



An
Bord
Pleanála

Inspector's Report ABP-301507-18

| | |
|--------------------------------|---|
| Development | Dún Laoghaire-Rathdown County Council Compulsory Purchase (Blackglen Road Improvement Scheme) Order, 2018 |
| Location | Blackglen Road, Dún Laoghaire, Co. Dublin |
| Planning Authority | Dun Laoghaire Rathdown County Council |
| Type of Application | Local Authority Project |
| Objectors(s) | 1) Leslie & Declan Doyle 2) Mary Roe 3) Margaret Galligan Deceased (Christopher Galligan) 4) Kieran Galligan 5) Joseph Galligan 6) Sinead Byrne & Alan Smyth |
| Observer(s) | None |
| Date of Site Inspection | 24 th November 2018 |
| Date of Oral Hearing | 4 th December 2018 |
| Inspector | Mary Crowley |

Contents

| | |
|---|----|
| 1.0 Introduction..... | 3 |
| 2.0 Statutory Basis..... | 3 |
| 3.0 Site Location and Description | 4 |
| 4.0 Part 8 Development Process | 5 |
| 5.0 Compulsory Purchase Order | 10 |
| 6.0 Planning Policy Context..... | 11 |
| 7.0 Objections to the Order..... | 13 |
| 8.0 Oral Hearing | 14 |
| 9.0 Assessment..... | 17 |
| 9.6. Is there a community need that is to be met by the acquisition of the site in question? | 19 |
| 9.7. Is the particular site suitable to meet that community need?..... | 20 |
| 9.8. Would the works to be carried out accord with or at least not be in material contravention of the provisions of the statutory development plan? | 21 |
| 9.9. Alternatives - Have any alternative methods of meeting the community needs been considered and are they demonstrably preferable (taking into account environmental effects, where appropriate)?..... | 23 |
| 10.0 Remaining Issues Raised in the Objection..... | 23 |
| 11.0 Conclusion | 25 |
| 12.0 Recommendation | 25 |
| 13.0 Reasons and Considerations | 25 |

1.0 Introduction

- 1.1. This report addresses Dún Laoghaire-Rathdown County Council Compulsory Purchase (Blackglen Road Improvement Scheme) Order, 2018 with respect to works on Blackglen Road from its junction at Lambs Cross (Enniskerry Road / Hillcrest Road / Sandyford Road) to its junction with Ticknock Road / Harold's Grange Road near the M50 overbridge. The scheme provides for the construction of approximately 3km of single carriageway road including, inter alia, cycle tracks, footpaths, boundary walls, retaining walls, entrances, re-graded driveways, railings, fences, bus stops, road marking, public lighting, road drainage outfalls with new attenuation areas, alterations to other services, signage, extensive landscaping, planting of new trees and hedges, and public realm improvements.
- 1.2. To facilitate these works and the implementation of the road improvement scheme, the CPO would entail the temporary and permanent land acquisition of a number of parcels of land. The lands being acquired are portions of front gardens of dwellings and road bed (i.e. the portion of land between the road edge and property boundary).
- 1.3. Five objectors have challenged the CPO. The objections pertain to the proposed acquisition of lands identified as Plots 52, 20, 82, 83, 84 and 29. The objections relate to the surplus acquisition of land, drainage, noise, access, boundary treatment, planning and environmental matters and the location of a new bus stop opposite the entrance to one of the objectors properties.
- 1.4. The Compulsory Purchase Order had the seal of the Council affixed on the 11th April 2018 and was advertised publically on the 19th April 2018. Formal notices of the CPO were issued by DLRCC and served on the individual landowners, lessees and occupiers of the lands affected by the CPO.

2.0 Statutory Basis

- 2.1. Under Section 213(2)(a) of the Planning and Development Act, 2000 (as amended), a local authority may, for the purposes of performing any of its functions (whether conferred by or under this Act, or any other enactment passed before or after the passing of this Act), including giving effect to or facilitating the implementation of its

development plan, acquire land, permanently or temporarily, by agreement or compulsorily.

- 2.2. Compulsory Purchase Orders are made pursuant to the powers conferred on the local authority 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), as amended by section 6 and the Second Schedule to the Roads Act, 1993, and as amended by the Planning and Development Act, 2000-2018. Orders are served on owners, lessees and occupiers in accordance with Article 4(b) of the Third Schedule to the Housing Act, 1966.
- 2.3. The Housing Act of 1966 provides if an objection has been made to a compulsory purchase order, the Board will facilitate the person making the objection to state their case at an Oral Hearing.

3.0 Site Location and Description

- 3.1. The Blackglan Road / Harold's Grange Road Improvement Scheme is situated in South Dublin within Dun Laoghaire Rathdown County Council, proximate to Sandyford, Ticknock and the M50. Much of the surrounding area is characterised by a mixture of developed, suburban areas interspersed with agricultural and industrial / commercial lands. The majority of the land to the north is given over to dense suburban housing whilst the southern section of the realignment largely comprises a network of single houses.
- 3.2. Blackglan Road (R113) and Harold's Grange Road (R113) served for many years as part of the orbital route around Dublin. Following completion of the M50 to Ballinteer and then to Sandyford and Shankill, traffic volumes have decreased. Substantial development has taken place in the area with further development underway / proposed. It is stated that the level of development will significantly increase the levels of traffic using these roads.
- 3.3. The existing Blackglan Road is substandard in width and alignment and has no footpaths or cycle tracks. The existing Harold's Grange Road has a footpath for the most part on the northern side but no footpath for most of the southern side and no cycle track. The scheme also includes for the improvement of the 2 junctions and a

section of their approach roads at either end of Blackglen Road and Harold's Grange Road.

