



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313894-22

|                            |  |
|----------------------------|--|
| <b>Development</b>         | Monaghan County Council<br>Compulsory Purchase Order No. 1 of 2022 (N54 Tullygrimes to Annaghervy Road Realignment)  |
| <b>Location</b>            | N54 Tullygrimes to Annaghervy, Co. Monaghan  |
| <b>Planning Authority</b>  | Monaghan County Council  |
| <b>Applicant(s)</b>        | Monaghan County Council.   |
| <b>Type of Application</b> | Compulsory Purchase Order under the provisions of the Local Government (No. 2) Act 1960, the Housing Act 1966 (as amended), the Roads Act 1993 (as amended) and the Planning and Development Act 2000 (as amended) |
| <b>Observer(s)</b>         | Kenneth Harrison.<br>Beverly Harrison<br>Mary and Donal McCormilla<br>John McCabe<br>Joan and Edmund Graham  |

Malcom Graham

**Date of Oral Hearing**

21<sup>st</sup> of November 2023.

**Date of Site Inspection**

15<sup>th</sup> of November 2023.

**Inspector**

Stephanie Farrington

## **1.0 Introduction**

### **1.1. Overview**

- 1.1.1. Monaghan County Council (MCC) is seeking confirmation by the Board of a Compulsory Purchase Order (CPO) entitled “N54 Tullygrimes to Annaghervy Road Realignment” Monaghan County Council Compulsory Purchase Order No. 1 of 2022.
- 1.1.2. The CPO relates to the compulsory acquisition of lands and the extinguishments of public rights of way for the purposes of realigning the N54 national secondary route in the townlands of Tullygrimes, Cornecassa Demesne, Ballyleck, Tullybryan, Brandrum, Kilnahaltar, Aghalisk, Annagola, Drumacaslán, Drummaconor, Aghnamallagh and Annaghervy Monaghan, in the County of Monaghan.
- 1.1.3. MCC 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 4<sup>th</sup> of February 2019 Monaghan County Council voted in favour of adopting a Part 8 for realignment of the N54 national secondary route from Tullygrimes to Annaghervy (PA Ref: 18/8015). The proposed acquisition is intended to support the delivery of these works.
- 1.1.5. Ten objections were received in respect of the CPO. 4 no. objections were subsequently withdrawn. 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 CPO**

- 1.2.1. 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 N54 National Secondary Road and associated development as permitted under MCC PA Ref: 18/8015. The development is outlined in more detail in Section 3.0 below. The Brief of Evidence presented by Mr. Scanlon on behalf of MCC at the Oral Hearing in

respect of the CPO outlines that the proposed realignment scheme will have the following benefits:

- To reduce end to end journey times and improve reliability along this section of the N54.
- To reduce the overall frequency and severity of road collisions.
- To provide safe overtaking opportunities for motorists along the route in accordance with design standards.
- To reduce conflict points for N54 traffic between Tullygrimes and Annaghervy.
- To improve safety for vulnerable road users and provide a better environment for vulnerable road users.
- To encourage sustainable travel for journeys to and from Monaghan Town that are within walking and cycling distance by reducing the perceived danger of using the N54.
- To reduce social exclusion by improving accessibility from deprived rural areas in County Monaghan to the regional service Hub in Monaghan Town.
- To support increases in cross-Border trade by reducing the perceived cost of cross-border journeys that use the N54.

### 1.3. **Accompanying Documents**

The application is accompanied by the following documentation:

- Cover Letter dated 23<sup>rd</sup> of June 2022, outlining contents of the application;
- Engineer's CPO Report – RPS Group
  - Appendix A – CPO Deposit Maps
  - Appendix B – CPO Schedule
  - Appendix C – Notification of Decision to Grant Part 8 PA Ref. 18/8015, and Senior Planners Report
- Newspaper Notice – The Northern Standard, dated the 23<sup>rd</sup> of June 2022
- CPO Deposited Map Schedules
- CPO Maps signed and sealed

- CPO Planner's Report
- Notification letters sent to the landowners

#### 1.4. Reference to Previous Part 8 Application/Approval

1.4.1. A Part 8 process previously took place under PA Reg. Ref. 18/8015, which gave planning consent for the road realignment on the 4<sup>th</sup> of February 2019.

