



An
Bord
Pleanála

Inspector's Report ABP-306784-20

Development	N20 O'Rourke's Cross Road Improvement Scheme Compulsory Purchase Order 2020
Location	O'Rourke's Cross Ballyfookeen & Cappanagara Co. Limerick
Applicant	Limerick City & County Council
Local Authority	Limerick City & County Council
Objectors	Dennis & Betty Crean Eimear Carey Gerard Carey James Beechinor Patricia O'Rourke
Date of Site Inspection	30 th October 2020
Inspector	Hugh D. Morrison

DECISION QUASHED

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DECISION QUASHED

1.0 Introduction

- 1.1. Limerick City and County Council (LCCC) made a Compulsory Purchase Order (CPO) for the N20 O'Rourke's Cross Road Improvement Scheme on 18th February 2020. Notices were duly served on the affected landowners on 6th April 2020 and again on 1st July 2020 to give a further period for objection, in view of concerns over Covid-19 restrictions and how they might have affected the first service. Objections were original received from 9 parties. However, 4 subsequently withdrew.
- 1.2. The CPO was the subject of an oral hearing, which was held virtually on 2nd February 2021. Prior to this hearing, the responses of LCCC to the objectors were received and circulated to them. One of the objectors responded in writing to LCCC's response. Two objectors did not respond and two were represented at the oral hearing and so they gave their responses orally.
- 1.3. The CPO would entail the acquisition of lands and the extinguishment of public and private rights of way in connection with the N20 O'Rourke's Cross Road Improvement Scheme, which received planning permission, under Part 8 of the Planning and Development Act, 2000 (as amended), on 19th October 2017.

2.0 Statutory Basis

- 2.1. The Compulsory Purchase Order is made under 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 of the Second Schedule to the Roads Act, 1993 – 2015, and as amended and extended by the Planning and Development Act, 2000 – 2019.

3.0 Site Location and Description

The site encompasses O'Rourke's Cross, a staggered junction on the N20, which lies 8 km to the north of Charleville and 10 km to the south of Croom. The R518 crosses the N20 via this junction. Its eastern arm and its western arm are offset in relation to one another and so the former arm joins the N20 at a southerly point and the latter arm joins the N20 at a northerly point, with a distance of c. 37m between

their centre lines. Bruree and Kilmallock lie, variously, 2 km and 9 km to the east and Newcastle West lies 26 km to the west.

O'Rourke's Cross is subject to a 60 kmph speed limit and it is illuminated by roadside lighting. In the north eastern corner of this junction lies a Texaco service station and an accompanying Spar shop and dwelling house. South-bound traffic on the N20 accesses this service station by means of an entry only point on the northern approach to the junction. North bound traffic on the N20 accesses it from a right-hand turning pocket in the centre of the national road, which lies between the two arms of the R518. This pocket is between the right-hand stacking/turning lanes that serve either arm to the north and south. It connects with a combined entry to/exit from the service station in its south-western corner. The pocket aligns with this exit, while the western arm of the R518 aligns with this entry. A further exit only point is located on the southern boundary of the service station and it allows traffic to egress onto the eastern arm of the R518.

In the south eastern corner of the junction lies a roadside cottage with a farmstead to the rear. A bus lay-by lies on the opposite (western) side of the N20 from this cottage and it is accompanied to the north by a Garda lay-by opposite the eastern arm of the R518. Fields abut the north-western and south-western corners of the junction, beyond which the western arm of the R518 is accompanied by a short row of dwelling houses on its northern and southern sides.

The site encompasses the existing junction of O'Rourke's Cross and its approaches. It also encompasses portions of the fields mainly to the west, but also to the north-east of the junction.

4.0 Purpose of the CPO

The Senior Engineer for the project from the Mid-West National Road Design Office of Limerick City and County Council (LCCC) advises that acquiring the land needed for the N20 O'Rourke's Cross Road Improvement Scheme by CPO would:

- (a) *Ensure the acquisition of all the land required,*
- (b) *Facilitate the acquisition of land within a reasonable timescale, and*

(c) Permit Limerick City and County Council to plan a road construction programme for the road improvement scheme, confident in the knowledge that the land required will be available.

The Director of Operating Services of LCCC advises that “the land for the road development is necessary, sufficient and suitable and the proposed extinguishment of public and private rights of way are necessary for the proposed N20 O’Rourke’s Cross Road Improvement Scheme together with all ancillary works associated therewith, to which the compulsory purchase order relates.”

By way of further background, the Part 8 Report entitled “N20 O’Rourke’s Cross Road Improvement Scheme: Particulars of Proposed Scheme made available for Public Inspection” describes the purpose of the project as follows:

To address safety issues caused by the complex pattern of existing traffic movements arising from the sub-standard staggered crossing of the N20 by the R518, the significant traffic movements associated with the existing petrol station located at the junction and the presence of the adjacent bus stops. While the proposed solution will give rise to some degree of unavoidable delay to N20 traffic negotiating the new roundabout, this will not be significant and will be offset by the much improved and safer linkage that the Scheme will provide between the R518 and N20, combined with the provision of safer facilities for vulnerable road users.

The Part 8 Report goes on to set out the objectives of the project as follows:

- *Economy: Deliver economic benefits through reduced accident costs that will result from a safer junction arrangement.*
- *Environment: Be designed to avoid significant environmental impacts if possible or, where avoidance is not possible, to mitigate the impact by incorporating appropriate mitigation measures into the scheme design.*
- *Accessibility and social inclusion: Not impact negatively on accessibility and social inclusion. Bus facilities must be incorporated into the scheme to replace and improve the existing facilities. The scheme must not reduce connectivity between the eastern and western sides of the N20 and must incorporate appropriate facilities for vulnerable road users.*
- *Integration: Not compromise the strategic importance of the existing N20 and must not place constraints on any future scheme to improve the N20 regionally. The*

scheme must not impact on local land-use strategies and must not place constraints on regional development that would result in increased traffic flows on the R518.

- *Safety: Improve traffic safety and provide a safer environment for all road users. This will be achieved by replacing the existing junction with a new junction, complying with TII Publications (Standards), that will safely cater for turning movements at the junction and provide facilities for vulnerable road users.*

5.0 Policy Context

5.1. Development Plan

Under Chapter 8 of the Limerick County Development Plan 2016 – 2016 (extended) entitled “Transport and Infrastructure”, there are a number of policies and objectives that are supportive of the project, which would be facilitated by the CPO.

Policy IN P7: Road Safety and Capacity:

To seek the improvement of road safety and capacity throughout the County, through minimising existing traffic hazards, preventing the creation of additional or new traffic hazards in the road network and securing appropriate signage.

Under Table 8.2, the R518 – Askeaton/Rathkeale/Ballingarry/Bruree/Kilmallock regional road is identified as a strategic regional road.

Policy IN P8: Strategic Regional Road Network:

It shall be the policy of the Council to protect the investment in the Strategic Regional Road Network, prevent the premature obsolescence of the network and maintain and improve road safety and capacity.

Objective IN 012: Improvements to Regional and Local Roads:

It is an objective of the Council to provide for and carry out sustainable improvements to sections of regional roads and local roads that are deficient in respect of alignment, structural condition, or capacity, where resources permit and to maintain that standard thereafter.

Under Table 8.3, the N20 Cork Road is the subject of the following objective:

Design, reserve land and commence construction of the N20 upgrade to motorway standard, which forms part of the strategic Atlantic Corridor and is included in “Transport 21” from Patrickswell to Charleville in County Limerick.

Under the Part 8 Report entitled “N20 O’Rourke’s Cross Road Improvement Scheme: Particulars of Proposed Scheme made available for Public Inspection”, the above objective is cited along with a commentary to the effect that the project, which would be facilitated by the CPO, would be consistent with the design of the M20 upgrade, previously envisaged and now anticipated again. Thus, it would form part of the Bruree Junction Interchange and, as such, it would not become redundant in the future.

Under Chapter 6 of the CDP, entitled “Community and Recreation”, the following objective is supportive:

- Objective COM 029: Proposed developments and design considerations:

It is an objective of the Council to:

(a) Encourage the successful incorporation of safe and efficient cycle ways, accessible footpaths, and pedestrian routes, and general cycling facilities into the design schemes for town centres/neighbourhood centres, residential, educational, employment, recreational developments and other uses.

(b) Provide cycle ways, where appropriate, as part of all road improvement/redesign schemes ensuring, where possible, that cycle ways and footpaths are effectively separated from major vehicular carriageways.

(c) Prioritise the movement of pedestrians and cyclists in proximity to public transport nodes.

