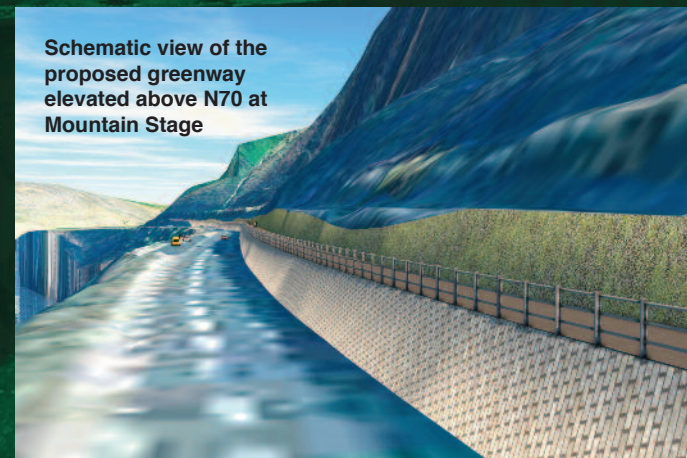


2.1 Notice to Treat - Taking of possession Payment of compensation

Following approval/confirmation of a scheme, the process of acquiring and taking possession of the land can begin. The local authority, within eighteen months of the scheme becoming operative, serves a notice to treat on the persons having an interest in the land

Following service of notice to treat the local authority can serve a notice of entry, which after fourteen days, allows the local authority to enter and take possession of the land described in the C.P.O even-though compensation may not have been agreed at that stage. The local authority is liable to pay interest on the compensation sum for the period between entry on the land and compensation being paid. Compensation payable for land acquired as part of the CPO is usually negotiated between valuers for the owners (claimants) and valuers for the local authority. This process normally involves the landowner's valuer submitting a claim to the local authority where it will be assessed by the Local Authority's valuers. The local authority will also pay the reasonable professional legal and valuation fees necessary for the acquisition.



In addition to the property acquired, compensation is payable, where appropriate, in respect of severance, injurious affection and disturbance. Severance occurs where the loss of part of a property/ landholding reduces the value of the part retained. For example, the acquisition of a strip of land through a farm may make the farm less attractive as a unit and affect the viability of the farm business due to increased working costs and inconvenience.

Injurious affection is the damage to the retained land caused by the construction of the scheme and subsequent use. For example, the construction of an embankment may

obstruct the view from a house on the retained land. Disturbance concerns any other allowable loss sustained or expenses incurred by an owner as a result of the compulsory acquisition of land. Examples would include costs of seeking and acquiring alternative property. Where it is not possible for the claimant and the local authority to reach agreement on the compensation payable, the law provides for an independent arbitration process whereby an arbitrator, after hearing evidence from the respective parties, determines the amount payable. The arbitrator may also adjudicate on the liability for costs of the parties concerned. The decision of the arbitrator is binding on both parties

Summary of Steps Involved in CPO process

- › A statutory body decides to make a CPO.
- › Affected parties will be served with a notice and newspaper notices will be published, stating that the order is about to be submitted to An Bord Pleanála for consideration.
- › Objections can be made to An Bord Pleanála.
- › Where valid objections have been received and not withdrawn an Oral Hearing is held at which affected parties can formally put their views forward.
- › Board either confirms amends or rejects CPO order and publishes details of the decisions in this regard.
- › If the order is confirmed the Acquiring Authority serves Notice to Treat on the affected parties. 18 months to serve notice to treat. The affected party lodges a claim for compensation.
- › This can be made by the claimant's valuer.
- › On reaching agreement, compensation is paid; otherwise the matter may be referred by either party to the property arbitrator to assess compensation.



Want to have your say on the Greenway? Here's how:-

Tel: Anna Meria Costelloe, Liaison Officer,
South Kerry Greenway, **066 71 91319**
Email: southkerrygreenway@kerrycoco.ie

Post: South Kerry Greenway, Capital Infrastructure Unit,
Kerry County Council, Princes Quay, Tralee. Co. Kerry



South Kerry Greenway Slí Ghlas Chiarraí Theas Newsletter

Issue 1, February 2016

Welcome to the South Kerry Greenway Newsletter prepared by Kerry County Council

The purpose of this newsletter is to update the public and in particular the people of Reenard, Cahersiveen, Kells, Glenbeigh and the surrounding areas of the progress to date on the proposed 32km greenway from Reenard to Glenbeigh. The newsletter outlines the plans for 2016 and summarises the procedures involved in delivering the project.



Progress to Date A bhfuil déanta go dtí seo

In April 2014 Kerry County Council secured National Cycle Network funding from the Department of Transport, Tourism and Sport, to provide a greenway along the line of the former Great Southern and Western Railway from Glenbeigh to Cahersiveen. In June 2014 additional funding was received for the development of a further 3km greenway from Cahersiveen to Reenard. Initially it was hoped to acquire the land by negotiation and ultimately with landowner consent. It was not possible, however, to reach agreement with landowners in relation to land acquisition by consent.

