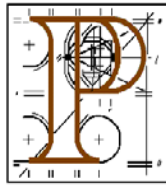


An Bord Pleanála



Inspector's Report

An Bord Pleanála Ref. No.: PL24.CH3242

Report into objection received concerning a compulsory purchase order made by Waterford City and County Council, in exercise of the powers conferred upon them by Section 76 of the Housing Act, 1966, and the Third Schedule thereto, as extended by Section 10 of the Local Government (No.2) Act, 1960 (as substituted by Section 86 of the Housing Act, 1966); and, amended by the Planning and Development Acts, 2000, as amended.

Location: Former laneway between No. 128 & 129 Parade Quay and connected buildings to the rear of No. 128 & 129 Parade Quay, Waterford City, County Waterford.

Order: Compulsory Purchase Order No. 5, 2015.

Local Authority: Waterford City and County Council

Objector: Michael Murphy

Inspector: Patricia M. Young

Date of Site Inspection: 15th & 16th day of December, 2015; and, 20th day of January, 2016.

Date of Oral Hearing: 21st day of January, 2016.

Enclosures: Appendix 1 & 2:
Photographs and Other Visuals
Appendix 3: Local Planning Context Extracts
Appendix 4: Opening Statement & Order of Proceedings
Appendix 5: Documents Submitted at Oral Hearing & Digital Recording of the Hearing.

1.0 INTRODUCTION

- 1.1 This report concerns an objection received by the Board to a compulsory purchase order entitled: '*Waterford City & County Council, Laneway between 128 & 129 Parade Quay, Waterford & Connected Buildings at Rear – Compulsory Purchase Order 2015 (No. 5)*', in the Townland of 'Trinity', Waterford City, County Waterford, for the stated purposes of securing, facilitating or carrying out the development and renewal of areas in need of physical, social or economic regeneration on this land.
- 1.2 The Board has received one objection to the proposed Compulsory Purchase Order.
- 1.3 An Oral Hearing to consider this objection was held on the 21st day of January, 2016, in the 'Tower Hotel', Waterford City, County Waterford.

2.0 SITE LOCATION & DESCRIPTION

- 2.1 The lands which are the subject of the Compulsory Purchase Order are located in the Townland of 'Trinity', in Waterford City, which is situated in the south east of Ireland.¹ For the most part Waterford City has developed on the southern banks of the River Suir at the head of Waterford Harbour. The subject lands are located within a triangular shaped urban block of land that is bound by Parade Quay (R680) on its southern side; Bailey's New Street on its northern side; and, Greyfriars Lane on its western side. This urban block forms part of larger parcel of land, of circa 2-hectare's in area, which is collectively referred to as the Viking Triangle as well as the Viking Triangle Quarter².
- 2.2 The subject lands comprise of a former laneway located between No.s 128³ and 129 Parade Quay and connected buildings to the rear of No.s

¹ Note: Waterford City is identified in the Record of Monuments and Places as a Recorded Monument (WA009:005 Town) and is therefore subject to statutory protection under Section 12(3) of the National Monuments (Amendment) Act 1994. In addition, the historic core of the city contains a number of individual National Monuments, archaeological and built heritage sites.

² Note: Viking Triangle would appear to form part of National Monument WA009-005 which is identified under Schedule 3 of the Development Plan as containing multiple monuments.

³ Note: NIAH Reg. No. 22504197; Category of Special Interest: Architectural; Rating: Regional; Terraced two-bay terraced four bay house, dating to circa 1800.

128 and 129 Parade Quay which in the attached Schedule Maps is subdivided into five modest in area plots of land. In the schedule map of lands accompanying this Order they are outlined in red and they are labelled as 101, 102, 103, 104 and 105. While five individual plots of land are indicated in the accompanying schedule map and I note that they have a combined 0.01134-hectare area, the accompanying written documentation forming part of this Order on the other hand refers to plots 101, 102, 103 and 104 only. I note that these four plots have a combined area of 0.00882-hectares.

- 2.3 In the accompanying schedule map all of the aforementioned plots are described as being commercial and occupied by the objector.
- 2.4 The lands subject of the CPO have an irregular shape with Plot 101 providing limited circa 2-meter in height and width frontage onto Parade Quay (R680) in what is arguably one of the principal streetscapes in Waterford City due to its waterfront location on the southern side of the River Suir and facing onto William Vincent Wallace Plaza in what is recognised to be the historic heart of the city. It is also located within the visual setting of Reginald's Tower⁴ and a number of designated Protected Structures. In its current form Plot 101 has a stated 0.0043-hectares and consists of a restricted in width former passageway that has been blocked off by a PVC door and padlocked external security railings. Behind which the floor area extends a similar 2-meter width alongside the ground floor levels of No.s 128 and 129 Parade Quay with the first floor level of No. 129 running overhead. During my site inspections Plot 101 appeared to have no evident functional use and it was internally unkempt. The only apparent change from the time of my first inspection to my last inspection was that the padlock had been replaced. Plot 101 extends to the original rear elevation of No. 129 Parade Quay where at this point it slightly widens out to circa 3-meters and extends in a southerly direction encompassing a roofed over former yard. At its south easternmost point is Plot 102 which has a stated 0.00015 hectare area and it adjoins part of the south western boundary of No. 130 Parade Quay.⁵

⁴ Note: Reginald's Tower is a 12th Century building and a National Monument, which is situated at the apex of The Viking Triangle city quarter and is located on the western side of Parade Quay's junction with The Mall.

⁵ Note: No. 130 Parade Quay is a 3-storey commercial building.

- 2.5 In relation to No. 129 Parade Quay, which the former passageway historically formed part of, I observed that this is a modest 3-storey Georgian in appearance terrace building which contains a laundrette/dry cleaning commercial enterprise that operates from the ground floor level and part of the first floor level. It was not obvious that the remainder of the building was in use. In relation to No. 128 Parade Quay which adjoins No. 129 Parade Quay on its western side, I observed that this is an attractive 4-storey, though significantly dilapidated Georgian in appearance terrace building that at ground floor level contains a modest in size tourist gift shop alongside an attractive period entrance which provides access to what appears to be three former residential floor levels above. At the time of my inspections No. 128 Parade Quay had the appearance of being vacant above ground floor level.
- 2.6 Adjoining the southern boundary of Plots 101 and 102 is Plot 103. Plot 103 has an irregular triangular shape and has a stated 0.00401-hectare area. It bounds No.s 2, 3 and 4 Bailey's New Street⁶ on its eastern side; No. 4 Bailey's New Street on its southern side; Plot 104 on its western side; and, the rear of No. 128 and No. 129 Parade Quay on its northern side. This plot of land appears to be roofed over, is landlocked with the only access to the public domain via Plot 101 and like the other plots subject of this compulsory purchase order appears to be vacant, and unkempt.
- 2.7 Plot No. 104 has a stated 0.00036-hectare area has an irregular shape and is bound by part of the eastern boundary of No. 126 Parade Quay, (a Protected Structure⁷), with the space to the rear of No. 126 Parade Quay linking into the land associated with the French Church (a Protected Structure⁸ and National Monument), the adjoining Municipal Art Gallery and Heritage Centre (a former Methodist Church and a Protected Structure⁹). In addition, its southern boundary bounds No. 4 Bailey's New Street, its eastern boundary bounds Plot 103 and its northern boundary bounds Plot 105. It is also dependent on access to

⁶ Note: RPS No. 640. NIAH Reg. No. 22504118; Categories of Special Interest: Architectural; Rating Regional; terraced two-bay three-storey house, circa 1860.

⁷ Note: RPS No. 400. NIAH Reg. No. 22504109; Categories of Special Interest: Architectural and Artistic; date: circa 1875; rating: regional terrace, two-bay four storey former house.

⁸ Note: RPS No. 26.