3.4. The scheme is made up of seven interlinked sections of road with a cumulative total length of approximately 3km. The Blackglen Road / Harold's Grange Road Improvement Scheme includes:

- Blackglen Road
- Harold's Grange Road
- Grange Road (section of)
- Enniskerry Road (section of)
- Sandyford Road (section of)
- Hillcrest Road (section of)
- Junction of Slate Cabin Lane / Woodside Road

3.5. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location in further detail.

4.0 **Part 8 Development Process**

4.1. The proposed road upgrade project has been subject to the process set out under Part XI of the Planning and Development Act, 2000, as amended, and Part 8 of the Planning and Development Regulations, 2001, as amended (Planning Authority Reg. Ref. PC/IC/01/15 refers). In November 2007 a Part 8 planning scheme was approved for the upgrade of Blackglen Road / Harold's Grange Road (Sandyford / Ballinteer). Due to the economic downturn, the scheme was put on hold. A revised Part 8 was approved by the Council on 13th June 2016.

4.2. On the 10th December 2015, the Council gave notice that they proposed the following works:

- **Blackglen Road** - Blackglen Road from its junction at Lamb's Cross (Sandyford Road/Enniskerry Road/Hillcrest Road) to the junction with Ticknock Road / Harold's Grange Road near the M50 overbridge. The overall length is approx. 1400m

- **Harold's Grange Road** - Harold's Grange Road from its junction with College Road/Grange Road/Kellystown Road to the junction with Ticknock Road/Ticknock Road. The overall length is approx. 950m.
- **Grange Road** – A short section of Grange Road is required to construct a right turn lane at the junction with Harold's Grange Road / Kellystown Road / College road. The overall length is approx. 60m.
- **Enniskerry Road approach to Lambs Cross** – Enniskerry Road from the realigned section at Slate Cabin Lane to Lambs Cross junction. The overall length is approximately 140m
- **Sandyford Road** – Sandyford Road from the realigned section, which was constructed as part of the M50 motorway, to Lambs Cross junction. The overall length is approx. 350m
- **Hillcrest Road** – Hillcrest Road from the existing road bridge to Lambs Cross junction. The overall length is approx. 90m
- **Junction of Slate Cabin Lane/Woodside Road** – This junction is to be improved to provide better sight distance for traffic coming out of Slate Cabin Lane. This improvement is required for the proposed option for a Traffic Management Plan.
- The road improvement scheme includes the following works:
 - a) Construction of footpaths and cycle tracks
 - b) Construction of retaining walls
 - c) Disposal / recovery of roadwork's material
 - d) New watermain and a new public foul sewer
 - e) Utility diversions and connections
 - f) Extension of existing culverts and river / stream protection measure
 - g) New road pavement, road markings, road signings and new public lighting
 - h) Landscaping and planting new trees
 - i) Ancillary road works
 - j) Traffic Management measures including temporary diversions

- k) Accommodation works (works that will take place on lands to be temporarily acquired as described in Part II of the Schedule). Not all of the works listed will take place at every property. These works include; excavation for foundations, new walls, railings, fences, alterations to entrances and driveways, utility connections and reinstatement works.
- l) The construction of an underground drainage attenuation area within Marlay Park and an underground attenuation tank at Lambs Cross.

4.3. The report prepared for the Part 8 process stated that the scheme would have the following benefits:

- Reduce the current traffic congestion
- Facilitate development of residentially zoned lands, which are shown on the 2016-2022 Development Plan, by the provision of footpaths, cycle tracks / lanes, improved sight distances and improved public lighting
- The reconstruction of a 350m length of Sandyford Road will complete the realignment of the road to Lambs Cross and provide cycle tracks / lanes and a wider footpath on the eastern side and a new footpath on the western side of the road together with improved public lighting. This realignment will also facilitate a bus priority measure which can be installed at a later date. The reconstruction of a 150m length of Enniskerry Road at Lambs Cross will provide cycle paths and wider footpaths and complete the bus priority measures to Lambs Cross junction.
- The proposed road improvement scheme will have a beneficial impact for the community in the Rathfarnham / Sandyford area as access on foot and bicycle will become safer and more accessible. No severance of communities will be created by the scheme. The provision of three new pedestrian / cyclist signalised (toucan) crossing facilities will improve accessibility. An improved pedestrian entrance to the access to Fitzsimons Wood off Blackglan Road will also be provided.

4.4. The development was subject to **AA screening** that determined that the proposed road improvement scheme would not have a significant effect on European Site and consequently that a Stage II Appropriate Assessment was not warranted. This screening is included in Volume II Appendix B of the Part 8 Environmental Report.

- 4.5. The scheme was also **screened for EIA**, concluding that the proposed road improvement scheme did not exceed any of the thresholds prescribed in the Roads Act or Roads Regulations that would trigger a mandatory requirement to conduct an EIA and prepare an EIS. Although an EIS was not required it was considered that a comprehensive Part 8 Environmental Report should be prepared, together with the Part 8 drawings. The Part 8 Planning Environmental Report describes the background to the scheme, traffic; the impact of the proposed development on human beings; ecology; noise and vibration; air quality; water soils and geology; landscape and visual impacts; material assets; cultural heritage and construction of the scheme. The report also recommended mitigation measures. In addition, drawings showing indicative landscaping proposal were prepared for the scheme. A detailed tree survey was carried out and included in the Arborist Report and a comprehensive Archaeological Report was prepared for both reports were included with the indicative landscaping proposals in Volume II of the Part 8 Environmental Report.
- 4.5.1. A Manager's Report was prepared in June 2016. Over 100 submissions / observations were made on the Part 8 application. Each of the submissions to the Council was addressed in detail with a Managers response and a Managers Recommendation. The report concluded with a recommendation that the road project proceed. At a meeting of 13th June 2016, the Council declared the resolution to proceed with the proposed development in accordance with the drawings which were on display and any such minor and immaterial alterations to the plans and particulars of the development, subject to the following amendments:
- 1) Provide a "keep clear" box outside the entrance of No 1 Harold's Grange Road
 - 2) Reduce the land take by approximately 1m at the eastern corner of the building in the bed manufacturing business yard, on Harold's Grange Road to avoid the building
 - 3) Provide a 1.75 high masonry wall, 35m / 40m long across the entrance to Kingston Estate leaving an appropriate gap for pedestrians and cyclists
 - 4) Reduce the width of the land take from the car park area by approximately 2m, in front of and beside the shops in Harold's Grange Road and provide two new access locations for the remaining car park area