Given the importance of the scheme to South Kerry, it was decided to acquire the necessary lands by means of a Compulsory Purchase Order. This process enables Kerry County Council to purchase all the lands needed for the scheme by CPO, including those landowners who had indicated support for the project though the initial discussions. In December 2014 the Chief Executive of Kerry County Council informed the elected members of the Council of the intention to proceed with the Compulsory Purchase Order to acquire the lands necessary to deliver this strategic and important infrastructure for the County. This decision of the Chief Executive was backed by a vote of the Councillors at a full Council meeting.

At an early stage in the process Kerry County Council consulted with the property registration authority (PRAI), CIE, locals, interested parties and community groups to establish a comprehensive record of the names and addresses of landowners along and adjacent to the former railway line. This was the baseline for the initial

discussions with landowners. As further information on land ownership became available through the consultations, the baseline data was updated

Since the railway line was abandoned building development has taken place in a number of locations along the line. For this reason various route options were explored at 19 locations along the line. These route options formed the basis for the seven (7) public consultation days held during March and April 2015 between Kerry County Council and the relevant land owners / interested parties. The purpose of these meetings was to inform the community of various route options at these locations and invite the public's view and opinions on the same. The information, suggestions and views forthcoming during the consultations have been examined and included in the design process leading to the location of the emerging route of the Greenway

Since these consultation days, work has continued to progress on the project. As you will appreciate, given the length and scale of the project it has taken some time to finalise the design. All route options underwent a series of environmental, engineering and economic assessments. The findings of these assessments are now completed and detailed designs for the emerging route



are being finalised. It was also decided in 2015 to pool allocated funding together and develop the entire greenway from Reenard to Glenbeigh as one overall project, rather than two separate schemes (Cahersiveen to Glenbeigh and Cahersiveen to Reenard), as initially planned.

What Happens Next?

A bhfuil le déanamh anois

Kerry County Council is mindful of keeping the local community up-to-date on the progress of the project as relevant information becomes available. Once the preferred emerging route and designs are finalised a further series of consultation days will be organised. Landowners and affected parties will be written to and invited to attend these meeting. Kerry County Council encourages all relevant landowners to attend these meetings to discuss aspect of the preferred emerging route, design and any other aspect of the project with the design team.

Once the final route is established Kerry County Council will



View of proposed route via Mountain stage from above

be in a position to finalise the Environmental Impact Assessment (EIA) prior to lodging the application with An Bord Pleanála. Kerry County Council anticipates that a planning application and compulsory purchase order will be lodged with An Board Pleanála by mid 2016. Kerry County Council Staff members are available to discuss any queries or concerns regarding the project. The contact details are available on the back page of the leaflet

Benefits of the Greenway

An leas a bhainfear as an Slí Ghlas

> Good for local families & communities:-

One of the great benefits for each community will be the availability of an off-road cycleway for health and leisure activities, whether on foot or on bicycle

> Good for the local economy and local jobs: -

The South Kerry Greenway has the capacity to attract large numbers of visitors – leading to increased revenue for a variety of local businesses and the opportunity for new small business start-ups, culminating in more jobs locally. In Mayo, for example, local communities and towns have

benefited from the success of the Great Western Greenway, which opened in 2010. This initiative is estimated to be worth €7 million per year to the local economy and has created an estimated 38 new Full-Time Equivalent (FTE) jobs, with a further 56 existing FTE jobs being sustained, thereby significantly improving the local businesses, communities and supporting local jobs.

Procedures Cleachtais

There are two separate procedures involved in the process. The first is a planning application for the proposed scheme and the second is the CPO process.

1. Planning Application

As the proposal for the South Kerry Greenway requires the completion of an Environmental Impact Assessment Kerry County Council will be making an application to An Bord Pleanála for permission to proceed with the development. This application will be accompanied by the necessary details, public notices, drawings and the Environmental Impact Statement. The public notices will inform the public of the dates within which they may make submissions or objections to an Bord Pleanála. An Board Pleanála makes a decision to either grant, grant with modifications or refuse the application. For more details on how An Bord Pleanála works see <http://www.http://www.pleanala.ie/>

2. CPO

The process of acquiring land compulsorily is not exercised lightly by local authorities and is subject to the full rigours of the law. The local authority fully recognises the concerns and difficulties faced by individual landowners by the decision to provide development for the common good. Kerry County Council is providing a liaison service for affected landowners and this facility should be used to eliminate uncertainty and fear. Through the liaison officer and the statutory process involved in making a C.P.O., Kerry County Council is committed to the provision of a quality service to people whose land is being compulsorily acquired. After the Compulsory Purchase Order for the scheme has been made, notice of the making of the Order