⁹ Note: RPS No. 182. NIAH Reg. No. 22504099. Gothic Revival Methodist Church circa 1885 designed by Sir Thomas Drew; Categories of Special Interest: Architectural, Artistic, Social, Technical and Historical, Rating: Regional.

the public domain through Plots 101, 102 and 103. Like the other plots subject of this compulsory purchase order Plot 104 appears to be vacant and unkempt.

- 2.8 Plot No. 105 has a stated 0.00252-hectare area and is roughly square in its shape. It is located to the rear of No. 127 Parade Quay¹⁰ and is bound by No. 126 Parade Quay on its western side, No. 128 Parade Quay on its eastern side; and, Plot No. 104 and part of the area to the rear of No. 126 Parade Quay on its southern side. It is also dependent on access to the public domain through Plots 101, 102, 103 and 104. Like the other plots subject of this compulsory purchase order Plot 105 appears to be vacant and unkempt.
- 2.9 It would appear that the areas associated with plots 102, 103, 104 and 105 contain a mixture of single storey and what would appear to be two storey roofed over infill buildings that internally connect to one another and as previously indicated are solely dependent on access to the public domain via the modest in width and height passageway that runs alongside the ground floor levels of No.s 128 and 129 Parade Quay.
- 2.10 Immediately to the rear of the subject lands is the 'French Church' (also known as the Franciscan Friary), a National Monument¹¹, whose public realm setting has been subject of improvements and expansion, with the expansion including opening up of part of Brick Lane alongside the northern side of the Gothic Revival Church that fronts onto Greyfriars and to the rear of No.s 120 to 123 Parade Quay.
- 2.11 The lands subject of this Compulsory Purchase Order also forms part of a designated Architectural Conservation Area which includes a number of Protected Structures and National Monuments.

3.0 DETAILS OF THE CPO

- 3.1 This CPO relates to the compulsory acquisition of a 0.01134-hectare area of land which the Schedule Map accompanying this Order indicate as consisting of the following five plots:-

¹⁰ Note: NIAH Reg. No. 22504108. Categories of Special Interest: Architectural, Rating Regional; terraced two-bay four-storey house dating to circa 1800.

¹¹ Note: A former Franciscan friary built in 1241 and it is one of the first of its type built in Ireland. It was also founded by the Anglo Norman Knight Sir Hugh Purcell.

Plot Ref. No. 101: With a stated 0.0043-hectares (0.0106-acres) area identified as being in the Townland of Trinity and being a commercial plot in the ownership of and occupied by Michael Murphy with no lessees or reputed lessees.

Plot Ref. No. 102: With a stated 0.00015-hectares (0.0004-acres) area identified as being in the Townland of Trinity and being a commercial plot in the ownership of and occupied by Michael Murphy with no lessees or reputed lessees.

Plot Ref. No. 103: With a stated 0.00401-hectares (0.0099-acres) area identified as being in the Townland of Trinity and being a commercial plot in the ownership of and occupied by Michael Murphy with no lessees or reputed lessees.

Plot Ref. No. 104: With a stated 0.0036-hectares (0.0009-acres) area identified as being in the Townland of Trinity and being a commercial plot in the ownership of and occupied by Michael Murphy with no lessees or reputed lessees.

Plot Ref. No. 105: With a stated 0.00252-hectares (0.0062-acres) area identified as being in the Townland of Trinity and being a commercial plot in the ownership of and occupied by Michael Murphy with no lessees or reputed lessees.

3.2 The CPO also describes the lands subject of this CPO as comprising of the laneway between No.s 128 and 129 Parade Quay and the connected buildings to the rear of No.s 128 and 129 Parade Quay, in Waterford City, for the stated purposes of securing, facilitating or carrying out the development and renewal of areas in need of physical, social or economic regeneration.

3.3 The site is described in Part 2 of the Order as land other than consisting of a house or houses unfit for human habitation and not capable for being rendered fit for human habitation at reasonable expense.

- 3.4 The official seal of the Local Authority was affixed to the Order on the 14th day of August, 2015, in the presence of the Mayor and Chief Executive.
- 3.5 A document signed by the Local Authority's Director of Services and dated the 12th day of August, 2015, indicates that he certifies that the acquisition of the lands as set out on the schedule and map relating to Compulsory Purchase Order 2015 (No.5) is necessary. This document also certifies that the land being compulsory acquired is suitable for the purpose for which it is being acquired and its acquisition is necessary for that purpose which is stated as: "*to secure, facilitate and carrying out development and renewal of an area in need of physical, social or economic regeneration*". I note to the Board that the accompanying written schedule which is labelled '*Schedule 1*' identifies the lands subject of this order as consisting of Plot 101, 102, 103 and 104. This schedule also sets out various details of these plots including but not limited to their area; description of the plot; owners or reputed owners, lessees or reputed lessees and occupiers. This schedule does not make any reference to the subject lands including Plot 105.
- 3.6 Documentation forwarded to the Board by the Local Authority for the determination of this CPO includes: the CPO Order; Deposited Maps; Newspaper Notice; the Notice to the Landowner and Proof of Registered Post; 2 No. Certification's from the Local Authority's Director of Services; and, the Chief Executive's Order. In relation to the documentation outlined I again draw to the Boards attention the fact that outside of the Schedule Map Plot 105 is not specifically identified in any other documentation submitted by the Local Authority in support of the compulsory acquisition of land subject of this application.
- 3.7 Following a request from the Board which sought written clarity from the Local Authority in relation to any specific underlying development proposal and/or proposals which the proposed acquisition would facilitate and which also sought written clarity on whether or not there is any Part 8 process on-going or complete in relation to the CPO site and its immediate context, the Board received a document entitled: '*Planners Report and Recommendation*'. This report was received on the 12th day of November, 2015, and it may be summarised as follows:-
- The subject lands are commercially zoned and are presently landlocked.

- Permission was granted for a lock-up shop at No. 128B Parade Quay in 1987. There is no other planning history.
 - The subject lands form part of 'The Viking Triangle' and the primary purpose of the CPO are to enhance the public amenity and improve permeability within the Viking Triangle.
 - Other purposes for the acquisition of the subject lands by way of this CPO include:
 - 1) Enhanced connectivity between Brick Lane/Central Hall Lane, Bailey's New Street and Parade Quay; and,
 - 2) Creation of a new public space for recreational/residential amenity/creative uses; enhanced public realm in the vicinity of the Franciscan Friary National Monument.
 - The site is located within the Viking Triangle, a heritage based project, which seeks to promote the City's unique heritage and includes major upgrades to the public realm. These upgrades are provided for under Section 5.3.2 of the Development Plan.
 - The provision of high quality connectivity and linkages among the different quarters of the city has been a key finding of many studies and reports which have been undertaken for the city centre and which has informed the City Development Plan.
 - This CPO would contribute towards the enhancement of the vitality and vibrancy of the Viking Triangle and the city centre which is a policy of the Development Plan (Section 5.40).
 - The Development Plan includes a stated objective to use its powers of compulsory purchase to facilitate site assembly for appropriate private or joint venture developments.
 - The Board is requested to confirm this order.
- 3.8 Having had regard to the above response from the Local Authority the Board considered that the question posed to them by way of letter dated the 30th day of October, 2015, had not been satisfactorily addressed. The Board; therefore, considered it appropriate and necessary in terms of the determination of this compulsory purchase order to provide the Local Authority with another opportunity to address this question. Following this request, on the 27th day of November,

2015, the Board received the following additional comments from the Local Authority:-

- The Council purchased a property portfolio from the Trustees of the Holy Ghost in 2010. In this purchase twelve derelict and/or semi-derelict properties were acquired. The acquisition of these properties provides an opportunity to remedy dereliction alongside providing further opportunities to improve vibrancy and stimulate economic development in the Viking Triangle.
- The laneway between No. 128 and 129 Parade Quay has been identified as an important link and access within the Viking Triangle.
- No Part 8 process has commenced to date.