5.2. Natural Heritage Designations

- Tory Hill SAC (000439)
- Blackwater River SAC (Cork, Waterford) (002170)
- Glen Bog SAC (001430)
- Ballyhoura Mountains SAC (002036)

6.0 Planning History

Planning application 17/8005 for the project, which would be facilitated by the CPO, was granted under Part 8 of the Planning and Development Act, 2000 (as amended), subject to 8 conditions. The project was described as follows:

- A new roundabout controlled junction to be constructed necessitating alteration to the present junction layout and the construction of new N20 approaches to the junction and the alteration of the existing R518 approaches to the junction,
- A new combined cycleway/footway,
- Relocation of the bus stops,
- Road and drainage impact attenuation,
- Fencing and accommodation works,
- Landscaping,
- Public lighting, and
- Associated site works.

In addition, the description stated that "the implementation of the works proposed will result in a rearrangement of the existing road network in the vicinity of the scheme. Changes to the existing road network will include the relocation of points of access onto the national and local road network and the extinguishment of public rights of way by a separate statutory process."

Essentially, the project would entail the construction of a four-arm roundabout to the west of the existing junction. Footpaths would accompany either side of the approach carriageways from the south (N20) and from the east and from the west (both R518). These footpaths would be connected by pedestrian crossing points in positions adjacent to the roundabout. To the north, the western side of the N20 would be accompanied by a footpath, which would run northwards to a bus lay-by. A bus lay-by would also be provided on the eastern side of the N20, closer to the roundabout. A pedestrian crossing point would connect the westerly footpath to the easterly bus lay-by, which would in turn connect to a footpath that would run northwards from the eastern arm of the roundabout on an alignment set back from the adjacent carriageway. The easterly bus lay-by would also be accompanied by a line of set down car parking spaces.

A portion of the existing N20 would be retained in front of the service station to the north-east of the proposed roundabout. This portion would be connected to the

proposed N20 by means of a slip road to/from a new priority junction. It would afford access/egress to the set down car parking spaces and to the existing northern entrance to the service station and to the existing south eastern entrance/exit.

The priority junction would allow left hand turning movements to the aforementioned slip road by south-bound traffic and right hand turning movements by north-bound traffic, which would be facilitated by a stacking/turning lane in the centre of the N20 between the two bus lay-bys. This junction would only permit left hand turning movements from the slip road. Consequently, north-bound traffic would have to undertake a "U" turn at the proposed roundabout.

7.0 Objections

(a) Dennis & Betty Crean of Ballyfookeen, Bruree, Co. Limerick

7.1. The objectors refer to plot ref. no. 115. Objection is raised on the following grounds:

- i. Disturbance,
- ii. Severance of their property, and
- iii. Injurious affection.

(b) Eimear Carey of Ballyfookeen, Bruree, Co. Limerick

7.2. While the project is welcomed on road safety grounds, the objector wishes to see the following items incorporated within it:

- i. Footpaths,
- ii. Streetlighting,
- iii. A barrier to prevent excess noise reaching back along the Newcastle West Road (R518), and
- iv. Calming restrictions.

(c) Gerard Carey of Ballyfookeen, Bruree, Co. Limerick

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- iv. Calming restrictions.

(d) James Beechinor of Ballyanna, Sherin's Cross, Kilmallock, Co. Limerick

- 7.4. The objector expresses the view that a fifth-arm to the proposed roundabout would accommodate a seamless movement in and out of his service station without impeding safety.
- 7.5. The objector refers to meetings between project engineers and his engineer in the period of time that elapsed between the approval, under Part 8, of the project and the making of the CPO. During these meetings, longitudinal profiles of the realigned roads at O'Rourke's Cross were made available (drawing no. 15032-LO-108-1 revision D1).
- 7.6. Under the heading of assessment, the objector makes the following points:
- i. The above cited drawing shows the proposed roundabout and approach roads to it at a higher level than the service station forecourt.
 - ii. In the vicinity of the bus stop area this rise in height would be 2.4m.
 - iii. The roundabout could be provided at grade: The need to raise its level is questioned.
 - iv. The higher level would create safety issues that would otherwise be avoided.
 - v. As no cut and fill opportunity would arise the importation of c. 14,000 cubic metres of fill would add significantly to the cost of the project, i.e. over €250,000.
 - vi. While an attenuation area is shown to the west of the N20, one to the east could be added to the detriment of the service station.
 - vii. One of the objectives of the CPO is to minimise the impact of the project on properties nearby: This would not arise in the case of the service station.
 - viii. The height discussed above may necessitate the acquisition of further lands beyond those shown in the CPO.
 - ix. With the height would come the need for edge barriers.

- x. The project would lead to issues with the movement of bus passengers/ pedestrians.
- xi. Specifically, a conflict would arise between the proposed pedestrian crossing and the proposed right-hand stacking/turning lane into the service station.
- xii. During the above cited meetings, reference was made to some possible design changes. If the CPO is confirmed, these changes, and others, could be introduced subsequently, potentially adversely affecting the objector's business even more.
- xiii. All of the aforementioned design changes should have been dealt with before the CPO stage.
- xiv. The objector reiterates his concern that the proposed bus lay-bys, pedestrian crossing points, and the right-hand stacking/turning lane would lead to conflicts.
- xv. The objector anticipates a reduction in customer numbers, due to the location of the right-hand stacking/turning lane beyond the service station forecourt.
- xvi. The project would raise serious commercial issues for the objector's business.
- xvii. The proposal would generate undesirable "U" turn movements at the proposed roundabout.
- xviii. As such movements would not be anticipated, they would risk collisions.
- xix. The realigned N20 would be over 50m further away from the service station and the formation of earth berms would obstruct views of its presence.
- xx. The future use of lands between the realigned N20 and the service station is of concern.
- xxi. The aforementioned lands coincide with what would become the redundant stretch of the N20.
- xxii. The objector is of the view that a five-arm roundabout would be safer than the proposed four-arm one with a priority junction. He has submitted an engineer's report which expresses this view, too.
- xxiii. Concern is expressed that the only option considered was that of a four-arm roundabout with a priority junction.

7.7. Under the heading of Part 8 planning, the objector expresses concern that the increase in height discussed under his assessment above was not shown in the submitted plans of the project. Members approved this project without the knowledge of its full extent and negative impact upon the service station.

7.8. Under the heading of Observations, the objector makes the following points:

- i. The project would preclude the objector from developing his service station on the basis of direct access from the proposed roundabout.
- ii. The need for the height of the proposed roundabout is unclear.
- iii. The height of the proposed roundabout was not apparent during the Part 8 process.
- iv. If the Part 8 process can encompass the height that has now become apparent, then it could also encompass the addition of a fifth-arm to the proposed roundabout.
- v. A fifth-arm could be incorporated under the lands which are the subject of the CPO.
- vi. The Board is requested to vary the CPO to provide for a fifth-arm.
- vii. Attention is drawn to the dwelling house that is attached to the service station shop. The interests of the occupier were not identified/taken into account under the CPO process.
- viii. The objector was available to meet representatives of Limerick City and County Council before the Part 8 process, but no meetings took place.

7.9. The consulting engineer's report, cited under point (xxii) of the objector's above assessment, was undertaken to independently review the Part 8 process and enabling CPO. This report draws upon a survey of traffic using O'Rourke's Cross during the am peak, which was undertaken in November 2019. Over 1100 vehicles used this junction, c. 50 of which attended the service station. It also notes that two inter-urban Bus Eireann routes serve O'Rourke's Cross, i.e. the No. 51, which runs between Galway and Cork via Limerick on an hourly basis, and the No. 320, which runs between Limerick and Charleville five times a day.

- 7.10. The consulting engineer's report evaluates the proposed four-arm roundabout and the accompanying priority junction, which would serve the service station. It also presents the case for a five-arm roundabout instead. The report is critical of the Part 8 process insofar as it did not present alternative options but only that of the four-arm roundabout. This type of roundabout was justified over that of the five-arm type on the basis of Table 2/1 of the TII's Technical Guidance Document TD 16/07, which is entitled "Geometric Design of Roundabouts (DN-GEO-03033 January 2009) and which is now withdrawn. This Table indicates that four-arm roundabouts are 1.6 times safer than five-arm ones and so if the latter are proposed a Departure from Standard has to be agreed by the TII.
- 7.11. The consulting engineer draws attention to other information on Table 2/1, such as the fact that the overall percentage of accidents that are serious/fatal is the same for four and five-arm roundabouts. He also draws attention to the comparison which arises in this case, i.e. not between four and five-arm roundabouts, but between a four-arm roundabout with an accompanying priority junction and a five-arm roundabout. Given this comparison, he contends that the five-arm option is the safer one.
- 7.12. The consulting engineer cites the TII's Design Standard entitled "Geometric Design of Junctions (priority junctions, direct accesses, roundabouts, grade separated, and compact grade separated junctions)" DN-GEO-03060 (June 2017) and the TII's Design Standard entitled "Departures from standards and Specification" GE-GEN-01005 (January 2019). The former document sets out criteria for adding a fifth arm and the latter document sets out criteria for a Departure from Standard. Under both criteria a five-arm roundabout could be justified.
- 7.13. The consulting engineer has prepared a schematic design of the proposed roundabout with a fifth arm added. The right-hand stacking/turning lane to the north of this roundabout would be obviated. A pedestrian crossing between the two bus lay-bys would be simplified thereby and an optimum siting for such a crossing could be selected. An analysis of RFCs indicates that the two roundabout types would operate well within capacity to similar levels. The schematic design would be capable of being undertaken within the lands that are the subject of the CPO.

