



An
Bord
Pleanála

Inspector's Report ABP-301560-18

Nature of Application	Application for confirmation of Compulsory Purchase (N55 Corduff to south of Killydoon, Section B) Order 2018
Location	Townlands of Ballytrust, Ballytrust Lower, Legwee, Drumcor, Killydoon, Drumbarrow, Grousehall and Mullaghoran, Co. Cavan.
Local Authority	Cavan County Council
Objectors	<ol style="list-style-type: none">1. Noel Brady2. Noel and Bridget Brady3. Ciaran and Caroline Brady4. Oliver O'Reilly5. Luke O'Reilly
Date of site inspection	28 th November 2018
Date of Oral Hearing	4 th December 2018
Inspector	Niall Haverty

1.0 Introduction

1.1. Compulsory Purchase Order

- 1.1.1. This is an application by Cavan County Council for confirmation by the Board of a Compulsory Purchase Order, entitled 'Cavan County Council Compulsory Purchase (N55 Corduff to South of Killydoon – Section B) Order, 2018'.
- 1.1.2. The Compulsory Purchase Order relates to the compulsory acquisition of lands in the townlands of Ballytrust, Ballytrust Lower, Legwee, Drumcor, Killydoon, Drumbarrow, Grousehall and Mullaghoran in County Cavan and it is made pursuant to the powers conferred on the local authority by section 76 and the third schedule of the Housing Act 1966, as extended by section 10 of the Local Government (No. 2) Act 1960, and amended by Section 213 of the Planning and Development Acts 2000 to 2017.
- 1.1.3. The stated purpose of the CPO is to facilitate the realignment of a portion of the N55 National Secondary Road and associated development, including three new bridges over the River Erne. The development is outlined in more detail in Section 2.0 below.
- 1.1.4. Eleven objections to the CPO were received (two objections, one personal and one submitted by an agent, relate to the same lands owned by Mr Oliver O'Reilly). An Oral Hearing to consider these objections was held on 4th December 2018 in the Cavan Crystal Hotel, Co. Cavan. Prior to the conclusion of the Oral Hearing 5 No. objections were withdrawn, and this report therefore considers the remaining 6 No. objections.

1.2. Concurrent Section 177AE Application (ABP Ref. 02.JP0047)

- 1.2.1. The Board will be aware that Cavan County Council has also sought approval pursuant to section 177AE of the Planning and Development Act 2000, as amended, for the road realignment (ABP case 02.JP0047 refers). Section 177AE requires that where an appropriate assessment is required in respect of development by a local authority the authority shall prepare an NIS and the development shall not be carried out unless the Board has approved the development with or without modifications. Furthermore, Section 177V of the Planning and Development act 2000 (as amended) requires that the appropriate assessment shall include a determination by the Board as to whether or not the proposed development would affect the integrity of a

European site and the appropriate assessment shall be carried out by the Board before consent is given for the proposed development.

2.0 Overview of CPO

2.1. Purpose of CPO

- 2.1.1. The purpose of the CPO is to facilitate the proposed development referred to as Section B of the N55 Corduff to South of Killydoon Realignment Scheme. It would entail the construction of 3.75km of new single carriageway road from a location at Ballytrust, 600m north of the junction of the N55 and local road L-6591 (at the tie-in with Section A of the Scheme) to a location at Mullaghoran, 820m north of the junction of the N55 and local road L-6560.
- 2.1.2. In addition to the new road, a number of relatively short linking side roads are proposed as follows:
- SR 1S: A new section of link road connecting the existing N55 to the new N55 in the townland of Ballytrust, with a section of the existing N55 retained to service properties and local road L-6591.
 - SR 2N: A new section of link road connecting the existing N55 to the new N55 in the townlands of Killydoon and Dumcor, with a section of the existing N55 again retained to service properties and local roads L-25151 and L-25152. A ghost island staggered junction is proposed at the junction of the N55 and local road L-2515.
 - SR 3S and SR 4S: Two new sections of link road to the north and south, respectively, of the village of Killydoon to connect it to the new N55.
- 2.1.3. The proposed development, as described above, would comprise the following elements:
- The provision of c. 3,750 metres of new single carriageway road. The road would consist of a two lane 7m wide single carriageway road with 0.5m wide hardstrip and 3m wide minimum grass verges on both sides.
 - Three new single span bridge structures over the River Erne, with a length of up to 23.5m.

- Cut and fill earthworks operations.
- The provision of turning heads where the existing N55 is severed to form a cul-de-sac.
- The provision of local accesses to existing properties.
- Installation of road drainage, including storm attenuation ponds, culverts, petrol interceptors and outfalls as required.
- Provision of street lighting, road signage and markings and the provision for service providers.
- Other accommodation works and ancillary works, such as retaining walls, fencing and gates.

2.1.4. The intended posted speed limit and design speed of the realigned road is 100km/h.

2.2. **Accompanying Documents**

2.2.1. The application was accompanied by the following:

- Chief Executive's Order authorising the making of the CPO, dated 25th April 2018.
- Compulsory Purchase Order and Schedules thereto.
- Drawings.
- Engineer's CPO Report, dated March 2018.
- Natura Impact Statement, dated April 2017.
- Environmental Impact Assessment Screening Report, dated March 2014.
- Environmental Impact Report, dated February 2015.
- Newspaper notice, published in the Anglo Celt on 3rd May 2018.
- Copies of notices served on reputed owners, occupiers and lessees and certificate confirming that all notices were served.
- Letter from Mr Joe McLoughlin (Director of Services) to Mr Tommy Ryan (CEO), dated 24th April 2018, confirming that the lands are suitable and

necessary for the scheme, that it is appropriate to acquire the lands by CPO and that the preparation of a CPO is recommended.

- 2.2.2. I note that the Environmental Impact Report submitted with the application relates to all four phases of Cavan County Council's N55 Corduff to South Killydoon route improvement project (i.e. Sections A and B). This application relates to phases 3 and 4 of the project (i.e. Section B). The NIS submitted with the application relates to phases 3 and 4 of the project (i.e. Section B), and notes that phases 1 and 2 (i.e. Section A) were previously screened out from the requirement for Appropriate Assessment. However, it states that Section A is considered when assessing the cumulative and in-combination impacts. I note from my site inspection and the Oral Hearing that construction of Section A of the project is nearing completion.

2.3. Format of CPO and Schedule

- 2.3.1. The CPO states that the land described in Part I.a of the Schedule is to be permanently acquired land other than land consisting of a house or houses unfit for human habitation and not capable of being rendered fit for human habitation at reasonable expense. It also states that the lands described in Part I.b of the Schedule is to be temporarily acquired land other than land consisting of a house or houses unfit for human habitation and not capable of being rendered fit for human habitation at reasonable expense. The public rights of way described in Part II of the Schedule are to be extinguished where they are over or adjacent to land to be acquired.
- 2.3.2. Part I.a and I.b of the Schedule assign an identification number to each parcel of land that is to be acquired and describes the quantity, type, townland, owner or reputed owner, lessee or reputed lessee and occupier of each land parcel, as relevant.

3.0 Site Location and Description

- 3.1. The N55 is a National Secondary Road linking the towns of Cavan and Athlone, via Granard, Edgeworthstown and Ballymahon.
- 3.2. The proposed development is located in the townlands of Ballytrust, Ballytrust Lower, Legwee, Drumcor, Killydoon, Drumbannow, Grousehall and Mullagheran in south west County Cavan.

