem services including flood risk and climate change impacts such as coastal erosion. In

doing so ensuring to realise the positive impacts of development of outdoor recreational amenities and trails including health & wellbeing, social, cultural, economic and tourism benefits as well as enhanced community resilience.

Chapter 4, Economy, Tourism, Education and Retail, section 4.10 Sustainable Tourism supports further development of Greenways, Blueway's and Trails in County Waterford incorporating walking, cycling and other activities to support tourism development.

Objective ECON 28 Tourism Strategy

To support the development of any update to Waterford's Tourism Statement of Strategy and Work Plan (2017-2022), and to support the creation of a Strategy for the future development of Greenways, Blueway's and Trails in County Waterford incorporating walking, cycling and other activities to support tourism development, and to assist in seeking funding opportunities for their development.

6.0 Overview of submissions

6.1. One number submission was received from the reputed owner of the subject site. The following concerns are outlined below:

- The Company (reputed owner) is in the process of preparing an application for restoration of the company to the Companies Registered Office. The application will be made to the High Court. It is requested that the confirmation of the Order would be delayed pending the application to the High Court for the restoration of the company to the Companies Register.
- The acquisition of the lands or at least part thereof deprives the company of the benefit and opportunity to develop further housing units on part of these lands.
- The Company had plans to acquire the adjoining property and was to annex same to the lands the subject of the Order which would have allowed for further access to the adjoining lands and also to allow the company to apply for planning permission for further housing units.

7.0 Oral Hearing

- 7.1. An Oral Hearing was held virtually on the 8th May 2025. A digital sound recording was made of the Oral Hearing and should be consulted for a full representation of proceedings; however, a summary of the Hearing is included in Appendix 1 of this report.

8.0 Assessment

- 8.1. Waterford City and County Council are seeking confirmation to purchase a section of land along the Cappoquin walking trail. The purpose of the CPO is to facilitate the construction of the Cappoquin walking trail and all ancillary works.

- 8.2. For the Board to confirm the subject CPO, it must be satisfied that Waterford City & County Council has demonstrated that the CPO is clearly justified by the common good¹. Legal commentators² have stated that this phrase requires the following minimum criteria to be satisfied:

- There is a community need that is to be met by the acquisition of the site in question,
- The particular site is suitable to meet that community need,
- Any alternative methods of meeting the community needs have been considered but are not demonstrably preferable, and
- The works to be carried out should accord with or at least not be in material contravention of the provisions of the statutory development plan.

- 8.3. In the interest of clarity, it is of note that Section 213 of the Planning and Development Act 2000, as amended, sets out the legal status of the compulsory purchase process in relation to Local Authorities, as follows:

- (1) The power conferred on a local authority under any enactment to acquire land shall be construed in accordance with this section.

¹ Para. 52 of judgement of Geohagan J in *Clinton v An Bord Pleanála* (No. 2) (2007) 4 IR 701.

² Pg. 127 of *Compulsory Purchase and Compensation in Ireland: Law and Practice*, Second Edition, by James Macken, Eamon Galligan, and Michael McGrath. Published by Bloomsbury Professional (West Sussex and Dublin, 2013).

(2) (a) A local authority may, for the purposes of performing any of its functions (whether conferred by or under this Act, or any other enactment passed before or after the passing of this Act), including giving effect to or facilitating the implementation of its development plan or its housing strategy under section 94, do all or any of the following:

- (i) Acquire land, permanently or temporarily, by agreement or compulsorily,
- (ii) Acquire, permanently or temporarily, by agreement or compulsorily, any easement, wayleave, water-right or other right over or in respect of any land or water or any substratum of land,
- (iii) Restrict or otherwise interfere with, permanently or temporarily, by agreement or compulsorily, any easement, way-leave, water-right or other right over or in respect of any land or water or any substratum of land, and the performance of all or any of the functions referred to in subparagraphs (i), (ii) and (iii) are referred to in this Act as an “acquisition of land”.

(b) A reference in paragraph (a) to acquisition by agreement shall include acquisition by way of purchase, lease, exchange or otherwise.