1.4.2. The Part 8, as described in the public notices, comprised the following:

*The construction of a Type 1 carriageway for a distance of 3.1km from the townland of Tullygrimes to the townland of Annaghervy. The N54 realignment will consist of 7.3km carriageway with 2x2.5 km hard shoulders and 2 x 3m verges, the provision of a ghost island junction located at the junction of the N54 with the R187 regional road and at the junction of the N54 with the local road L1600. The local roads L16004 and L1600 will be realigned to provide a stagger type junction with the local roads L21803 and L16005.*

1.4.3. The Planning Statement submitted in support of the Part 8 application under PA Ref 18/8015 addresses the environmental impacts of the proposed scheme in terms of impacts on Human Beings, Ecology, Soils, Geology and Hydrogeology, Drainage, Air Quality, Noise, Landscape and Visual and Cultural Heritage. The 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.

1.4.4. An Appropriate Assessment Screening Report was prepared in respect of the Part 8 process, which concluded that the proposed development would not 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 2 AA) was not required.

1.4.5. 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:

- Acquire compulsory, for the purposes of the construction of the N54 Tullygrimes to Annaghervy realignment together with all associated works, lands described

in Part I, Part II (a) and Part II (b) of the Schedule attached and illustrated on maps marked “Monaghan County Council Compulsory Purchase Order No. 1 of 2022 (N54 Tullygrimes to Annaghervy Road Realignment) (Drawings No. DP1000, DP1001, DP1002, DP1003 and DP1004):

- B. Extinguish public rights of way over lands to be Compulsorily Acquired as described in Schedule III and illustrated on Drawing nos. DP1003 and DP1004 of the Deposited Maps.

All of said lands described in the Schedule are situated in the townlands of Tullygrimes, Cornecassa Demesne, Ballyleck, Tullybryan, Brandrum, Kilnahaltar, Aghalisk, Annagola, Drumacaslan, Drummaconor, Aghnamallagh and Annaghervy Monaghan, in the County of Monaghan.

## **2.0 Site Location and Description**

- 2.1. The proposed N54 Tullygrimes to Annaghervy Road Realignment Scheme seeks to acquire lands required for a 3.15km section of the N54 national secondary road between a point 0.5km west of Monaghan Town to a point west of the junction with the R187.
- 2.2. The N54 connects Monaghan Town to Butlers Bridge just north of Cavan Town via a series of villages and towns including Smithborough, Clones and Cloverhill. The route also serves a strategic function as it connects the N2 and N3 national primary routes in the border region and it provides strategic linkage with the A3 in Northern Ireland.
- 2.3. The section of the N54 to which the CPO relates is rural in nature with a number of minor road junctions and private accesses directly onto the main road. The horizontal road geometry consists of some short straights joined by tight horizontal curves. The existing road width is between 6m to 6.5m and has a speed limit of 80km/ph. There are no hard shoulders present or footways/cycleways making it dangerous for vulnerable road users. The road caters for high volumes of traffic including a significant number of HGVs.
- 2.4. The Engineering Brief of Evidence presented by Mr. Scanlon at the Oral Hearing on the CPO outlines that traffic volumes on this section of the N54 are approximately

6,600 vehicles per day. The route accommodates a significant number of heavy good vehicles (c.13% of all traffic along the route).

- 2.5. The CPO extends to include junctions between the N54 and the L1600 (Brandrum, Whites Bridge), the N54 and L21803 (Carsons Bridge) and the N54 and R187. The Engineering Brief of Evidence outlines that visibility at the junctions between the N54 and L1600 and the N54 and L21803 is poor. This was evident on my site inspection. The visibility between the N54 and R187 is described as good.
- 2.6. At present, drainage along the route is provided over the edge, with some gullies provided at junctions and entrances. On site inspection I noted that this results in wet conditions along the limited grass verges along the route.
- 2.7. Existing development along the N54 is characterised by dispersed housing and agricultural fields enclosed by semi-mature to mature hedgerows with some forestry and wooded sites. The Ulster Canal is located to the south of and parallel to the N54. The CPO extends to include lands within the Ulster Canal pNHA (Site Code 001611) including Plot nos. 16.14 and 7.12, which are proposed for temporary acquisition, are located within the designated pNHA.
- 2.8. Part of the Ulster Canal along the CPO route includes Protected Structure RPS Ref No. 41400953 described as Carsons Bridge/Whites Bridge - Stretch of Ulster Canal with two single arch road bridges, Ulster Canal Monaghan within the Monaghan County Council Record of Protected Structures. The CPO route is drained by 3 watercourses which cross the N54 at different locations namely Annagola, Aghalisk and Brandrum.