- 3.3. The area within which the proposed development is located generally comprises agricultural lands, with scattered one-off residential development along the current alignment of the N55 National Secondary Road. The River Erne follows a meandering route through the area, and the small village of Killydoon is located at the southern end of the proposed development.
- 3.4. As noted above, construction works associated with Section A of the N55 Corduff to South of Killydoon Realignment Scheme are nearing completion to the north of the proposed realignment works.

4.0 **Planning History**

- 4.1. **ABP Ref. 02.JP0047:** Concurrent application by Cavan County Council under section 177AE of the Planning and Development Act 2000, as amended, for the N55 Corduff to South of Killydoon – Section B road realignment.
- 4.2. I am not aware of any recent relevant planning history in the area.

5.0 **Planning Policy Context**

5.1. **Regional Planning Guidelines for the Border Region 2010-2022**

- 5.1.1. Section 5.2.2 of the RPGs relates to roads, and states that

“Seven key towns within the Border Region have been defined as having a key role in the development of the Region, as outlined in the Settlement Strategy in Chapter 3. It is important that the existing routes between these key urban settlements are developed so that each can realize their potential.”

- 5.1.2. A series of strategic links are identified in Section 5.2.2.2 of the RPGs, including the ‘Midlands Corridor’, which is described as follows:

- **Midlands Corridor (A3/N54/N55):** Links the City of Armagh to the Hubs of Monaghan and Cavan, which continues onto the linked Gateway of Athlone/Tullamore/Mullingar. This link is also a critical north/south route for freight transport both intra and inter-regional.

- 5.1.3. The following Roads Policies are of relevance:

- **INFP2:** Facilitate the development, of those sections of the Strategic Radial Corridors and Strategic Links identified above, as being of priority importance for the Region, subject to relevant environmental assessments;
- **INFP4:** Protect the carrying capacity of all Strategic Radial Corridors and Strategic Links including all National Primary and relevant National Secondary routes, through the restriction of new accesses and intensification of existing accesses.

5.2. **Spatial Planning and National Roads: Guidelines for Planning Authorities, 2012**

- 5.2.1. It is noted in these Guidelines that better national roads improve access to the regions, enhancing their attractiveness for inward investment and new employment opportunities. It is also considered important that the efficiency, capacity and safety of the national road network is maintained.

5.3. **Cavan County Development Plan 2014-2020**

- 5.3.1. Section 4.1.4 relates to road infrastructure and states that the Council will strive to provide, maintain and enhance the road infrastructure to ensure the sustainable and economic development of the County. A strong transportation network plays a key economic function in providing access to ports, airports and markets plays a vital role in the social life of both urban and rural dwellers. County Cavan relies on its road network as essentially the sole method of transport serving the county.
- 5.3.2. A number of road infrastructure Objectives are set out, including the following:
- **PIO1:** To improve all Council roads to an appropriate standard subject to the availability of resources.
 - **PIO2:** To improve road safety for all road users and reduce fatalities and accidents on Cavan Roads.
 - **PIO3:** To enable people, goods and services to reach their destination safely, efficiently and quickly and to improve access to services in rural parts of Cavan.

- **PIO4:** To improve the capacity of the road infrastructure within County Cavan in accordance with national and regional policy.
- **PIO11:** To have regard to the ‘Cavan County Local Biodiversity Action Plan,’ 2009-2014 in the provision of any new Council roads.
- **PIO14:** To implement the Roads Programme for the County in association with the NRA. Various road schemes will be subject to EIA and AA, where necessary.

5.3.3. Section 4.1.5 relates to National Roads and states that the National Road Network has an important role to play in the economic development of the County. The investment in ‘Transport 21’ and the NDP, 2007-2013 for road infrastructure ensures that Ireland stays competitive by reducing journey times and transport costs. It provides better access to all regions of the Country, facilitating a more even spread of economic benefits.

5.3.4. The subject proposal is included as a national secondary roads development proposal in Table 4.6 of the Development Plan and this is supported by the following Objective:

- **PIO15:** To progress the N55 National Secondary Route, Corduff to South of Killydoon Realignment Scheme to completion, subject to NRA funding.

6.0 **Objections**

6.1. A total of 11 No. objections to the CPO were received (two objections were received from Mr Oliver O’Reilly, a personal objection and one submitted on his behalf by Nagle Agricultural Consultants). 5 No. objections were withdrawn prior to the conclusion of the Oral Hearing, and the remaining 6 No. objections can be summarised as follows.

6.2. Nagle Agricultural Consultants submitted objections on behalf of Noel Brady (CPO Ref. 04), Noel and Bridget Brady (CPO Ref. 65), Ciaran and Caroline Brady (CPO Ref. 08), Oliver O’Reilly (CPO Ref. 07), Luke O’Reilly (CPO Ref. 16). The following issues were common to all five objections submitted by Nagle Agricultural Consultants:

- Inadequate schedule of accommodation works provided.

- Impact of proposed land acquisition on retained lands.
- Drainage of retained lands.
- Effects of proposed road scheme on his farming business.

6.3. The following issues specific to particular objectors were also raised:

- Noel Brady: Areas of land being acquired that are not required for road construction.
- Noel and Bridget Brady: Effect of proposed road scheme on dwelling house.
- Oliver O'Reilly: Areas of land being acquired that are not required for road construction.
- Luke O'Reilly: Underpass required.

6.4. Oliver O'Reilly (CPO Ref. 07):

- Rear entrance to property is not noted on the proposed route and no provision made for same. Separate entrances are required for his dwelling and farmyard.
- Impact of land acquisition on farm viability.
- Impact on land severance.
- Farm is currently dissected by a road with a 60km/hr speed limit. Concern that crossing the road with farm machinery will be difficult and dangerous when traffic is travelling at 100km/hr. Neighbouring landowner was granted an underpass, but there is no provision for a similar underpass on the observer's lands.
- According to the map which was stated to be the final road plan, there was to be one entrance into the village of Killydoon at the southern end. The intention is now to leave both ends open and observer is concerned that this will result in excessive speeds outside his property. If scheme is proceeded with, there should be speed bumps immediately upon turning off the main road to slow traffic down.
- Disappointment at lack of direct consultation with the landowners.

- Future implications for possible planning permission for homes for observer's children.

7.0 Oral Hearing

7.1. Introduction

- 7.1.1. An Oral Hearing was held on 4th December 2018, in the Cavan Crystal Hotel, Co. Cavan. This was a joint Oral Hearing in respect of both this application for confirmation of a CPO (ABP-301560-18) and the concurrent application for approval pursuant to section 177AE of the Planning and Development Act 2000, as amended (ABP Ref: 02.JP0047).
- 7.1.2. A digital sound recording was made of the Oral Hearing and should be consulted for a full representation of proceedings. A summary of the Hearing is, however, included in Appendix 1 of this report.

