



An
Bord
Pleanála

Inspector's Report

ABP-312253-21

Development

Louth County Council, N53
Hackballscross to Rassan,
Compulsory Purchase Order, 2021

Location

Co. Louth

Planning Authority

Louth County Council

Applicant

Louth County Council

Type of Application

Notice of Compulsory Purchase Order
under the provisions of the Local
Government (No.2) Act 1960, the
Housing Act 1966, the Roads Act
1993, and the Planning and
Development Act 2000 (as amended).

Objectors

Amanda Wynne
Mary McCreesh
Theresa Byrne (deceased) c/o
Geraldine Byrne
Michael O'Malley
Glen Devlin

Date of Site Inspection

3rd December 2022 and 7th January
2023

Inspector

Susan Clarke

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1.0 Introduction

1.1. Overview

- 1.1.1. Louth County Council (LCC) is seeking confirmation by the Board of a Compulsory Purchase Order (CPO) entitled “*N53 Hackballscross to Rassan Compulsory Purchase Order 2021*”.
- 1.1.2. The CPO relates to the compulsory and permanent acquisition of lands for the purposes of realigning the N53 national secondary route in the townlands of Rassan, Shanmullagh, Annaghvacky, Carrickastuck, and Barronstown. The works would comprise the construction of a single carriageway road for a distance of c.3.3km from a location 920m east of the N53 junction with local road L-3119 in the townland of Rassan to a location 180m west of the N53 junction with local road L-3125 in the townland of Barronstown and associated accommodation and fencing works, landscaping works, drainage works, and ancillary works.
- 1.1.3. LCC has made the CPO and submitted the request for confirmation pursuant to the powers conferred on it. The CPO is made under Section 76 and the Third Schedule to the Housing Act 1966, as extended by Section 10 of the Local Government (No.2) Act, 1960, as substituted by Section 86 of the Housing Act, 1966 and as further amended by Section 6 and the Second Schedule of the Roads Act 1993, and by Section 213 of the Planning and Development Act 2000 (as amended).
- 1.1.4. The Board should note that at a meeting on 7th September 2021 Dundalk Municipal District voted in favour of adopting a Part 8 for realignment of the N53 national Secondary route in the townlands of Rassan, Shanmullagh, Annaghvacky, Carrickastuck and Barronstown. The proposed acquisition is intended to support the delivery of these works.
- 1.1.5. Five objections were received in respect of the CPO from landowners outlined in Section 6 below. This report considers the issues raised in the objections submitted to the Board and, more generally, the application to acquire lands for the stated purpose.

1.2. Purpose of the CPO

According to the documentation submitted with the application, the purpose of the CPO is to acquire the lands required for the realignment of a portion of the N53 National Secondary Road and associated development. The development is outlined

in more detail in Section 3.0 below. Mr Clarke, Project Engineer, for the Local Authority stated at the Oral Hearing that the compulsory purchase of the plots of lands is necessary for the Scheme as it will have the following beneficial effects:

- Provide safe overtaking opportunities for motorists along the route in accordance with design standards.
- Reduce the frequency and severity of collisions by providing a safer route for all users.
- Reduce the number of junctions and direct accesses along the route.
- To improve safety for vulnerable road users and provide better environment for vulnerable road users within the study area.
- Support the RSA Road Safety Strategy 2021-2030.

1.3. Accompanying Documents

1.3.1. The application was accompanied by the following documentation:

- Cover Letter, dated 16th December 2021, outlining the contents of the application
- Newspaper Notice – The Argus, dated 14th December 2021
- CPO Order signed and sealed
- CPO Maps signed and sealed
- Chief Executive's Order Registers authorising the making of the CPO
- Registered verification of post
- Endorsement by Senior Engineer
- Notification letters sent to the landowners
- Planner's Report – CPO by the Senior Executive Planner
- Extract from Minutes of Dundalk Municipal District meeting held in the Council Chamber, County Hall on Tuesday, 7th September 2021 (Minute No. 87/21)
- Part 8 Chief Executive Report.

1.4. Reference to Previous Part 8 Application / Approval

- 1.4.1. A Part 8 process previously took place under Reg. Ref. 21648, which gave planning consent for the road realignment in September 2021.
- 1.4.2. An Environmental Report and an Environmental Impact Assessment Screening Assessment were prepared and formed part of the assessment for the Part 8 process. The latter report concluded that no significant adverse impacts to the receiving environment would likely arise as a result of the scheme, provided standard mitigation measures are implemented and subject to the findings of archaeological testing. As such, it was considered that the preparation on an EIAR was not necessary for the scheme.
- 1.4.3. In addition, an Appropriate Assessment Screening Report was prepared in respect of the Part 8 process, where it was not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site and, as such, an Appropriate Assessment (Stage 2AA) was not required.
- 1.4.4. The Part 8 Consent for the road realignment addressed the relevant planning and environmental considerations arising.

1.5. Format of CPO Schedule

If confirmed, the Order will authorise the local authority to:

- a) to acquire compulsorily for the purposes of construction of the N53 Hackballscross to Rassan, the lands described in Part I of the Schedule hereto and shown on drawings numbered WH5302-04-001 and WH5302-04-002, sealed with the seal of the Local Authority and deposited at the offices of the Local Authority (hereinafter referred to in conjunction with the Drawings specified in sub clauses (b), (c) and (d) hereof as The Deposited Maps).
- b) to temporarily acquire for the purposes of construction of the N53 Hackballscross to Rassan, the lands described in Part II of the Schedule hereto and shown on drawings numbered WH5302-04-001 and WH5302-04-002 of The Deposited Maps, sealed with the seal of the Local Authority, for the duration of the aforesaid construction works (including the defects period).

- c) to extinguish the public rights of way described in Part III of the Schedule hereto and shown on drawings numbered WH5302-04-003 and WH5302-04-004 of The Deposited Maps, sealed with the seal of the Local Authority, by order made after the acquisition of the land, where the said rights of way are over the land so acquired or any part thereof, or over land adjacent to or associated with the land so acquired or any part thereof.
- d) to extinguish the private right of way described in Part IV of the Schedule hereto and shown on drawing numbered WH5302-04-003 and WH5302-04-004 of The Deposited Maps sealed with the seal of the Local Authority by order made after the acquisition of the land where the said rights of way are over the land so acquired or any part thereof, or over land adjacent to or associated with the land so acquired or any part thereof.

All of said lands described in the Schedule are situated in the townlands of Rassan, Shanmullagh, Annaghvacky, Carrickastuck and Barronstown.

2.0 Site Location and Description

- 2.1. The N53 is a national secondary route running from the northeast to the northwest and runs partly through Northern Ireland. The route passes through a small crossroads at Annaghvacky, which has a local shop and several residential properties. The surrounding land is improved agricultural grassland which is used for grazing. The undulating landscape is characterised by dispersed housing and agricultural fields enclosed by semi-mature to mature hedgerows with emergent trees and woodlands.
- 2.2. The existing N53 carriageway is a single carriageway, generally 6m wide with grass verge widths varying between 0.5m and 2.5m. The speed limit is generally 100km/h however reduces to 80km/h and 60km/h each side of, and through, Annaghvacky. There are no hard shoulders present or footways/cycleways.
- 2.3. The road caters for high volumes of traffic including a significant number of HGVs. There are a high number of local accesses off the road, which in turn results in a significant volume of local traffic, including agricultural vehicles. While the road surface is in generally good condition, the combination of the road alignment, the number of accesses, mix of traffic type, including agricultural vehicles, varying speed limits and limited width, has increase road safety at this specific location.