### **3.0 The Proposal/CPO**

- 3.1. The Compulsory Purchase Order relates to the compulsory acquisition of lands and the extinguishment of public rights of way for the purposes of realigning the N54 national secondary route in the townlands of Tullygrimes, Cornecassa Demesne, Ballyleck, Tullybryan, Brandrum, Kilnahaltar, Aghalisk, Annagola, Drumacaslan, Drummaconor, Aghnamallagh and Annaghervy Monaghan, in the County of Monaghan by Monaghan County Council.
- 3.2. If confirmed, the Order will authorise the local authority to:

A. Acquire compulsory, for the purposes of the construction of the N54 Tullygrimes to Annaghervy realignment together with all associated works, lands described in Part I, Part II (a) and Part II (b) of the Schedule attached and illustrated on maps marked "Monaghan County Council Compulsory Purchase Order No. 1 of 2022 (N54 Tullygrimes to Annaghervy Road Realignment) (Drawings No. DP1000, DP1001, DP1002, DP1003 and DP1004) including:

- Permanently acquire land consisting of a house or houses unfit for human habitation and not capable of being rendered fit for human habitation at reasonable cost as described in Schedule Part I and coloured pink on the deposited maps (Drawing no. DP1002).
- Permanently acquire land other than land consisting of a house or houses unfit for human habitation and not capable of being rendered fit for human habitation at reasonable expense as described in Schedule Part II.a and coloured light grey on the deposited maps (Drawing nos. DP1001 and DP1002).
- Temporarily acquire land other than land consisting of a house or houses unfit for human habitation and not capable of being rendered fit for human habitation at reasonable expense as described in Schedule Part II.b and coloured dark grey on the deposited maps (Drawing nos. DP1001 and DP1002).

B. Extinguish the following public rights of way over lands to be Compulsorily Acquired as described in Schedule III and illustrated on Drawing nos. DP1003 and DP1004 of the Deposited Maps:

1. The section of the L16004 at its junction with the N54 Monaghan to Clones Road within the townland of Aghalisk (between the lines A1-A1 and A2-A2 as shown on Drawing no. DP1003).
2. The section of the L1600 at its junction with the N54 Monaghan to Clones Road within the townland of Tullybryan (between the lines B1-B1 and B2-B2 as shown on Drawing no. DP1004).



3. The section of the N54 Monaghan to Clones Road within the townland of Annagola (between the lines C1-C1 and C2-C2 as shown on Drawing no. DP1003).
  4. The section of the N54 Monaghan to Clones Road within the townland of Aghalisk (between the lines C3-C3 and C4-C4 as shown on Drawing no. DP1003).
  5. The section of the N54 Monaghan to Clones Road within the townland of Tullybryan (between the lines C5-C5 and C6-C6 as shown on Drawing no. DP1004).
  6. The section of the N54 Monaghan to Clones Road within the townland of Tullybryan (between the lines C7-C7 and C8-C8 as shown on Drawing no. DP1004).
- 3.3. The Oral Hearing Brief of Evidence prepared by Mr. Tommy Scanlon, on behalf of Monaghan County Council outlines that 14 no. landowners are affected by the proposed CPO. The submission confirms that the total land to be permanently acquired for the N54 realignment is 17.59 hectares and a total of 1.35 ha is to be temporarily acquired. Section 6.1 of the Brief of Evidence outlines that 7.28 ha of land to be acquired is in the ownership of Monaghan County Council.
- 3.4. The lands that the Local Authority is seeking to acquire are primarily in agricultural use. The area of agricultural land to be acquired is 8.71 ha, the area of house curtilage to be acquired is 0.28 ha from 8 domestic properties and 4.63 ha is to be acquired from public roadbed.
- 3.5. The proposed acquisition is intended to support the delivery of the permitted Part 8 for the realignment of the N54 national secondary route from Tullygrimes to Annaghervy (PA Ref: 18/8015). The works would comprise of the construction of a Type 1 carriageway for a distance of 3.1km from the townland of Tullygrimes to the townland of Annaghervy. The N54 realignment will consist of the following key elements:
- A 7.3-metre carriageway (3.65-metre-wide lanes in each direction) with 2.5-metre hard shoulders and 3-metre verges.
  - A ghost island junction at the junction of the N54 with the regional road R187.