8.0 Assessment

- 8.1. For the Board to confirm the subject CPO, it must be satisfied that Cavan County Council has demonstrated that the CPO "is clearly justified by the common good"¹. Legal commentators² have stated that this phrase requires the following minimum criteria to be satisfied:

- There is a community need that is to be met by the acquisition of the site in question,
- The particular site is suitable to meet that community need,
- Any alternative methods of meeting the community needs have been considered but are not demonstrably preferable (taking into account environmental effects, where appropriate), and

¹ Para. [52] of judgement of Geoghegan J in *Clinton v An Bord Pleanála* (No. 2) [2007] 4 IR 701.

² Pg. 127 of *Compulsory Purchase and Compensation in Ireland: Law and Practice*, Second Edition, by James Macken, Eamon Galligan, and Michael McGrath and published by Bloomsbury Professional (West Sussex and Dublin, 2013).

- 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.

8.2. I will address each of these criteria in turn below, along with other issues arising from the objections.

8.3. **Community Need**

- 8.3.1. The N55 is a locally and regionally important national road, and experiences a relatively high percentage of HCV traffic (13% according to the Council's representatives). The N55 has already been realigned and/or upgraded on either side of the proposed scheme, and the 3.75km section in question is the last remaining unimproved section of the N55 in County Cavan.
- 8.3.2. The existing alignment of the section of the N55 in question exhibits a poor horizontal alignment, and it is bendy and narrow (c. 5.5m – 6.5m) with a minimal hard strip and verge. In addition, the existing bridge over the River Erne in Killydoon is relatively narrow, and cannot easily accommodate two large vehicles passing at the same time. I also note that the drainage of the existing road is predominantly 'over the edge', which results in an increased risk of collisions during wet weather conditions. These factors, allied to the large number of direct access points from houses, agricultural premises and commercial premises and the mix of car, HGV and agricultural traffic renders the current road substandard in terms of traffic safety in my opinion, and I note in this regard that the Council stated at the Oral Hearing that the TII HD 15 Network Safety Ranking identifies the 2012-2014 collision rate for the 1km section at Killydoon village as being twice above the expected rate.
- 8.3.3. In contrast, the proposed scheme will result in a significant reduction in the number of properties with direct access points onto the N55 and in my opinion, will result in an improved and safer alignment with less potential for traffic conflicts. It will also bypass the small village of Killydoon, resulting in a reduction of traffic flows and speeds through the village, which I consider will result in a positive impact on residential amenity. A number of old sections of the N55 would be retained for local access purposes, and junctions between local roads and the new N55 would have improved sightlines, in accordance with TII requirements.

- 8.3.4. In addition to the safety improvements arising from the proposed road realignment, the Local Authority stated at the Oral Hearing that other objectives for the scheme include improved accessibility and social inclusion between the rural hinterland in the area and rural towns and villages, improved integration with the national road network and Regional towns and the economic benefits arising from improved travel efficiency. I would agree that these objectives would be furthered by the proposed scheme, however, given that the existing section of road is substandard, and that the sections either side of this have already been significantly improved and upgraded, I consider that the primary community need that would be met by the CPO of the lands in question to accommodate the scheme is the provision of a safer and more efficient road alignment.
- 8.3.5. Finally, during the Oral Hearing it was clear to me that the objectors did not object to the realignment of the N55 in principle, but raised issues regarding aspects of its design and alignment and access arrangements.
- 8.3.6. In conclusion, therefore, having inspected the existing and upgraded sections of the N55 in the vicinity of the proposed road realignment scheme, having conducted an Oral Hearing and having examined the information submitted by the Local Authority and the submissions/objections made, I am satisfied that Cavan County Council has established a valid community need for the proposed N55 Corduff to South of Killydoon, Section B road realignment scheme.

8.4. **Suitability of the Lands**

- 8.4.1. The lands that the Local Authority is seeking to acquire are primarily in agricultural use, and I do not consider the lands to be of any particular sensitivity in terms of Development Plan designations, landscape character, cultural or natural heritage value or scenic qualities. The area is relatively sparsely populated; however, 5 No. residential properties will experience a loss of part of their curtilage. The residential properties in question are all located within relatively sizable sites, and are already facing onto a busy national road and I consider that these properties will benefit from the safer road environment created by the proposed development and note that noise mitigation and other mitigation measures are outlined in the Environmental Report submitted.

- 8.4.2. There are two archaeological sites listed in the Record of Monuments and Places within 250m of the centreline of the route corridor. These two sites are ringforts, and will not be directly impacted upon by the proposed development. With regard to architectural heritage, a roadbridge over the River Erne at Drumbannow lies within the landtake for the route corridor. This bridge, which is located on the existing N55, is listed in the NIAH, but not in the RPS and there will be no direct impact on the bridge, as it is located c. 50m east of the proposed route, and this portion of the existing N55 will be retained to serve the village of Killydoon. With regard to cultural heritage, there are a number of vernacular structures of local cultural heritage interest within 100m of the centreline of the road development. None of these are protected structures or listed in the NIAH and the majority will not be impacted upon by the proposed development. The only structures that will be directly affected are two apparently disused structures within the land-take for the development in the vicinity of link road SR 2N.
- 8.4.3. The issue of farm severance and associated impacts on farming enterprises were raised by a number of objectors, and I address these issues in Section 8.7 below. I do not, however, consider that any issues relating to severance of farmland would render the lands in question unsuitable for meeting the community need.
- 8.4.4. The extent of the proposed deviation from the existing N55 is not so significant as to add to journey times, and there will be significant benefits in terms of road safety, as outlined above. Given that the tie-in points for either side of the road section in question are fixed, and that the village of Killydoon is to be bypassed, there are also clearly constraints on potential route options for the road realignment.
- 8.4.5. With regard to the extent of acquisition, having reviewed the drawings submitted with the CPO application and the proposed scheme drawings (submitted with the concurrent s177AE application 02.JP0047), and having conducted an Oral Hearing, I am satisfied that the extent of lands that the Local Authority is seeking to acquire are proportionate to the identified community need and that the lands are necessary to facilitate the proposed road realignment scheme.
- 8.4.6. In conclusion, and based on the documentation submitted, the evidence of the Local Authority and the questions put to them at the Oral Hearing, I am satisfied that the

lands that are the subject of the compulsory purchase order are suitable for the proposed road realignment scheme.

8.5. **Accordance with Planning Policy**

- 8.5.1. The National Road Network is identified as one of ten Strategic Investment Priorities in the National Development Plan 2018-2027. National Strategic Outcome 2 of Project Ireland 2040: National Planning Framework is to enhance regional accessibility. In relation to inter-urban roads, it seeks to maintain the strategic capacity and safety of the national roads network including planning for future capacity enhancements. The Spatial Planning and National Roads Guidelines for Planning Authorities, 2012 state that better national roads improve access to the regions, enhancing their attractiveness for inward investment and new employment opportunities.
- 8.5.2. At a Regional level, Section 5.2.2 of the Regional Planning Guidelines for the Border Region 2010-2022 states that “seven key towns within the Border Region have been defined as having a key role in the development of the Region...It is important that the existing routes between these key urban settlements are developed so that each can realize their potential.” A series of strategic links are identified in the RPGs, including the ‘Midlands Corridor’, which is described as follows:
- **Midlands Corridor (A3/N54/N55):** Links the City of Armagh to the Hubs of Monaghan and Cavan, which continues onto the linked Gateway of Athlone/Tullamore/Mullingar. This link is also a critical north/south route for freight transport both intra and inter-regional.
- 8.5.3. Roads Policy INFP2 seeks to facilitate the development of those sections of the Strategic Radial Corridors and Strategic Links identified as being of priority importance for the Region, subject to relevant environmental assessments. Policy INFP4 seeks to protect the carrying capacity of all Strategic Radial Corridors and Strategic Links through the restriction of new accesses and intensification of existing accesses.
- 8.5.4. At a County level, the proposed development is specifically supported by Objective PIO15 of the Cavan County Development Plan 2014-2020, which states that it is an Objective of the Planning Authority to progress the N55 National Secondary Route,

Corduff to South of Killydoon Realignment Scheme to completion, subject to NRA funding. It is also supported by a series of non-specific Objectives (e.g. PIO1 – PIO4 and PIO14), which seek to improve road infrastructure in the County in terms of capacity, safety and speed of movement.