4.0 GROUNDS OF OBJECTION RECEIVED BY THE BOARD

4.1 The Board received an objection from Mr. Michael Murphy, which was prepared and submitted on his behalf by Peter Thomson Planning Solutions.

4.2 The objector's submission may be summarised as follows:-

- There are no site specific development proposals for the subject lands and the lands are not in need of regeneration.
- Contact was made with the Local Authority to inspect the terms of the Compulsory Purchase Order and any supporting information. There was no supporting information beyond the correspondence received by the objector and the signed Order.
- Contact was made with a member of the 'Waterford Viking Triangle Project'. The contacted member was also unaware of any proposals in relation to the subject lands.
- If access is proposed to the Franciscan Friary then the objector wishes to reserve his rights to make his concerns known.
- The objector currently leases the property for commercial purposes and the existing lease is a 10-year lease. This lease commenced on the 1st day of March, 2014, and, as such the subject lands does not benefit from vacant possession.

- The site, albeit limited in width, has commercial street frontage onto Parade Quay and the site may have alternative commercial potential to its current use which could result in the street frontage being regularly opened; its use intensified; and, its appearance enhanced.
- The objector has no plans to dispose of subject lands.

5.0 PLANNING HISTORY

5.1.0 Appeal Site: No recent and/or relevant planning history.

6.0 PLANNING POLICY CONTEXT

6.1.0 Local Planning Context

6.1.1 Waterford City Development Plan, 2013-2019:

The subject lands are zoned '*City Centre Commercial*' under the current Development Plan. The stated objective for such zoned lands is: "*to protect, provide and improve City Centre Commercial Uses*".

The south eastern and southern boundary of the subject lands bound land zoned: '*Developed Residential*'. The stated objective for such land is to generally protect and improve existing residential areas, their amenities and to provide for opportunities for appropriate residential infill where feasible.

In close proximity to the southern boundary of the subject lands are a parcel of land zoned: '*Open Space*'. Within this open space zoned land is '*Greyfriars Municipal Art Gallery*' and the ruins of the '*French Church*', both are afforded specific built heritage protection by way of being designated Protected Structures and by way of the French Church also being designated a recorded National Monument. In addition, Reginald's Tower which is similarly protected and the public space in its immediate proximity is also zoned open space. Reginald's Tower is in close proximity of the subject lands and the subject lands form part of its visual setting. The objective for land zoned open space is generally to preserve and provide for recreational uses, open space and amenity facilities.

The subject lands are located within the Viking Triangle Quarter of the city; a designated Architectural Conservation Area (The ‘*Trinity Within*’ ACA); a General Conservation Area; and, a Zone of Archaeological Potential. The plan contains planning policy provisions in relation to the same and ultimately seeks to protect, safeguard and to increase public access to the city’s built heritage alongside utilising it in a sustainable manner as one of the city’s economic long term drivers.

According to Schedule 2 accompanying the plan The ‘*Trinity Within*’ Architectural Conservation Area (ACA) has a high visual and social amenity value as well as particular historical and architectural significance. It also recognises that within this area the architecture is quite diverse and unique with issues that face this ACA including but not limited to unsympathetic alterations to historic buildings, 20th Century infill buildings that are not in keeping with the character and appearance of the ACA through to vacancy and disrepair of older buildings.

It sets out policies for this ACA as including maintaining landmark buildings and grounds to a high standard; identifying all vacant and under-utilised structures; and, it states: “*a policy of improving the amenity value of the Trinity Within and South Quays ACA shall be adopted*” ... “*This shall include improvements to street furniture and paving and further “greening” of the areas.*” In the context of the Viking Triangle area of the city it also seeks to enhance it as an international tourist asset.

Running along the northernmost portion of the subject lands is a proposed cycle lane and bus lane.

The subject lands are situated on a parcel of land designated as flood zone land A & B.

The subject lands are located to the east of a parcel of land zoned ‘*Core Shopping Area Opportunity Site*’.

Section 1.1 of the plan lists realising the potential of the City Centre as a National and Regional attraction, which is vibrant and has a strong cultural offering as well as a high quality public realm; the development of a tourism product of national and international standing and that it would be an economic driver for this Gateway city.

Section 1.4 of the plan identifies the delivery of major tourism initiatives including the Viking Triangle and significant investment in the presentation of the city through public realm upgrades.

Chapter 2 of the plan sets out the Core Strategy. Core Strategy objectives identified include but are not limited to the facilitation of improved access to the city through more sustainable modes; and, to continue to encourage as well as promote the sustainable development of a range of quality tourism facilities and attractions.

Section 3.2 of the plans indicates that economic development can in part be achieved through; *“use of land acquisition powers to facilitate site assembly”*; and, *“protection of the built and natural heritage, subsequently improving quality of life through the provision of services and facilities which enhance the attractiveness of the city”*.

Section 3.7 of the plan indicates that Waterford City is currently undergoing a tourism development transformation and is now at the cusp of becoming a major tourism destination in its own right. It also indicates that in 2010 the Council adopted a whole sector approach to tourism development through the establishment of: *‘Destination Waterford City’*. It highlights initiatives of Fáilte Ireland and it notes their recommendations in relation to developing and delivering the visitor experience within the city. The tourism offer in the city is indicated as including a €10 million plus investment in the Viking Triangle Heritage project. In relation to this project it indicates that this project was due for completion in 2012 and the key features identified in this project included Grey Friars French Church. It further states that: *“the completion of the Viking Triangle project will expand the appeal of the city as a visitor destination and provide a more joined up visitor experience”*.

Section 3 of the plan indicates that it is the policy of the Council to fully support and progress the policy actions of the Destination Waterford Tourism City Committee (POL 3.7.1); to promote the Viking Triangle as Waterford’s cultural and heritage quarter (POL 3.7.2); to facilitate and encourage sustainable tourism which is based on and reflects the city’s distinctive history, culture and environment (POL 3.7.4); and, to strengthen the city’s position as a tourism destination by promoting and facilitating the further development of sustainable tourism infrastructure and attractions (POL 3.7.5).

Section 5.3 of the plan indicates that the city centre of Waterford is comprised of a series of inter-related and overlapping quarters that are both spatial and functional in nature including The Viking Triangle.

Section 5.3.2 of the plan deals specifically with The Viking Triangle and it defines this area as being bound by the South Quays, The Mall, Colbeck Street and Olaf Street. It also notes the proximity of this area to the City's main retail area which it considers add to the potential for further synergy between these areas and that the framework plan for the area will assist in delivering the Viking Triangle as a major cultural and heritage destination. In relation to future private and public led developments in this area it advises that these should protect and enhance the special character of the area and should be in keeping with the civic dignity of the area.

Section 5.4 of the plan deals with the matter of enhancing vitality and vibrancy and sets out the following policy: *“the strategy of maintaining and enhancing the role of the City Centre will be pursued by maintaining and developing policies to help existing uses, through regenerating the historic centre; through encouraging conservation and urban renewal activities.”* In tandem with other policies including but not limited to:

POL 5.4.5: *“to ensure that refurbishment and redevelopment proposals contribute to the environmental quality, and are in keeping with the character, of the central area”.*

POL 5.4.6: *“to facilitate the development of an accessible city centre, with particular reference to persons with disabilities, pedestrians and cyclists and to improve the availability of public transport, and short term parking, within easy reach of the central area”.*

POL 5.4.8: *“to retain and enhance the existing street pattern, to encourage the retention and refurbishment of existing buildings of character, and to upgrade the physical environment of the city centre’s streets and urban spaces”.*

POL 5.4.9: *“to encourage and facilitate the development of the centre’s role in the areas of arts and culture and to encourage and facilitate the expansion of existing and the development of new festivals”.*

It further highlights that this area of the city is located within the Zone of Archaeological Potential and in relation to the same that all necessary measures to ensure the protection of the archaeological heritage will be applied; and, that the Architectural Conservation Area designation for the area has been maintained in this plan; and: *“that it is proposed to prepare guidelines for the development in both the public and private realms with the potential for these to form the basis of a Special Planning Control Scheme”*.