3.0 The Proposal/CPO

- 3.1.1. The Compulsory Purchase Order relates to the compulsory and permanent acquisition of lands for the purposes of realigning the N53 national secondary route in the townlands of Rasan, Shanmullagh, Annaghvack, Carrickastuck, and Barronstown by Louth County Council.
- 3.1.2. The works would comprise the construction of a single carriageway road for a distance of c.3.3km from a location 920m east of the N53 junction with local road L-3119 in the townland of Rasan to a location 180m west of the N53 junction with local road L-3125 in the townland of Barronstown and associated accommodation and fencing works, landscaping works, drainage works, and ancillary works. The N53 realignment will typically consist of 7.3m of carriageway with 2.5m hard shoulders and 3m verges. A ghost junction will be located approximately 300m east of Annaghvack crossroads. There will be a new link road, approx. 6m long, connecting the existing N53 with the proposed new N53 with the proposed alignment at this location. Travelling south on the LP-7120 from Annaghvack crossroads towards Treagh, the LP-7120 will be cul de saced, approx. 320m from the Annaghvack crossroads. The LT-31252 (Clonaleenaghan road) will have a simple junction with the N53. The LP-3117 (Crossmaglen) and adjacent LS7116 will remain simple junctions off the existing N53 which will be reclassified as a local road.
- 3.1.3. Drainage for the scheme is proposed to outfall through three attenuation ponds to local watercourses / streams to the north and south of the new alignment. The local streams conjoin with the Castletown River and Fane River, which outfall to sea in the areas of Dundalk town and Blackrock town respectively.
- 3.1.4. The scheme construction will include the following activities:
- Site clearance to remove vegetation, topsoil and existing road materials.
 - Earthworks involving 'cut and fill' operations to achieve the required road levels
 - Importation of soil and stone materials to be used as 'fill' materials.
 - Construction of one pedestrian subway.
 - Construction of standard surface water drainage design measures such as gullies, carrier pipes, petrol interceptors, attenuation ponds and outfalls.

- Construction of road pavement with bituminous materials.
- Installation of vehicle restraints systems, fencing, ducting, utility lighting, traffic signals, road markings, signage, soft landscaping and all other ancillary works.

3.2. The key characteristics of the project as set out in the Planner's Report- CPO include:

Length of Proposed mainline	3.4km
Percentage online/offline	Approx. 900m online/2,500m offline
Mainline Cross-section	Type 1 Single Carriageway for the full length of the proposed route with the exception of chainage 3000 to chainage 3350 (approx.) where the scheme transitions into a Type 2 Single Carriageway (to facilitate the tie-in with the existing N53 at Hackballscross)
Number of mainline junctions	3
Structures	One pedestrian subway

4.0 Policy Context

4.1. National Policy and Guidance

4.1.1. National Planning Framework (NPF) – Project Ireland 2040

NPO 2: *Accessibility from the north-west of Ireland and between centres of scale separate from Dublin will be significantly improved, focused on cities and larger regionally distributed centres and on key east-west and north-south routes.*

NPO 7 states inter alia: *Strengthening Ireland's overall urban structure, particularly in the Northern and Western and Midland Regions, to include the regional centres of Sligo and Letterkenny in the North-West, Athlone in the Midlands and cross-border networks focused on the Letterkenny-Derry North-West Gateway Initiative and Drogheda-Dundalk-Newry on the Dublin-Belfast corridor.*

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

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.

4.1.3. **The National Cycle Manual (NCM) 2011 – National Transport Authority**

The Manual embraces the Principles of Sustainable Safety as this offers a safe traffic environment for all road users including cyclists. Objective 2 states: *Ensure that the urban road infrastructure (with the exception of motorways) is designed / retrofitted so as to be cyclist-friendly and that traffic management measures are also cyclist friendly.*

4.1.4. **Regional and Economic Spatial Strategy (RSES) for Eastern and Midland Region**

The Strategy contains a vision “*to create a sustainable and competitive Region that supports the health and wellbeing of our people and places, from urban to rural, with access to quality housing, travel and employment opportunities for all*”

4.2. **Louth County Development Plan 2021-2027**

Chapter 7 (Movement)

Section 7.8.3 highlights that national primary roads, including the N53 Dundalk-Castleblayney, provide an important level of connectivity between the Regional Growth Centres of Drogheda and Dundalk and key service centres in the wider region and beyond.

Policy Objective MOV 1: *To work with national transport agencies in supporting the delivery of a high quality, climate resilient and sustainable transport network in the County.*

Policy Objective MOV 43: *To protect the strategic transport function of national roads, including motorways through the implementation of the ‘Spatial Planning and National Roads – Guidelines for Planning Authorities’ and any subsequent guidelines.*

Table 7.7: National Road Projects includes the subject development (N53 Hacksballscross to Rassan)

Policy Objective MOV 48: *To support major road and bridge improvement projects set out in Tables 7.7 and 7.8 and any other project identified by the Council or included in the Roads Programme by reserving the corridors, as and when they are identified, of any such proposed routes, free of development, which would interfere with the provision of such proposals.*

4.3. **Natural Heritage Designations**

- Dundalk Bay SPA (Site Code: 004026) - located c. 7.2km east of the site
- Dundalk Bay SAC (Site Code: 000455) - located c. 8.5km east of the site
- Dundalk Bay Proposed Natural Heritage Area (Site Code: 000455) - located c. 9.4km east of the site
- Drumcah, Toprass and Cortial Loughs Proposed Natural Heritage Area: (Site Code: 001462) – located c. 3km southeast of the site

5.0 **Planning History**

- 5.1. **LCC Reg. Ref. 21648:** Part 8 N53 Hackballscross to Rasan granted permission for the realignment of the N53 National Secondary Route in the townlands of Rasan, Shanmullagh, Annaghvack, Carrickastuck and Barronstown, comprising the construction of a single carriageway road for a distance of 3.3 km from a location 920m east of the N53 junction with local road L-3119 in the townland of Rasan to a location 180m west of the N53 junction with local road L-3125 in the townland of Barronstown and associated accommodation & fencing works, landscaping works, drainage works and ancillary works.

6.0 **Objections to the Compulsory Acquisition of Lands**

- 6.1. A total of 11 No. valid objections to the CPO were received. Six objections were withdrawn prior to the conclusion of the Oral Hearing, and the remaining five objections can be summarised as follows.

6.2. **Objection by Amanda Wynne**

- 6.2.1. This objection relates to Plot ref. 116a.1 and raises the following grounds:

- Concern that the road (L7120) would become a cul-de-sac.
- Concerns about the view from the sitting room window to the right of the house as a result of the project.
- Peace and privacy enjoyed at the property would be impacted by the project.
- Concerns regarding noise, dust, and pollution from the project.

- Concerns regarding dumping and the environmental impact associated with same.
- Implications for the Objector to travel to her brother's house located further south along the L7120 as a result of the road being cul-de-saced.
- Queries if there will be compensation for devaluing property.
- Queries alternative options to slowing down traffic on the N53.