(e) Patricia O'Rourke owner of residential property at Ballyfookeen, Rokhill, Bruree, Co. Limerick

7.14. The objector raises the following issues:

(i) Flood risk

7.15. Flood risk to the objector's residential property was flagged as a potential issue from the outset of discussions about the subject project. This property was flooded on 20th May 2014. Since then the objector has been in regular contact with the local authority over a drain, which was surveyed and found to be faulty.

7.16. The objector states that remedial work to the drain should be undertaken prior to any confirmation of the CPO. In this respect, attention is drawn to supporting document 19, which records that the Mid-West NRDO engineer undertook, in a meeting held on 3rd December 2019, to replace a stone culvert with new pipework under the R518 as part of the works to provide the proposed roundabout. Supporting document 22, comprises correspondence dated 6th August 2020 in which the local authority undertook to apply for funding for the new pipework from the TII.

(ii) Access to the dwelling house

7.17. Progress is reported on discussions with LCCC on this issue.

(iii) Access to the agricultural lands

7.18. Progress is reported on discussions with LCCC on this issue, except for a gate, denoted as L, which is concealed within a hedgerow and which the objector insists should be retained.

(iv) Impact on retained land

7.19. Comprehensive mitigation measures are sought to the objector's other grounds of objection, particularly (i) and (v).

(v) Transfer of land between the proposed works and our client's dwelling and the relocation of services to a point outside this area

7.20. Attention is drawn to discussions that occurred when the M20 Cork – Limerick Motorway Scheme was being considered in 2010. The objector's front garden was to be extended over that portion of the N20 in front of her residential property that

would become redundant and service providers were requested to prepare indicative estimates of what it would cost to relocate services under the new road.

- 7.21. Concern is expressed that these arrangements would not necessarily be replicated under the currently proposed project. Under supporting document 20, the Mid-West NRDO advises that any transfer of lands could be considered post construction and that, as existing services such as a fibre optic cable, would not be relocated the redundant portion of the N20 would have to remain in public ownership. Concern is expressed that such an outcome would be unacceptable, as it would leave the objector's residential property exposed to undesirable parking and/or activity. Instead discussions over the relocation of services should be reactivated.

(vi) Traffic safety

- 7.22. Given (ii) and (iii) above, progress is reported on this issue.

Summary

- 7.23. The Board is requested to confirm the CPO only once issue (i) has been dealt with and discussions cited under issue (v) have been reactivated. Confirmation should be conditional upon the transfer of land, as discussed under issue (v).

8.0 Planning Authority Responses to Objectors

(a) Dennis & Betty Crean

- 8.1. The objectors' property is located on the R518 at a point where the proposed realignment would tie into the existing road. Consequently, only roadbed is being acquired from the landowner. In these circumstances, although the objectors cite severance of their property and injurious affection, it is difficult to see how these concerns would arise.
- 8.2. The objectors also cite disturbance. While the proposed scheme would entail works to the road in front of their property, these works would be short-term and subject to planned traffic management. During the construction stage, noise mitigation measures would be undertaken. During the operational stage, no significant noise impacts were predicted by a noise impact assessment, which was included in the Part 8 application for the scheme.

(b) Eimear Carey

- 8.3. The objectors' property is located on the R518 at a point where the proposed realignment would tie into the existing road. Consequently, only roadbed is being acquired from the landowner.
- 8.4. The proposed scheme is for an improved junction between the N20 and the R518 only. Consequently, footpaths and streetlighting beyond the tie in to the existing R518 are not included in this scheme.
- 8.5. During the construction stage, noise mitigation measures would be undertaken. During the operational stage, no significant noise impacts were predicted by a noise impact assessment, which was included in the Part 8 application for the scheme.

(c) Gerard Carey

- 8.6. The objectors' property is located on the R518 at a point where the proposed realignment would tie into the existing road. Consequently, only roadbed is being acquired from the landowner.
- 8.7. The proposed scheme is for an improved junction between the N20 and the R518 only. Consequently, footpaths and streetlighting beyond the tie in to the existing R518 are not included in this scheme.
- 8.8. During the construction stage, noise mitigation measures would be undertaken. During the operational stage, no significant noise impacts were predicted by a noise impact assessment, which was included in the Part 8 application for the scheme.

(d) James Beechinor

- 8.9. The proposed scheme is for a four-arm roundabout and a separate priority junction to serve the objector's service station, which was approved under the Part 8 process. The objector favours a five-arm roundabout. However, as he submitted the case for this alternative under the Part 8 process, the Planning Authority will not address either this case or his critique of the four-arm option now.
- 8.10. Commentary on points raised under the heading of assessment:
- Finished level

- This level is dictated by drainage and geometry considerations, particularly as they affect the realignment of the N20 to the north of the junction.
- It would not pose safety issues.
- While the importation of materials would be required, much of this would comprise processed materials, which would have to be imported in any event.
- No attenuation area would be formed in front of the service station.
- Impact
 - Impacts on landowners would be minimised.
 - The lands being acquired would be sufficient to facilitate the proposed scheme.
- Pedestrian crossing
 - This crossing would be sited between the right-hand turning lane and the roundabout, in a position whereby the solid island between the carriageways would provide a refuge for pedestrians.
- Design changes
 - Only minor changes could be considered to the proposed scheme now.
- Access to service station
 - The proposed scheme would afford safer access than that which pertains at present, e.g. the existing right hand turn lane from the N20 is 10m long, which is immediately after the right hand turning lane for the R518, whereas the proposed right hand turning lane would be 30m long.
- Turning movement at the roundabout
 - Northbound vehicles exiting the service station would be required to turn left onto the N20 southbound and to do a “U” turn at the roundabout to access the N20 northbound. Such a “U” turn would be safe for the size of roundabout proposed (cf. TII Design Standards for Junctions (DN-GEO-0360)).

- Area between the realigned N20 and the existing N20
 - This area would be landscaped to a uniformly finished level, which would allow clear views of the service station. It would be enclosed by means of bollards and it would be the subject of low-level planting. The area would receive backdrop lighting from streetlights on the realigned N20.

8.11. Commentary on points raised under the heading of planning:

The proposed roundabout would typically be 1.2m higher than the existing one and so its arms would slope upwards to this roundabout. Likewise, the proposed access road to the service station would slope upwards to the realigned N20.

8.12. Commentary on points raised under the heading of observations:

The proposed scheme would improve safety at O'Rourke's Cross. It would not preclude the objector seeking to develop his service station in the future by means of the normal planning process.

(e) Patricia O'Rourke

(i) Flood risk

8.13. Generally, the proposed scheme would be served by a drainage system, which would incorporate mitigation measures to ensure that flood risk would not increase elsewhere, and which would discharge into a local stream. While beyond such measures flood relief is not an objective, improvements to the operation of local drains overlapping with this scheme could be anticipated. Compensatory storage for any loss to the flood plain associated with the stream would be provided.

8.14. The objector refers to a piped drain and an old masonry culvert. A flood event in 2014 was caused by a localised failure of this culvert, which has since been repaired, although it will need to be replaced in the future. Such replacement would be undertaken as part of the proposed scheme, rather than as separate works before this scheme is implemented.

(ii) Access to the dwelling house

8.15. Details of a gate, fencing, and lighting to the access would be agreed at the compensation assessment stage. The width of the access and its geometry would be designed to facilitate all necessary turning movements.

(iii) Access to the agricultural lands

8.16. Gate L would lie 240m to the north of the proposed junction. This gate is overgrown and so it is not in use. The field it serves can be accessed elsewhere. Given that it is not in use and private accesses on to the N20 should be minimised, its inclusion in the proposed scheme would be undesirable.

(iv) Impact on retained land

8.17. The land between the realigned N20 and the existing N20 would be fenced and landscaped.

(v) Transfer of land

8.18. The line of the existing N20, which would become redundant, contains utilities, which would remain *in-situ*. The land comprised in this line may be identified for disposal: However, this would be subject to agreement with utility providers and the approval of members of LCCC.

(vi) Traffic safety

While the objector expresses concern that livestock crossing of the R518 would be made more difficult by the proposed scheme, it is unclear how this would be so.

9.0 Objector (a)'s Response to Planning Authority Responses

(a) Dennis & Betty Crean

9.1. The following points were made:

- Concern is expressed over on-going noise and dust/air pollution,
- Concern is expressed over on-going safety issues associated with O'Rourke's Cross,
- Kerbs are requested for in front of the objectors' property to prevent parking that obstructs sightlines from their egress, and
- A footpath to O'Rourke's Cross and roadside lighting are requested, to aid safety and crime prevention.