Section 5.4 of the plan deals with the matter of vitality and viability and it includes the following policy statement: *“the strategy of maintaining and enhancing the role of the City Centre will be pursued by maintaining and developing policies to help existing uses, through regenerating the historic centre; through encouraging conservation and urban renewal activities”*.

Section 5.4.1 of the plan indicates the mechanisms and strategies to achieve these policies include but are not limited to targeting obsolete/derelict sites within the city centre for redevelopment; it indicates that where necessary and appropriate the City Council will use its powers of compulsory purchase to facilitate site assembly; and, that the Council will seek the development of synergistic tourism facilities.

Section 10.0 of the plan which deals with the matter of heritage sets out the following policies:

POL 10.0.1: *“Protect and conserve all relevant aspects of the national heritage, and their settings where appropriate”*.

POL 10.0.2: *“Protect, conserve and where relevant, restore and enhance the environmental quality, character and distinctiveness of monuments, archaeological and heritage objects, architectural heritage, flora and fauna, wildlife habitats, parks and gardens, townscapes and riverscapes of national, regional and local importance”*.

POL 10.0.3: *“Provide for the enhancement of opportunities for access to and enjoyment of the heritage”*.

Section 10.1 of the plan deals specifically with the matter of archaeological heritage. Policies and objectives in this section of the plan include: POL 10.1.7 which seeks: *“to promote the use of the archaeological heritage of the City as an educational, cultural and*

tourism resource and to promote public access and awareness of this rich heritage"; and, OBJ 10.1.4 which seeks to: *"retain the existing street layout, including laneways, historic building lines and traditional plot widths where these derive from medieval or earlier origins"*.

Section 10.2.1 of the plan deals with the matter of architectural heritage and it indicates that it is a policy: *"to protect the structures included on the Record of Protected Structures their curtilage and setting from any works that would result in the loss of damage to their special character"*¹²; and, under objective OBJ 10.2.9: *"to identify and implement measures for promoting the character and distinctiveness of the historic city and improving its physical condition and presentation"*.

6.1.2 Other:

- **'The Viking Triangle – Waterford City Centre', dated March, 2011:** This document describes the Viking Triangle as a: *"tranquil and charming area, characterised by narrow streets, historic architecture, civic spaces and an emerging critical mass of cultural & heritage attractions"*. It indicates that Waterford city is revitalising its city centre with the Viking Triangle being the catalyst and a core element of the city's regeneration. It also indicates that the Franciscan Friary (French Church) is one of the key heritage and cultural buildings within the Viking Triangle with potential for event and activity space alongside it and Bailey's New Street with the subject lands being located in a transitional area that is envisaged for a variety of possible uses from food and beverage hotel to pop up shops.

- **Waterford Viking Triangle Interpretative Plan, February, 2012:** According to this plan 'The Viking Triangle' is subject to being developed as a nationally important heritage destination in tandem with a wider plan to stimulate economic regeneration of Waterford's city centre alongside to boost tourism revenue to this region.

This plan concludes that: *"with careful planning the Viking Triangle has the potential to appeal to a very broad tourist market both domestic and international. This planning relies on those involved being able to view and action the development in a holistic way, ensuring that all aspects*

¹² Note: POL 10.2.3.

of the Viking Triangle's growth is coordinated and results in a unified offer for both locals and visitors".

- **Waterford City Centre – Management Plan, October, 2013:** This plan indicates that it will provide a framework for the future growth and development of the city centre as well as enable the co-ordination of on-going programmes, projects and initiatives with the city centre. Under this plan the subject lands are located within a parcel of land identified as the 'Tourism & Heritage Node'. This plan indicates that there are opportunities for improved accessibility and tourism in the Viking Triangle and in terms of the strategic themes it includes Action 5.2. This action relates to meeting with Friary to discuss potential opening of the Friary Garden. It also includes Action 5.8 which seeks to ensure that all buildings are maintained to a high standard and Action 5.10 which seeks to develop proposals to enhance the presentation and occupation of quayside properties.

7.0 PROCEEDINGS OF THE ORAL HEARING

7.1.0 Overview:

7.1.1 An Oral Hearing was held in the Tower Hotel, Waterford City, County Waterford, on the 21st day of January, 2016. An attendance sheet was circulated prior to the commencement of the hearing and an audio recording of the proceedings was made. The Inspector opened the Oral hearing shortly after 10:00am following which the Inspectors Opening Statement was presented. The Inspector then called upon the Local Authority to make its submission.

7.1.2 The attendees of the Oral Hearing were as follows:

- Sean O'Sullivan B.L., representing Mr. Murphy;
- Mark Walsh Solicitor of Kenny Stephenson Chapman representing Mr. Murphy;
- Peter Thomson, Planning Consultant, representing Mr. Murphy;
- Mr. Michael Murphy;
- Maeve O'Connor of Nolan, Farrell and Goff, representing Waterford City and Waterford County Council;
- Mary Quigley, Administrative Officer, of Waterford City and Waterford County Council;

- Anne Doyle, Executive Planner, of Waterford City and Waterford County Council;
- Rupert Maddock, Senior Architect, of Waterford City and Waterford County Council;
- Desmond O'Toole, Chartered Surveyor, of Waterford City and Waterford County Council;
- Aisling O'Sullivan, Acting Senior Executive Planner, of Waterford City and Waterford County Council;
- Jennifer Doran, Acting Executive Technician, of Waterford City and Waterford County Council;
- Fiona McHardy, of the Viking Triangle Trust.

7.2.0 Waterford City and County Council Submission:

7.2.1 Maeve O'Connor opened by indicating who was present to give evidence on behalf of the Local Authority and briefly set out the context of the subject Compulsory Purchase Order application which was before the Board. This was followed by a presentation from Anne Doyle who read her presentation into the record. A copy of this presentation is appended to file. A further overview of the context of this Compulsory Purchase Order was presented by Mr. Rupert Maddock. Copies of photographs referred to in his presentation are also appended to file. I consider that many of the key points made in these presentations correlate as well as further expand upon the Planning Officer reports provided by the Council to the Board prior to the oral hearing. These are summarised in Sections 3.8 and 3.10 of this report. The key additional points made may be summarised as follows:-

- At the time the Viking Triangle project was initiated in 2007 this area of the city was in a perilous condition; with limited stakeholders and commercial activities present. It was also recognised that despite the areas built and cultural heritage wealth its attractiveness to visitors left a lot to be desired.
- The potential of the subject lands for commercial development is considered to be limited due to its generally landlocked character; narrow width; restricted access; and, frontage onto the public domain. In addition, the lands are in a visually sensitive location.
- The subject lands have been vacant for a number of years with no evidence to support its commercial and/or other functional use.