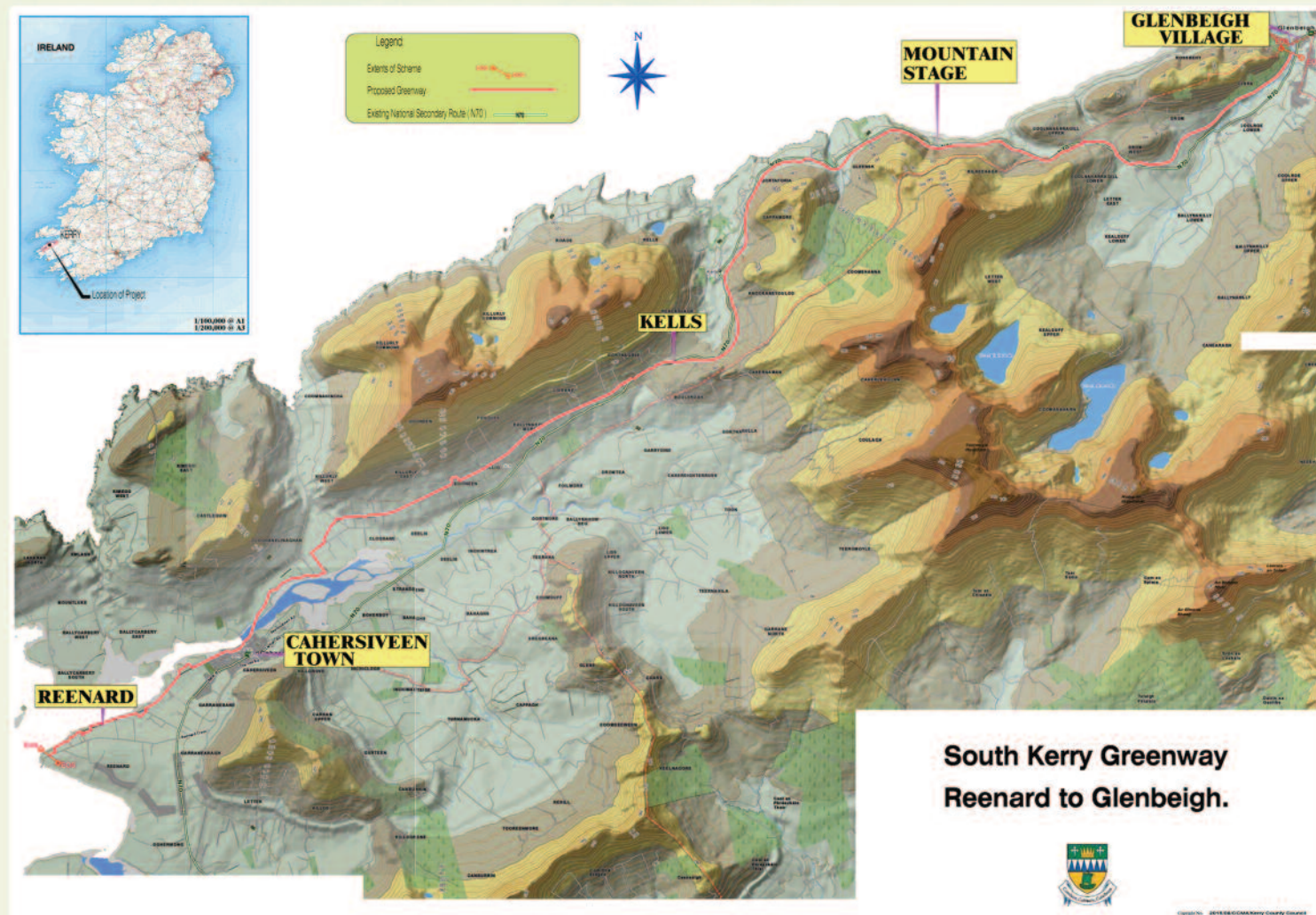
Athlone Greenway

is published by the local authority concerned in at least one newspaper circulating in the area where it is proposed to acquire the land. In addition, individual property owners are informed of the making of the CPO and of the land which it is proposed to acquire from them.

The map and schedules go on display in the offices of the local authority for a period of not less than one month and persons who have an interest in the land, the subject matter of the Order, have a period of not less than two weeks after the end of the period for inspection within which they can object to An Bord Pleanála (The Board) in relation to the CPO scheme.



Schematic view of the proposed greenway elevated above N70 at Mountain Stage



In schemes where no objections are received by the Board or any objection received is subsequently withdrawn or the Board is of the opinion that the objection received relates exclusively to matters which can be dealt with by a property arbitrator, i.e. compensation, the Board will inform the local authority which can then confirm the Compulsory Purchase Order.

In the case of schemes where objections have been made and not withdrawn or deemed to relate only to issues other than compensation, the scheme will not be approved or confirmed by the Board until an oral hearing is held into all matters relating to the scheme. Following the oral hearing the Board may approve/confirm the scheme with or without modifications or may refuse to approve/ confirm the scheme.

The decision of the Board is published in at least one newspaper circulating in the area to which the CPO relates. The scheme becomes operative three weeks after publication of the notice and the local authority is then entitled to start the process of acquiring the relevant land and of extinguishing, where appropriate, public rights of way after the relevant land has been acquired