



Sean O'Donohoe
Abbeyknockmoy
Tuam
County Galway
H54 HX29

Date: 21 October 2025

Re: Galway County Council (N63 Abbeyknockmoy Village Active Travel) Compulsory Purchase Order
No.4 2025
In the townlands of Cullagh South and Cullagh North, Abbeyknockmoy, County Galway

Dear Sir / Madam,

An Coimisiún Pleanála has received your letter of objection in relation to the above mentioned compulsory purchase order.

In respect of same, please note that in circumstances where:

- (i) no objections are received by the Commission within the period provided for making objections, or
- (ii) all objections made are subsequently withdrawn, or
- (iii) all objections made relate exclusively to matters which can be dealt with by a property arbitrator the Commission will inform the local authority as appropriate and, in such circumstances, the local authority can itself confirm the order with or without modification or refuse to confirm the order in accordance with the provisions of section 216 of the Planning and Development Act, 2000, as amended.

The Commission has absolute discretion to hold an oral hearing in respect of any application before it, in accordance with section 218 of the Planning and Development Act 2000, as amended. Accordingly, the Commission will inform you on this matter in due course.

If you have any queries in the meantime please contact the undersigned officer of the Commission at laps@pleanala.ie Please quote the above-mentioned An Coimisiún Pleanála reference number in any correspondence or telephone contact with the Commission.

Yours faithfully,

Lauren Griffin
Executive Officer
Direct Line: 01-8737244

CH02

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AN COIMISIÚN PLEANÁLA
LDG- _____
ACP- _____
17 OCT 2025
Fee: € _____ Type: _____
Time: 15:52 By: Hend 

Abbeyknockmoy
Tuam
County Galway
H54 HX29

17th October 2025

BY HAND

An Coimisiún Pleanála
64 Marlborough Street
Dublin 1
D01 V0902

**RE: SEAN O'DONOHUE
ABBEYKNOCKMOY, TUAM, COUNTY GALWAY
GALWAY COUNTY COUNCIL COMPULSORY PURCHASE ORDER (No. 4) 2025
- N63 ABBEYKNOCKMOY VILLAGE ACTIVE TRAVEL, COUNTY GALWAY
PLOT REFERENCE NO. 103.01
AN COIMISIÚN PLEANÁLA REFERENCE: CH07.323535**

Dear Sir/Madam,

I refer to the above CPO dated the 27th August 2025 which has been served on me by Galway County Council.

TAKE NOTICE that I Sean O'Donohoe hereby object to the said Compulsory Purchase Order.

Our family are also the owners of a portion of ground outside the pharmacy/takeaway and the Credit Union, and all of these properties, that is the Post office, the licensed premises, my own dwelling house, the supermarket, are all properties affected by the scheme.

The properties have not been identified in the draft CPO prepared by the Acquiring Authority notwithstanding that I and the other owners and occupiers are very seriously and adversely affected by the nature and effect of the CPO on these properties and on the uses and activities that are carried out therein.

The Acquiring Authority have a statutory obligation to identify the owners (which includes lessees, tenants and occupiers) of these properties and list those persons in the schedule to the CPO. This is an obligation that arises under the legislation pursuant to which the CPO has been made and is a mandatory obligation, and the failure to identify all of the properties in terms of ownership, lessees, tenants and occupiers is a fundamental defect that does not

permit the said CPO to be deemed an invalid Order nor does the Commission have any jurisdiction to proceed to consider and determine the application.

There is a fundamental obligation furthermore arising from a number of judgments of the Supreme Court including *Clinton v. An Bord Pleanála*, *Reid v. The Industrial Development Authority*, that the primary test is the effect on the owners/ persons with a legal interest in the property and where the most fundamental requirement to address this issue is that those interests be properly identified in the first instance, the nature of their interest to be identified and the impact of the acquisition on those owners be addressed. There is no information as is required under the statutory scheme in respect of these owners, lessees, licensees, tenants and/or occupiers which would permit the County Council to assert that they prepared the CPO with the necessary diligence or carried out the appropriate investigations to identify these matters and therefore the Board cannot consider this to be a valid application for the confirmation of a CPO.

The Acquiring Authority have failed to consider or address the relevant matters which the Commission are required to consider as part of an examination of the application and whether it is appropriate to confirm or annul or modify the CPO.

The documentation lodged with the Commission proceeds on the basis that the land in front of the dwelling house, the land in front of the licensed premises or part it, the land in front of O'Donohoe's Supermarket and forecourt, and the land in the vicinity of the commercial buildings are or form part of a public road when the said presumption is both wrong as a matter of law and as a matter of fact.