- The subject lands in their current state are unsanitary and posed a fire risk.
- The subject lands did not contribute positively to the visual character, ambience and setting of the Viking Triangle.
- The acquisition of the subject lands is another incremental and additional step in the overall culturally led regeneration of the Viking Triangle quarter.
- Over recent years significant strides have been taken to acquire derelict, semi-derelict, vacant, underutilised and inappropriate buildings/structures and spaces within the Viking Triangle area. Reference was made to the properties acquired as part of 'The Holy Ghost Acquisition'. In addition, significant strides have been taken to upgrade and expand the public realm as well as to improve permeability in the Viking Triangle.
- Substantial capital public investment has been made in the Viking Triangle over the last 7 to 8 years by the Council, Fáilte Ireland and by other stakeholders. Over this time the regeneration and development within the Viking Triangle has been rigorously and consistently pursued by the Council through the various mechanisms and powers available to them including more robust local planning provisions in the Development Plan, acquiring land and properties by agreement or by compulsory purchase. In this time three new museums have been opened with these museums housing collected artefacts of public interest and importance from the various defined historical periods of the city's evolution. These museums are situated in close proximity to the subject lands. These museums alongside key surviving heritage buildings of recognised significance within the Viking Triangle, including the Franciscan Friary, have been connected by upgraded and expanded public realm and nodal spaces. Further improvements and expansion to the public realm of the Viking Triangle are planned to improve their setting and the visual presentation of the public domain between them.
- The outdoor experience within the Viking Triangle is considered to be equally as important as the indoor visitor experience. The improvements to the quality and quantity of outdoor spaces alongside improved connectivity and permeability has resulted in a multifunctional public realm within the Viking Triangle that includes but is not limited to

active and passive uses but also it has provided opportunities for the provision of public sculpture, improved interpretation of key built and cultural heritage through to providing new public spaces for outdoor performances. In tandem with the regeneration the commercial uses present in the Viking Triangle has expanded and this has also improved the overall vibrancy of this area as well as connectivity to other city quarters including the main retail area. Further culturally led improvements of buildings and spaces are still however required as part of fulfilling the Viking Triangles latent potential as a local, regional, national through to international visitor attraction.

- Increasing the public domain and permeability to include the subject lands would improve visitor routes within the Viking Triangle and provide greater opportunities within the public realm for the interpretation and appreciation of the built heritage, in particular the Franciscan Friary (French Church).
- The acquisition of these lands is not commercially led and is not part of any private and/or private/public joint venture.
- The acquisition of these lands meets a community need in terms of the on-going regeneration of the Viking Triangle.
- In terms of alternative's to meet the community need identified the subject lands are additional and considered unique in their own right.
- The acquisition of these lands would provide an opportunity to reflect the historical use of the subject lands in terms of providing accessibility from Parade Quay to the rear of this historic terrace group as well as opening up the setting of the Franciscan Friary (French Church).
- If the subject lands are not acquired for their stated purpose the resulting outcome would compromise the realisation of the vision for the regeneration of the Viking Triangle. The subject lands would remain as a 'missing link' in the realisation of the vision for the regeneration of the Viking Triangle. To leave the subject lands as they are would be visually, spatially and functionally destructive to the regeneration works that have already been carried out to date and the expenditure invested in this area.

7.3.0 Questions and Cross Examination by Objector:

7.3.1 A number of questions were put by Mr. Sean O' Sullivan, solicitor, on behalf of Mr. Murphy including:

- Concern was raised that the Local Authority had not notified all parties and the process was procedurally flawed in this regard;
- The Board is requested to annul this compulsory purchase order based on its incorrect wording which makes reference to the Housing Act;
- Clarity was sought on the steps taken to acquire the subject lands;
- Clarity was sought on how other properties and land had been acquired in the Viking Triangle and whether any of these properties and land had been sold on;
- Clarity was sought on various public realm and permeability improvements referred to by the Council in their presentation;
- Clarity was sought as to why the Council had not augmented their Viking Triangle plans to include the subject lands;
- Clarity was sought on the necessity of the subject lands relative to other lands being acquired or in the process of being acquired by the Council for similar Local Authority development; and,
- Clarification was sought on the assumptions made in relation to the physical state and functional use of the subject lands. On this point it was also questioned why the Council did not use other powers available to them to rectify their concerns.

7.4.0 Local Authority Response to Objectors Questions and Cross Examination:

7.4.1 The Local Authority's response essentially reiterated and expanded upon their justification for the Compulsory Purchase Order and they considered that the CPO had been carried out fully in accordance with legislative requirements. In addition the following comments were made to the objector's questions:

- The subject lands are unique and a key component in the improvement of the public realm and permeability within the Viking Triangle;

- The acquisition of these lands for the provision of improved public realm and permeability would be synergistic to other public realm and culturally led development to be carried in the Viking Triangle.
- All steps were taken to ensure that all relevant parties were notified.
- They questioned the validity of the lease.
- Concerns were expressed in relation to the objector's ambiguity in describing the past, current and future use of the land.
- It was not accepted that the compulsory purchase order was flawed.
- The acquisition of the subject lands represents a reasonable exercise of their legislative powers.

7.5.0 Submission by Objector: Mr. Michael Murphy

7.5.1 Mr. O'Sullivan, opened by indicating who was present to give evidence on the objector's behalf and he outlined the main points of the objector's submission. This was followed by a presentation from Mr. Thomson, who indicated his submission was the same as that already submitted to the Board prior to the oral hearing Mr. Thomson; therefore, provided an overview of his submission only and he raised no new issues. This was followed by Mr. Murphy's submission. The key points made in the objector's submission may be summarised as follows:

- The acquisition of the subject lands are objected to.
- The Board is requested to annul the order based on procedural deficiencies including the wording of the order and the failure to notify all relevant parties with a legal interest in the subject lands.
- The objector is joint owner of the land with his recently deceased wife.
- The condition of the subject lands as described by the Local Authority in their submission was not accepted.
- The acquisition of the subject lands does not meet a community need.
- Improved permeability and enhanced public open space would be achieved by the acquisition of Kearney's Yard and other lands already acquired under The Holy Ghost Acquisition.

- The objector has strong family ties to the subject lands and in the future members of the objector's family may wish to pursue a range of commercial ventures from these lands.
- The acquisition of the subject lands is not consistent with local planning policy provisions.
- It is not accepted that the development or the commercial potential of the subject lands are limited. It is further considered that the commercial potential is greater than implied by the Council.

7.6.0 Questions by Local Authority:

7.6.1 A number of questions were put to the objector and his representatives by the Local Authority, in particularly in relation to the lease and those indicated as having a legal interest in the subject lands. They also sought clarity on the functional use of the subject lands in the past, currently and going forward; they refuted the overview given with the CEO of the Viking Triangle Trust and they requested whether the Inspector would allow the CEO to give their account of this discussion for the record. The Inspector allowed this request and the CEO indicated that they directed Mr. Thomson to the Council, as she considered the questions he raised in relation to the subject lands and the Compulsory Purchase Order to be a Council matter.

7.7.0 Objectors Response to Local Authority's Questions:

7.7.1 In response the objector and his representatives made reference to the land titles and the lease provided as part of their submission. The objector confirmed that they are the sole person identified on the land title; that the current lease is yet to be registered; while commercial use of the land is argued the objector could not provide any evidence of the same including any demonstration that this property had been registered for commercial rates with the Council. The objector did not wish to clarify whether or not the 1987 grant of permission was implemented and the objectors Counsel appeared to suggest that the subject lands may have been integrated with the Mr. Murphy's commercial use of No. 127 Parade Quay, a property that he previously leased. It was also indicated that the subject lands were used for commercial purposes on the day of the Tall Ships visit to the city in circa 2011; and, the use of the property by the lessee is a matter for the

lessee though it is considered that they are or intend to commercially use the subject lands potentially as per the 1987 grant of planning permission.

7.8.0 Inspectors Questions: Local Authority

7.8.1 A number of questions were put to the Local Authority by the Inspector and a copy of these questions is attached to file. Their response may be summarised as follows:-

- Plot 105 forms part of the subject lands to which this Order relates.
- The subject lands as well as adjoining/neighbouring lands do not form part of any Part 8 process as the Local Authority are awaiting the outcome of this compulsory purchase order application.
- The Local Authority confirmed lands currently in their ownership and in the process of being acquired in the immediate context of the subject lands and the triangular block of land which the subject lands and the Franciscan Friary (French Church) forms part of.
- Clarification was provided on the local planning policy context of the subject lands and the Viking Triangle area.
- 70 to 80% of the public realm works in the Viking Triangle quarter had already been carried out and it was considered that further local planning provisions were not required or deemed necessary to complete remaining works.
- Nodal spaces have formed an important part of the public realm improvements. A new nodal space referred to as 'Friary Square' is planned around the Franciscan Friary (French Church). This square would include the subject lands to the rear of No.s 128 and 129 Parade Quay, Kearney's Yard which bound the subject lands and would also include part of The Holy Ghost Acquisition land.
- The acquisition of land is not for a private and/or public/private joint venture.