6.3. Objection by Glen Devlin

6.3.1. This objection was prepared by Stephen Gunne from Property Partners on behalf of the above objector and refers to plot refs 123a.1, 123b.1, 123c.1, 123d.1, 123a.t, 123c.t, 126b.1, and 126a.t. Objection is raised on the following grounds:

- Objection in general to the scheme and specifically to the impact that the land take will have on his property.
- Requests that the narrow strip of land between chainage 2000 and 2300 be omitted from the CPO to facilitate its use as an isolation paddock for animals.
- Concern regarding the length of the dwell area connecting the entrance to Mr Delvin's property and the new road and the gradient of the ramp. Concerns that vehicles could skid onto the new road in bad weather conditions.
- Request that like-for-like boundary treatments (i.e. 35m long wing walls) be provided to the property and that the existing trees around the entrance are fully replaced.
- Objection to the removal of an existing agricultural gate on the N53 at chainage 2450. No provision in the scheme has been made for a replacement access point.
- Mr David MacGuinness, veterinary surgeon for Mr Delvin, recommends that a double horse proof fence with a planted hedged in-between the fences is provided between the property and the new road, and that livestock are removed off the farm during the construction period.

6.4. Objection by Geraldine Byrne as Personal Representative of Theresa Byrne

6.4.1. This objection was prepared by Stephen Gunne from Property Partners on behalf of the above objector and refers to plot refs 135 and sub plots. Objection is raised on the following grounds:

- Objection in general to the scheme, particularly in the manner that the scheme is affecting her property.
- Request that the proposed boundary treatment be a wall, positioned a minimum of 3m from the front of her house and 2m in height for safety, daylight and air circulation, privacy and maintenance reasons.
- Concerns that if accident(s) were to occur, vehicles may go through a boundary treatment consisting of a mesh wire fence and collide with the house.
- Request that the proposed vehicular entrance to the property is relocated 7m to the west to provide better circulation around the property.
- Suggest that the proposal is relocated in a northerly direction away from the property. A redesign of the Garda station would not have any residential impact.
- Concerns the scheme will result in 'boy racers' driving in a dangerous/reckless manner outside the Garda station to antagonise Gardaí. Notes the proximity of the lands to the border with Northern Ireland and highlights that such drivers have no fear of being caught by Gardaí. Security concerns associated with the proposal.
- Proposal results in the loss of a shallow well.
- Concerns regarding quality of stone to be used for boundary wall.
- Notes that the Local Authority refused to purchase the property.
- Lack of empathy from the Local Authority in relation to the impacts from the scheme on the property.
- Questions whether or not lighting will be provided at this location.

6.5. Objection by Michael O'Malley

6.5.1. This objection was prepared by Stephen Gunne from Property Partners on behalf of the above objector and refers to plot refs 136a.1, 136b.1, and 136a.t.

6.5.2. Objection is raised on the following grounds:

- Objection in general to the scheme particularly in the manner that the scheme is affecting his property.
- Request that the proposed boundary treatment be a wall, positioned a minimum of 3m from the front of his house and 2m in height for safety, daylight and air circulation, privacy and maintenance reasons.
- Concerns that if accident(s) were to occur, vehicles may go through a boundary treatment consisting of a mesh wire fence and collide with the house.
- Concerns that a small area to the side of the house, in front of the new driveway proposed to serve the property, will not be tarmacadamed and as such there will be a join line on the property.
- Suggest that the proposal is relocated in a northerly direction away from the property. A redesign of the Garda station would not have any residential impact.
- Stone drains associated with the road may affect a shallow well on site.
- Concerns the scheme will result in 'boy racers' driving in a dangerous/reckless manner outside the Garda station to antagonise Gardaí. Notes the proximity of the lands to the border with Northern Ireland and highlights that such drivers have no fear of being caught by Gardaí. Security concerns associated with the proposal.
- Notes that the Local Authority refused to purchase the property.
- Concerns regarding the quality of stone to be used for the boundary wall.
- Lack of empathy from the Local Authority in relation to the impacts from the scheme on the property.
- Questions whether or not lighting will be provided.

6.6. **Objection by Mary McCreesh**

6.6.1. This objection relates to Plot Refs. 109a.1 and 109a.t and raises the following grounds:

- Objects to cul-de-sac on the grounds of severing the community and additional travel times. Concerns regarding dumping and antisocial behaviour on the cul-de-sac.

- As the property will be located on a cul-de-sac, it will decrease in value.
- The road would take the unrestricted views available from the property.
- Concerns regarding noise levels, exhaust fumes and reduced sunlight to the property.
- Project will devalue her property
- There will be extreme difficulty accessing lands separated from the property by the road. Suggest an overpass is provided. The project will greatly reduce grazing and exercise opportunities, and will create a hazardous scenario of offloading and loading horses from a trailer from a road where the speed limit will be set at 100kph as well as an additional 6km travel for a return trip to a part of the field.
- The subject field forms the majority of the Objector's landholding. After completion, the field will not be suitable for crop growing and this will impact the income generated by the land.
- Request that the Local Authority relocate pumphouse at the time of construction of the scheme.
- Reducing bog area will increase air pollution in the area. Questions what mitigation measures will be put in place to address same.
- Concerns regarding potential impacts from vibrations on property during the construction and post construction phases.
- Object to the erection of a noise barrier along the new road due to its visual impact. No BIM drawings provided.
- Concerns that existing hardshoulder will become a layover.
- Property will be bounded by roads to the front and rear, which will cause a change to the existing living arrangements of the dwelling. Questions if the Local Authority will compensate this impact.

7.0 Oral Hearing

- 7.1.1. An Oral Hearing was held on Tuesday, 10th January 2023. All objectors and Louth County Council were represented at the hearing and oral submissions were heard by, or on behalf of, all parties, except Ms Amanda Wynne. 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. Proceedings got under way with the opening statement. Participants were informed that the purpose of the oral hearing is an information gathering exercise to assist in the consideration of the merits of the case and in drafting the report and recommendation to the Board in relation to the CPO order. They were also advised that the planning merits of the Part 8 Scheme have already been determined by the Local Authority. The purpose of the Hearing is to deal with the merits of the CPO process i.e. the merits of the acquisition of the subject lands. Participants were reminded that the Board has no role or jurisdiction in the determination of compensation.

7.2. Modifications

- 7.2.1. Proposed modifications to the CPO and Schedule were submitted by LCC on 5th January 2023, prior to the hearing commencing as Appendix E to Mr Clarke (Project Engineer) Brief of Evidence. These modifications concerned Plot Refs. 135a.1 and 135b.1 as follows:
- The owner of the Plots is to be amended to Reps of Theresa Byrne deceased C/O Geraldine M. Byrne, Carrickastuck, Hackballscross, Dundalk, Co. Louth.
- 7.2.2. Mr Gunne advised at the Oral Hearing that Geraldine Byrne is now the legal owner of the subject property.
- 7.2.3. No objections were received on the submitted modification.
- 7.2.4. The Board was requested by the Council to accept the modification as outlined in the submitted material and also during the proceedings of the Oral Hearing.