10.0 The Oral Hearing

10.1. An oral hearing was held on 2nd February 2021 into the Limerick City and County Council's Compulsory Purchase Order (CPO) for the N20 O'Rourke's Cross Road Improvement Scheme. Two of the five objectors chose to make submissions, i.e. Patricia O'Rourke and James Beechinor. The former objector was represented by John Garrett, Engineer, and the latter objector was represented by Frank Crean, Barrister. The Planning Authority was represented by Conleth Bradley, Barrister, who called Paul Bergin, Engineer with Kilgallen and Partners Consulting Engineers Ltd, and Maria Woods, Planner with LCCC.

LCCC's submission

10.2. Conleth Bradley introduced the engineer, Paul Bergin, and planner, Maria Woods, who would make submissions on behalf of LCCC.

10.3. Paul Bergin outlined the nature and the extent of the lands to be permanently acquired under the CPO as follows:

- Agricultural lands 3.63 hectares
- Public road 2.16 hectares
- House curtilage 0.014 hectares
- River 0.010 hectares

Each plot to be acquired is identified, in an accompanying table, and the reason for its inclusion is stated.

10.4. He also outlined that the CPO would entail the extinguishment of 4 public rights of way and 4 private rights of way. These, too, are identified, in an accompanying table, and the reasons for their inclusion are stated.

10.5. He addressed the community need for the proposed scheme and CPO. He began by describing the physical characteristics of the existing junction, which is an inadequately staggered ghost island cross roads between the N20 and the R518. Traffic seeking to join the N20 from the R518 is often delayed, due to the challenge of finding safe gaps in the traffic on the N20, which is subject to a 60 kmph speed limit as it passes by. Additionally, only a limited southern sightline is available to drivers egressing from the eastern arm of the R518.

- 10.6. Traffic movements at the junction are complicated further by access and egress arrangements to/from the service station to the north-east. Drivers egressing to the south on the N20 add to the aforementioned challenge of finding safe gaps in the traffic. Bus stops to the north of the junction introduce more pedestrian movements than would be normal in a rural location. Existing facilities do not provide for such pedestrians.
- 10.7. Traffic data is presented. With respect to the former, the following table sets out the average 2-way daily traffic flow at the junction:

N20 south of junction	10,641
N20 north of junction	10,545
R518 east of junction	3,396
R518 west of junction	2,578
Service station	1,399
R518 traffic crossing the N20	1,137

Traffic movements between the R518 (east and west arms) and the N20 show the following characteristics:

- Traffic emerging from the east tends to continue west on the R518 or turn north onto the N20, and
- Traffic emerging from the west tends to continue east on the R518 or turn south onto the N20.

- 10.8. Collision data is presented for the period 2005 – 2016: Two fatal head-on collisions, 2 serious collisions, and 8 minor collisions. Most of these collisions arose from turning movements at the junction.
- 10.9. Paul Bergin drew attention to the Part 8 planning approval and to the scheme objectives¹. Under his description of the proposed scheme, he also drew attention to the alternatives to this scheme, which were considered and set aside. These included the following:

¹ The scheme objectives are set out under pages 5 & 6 of my report.

- An improved ghost island junction: This option would fail to overcome the underlying problems that exist at present with this type of junction.
- The installation of traffic lights: While this option would afford greater control over existing traffic movements, these movements would remain, and traffic lights are not appropriate in a rural location.
- A grade separated junction: While this option would facilitate traffic movements, its scale and impact would be disproportionate.

10.10. The remaining option of a roundabout was thus explored: An on-line one would have significant impacts upon the service station and nearby dwelling houses and so an off-line one was considered. An easterly alignment was considered to have greater impact than a westerly one – hence the proposed scheme. A four arm roundabout has been specified rather than a five-arm one, as TII Design Standards recommend the former rather than the latter, which would entail a Departure from Standard.

10.11. The proposed scheme would incorporate combined footways/cycleways and crossing points of each of the arms to the proposed roundabout. Relocated bus stops would be served by these arrangements, too.

10.12. The proposed scheme would be served by a surface water drainage scheme, which would discharge to a local stream at a controlled rate via a detention pond.

10.13. The proposed scheme has been the subject of an independent Road Safety Audit and the recommendations from the same have been incorporated within this scheme.

10.14. Paul Bergin referred to the following environmental reports, which accompanied the Part 8 application for the proposed scheme:

- An Ecological Impact Assessment and Appropriate Assessment Screening,
- A Cultural Heritage Impact Assessment,
- Air Quality & Climate and Noise & Vibration Assessments: Both these Assessments identified construction phase mitigation measures: Such measures for the operational phase were not considered to be necessary, and
- Site-Specific Flood Risk Assessment, which identified a flood plain in connection with a local stream to the north of the site: As part of this site

overlaps with this plain, a compensatory storage area is incorporated within the proposed scheme.

- 10.15. He outlined the procedures that the CPO has passed through to date. He listed the objectors and submitted LCCC's responses to each of their objections. He stated that the issues raised in these objections "have been addressed insofar as practicable within the scope and objectives of the scheme."²
- 10.16. Paul Bergin concludes that the proposed scheme would address safety issues arising from the existing junction and it would also meet a range of other objectives, too. While alternatives were considered, the proposed scheme would be the most suitable. Any delay caused to N20 traffic would be offset by greater safety and connectivity for all road users.
- 10.17. He also concludes that the lands, which are the subject of the CPO, would be necessary and sufficient for the construction, operation and maintenance of the proposed scheme. Likewise, the extinguishment of rights of way would be appropriate and adequate measures have been put in place to ensure the provision of alternative means of access.
- 10.18. Maria Woods outlined the Part 8 process, which culminated in approval being given by members of LCCC's Cappamore/Kilmallock Municipal District.
- 10.19. She summarised the provisions of the Limerick County Development Plan 2010 – 2016 (as extended), which support the proposed scheme. Thus, she drew attention to Chapters 6 and 8, which are entitled "Community and recreation" and "Transportation and access", respectively. The former chapter includes Objective COM 029 and the latter includes Objective IN 08, both of which encourage the incorporation of pedestrian and cyclist facilities in new development. The latter chapter also includes Objective IN 012 and Policies IN 7 – 9, which relate to improvements to the safety and capacity of regional and national roads.³
- 10.20. She summarised the planning history of the surrounding area, which comprises several applications for the service station over the period 1983 – 2015.
- 10.21. She addresses the fourfold criteria for CPOs as follows:

² LCCC's responses are summarised under section 8 of my report.

³ These policies and objectives are set out on pages 6 & 7 of my report.

- Community need: The existing junction is not served by footpaths and cycleways and so it is unsafe particularly for vulnerable road users. The proposed scheme would incorporate facilities for these road users, including a controlled pedestrian crossing between the bus stops on either side of the N20. Provisions of the Development Plan would thereby be met.
- The suitability of the site to meet the community need: This is addressed by Paul Bergin.
- Alternative methods of meeting the community need: This is addressed by Paul Bergin.
- Works would accord with the provisions of the Development Plan. The proposed scheme would accord with the above cited provisions of this Plan.

Patricia O'Rourke's submission

10.22. John Garrett representing Patricia O'Rourke stated that his client had no objection to the principle of the proposed scheme and that she recognised the need for it in the interests of public safety. However, she does have concerns over flooding that occurred on 20th May 2014, which resulted from a localised failure of a culvert under the R518. While LCCC claims to have repaired this culvert, the objector does not accept that this is so. In this respect, attention is drawn to Paragraph (c) of an email from LCCC dated 2nd December 2019⁴, which states that a lip at either end of the culvert was the cause of blockages that led to the flooding. LCCC undertakes to replace this culvert as part of the proposed scheme and so the problematic lips would be removed.

10.23. John Garrett also drew attention to the second paragraph of an email from LCCC dated 6th August 2020⁵ in which an undertaking to apply to the TII for funding for the replacement culvert was made. He added that he had received an email from LCCC dated 1st February 2021 to the effect that this application had been made for €20,000.

10.24. Essentially, his client does not consider that the replacement culvert should be delayed until the proposed scheme proceeds to its construction stage. In this

⁴ Item 17 attached to the Patricia O'Rourke's letter of objection to the CPO.

⁵ Item 22 attached to the Patricia O'Rourke's letter of objection to the CPO.

respect, the Board is requested to attach a condition, under Section 35(4)(h) of the Planning and Development Act, 2000 – 2020, requiring that this culvert be constructed before this scheme proceeds.