7.9.0 Inspectors Questions: Objector

7.9.1 The Inspector sought clarification on whether or not they could substantiate that the subject lands were in joint ownership. In response

to this question, the objector indicated that he was joint owner by virtue of marriage.

7.10.0 Closing of the Hearing: Following a short break in proceedings the Inspector asked both parties to make their closing submissions. The closing submissions re-iterated the key points made in the main submissions at the hearing as well as in the cross questioning. However, I note to the Board that the objector's legal representative who gave the closing summation again sought for the order to be annulled and made reference to case law including providing their interpretation of Clinton No. 2 judgement which they considered to be of particular relevance. They also questioned why no attempts were made to seek a joint venture with the objector in terms of the development of the subject lands. The Inspector formally closed the hearing at 1pm. Documentation presented during the course of the oral hearing proceedings are attached to file.

8.0 ASSESSMENT

8.1.0 Preliminary Comment

8.1.1 Waterford City and County Council are seeking to acquire lands that are described as consisting of a former laneway between No.s 128 & 129 Parade Quay and connected buildings to the rear of No.s 128 and 129 Parade Quay with the land to the rear adjoining No. 130 Parade Quay, No. 2 and 3 Bailey's New Street on its eastern boundary; No. 4 Bailey's New Street (a Protected Structure), Kearney's Yard and No. 126 Parade Quay (a Protected Structure) on its southern boundary; No. 126 Parade Quay on its western boundary; and, No.s 127 Parade Quay on its northern boundary.

8.1.2 The stated broad purpose for the acquisition of the subject lands is: *"securing, facilitating or carrying out the development and renewal of areas in need of physical, social or economic regeneration"*.

8.1.3 Based on the Local Authority's submissions to date and particularly as clarified during their Oral Hearing submission the underlying purpose of the acquisition of the lands subject of the compulsory purchase order is the creation of improved permeability, connectivity and enhanced provision of public realm within the Viking Triangle which they note is a

heritage based project established in 2007 and a project that is well supported particularly by the Waterford City Development Plan, 2013 – 2019. In relation to the proposed development, the key components of the proposed development consist of an enhanced public realm around the Franciscan Friary National Monument (French Church), i.e. as part of a public realm nodal space referred to during the course of the oral hearing as ‘Friary Square’ alongside enhanced connectivity from the Quays, Bailey’s New Street, Brick Lane and Central Hall Lane by way of re-establishing a former pedestrian link that ran between No.s 128 and 129 Parade Quay.

- 8.1.4 The Local Authority indicate that the works that would be carried out would be compatible with and complimentary to public realm works carried out to date in the Viking Triangle which has included the enhancement quantitatively and qualitatively of the public realm including the provision of improved permeability and connectivity. The Local Authority envisages that the additional linkage proposed as part of the proposed development would add to the ambience, character and setting of the Viking Triangle as well as the city centre. All of these would, in the Local Authority’s view, underpin the on-going development at the ‘Viking Triangle’ and the city centre. They also consider the subject lands, if not developed in the manner proposed, would be detrimental to the regeneration works carried out to date and those to be carried out in their vicinity. Left as they are they would be detrimental to as well as diminish the visual character, ambience and quality of the Viking Triangle as well as to the setting of the Franciscan Friary (French Church) and as such they would remain as the ‘missing link’ in realising the vision and latent potential of this acknowledged culturally and built heritage important city quarter.
- 8.1.5 The design and detailing of the proposed improvement works has yet to be finalised. The Local Authority indicated that they are awaiting the outcome of this compulsory purchase order.
- 8.1.6 The order was made following the Local Authority’s unsuccessful efforts to acquire these lands by agreement. During the course of the hearing it was apparent that the value of the land in relation to compensation is still disputed but parties were advised that this is not a matter for the Board but a matter for separate arbitration. As such all parties were reminded to refrain from any discussion regarding the matter of compensation during the course of the oral hearing proceedings.

8.1.7 The objector objects to the Local Authority acquiring their land for various reasons including that they do not accept that the proposed development is necessary and they are of the view that there are other properties more suitable to meet that community need. They also do not wish to sell the subject lands at this point of time due to strong personal connections with this lands and they are of the view that the subject lands have commercial potential that they may wish to further explore at some point in the future. Moreover, they are of the view that the order should be annulled on procedural irregularities including failure to notify all parties with a legal interest in the subject lands and the wording of the order itself.

8.1.8 The statutory powers of the Local Authority to acquire land are contained in section 213(2)(a) of the Planning and Development Act 2000, as amended. This section of the Act permits a Local Authority for the purposes of performing any of its function, including giving effect to or facilitating the implementation of its Development Plan permanently or temporarily by agreement or compulsorily.

8.1.9 It has been generally established that Local Authorities wishing to acquire property or land should seek to demonstrate the following four principles: -

- *There is a community need, which is met by the acquisition of the property in question;*
- *The particular property is suitable to meet the community need;*
- *The works to be carried out accord with the Development Plan; &*
- *Any alternative method of meeting the community need have been considered but are not available.*

8.1.10 Before I apply these principles, I consider it first appropriate and necessary to raise the issue of the actual extent of the subject lands to which this order relates.

8.1.11 The Schedule Map which forms part of the accompanying information submitted by the Local Authority outlines in red the various plots of lands for which this Order relates. In this map five separate plots of land are clearly shown. These are outlined in red and are labelled Plots 101, 102, 103, 104 and 105 respectively.

8.1.12 The Schedule Map also includes the following details: the area of each of these plots; the Townland in which they are located; the electoral

district division in which they are located; it describes each plot as being commercial; it sets out the owners or reputed owners of the plots which I note to the Board is indicated to be Mr. Murphy, it indicates no lessees or reputed lessees; and, it indicates that the occupier of each plot Mr. Murphy.

8.1.13 Whilst this map in my view clearly shows five separate and individual plots of land that adjoin one another the other key documentation provided by Local Authority in relation to the subject order, make reference to plots 101, 102, 103 and 104 only in their attached Schedules. In this regard, I draw the Boards attention to the following key documents provided by the Local Authority to the Board. Firstly, the Chief Executive Order, dated the 14th day of August, 2015, provides a general location description of the lands to be acquired as the laneway between No. 128 and 129 Parade Quay, Waterford and connected buildings at the rear. This Order appears to be on foot of a document signed and certified by the Local Authority's Director of Services, Economic Development & Planning, dated the 12th day of August, 2015, which certifies the acquisition of the land: "*at the laneway between 128 & 129 Parade Quay, Waterford and connected buildings at rear, as set out on the schedule and map relating to Waterford City & Council, Laneway between 128 & 129 Parade Quay, Waterford and connected buildings at rear, Compulsory Purchase Order 2015 (No.5)*". An identical document is also signed and certified by the Local Authority's Director of Services, Corporate, Environment & Water, on the 12th day of August, 2015. Both of these are accompanied by a Written Schedule identically labelled 'Schedule – 1' with neither of these schedules including any reference to Plot 105 or containing any specific details of this plot.

8.1.14 Secondly, the same described Schedule 1 is attached to the written notice served on the owner/lessee/occupier of the subject lands on the 18th day of August, 2015; and, is also contained in the Newspaper Notice printed and circulated in the 'Waterford Today' newspaper on the 19th day of August, 2015.