8.0 Assessment

8.1. Overview

- 8.1.1. The public notice refers to the construction of the N53 Hackballscross to Rasan road improvement scheme and all ancillary works associated therewith. Specifically, the project comprises the construction of a type 1 single carriageway road for a distance of approximately 3.3 km from a tie-in point in the townland of Rasan to a tie-in point close to Hackballscross in the townland of Carrickastuck. The proposed development will be offline / online in approximately the ratio 75% / 25% from the western tie in at Rasan traversing east to the tie in at Hackballscross.
- 8.1.2. The proposed development (between Chainage 0 and 2980) will be designed to a type 1 single carriageway standard in accordance with the TII Publications DN-GEO-03036. This standard consists of a 7.3m carriageway with 2 x 2.5m hard-shoulders and 2 x 3.0m grass verges with associated accommodation & fencing works, landscaping works, drainage works and ancillary works.
- 8.1.3. The proposed development will then transition and be designed to a type 2 single carriageway standard (between Chainage 2980 and 3360) in accordance with the TII Publications DN-GEO-03036. This standard consists of a 7.3m carriageway with 2 x 0.5m hard-shoulders and 2 x 3.0m grass verges with associated accommodation & fencing works, landscaping works, drainage works and ancillary works.
- 8.1.4. The local primary road LP 7120 Shanmullagh will have a simple junction including a ghost island with the new N53. North of the new alignment the LP7120 will be cul de saced approximately 320m south of Annaghvacky cross roads. The old N53 will be downgraded to local road status but will still collect traffic from the LP3117 (to Crossmaglen) and the LS7118, and will be realigned to reconnect with the new alignment of the N53 approximately 300m east of Annaghvacky cross roads in the townland of Annaghvacky. The existing LT31252 Clonaleenaghan road will have a simple junction with the realigned N53.
- 8.1.5. A shared use cycleway/pedestrian facility will be provided in the northern verge of the project from chainages 2530 to 3360 and will continue to Hackballscross junction where it will connect to the previously upgraded section of the N53.

8.1.6. The plots of land subject to the CPO comprise the necessary lands and temporary working areas for the construction of the Scheme and are considered suitable and necessary.

8.1.7. For the Board to confirm the subject CPO, it must be satisfied that, as set out in the judgement of Geoghegan J. in *Clinton v An Bord Pleanála* (No. 2) (2007) 4 IR 701, LCC has demonstrated that the CPO is clearly justified by the “common good”. This has been interpreted by legal commentators, as per ‘Compulsory Purchase and Compensation in Ireland: Law and Practice, Second Edition, by James Macken, Eamon Galligan, and Michael McGrath (2013)’, as a requirement to satisfy the following four-fold criteria:

- 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 the community need.
- Any alternative methods of meeting the community need have been considered but are not demonstrably preferable (taking into account environmental effects, where appropriate), and
- The works to be carried out should accord or at least not be in material contravention of the provisions of the statutory development plan.

8.1.8. Furthermore, as set out by Garrett Simons in ‘Planning and Development Law, Second Edition (2007)’, the Board should consider whether the acquisition will have an excessive or disproportionate effect on the interests of the affected persons.

8.1.9. The proposed CPO is now assessed in the context of the above tests prior to addressing the specific issues raised in the objections lodged.

8.2. **Community Need**

8.2.1. LCC has set out the community need for the project, which is the subject of this CPO. The primary need for the project is to improve road safety on the N53. The N53 is a national secondary route running from the northeast to the northwest and runs partly through Northern Ireland. It is a locally and regionally important route that experiences a relatively high percentage of HGV traffic (9.6% according to the Council’s representatives) and agricultural vehicles.

- 8.2.2. The N53 has already been realigned and/or upgraded to the east of this proposed realignment for a distance of 4.5km between Barronstown and Hackballscross. The realignment of the N53 between Hackballscross and Rassan will extend these improvements and will provide an engineered standard of single carriageway road from a point circa 0.5km west of the M1 Motorway at Dundalk and the Louth County Boundary for a distance of approximately 10.2 km.
- 8.2.3. The existing vertical alignment of the section of the N53 in question is very poor and represents a safety hazard due to the number of at-grade junctions and private accesses along the existing road. LCC explained that the existing non-engineered road does not comply with current standards in terms of vertical alignment, cross-section, roadside hazards, limited overtaking opportunities, informal surface water drainage, and a lack of pedestrian/cycle facilities. The Local Authority's Planner's Report – CPO outlines that TII design standards deem that the occurrences of junctions and direct accesses in excess of 9 junctions per KM are ranked as 'high' rate. The Report highlights that this section of the road has 8.9 junctions per kilometre. Furthermore, Mr Clarke advised that journey times are high, due to the varying speed limits and volume of HGVs and agricultural vehicles. The Council explained that the limited overtaking opportunities tends to lead to driver frustration and potentially hazardous driving manoeuvres. I also note that the drainage of the existing road is predominantly 'over the edge', which results in an increased risk of collision during wet weather conditions. Having visited the site on two occasions, I concur with the Local Authority that these factors render the current road substandard in terms of traffic safety. I note in this regard that the Planner's Report – CPO states that the TII Collision Data (2011-2013) shows that the section of the N53 has a collision rate twice above average, and for the period 2016-2028 varying from twice above average to twice below average.
- 8.2.4. In contrast, the Council explained at the Oral Hearing that the proposed scheme will result in a significant reduction in the number of properties with direct access points onto the N53 (73 No. field gates and direct accesses/junctions to 19 No.; a 74% reduction) and in my opinion, will result in an improved and safer alignment with less potential for traffic conflicts. It will also bypass the settlement of Annaghvacky, resulting in a reduction of traffic flows and speeds through the village, which I consider will result in a positive impact on residential amenity. Part of the old section of the N53

and L-7120 would be retained for local access purposes, and junctions between local roads and the new N53 would have improved sightlines, in accordance with TII requirements. Mr Clarke explained at the Hearing that the proposed subway will provide pedestrian and cyclist access along the L-7120 under the new road, which would address the issue of community severance. In addition, a new local access road would be provided to serve two residential dwellings (eircode: A91 DW22 and A91 X279) to the north of the existing N53 at the western tie in of the new road with the exiting road. Furthermore, LCC outlined that in addition to the realignment works, some hidden dips on the existing N53 for approximately 300m immediately east of Annaghvackey crossroads will be realigned vertically to provide safer geometry.

- 8.2.5. In addition to the road safety improvements arising from the proposed road realignment, the Local Authority stated at the Oral Hearing that other objectives for the scheme include: provision of a modern transport network that will contribute to the advancement of economic development and competitiveness objectives through the provision of improved transport-based connectivity within the region; and facilitation of national and local policy. 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.
- 8.2.6. Whilst Ms McCreesh stated that in her opinion the scheme did not relate to road safety, but driver awareness, I note that the remaining Objectors did not object to the realignment of the N53 in principle, but raised issues regarding aspects of its design and alignment, access arrangements, etc (see Appendix 1 and Section 8.6 below).
- 8.2.7. In conclusion, therefore, having inspected the existing and upgraded section of the N53 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 Louth County Council has established a valid community need for the proposed N53 Hackballscross to Rassan, road realignment scheme.

8.3. Suitability of Lands to Serve Community Need

- 8.3.1. 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. Representatives for the Council at the hearing stated that 39 No. landholdings would be affected by the proposal. The route requires the acquisition of one residential property, located immediately west of the Garda station. I highlight that the property owners have not objected to the CPO. An additional 10 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 road. I consider that these properties will benefit from the safer road environment created by the proposed development and note that mitigation measures, including noise and air that are outlined in the Environmental Report submitted with the Part 8 application. The site does not intersect with any designated conservation sites such as protected structures or national monuments. Furthermore, the proposed route is not located within nor abuts any European site.
- 8.3.2. The issue of farm severance and associated impacts on farming enterprises was raised by Ms McCreesh, and I address these issues in Section 8.6 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.
- 8.3.3. The extent of the proposed deviation from the existing N53 is not so significant as to substantially add to journey times, and there will be significant benefits in terms of road safety, as outlined above.
- 8.3.4. With regard to the extent of acquisition, having reviewed the drawings submitted with the CPO application and the proposed scheme drawings (submitted with the Part 8 application Reg. Ref. 21648), 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.
- 8.3.5. 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.