- 10.25. John Garrett addressed the question of the future of the land that would become redundant under the proposed scheme. This land includes the line of the existing N20 and, although LCCC has no plans to divert the utilities under this road, his client's preference is that they be so diverted as a prelude to her taking control of it, thereby averting the occurrence of undesirable parking upon this land.
- 10.26. John Garrett acknowledged that, if left un-diverted, wayleaves could be granted to utility providers for the purpose of servicing the retained utilities.
- 10.27. John Garrett reported that LCCC has agreed to re-site an agricultural gate on the R518 so that it would directly correspond with a similar gate on the opposite side of this road, thereby facilitating livestock movements.
- 10.28. John Garrett drew attention to Gate L on the northern side of O'Rourke's Cross. While this gate is concealed in hedging and is presently unused, it does exist, and it does represent a means of access to his client's land. LCCC's proposed closure of this access would limit the usability of the land accessed thereby and so his client requests that it be retained.
- 10.29. John Garrett requested confirmation from LCCC that agreements reached with his client would be upheld.
- 10.30. John Garrett addressed the height of the proposed scheme, which would be higher than the ground floor level of his client's dwelling house. He queried the need for it to be so high and he requested that it be reduced in height as much as possible.
- 10.31. John Garrett requested clarification on what the construction stage noise mitigation measures would entail. He also requested confirmation that no noise mitigation would be necessary during the operational stage.

James Beechinor's submission

10.32. Frank Crean read a statement prepared by James Beechinor, which can be summarised as follows:

- The service station dates from c. 1939. He acquired it in 2004 and he has developed this service station subsequently.

- O'Rourke's Cross was originally a cross roads that was considered to be an accident black spot. Consequently, the western arm of the R518 was realigned northwards to enable this arm and the eastern one to be offset in relation to one another. This occurred c. 40 years ago. Additionally, the limited 60 kmph zone, attendant upon the junction, was expanded in more recent years.
- He made a submission to the Part 8 process in which he made the case for a five-arm roundabout, as distinct from the proposed four-arm one, which would afford direct access/egress to his service station and thereby obviate the need for the proposed priority junction. Nevertheless, members of LCCC approved the proposed four-arm roundabout on 19th October 2017. He understands that they were advised that five-arm roundabouts were 1.6 times more accident prone and that they would be legally responsible if they were to insist on a five-arm roundabout.
- He contacted the members concerned directly on 15th April 2018. While they endeavoured to have their approval of 19th October 2017 rescinded, they were advised that this was not legally possible. Nevertheless, they passed a motion to the effect that they "were given incomplete, inaccurate and inadequate information" prior to giving their approval.
- At a meeting between LCCC and his engineer, Ger O'Keefe, on 17th December 2019, longitudinal profiles of the proposed roundabout were tabled that show its elevated form rising to 2.4m above the level of the service station forecourt. His engineer expressed the view that these profiles represented a substantial change to the approved scheme.
- He confirms that his alternative proposal could be carried out within the land take of the CPO. He expresses concern that the dwelling house on his site has not been addressed under either the Part 8 or the CPO processes. He requests that LCCC engages with him before the CPO is finalised to discuss his following concerns:
 - The extinguishment of a public right of way, which would affect his service station,
 - The height of the proposed roundabout

- Access and egress to his service station, including the dwelling house, and
- The impact upon his business.

10.33. Frank Crean stated his submission related to the extinguishment of a public right of way to his client's service station and to the fact that under neither the Part 8 process nor the CPO process had the extinguishment of access/egress to a private dwelling house on his client's site been addressed. Furthermore, the status of the cul-de-sac that would be formed to provide access/egress to the service station is unclear and hence its future management regime.

10.34. Frank Crean stated that the Part 8 process was based on a proposal rather than a full design proposal. Subsequent meetings between his client's representatives and LCCC led to the production of more detailed plans, which show that the proposed realigned would be elevated by as much as 2.4m above grade. The decision of members of LCCC to approve the proposed scheme was based on the original proposal and so they did not have the more detailed plans before them.

10.35. Frank Crean drew attention to his client's alternative five-arm scheme and to the preference of members of LCCC for it, as is evidenced by their public statements and by their request to rescind their earlier approval.

Question time

10.36. A question time was held during which the objectors and the inspector asked questions of LCCC.

10.37. **John Garrett** sought an undertaking from LCCC that the replacement culvert would be installed before the proposed scheme proceeds to construction.

10.38. Paul Bergin responded by stating that the replacement culvert would be provided as part of the proposed scheme.

10.39. John Garrett questioned the reasonableness of LCCC's position insofar as it is responsible for the culvert and that, as such, it is quite independent of the proposed scheme.

10.40. Paul Bergin reiterated that the proposed scheme is a road safety one rather than a flood relief one.

- 10.41. John Garrett enquired after LCCC's view on the use of a Section 34(5)(h) condition.
- 10.42. Conleth Bradley responded by clarifying that the Section cited relates to the planning process rather than the CPO process.
- 10.43. John Garrett asked if the height of the proposed scheme could be reduced on visual amenity grounds.
- 10.44. Paul Bergin replied that drainage and geometric considerations lay behind this height, i.e. the need to tie in with existing drainage infrastructure and to allow for cross falls. Minor reductions in the height may be achievable at the construction stage.
- 10.45. John Garrett asked LCCC what the prospects were of the land in front of his client's property being transferred into her ownership.
- 10.46. Paul Bergin replied that it is common practice for lands not required for the proposed scheme and its future maintenance to be transferred to adjoining landowners, subject to the agreement of utility providers and the approval of members of LCCC.
- 10.47. John Garrett referred to a recent agreement between his client and LCCC to move a gate onto the R518 eastward. Deirdre Clarke confirmed that this was so.
- 10.48. John Garrett requested that Gate L be retained, as its permanent closure would reduce the usability of the land it serves, e.g. in the event that this land was to be developed, independent access would be denied.
- 10.49. Paul Bergin expressed a reluctance to accede to its retention.
- 10.50. John Garrett enquired about the control over accommodation works that would be needed.
- 10.51. Colin Boddy, an engineer with with Kilgallen and Partners Consulting Engineers Ltd, indicated that this would be a matter for the compensation stage.
- 10.52. John Garrett enquired if an undertaking could be given that all agreements between his client and LCCC would be upheld.
- 10.53. Deidre Clarke, project manager with LCCC, gave an undertaking in this respect.
- 10.54. **Frank Crean** asked for confirmation as to when the Part 8 application was advertised.

- 10.55. Conleth Bradley replied to the effect that the Part 8 application has been approved.
- 10.56. Frank Crean asked for confirmation as to the plans that were comprised within this application, i.e. that they did not comprise a longitudinal section, and that these were the plans before the members who approved the application.
- 10.57. Paul Bergin confirmed the plans cited in these respects.
- 10.58. Frank Crean asked for confirmation that the proposed scheme would be 2.5m above the level of the forecourt to his client's service station and that this information was not available to the members who approved the Part 8 application.
- 10.59. Frank Crean asked a series of questions with respect to a subsequent meeting between LCCC and his client's representatives at which a longitudinal section of the proposed scheme was available.
- 10.60. Paul Bergin confirmed that a more detailed design stage lay ahead within the ambit of the plans that had already been approved.
- 10.61. Frank Crean asked if a controlled pedestrian crossing was being proposed over the N20 opposite his client's service station.
- 10.62. Paul Bergin replied that a pedestrian crossing was proposed and that this could be controlled if required.
- 10.63. Frank Crean asked if a 2.5m increase in the height of a structure would be material in planning terms.
- 10.64. Marie Woods questioned why she was being asked a question about the Part 8 process.
- 10.65. Frank Crean sought to justify his question on the basis that the CPO would facilitate a Part 8 scheme which would depart from that which was approved by members of LCCC.
- 10.66. Conleth Bradley stated that the plans approved under Part 8 were the subject of an iterative design process. He also stated that this approval had not been legally challenged by means of a Judicial Review and so it enjoys a presumption of validity. It cannot now be challenged collaterally by means of the CPO process. In any event, the case for an alternative design of roundabout put forward by James Beechinor was submitted to and considered by LCCC under the Part 8 process.

- 10.67. Frank Crean stated that his question over materiality sought to probe whether the height of the proposed scheme that was now apparent could simply be assigned to an iterative design process.
- 10.68. Conleth Bradley reiterated his position that Frank Crean was seeking to revisit the Part 8 process.
- 10.69. Marie Woods drew attention to the plans comprised in the Part 8 application and the notation that is on these plans to the effect that there would be slopes accompanying the proposed roundabout and its arms along the N20 and the R518.
- 10.70. **The inspector** sought clarification of the references on the plans of the proposed scheme to combined footpath and cycleway.
- 10.71. Paul Bergin responded by saying that a shared surface was proposed, as there is a low level of cycling activity in the area. However, should this change in the future, there would be scope within the available verge to provide a separate cycleway.
- 10.72. The inspector drew attention to the proposed expansion of the 60 kmph zone along the R518 to the east and to the west of the proposed roundabout. He enquired if it was LCCC's policy to provide footpaths and roadside lighting in 60 kmph zones.
- 10.73. Deirdre Clarke stated that there was not a policy in this respect and so the automatic provision of lighting along these zones beyond the proposed scheme could not be inferred. Paul Bergin stated that the exact extent of lighting would be determined at the detailed design stage.
- 10.74. The inspector drew attention to the noise impact assessment, the modelling for which assumed that the proposed scheme would be at grade and that any increase in height would not have a significant effect upon noise impact. In the light of the increase in height, LCCC was asked to comment on this position.
- 10.75. Paul Bergin stated that the methodology adopted in the noise impact assessment was the conventional one and Section 4.1 of the assessment was referred to in this respect. It assumes that the site and the surrounding area share a common uninterrupted area.