(c) The functions conferred on a local authority by paragraph (a) may be performed in relation to – (i) land, or (ii) any easement, wayleave, water-right or other right to which that paragraph applies, whether situated or exercisable, as the case may be, inside or outside the functional area of the local authority concerned.

3(a) The acquisition may be affected by agreement or compulsorily in respect of land not immediately required for a particular purpose if, in the opinion of the local authority, the land will be required by the authority for that purpose in the future.

(b) the acquisition may be affected by agreement in respect of any land which, in the opinion of the local authority, it will require in the future for the purposes of any of its functions notwithstanding that the authority has not determined the manner in which or the purpose for which it will use the land.

(c) Paragraphs (a) and (b) shall apply and have effect in relation to any power to acquire land conferred on a local authority by virtue of this Act or any other enactment whether enacted before or after this Act.

(4) A local authority may be authorised by compulsory purchase order to acquire land for any of the purposes referred to in subsection (2) of this section and section 10 (as amended by section 86 of the Housing Act, 1966) of the Local Government (No. 2) Act, 1960, shall be construed so as to apply accordingly and the reference to “purposes” in section 10(1)(a) of that Act shall be construed as including purposes referred to in subsection (2) of this section.

8.4. Another test set out in “Planning and Development Law” (Garrett Simons-Second Edition) requires consideration of whether the proposed CPO measures will have a disproportionate or excessive effect on the interests of the affected persons.

8.5. I will therefore address each of the four criteria outlined above in turn below, together with the issue of proportionality and other issues arising from the submission. In assessing the CPO I have considered throughout whether the lands/rights being acquired are necessary and suitable to facilitate the provision of the Cappoquin Walking Trail.

8.6. **Community Need.**

8.6.1. Community Need was set out by Waterford City and County Council at the Oral Hearing and can be summarised as follows:

- The development will make a positive contribution to the local area in terms of increased recreational opportunities both passively on land and actively on water, with improved access facilities.
- The proposal will reconnect the town of Cappoquin to the River Blackwater.
- A safe vehicular access to Cappoquin Boathouse will be provided instead of using the N72.
- The development will provide additional viewing and seating areas.
- There will be improvements to biodiversity.
- Significant enhancement of public realm.

- Health and wellbeing benefits for the local community
- Provision of a green amenity space for the residents of Port na hAbhann.
- Enhance tourism potential in the area

8.6.2. I note that the objector did not challenge the fundamental community need outlined by the Council and that their concerns primarily relate to the development potential of the subject site and adjoining lands for housing.

8.6.3. Having reviewed the information submitted and having conducted an Oral Hearing, I am satisfied that there is a clear community need to provide a walking trail within the town that would be facilitated by the acquisition of rights over the lands in question, should the Board confirm the CPO.

8.7. Suitability of lands to meet community need.

8.7.1. At the outset, the Board will note that Waterford City and County Council are seeking to permanently acquire lands.

8.7.2. The lands that are the subject of the CPO are currently used as part of the construction of the adjoining walking trail. The lands were previously overgrown and unutilised along the river. During my site visit, I gained access to the subject site and construction works and associated equipment were noted on site. The site is adjacent to an existing housing estate known as Port na hAbhann and the site is in Flood Zone A. Cappoquin is zoned as Rural Village.

8.7.3. The site is within a Scenic Route designation and within Landscape and Seascape Character Assessment area described as “Most Sensitive” – very distinctive features with a very low capacity to absorb new development without significant alterations of existing character over an extended area.

8.7.4. Given the nature of the proposed walking trail which will contribute to sensitivity of the scenic route and the sensitive nature of the landscape and seascape character area. I consider the proposed CPO of these lands for a walking trail will enhance the sensitive nature of the area.

8.7.5. I note that the objector did not query the suitability of the land to meet the community need of a walking trail.

8.7.6. Having regard to the nature of the proposed walking trail open space, the submission as set out in the Oral Hearing and noting the restriction on options available to the Council for the walking trail, I am satisfied that the lands that are the subject of the CPO are suitable to meet the aforementioned community need.