- 8.5.5. In conclusion, I am satisfied that the proposed road realignment scheme would be in accordance with National, Regional and County level planning policy and I note that the scheme is explicitly supported by an Objective of the Cavan County Development Plan 2014-2020.

8.6. Use of Alternative Methods

- 8.6.1. The use of alternative methods of meeting the community need was not addressed in the documentation submitted with the application for confirmation of the CPO or the s177AE application. However, the submission by Mr Mark Condrón (RPS Consulting Engineers, on behalf of the Local Authority) at the Oral Hearing outlined the options that had been considered prior to the making of the application. Mr Condrón stated that a Route Selection Report was completed in May 2013, and that it identified three route corridor options (Central, Eastern and Western corridors). Following an assessment, the Central corridor was chosen and ten route options within this route corridor were considered. Two preferred routes were subsequently developed and assessed, finally resulting in the proposed route alignment.
- 8.6.2. While the reports underlying the choice of the final proposed route alignment have not been submitted by the Local Authority, it is clear from the information provided during the course of the Oral Hearing that a multitude of alternative route alignments were considered and discounted for various reasons. Given that the tie-in points at either end of the section of N55 in question are fixed, I am satisfied that the Local Authority was constrained in terms of the alternative options available. With regard to a potential on-line upgrade of the existing section of N55, I note that the road is substandard in terms of its width, horizontal alignment and the multitude of existing direct accesses onto it. I am therefore satisfied that a fully on-line upgrade of the road would not be desirable or feasible.
- 8.6.3. While the chosen, primarily off-line, alignment will result in the loss of farmland, and some severance of farm enterprises, I consider that the proposed route represents a

reasonable proposal to meet the identified community need, that the Local Authority was constrained in relation to options for the N55 road improvement at this location and that the proposed scheme will result in numerous road safety benefits to road users and property owners.

8.7. **Issues Raised by Objectors**

8.7.1. Inadequate Schedule of Accommodation Works

8.7.2. The written objections submitted by Nagle Agricultural Consultants on behalf of Noel Brady (CPO Ref. 04), Noel and Bridget Brady (CPO Ref. 65), Ciaran and Caroline Brady (CPO Ref. 08), Oliver O'Reilly (CPO Ref. 07) and Luke O'Reilly (CPO Ref. 16) contend that an inadequate schedule of accommodation works was provided. The Local Authority's response at the Oral Hearing was that they would endeavour to agree accommodation works with the landowners, and that such works would be contingent upon agreement.

8.7.3. These matters are addressed in my consideration of the associated application for approval under section 177AE (ABP Ref. 02.JP0047) in terms of impacts on the amenities of property in the vicinity and proper planning and sustainable development and I note that the Local Authority has provided a series of proposed mitigation measures in the Environmental Impact Report, including the provision of alternative access points, restoration/repair of fences, walls and drains and the provision of new boundary walls/fences where the curtilage of a property is affected. Where specific issues were raised at the Oral Hearing in relation to accommodation works issues (such as access arrangements and farm severance), I have considered these below. However, having regard to the identified need for the development and the general suitability of the lands in question, I consider that the scope and extent of specific accommodation works is generally a matter for agreement/arbitration between the parties.

8.7.4. Land being Acquired that are not Required

8.7.5. The written objections submitted by Nagle Agricultural Consultants on behalf of Noel Brady (CPO Ref. 04) and Oliver O'Reilly (CPO Ref. 07) contend that areas of land are being acquired that are not required for road construction. The Local Authority's response is that all lands that are subject of the CPO are required for road

construction. With regard to plot 4.5, owned by Mr Brady, the Local Authority gave an undertaking that they would seek to transfer the plot, or whatever portion thereof is not permanently required for the scheme, to Mr Brady upon completion of the scheme. Following questioning by Mr Brady, the Local Authority elaborated that they could not agree to transfer the land, but that they would seek to transfer the land, as any transfer would require the consent of the Elected Members. In response to my question regarding whether this plot of land was permanently required to facilitate the road construction or not, the Local Authority advised that the current position was that the plot was permanently required, but if it transpired otherwise, they would seek to transfer the plot or a portion thereof back to Mr Brady.

8.7.6. In relation to Mr O'Reilly's lands, Mr Nagle did not identify which lands are contended as being required unnecessarily. I note that the proposed acquisition of plot 7.1 would appear to be excessive when compared to the road geometrics layout drawings. However, an attenuation pond, which is not shown on these drawings, is proposed on that plot and I therefore consider the acquisition of that plot to be reasonable.

8.7.7. Having reviewed the drawings submitted with the CPO application and the proposed scheme drawings, and having conducted an Oral Hearing, I am satisfied that the extent of lands that the Local Authority is seeking to acquire are necessary to facilitate the road realignment scheme.

8.7.8. Land Severance and Access Arrangements

8.7.9. The written objections submitted by Nagle Agricultural Consultants on behalf of Noel Brady (CPO Ref. 04), Noel and Bridget Brady (CPO Ref. 65), Ciaran and Caroline Brady (CPO Ref. 08), Oliver O'Reilly (CPO Ref. 07) and Luke O'Reilly (CPO Ref. 16) contend that the proposed land acquisition would impact on retained lands, and that the proposed road scheme would affect the landowners' farming businesses. The Local Authority's response at the Oral Hearing was that the proposed scheme would not have a significant adverse impact on farming operations, but that any adverse impacts can be addressed by means of compensation.

8.7.10. With regard to Oliver O'Reilly (CPO Ref. 07), there was a considerable amount of discussion at the Oral Hearing regarding Mr O'Reilly's current and proposed access arrangements to his lands, and his desire to avoid the provision of a single access

point to his house and farmyard, which would require farm vehicles to pass in front of his house. In response, Cavan County Council submitted a copy of an accommodation works drawing at the Oral Hearing (Item 4 – appended). This drawing illustrates how a short portion of the old N55 alignment within the area to be permanently acquired could be retained as an accommodation track to provide separate access from the old N55 at the northern end of Killydoon to Mr O'Reilly's house and farmyard. I consider that the proposal submitted by the Local Authority represents an appropriate balance between minimising the number of access points onto the public road and maintaining access for Mr O'Reilly.

