

An
Bord
Pleanála

Board Order ABP-314306-22

Local Government (No. 2) Act, 1960

Housing Act, 1966

Planning and Development Acts, 2000 to 2022

Planning Authority: Cork City Council

Application received by An Bord Pleanála on the 5th day of August 2022 from Cork City Council pursuant to section 76 of, and the Third Schedule to, the Housing Act, 1966 as extended by section 10 of the Local Government (No.2) Act, 1960 (as substituted by section 86 of the Housing Act, 1966), as amended by section 6 and the Second Schedule to the Roads Act, 1993, and as amended by the Planning and Development Act, 2000, as amended, for confirmation of a Compulsory Purchase Order authorising compulsory acquisition of lands and entitled Cork City Council - Ballyvolane Strategic Transport Corridor- North Ring Road to Mervue Acquisition Order No. 1 of 2022.

DECISION

CONFIRM the above Compulsory Purchase Order with modification (as per the alterations to the temporary compulsory acquisition submitted by Cork City Council on the 15th day of May, 2023 in response to the further information request) based on the reasons and considerations set out below.

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REASONS AND CONSIDERATIONS

Having considered the objections made to the compulsory purchase order and having regard to the following:

- (a) the constitutional and convention protection afforded to property rights,
- (b) the purpose of the compulsory acquisition for the Ballyvolane Strategic Transport Corridor, North Ring Road to Merve which has been subject to the provisions of Part XI of the Planning and Development Act 2000, as amended, and approved under Part VIII of the Planning and Development Regulations 2001, as amended;
- (c) the present substandard configuration of the Ballyhooly Road,
- (d) the community need, public interest served and overall benefits in terms of traffic management and road safety and sustainable transportation infrastructure to be achieved by the proposed road improvement works,
- (e) the design of the proposed road improvement works constituting a design response that is proportionate to the identified need,
- (f) the policies and objectives of the Cork City Development Plan 2022-2028 and the need for sustainable transport infrastructure to the Ballyvolane area;
- (g) the alterations proposed by Cork City Council to the carparking layout at the Ballyvolane District Centre, Transpart Ireland and the Fox and Hound premises,
- (h) the written submissions to the Board,
- (i) the report and recommendation of the Inspector, and

having considered the objections made to the Compulsory Purchase Order, the written submissions and observations made, the report of the Inspector, the purpose of the compulsory purchase order to implement the Ballyvolane Strategic Transport Corridor, North Ring Road to Merve, it is considered that, subject to the modifications to the temporary compulsory acquisition submitted by Cork City Council in response

to the further information request, the acquisition of all interests proposed to be to be acquired by Cork City Council as set out in the compulsory purchase order and on the deposited maps, is necessary for the purpose stated, which is a legitimate objective being pursued in the public interest, and that the compulsory purchase order and its effects on the property rights of affected landowners are proportionate to that objective and justified by the exigencies of the common good.



It is considered that the acquisition by the local authority of the lands and the extinguishment of the public and private rights of way, as set out in the Order and on the deposited map, are necessary for the purposes stated and the objections raised to it cannot be sustained having regard to the said necessity.

In reaching this conclusion the Board was satisfied that the process and procedures undertaken by Cork City Council have been fair and reasonable, that the local authority has demonstrated the need for the lands and that all the lands being acquired are both necessary and suitable to facilitate the provision of the Ballyvolane Strategic Transport Corridor, North Ring Road to Merve.

Having regard to the constitutional and convention protection afforded to property rights, the Board considered that the proposed compulsory purchase order pursues, and is rationally connected to, a legitimate objective in the public interest, namely the strategic development of Ballyvolane, the development of safe and sustainable transport infrastructure and the community need as set out in submissions made by Cork City Council.

The Board was also satisfied that the acquiring authority has demonstrated that the means chosen to achieve that objective impair the property rights of affected landowners as little as possible; in this respect, the Board considered alternative means of achieving the objective referred to in submissions to the Board, and were satisfied that the acquiring authority has established that none of the alternatives are such as to render the means chosen and the compulsory purchase order made by the acquiring authority unreasonable or disproportionate.

The effects of the compulsory purchase order on the rights of affected landowners are proportionate to the objective being pursued. The Board was further satisfied that the compulsory purchase order would be consistent with the policies and objectives of the Cork City Development Plan 2022-2028. Accordingly, the Board was satisfied that the confirmation of the compulsory purchase order is clearly justified by the exigencies of the common good.

Stephen Brophy
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this 11th day of *December* 2023