8.4. Compliance with Planning Policy

- 8.4.1. 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. The RSES identifies Dundalk as a regional growth centre that has a population target of 50,000 by 2031, thereby increasing demand on connecting infrastructure, including the N53.
- 8.4.2. At a County level, the proposed development is specifically supported by Objective MOV 48 of the Louth County Development Plan 2021-2027: *To support major road and bridge improvement projects set out in Tables 7.7 and 7.8 and any other project identified by the Council or included in the Roads Programme by reserving the corridors, as and when they are identified, of any such proposed routes, free of development, which would interfere with the provision of such proposals.* As outlined above, Section 7.8.3 of the Development Plan highlights that national primary roads, including the N53 Dundalk-Castleblayney, provide an important level of connectivity between the Regional Growth Centres of Drogheda and Dundalk and key service centres in the wider region and beyond.
- 8.4.3. 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 Louth County Development Plan 2021-2027.

8.5. Consideration of Alternatives

- 8.5.1. In assessing applications for compulsory purchase the Board should satisfy itself that the site is suitable to accommodate / facilitate the proposed development for which the compulsory acquisition of lands and wayleaves etc. is being sought and that the

applicant has explored and examined feasible alternatives that may be better suited to accommodate the development.

8.5.2. Mr Flanagan on behalf of the Local Authority made reference in the Oral Hearing to a High Court challenge in 2006 (*Balyedmond v. Commission of CER*: [2006] IEHC 206), that ruled that one of the key tests to determining a CPO is whether or not it is proportionate and reasonable to acquire the lands as identified, irrespective of any other alternative. Notwithstanding this, the Planner's Report – CPO states that the Council *has considered all reasonable alternatives to the proposed road. The current road proposal, the subject of the CPO, is considered to be the most reasonable option in terms of minimising the wider environmental impact of the scheme and in providing an appropriate design response to the identified need.*

8.5.3. In addition, Mr Clarke at the Oral Hearing advised that it investigated many alternatives in order to provide a transportation solution in order to meet the identified public need. It was stated that having considered the do-nothing, do-something and public transport alternatives, a road-based solution was identified as the optimum transportation solution. Feasible options examined factors, such as: conflict with residential properties and other structures, farm severance, community disruption, conflict with existing local road network and road severance, sites of scientific interest, architectural, cultural and heritage sites, landscape, road geometry, and earthworks quantities and costs. Mr Clarke proceeded to outline that the design team sought to minimise or avoid impacts on residential properties, investigated online-versus off-line alternatives, considered environmental impacts, minimised landtake, optimised junction strategy, the settlement of Annaghvacky, and took into account feedback from the various public consultations. Mr Clarke explained that the land that has been identified for this compulsory acquisition represents the minimum landtake in order to safely construct the proposed road project in accordance with current design standards. I note that the tie-in point to the east is fixed having regard to the already upgraded section of the N53. In response to matters raised regarding the western tie-in point from Ms McCreesh, Mr Clarke explained at the hearing that this tie-in point has always been an issue for the project and that a number of route options were considered at the route selection phase, including alignments that tied in with the 1980s alignment. He stated that the selected preferred route best met the project objectives and received Part 8 planning approval.

- 8.5.4. While the reports underlying the choice of the final proposed route alignment have not been submitted by the Local Authority, it is clear from Mr Clarke that a multitude of alternative route alignments were considered and discounted for various reasons. Furthermore, I note that the Environmental Report that accompanied the Part 8 application makes reference to a report prepared by Atkins entitled “N53 Hackballscross to Rassan Option Selection Report”, which outlines five route options that were assessed under the following criterion: economy, safety, environment, accessibility, integration, and physical activity. This Report is available on the Local Authority’s website. With regard to a potential on-line upgrade of the existing section of the N53, I note that the road is substandard in terms of its width, vertical 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.
- 8.5.5. While the chosen, primarily off-line, alignment will result in the acquisition of a residential property, loss of residential curtilage, 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 N53 road improvement at this location and that the proposed scheme will result in numerous road safety benefits to road users and property owners.

8.6. Issues Raised by the Objectors

Impact on Residential Amenity

- 8.6.1. A number of the submissions argue that the scheme will reduce the residential amenity of dwellings and wider area, due for example loss of daylight, visual impacts, air/dust and noise emissions, anti-social behaviour, and illegal dumping. I note that the Local Authority has provided a series of proposed mitigation measures in the Environmental Report that formed part of the Part 8 approved scheme, including the landscape, noise and air measures. In relation to air emissions, Mr Clarke advised that the route does not impact any bog land. In response to concerns in relation to vibration impacts raised by Ms McCreesh, Mr Clarke advised that monitoring would be conducted during the construction phase and that the vibration impacts are not anticipated during the post construction phase as a result of the road’s design standards. He stated that any vibrations associated with the existing road are not comparable to the scheme, as the

former is a non-engineered road. Furthermore, in relation to Ms McCreesh's query as to whether alternative measures could be provided in place of noise barriers along the road, he advised that bunds could be provided but that further land take would be required with such a scenario. He advised that landscaping would be provided to mitigate the visual impact from the noise barriers. In addition, he highlighted that the noise barriers would be 2m in height from the centre line of the road, but that the overall height of the barriers would vary depending on the road's levels at any particular location along the route. In response to a query from Ms Byrne regarding fencing/boundary treatments during construction, Mr Clarke advised that either temporary fencing or the final solution will be provided, subject to agreement with landowners.

8.6.2. Mr Clarke advised the hearing that the scheme represents the best solution and that the Local Authority at the outset of the project attempted to avoid having to acquire any residential property, but in this instance, a property to the west of the Garda Station has had to be taken to facilitate the remaining parties. Ms McCreesh and Ms Wynne raised concerns regarding community severance as a result of the cul-de-sacs and highlighted in her submission that journey times to her family residing in the area would increase. Mr Clarke advised that the cul-de-sac would result in safer road conditions and suggested that it may allow for a greater community environment. As stated above, in my opinion, the extent of the proposed deviation from the existing N53 is not so significant as to substantially add to journey times, and there will be significant benefits in terms of road safety.

8.6.3. I note the request by Ms Byrne and Mr O'Malley to relocate the scheme in a northerly direction away from their properties and redesign the proposed section of the Garda Station to accommodate such an amendment. Mr Clarke outlined at the Hearing that the tie-in for the eastern section of the scheme is 90m from the already upgraded section of the N53 between Barronstown and Hackballscross. He advised that a lot of time and consultation with property owners was undertaken since 2017 regarding this tie-in point. He advised that Ms Byrne and Mr O'Malley's suggested amendment would result in formation of a bend in the road that would not be conducive to good road design practice. He argued that the best possible solution was adopted. I concur with Ms Byrne and Mr O'Malley's arguments that a redesign of the scheme would not result in any reduced residential amenity for the Garda station (as it is not a residence).

However, I am satisfied that the Local Authority has provided sufficient justification for the scheme at this location. I highlight that such an amendment would likely materially alter the Part 8 approved scheme.

8.6.4. I concur with the Local Authority that an antisocial behaviour and illegal dumping are matters for the relevant regulatory authorities and are outside the scope of the CPO process. Mr Clarke advised that should the hardshoulder on the existing road be used as a layover, it will be addressed by the Local Authority and TII as part of the residual network should any issues arise.