8.1.15 During the Oral Hearing the Inspector sought clarification from the Local Authority on the status of Plot 105. The response was that Plot 105 is part of the subject acquisition lands under the compulsory purchase order now before the Board for its determination.

8.1.16 Based on the documentation provided in relation to the subject lands which the Local Authority are seeking to acquire under 'Compulsory Purchase Order No. 5, 2015,' irrespective of whether the Board conclude that the four principles set out above have been satisfactorily demonstrated by the Local Authority and irrespective of whether it is concluded that the concerns raised by the objector cannot be sustained against the necessity of the proposed acquisition in meeting the public interest of securing and facilitating the regeneration and renewal of this land, the Order cannot in my view be confirmed without modification due to the above procedural irregularities. The modification would require the omission of Plot 105 based on procedural irregularity. Notwithstanding, the Board could prior to making its final determination seek that the Local Authority issue a new compulsory purchase notice incorporating Plot 105 and allowing for submissions to be made. In the absence of such it would be necessary to omit Plot 105 as proper procedures do not appear to have been followed by the Local Authority. I however consider that notwithstanding the omission of Plot 105 by way of modification that the Board can continue to determine the merits of the CPO and remaining plots in the normal way.

8.2.0 Whether or not there is a 'Community Need' which is met by the Compulsory Purchase Order

8.2.1 In my opinion, the Local Authority has adequately demonstrated that the proposed acquisition for purposes of the provision of additional permeability and connectivity within the Viking Triangle alongside the creation of an enhanced public realm around the Franciscan Friary National Monument (Friary Square) would serve a community need. I base this opinion on a number of factors including but not limited to the Planning Officer's report's dated 12th and 27th day of November, 2015, together with the submissions made at the oral hearing, in particular those made by Maeve O'Connor, solicitor; Anne Doyle, Planner; and, Rupert Maddock, Architect, setting out the justification for the compulsory purchase of the subject lands. It is apparent that the acquisition of the subject lands for the stated purposes represents an additional site specific step in the renewal and regeneration of an area within the Viking Triangle that is in need of and would result in significant community need of physical, social and economic regeneration being met.

- 8.2.2 There is an evident synergy between the compulsory purchase of the subject lands and the yet to be carried out similar improvements that are proposed to the south and west of the subject lands in the immediate vicinity of the Franciscan Friary National Monument as well as an evident synergy with the similar improvements works that have been carried out to date in the vicinity of the site, including but not limited to the public realm improvements to Parade Quay, Brick Lane, Central Hall Lane and Bailey's New Street.
- 8.2.3 In the context of the National Monument the acquisition would facilitate an improved visual curtilage and setting within which it can be appreciated and enjoyed. The Council refer to this improved nodal space as 'Friary Square'. Qualitative and quantitative improvements at this location would also result in an improved setting for a number of Protected Structures adjoining and in the proximity to the subject lands. One of the most evident improvements would be to facilitate the removal of the *ad hoc* infill buildings that are of no architectural or other visual merit that occupy the subject lands to the rear of the historic Parade Quay terrace group. The removal of such buildings and structures is provided for in the Development Plans policies for the 'Trinity Within' ACA.
- 8.2.4 In my opinion, the acquisition would facilitate a wide range of both direct and indirect spin-offs that would positively benefit the local and wider community.
- 8.2.5 It is also of note that the lands subject of this compulsory purchase order also contain a former laneway, albeit modest in its width and height, that would appear to have originally functioned as a link from the public realm of Parade Quay to the rear of the terrace group No.s 128 and 129 Parade Quay. This link is now blocked with little evidence to support that in its current state it contributes positively to the vitality and vibrancy of the streetscape scene of Parade Quay. The creation of a pedestrian link in my opinion constitutes a significant gain in itself.
- 8.2.6 In summary I consider that the proposed compulsory purchase of the subject lands would serve community needs in a variety of ways with the some of the most evident ways being the following:-
- The provision of a link between Parade Quay to the rear No.s 128 and 129 Parade Quay. This link would provide connection to a qualitatively and quantitatively enhanced public realm to the rear of these historic Georgian period terrace buildings.

- An enhanced public realm in the vicinity of the Franciscan Friary (Friary Square).
- The enlargement of the public realm and nodal space in the immediate vicinity of the Franciscan Friary adding to potential passive and active recreational uses alongside providing more spacious access for the various tours, including walking tours, which operate in this area.
- Improved permeability and connection options within the Viking Triangle, with the most evident improvement being further permeability and connectivity between Parade Quay, Bailey's New Street, Greyfriars, Central Hall Lane, and Brick Lane.
- Removal of inappropriate infill buildings improving the visual character and ambience of the Viking Triangle.
- Improvement of the spatial functioning and connectivity between the four city quarters.
- Release of underutilised land within the Viking Triangle for compatible use.
- A more cohesive visual presentation of Viking Triangle which would in turn enhance its attractiveness to visitors and tourists.
- Enhanced opportunities for interpretation of the built and cultural and landscape of the Viking Triangle.
- Add to the economic, cultural through to social vibrancy and vitality of the Viking Triangle and in turn Waterford's city centre.

8.2.7 These, in my opinion, are all community needs clearly provided for in the current Development Plan.

8.3.0 Whether or not the particular property is suitable to meet the community need?

8.3.1 In relation to the establishing whether or not the subject lands are suitable to meet the community need I note that the Local Authority has actively sought to facilitate and encourage the development of the Viking Triangle primarily through a variety of local planning policy provisions, in particular their adopted Development Plan alongside other supporting plans and studies including but not limited to Waterford City Heritage Plan; Waterford Viking Triangle Interpretative Plan, The Waterford Gateway Innovation Fund Bid alongside collaboration with a landowners and stakeholders.

- 8.3.2 Given the location of the subject lands within the heart of the Viking Triangle quarter of the city I consider they are eminently suitable for meeting and serving the needs of the community associated with the on-going regeneration and renewal developments within this area. The acquisition of the lands for the purposes stated would also result in improved integrity and legibility of No. 129 Parade Quay by way of re-opening the former laneway between it and No. 128 Parade Quay.
- 8.3.3 This arguably would improve the visual integrity of the Parade Quay one of the prominent streetscapes in the 'Trinity Within' Architectural Conservation Area as well as would improve the setting and potential result in enhanced opportunities for public access to key built heritage features within the Viking Triangle in particular but not limited to the Franciscan Friary National Monument.
- 8.3.4 Moreover, the provision of additional permeability and enhance public realm on the subject lands would significantly enhance the urban fabric of the Viking Triangle.
- 8.3.5 I would concur with the Local Authority that the resulting success and outcome of the Viking Triangles renewal and regeneration could be prejudiced should the subject lands not be acquired.
- 8.3.6 I consider that the extent of the land to be acquired is reasonable having regard to the limited area that makes up the Viking Triangle; the unique nature of this land; the proximity of this land to the Franciscan Friary as well as other key built and cultural heritage buildings; its underutilised and unkempt state; through to the lack of significant supporting evidence that the subject lands are going to be developed in a manner that accords with the Development Plan vision for the Viking Triangle in the short to long term. Moreover, the four plots altogether have modest combined area of 0.00882-hectares but when combined with adjoining and neighbouring land on which similar public realm improvements and improved permeability have been carried out and are proposed the inclusion of this modest plot land is pivotal to the success of these public amenity improvements. In my opinion the acquisition sought would also not undermine and indeed could potentially encourage beneficial uses within the principal buildings.
- 8.3.7 Based on these considerations I consider that the subject lands are suitable to meet the community need.