- 5) Maintain 2-way traffic on the Pine Valley Park access road and provide a new footpath in front of the houses
- 6) Provide a pedestrian / cyclist signalled (toucan) crossing on Harold's Grange Road at the entrance to Pine Valley Park
- 7) Locate the new entrance to the property "Caragh", Blackglen Road to the western end of the road frontage
- 8) Adjust the width of the footpath alongside the gable wall to No 9 Blackglen Road to provide a 1.2m gap between the gable wall and the back of the boundary wall
- 9) Provide a "Keep Clear" box on Hillcrest Road in front of the proposed "Crossways"
- 10) Construct an appropriate boundary treatment to create a screen between "Crossways" and the Mail House property (future "Village Area")
- 11) Reduce the width of the east bound lane on Hillcrest Road to provide only one lane of traffic from Lambs Cross to the existing bridge
- 12) Provide a yellow box at the junction of Hillcrest Road / Hillcrest Downs
- 13) Exclude the use of Slate Cabin Lane as a one-way detour route as part of any Temporary Traffic Management Plan for the Scheme
- 14) Delete the road improvement at the junction of Slate Cabin Lane / Woodside Road as shown on the Part 8 drawings and in the P8ER
- 15) Delete the provision of temporary traffic lights at the junction of Slate Cabin Lane with Woodside Road and Enniskerry road
- 16) Reduce the land take for the improvement works at the junction of Slate Cain Lane / Enniskerry Road to an area required to facilitate the provision of a 15m length of new footpath, on both sides of Slate Cabin Lane at the school side entrance, noting that the lane carriageway will not be made wider than existing and it will be constructed with similar materials to the existing, and bollards will be installed on the footpaths

4.6. The scheme was formally adopted by the elected representatives of Dun Laoghaire Rathdown County Council on the 13th June 2016 subject to 16 amendments. The CPO drawings and particulars do not vary from the adopted Part 8 design.

5.0 Compulsory Purchase Order

5.1. On the 11th April 2018, the Chief Executive of Dún Laoghaire Rathdown County Council, signed an Executive order ordering that approval be given for the compulsory acquisition of lands for the Blackglen Road / Harold's Grange Road Improvement Scheme with respect to works on Blackglen Road from its junction at Lambs Cross (Enniskerry Road / Hillcrest Road / Sandyford Road) to its junction with Ticknock Road / Harold's Grange Road near the M50 overbridge. If confirmed the Order will authorise the Local Authority to:

- a) Acquire compulsorily the plots of land described in Part I of Schedule to the Order which plots of land are shown outlined in red and coloured in grey on Deposit Map Drawings No DP0001 and Deposit Map Drawing No DP0002 entitled "Dun Laoghaire Rathdown County Council Compulsory Purchase (Blackglen Road Improvement Scheme) Order, 2018".
- b) Acquire temporarily the plots of land described in Part II of the Schedule which plots of land are outlined in red and hatched in orange on Deposit Map Drawing No DP0001 and Deposit Map Drawing No DP0002 entitled "Dun Laoghaire Rathdown County Council Compulsory Purchase (Blackglen Road Improvement Scheme) Order, 2018".
- c) Acquire compulsorily the section of the private right of way described in Part II of the Schedule as shown between the lines AA-BB on the Deposit Map Drawing No DP0001 entitled "Dun Laoghaire Rathdown County Council Compulsory Purchase (Blackglen Road Improvement Scheme) Order, 2018".
The land to be acquired is shown as Plot No 11.3 on the said map.

5.2. The situation of the lands to be acquired (temporarily and permanently) are described in the Schedule to the Order (Plots 1 to 86 refers). All of the said lands described in the Schedule are situated in the townlands of Taylorsgrange, Kingstown, Balally and Woodside in the Administrative County of the Local Authority.

5.3. The 159 plots of land permanently affected by the CPO are listed in Part 1 of the Schedule of the CPO and are shown in Deposit Drawing Map No DP0001 and Deposit Drawing Map No DP0002 outlined in red and grey. The net area of land to be permanently acquired as described in Part I of the Schedule is 1.75ha (excluding road plots). The 97 plots temporarily affected by the CPO are listed in Part II of the

Schedule of the CPO and are shown on the said Deposit Drawing Maps outlined red and hatched in orange.

- 5.4. The seal of the Council was affixed to the Schedule on the 26th March 2018 and to the map on the 11th April 2018. The proposed CPO was advertised in the Irish Independent on 19th April 2018, advising that objections were to be submitted to the Board in writing on or before 30th May 2018. The advertisement in the Irish Independent included details of Parts I, Part II and Part III of the Schedule and a description of the Private Right of Way to be extinguished.