- Roads will be realigned to provide a staggered junction alignment in order to improve the safety of local roads L16004, L21803, L1600 and L1605.
- Attenuation ponds at drainage outfall locations.
- Associated accommodation and fencing works, landscaping works and drainage works.

## 4.0 Policy Context

### 4.1. National Planning Framework (NPF) – Project Ireland 2040

4.1.1. The National Planning Framework (NPF) is a high-level strategic plan for shaping the future growth and development of the country. The NPF notes that addressing economic resilience and connectivity are strategic priorities for the Cavan-Monaghan/North Eastern Region.

4.1.2. The following National Policy Objective (NPO) is relevant to the project:

- 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.

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

4.2.1. These Guidelines outline that better national roads improve access to the regions, enhancing their attractiveness for inward investment and new employment opportunities. The Guidelines also acknowledge the need to maintain the efficiency, capacity and safety of the national road network.

### 4.3. Regional Spatial and Economic Strategy for the Northern and Western Regional Assembly 2020-2032

4.3.1. Monaghan is designated as a Key Town within the Regional Spatial and Economic Strategy for the Northern and Western Region (RSES). The Strategy outlines that Monaghan Town occupies a strategic border location along the Dublin to Letterkenny/Derry City corridor, and adjacent to the Dublin/Belfast eastern economic corridor. The

Key Future Priorities for the town as set out within Section 3 of the RSES includes an objective to “*support sustainable travel including the provision of cycling, walking and smart travel initiatives set out in the Monaghan Land Use and Transportation Study*”.

4.3.2. The RSES for the Northern and Western Region acknowledges the need for improvement of accessibility from the Northern and Western region of Ireland and between centres of scale and key east-west and north-south routes. The document outlines that the need for management and investment in strategic road improvement projects to enhance accessibility and access to critical services such as education, healthcare and employment.

4.3.3. The Following Regional Policy Objectives (RPO's) for National Roads are of relevance:

- RPO 6.5: The capacity and safety of the region's land transport networks will be managed and enhanced to ensure their optimal use, thus giving effect to National Strategic Outcome No. 2 and maintaining the strategic capacity and safety of the national roads network including planning for future capacity enhancements.
- RPO 6.8: The delivery of the following projects shall be pursued in consultation with and subject to the agreement of TII, through pre-appraisal, early planning and to construction as a priority projects to be delivered to an appropriate level of service in the medium-term: N54/A3 Cavan to Monaghan Town.

4.3.4. Section 9 of the RSES relates to all island cohesion and outlines that:

*“There are several key strategic Cross Border Transport Corridors within the border region that require further investment, and these are identified as part of Growth Ambition 3 and worthy of mention here:*

- *N2/A5 from Ardee to Derry*
- *N3/A509*
- *N12/A3 Armagh to Monaghan*
- *N16/A4*
- *N54/A3 Monaghan to Cavan*

- *The East/West Link from Dundalk to Sligo*
- *A29 Dungannon to County Monaghan”*

#### 4.4. **Monaghan County Development Plan 2019-2025**

4.4.1. The lands proposed for CPO are located to the west of Monaghan Town. Some of the landholdings to the west of the route are located within the settlement boundary of Monaghan Town as identified within Map MDP1 of the Monaghan County Development Plan 2019-2025. The N54 is identified as a National Secondary Route within the Map 2.1 of the Core Strategy Map set out within the MCDP 2019-2025. Map 2.1 furthermore illustrates that the lands are located within an “Area Under Strong Urban Influence”.