8.4.0 Whether or not the Works to be carried out accord with the Development Plan?

- 8.4.1 As set out under Section 6.1 of this report above the subject lands are zoned 'City Centre Commercial'. They bound lands zoned 'Developed Residential' and 'Open Space'. I do not consider that the purposes for which the compulsory purchase order is being sought conflict with this zoning provision subject to safeguards. In addition to this and as previously discussed the subject lands form part of a highly sensitive to change urbanscape with its immediate context including a National Monument and a number of Protected Structures.
- 8.4.2 There is an array of other planning considerations relevant to the lands. For example these include that the site forms part of the 'Trinity Within' Architectural Conservation Area; a Zone of Archaeological Potential; they form part of a larger parcel of land which essentially encompasses the historic centre of Waterford City that is afforded protection under the Record of Monuments and Places as a Recorded Monument; they form part of a designated flood zone through to it being located in close proximity to a number of Natura 2000 sites. The Development Plan contains a range of policy provisions in relation to all of these matters as well as a broad and detailed suite of provisions that seek to facilitate, promote and enhance the Viking Triangle including improving and enhancing its public realm. Again I conclude that the purposes for which the compulsory purchase order of these lands is required would be in accordance with these provisions.
- 8.4.3 POL 10.0.2 indicates that the Local Authority will seek to: "*protect, conserve and where relevant, restore and enhance the environmental quality, character and distinctiveness of monuments, archaeological and heritage objects*"; and, under POL 10.0.3 "*provide for the enhancement of opportunities for access to and enjoyment of the heritage*".
- 8.4.4 Further, Chapter 1 of Development Plan identifies the delivery of major tourism initiatives as including the Viking Triangle and that it is key to the development of the Waterford's city centre as a tourism product of national and international standing; the Core Strategy which are set out in Chapter 2 of the Development Plan include facilitation of improved access through the city through to encouraging as well as promoting sustainable development of a range of tourism facilities and attractions; Chapter 3 of the Development Plan includes a number of policies that

seek to facilitate and encourage the development of the Viking Triangle as a cultural and heritage quarter (POL 3.7.2 and 3.7.4) alongside policies facilitating its further development of sustainable tourism infrastructure and attractions (POL 3.7.5). Moreover, Section 3.7.1 of Development Plan indicates that one of the key features of the Viking Triangle project is Grey Friars French Church which I note is also referred to as the Franciscan Friary National Monument in the Local Authority submissions; and, that it is an objective of the Local Authority under OBJ 10.2.9 *“to identify and implement measures for promoting the character and distinctiveness of the historic city and improving its physical condition and presentation”*.

8.4.5 I therefore consider that the purposes for which the acquisition is being sought would be entirely compatible with the provisions of the Development Plan.

8.5.0 Consideration of Alternatives

8.5.1 In relation to the acquisition of the subject lands for the stated purposes I accept that these lands are unique in the context of the Viking Triangle and that the acquisition would facilitate improved public realm amenity as well as improved permeability in a manner that can only be achieved on these lands and in tandem with similar improvement works on adjoining and neighbouring land. I do not consider that there is a reasonable alternative method of meeting the need and purpose for the acquisition of the lands given the circumstances of the case.

8.6.0 Issues Raised by the Objector

8.6.1 The Objector raised a number of issues in their submission to the Board and during the course of the Oral Hearing. Primarily they objected to the Local Authority seeking to acquire the lands subject of the Order in the first instance for a plethora of reasons ranging from sentimental attachment through to its potential future commercial development including family operated commercial ventures. It was however acknowledged that they did engage in negotiations with the Local Authority prior to the making of this Compulsory Purchase Order.

8.6.2 The Objector raised concerns in relation to the lack of clarity in their view behind the acquisition of the land and the lack of any detail in

relation to any specific development on these lands in the statutory Development Plan.

- 8.6.3 On this matter I acknowledge that the Local Authority's Planners Reports did include a number of comments that arguably created some level of ambiguity. I am satisfied however that this ambiguity was set aside by their submission and their responses to questioning during the course of the Oral Hearing.
- 8.6.4 I accept that the acquisition is for the stated purposes of: "*securing, facilitating or carrying out the development and renewal of areas in need of physical, social or economic regeneration of this land*".
- 8.6.5 It appears from the information presented that the sole interest is the public interest and there are no commercial motives, 3rd Party or otherwise, behind or associated with the acquisition of these lands. I also accept that the Local Authority's contention that in the scheme of public realm works and improvements to permeability within the Viking Triangle that the subject lands are of relevance and whilst modest in their nature and extent are important for their success at this particular location within this city quarter. If not included, these works would undermine the amenity and aesthetics of public realm in this area.
- 8.6.6 The Objector also raised what they perceived to be significant procedural deficiencies by the Local Authority in the making of this Compulsory Purchase Order. The procedural deficiencies identified by them related to serving notice on all parties with interest in the subject lands. In this regard the Objector highlighted that he was joint owner of the subject lands with his now deceased wife and that the subject lands were now also leased.
- 8.6.7 In terms of substantiating these contentions the Objector provided no substantive evidence to substantiate the joint ownership of the land and whilst I note that a purported copy of a lease for the subject lands were provided this lease was undated, unregistered, appears to set out no monetary payment for tenancy of the subject property and was unaccompanied by any maps. The Local Authority also raised a number of concerns in relation to the validity of this lease and they also noted that there is no record that the subject lands were or are registered for commercial rates. As such they did not accept based on the evidence submitted by the objector that they had substantiated that the subject lands were or are in commercial use.

- 8.6.8 Based on the submissions I am satisfied that in this case the Local Authority served notice in accordance with legislative requirements to all interested parties with a legal interest in the subject lands and that the legal interest of the subject lands was appropriately investigated. These investigations included but were not limited to detailed examination of legal titles in order to identify all persons who may have a legal interest in the subject lands. Should the Board be minded to confirm this CPO I do not raise this as a concern for Plots 101, 102, 103 and 104. In relation to Plot 105, however, as referred to above, the documentation provided by the Local Authority is not satisfactory.
- 8.6.9 In relation to the matter of vacancy, underutilisation and general unkempt nature of the subject lands and as described by the Local Authority I am cognisant that the Objector did not accept that this accurately represented the subject lands in his ownership. However, the Objector provided no substantive occupancy evidence and the subject lands appeared unkempt at the time of my site inspection.
- 8.6.10 I am of the view that the Planning Authority have served the compulsory purchase order on the subject lands and described in accordance with all applicable legislative requirements (subject to the reservation in regard to Plot 105) and I do not consider the stated purpose for the acquisition of the subject lands has strong parallels with the case law referred to in the objectors submission. The stated purpose and the underlying development is clearly stated and in the wider public interest.
- 8.6.11 I therefore accept that there is merit to the Local Authority's stated purpose of: *"securing, facilitating or carrying out the development and renewal of areas in need of physical, social or economic regeneration"* and as previously discussed the proposed development would meet a number of community needs and would be in the overriding public interest.

9.0 CONCLUSION AND RECOMMENDATION

- 9.1 I recommend that the Board CONFIRM the compulsory purchase order subject to the modifications set out in the Schedule hereto for the reasons and considerations set out below.

REASONS AND CONSIDERATIONS

Having considered the objections made to the compulsory purchase order and the report of the person who conducted the oral hearing into the objections and having regard to the purpose of the compulsory acquisition as set out in the compulsory purchase order together with the provisions of the Waterford City Development Plan, 2013-2019, it is considered that the acquisition of the land in question, i.e. Plot 101, 102, 103 and 104 is necessary for the purposes stated and that the objections cannot be sustained having regard to the said necessity.

Schedule

1. That the deposited Map attached to the Order and Schedule 1 be revised to omit Plot 105 from the lands coloured grey and edged in red

Reason: The acquisition of Plot 105 is not confirmed due to the inconsistencies in the documentation provided by Waterford City and County Council excluding Plot 105 from Schedule 1 of the Order.

P.M. Young
Planning Inspector
7th day of March, 2016.