8.6.5. I highlight that Mr Clarke advised during the Hearing that the Local Authority had no objection to the following works being either included in the accommodation/compensation packages, as relevant:

- The height and length of the boundary wall to the front of Ms Byrne and Mr O'Malley's properties, (however not its position from the 8m clearance zone as discussed above). (See Section 8.6.9 below.)
- Quality of the stone to construct the boundary wall to the front of Ms Byrne and Mr O'Malley's properties.
- Relocation of the proposed vehicular entrance to Ms Byrne's property in a westerly direction (approx. 7m) to facilitate better circulation within the property.
- Relocation/replacement of a well/pumphouse on Mr O'Malley, Ms Byrne, and Ms McCreesh's respective properties.
- Providing tarmacadam on the small area to the side of Mr O'Malley's dwelling, in front of the new driveway proposed to serve the property to prevent a join line forming.

8.6.6. Mr Clarke advised the Hearing that there would be no lighting provided along the road at the location of Ms Byrne and Mr O'Malley's properties. Furthermore, in response to questioning from Mr Gunne, Mr Clarke confirmed that access would be maintained to all properties during the construction phase of the project, should the CPO Order be confirmed.

8.6.7. While I acknowledge the concerns discussed above, I consider that the identified need for the development and the general suitability of the lands in question has been justified by the Local Authority, and that these matters could be addressed in the

compensation package. While matters relating to compensation are not within the remit of the Board, I note the majority of the property owners impacted have not objected to the CPO. This is not to discount the significant and profound negative impacts on property owners, where they arise. Ultimately, however, I consider that the significant benefits of the N53 realignment for the common good of the area outweigh the profound impacts on affected property owners and, on that basis, I consider the proposed scheme to be generally justified and acceptable.

Land being Acquired that are not Required

- 8.6.8. The written submission submitted by Mr Gunne on behalf of Mr Delvin (Plot refs 123 and subplots and 126 and subplots) requested that a narrow strip of land between chainage 2000 and 2300 be omitted from the CPO. Mr Clarke on behalf of the Local Authority outlined that the most western section of this area is required for a bus stop (a replacement for the existing bus stop in Annaghvacky) and the eastern section was required for landscaping. Mr Clarke further explained that should double horse proof fencing with a planted hedge in-between be provided on the property, as recommended by Dr. David Mac Guinness (Mr Delvin's veterinary surgeon), this area would be reduced in size. 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, including the area between chainage 2000 and 2300.

Boundary Treatments and Access Arrangements

- 8.6.9. The written submissions from Mr Devlin, Ms Byrne, and Mr O'Malley raised concerns in relation to replacement boundary treatments to their respective properties. In response to Mr Delvin, Mr Clarke advised that the Local Authority had no objection to providing a like-for-like boundary treatment (i.e. 35m long stone wing walls) to this property. In addition, Mr Clarke advised that the Local Authority would commit to engaging with Mr Delvin to decrease the gradient between Mr Delvin's driveway and the new road and increase the dwell area if necessary.
- 8.6.10. With respect to Dr David Mac Guinness' recommendations that double horse proof fencing with a planted hedge in-between be provided on the property and that bloodstock be removed from the farm, I concur with the Local Authority that these

could be addressed through the compensation package should the CPO order be confirmed and such works are justified before an arbitrator. Mr Clarke highlighted that should double proof fencing be necessary additional lands would be required, which could be addressed through the accommodation and compensation packages.

8.6.11. Mr Gunne on behalf of Ms Byrne and Mr O'Malley, respective owners of semi-detached dwellings in Hackballscross, located opposite the Garda Station), requested that the proposed boundary wall to the front of both houses be a minimum of 3m from the front gables and 2m in height for safety, daylight and air circulation, privacy and maintenance reasons. Mr Clarke advised that due to TII design standards for a 100kph road, it was not possible to provide such a boundary wall as an 8m clearance zone from the yellow line as shown on Dwg. No. WH5302-04-006. He explained that the rationale for the clearance zone is to provide sufficient space for a driver to correct a vehicle should it run-off the road and as such this space should be kept free from obstacles. He advised that passive safety fencing could be provided 3m from both the properties, but not a wall. As such, due to the safety design standards Mr Clarke stated that the requested amendments as proposed by Ms Byrne and Mr O'Malley cannot be accommodated. He acknowledged the adverse impacts on the two properties, but stated that should the CPO order be confirm that this matter could be addressed through the compensation package.

8.6.12. As outlined above, in my opinion, the Local Authority has demonstrated a need that will advance the common good and which will be met by the proposed N53 realignment granted under Part 8 and facilitated by its associated CPO. It is further considered that the acquisition of the identified lands and construction of boundary treatments in accordance with TII's standards is necessary to deliver such. While the acquisition will have significant and profound impacts on individual properties and the people residing therein, the delivery of the scheme will be of strategic importance at a local and regional level, and will be of significant benefit to the common good of the population of the area in terms of traffic safety. In my opinion, the Local Authority has provided sufficient reasoning as to why the request cannot be accommodated. As highlighted by Mr Clarke, should the CPO be confirmed, the parties would be compensated.

Land Severance

- 8.6.13. The issue of land severance was raised by Ms McCreesh, who outlined how the scheme would negatively impact the rental income received in respect of her family's land and how they use the land for horses for leisure activities. The Local Authority acknowledged the severance impacts the proposal would have, but also stated that the scheme represented the best solution and that any adverse impacts could be addressed by means of compensation. Mr Clarke outlined that access to the severed portion of the McCreesh landholding would be provided off the new road and that the access point would be designed in accordance with TII standards. In response to Ms McCreesh's query as to why an over/under pass could not be provided, Mr Clarke stated that the agronomist retained by the Local Authority did not recommend such a facility was required due to the area of landholding involved and the associated landtake. Mr Clarke stated that the provision of an under/overpass would have significant finance and environmental costs and would result in further landtake being required. Whilst I acknowledge MsCreesh's concerns, I consider that the proposed access arrangements are reasonable and balanced, and that any outstanding issues are a matter for agreement/arbitration and compensation, as appropriate.
- 8.6.14. Mr Gunne on behalf of Mr Delvin highlighted that no provision has been made to directly access his lands at chainage 2450. Mr Clarke on behalf of the Local Authority acknowledged that the scheme did not make provision to access the subject lands but highlighted this matter would be addressed through the compensation package should the CPO order be confirmed, which I consider to be appropriate.

8.7. Conclusion

- 8.7.1. 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 Louth County Development Plan 2021-2027.

9.0 Conclusion and Recommendations

9.1. Having regard to the above, I conclude that:

- the acquisition of lands under the CPO would serve a community need that advances the common good,
- the particular land is suitable to meet that need,
- alternatives have been considered and that there is no alternative which is demonstrably preferable,
- the proposal does not materially contravene the development plan, and
- the proposed acquisition is proportionate and necessary.

I recommend that the Board CONFIRM the Compulsory Purchase Order, with the modifications as submitted by Louth County Council on 5th January 2023, based on the reasons and considerations set out below.