- 8.7.11. Oliver O'Reilly's representative also queried the lack of provision of an underpass/access track under the proposed new bridge, as per the track on the southern side. I accept the Council's position that such an underpass is not required at this location, since the small area of Mr O'Reilly's lands bounded by the new N55, SR 3S link and the River Erne is to be permanently acquired for an attenuation pond. An underpass in this location would not, therefore, link his lands either side of the new N55.
- 8.7.12. Should the scheme proceed, Mr O'Reilly's lands on the western side of the new N55 road can be accessed with a right-turn at junction SR 3S and a left-turn at junction SR 1N onto the Loughduff Road L2515, where new field entrances are proposed. Were the proposed northern access to Killydoon to be omitted, as suggested by Mr O'Reilly, then it would be necessary for him to travel southwards, back through Killydoon, and then northwards, around the new N55 in order to access his lands on the Loughduff Road, given that any proposal to provide direct access across the new N55 for animals and agricultural vehicles is not supported by Council on traffic safety grounds, which is a reasonable position in my view, given the objectives of the road realignment scheme. I consider that the proposed access arrangements for Mr O'Reilly are reasonable and balanced, and that any outstanding issues are a matter for agreement/arbitration and compensation, as appropriate.
- 8.7.13. With regard to Luke O'Reilly (CPO Ref. 16), Nagle Agricultural Consultants queried the lack of provision of an underpass to serve Mr O'Reilly's dairy farm, which includes lands on both sides of the proposed new road alignment. It was contended that Luke O'Reilly would either have to get out of the dairy business, or get an underpass, as moving cattle by vehicle is not always feasible. The desired position of

the underpass is between chainage 3250m and 3300m. The Local Authority's position is that an underpass is not justified, that vehicular access to the lands to the west will be provided via the new junction at chainage 3400m (i.e. SR 1S), and that the provision of an underpass at this location would require the raising of the road alignment by up to 6m. There was considerable discussion at the Oral Hearing regarding whether a sunken underpass with pump could be provided, instead of raising the road alignment. Mr O'Reilly's representative contended that such an option would be feasible, while the Local Authority contended that the presence of an existing stream at this location, at a higher level than a sunken underpass, would result in flooding and pollution risks.

8.7.14. Having regard to the potential environmental and additional land acquisition issues that could arise from the provision of an underpass at the location identified by Mr O'Reilly, I consider that the Local Authority has provided sufficient detail to support its case against the provision of such an underpass and that the proposed CPO of these lands is reasonable and necessary. The severance of land is an unavoidable consequence of the primarily off-line road development and whilst not wishing to undermine or underestimate the concerns expressed by the objector regarding the inconvenience and disruption that will be generated, I consider that the improvements will benefit the community at large and that issues related to farm management and/or operational changes due to land acquisition are effectively matters for agreement/arbitration and compensation, should the CPO be confirmed by the Board.

8.7.15. With regard to Mr Noel Brady (CPO Ref. 04), he queried the lack of provision of an entrance point onto the new N55 from the original tree-lined avenue to his farmhouse (located at chainage 800m) and to lands on the eastern side of the proposed road, and advised that he required direct access for driving cattle across the new road. The Local Authority position is that a field access was to be provided at chainage 390m, with realigned entrance to Mr Brady's farm and house at chainage 530m and a field entrance at chainage 800m to the west. Access to the other side would be from the old N55 from Killydoon and Mr Brady would not be facilitated to drive cattle across the new N55, instead returning to his farmyard via the village of Killydoon and the entrance at chainage 530m.

8.7.16. Mr Nagle, on behalf of Mr Brady contended that an underpass would be required for cattle movements between chainage 500m and 600m to facilitate Mr Brady's dairy operations. The Local Authority contended that this would require the road elevation to be raised by 4m, with resultant environmental and land impacts, and that staggered vehicle access would instead be provided across the new road at chainage 390m, noting that the majority of Mr Brady's lands are to the west of the new road. There was considerable discussion between the parties at the Hearing regarding the feasibility or otherwise of an underpass however, on balance, I consider that the Local Authority has provided sufficient detail to support its case against the provision of the underpass and that the proposed CPO is reasonable and necessary. Issues relating to impacts on the existing farm enterprise and any additional management or operational procedures are matters for arbitration/agreement and compensation where appropriate.

8.7.17. Drainage

8.7.18. The issue of drainage of retained lands was raised in the objections submitted on behalf of landowners by Nagle Agricultural Consultants, however no further detail was provided, either by way of written submission or at the oral hearing, to substantiate this issue. The Council stated at the oral hearing that drainage of the existing section of N55 proposed road scheme is predominantly 'over-the-edge'. In contrast, the proposed realignment scheme includes proposals for surface and subsurface drainage, including storm attenuation ponds, swales and petrol interceptors upstream of outfall points.

8.7.19. Having regard to the information submitted, I am satisfied that the proposed development will regularise and improve the current drainage regime and I do not consider that the proposed scheme is likely to have a significant impact on the drainage of retained lands.

8.8. **Conclusion**

8.8.1. I am satisfied that the process and procedures undertaken by the Local Authority 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. 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 Cavan County Development Plan 2014-2020.

9.0 Recommendation

9.1. I recommend that the Board confirm the Compulsory Purchase Order without modifications based on the reasons and considerations set out below.

10.0 Reasons and Considerations

10.1. Having considered the objections made to the Compulsory Purchase Order and not withdrawn, the report of the Inspector 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 present substandard nature of the c. 3.7km section of the N55 national road between the townlands of Mullaghoran and Ballytrust.
- (b) The community need, public interest served and overall benefits to be achieved from the proposed road realignment scheme.
- (c) The design and alignment of the proposed road realignment scheme, which constitutes a design response that is proportionate to the identified need.
- (d) Relevant policies of the National Planning Framework and Regional Planning Guidelines for the Border Region 2010-2022.
- (e) The policies and objectives of the Cavan County Development Plan 2014-2020, including Objective PIO15 which seeks to progress the N55 National Secondary Route, Corduff to South of Killydoon Realignment Scheme to completion.
- (g) The submissions and observations made at the Oral Hearing held on the 4th December 2018.

It is considered that the permanent and temporary acquisition by the local authority of the lands in question, and the extinguishment of public rights of way, as set out in the order and on the deposited maps, are necessary for the purposes stated and the objections cannot be sustained having regard to the said necessity.

Niall Haverty

Planning Inspector

21st January 2019

11.0 APPENDIX 1: ORAL HEARING SUMMARY

Case Reference: ABP-301560-18 and 02.JP0047

Development: N55 Corduff to South of Killydoon Realignment, Section B

Venue of Oral Hearing: Cavan Crystal Hotel, Co. Cavan

Date: 4th December 2018

Commencement Time: 10:15

11.1. Attendees

11.1.1. Representation on behalf of each Party was as follows:

- Cavan County Council:
 - Mr Esmonde Keane SC – Barrister.
 - Ms Jacqueline Maloney – Solicitor.
 - Mr Mark Condron – Engineer, RPS Consulting Engineers.
 - Mr Tim Ryle – Ecologist, RPS Consulting Engineers.
- Observers/Objectors:
 - Noel and Patrick Brady.
 - Malachy O'Reilly.
 - Laura O'Reilly on behalf of Oliver O'Reilly.
 - Ned Nagle, Nagle Agricultural Consultants.