The land which has been identified as a public road has never been dedicated to public use, has been used and maintained in a manner which could never give rise to a presumption that it was ever dedicated to public use, has been maintained at all times as lands in respect of which any use was subject to a licence/permission on the part of the owner/lessee/tenant and where therefore, having regard to the definition of a public road under the Roads Act can never be deemed to be a public road. These lands could never be used as of right nor were they ever such as be capable of falling within the definition of public road as defined in the 1993 Roads Act. The owners/lessees/tenants/occupiers of the various properties have maintained these lands, have never dedicated these lands to public use and accordingly these are not public roads and it amounts to a slander on the title of this property to represent, as is the case in the documentation lodged that the areas identified in respect of private lands protected under Articles 40.4 and 43 and in respect of the dwelling house in addition under Article 40.5 are part of a public road.

Insofar as any such assertion is contended for by the Acquiring Authority it is made without any evidence or any proof and there is a fundamental conflict of fact and an error of law in respect of any such assertion in respect of this property.

The entire basis therefore of the design in respect of which the acquisition of land is sought to be justified upon is predicated on a fundamental mistake of fact as well as a fundamental mistake of law.

In those circumstances because the Acquiring Authority, Galway County Council, has not identified the correct parties in the schedule to the draft CPO, and in failing to identify them have not addressed the effect of such an acquisition on those parties nor could they, then the procedures adopted for the making of this CPO is fundamentally flawed, invalid and void.

European Law

The scheme which is relied upon in respect of the proposed development namely a greenway is a "road" for the purposes of Council Directive 2011/92/EU.

Schedule V of the Planning and Development Regulations, 2001 prescribes that any private road in respect of 2 kms requires a mandatory Environmental Impact Assessment (EIA). A greenway is a public road within the definition of "road" in the 1993 Roads Act and for the purposes of Schedule V of the Planning and Development Regulations, 2001.

Without prejudice to the matters set out above, even if it is a subthreshold development, any such activity is still required to be the subject matter of a preliminary examination for the purposes of Council Directive 2011/92/EU and in failing to direct their minds to the obligations under 2011/92/EU and which would fundamentally change the nature of the application made in respect of a CPO, the Council do not have jurisdiction to proceed with the development.

The proposed development furthermore requires a Stage II assessment for the purposes of Council Directive 92/43/EEC, the Habitats Directive. In *King v. Irish Water* Simons J. in giving the judgment in the High Court concluded that a stand-alone compulsory purchase application will form part of a multi-stage consent procedure which requires engagement with the Habitats Directive. The scheme underlying the acquisition is proximate to a number of water courses which feed into the River Clare and ultimately to Lough Corrib and therefore impacts on and affects a number of European Sites and ultimately where Lough Corrib discharges into Galway Bay which contains equally both Special Areas of Conservation (SAC) and Special Protection Areas (SPA) under the Birds Directive. At a minimum the application requires to be accompanied by a Stage I screening for Appropriate Assessment and no such

screening has been prepared or is included and it appears that there has been no consideration of the Habitats Directive.

Galway County Development Plan 2022 to 2028

The proposed development amounts to a material contravention of the Galway County Development in circumstances where the said scheme is not identified in the said Plan in the terms in which it is now sought to acquire the lands in the said Galway County Development Plan 2022 to 2028 and following decisions in the High Court in *Keogh v. Galway City Council*, *Roughan v. Clare County Council* and in *The Attorney General (McGarry) v. Sligo County Council*, in the absence of a specific objective which would identify the development as is required by law, the proposed development cannot be reconciled with or be other than a material contravention of the said Development Plan.

The report from Valerie Loughnane, Senior Planner, forms no basis upon which an argument can be made that the proposed development is consistent with the Plan. The said report confuses the obligations under the Development Plan provisions of the Planning and Development Act, 2000 which is a matter of domestic law with the obligations under European Community law where there is a reference to "*development consent*". The said reference fundamentally misunderstands the nature of the Part VIII procedure which could never amount to a development consent as the only basis upon which a development consent can be obtained for a Local Authority development is through the procedures provided for through An Bord Pleanála, now the Commission and therefore that report is fundamentally in error and misconceived.

There is no basis or no detail and critically no reasons given which could allow the Board to conclude, in the absence of this scheme having been specifically identified in the Plan, that the development is other than a material contravention of the Plan. Accordingly, the Council have no jurisdiction to make and the Board have no jurisdiction to confirm a CPO in those circumstances.