6.0 Planning Policy Context

6.1. National

6.1.1. National Planning Framework

- 6.1.2. The National Planning Framework encourages the consolidation of urban areas and the making of stronger urban areas. National Policy Objective 4 encourages the creation of attractive, liveable, well designed, high quality urban places. National Policy Objective 27 states:

“Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages.”

6.1.3. Smarter Travel-A Sustainable Transport Future 2009-2020

- 6.1.4. Smarter Travel sets out a transport policy for Ireland. Sustainable transport modes are strongly promoted and actions set out aimed at ensuring that alternatives to the car are more widely available including by investment in cycling and walking.

6.1.5. Greater Dublin Area Transport Strategy 2016-2035

- 6.1.6. This transport strategy provides a framework for the planning and delivery of transport infrastructure and services in the Greater Dublin Area (GDA). It also provides a transport planning policy around which other agencies involved in land use planning, environmental protection, and delivery of other infrastructure such as housing, water and power, can align their investment priorities.

6.1.7. **Design Manual for Urban Roads and Streets**

6.1.8. The Design Manual for Urban Roads and Streets (DMURS) sets out the manner in which roads and streets in urban and suburban areas should be designed in a manner which ameliorates the historic dominance of the private car and other motorised forms of transport. The Transport Strategy is required to put forward complementary policies and objectives, which will, at the regional level, facilitate the implementation of DMURS at the local and district level.

6.2. **Regional**

6.2.1. **The Regional Planning Guidelines for the East Region 2010-2022**

6.2.2. The Regional Planning Guidelines set out a comprehensive vision for the development of the Greater Dublin Area. They provide the following vision statement: “The GDA by 2022 is an economically vibrant, active and sustainable international Gateway Region, with strong connectivity across the GDA Region, nationally and worldwide; a region which fosters communities living in attractive, accessible places well supported by community infrastructure and enjoying high quality leisure facilities; and promotes and protects across the GDA green corridors, active agricultural lands and protected natural areas.” The Guidelines set out the regional policy parameters and key principles for the direction of economic growth in the GDA.

6.3. **Local**

6.3.1. **Dún Laoghaire Rathdown County Development Plan 2016-2022**

6.3.2. The operative development plan for the lands is the Dún Laoghaire Rathdown County Development Plan 2016 - 2022. Policies of relevance to the proposed development include:

6.3.3. The 6-Year and Long-Term Road Objectives proposed by the Council are listed in Table 2.2.5: Six-Year Road Objectives and Table 2.2.6: Long Term Road Objectives and displayed graphically on the related 14 no. Development Plan Maps and also on Map No. T3. Specifically Blackglan Road is listed in Table 2.2.5 as a “Six – Year Road Objective” and on Map 5.

6.3.4. **Section 2.2 Sustainable Travel and Transportation** recognises that the maintenance and delivery of integrated and coherent transport solutions, in line with Nation and Regional Policy, are required to facilitate the future economic, social and

physical development of the County. Set down in this chapter is the commitment to provide for components within its own remit; the provision of this road improvement scheme is one such example.

- 6.3.5. **Policy ST7 County Cycle Network** - It is Council policy to secure improvements to the County Cycle Network in accordance with the Dún Laoghaire-Rathdown Cycle Network Review whilst supporting the NTA on the development and implementation of the Cycle Network Plan for the Greater Dublin Area.
- 6.3.6. **Policy ST10 Street Lighting** - It is Council policy to provide and maintain street lighting on the public road/footway/cycleways throughout the County in accordance with commonly accepted best practice.
- 6.3.7. **Policy ST12 Quality Bus Network** - It is Council policy to co-operate with the NTA and other relevant agencies to facilitate the implementation of the Bus Network measures as set out in the NTA's 'Greater Dublin Area Draft Transport 2016-2035' and to extend the bus network to other areas where appropriate subject to design, public consultation, approval, finance and resources.

7.0 **Objections to the Order**

- 7.1. **Sinead Byrne & Alan Smyth**, (Plot 29) Caragh, Blackglen Road, Dublin 18
- Objection to the location of a new bus stop, directly opposite the proposed new entrance to their property
 - The new bus stop will seriously diminish privacy and may cause difficulties in access and egress to their proposed new entrance
 - Requested that the Bus Stop is moved in an easterly direction so that it is not opposite the proposed new entrance
- 7.2. **Corr Chartered Surveyors Ltd** on behalf of (1) **Leslie & Declan Doyle** (Plot 52), (2) **Mary Roe** (Plot 20), (3) **Margaret Galligan Deceased** (Christopher Galligan) (Plot 82), (4) **Kieran Galligan** (Plot 83) and (5) **Joseph Galligan** (Plot 84).
- **Surplus Land Acquisition** – The landowners object to the acquisition of lands which appear to be surplus for the construction of the new road.
 - **Drainage** – Inadequate drainage details have been provided along the proposed new roadway and there are concerns about adverse drainage

problems to the retained lands during and after the construction of the new road.

- **Noise** – Inadequate detailed information has been provided regarding the mitigation measures that are being proposed to control noise pollution
- **Access General** – The landowners object to the lack of precise detail on access to the retained property
- **Boundary Treatment** – Inadequate detail has been provided regarding the type of boundary to be provided along the new CPO line
- **Environmental & Planning** – The landowners have concerns in relation to planning and environmental matters

8.0 Oral Hearing

8.1. An oral hearing was held in the office of An Bord Pleanála on 4th December 2018. The hearing commenced at 10.00am and an audio recording of the proceedings was made. With respect to the format of the hearing, the Local Authority was asked to state their case first. The objectors and their representatives were then asked to put their questions to DLRCC. This was followed by submissions from the objectors and in turn DLRCC was invited to question the Objectors. I asked questions for clarification and information gathering purposes during and after the submissions. The hearing concluded with closing statements from the Objectors, the Local Authority and myself.