11.1.2. Mr Nagle advised that he had received the information he required in relation to his Clients, with the exception of Mr Luke O'Reilly, and that he was willing to withdraw the objections to the CPO if the Council gave an undertaking to look into the provision of an underpass for Mr O'Reilly. I advised Mr Nagle that if he wished to withdraw any objections, I would require a letter to this effect. As noted in section 11.7 below, Mr Nagle subsequently submitted a letter prior to the conclusion of the hearing withdrawing 5 No. objections to the CPO. Luke O'Reilly's objection was not withdrawn.

11.1.3. No prescribed bodies were represented at the Hearing.

11.2. Submission of Cavan County Council

11.2.1. Mr Esmonde Keane provided a brief overview of the proposed road realignment project and the lands that it is sought to acquire.

11.2.2. Mr Mark Condron, Senior Associate in the Transportation Sector of RPS Consulting Engineers, then read from a written statement (Item 1 – appended), which can be summarised as follows:

- The N55 links Athlone with Cavan, via Granard, Edgeworthstown and Ballymahon. It is locally and regionally important, with a notably high proportion of heavy commercial vehicles (13%). It also links with the N3, N4 and N6.
- Route improvements to the N55 have been made over a number of years. The only section of the N55 within County Cavan that has not been improved is the 3.7km between Mullaghoran and Ballytrust, encompassing the village of Killydoon.
- Improvements to the N55 are supported in National, Regional and County level policy documents.
- The N55 is one of five prioritised projects for the North Region identified in the National Secondary Roads Needs Study 2011.
- Scheme objectives include safety, environmental, economic, accessibility and social inclusion and integration of towns.
- This section of road is below standard and is narrow, hilly and bendy. The specific scheme need can be summarised as the need to improve the condition of the N55 in the area for route consistency between improved sections and for road safety purposes.
- Due to rural nature of the area, the N55 caters for a significant amount of HGVS and strategic traffic as well as a large mix of local and slow-moving agricultural traffic.
- Killydoon village has been subject to a traffic management scheme and a limit of 60km/hr applies. Large vehicles cannot pass each other on the narrow bridge over the River Erne.

- Current horizontal alignment is particularly poor, with available stopping sight distances well below current design standards. This is inadequate for a rural all-purpose national route.
- There are currently six at-grade junctions with local roads, eighteen direct accesses from houses, farms and commercial premises with generally poor visibility and a further ten frontages/accesses within Killydoon. Each of this is a potential safety hazard and reduces the capacity of the road.
- Minimal hard strip and verge and inadequate drainage on existing road.
- TII HD 15 Network Safety Ranking identifies the 2012-2014 collision rate for the 1km section at Killydoon village as being twice above the expected rate.
- This unimproved section of the N55, which is flanked by improved sections, comprises a hazardous section of the route where driver expectations of achievable speed may be inappropriate for the prevailing conditions.
- The scheme would significantly improve safety for users of the N55 and for the village of Killydoon.
- The Route Selection Report for the scheme was completed in May 2013. Three route corridor options emerged in the first stage, with a second stage considering multiple route options within each corridor. Two preferred routes were identified and technically assessed to identify which option to proceed with.
- Proposed road design is in accordance with TII requirements and includes sustainable drainage systems, forgiving roadsides and shallow embankments to reduce the need for barriers.
- The three proposed bridges over the River Erne have section 50 consent under the Arterial Drainage Act. They can be constructed without in-stream works.
- Local access will be maintained at all times during construction. The existing N55 will remain open insofar as possible, but temporary road closures or night-time working may be required.

- All lands to be temporarily or permanently acquired are necessary to facilitate the road construction and operation, respectively. Alternative access arrangements are proposed where public rights of way are proposed to be extinguished.

11.2.3. Mr Condrón then read from a written response to each objection to the CPO and each submission in respect of the section 177AE application (Item 2 – appended). The following summarised standard responses were provided in respect of each CPO objection:

- Cavan County Council will endeavour to agree accommodation works. Such works are contingent upon agreement with the landowner.
- Proposed scheme will not have a significant adverse impact on retained lands and any such impacts can be assessed/addressed by means of compensation by a separate process.
- Drainage design follows TII Design Standards and is compliant with the SUDS Manual. The drainage attenuation system is designed to cater for a 1 in 100 year storm event with additional allowance for climate change. The drainage design is robust and minimises the risk of increased flooding to adjacent retained lands.
- Cavan County Council will make every effort to accommodate farming operations and the proposed scheme will not have a significant adverse impact on farming enterprises. Any adverse impact can be assessed/addressed by means of compensation by a separate process.

11.2.4. In respect of a number of specific objections, the following additional summarised responses were provided:

- **Noel Brady (CPO Ref. 04):** All lands subject of the CPO are required for road construction, but that Cavan County Council undertakes to seek to transfer plot 4.5, or whatever portion thereof is not permanently required for the scheme, to Mr Brady upon completion of the scheme.
- **Luke O'Reilly (CPO Ref. 16):** A significant change in the height of the road alignment would be required to provide a grade-separated underpass to serve lands on both sides. The road would need to be raised by up to 6m for a

significant length which would result in a material change to the scheme with potential for major adverse impacts on the receiving environment and land take. Any impacts on Mr O'Reilly's land holding / farming enterprise can be assessed/addressed by means of compensation.

- **Oliver O'Reilly (CPO Ref. 07):**
 - All lands subject of the CPO are required for road construction.
 - The local link road (old N55) will provide a safer means of access, as traffic levels in Killydoon will be reduced. The junction with the new national road will provide visibility and safety.
 - Cavan County Council will endeavour to agree accommodation works regarding separate front and rear accesses to the dwelling and farmyard.
 - The provision of a northern access to the village from the proposed N55 alignment affords a shorter route to Mr O'Reilly's landholding to the west, compared to the southern access. The provision of north and south accesses to the village will also benefit other residents and businesses.

11.2.5. Mr Condon provided the following summarised responses to the submissions on the s177AE application:

- Route was selected following a robust selection process. It is compliant with policy documents and is in line with proper planning and sustainable development for the area.
- Property reference CPO-065 will require noise mitigation measures, which is likely to involve the installation of a noise or environmental barrier. Such works are contingent upon agreement with the landowner.
- Scheme does not include for public lighting as it is a rural scheme. The north and south junctions accessing the village of Killydoon are in a rural setting and it is non-compliant with TII standards to provide lighting at these junctions. It may be feasible to consider extending existing lighting further out along the old section of the N55, which will be downgraded to a local road, but this is outside the scope of the scheme.

- Pedestrian facilities are not provided along the realigned road due to safety concerns and consistency with adjacent upgrade schemes. Suitable alternative adjacent routes exist.
- Design of proposed pond to the south of the River Erne bridge crossing is in line with TII design standards and the SUDS Manual. The drainage design is robust and minimises the risk of increased flooding to adjacent retained lands.
- Significant change to the scheme would be required to facilitate a dedicated underpass to serve lands on both sides for Mr Oliver O'Reilly. This would result in adverse impacts on the receiving environment and other land holdings.
- Cavan County Council is satisfied that it has undergone extensive consultation with affected landowners. Landowners have been encouraged to contact the Council with queries or concerns.
- Final preferred route amalgamates sections of a number of previous route options and has sought to minimise severance.
- The upgrade of the existing bridge and footpaths in Killydoon are outside the scope of the scheme.
- The proposed bridge crossings have been designed as clear span structures to avoid the need for in-stream works. The requirement to adhere to IFI best practice and to seek prior written approval for in-stream works shall be conditioned in the construction contract. A Construction and Environmental Management Plan will also be prepared with adherence to relevant guidance. Control of site run-off will also be dealt with through the CEMP.