Insofar as there is a contrary position adopted, this represents a fundamental dispute of fact as between the parties which can only be resolved through an oral hearing which would allow for these issues to be addressed directly to the Council.

Conventional Approach to CPOs

The Council set out no basis in the documentation grounding the making of the CPO nor give any information which would allow the Board on any basis to determine that the proposed CPO should be confirmed. Traditionally the matters that have been addressed by the Board include the need for the said land, the suitability of the land, the alternatives considered by

the Council and the issue of compliance with the Development Plan - the issue of the Development Plan has already been addressed in the paragraphs set out above.

In respect of the other three criteria, it is submitted that there has been no basis set out in respect of the any of the criteria that was generally applied and accordingly:

- (i) No basis has been set out in the documentation submitted which would justify the need for these lands. Indeed these lands which appear to have been identified are based on a fundamental misunderstanding of the manner in which the existing rights and obligations in respect of this land may be exercised and therefore the entire scheme is based on a fundamental illegality and is entirely misconceived. There is no information which would allow the Board to consider on the basis of need that the Council have complied with the onus of proof which is entirely on the Acquiring Authority to demonstrate by way of appropriate submission and documentation of the need for the scheme.

In respect of the suitability of the land for the scheme, these matters require to be addressed in detail and in respect of the incorporation of some of the issues addressed above would require the type of considerations which are addressed in the EIA directive and/or the preliminary examination for EIA, the issues required to be addressed at a Stage I and if required a Stage II Appropriate Assessment and none of these matters have been addressed in the CPO documentation notwithstanding the judgment of Simons J. in *King v. Irish Water*.

There is no information therefore that would permit the Board to deal with the suitability of the lands and indeed in the absence of this information the precautionary approach must be applied and the application must be refused on the basis of a potential conflict with the necessary obligations under European Community law.

There is no information on reasonable alternatives considered notwithstanding that this is a matter which the Commission requires to be addressed as a minimum and where these requirements are specifically addressed by Simons J. in *King v. Irish Water*, but in this case no such information has been submitted which allow for a consideration of these matters.

The failure to address the impacts of the proposed acquisition on the various legal interests which is the most fundamental requirement and in respect of which the Acquiring Authority are required to provide appropriate information is a grave and irredeemable defect in the documentation lodged. There has been no consideration of the impact of the acquisition on the various landowners (as required to be described in the Schedule to the CPO), and accordingly the obligations that arise under *Reid v. The Industrial Development Authority*, and *Clinton v. An Bord Pleanála* simply cannot be addressed.

I am the owner of my principal residence and adjoining licensed premises to include the property between the structures of my residence and licensed premises and the public road. I am also the registered owner of the property where O'Donohoe's supermarket and forecourt is situate. Abbeyknockmoy Post Office also operates from these premises, I being the post master. Sean O'Donohoe (Abbey) Limited has an equitable interest in the lands where the supermarket, forecourt, post office and licensed premises operate. My son and daughter in law, namely Patrick and Eimear (Loughnane) O'Donohoe are the registered owners of their principal residence and the ground immediately outside same. Our family are also the owners of the portion of ground outside the Pharmacy / takeaway and credit union. Properties affected by this scheme have not been identified in the CPO notwithstanding that I and the other owners and or occupiers are affected as much if not more than anyone else. Basic scrutiny by the local authority would have identified these issues.

The CPO as drafted is proceeding under a fundamental misapprehension. It is assuming that the land in front of my dwellinghouse, my licenced premises, in front of my son and daughter in law's principal residence and the property between O'Donohoe's Supermarket and forecourt and the adjacent commercial buildings and the public road are a public road when in fact they are not. These portions of property have never been dedicated to public use and at all times the use of the land was by licence as opposed to right. Furthermore, the local authority has never maintained same. I have been responsible for the tarring, maintenance and upkeep of my property.

Preliminary Objection

It is submitted the basis upon which the suitability of the lands the subject matter of a CPO, which is a fundamental proof required in order for a CPO to be confirmed, is based on a fundamental mistake as to the availability of land in order to implement the Part VIII scheme of development the subject matter of a decision of 16th April 2024. In that decision, upon which this proposal is based, proposed a series of works on lands which are private lands which have never been dedicated to public use, which are entirely within the ownership of Sean O'Donohoe and in respect of which no works may be carried out or no proposal implemented without either the consent of these landowners having first been obtained or having been carried out pursuant to a CPO purchase confirmed by the Commission.