8.2. The following parties made submissions to the oral hearing:

a) On behalf of Dún Laoghaire-Rathdown County Council

- Carol O'Farrell, Barrister
- Michael Mangan Senior Engineer
- Michael Noonan RPS
- Shane Sheehy Senior Executive Planner
- Tim Furlong

b) Objectors

- **Alan Smyth** (Plot 29)
- **Tom Corr**, Corr Chartered Surveyors Ltd on behalf of (1) Leslie & Declan Doyle (Plot 52), (2) Mary Roe (Plot 20), (3) Margaret Galligan Deceased (Christopher

Galligan) (Plot 82), (4) Kieran Galligan (Plot 83) and (5) Joseph Galligan (Plot 84)

- Kieran Adams (Plot 70) who was represented by Corr Chartered Surveyors Ltd was also present at the hearing and made an oral submission. Mr Adams objection was later withdrawn by Tom Corr and prior to the close of the hearing

c) Others

- Kevin Cullen (Plot 35) who was not a formal objector to the scheme sought to make a submission to the hearing. He stated that he was seeking clarity on points of detail in relation to his property and those of his neighbour.

8.3. The main points arising during the course of the oral hearing are summarised below.

8.4. Dún Laoghaire-Rathdown County Council

8.4.1. **Mr Michael Mangan Senior Engineer** Capital Projects Office Infrastructure and Climate Change Department. Mr Mangan read through his evidence as submitted to the hearing. The brief comprised an introduction, a description of the scheme, need for the scheme, alternative proposals and a conclusion.

8.4.2. **Mr Shane Sheehy Senior Executive Planner.** Mr Sheehy read through his evidence submitted to the hearing. The brief provided the planning rationale for the proposed road including the Dún Laoghaire Rathdown 2016-2022 County Development Plan and the Greater Dublin Area Transport Strategy 2016 – 2035.

8.4.3. **Mr Michael Noonan Transportation Senior Director at RPS** Consultant Project Manager. . Mr Noonan read through his evidence submitted to the hearing. The brief provided a description of the scheme, construction works including drainage, local access, noise and vibration. Mr Noonan also indicated confirmed that the proposed Slate Cabin Lane detour route from Lamb Doyle's Pub to Lambs Cross had been dropped as a result of the various objections to same.

8.5. DLRCC concluded their submission.

8.6. **Objector** – Mr Tom Corr had no questions for DLRCC

8.7. **Objector** – Alan Smyth sought clarity on the meaning of “vertical” and “horizontal” alignment of the road. DLRCC Mr Michael Mangan provided an explanation of same.

8.8. **Objector** – Kieran Adams queried whether the noise and vibration units in the table provided by DLRCC was actual or proposed. DKRCC Mr Michael Noonan (RPS)

stated that the units are those set for the construction phase and are not to be exceeded, that noise measures would be taken at sensitive sites and that there would be ongoing monitoring of noise levels. Reference was made to Section 8 of the Environment Report.

- 8.9. **Inspector** – Sought clarity on the length of road to be upgraded and the alternatives considered. DLRCC Mr Michael Mangan provided clarity on the length and advised that DLRCC did look at alternative realignments but that the topography of the area does not lend itself to a new realignment. Further stated that if a new road was provided off-line the existing road would still require improvements and facilities. Stated that there was no other viable solution at a realistic cost.
- 8.10. Questioning of DLRCC concluded.
- 8.11. **Objectors**
- 8.12. **Objector Submission** - Neither Tom Corr or Kieran Adams made any formal submission to the hearing. Mr Alan Smyth reiterated his formal objection to the hearing i.e. he wanted the bus stop opposite his entrance to be moved and wanted to see same on a map.
- 8.13. **DLRCC** – Mr Tim Furlong referred to the letter issued by DLRCC to Alan Smyth on 26th July 2018 committing to moving the bus stop 15 metres eastwards towards Lambs Cross (submission No 4 to the Oral Hearing refers) and that it will be shown on maps at the detailed design stage.
- 8.14. **Kevin Cullen** (Plot 35) who was not a formal objector to the scheme stated that he had spoken to DLRCC during the break and that his concerns and those of his neighbour in relation to clarity on aspects of the scheme had been addressed by DLRCC and he had no further objection. Mr Cullen continued that Blackglen Road was extremely dangerous, that previous plans for its upgrade in 2006 had not materialised and implored the Board to adhere to the stated time frame for making a decision.
- 8.15. **Closing Statements**
- 8.15.1. **Tom Corr** - In his closing remarks stated that his client Kieran Adams (Plot 70) had withdrawn his objection. He concurred with the views of Kevin Cullen and his neighbour. The other 5 objectors support the scheme and they only have problems in relation to their own property.

- 8.15.2. **Alan Smyth** – Supportive of the scheme and welcomes the proposed footpath. Stated that the location of bus stop was his only concern.
- 8.15.3. **DLRCC Carol O’Farrell** – The justification of the scheme has been explained by DLRCC and the case is clear, rational and compelling. The Blackglen Road, which is part of the orbital route around Dublin City, is substandard and has been so for a long period of time. It is an objective of the Development Plan and the National transport Authority Dublin Area Transport Strategy to upgrade this road. The proposed development is consistent with the proper planning and sustainable development of the area. There are no legal, physical, planning or financial impediments to its implementation. The scheme will provide a safe road for cyclists, pedestrians and improved junctions for cars. There are no viable alternatives. The objections are few and are mainly supportive.