11.2.6. Mr Tim Ryle, Senior Ecologist in the Energy, Environment and Resource Sector of RPS Consulting then read from a written statement (Item 3 – appended), which can be summarised as follows:

- Phases 1 and 2 (Section A) of the scheme was the subject of an Appropriate Assessment Screening Report, which concluded that it would not have a likely significant effect on European Sites and that a Stage 2 AA was not required. This section of the scheme is substantially complete.

- Phases 3 and 4 (Section B) of the scheme was subject to a Stage 2 Natura Impact Statement.
- Through the implementation of best practice measures and recommended mitigation measures including the avoidance of instream works in the River Erne, it was concluded that the project would not have a significant effect individually or in combination with other plans or projects on the conservation objectives of Lough Oughter and Associated Lakes SAC and Lough Oughter Complex SPA.
- None of the third party submissions have direct bearing on the Appropriate Assessment process and largely relate to proper planning and sustainable development in the area.
- The design is cognisant of IFI guidance and the ecological recommendations have from the outset been to ensure that no adverse impacts occur to the River Erne and by inference to the hydrologically connected European sites.
- The design of the road scheme contains the necessary best practice pollution control measures, which when implemented, will ensure that Section B of the road scheme, either individually or in combination with other plans or projects, including the substantially built Section A of the scheme will not adversely affect the integrity of any European site.

11.3. Submissions of Objectors/Observers

11.3.1. Noel and Patrick Brady (CPO Ref. 4.0 and 65.0)

- Farming enterprise will be greatly affected by road if it goes ahead.
- Road will be within 15 – 20m of existing house at Grousehall.

11.3.2. Laura O'Reilly on behalf of Oliver O'Reilly (CPO Ref. 7.0)

- No objection in principle to the proposed bypass, but what is proposed now is significantly different to what was originally proposed.
- They were told that under no circumstances would there ever be two entrances to the village, and that the road would be a cul de sac at the northern end, with access from the farmyard onto the new road.

- Second entrance at the northern end of the road will face into their front garden, and there is no provision for a rear/farmyard entrance.
- Requiring farm vehicles to traverse in front of the house presupposes that the house and farm will always remain in one ownership.
- Lack of consultation with landowners.
- No-one from the Council has inspected visibility standards at objector's existing accesses onto the N55.

11.3.3. Nagle Agricultural Consultants: Mr Nagle did not make submissions in respect of his clients, but participated in questioning of the Local Authority.

11.4. **Objector/Observer Questioning of Local Authority**

11.4.1. Noel and Patrick Brady (CPO Ref. 4.0 and 65.0)

11.4.2. Mr Brady queried the lack of provision of an entrance point onto the new N55 from the original tree-lined avenue to his farmhouse (c. Ch. 800m) and to lands on the eastern side of the proposed road. Mr Condon advised that a proposed field access was to be provided at c. Ch. 390m, with realigned entrance to the farm and house at c. Ch. 530m. Mr Condon confirmed that a field entrance would be maintained at c. Ch 800m to the west. Access to the other side would be from the old N55 from Killydoon. Mr Brady advised that he required direct access for driving cattle across the new road. Mr Keane stated that Mr Brady would not be facilitated to drive cattle across the new N55, and would have to return to his farmyard via the village of Killydoon and the entrance at Ch. 530m.

11.4.3. Mr Condon stated that access would not have to be maintained at land parcel 4.5, as it forms part of the permanent CPO. Mr Brady queried the statement in the Council's response, regarding the return of lands, and Mr Keane stated that the Council could not agree to transfer the land, but would seek to transfer the land, as this would require the consent of the Elected Members.

11.4.4. Mr Nagle, on behalf of Mr Brady stated that the scheme would impact on their intensive dairy farm, as c. 9 acres of their c. 50 acres would be taken off them. The only option they have to continue their dairy farm is to lease land across the road, so an underpass would be required for cattle movements between Ch. 500m and 600m.

- 11.4.5. Mr Keane stated that the Council would not be prepared to countenance opposing gates on the new road for road safety reasons. Mr Nagle stated that this is why an underpass is required. Mr Condrón stated that an agricultural gate would be provided as part of the accommodation works at c. Ch. 390m, and that there would be no change in how Mr Brady accesses these lands. Mr Nagle stated that this would be a similar safety issue to that at chainage 800m and that an underpass is therefore required.
- 11.4.6. Mr Brady stated that he needed to maintain access along his original tree-lined avenue to the village of Killydoon across the new road.
- 11.4.7. Mr Condrón stated that a staggered vehicle access would be provided across the road at chainage 390m. Directly opposing access would be less safe. He stated that the majority of the Brady lands would be retained on the west side of the scheme and it is difficult to see the justification for an underpass.
- 11.4.8. In relation to parcel 65, Mr Brady stated that Bridget Brady was deceased, and that the house was in the process of being transferred back to him. I queried the nature of the proposed noise barrier at this location adjacent to the existing house. Mr Condrón advised that further modelling would be required, and would likely be either a noise fence or a bund.
- 11.4.9. I asked Mr Condrón to comment in relation to the stated requirement for the permanent CPO of plot 4.5, given the statement that the Council would seek to transfer it, or part thereof, back to Brady. Mr Condrón stated that the current position is that the plot is permanently required, but that if it transpires otherwise, they will seek to transfer it.
- 11.4.10. Mr Keane asked Mr Condrón to comment on difficulties with providing an underpass for Mr Brady. Mr Condrón stated that a 4m elevation would be required for the road, with resultant impacts on lands and environmental impact. Mr Nagle stated that 4m is an exaggerated figure and that an underpass could be provided within significantly less depth. Following further discussion regarding the feasibility or otherwise of an underpass, I advised that the matter would be brought to the Board's attention.
- 11.4.11. Laura O'Reilly on behalf of Oliver O'Reilly (CPO Ref. 7)

- 11.4.12. Ms O'Reilly queried the lack of consultation with landowners, and advised that no meeting was ever had with Mr O'Reilly or a walkover of his lands. Mr Condrón stated that the Local Authority had undertaken consultation.
- 11.4.13. Ms O'Reilly queried the change from one entrance to Killydoon to two. Mr Condrón advised that this had changed to accommodate business and local traffic through the village.
- 11.4.14. Ms O'Reilly queried the proposal to provide a single entrance point to Mr O'Reilly's house and farmyard, which would require agricultural vehicles to traverse the front of the house. Mr Condrón then submitted a drawing to the Hearing, which he stated had recently been provided to Mr O'Reilly's representative (Item 4 – appended). This drawing was stated as showing a proposal of how separate access could be provided to the house and farmyard via an access track on the existing N55 roadbed, which would become redundant. Following discussion on the nature of the access, I asked Ms O'Reilly if Mr O'Reilly's preference was for the north access point to be removed, which would require him to travel back through Killydoon and around the new N55 to access his lands to the west. She stated that this was the preference for vehicular traffic, but that farm vehicles should be able to cross the new road in a similar manner to how they cross now.
- 11.4.15. Ms O'Reilly queried the impact due to traffic on an embankment looking into Mr O'Reilly's garden. Mr Condrón stated that the new road would be significantly further away than the existing road, and that traffic volumes through Killydoon would be greatly reduced. He also stated that property boundary treatments would remain unchanged. Any visual screening required would be provided.
- 11.4.16. I asked if traffic calming measures were proposed at the northern entrance into Killydoon. Mr Condrón stated that there were not.
- 11.4.17. Ms O'Reilly queried the lack of provision of an underpass on the northern side of the new bridge, when one was provided on the southern side. Mr Condrón stated that one was provided on the southern side due to that landowner retaining lands immediately either side of the road. The portion of land to the east of the proposed bridge is being permanently acquired for an attenuation pond, and therefore no access is provided.