The application for the CPO excludes critical lands which are wrongly and inappropriately considered to be lands forming part of a public road but where the essential requirements for a public road, namely that these lands have existing over them a public right of way, that these lands have been dedicated by the owners of the land clearly and unambiguously for public use, that that dedication had been accepted and had been implemented including the maintenance of these lands by the Local Authority, and where the lands have not been maintained by the true owners.

None of these elements apply to the lands included in the Part VIII proposal within the ownership of Sean O'Donohoe and therefore the basis upon which the County Council seek to have the CPO confirmed namely that these lands are necessary and suitable for the implementation of the Part VIII proposal proceeds on a fundamental mistake of fact.

In the light of the County Council's approach in the documentation accompanying the CPO which is entirely based on these lands being necessary and suitable for the implementation of the Part VIII, a confirmation of these lands would be entirely inappropriate as the scheme could not proceed on this basis, the lands would have been compulsorily acquired by the County Council on a fundamentally incorrect and inappropriate basis.

In respect of the Part VIII scheme which proposes works to be carried out on the lands owned by Sean O'Donohoe, namely those lands in front of the licensed premises, in front of the Post Office, the supermarket, all of which are private lands, the use of which can only be carried out pursuant to a licence, the consent of the landowner and which have never been dedicated to public use and could never form part of a public road, no part of the Part VIII scheme can be implemented in respect of these lands unless either the consent of the owner of the lands is obtained or the lands are compulsorily acquired such as to give a lawful right of entry and carry out works on the lands.

Therefore insofar as the compulsory acquisition is based upon a mistaken belief that the lands in front of the supermarket, licensed premises, Post office and related uses are not required to be compulsorily acquired to implement the scheme, the compulsory acquisition application is based on a fundamental mistake of fact and law, and therefore cannot meet the fundamental test of suitability and need which is identified as matters critical to any consideration as to whether it is appropriate to confirm a CPO.

These are complex issues where there is a fundamental dispute of fact it would appear between the parties and where these issues can only be properly and appropriately resolved by way of an oral hearing, and such a hearing is requested so that these issues can be clarified in a manner which will allow the Commission to appropriately consider whether it is appropriate to confirm the CPO in all the circumstances.

On the basis therefore the scheme cannot and it is respectfully submitted should not be confirmed.

With regard to plots 103.01, 104.01 and 104.02 on the CPO, I respectfully submit that the need for a footpath along this section of the road is not justified. While I appreciate the desire for active travel, I share the view of others who feel that the proposal is unfeasible for several reasons:-

- (i) There is already adequate provision of footpaths on the Galway side of the village of Abbeyknockmoy. We have a footpath on the southern side of the road for a distance of 5 kilometres which brings one back to the roundabout past Brooklodge Church in Ballyglunin.
- (ii) Previously it was represented to me that Galway County Council proposed to put a pedestrian crossing at "Treacy's farm" (Plot 103.01) registered in my name. I believe that a pedestrian crossing at this location is too close to the bend in the road and is unnecessarily enticing people in onto my private property. I would submit that a more appropriate location for a pedestrian crossing would be at the health centre, being a facility used by community members every week day. I now understand that Galway County Council has approval in principle to include provision for a zebra crossing inside the 50 kmph speed limit zone and north of the Cnoc na gCaor estate, however I have not seen any drawings of this to confirm the position. However, I would contend that putting the zebra crossing at this alternative location removes the need for a footpath outside plots 103.01, 104.01 and 104.02.
- (iii) I do not believe that the proposed scheme is conducive to securing compliance with speed limits. I would submit that there are more effective ways of achieving the objective of driving within speed limits, such as zebra/pedestrian crossing, with the appropriate flashing orange light, and with the appropriate road signage. These could be located at a number of locations between the health centre, and the Roscommon side of the entrance to the Granary estate.

In relation to the property between my residence and the public road, I and my family members have always enjoyed the benefit and privilege of parking on our property.

In relation to the properties from which commercial businesses operate, i.e. O'Donohoe's Spar Supermarket and forecourt, Abbeyknockmoy Pharmacy, Crystal Pizza and West Midlands Credit Union and O'Donohoe's Bar and Lounge, I wish to make the following observations by way of objection:-

- (a) The effect of the proposed Active Travel Scheme and CPO on the business of Sean O'Donohoe (Abbey) Limited, which is a business in its fourth generation having been founded in 1895 and the company incorporated in 1979, is that it will render the continued use of the business impossible and inoperable because it proposes to create a public right of way in a place that is critical to the businesses and the effect would be that the continued use of same would become impossible if this scheme goes ahead.