9.0 **Assessment**

- 9.1. The statutory powers of the Local Authority to acquire land are contained in section in S11(7)¹ of the Local Government Act 2001 and sections 212 and 213 of the Planning and Development Act 2000, as amended. Under s212 of the Planning and Development Act 2000 a Local Authority may, in order to carry out its functions powers and duties, carry out forms of development and in so doing a Local Authority is entitled to use CPO powers. S212(1) of the Act confirms the general power of a Planning Authority to develop, secure or facilitate the development of land and may do one or more of the following (a) secure, facilitate and control the improvement of the frontage of any public road by widening, opening, enlarging or otherwise improving; (b) develop any land in the vicinity of any road or public transport facility which it is proposed to improve or construct; (c) provide areas with roads, infrastructure facilitating public transport and such services and works as may be needed for development.
- 9.2. Section 212(2) of the Planning and Development Acts states that a Planning Authority may provide or arrange for the provision of (c) transport facilities, including public and

¹ Local Government Act 2001 (7) A Local Authority to which subsection (3) or (4) relates shall (a) continue to be a body corporate with perpetual succession and power to sue and be sued in its corporate name and to acquire, hold, manage, maintain and dispose of land or any interest in land,

air transport facilities, and (d) any services which it considers ancillary to anything which is referred to in paragraph (a), (b) or (c).

9.3. Under S213(1)(i) of the act, in terms of land acquisition, the power conferred on a Local Authority to acquire land shall be construed to acquire land, permanently or temporarily, by agreement or compulsorily. Section 213(2)(a)² of the act states that a Local Authority may, for the purposes of performing any of its functions including giving effect to or facilitating the implementation of its development plan, acquire land, permanently or temporarily, by agreement or compulsorily.

9.4. For the Board to confirm the subject CPO proposal, it must be satisfied that DLRCC has demonstrated that this CPO "is clearly justified by the common good". It is generally accepted that there are four test criteria³ that should be applied where it is proposed to use powers of compulsory purchase to acquire land or property. These are that:

- 1) There is a community need, which is met by the acquisition of the property in question.
- 2) The particular property is suitable to meet the community need.
- 3) The works to be carried out should accord with or at least not be in material contravention of the provisions of the statutory development plan
- 4) Any alternative method of meeting the community need have been considered but are not available.

9.5. These criteria will be applied to the compulsory acquisition of land currently before the Board for confirmation prior to addressing the issues raised by the objector. Each of the above cited criterion is reworked into a question and used as a heading in my assessment of the subject CPO proposal, which is set out below. Following a discussion of each of these questions, I will consider, under a fifth heading, the remaining issues raised in the objection.

² 213(2) (a) A Local Authority may, for the purposes of performing any of its functions (whether conferred by or under this Act, or any other enactment passed before or after the passing of this Act), including giving effect to or facilitating the implementation of its development plan or its housing strategy under section 94, do all or any of the following: (i) acquire land, permanently or temporarily, by agreement or compulsorily, (ii) acquire, permanently or temporarily, by agreement or compulsorily, any easement, way-leave, water-right or other right over or in respect of any land or water or any substratum of land, (iii) restrict or otherwise interfere with, permanently or temporarily, by agreement or compulsorily, any easement, way-leave, water-right or other right over or in respect of any land or water or any substratum of land, and the performance of all or any of the functions referred to in subparagraphs (i), (ii) and (iii) are referred to in this Act as an "acquisition of land".

³ McDermott & Woulfe, Compulsory Purchase and Compensation: Law and Practice in Ireland (Butterworths, 1992)

9.6. Is there a community need that is to be met by the acquisition of the site in question?

- 9.6.1. DLRCC has set out the community need for the project, which is the subject of this CPO. It was not contested by the objectors that there is a need for the Blackglen Road Improvement Scheme. All objectors present at the hearing supported the project and the urgency of the upgrade.
- 9.6.2. The proposed improvements are to be carried out along the existing road proposed to be online and to achieve the new pedestrian and cyclist facilities the existing road must be widened. This necessitates compulsory purchase of additional lands. The proposed horizontal design geometrics will improve sight distances for road users, property owners, and for pedestrians and cyclists. The vertical alignment does not differ to any great extent from the existing road profile.
- 9.6.3. The junction of Harold's Grange road / College Road / Grange Road / Kellystown Road is included in the scheme. This will be improved by the provision of a right turn lane on a short section of the Grange Road, allowing for a reconfiguration of the traffic signals to provide a more efficient junction which will help to reduce the queuing on Grange Road, Harold's Grange road and College Road at peak times.
- 9.6.4. The scheme is designed having regard to the Transport Infrastructure Ireland Road Design Standards and the design Manual for Urban Roads and Streets and the national Cycle Manual. The proposed speed limit is 50kph and so the minimum design standards adopted are for a Design Speed of 60kph in accordance with best practice.
- 9.6.5. The Blackglen Road is part of the orbital route around Dublin and is substandard in both width and alignment and has no footpaths or cycle tracks. It is documented that there have been road traffic accidents on this road. Further, the lands adjoining the road are primarily lands with the zoning objective "A" "to protect and / or improve residential amenity". However the current condition of the road materially limits the deliverability of new residential development, principally due to the lack of a safe environment for pedestrians and cyclists. The purpose of the CPO is to facilitate the realignment and improvement of this road. The benefits of the proposed scheme are as follows:
- A safer transportation route for motorists, cyclists and pedestrians, as well as a reduction in the number of accidents

- An improvement in the layout of junctions and direct accesses with associated improved visibility / sightlines to greatly improve road safety
- The provision of cycle tracks and footpaths will improve the environment and safety for non-motorised users and promote sustainable modes of transportation
- The improved drainage of the road will alleviate localised ponding / flooding issues
- Improvement for the local community living along the route, including a new public sewer and watermain along Blackthorn Road

9.6.6. Arising from the above, I am satisfied that the stated purpose of the subject CPO – i.e. the Blackglen Road Improvement Scheme will serve an identified community need and that the potential positive impacts (direct and indirect) outweigh the interference with the Objectors property rights. Given the deficiencies of the existing substandard road, it is in the interest of public safety and improvement of traffic safety that the upgrade of the Blackglen Road proceeds and links in with the existing road network in the vicinity.