- 11.4.18. Ms O'Reilly noted that the pond is not shown on the plans, and they were surprised to see it on the final plans provided to them. Mr Condrón stated that it was shown on the drawings submitted to the Board. I noted that it was not shown on the drawings, which are geometrics layouts. Ms O'Reilly advised that she was unaware of the pond, and had understood that the lands may have been temporarily acquired and returned following construction.
- 11.4.19. I asked Mr Condrón to comment on Figure 3.1(d) of the Environmental Report, which shows a southern entrance to Killydoon, but no northern entrance, although an attenuation pond is shown. Mr Condrón stated that the northern entrance came about due the consultation process, but that the attenuation pond had always been shown. I asked Mr Condrón to comment as to whether any additional environmental impacts or mitigation measures arose due to the now-proposed northern entrance. Mr Condrón stated that he was satisfied that no additional issues arose beyond those addressed in the report.
- 11.4.20. Ms O'Reilly stated that Mr O'Reilly had no objection to his farm entrance being moved further down the new road to facilitate visibility requirements, if this would allow for access across the new road.
- 11.4.21. Nagle Agricultural Consultants on behalf of Luke O'Reilly (CPO Ref. 16)
- 11.4.22. Mr Nagle queried the lack of provision of an underpass for Mr O'Reilly, given that he is a dairy farmer, with c. 65 cattle who farms on both sides of the proposed new road. He currently crosses the road, and will either have to get out of the dairy business, or get an underpass between chainage 3250m and 3300m. Moving cattle by vehicle is not always feasible due to number of people required.
- 11.4.23. Mr Condrón stated that he was aware of how Mr O'Reilly currently accesses his lands and the leased lands to the east. Vehicular access would be provided on the new road, existing field gates on the old road would be retained and the lands to the west could be accessed from the new junction at chainage 3400m.
- 11.4.24. Mr Condrón stated that an underpass would require the raising of the road alignment by up to 6m, which would increase the height of the road relative to adjacent properties and potentially adverse visual and noise impacts. There is an existing stream beside it, and a sunken underpass would be liable to flood. Mr Nagle stated that the road did not have to be raised. A sealed underpass and pump could be

provided. He has land leased for another 10 years, and his lands on the far side of the road. Environmental concerns have to be balanced with the concerns of the farmer. Mr Condrón stated that the level of water in the stream would be higher than the level of the underpass, and it would be difficult to operate it without flooding or pollution hazard. He also stated that if an underpass was provided, Mr O'Reilly would still need to cross the old N55, which would be downgraded, in order to reach the lands to the east. Mr Nagle stated that no drainage design had been done yet, so the Council couldn't say what could or couldn't be done with regard to the underpass.

11.5. Local Authority Questioning of Objectors/Observers

11.5.1. The Local Authority had no specific questions for objectors or observers.

11.6. Inspector's Questions

11.6.1. I queried the lack of attenuation ponds shown on the drawings submitted, and asked whether the ponds shown on Figures 3.1c and 3.1d of the Environment Report were the only two ponds proposed. Mr Condrón confirmed that this was correct, and that other attenuation facilities included swales and that all attenuation facilities included petrol interceptors.

11.6.2. In relation to the examination of alternatives, I noted the proposal for three bridge crossings of the same river in the space of 1.5km, and asked what alternatives to this had been considered to this. Mr Condrón stated that a range of alternatives were considered, with three route corridors. The use of clear span bridges and a CEMP will ensure no adverse effect on the Natura 2000 sites.

11.6.3. I queried the discrepancy between the 3m setback from the river bank referred to in Mr Condrón's submission, compared to the 5m leave strip mentioned in the NIS and the figures in the Env. Report which indicate the toe of the embankment encroaching on both those measurement. Mr Condrón stated that the 3m measurement comes from the NRA guidance document for the crossing of watercourses. Mr Ryle stated that anything less than 5m could possibly be a difficulty in terms of the impact assessment.

11.6.4. I noted figures 3.2, 3.3 and 3.4 of the Environmental Report which show the toe of the embankment within 1-2m of the river edge. Mr Condrón stated that the

embankment will be retained to ensure a minimum set-back from the river bank of 5m as per the NIS.

11.6.5. I asked Mr Condon to outline the proposed programme, the duration of temporary acquisition and the timescale for completion of Section A. Mr Condon stated that Section is nearing substantial completion in 2-3 weeks. In relation to Section B, detailed design would take place in 2019 and the duration of construction would be 18 months to 2 years as a minimum.

11.6.6. I asked Mr Condon to comment on the location of proposed construction compounds and deposition areas. Mr Condon stated that sites had been looked at, but no decision had been made yet. Temporary deposition areas would be located within the land acquisition areas as per Section A.

11.7. **Closing Statements**

11.7.1. I provided an opportunity for all parties to make closing statements. Prior to this, Mr Nagle submitted a letter withdrawing a number of objections to the CPO, as outlined above.

11.7.2. Nagle Agricultural Consultants

11.7.3. Mr Nagle asked the Board to take the requirement for the two underpasses into consideration. The proposal to transport animals across the road in vehicles is dangerous.

11.7.4. Laura O'Reilly on behalf of Oliver O'Reilly

11.7.5. Ms O'Reilly asked the Council to send a representative to meet Mr O'Reilly to discuss his objections. She notes the drawing submitted and Mr O'Reilly would be willing to discuss a rear access with them.

11.7.6. Local Authority

11.7.7. Mr Keane gave a closing statement on behalf of the Local Authority, which can be summarised as follows:

- The need for the scheme has been demonstrated, even by those objecting.
- The road is an impingement during construction, but a far safer road will be provided with a properly designed drainage system.

- The road provides for a balancing of interests. Access to both ends of Killydoon are proposed.
- Separate access to Oliver O'Reilly's farmyard will be provided with an access track. Significant improvement on noise and disturbance to O'Reilly's home due to the reduction in traffic.
- Accesses will be maintained where possible. The number of accesses onto the new N55 has been kept to a minimum. Directly facing gateways have been avoided for safety reasons.
- Environmental concerns have been addressed in the detailed NIS. Robust assessment has occurred. Given the significant distance and the mitigation measures proposed, it can be said beyond all reasonable scientific doubt that there will be no adverse impacts on the European Sites, or the integrity of those sites.
- Significant levels of public consultation have taken place over years. It has been an iterative process.
- The lands in question are required for the road scheme. The Board is asked to confirm the CPO and grant consent for the development under s177AE.

11.7.8. I then read a closing statement, and the Oral Hearing closed at 13:40.