8.8. Accordance with Development Plan

8.8.1. As outlined in Section 5 above, the Waterford County Development Plan 2022-2028 identifies the site as within the Rural Village of Cappoquin, the subject site is within the “Most Sensitive” landscape (3A. Blackwater and Bride River Corridor) and within the viewing of a scenic route along the N72. The CDP includes Objective BGI 10 which supports Trail Development and Public Rights of Way, Objective BGI 13 which supports Community Engagement and Sustainable Amenities and Objective ECON 28 which supports Tourism Strategy for the future development of Greenways, Blueway’s and Trails in County Waterford incorporating walking, cycling and other activities to support tourism development, and to assist in seeking funding opportunities for their development. In addition, specific development objectives CPD01 seeks to protect and promote the amenity and pedestrian access to the river Blackwater and to enhance existing public walkways and riverside routes subject to compliance with Article 6 and 10 of the Habitats Directive and CPD09 which supports the development of a community trail encompassing what is called the Railway Loop and the old railway bridge, lands adjacent to the Blackwater, an existing right of way to the rear of Port na hAbhann and other lands associated with Cappoquin Rowing Club relate to the subject lands.

8.8.2. I note the objection received states the subject lands allow future access to the adjoining lands and to allow the company to apply for planning permission for further housing units. I note the site is located in Flood Zone A, the provision of residential dwellings is considered as a vulnerable use and is generally not considered acceptable on a flood zone A without a justification test. The site is located within Rural Village, the objective is “protect and promote the character of the Rural Village and promote a vibrant community appropriate to available physical and community infrastructure”.

8.8.3. During the Oral Hearing, Waterford City and County Council provided a site layout plan indicating vehicular access to the adjoining site to the north and to the adjacent

derelict dwelling. The walking trail is provided directly along the river side and a green open space is provided on the proposed CPO lands along with a walkway from Port na hAbhann housing estate towards the proposed walkway.

- 8.8.4. With particular regard to the lands that the Local Authority are seeking to compulsorily acquire rights over, I note that they are identified as “Rural Village” within the CDP and specific development objectives CPD01 and CPD09 relate to the site. In my opinion, the proposed walking trail & green open space would be compatible with the land use and would be appropriate development in the area.
- 8.8.5. In conclusion, therefore, I am satisfied that the proposal that would be facilitated by the compulsory purchase order, should be confirmed by the Board, would accord with the provisions of the Waterford City and County Development Plan 2022-2028, and that the acquisition of the lands or interests therein would not materially contravene any specific policies or objectives of the Plan.

8.9. Use of alternative routes of providing the walking trail.

- 8.9.1. Waterford City and County Council have not provided any information on alternative routes. However, the proposed route has been the subject of planning reference ABP-313623-22: Section 177(AE) application granted for development of a looped walk on the western periphery of Cappoquin along the banks of the River Blackwater.
- 8.9.2. The subject site is identified as Green Area on the documentation submitted, this area will provide safe vehicular access to Cappoquin Rowing Club and to the derelict residential property, pedestrian link via access track or secondary path and steps to main walking trail, maintain privacy for neighbouring properties, lighting to allow year round safe access, increased biodiversity through appropriate planting and creation of a River Blackwater viewing area. During the Oral Hearing Waterford City and County Council highlighted that there is no other alternative route, as this walking route is directly adjacent to the river and provides the required vehicular access to the boathouse.
- 8.9.3. Public consultation and community engagement was carried out in September 2021 for the Part 10 planning application, the project team met with key stakeholders to discuss the initial project scope and anticipated location of the Railway Bridge walking loop. Meetings were held with the relevant stakeholders and preliminary and

detailed designs were presented to formulate a platform for comment and feedback. The route alignment, materiality, soft landscaping, lighting and boundary treatments have been developed through the consultation process.

- 8.9.4. Having regard to the information provided by the Council and the consultation carried out prior to the permitted planning application, I am satisfied that alternative design solutions were considered and that the proposed route is the most appropriate route to meet the community need.