9.6.7. It is therefore considered that the case for the community need for the proposed road has been established and can be justified by the exigencies of the common good and the overall community benefit would be positive. It will significantly enhance pedestrian and cycling infrastructure in the area and improve road safety conditions. The proposed road is considered fit for purpose, minimises the impact on the environment, land and property owners and is in accordance with regional and local policy. The acquisitions proposed under the CPO to enable this project to be implemented would, thus, in principle be fully justified.

9.7. **Is the particular site suitable to meet that community need?**

9.7.1. The main design parameter for the overall scheme is to provide a continuous footpath on both sides of the improved road and to provide a cycle track on all uphill sections of the road improvements scheme, and on approximately 90% of the downhill sections. The typical overall width of the proposed improvement to Blackglen Road is 14m (back of footpath on the north side to back of footpath on the south side). This will provide a 6.5 metre carriageway (two x 3.25m lanes) and a 1.75m/2m wide footpath and a

1.75m/2m wide cycle track on each side of the road. The overall road width reduces to 11.5m approximately 100m east of the T-junction with Ticknock Road where it ties into the bridge over the M50 which was constructed circa 2000 as part of the M50 Motorway project. Along this section a cycle track can only be provided on the uphill (north side) of the road. These measures will improve the safety for vulnerable road users. The lane widths on the realigned roads will be kept narrow to encourage slower vehicle speeds along these roads.

9.7.2. Additional safety measures will be put in place with a new set of Toucan (pedestrian and cyclist) signals on Blackglen Road adjacent to the junction with Blackglen Road / Ticknock Drive. In addition, new public lighting, new road signage, new road markings, improved sight distance at property entrances and exists and improved stopping sight distances will be provided.

9.7.3. I am satisfied that the CPO lands are suitable for their intended use to facilitate the road improvement works. I am also satisfied that the extent of land take is justified and has been kept to the minimum to facilitate the works and minimise impacts on the site.

9.8. **Would the works to be carried out accord with or at least not be in material contravention of the provisions of the statutory development plan?**

9.8.1. Policy ST25 states that it is Council policy, in conjunction and co-operation with other transport bodies and authorities such as the TII and the NTA, to secure improvements to the County road network – including improved pedestrian and cycle facilities. The policy also states that the specific principles that will underpin decisions made in relation to the development of road schemes within Dún Laoghaire-Rathdown will aim to be consistent with the objectives contained within the NTA's 'Greater Dublin Area Draft Transport Strategy 2016-2035'. The 6-Year and Long-Term Road Objectives proposed by the Council are listed in Table 2.2.5: Six-Year Road Objectives and Table 2.2.6: Long Term Road Objectives and displayed graphically on the related 14 no. Development Plan Maps and also on Map No. T3.

9.8.2. The improvement of Blackglen Road is included as a Six Year Road Objective in the County Development Plan 2016 – 2022 (Table 2.2.5 and Map 5 refers). DLRCC states at the Oral Hearing that financial provision has been made in the Capital Programme

2018 – 2020. Further the overall Blackglen Road / Harold's Grange Road Improvement Scheme(s) is included in the Councils list of Road Scheme under the Development Levy Contribution Scheme 2016 – 2020.

9.8.3. DLRCC in their submission to the oral hearing stated that the Blackglen Road / Harold's Grange Road Improvement Part 8 Scheme is consistent with the objectives contained within the NTAs Grater Dublin Area Transport Strategy 2016 – 2035 for the following reasons:

- The provision of new and improved cycling and pedestrian facilities
- The provision of improved bus facilities at Lambs Cross junction and along Blackglen Road and the completion of the short section of bus priority measure on both Enniskerry and Sandyford Road, together with improved bus stops (wheelchair accessible with improved information displays). Safer road scheme with benefits for cyclists, pedestrians and road users by means of improved accesses and exits from properties (sight distances)
- A road design to encourage slower speeds, with 3.25m wide traffic lanes and two new toucan (pedestrian and cyclist) signal control crossings and improved pedestrian facilities at existing traffic signalled junctions
- The provision of new public lighting, road signage and road markings, improving safety for all road users

9.8.4. During the course of the Oral Hearing, DLRCC confirmed that their view that the proposed development was wholly in accordance with the County Development Plan and the proper planning and sustainable development of the area.

9.8.5. The proposed road project is in accordance with the policies and objectives of the Dún Laoghaire Rathdown County Council Development plan 2016-2022. I am satisfied therefore that the proposed development is in compliance with the policies and objectives of the Development Plan. I do not consider that the works would be a material contravention of the provisions of the statutory development plan.

9.9. Alternatives - Have any alternative methods of meeting the community needs been considered and are they demonstrably preferable (taking into account environmental effects, where appropriate)?