Closing statements

- 10.76. Closing statements were given and these are summarised below.

LCCC

10.77. Conleth Bradley stated that it was the CPO process rather than the Part 8 process that was before the Board. He described the proposed scheme and he drew attention to the rationale for the CPO, which appears in granular and more general detail in Paul Bergin's submission. He also drew attention to the fourfold test for CPO's that emerged from the supreme court case of Clinton v ABP, i.e. the establishment of a community need, the suitability of property to meet that need, the exploration of alternatives, and that the scheme would accord or at least not materially contravene the provisions of the relevant Development Plan. These are the requirements that the Board must be satisfied have been met by the CPO.

10.78. Conleth Bradley also stated that just as the confirmation or otherwise of the CPO was a discrete stage with force going forward so such force applies going backward. And so, just as John Garrett was correct to accept that matters of accommodation works are for the compensation stage, the Part 8 stage approval must be respected as enjoying a presumption of validity and so it is not allowable that the CPO process be used to launch a collateral challenge against this approval. The Board is asked to confirm the CPO, which would give effect to the approved Part 8 scheme.

Patricia O'Rourke

10.79. John Garrett emphasised that the culvert was of great importance to his client. She is the fourth generation of her family to reside in the dwelling house and she wishes to move back into this dwelling house and do it up but feels unable to do so while the culvert issue remains unresolved. The Board is asked to address this issue.

James Beechlinor

10.80. Frank Crean stated that his client would be severely impacted by the proposed scheme. The evidence presented indicates that the Part 8 process did not assess the higher scheme that is now proposed. Accordingly, it is radically different and so it cannot be said to have been approved. As an unauthorised scheme, it does not seem to have been the subject of EIA or AA.

10.81. Frank Crean also stated that if the design process is an iterative one then there is still scope for his client's alternative proposal to be incorporated within the scheme.

10.82. Frank Crean concluded by stating that it cannot be in the public interest to confirm a CPO for a scheme that has not been approved under Part 8 and so the Board is requested to reject this CPO.

10.83. The inspector formally closed the oral hearing.

11.0 Assessment

11.1. I will review the CPO made by LCCC for O'Rourke's Cross Road, Ballyfookeen & Cappanagara, Co. Limerick and objections lodged against it by local residents and the owner of a service station, in the light of the documentation submitted to the Board by the parties in advance of the Oral Hearing, my site visit, and the proceedings of the Oral Hearing itself. I will utilise the following headings in undertaking my review:

- (i) Procedural matters,
- (ii) The four-fold criteria, and
- (iii) The objectors' concerns.

(i) Procedural matters

11.2. James Beechinor drew attention to the dwelling house, which accompanies the service station on his land. He expressed concern that the occupier of this dwelling house had not been included with in the CPO process and yet access/egress to it would be affected by the proposed scheme.

11.3. LCCC did not address this concern directly.

11.4. I note that the dwelling house shares the same access/egress arrangements as the service station does at present and that it would, likewise, under the proposed scheme, share the same arrangements in the future. I note, too, that these arrangements would change insofar as the northern access and the south eastern access/egress would no longer be directly off the realigned N20, but off a retained redundant portion of the N20, which would be connected to a new priority junction on the N20 by means of a slip road. The egress onto the R518 (east) on the southern boundary of the objector's land would be permanently closed.

11.5. From the information before me, there is no indication that the occupier is the owner of the dwelling house. Rather the objector is the owner and he was included within the CPO process. The service station and the dwelling house share the same site, their existing and proposed access/egress arrangements are/would be the same, and James Beechinor owns both of these properties. Accordingly, I am satisfied that the inclusion of the owner in the CPO process for the purposes of the service station suffices for that of the dwelling house, too.

11.6. I conclude that there is no outstanding procedural matter that would prevent the Board from proceeding with its assessment of the CPO.

(ii) The four-fold criteria

11.7. For the Board to confirm the subject CPO proposal, it must be satisfied that LCCC has demonstrated that this CPO "is clearly justified by the common good".⁶ Legal commentators⁷ have stated that this phrase requires that the following minimum criteria must 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
- 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.

⁶ Para. [52] of judgement of Geoghegan J in *Clinton v An Bord Pleanala (No. 2)* [2007] 4 IR 701.

⁷ 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).

(a) There is a community need that is to be met by the acquisition of the site in question.

- 11.8. LCCC and the objectors are in agreement that the existing junction between the N20 and the R518, known as O'Rourke's Cross Road, would benefit, in principle, from being replaced with a new one in the interest of road safety.
- 11.9. During my site visit, I observed the complexity of the existing junction insofar as the stagger between the R518 (east) and the R518 (west) is c. 40m and within this dimension and between right hand turning lanes in the N20 to the north and to the south is a pocket right hand turning space, which serves the service station to the north-east. Effectively, right hand turning manoeuvres to, and indeed from, the service station take place from *within* the staggered junction.
- 11.10. Paul Bergin, in his submission to the oral hearing on behalf of LCCC, presented data with respect to overall daily vehicle movements at the existing junction and the pattern of those movements, which entail significant levels of right hand turning manoeuvres from the R518 onto the N20 northbound and southbound. Significant levels of manoeuvres to and from the service station were also recorded, including right hand turning manoeuvres. He presented data, too, on collisions over the period 2005 – 2016, which comprised 2 fatal head-on collisions, 2 serious ones, and 8 minor ones. He observed that most of these collisions were associated with the complex turning movements at the existing junction.
- 11.11. Paul Bergin observed that drivers seeking to join the N20 from either the R518 (east) or the R518 (west) face the challenge of finding a safe gap in relatively smooth flowing traffic passing through the 60 kmph zone. Vehicles egressing from the service station onto the N20 add to this challenge. For drivers seeking to join the N20 (northbound) from the R518 (east) there is a further difficulty posed by a limited southerly sightline.
- 11.12. Maria Woods, in her submission to the oral hearing on behalf of LCCC, drew attention to the virtual complete absence of pedestrian and cyclist facilities from the existing junction. She also drew attention to the presence of north and southbound bus stops on either side of the N20 and the resultant greater number of pedestrians who use the junction than would normally occur within a rural location.

11.13. Objectors (a) reside to the west of the existing junction in a row of dwelling houses on the R518. They may well be typical of other local residents when they speak of the difficulties attendant upon walking the short distance between their dwelling house and the local shop which forms part of the service station on the opposite side of the junction.

11.14. The N20 O'Rourke's Cross Road Improvement Scheme is the subject of a Part 8 approval. This Scheme would entail the replacement of the existing junction with a four-arm roundabout and the associated realignment of the N20 further to the west of its existing line. The Report which accompanied the Part 8 application stated that the purpose of the project was as follows:

To address safety issues caused by the complex pattern of existing traffic movements arising from the sub-standard staggered crossing of the N20 by the R518, the significant traffic movements associated with the existing petrol station located at the junction and the presence of the adjacent bus stops. While the proposed solution will give rise to some degree of unavoidable delay to N20 traffic negotiating the new roundabout, this will not be significant and will be offset by the much improved and safer linkage that the Scheme will provide between the R518 and N20, combined with the provision of safer facilities for vulnerable road users.

This Report also set out the objectives of the project as follows:

- *Economy: Deliver economic benefits through reduced accident costs that will result from a safer junction arrangement.*
- *Environment: Be designed to avoid significant environmental impacts if possible or, where avoidance is not possible, to mitigate the impact by incorporating appropriate mitigation measures into the scheme design.*
- *Accessibility and social inclusion: Not impact negatively on accessibility and social inclusion. Bus facilities must be incorporated into the scheme to replace and improve the existing facilities. The scheme must not reduce connectivity between the eastern and western sides of the N20 and must incorporate appropriate facilities for vulnerable road users.*
- *Integration: Not compromise the strategic importance of the existing N20 and must not place constraints on any future scheme to improve the N20 regionally. The scheme must not impact on local land-use strategies and must not place constraints on regional development that would result in increased traffic flows on the R518.*

- *Safety: Improve traffic safety and provide a safer environment for all road users. This will be achieved by replacing the existing junction with a new junction, complying with TII Publications (Standards), that will safely cater for turning movements at the junction and provide facilities for vulnerable road users.*

11.15. The N20 O'Rourke's Cross Road Improvement Scheme Compulsory Purchase Order 2020 would, in the words of the Senior Engineer for the project from the Mid-West National Road Design Office of LCCC:

- (a) *Ensure the acquisition of all the land required,*
- (b) *Facilitate the acquisition of land within a reasonable timescale, and*
- (c) *Permit Limerick City and County Council to plan a road construction programme for the road improvement scheme, confident in the knowledge that the land required will be available.*

11.16. The Director of Operating Services of LCCC advises that "the land for the road development is necessary, sufficient and suitable and the proposed extinguishment of public and private rights of way are necessary for the proposed N20 O'Rourke's Cross Road Improvement Scheme together with all ancillary works associated therewith, to which the compulsory purchase order relates."