8.10. Proportionality and Necessity of Level of Acquisition

- 8.10.1. I am satisfied that the process and procedures undertaken by Waterford City and County Council seeking confirmation of the CPO have been fair and reasonable, that Waterford City and County Council seeking confirmation of the CPO has demonstrated the need for the lands and that all the lands being acquired are both necessary and suitable to facilitate the provision of the new 1km circular walking trail at Cappoquin and all associated works which the CPO will facilitate.
- 8.11. Having regard to the constitutional and Convention protection afforded to property rights, I consider that the acquisition of the lands at Port na hAbhann that have been taken in charge by Waterford City and County Council as set out in the compulsory purchase order and on the deposited maps refer to all interests proposed to be acquired, and is rationally connected to, a legitimate objective in the public interest, namely the provision of a new walking trail at Cappoquin.
- 8.12. I am also satisfied that the acquiring authority has demonstrated that the means chosen to achieve that objective impair the property rights of affected landowners as little as possible; in this respect, I have considered alternative means of achieving the objective referred to in submissions to the Board, and am satisfied that the acquiring authority has established that none of the alternatives are such as to render the means chosen and the CPO made by the acquiring authority unreasonable or disproportionate.
- 8.13. The effects of the CPO on the rights of affected landowners are proportionate to the objective being pursued. I am further satisfied that the proposed acquisition of these lands would be consistent with the policies and objectives of Waterford City and County Development Plan – where the objectives CPD01 & CPD09 support community trails adjacent to the Blackwater for the scheme for which the CPO is

proposed. Accordingly, I am satisfied that that the confirmation of the CPO is clearly justified by the exigencies of the common good.

8.14. Objection

8.15. The main concerns raised in the objection were in relation to land ownership.

Waterford City and County Council outlined during the oral hearing, that Port na hAbhann housing estate and the adjoining open space were “Taken in Charge” in March 2013. Twig Bog Ltd were insolvent, and Waterford City and County Council had to complete the estate in 2012/2013, and the works included public lighting, completion of green spaces, footpaths, roads and signage. Twig Bog Ltd stated they are currently re-registering the company and hope to acquire the subject lands of the CPO and the adjoining site; however, the process is on-going and not yet complete. Waterford City and County Council are formally taking the subject site in Council ownership through the CPO process.

8.16. I note Twig Bog Ltd is the registered owner as per land registry documents however, it is clear and undisputed from both parties that Twig Bog Ltd have no current legal entitlement on the subject site. In this regard I consider that the CPO of the lands at Port na hAbhann can be considered and that it is in the best of interest of Waterford City and County Council to formalise the ownership of these lands and to complete the walking trail and required vehicular access to the boathouse.

9.0 Conclusion

9.1. In conclusion, I am satisfied that the process and procedures undertaken by Waterford City and County Council have been fair and reasonable, that Waterford City and County Council has demonstrated a pressing community need that would be facilitated by the permanent acquisition of lands in respect of the lands identified in the Schedule and drawings submitted to the Oral Hearing, that said lands are both suitable and necessary to meet the community need and that the extent of acquisition is proportionate to the objective being pursued. I therefore consider that the proposed acquisition of permanent lands relating to the working areas would be in the public interest and the common good and would be consistent with the relevant provisions of Waterford City and County Development Plan 2022-2028.

10.0 Recommendation

I recommend that the Board confirm the Compulsory Purchase Order submitted at the oral hearing held on the 8th May 2025, based on the reasons and considerations set out below.