- 9.9.1. In assessing applications for compulsory purchase the Board should satisfy itself that the site is suitable to accommodate / facilitate the proposed development for which the compulsory acquisition of lands and wayleaves etc. is being sought and that the applicant has explored and examined feasible alternatives that may be better suited to accommodate the development.
- 9.9.2. DLRCC in their submission to the oral hearing stated that they did look at alternative realignments but that the topography of the area does not lend itself to a new realignment. Further an alternative alignment would give rise to excessive costs. Submitted that the only viable solution is to upgrade the existing road alignment with the aim of improving road safety, sight distances and visibility, access layouts and providing footpaths and cycle lanes. Also stated that if a new road was provided off-line the existing road would still require improvements and facilities. DLRCC confirmed their view that there is no realistic or practical alternative to the CPO for meeting the community need for improvements to Blackglen Road at a realistic cost
- 9.9.3. I am satisfied that the Council has considered all reasonable alternatives to the proposed road. The current road proposal, the subject of the CPO, is considered to be the most reasonable option in terms of minimising the wider environmental impact of the scheme and in providing an appropriate design response to the identified need to upgrade the Blackglen Road. Therefore, the subject lands are considered suitable and necessary for the construction and operation of the scheme. In conclusion, I consider that the alternative methods of meeting the community need have been considered are not demonstrably preferable.

10.0 Remaining Issues Raised in the Objection

- 10.1. A number of these remaining issues relate to the design of the scheme approved under the Part 8 process. They are addressed here for the Boards information as issued raised at the oral hearing.

- 10.2. **Bus Stop** - Sinead Byrne & Alan Smyth, (Plot 29) Caragh, Blackglen Road, Dublin 18 objected to the location of a new bus stop, directly opposite the proposed new entrance to their property. Requested that the Bus Stop is moved in an easterly direction. DLRCC submitted that a letter dated 23rd July 2018 had issued from their Capital Projects Office to the objector stating that DLRCC have committed to moving the bus stop location 15 metres in an easterly direction (towards Lambs Cross). A copy of the letter was submitted to the Hearing (Submission No 4 refers). The objector acknowledged receipt of this letter and was satisfied with the proposed relocation of the Bus Stop. I am satisfied that this matter has been addressed by DLRCC. No modification to the CPO is required to facilitate this development.
- 10.3. **Drainage** - The objectors raised concerns that there were inadequate drainage details provided along the proposed new roadway.
- 10.4. DLRCC submitted to the hearing that a new foul sewer is to be laid to replace the irregular foul sewer system and that will extend to the full length of Blackglen Road. It was also submitted that Irish Water have given a commitment to fund the cost of the new public sewer and a new watermain along the full length of Blackglen Road. This watermain is part of the Sandyford High Level Water Supply Scheme.
- 10.5. The project also includes for the design of sustainable drainage systems together with on-line storage methods to further control drainage run-off. The existing drainage system at Kellystown Road / College Road discharges to Marley Park. Accounting for the proposed increase in surface area to be drained in the locality, it is proposed that a modular attenuation system can be accommodated where necessary into the lands to be acquired. I am satisfied that drainage in the area will not be adversely affected but will be significantly improved.
- 10.6. **Noise** - The objector raised concern that inadequate detailed information had been provided regarding noise mitigation measures. I refer to the submission by DLRCC to the oral hearing and to Section 8 of the Part 8 Environmental Report that deals with noise and vibration. I am satisfied that noise impact can be mitigated through appropriate measures as proposed.
- 10.7. **Access General** - The objector raises concerns that there is a lack of precise detail on access to the retained properties. I refer to the submission by DLRCC to the hearing. Insofar as possible it is proposed that the Blackglen Road and other roads

affected by the scheme will remain open to traffic during the construction phase. This is to be achieved by putting in place temporary traffic management measures which will allow traffic to flow whilst constructing the works. Local access to properties will be maintained at all times during the operation of temporary traffic management systems. I am satisfied that access to properties will not be significantly or adversely affected and can be mitigated through appropriate traffic management measures as proposed.

11.0 Conclusion

11.1. I am satisfied that the process and procedures undertaken by the Local Authority have been fair and reasonable and that Dún Laoghaire Rathdown County Council have demonstrated the need for the lands and that all the lands being acquired are both necessary and suitable. I consider that the proposed acquisition of these lands would be in the public interest and the common good and would be consistent with the policies and objectives of the Dún Laoghaire Rathdown County Council Development Plan 2016-2022.

12.0 Recommendation

12.1. I recommend that the Board **CONFIRM** the above Compulsory Purchase Order without modifications, based on the reasons and considerations set out below.

13.0 Reasons and Considerations

13.1. Having considered the objection(s) made to the compulsory purchase order, the report of the person who conducted the oral hearing into the objections, the purpose for which the lands are to be acquired as set out in the compulsory purchase order and also having regard to the following;

- a) The purpose of the compulsory acquisition for road improvements including provision of new footpaths, pedestrian crossings, public lighting, surface water drainage, bus stops, signage and carriageway resurfacing and improved road markings widening and junction improvement.

- b) The policies and objectives of the Dún Laoghaire Rathdown County Development Plan 2016-2022
- c) The present substandard nature of the existing road in relation to pedestrian and cyclist facilities and the resultant improvement arising from the proposed road improvement and in the interest of pedestrian and cyclist safety.
- d) The community need, public interest served and overall benefits to be achieved from the proposed road development works
- e) The design of the proposed road, constituting a design response that is proportionate to the identified need
- f) The submissions and observations made at the Oral Hearing held on 4th December 2017 in the offices of An Bord Pleanála
- g) The report and recommendation of the Inspector.

13.2. It is considered that, the permanent and temporary acquisition by the Local Authority of the land in question and the extinguishment of a private right of way, as set out in the order, schedules and on the deposited map, are necessary for the purposes stated and the objections cannot be sustained having regard to the said necessity.

Mary Crowley

Senior Planning Inspector

19th December 2018