11.17. I conclude that there is a community need for the O'Rourke's Cross Road Improvement Scheme, primarily to overcome the risk to public safety posed by the existing junction at O'Rourke's Cross Road and to ensure that facilities for vulnerable road users are provided in the future. The acquisition of lands and the extinguishment of public and private rights of way comprised in the CPO would facilitate and expedite the construction of the Improvement Scheme and so this CPO would meet the identified community need.

(b) The particular site is suitable to meet that community need.

11.18. The lands comprised in the N20 O'Rourke's Cross Road Improvement Scheme, which is the subject of a Part 8 approval, are the same as the lands comprised in the subject CPO. This Improvement Scheme would provide a replacement junction that would meet the identified community.

11.19. In Paragraph 11.15 above, LCCC's Director of Operating Services advises that the lands comprised in this CPO are "necessary, sufficient and suitable" for the N20 O'Rourke's Cross Road Improvement Scheme.

11.20. I conclude that the lands comprised in the CPO are suitable to meet the identified community need.

(c) Any alternative methods of meeting the community needs have been considered but are not demonstrably preferable (taking into account environmental effects, where appropriate)

11.21. Paul Bergin, in his submission to the oral hearing on behalf of LCCC, outlined the alternative methods of meeting the identified community needs, which were considered prior to the selection of the method proposed, i.e. a replacement junction in the form of a roundabout. He also commented on why each of these alternatives was considered to be less satisfactory than the method selected. The alternative methods and accompanying commentaries are as follows:

- An improved ghost island junction: This option would fail to overcome the underlying problems that exist at present with this type of junction.
- The installation of traffic lights: While this option would afford greater control over existing traffic movements, these movements would remain, and traffic lights are not appropriate in a rural location.
- A grade separated junction: While this option would facilitate traffic movements, its scale and impact would be disproportionate.

11.22. In selecting a roundabout, LCCC had to decide on its siting. In this respect, Paul Bergin outlined at the oral hearing that an on-line siting would have had significant impacts upon the service station and nearby dwelling houses and so an off-line was considered. Two options were then considered: Either the roundabout could be sited to the east or to the west of the existing junction. The former was judged to have a greater impact and so the latter was selected, and it was the subject of the Part 8 process.

11.23. Under LCCC's Part 8 application, a four-arm roundabout with a priority junction to the north to facilitate access/egress to the service station was proposed and approved. Objector (d) made a submission to the Part 8 process in which he presented the case for a five-arm roundabout, which would facilitate access/egress to his service station without the need for a separate priority junction. This alternative was considered by LCCC's Mid-West National Road Design Office and set aside

essentially on the basis that Table 2/1 of the TII's Technical Guidance Document TD 16/07, which is entitled "Geometric Design of Roundabouts" (DN-GEO-03033 January 2009), shows that the frequency of accidents at five-arm roundabouts is 1.6 times greater than at four-arm roundabouts. Accordingly, the TII's Technical Document, which is entitled "Geometric Design of Junctions (priority junctions, direct accesses, roundabouts, grade separated and compact grade separated junctions)" (DN-GEO-03060 June 2017) does not recommend the specification of five-arm roundabouts and so if one is proposed then a Departure from Standard application must be made to the TII.

11.24. Objector (b) in his submission to the CPO process has reiterated his case for a five-arm roundabout. His consulting engineer has prepared a report in which he makes the following points:

- The TII Technical Guidance Document TD 16/07 has now been withdrawn. Nevertheless, Table 2/1 in TII Technical Guidance Document TD 16/07 shows that the overall percentage of accidents that are serious/fatal is the same for four and five-arm roundabouts.
- In the present case, the comparison is not between four and five-arm roundabouts, but between a four arm roundabout with an accompanying priority junction and a five-arm roundabout. Given this comparison, he contends that the five-arm option is the safer one.
- The TII's Design Standard entitled "Geometric Design of Junctions (priority junctions, direct accesses, roundabouts, grade separated, and compact grade separated junctions)" DN-GEO-03060 (June 2017) and the TII's Design Standard entitled "Departures from standards and Specification" GE-GEN-01005 (January 2019) are cited to the effect that the former document sets out criteria for adding a fifth arm and the latter document sets out criteria for a Departure from Standard. Under both criteria a five-arm roundabout could be justified.
- A schematic design of the proposed roundabout with a fifth arm added is submitted. The right-hand stacking/turning lane to the north of this roundabout would be obviated. A pedestrian crossing between the two bus lay-bys would

be simplified thereby and an optimum siting for such a crossing could be selected.

- An analysis of RFCs indicates that the two roundabout types would operate well within capacity to similar levels.
- The schematic design would be capable of being undertaken within the lands that are the subject of the CPO.

11.25. LCCC responded to objector (b)'s submission to the effect that the option of a five-arm roundabout had been considered under the Part 8 process and so the CPO process should not be used to revisit this option.

11.26. I consider that LCCC has demonstrated that the three alternative methods cited in Paragraph 11.23 would not be preferable to the roundabout option selected. While the report of objector (b)'s consulting engineer, which was not available during the Part 8 process, presents the case for a five-arm roundabout, I do not consider that he has *demonstrably* shown that a five-arm roundabout would be preferable to a four-arm one. Indeed, its indicative depiction in Figure 4.6 of the report shows the duplication of access/egress points through the retention of the proposed slip road *and* the addition of the fifth arm. Such duplication would run contrary to the principle of seeking to minimise/consolidate access/egress points from/to the national road network. In any event, the implications for the CPO are neutral, insofar as the land required for either a four-arm or a five-arm roundabout is the same, along with the extinguishment of public and private rights of way.

11.27. I conclude that the alternative methods of meeting the community needs that have been considered would not be demonstrably preferable to the method selected.

(d) 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.

11.28. Limerick County Development Plan 2010 – 2016 (extended) (CDP) is the relevant statutory development plan for the CPO lands. Under this Development Plan, there are a number of general and more specific policies and objectives that, either directly or indirectly, support the N20 O'Rourke's Cross Road Improvement Scheme, which would be facilitated by the subject CPO.

11.29. Under Chapter 8 of the CDP, entitled "Transport and Infrastructure", the following policies and objectives are supportive:

- Policy IN P7: Road Safety and Capacity:

To seek the improvement of road safety and capacity throughout the County, through minimising existing traffic hazards, preventing the creation of additional or new traffic hazards in the road network and securing appropriate signage.

Under Table 8.2, the R518 – Askeaton/Rathkeale/Ballingarry/Bruree/Kilmallock regional road is identified as a strategic regional road.

- Policy IN P8: Strategic Regional Road Network:

It shall be the policy of the Council to protect the investment in the Strategic Regional Road Network, prevent the premature obsolescence of the network and maintain and improve road safety and capacity.

- Objective IN 012: Improvements to Regional and Local Roads:

It is an objective of the Council to provide for and carry out sustainable improvements to sections of regional roads and local roads that are deficient in respect of alignment, structural condition, or capacity, where resources permit and to maintain that standard thereafter.

Under Table 8.3, the N20 Cork Road is the subject of the following objective:

Design, reserve land and commence construction of the N20 upgrade to motorway standard, which forms part of the strategic Atlantic Corridor and is included in "Transport 21" from Patrickswell to Charleville in County Limerick.

Under the Part 8 Report entitled "N20 O'Rourke's Cross Road Improvement Scheme: Particulars of Proposed Scheme made available for Public Inspection", the above objective is cited along with a commentary to the effect that the Improvement Scheme would be consistent with the design of the M20 upgrade, previously envisaged and now anticipated again. Thus, it would form part of the Bruree Junction Interchange and, as such, it would not become redundant in the future.

11.30. Under Chapter 6 of the CDP, entitled "Community and Recreation", the following objective is supportive:

- Objective COM 029: Proposed developments and design considerations:

It is an objective of the Council to:

(a) Encourage the successful incorporation of safe and efficient cycle ways, accessible footpaths, and pedestrian routes, and general cycling facilities into the design schemes for town centres/neighbourhood centres, residential, educational, employment, recreational developments and other uses.

(b) Provide cycle ways, where appropriate, as part of all road improvement/redesign schemes ensuring, where possible, that cycle ways and footpaths are effectively separated from major vehicular carriageways.

(c) Prioritise the movement of pedestrians and cyclists in proximity to public transport nodes.

11.31. In her submission to the oral hearing, Maria Woods, planner for LCCC, outlined the above cited policies and objectives of the CDP. She concluded that the N20 O'Rourke's Cross Road Improvement Scheme would accord with these policies and objectives and hence the relevant statutory development plan. The subject CPO would facilitate this Improvement Scheme.