11.0 Reasons and Considerations

11.1. Having considered the objection made to the Compulsory Purchase Order, and the written submissions and observations made to the Oral Hearing held on the 8th May 2025, the report and recommendation of the Inspector who conducted the oral hearing into the objection, the purpose of the compulsory purchase order to facilitate a walking trail and all associated works, and having regard to:

- (i) The constitutional and Convention protection afforded to property rights,
- (ii) The strategic nature of the walking trail in the context of providing a tourist attraction and local amenity for the town and county,
- (iii) The community need for a walking trail and safe access to the boathouse, public interest served and overall benefits including local amenity space, safe access, usable green space for the residents of Port na hAbhann, to be achieved from the objective of the CPO,
- (iv) The design response, which has been appropriately tailored to the identified need,
- (v) The suitability of the lands and the necessity of their acquisition to facilitate the provision of a walking trail and associated works which the CPO will facilitate.
- (vi) The provisions of the Waterford County Development Plan 2022-2028, where the Development Plan expressly provides for the scheme for which the CPO is proposed in CPD01 and CPD09.

It is considered that, the acquisition of the subject lands at Port na hAbhann, proposed to be acquired by Waterford City and County Council seeking confirmation of the CPO, as set out in the compulsory purchase order and on the deposited maps, is necessary for the purpose stated, which is a

legitimate objective being pursued in the public interest, and that the CPO and its effects on the property rights of affected landowners are proportionate to that objective and justified by the exigencies of the common good.

In reaching this conclusion, the Board agrees with and adopts the analysis contained in the report of the person who conducted the oral hearing into the objections.

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.

Jennifer McQuaid
Planning Inspector

13th May 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-320505-24		
Proposed Development Summary	Compulsory Purchase Order (No. 3) at Port na hAbhann, Cappoquin, Co. Waterford.		
Development Address	Port na hAbhann, Cappoquin, Co. Waterford.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	
		No	X. No further action required
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes			
No	X		Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No			

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes			

5. Has Schedule 7A information been submitted?		
No	X	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____ Date: _____

Appendix 1: Oral Hearing Summary

Case reference: 320505-24

Development: CPO for lands at Port na hAbhann, Cappoquin, Co. Waterford.

Venue of Oral Hearing: Online via Microsoft Teams.

Date: 8th May 2025

Commencement Time: 10:00

Attendees

Representation on behalf of each Party was as follows:

(a) Waterford City and County Council:

- a. Michael Quinn – Director of Economic Development.
- b. Mary Quigley – Head of Property Management.
- c. Aisling O’Sullivan – Senior Planner
- d. Johnny Brunnock – Recreational Trails Officer
- e. Gabriel Hynes – Senior Roads Engineer

(b) Objectors:

Twig Bog Ltd

- a. James Whelan - Solicitor
- b. Gerry Keane
- c. Caroline Cannon

Submission of Waterford City and County Council

Mr. Quinn made an opening statement which can be summarised as follows:

- The objector does not own the subject site, he has made an application to reinstate the company title, which was dissolved in 2016 and regain ownership of the land, but this has not been completed to date and Mr. Quinn has requested that An Bord Pleanála do not proceed with the Oral Hearing as the objector has no legal standing to object to the Compulsory Purchase Order. He outlined that An Bord Pleanála will be acting ultra vires its power if it proceeds with this hearing and makes a decision in circumstances where the objecting company has no legal standing by virtue of the fact that the company is dissolved and a High Court order to restore the company has not been made.
- I (inspector) proceeded with the Oral Hearing, as the objector is the registered landowner as per land registry details and Waterford City and County Council sent a registered letter to Twig Bog Ltd on the 6th August 2024, stating the Council wish to acquire compulsorily the land and to formalize the ownership of the land that has been taken in charge by Waterford City and County Council.
- Mr. Quinn proceeded with the presentation outlining that the subject area will be utilized for the Cappoquin Railway Loop Walk Project. The subject area was Taken in Charge in March 2013 but not formally in Council Ownership and the estate had to be completed by the Council which included works such as public lighting, completion of green spaces, footpaths, roads and signage.
- Ms. Quigley outlined the CPO process and timelines were presented along with maps, CPO order and newspaper notice.
- Mr. Curren proceeded to outline the legal standing of the subject lands and reiterated what Mr. Quinn had stated that Twig Bog Ltd have no legal basis to proceed with the objection.
- Ms. O'Sullivan outlined the development policy justification and highlighted the proposed Cappoquin walking trail will comply with CPD01 and CPD09 of the Waterford City and County Development Plan 2022-2028. A landscape drawing was presented and highlighted the proposed CPO subject lands will be used as a green open space with a turning head and vehicular access to the Rowing Clubhouse. The planning process commenced with an application

to An Bord Pleanála under planning reference ABP-313623-22 for the development of a walking trail at Cappoquin to consist of a 1-kilometre looped walk on the western periphery of Cappoquin, along the banks of the River Blackwater and subsequently approved on the 29th August 2023. The presentation includes the design features proposed for the development.