10.0 Reasons and Considerations

10.1. Having considered the written objections made to the Compulsory Purchase Order, the report and recommendation of the Inspector who conducted the oral hearing into the objections, and having regard to the following:

- a) The purpose of the compulsory acquisition for the N53 Hackballscross to Rassan Compulsory Purchase Order 2021 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,
- b) The community need, public interest served and overall benefits, especially in terms of traffic road safety, to be achieved from the proposed road improvement works,
- c) The design of the proposed road improvement works constituting a design response that is proportionate to the identified need,
- d) The policies and objectives of the Louth County Development Plan 2021-2027,
- e) the modifications submitted to the Board on 5th January 2023,

f) The submissions and observations made at the oral hearing held on 10th January 2023

g) The report and recommendation of the Inspector,

it is considered that the permanent and temporary compulsory acquisition of the lands and the extinguishment of public rights of ways and private rights of ways, comprised in the Compulsory Purchase Order for the N53 Hackballscross to Rassan, by the Local Authority are necessary for the purpose stated in the order, schedules and on the deposit maps, are necessary for the purposes stated in the order and that the objection cannot be sustained having regard to this necessity.

Susan Clarke
Planning Inspector

1st February 2023

11.0 **Appendix 1: Proceedings of the Oral Hearing**

11.1. **Background**

An Oral Hearing (OH) was held on Tuesday, 10th January 2023 in relation to the proposed compulsory acquisition sought by Louth County Council (LCC) to realign the N53 national secondary route in the townlands of Rassan, Shanmullagh, Annaghvack, Carrickastuck, and Barronstown. It was held remotely at the offices of An Bord Pleanála using Microsoft Teams software. The following were in attendance and made submissions at the Oral Hearing.

11.2. **Submissions on behalf of Louth County Council (LCC)**

- Dermot Flanagan, Senior Counsel, representing LCC – **opening remarks and legal context**
- Patricia Hughes, Senior Executive Planner, LCC – **planning context and CPO's compliance with the County Development Plan**
- Mr Ambrose Clarke, Project Engineer - **Engineer Specification; LCC's written response to objections**
- James Murphy, Daniel O'Connell and Son, Solicitors, representing LCC

11.3. **Submissions by Objectors**

- Glen Devlin, represented by Stephen Gunne
- Theresa Byrne (deceased) c/o Geraldine Byrne, represented by Stephen Gunne
- Michael O'Malley, represented by Stephen Gunne
- Mary McCreesh, represented by Olivia McCreesh

Mr Gunne also represented Aloysius Garvey, however he advised at the opening of the hearing that Mr Garvey was withdrawing this Objection. I advised Mr Gunne that if he wished to withdraw any objections, the Board would require a written confirmation of same. Such confirmation was received by the Board at lunchtime on the day of the hearing.

11.4. Opening of Oral Hearing

- The Inspector formally opened the hearing at 10.00am.
- Following some introductory remarks, and confirmation of attending parties, it was requested that the Local Authority make its formal submission.

11.5. Submissions by Louth County Council

11.5.1. Legal Overview

Dermot Flanagan

- Mr Flanagan SC for the Local Authority opened by indicating that he would provide a brief overview of issues identified in agenda and that Mr Clarke would focus on the merits of the Objections received.
- He outlined that 18.6ha of land are sought to be required, affecting 39 No. landowners in total.
- He summarised the “Outline Legal Submission on Behalf of the Acquiring Authority” that was submitted to the Board on 5th January 2023 in advance of the hearing and which is on file. In summary, he provided an overview of the applicable planning legalisation facilitating the CPO of lands for the implementation of development plan policy and relevant case law. He argued that the issues raised by the Objectors are compensation matters and he noted the difference between the Part 8 planning process and CPO process. He stated that the CPO test relates to whether the acquisition of lands is reasonable and proportionate irrespective if there are alternative lands available. He concluded by stating that the acquisition of the subject lands was in the interest of the common good and that there are no superior land acquisition options.
- Mr Flanagan introduced Mr Ambrose Clarke, Project Engineer, to give an overview of the proposed development and address the Objectors.

11.5.2. Overview of CPO

Mr Clarke

- Mr Clarke summarised his Brief of Evidence that was submitted to the Board on 5th January 2023 in advance of the hearing and which is on file. This included

the Need for the Project (Section 3), the Project Objectives and Alternatives (Section 4) and Description of the Works to Which the CPO relates (Section 5). He outlined the factors that were examined in looking at different alternatives options that could have been used (Section 4.2). He provided an overview of the public rights of way and private rights of way to be extinguished. He concluded that the CPO would give effect to relevant national and local policy.

Mr Flanagan

- Mr Flanagan highlighted the amendments to the CPO in light of updated information. (See Appendix E of Mr Clarke's Brief of Evidence.)

11.6. Council Response to Written Submissions

Mr Flanagan invited Mr Clarke to provide the Local Authority's response to the matters raised by the Objectors. In addition, Mr Clarke provided responses to subsequent matters raised by the Objectors (participating in the hearing) in written submissions, which were received by the Board in advance of the hearing. The Council's response to the former is outlined in Appendix F of (Response to Objectors) of Mr Clarke's Brief of Evidence.

11.6.1. The following summarised standard responses were provided in respect of each CPO objection:

- Louth County Council will endeavour to agree accommodation works. Such works are contingent upon agreement with the landowner.
- Adverse impacts can be assessed/addressed by means of compensation by a separate process.
- Road design follows TII's current Design Standards, including all junctions and accesses.

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

- **Glen Delvin** (Plot refs 123 and subplots and 126 and subplots): All lands subject of the CPO are required for road construction; the Local Authority will engage with Mr Delvin in relation to the dwell area between the new road and the entrance to Mr Delvin's property; the Local Authority would provide a like-

for-like boundary, including stone wall to Mr Delvin's property; no provision in the scheme for an agricultural gate off the new road at chainage 2450; fencing for livestock is usually dealt with as part of the compensation/accommodation works package and would have to be justified before the arbitrator; additional lands would be required to provide a double proof fence; removal of bloodstock during the construction period would have to be justified before the arbitrator and are not relevant to the confirmation of the CPO Order.

- **Theresa Byrne (deceased) c/o Geraldine Byrne** (Plot 135 and sub plots): Replacement boundaries are provided on a like-for-like basis, but are subject to safety considerations; design standard DN-GEO-03036-08 (Cross Sections and Headroom) requires an 8m clear zone on a 100kph road unless passive safety fencing is erected – this space is required as a run-off area for vehicles as such, collision of HGVs into the dwelling is not considered be an issue; relocation of the proposed boundary wall cannot be accommodated due to design standards; adverse impacts can be assessed/addressed by means of compensation; no objection to extending the proposed wall along the boundary, to the neighbouring property, to the west of the proposed gateway; issues relating to privacy as a result of the boundary treatment could be dealt be with through the compensation/accommodation works package; Local Authority have not addressed issue of purchasing the subject property; quality of stone to be provided for the new boundary wall is a matter that could be dealt be with through the compensation/accommodation works package; no proposal for lighting at Ms Byrne's property; and in relation to the suggestion to redesign the scheme to remove part of the Garda station (thereby facilitating the relocation of the road in a northerly direction away from Ms Bynre's property), it is stated that the design tries to accommodate all parties both north and south of the new road, which has necessitated the taking of one residential property in order to provide safe and appropriate assess to remaining residents in the area and that such a realignment would not be conducive to good road design.
- **Michael O'Malley** (Plot 136 and sub plots): Replacement boundaries are provided on a like-for-like basis, but are subject to safety considerations; pumphouse on the property will be relocated within the property as part of the compensation/accommodation works package; Local Authority has offered to

provide a passive safety fence instead of a wall to reduce the amount of land required, height of wall and any impact on water supply can be dealt with as part of compensation/accommodation works package; 8m clearance zone addresses the issue of HGV collisions; quality of stone to be provided for the new boundary wall is a matter that could be dealt with through the compensation/accommodation works package; no lighting proposed at Mr O'Malley property; always try to avoid taking property to facilitate such a proposal, however in this instance it was required to provide safe access to the Garda Station.