11.32. I conclude, too, that the works comprised in N20 O'Rourke's Cross Road Improvement Scheme would accord with the provisions of the relevant statutory development plan.

11.33. In the light of the above assessment, I conclude that LCCC has demonstrated that the CPO would meet the four-fold criteria for establishing that it would be clearly justified by the common good.

(iii) The objectors' concerns

11.34. **Objector (a)**'s concerns, as expressed in their response to LCCC's response to their original objection, related to noise and dust/air pollution from the project, the installation of kerbs outside their property, and the provision of a footpath and roadside lighting along the R518 (west) to the proposed roundabout.

11.35. **Objector (b) and (c)**'s concerns, as expressed in their original objection, overlap with those of Objector (a), insofar as they, too, seek the provision of a footpath and roadside lighting, a noise barrier, and calming restrictions.

11.36. LCCC responded to objector (b) and (c)'s concerns to the effect that, footpaths and roadside lighting would be incorporated within the proposed scheme, and so such provision would extend along the R518 (west) as far as the tie in with the existing road. LCCC also drew attention to the Noise Impact Assessment, which

accompanied the Part 8 application, and which concluded that no significant impacts would arise during the operational stage and such impacts during the construction stage would be mitigated.

11.37. During the question time, attention was drawn to the extension outwards of the existing 60 kmph speed limit zone along the R518 (east and west) to include portions of the existing road. LCCC advised that such extension would not necessarily be accompanied by roadside lighting, although this would be finalised at the detailed design stage.

11.38. During the question time, too, attention was drawn to the elevated form of the proposed roundabout and whether this would have implications for the findings of the Noise Impact Assessment. LCCC stated that this assessment was based on a conventional methodology that assumes that the site and the surrounding area are level and uninterrupted. In this respect, Section 4.1 of the Noise Impact Assessment was cited: It states that "In all likelihood, there is no acoustical impact of not including road heights in this particular model. However, earth bunds, barriers and other topographical features may impact the noise levels at receiver positions, most likely reducing them. So, these models could be considered conservative in this respect."

11.39. **Objector (d)** expressed several concerns which I have addressed under the first and second headings of my assessment, i.e. the presence of a dwelling house on the site of his service station and his preference for a roundabout with a fifth arm, which would afford access/egress to his service station. Beyond these concerns, he also cites the following issues: The height of the proposed roundabout, the safety of the proposed scheme, the future use of land in front of the service station, and the impact upon his business. I will address each of these issues in turn.

11.40. Objector (d) questioned whether the proposed scheme had the benefit of planning permission, as he contended that its height was not apparent under the Part 8 process. Given that longitudinal drawings of this scheme show it rising to a height of 2.4m above grade, this new information represents a material change in what was approved. He also questioned the need for this height and its implications for road safety.

11.41. LCCC responded by drawing attention to the notation on the Part 8 drawings of the proposed scheme, which show side slopes accompanying the proposed roundabout

and each of its arms. Height was thus shown indicatively, and, as more detailed design work has progressed, this has been quantified. The need for it is explained on the basis of geometry considerations and drainage considerations, where the need to tie into existing drainage exists. Materials required to achieve this height would be largely processed and so they would be needed even if the scheme was to be at grade. No safety issues would ensue as a result of the height.

11.42. Objector (d) questioned the safety of the proposed scheme with respect to right hand turning movements into the slip road, “U” turns at the roundabout, and pedestrian crossing movements between the two bus stops to the north of this roundabout.

11.43. LCCC responded to the first of these concerns by comparing the existing right hand turning pocket, from which access into the service station is obtained, with the proposed right hand turning lane. Thus, the former is 10m long and set within the existing staggered junction, whereas the latter would be 30m long and sited in a position clear of the roundabout. Forward visibility/sightlines would be good at the priority junction that would encompass the proposed right hand turning lane.

11.44. LCCC acknowledged that right hand turning movements from the proposed slip road onto the N20 would be prohibited and so northbound traffic would be required to undertake a “U” turn at the proposed roundabout. However, the size of roundabout specified would ensure that such turning movements could be undertaken safely.

11.45. LCCC drew attention to the proposed pedestrian crossing point on the N20 to the north of the proposed roundabout. This crossing would be between this roundabout and the start of the aforementioned right hand turning lane. It would benefit from a raised central reservation which would act as refuge for pedestrians and, under the Part 8 approval, it would be controlled.

11.46. Objector (d) expressed concern over the future use of the land in front of his service station.

11.47. LCCC responded by stating that this land would not be used to provide an attenuation area. Instead, it would be laid out evenly and it would be the subject of low level landscaping that would ensure the visibility of the service station from the realigned N20. The land would be enclosed by means of bollards and it would be lit by backlighting.

- 11.48. Objector (d) expressed concern that the service station would suffer commercially from the proposed scheme.
- 11.49. I consider that this is a matter that should be considered under any compensation stage of the CPO process.
- 11.50. **Objector (e)** expressed concerns that relate to flood risk, access, and the future control of land in front of her property. I will address each of these concerns in turn.
- 11.51. In relation to flood risk, she outlines how her residential property was flooded in 2014, due to a faulty culvert under the R518. While remedial work on this culvert has been undertaken by LCCC, it needs to be replaced. LCCC has applied for funding from the TII to undertake such replacement as part of the proposed scheme. However, she considers that it should happen as matter of priority and not await the construction phase of this scheme.
- 11.52. LCCC responded by stating that, even though the proposed scheme is a road safety project rather than a flood relief project, the replacement culvert would be incorporated within it. No undertaking could be given that such replacement would occur "ahead of time".
- 11.53. In relation to access, objector (e)'s outstanding concern relates to Gate L, which lies to the north of O'Rourke's Cross Road on the N20. While this gate is concealed by hedging and so is not functioning as an access at present, she insists that the right of way that it represents persists and that its loss would potentially affect any future development of the land which it serves. It should thus be retained.
- 11.54. LCCC acknowledges that the proposed scheme does not envisage the retention of an access at Gate L. Such retention would be contrary to the objective of minimising private accesses on the N20, in the interests of road safety. It would also be unnecessary insofar as the field that is served by Gate L can be accessed by other means.
- 11.55. Objector (e) has not submitted any evidence as to when Gate L was last used, and she has not explained why its apparent abandonment as a private right of way should not be taken at face value. I, therefore, consider that there is insufficient evidence before me to establish that the private right of way denoted by Gate L persists and so should either be retained or extinguished.

11.56. In relation to the future control of the land in front of objector (e)'s property, concern is expressed that utilities under the existing N20 would not be relocated to beneath the proposed route of the realigned N20. Consequently, access to the redundant N20 would be required, with the attendant risk of undesirable parking and other activities. Objector (e)'s preference would be to take control of the said land with the utilities relocated, although she accepts that, as a fall back position, wayleaves could be established for the purpose of maintaining and repairing the utilities in question.

11.57. LCCC confirmed that the utilities would be retained *in-situ*. It also confirmed it was commonly the case that residual lands are disposed of following the completion of road schemes. The land in question may well fit this description. If so, then its future disposal would be subject to agreement concerning the need for utility providers to be able to obtain access and the approval of members of LCCC.

11.58. I conclude that the concerns of objectors have been satisfactorily addressed.

12.0 Recommendation

That LCCC's CPO for the N20 O'Rourke's Cross Road Improvement Scheme be confirmed without modification.

13.0 Reasons and Considerations

Having considered the objections made to the Compulsory Purchase Order for the N20 O'Rourke's Cross Road Improvement Scheme and having regard to the following:

- (a) The purpose of the compulsory acquisition for the N20 O'Rourke's Cross Road Improvement Scheme which has been subject to the provisions of Part XI of the Planning and Development Act 2000, as amended, and approved under Part 8 of the Planning and Development Regulations 2001, as amended, and which provides for the replacement of the existing junction between the N20 and the R518 by means of a proposed 4-arm roundabout and the associated realignment of the N20,

- (b) The present substandard and hazardous configuration of the existing junction between the N20 and the R518, the delays that arise in accessing the N20 from the R518, and the virtual absence of pedestrian and cyclist facilities,
- (c) The community need, public interest served and overall benefits, especially in terms of traffic management and road safety, to be achieved from the proposed road improvement works,
- (d) The design of the proposed road improvement works constituting a design response that is proportionate to the identified need,
- (e) Policies and objectives of the Limerick County Development Plan 2010 – 2016 (as extended),
- (f) The written submissions made to the Board and the submissions and observations made at the oral hearing held on the 2nd day of February 2021, and
- (g) The report and recommendation of the Inspector

It is considered that the compulsory acquisition of the lands and the extinguishment of public and private rights of way, comprised in the Compulsory Purchase Order for the N20 O'Rourke's Cross Road Improvement Scheme, by the Local Authority are necessary for the purpose stated in this Order and that the objections raised to it cannot be sustained having regard to this necessity.

DECISION QUASHED



Hugh D. Morrison
Planning Inspector

23rd February 2021