- Mr. Brunnock outlined the justification of the CPO in terms of recreation and amenity, which includes: the demand for recreation facilities, connection to the River Blackwater, provision of green space for the residents of Port na hAbhann, landscaping, heritage, tourism, wellbeing and sustainability.
- Mr. Hynes explained the requirement for a safe access route to the boathouse with parking available at the subject CPO site. Currently, users park their cars along the edge of the N72 where the carriageway width is 7.2 metres, thus hampering two-way traffic.
- Mr. Quinn closed the presentation by summarizing the significant reasons for this CPO of the subject lands.

Objection by Twig Bog Ltd.

- Twig Bog Ltd accept the presentation made and the need for the proposal.
- Mr. Whelan stated that Twig Bog Ltd were in the process of restoring the company with the Companies Registered Office (CRO). He acknowledged that there were delays in relation to administration but that these have been resolved, and all the necessary documents have been submitted. The objector accepts the provision of the proposed Cappoquin walking trail but wishes to develop the subject site for CPO and the adjoining lands in the future for housing once the company has been reinstated.
- Mr. Keane reiterated this statement and wishes to know how it will affect the company in the future.

Waterford City & County Council question to Twig Bog Ltd.

- Mr. Quinn queried the status of the CRO registration and highlighted that Waterford City and County Council have Taken in Charge Port na hAbhann estate and carried out all works in order to finish the estate as the developer

did not complete the estate. Mr. Quinn outlined that Twig Bog Ltd have no rights over the subject site and should not object to the CPO. And query how the company will repay the costs to Waterford City and County Council.

- Permission has lapsed and no permission is in place for the adjoining site.
- No negotiation has been carried out with the new landowner for the adjacent site.
- Mr. Whelan stated the CRO process was underway, and they were hoping for a response in the coming months and were hoping to have the company re-registered before the Oral Hearing date.

Twig Bog Ltd question Waterford City & County Council.

- No questions for Waterford but they reiterated their intention to re-register the company and develop the land. Twig Bog Ltd intend to discuss this with the adjacent landowner in the future. Twig Bog Ltd states the costs associated with Port na hAbhann estate are not a matter for the CPO.

Inspector questions to Twig Bog Ltd.

- Have Twig Bog Ltd acquired the adjacent site of the derelict property? Mr. Whelan has confirmed that they have not.
- I note there is no current planning application on this subject site or adjacent lands, has Twig Bog Ltd applied for planning permission or carried out pre-planning with the Planning Authority. Mr. Whelan confirmed that there is no planning application to date and no pre-planning has been carried out.
- Twig Bog Ltd still have legal ownership as the land is registered with land registry.

Inspector's questions for Waterford City & County Council

- The access to the Boathouse is noted and I observed during my site visit that there was no suitable access. The presentation clearly outlined the issues with the current pedestrian & vehicular access from the N72.
- I note from the drawing presented that access remains to the existing derelict dwelling.

- I queried if Waterford City & County Council have formally transferred the Taken in Charge areas into their name? Mr. Quinn clarified that they did not at the time as the company were dissolved.

Final closing statement by Mr. Quinn that the subject lands for CPO are not owned by Twig Bog Ltd and that the CRO process has not been completed. He also asked if Twig Bog Ltd will reimburse Waterford City and County Council for the costs associated with finishing Port na hAbhann estate.

Closing statement by Mr. Whelan that the costs for the estate are not a matter for this oral hearing and the company will be reinstated.

I then read a closing statement, and the Oral Hearing closed at 12:00.