(b) I and Sean O'Donohoe (Abbey) Limited have always maintained the portion of ground immediately outside the front wall of our supermarket /forecourt business, which property is registered in my name, and for which ground I have a contractual relationship with Sean O'Donohoe (Abbey) Limited. I / we have consented to customers of our business premises use of these portions of my property to park their vehicles while they frequent our premises. I have allowed bus drivers who operate the school buses daily to secondary schools in Mountbellew, Castleblakeney to park temporarily outside the supermarket/ forecourt premises, as well as buses travelling from Galway to Roscommon/ Longford or elsewhere. I have also allowed bus drivers to stop outside my public house to collect passengers travelling to Tuam for school or to Galway.

I vehemently oppose the proposal to have a footpath / cycle lane and/or landscaping immediately in front of my property to include from where all local businesses operate.

The availability of this area has been and is of paramount importance to local business and passing trade, and the availability of parking to our customers, in particular drivers of large vehicles, i.e. buses for example where a bus tour is passing and stops by for refreshments in our supermarket, lorries, etc. It is also used by bus drivers to collect schoolchildren and to drop off passengers on route from Galway to Roscommon / Longford. Removing the availability of this portion of private property which is used on a daily basis for temporary parking by our licensees would have serious and adverse consequences for business and passing trade. I and my family have serious and genuine concern about the negative impact of same on our business and therefore the security of the employment of our forty employees. I would also submit that if this area were not available, drivers of large vehicles would be caused to park on different paths outside the Cois na hAbhainn estate more frequently, causing further hazards and obstructions for road users as alluded to in the preceding paragraph.

Furthermore, it would not be safe for passengers getting off public transport, where they could potentially collide with a cyclist.

(c) Currently, as a result of lack of inadequate parking in the village, my son and daughter-in-law allow customers of local businesses including drivers of large vehicles to temporarily park outside their house where space allows while they enter our shop or other local businesses to make a purchase.

- (d) I previously had a portion of my lands in the adjoining townland of Culliagh South acquired by Galway County Council on foot of a CPO (CPO no. 1, 2015). The map attached to that CPO and Deed of Transfer on foot of that CPO clearly indicated that a portion of the property which Galway County Council sought to acquire, and for which I received compensation, already formed part of the public road. How can Galway County Council now assert that "the areas of ground in front of the public bars, the dwelling house, the service station forecourt and the pharmacy are considered to be part of the 'public road' as defined in the Roads Act 1993, i.e. a road over which a public right of way exists and the responsibility for the maintenance of which lies on a road authority", firstly when Galway County Council previously acquired land from me part of which was the public road, and paid me compensation for, and secondly when Galway County Council has not now or ever maintained the portion of property on either side of the road which they now wish to define as "public road". It is nonsensical to think that a State entity can make such irreconcilable representations.
- (e) I am the landowner affected by CPO No 1 of 2021 (N63 Liss to Abbey Realignment Scheme) in relation to lands I own on the Roscommon side of Abbeyknockmoy village. The maps attached to this CPO for which I have received Notice of Entry include a portion of the "public road" of which I am registered as owner. This highlights again the polar opposite representations being made by Galway County Council - how can they include "public road" on two CPO's which have / do affect me and omit me and other property owners from the one the subject of this objection?
- (f) The proposed cycle lane will be obstructed by traffic entering and exiting our supermarket / filling station.

I do not believe that it is safe to put a cycle lane immediately in front of the pharmacy / takeaway / credit union businesses. This will be a hazard to customers of these businesses at risk, in particular when exiting these premises. Furthermore, these businesses need the car parking available to them at the front of their premises.

With regard to the proposals for the area immediately outside my licensed premises, this area is used multiple times daily as a bus stop for buses travelling to Galway and is a safe location for this purpose. I believe that an elevated path/ cycle lane would cause congestion as the buses would pull up on the main road, which would hinder visibility for traffic overtaking the buses so close to a bend in the road, and potentially cause an accident. It is also used weekly for delivery of stock to my licensed premises.

This whole area is the heart of Abbeyknockmoy village, and while active travel may be desirable to some, I would respectfully submit that safety and security of employment are of more paramount importance. I would also wish to highlight that I have always supported community development and enhancement and have already contributed significantly to the

local community by way of provision of two soccer pitches and the site for the local playground.

However, I have a duty of care to myself and my family to protect our property rights and as a family and employers, we have a duty to protect the security of employment for our loyal employees. This outweighs any benefit that the proposed active travel scheme might have for a community that already has more than many other communities in terms of local amenities.

I would be grateful if you would acknowledge receipt of this letter of objection.

Yours faithfully,


Sean O'Donohoe