- **Amanda Wynne** (Plot ref. 116a.1): Less traffic on L7120 which will be a cul-de-sac and so will be safer and may foster a greater community spirit; the turning circle will be kept to a minimum; try to retain as much hedgerow as possible; providing a subway for pedestrian and cyclists to avoid community severance; appraisals of noise and air have been prepared in accordance with TII's standards and appropriate mitigation measures are included as part of the scheme, including a noise barrier and low road noise surfacing material is proposed; screen/planting is proposed within the CPO lands (which are not on Ms Wynne's lands); noise and dust monitoring will be provided as part of the project; compensation will be payable subject to the normal processes, should the CPO proceed. Mr Flanagan stated that the majority of the works in the area are outside Ms Wynne's property.
- **Mary McCreesh** (Plot 109 and sub plots): Western tie in location has always been an issue in the design of the scheme, however a number of options were examined including suggestions originally proposed in the 1980's; the proposed scheme best meets the project's objectives; noise, air and vibration impacts will comply with TII standards and mitigation measures are including a 2m noise barrier at this location; TII code of practice will be followed during the construction phase; severance was minimised as far as possible in the design; an agronomy survey found that an underpass at this location was not recommended; a new access to the severed land will be provided off the new road; adverse impacts on the property, including the pumphouse, could be addressed through compensation and accommodation works process; the existing road will be connected to the new road on the eastern side of

Annaghvack; there will be less traffic on the existing road, which will make it safer and create a more neighbourly environment; objective to improve road safety between Hackballscross and Rasan; concerns relating to impacts on bogland are relevant to planning consent; concerns in relation to the use of hardshoulder on the existing road relate to the Part 8 process, however if there is any issue the Local Authority will deal with it as part of the residual network.

11.6.3. Mr Flanagan highlighted that Ms Hughes prepared a paper in relation to the planning support for the CPO. He stated that none of the Objectors raised issues in relation to the planning rationale for the project. This paper is on file.

11.7. Submissions of Objectors

11.7.1. The Inspector reopened proceedings after a short break, at approximately 11.30am, and confirmed that the next section of the Hearing was for objectors to elaborate on their written submissions.

11.7.2. Five Objectors, or their representative made submissions to the CPO. Concerns are summarised in Section 6 of this report and assessed in further detail under Section 8. No significant new issues outside of the written submissions made to the Board were identified by the submitters during this part of the OH.

11.7.3. Four Objectors made further written submissions to the Board prior to the Hearing. The information is on file. Objectors took the opportunity to expand upon their written submissions during the proceedings and, in some cases, posed questions to the Local Authority to clarify certain matters. The matters raised can be summarised as follows:

Glen Delvin (Plot refs 123 and subplots and 126 and subplots)

- Request that the narrow strip of land between chainage 2000 and 2300 be omitted from the CPO to be used as an isolation paddock for animals.
- Concern regarding the dwell area connecting the entrance to Mr Delvin's property and the new road.
- Request that like-for-like boundary treatments (i.e. 35m wing walls) be provided.
- Concern no agricultural assess is provided at chainage 2450.

- Mr David MacGuinness, veterinary surgeon, recommends that a double horse proof fence with a planted hedged in-between the fences is provided between the property and the new road and that livestock are removed off the farm during the construction period.

Theresa Byrne (deceased) c/o Geraldine Byrne (Plot 135 and sub plots):

- Request that the proposed boundary treatment be a wall, positioned a minimum of 3m from the front of his house and 2m in height for safety, daylight and air circulation, privacy and maintenance reasons.
- Request that the new entrance to the property is relocated 7m to the west.
- Suggest that the proposal is relocated in a northerly direction. Redesign of the Garda station would not have any residential impact. Notes that the station is rarely occupied.
- Concerns the scheme will result in 'boy racers' driving in a dangerous/reckless manner outside the Garda station to antagonise Gardai. Notes the proximity of the lands to the border with Northern Ireland.
- If new boundary wall is not high enough it will result in privacy issues.
- Proposal results in the loss of a shallow well and pumphouse.
- Concerns that HGV's may collide with property.
- Concerns regarding quality of stone to be used for boundary wall.
- Lack of empathy from the Local Authority in relation to the impacts from the scheme on the property.
- Questions whether or not lighting will be provided at this location.

Michael O'Malley (Plot 136 and sub plots):

- Request that the proposed boundary treatment be a wall, positioned a minimum of 3m from the front of his house and 2m in height for safety, daylight and air circulation, privacy and maintenance reasons.
- Concerns that a small area to the side of the property in front of the new driveway will not be tarmacadamed.

- Suggest that the proposal is relocated in a northerly direction. Redesign of the Garda station would not have any residential impact. Notes that the station is rarely occupied.
- Stone drains associated with the road may affect shallow well on site.
- Concerns the scheme will result in 'boy racers' driving in a dangerous/reckless manner outside the Garda station to antagonise Gardai.
- If the new boundary wall is not high enough it will result in privacy issues.
- Concerns that HGV's may collide with property.
- Notes that the Local Authority refused to purchase the property.
- Concerns regarding quality of stone to be used for boundary wall.
- Lack of empathy from the Local Authority in relation to the impacts from the scheme on the property.
- Questions whether or not lighting will be provided at this location.

Mary McCreesh (Plot 109 and sub plots):

- Objects to cul-de-sac on the grounds of severing the community and additional travel times. Concerns regarding dumping and antisocial behaviour on the cul-de-sac.
- Loss of rental income from tillage farming and area for horses due to severance of land.
- Suggest an overpass is provided. Highlights the dangers involved in transporting animals.
- Scheme does not facilitate safety if animals are being moved between areas via a 100kph road.
- Request that the Local Authority relocate pumphouse at the time of construction of the scheme.
- Reducing bog area will increase air pollution in the area. Questions what mitigation measures will be put in place to address same.
- Concerns regarding potential impacts from vibrations on property.

- Object to noise barrier due to its visual impact. No BIM drawings provided.
- Concerns that existing hardshoulder will become a layover.
- Property will be bounded by roads to the front and rear, which will cause a change to the existing living arrangements of the dwelling. Questions if the Local Authority will compensate this impact.

11.7.4. Ms Wynne was not in attendance at the oral hearing.

11.7.5. Following a lunch break the hearing reconvened at 1.45pm with the Local Authority responding directly to the submissions made earlier by each objector.

11.8. Questioning between Parties

11.8.1. The objectors were afforded the opportunity to question Louth County Council.

11.8.2. Several points were discussed and/or expanded upon during this stage of the proceedings. However, no new significant matters arose. Relevant points of interest are referred to in the assessment section of this report above (Section 8).

11.8.3. I note also that this part of the Oral Hearing is available on the digital recording of the OH proceedings.

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

11.9. Closing of Oral Hearing

11.10. The Inspector made some brief final comments and thanked the participants.

11.11. It was confirmed that a report would be prepared and presented to the Board, who will make a determination on the proposed CPO in due course.

11.12. The Inspector closed the Oral Hearing at approximately 14.15pm.