##### *Chapter 1: Introduction*

4.4.2. The following objectives of the Monaghan County Development Plan are of relevance:

- Objective SO 3: To realise the potential of County Monaghan in the context of its strategic location along the border, adjacent to the eastern economic corridor and to improve linkages and communications between Monaghan and its neighbouring counties.
- Objective SO 4: To support balanced economic development throughout the county by delivering improved infrastructure and services.
- Objective SO 8: To maintain the strategic capacity and safety of the national roads network and to safeguard the investment in national roads.

##### *Chapter 6 Heritage, Conservation and Landscape*

4.5. The following designations are of relevance:

- Landscape Character Types are identified in Figure 6.1 of the Development Plan. The site is located within a designated Drumlin Farmland landscape area.
- Table 6.4 of the MCDP lists County Sites of Biodiversity Importance. The Ulster Canal (Aghalisk) Site Code 001611 is listed in Table 6.4.

4.5.1. The CPO extends to include lands within the Ulster Canal pNHA (Site Code 001611). The Ulster Canal is listed as a site of biodiversity importance within Table 6.4 of the

Monaghan County Development Plan. Plot nos. 16.14 and 7.12, which are proposed for temporary acquisition, are located within the designated pNHA.

4.5.2. Policy HLP 14 of the MCDP seeks to *“resist development in or adjacent to a NHA or p NHA where it would result in the deterioration of that habitat or detrimentally impact on any species reliant on it”*.

4.5.3. Section 6.17.1 of the Plan relates to Architectural Heritage and cross refers to the Record of Protected Structures listed in Appendix 2(a) and 2(b) of the Plan. The following are designated as Protected Structure within Appendix 2(a) the Plan.

- Ref No. 41400953 Carsons Bridge/Whites Bridge - Stretch of Ulster Canal with two single arch road bridges, Ulster Canal Monaghan.

4.5.4. The following policies are of relevance:

- *Policy BHP6 To ensure that any new development proposed to or in the vicinity of a Protected Structure will complement and be sympathetic to the structure and its setting in terms of its design, scale, height massing and use of materials and to resist any development which is likely to impact on the building’s special interest and/ or any views of such buildings and their setting.*
- *Policy BHP 10: The Council aims to conserve the built fabric of the Ulster Canal, Great Northern Railway, historic mills and other industrial heritage structures throughout the county and planning permission will be required for their removal or alteration.*

#### *Chapter 7: Transport and Infrastructure*

- Objective TISO 1: To achieve a sustainable, efficient and integrated transport system and ease of movement throughout County Monaghan by enhancing the existing transport infrastructure in terms of the road, cycling and pedestrian facilities and by promoting more compact urban forms close to existing facilities to encourage more sustainable movement patterns.
- Policy TP 2 To support the creation of an integrated and sustainable transport system to promote a choice of transport modes including public transport, cycling and walking facilities.

- Policy TP 4 To plan for future traffic and transportation needs in County Monaghan and to ensure that new development does not prejudice the expansion of road and cycling corridors in the County. Proposed road routes, road realignment schemes and future cycle route corridors shall be kept free from development that would compromise their future delivery.

4.5.5. Section 7.8 relates to National Roads and outlines that *“a high quality, safe and efficient road network is paramount in Monaghan where road transport is the only mode of travel to access ports, airports and wider markets in the region and Country”*.

4.5.6. The Plan identifies that four National Routes traverse County Monaghan including the N54. Table 7.1 of the Plan identifies the N54 Tullygrimes to Annaghervy (Tullybryan) realignment as one of a number of remaining un-realigned sections of National Road. The Plan outlines that these national road projects will be advanced in partnership with Transport Infrastructure Ireland.

#### *Chapter 9. Strategic Objectives for Settlement Plans*

4.5.7. Section 9.12 relates to Infrastructure and Services. This outlines that County Monaghan’s national and regional road network ensures strong connectivity with the larger towns of Dundalk, Cavan, Enniskillen, Armagh and Omagh. The following Objectives for Roads and Parking are of relevance:

- *RPO 1 Construct new roads and improve the existing road network in, around and through the towns, to open up development lands and improve traffic safety.*

#### **4.6. Natural Heritage Designations**

4.6.1. The nearest designated European sites to the appeal site, including SAC’s and Special Protection Areas (SPA’s) include the following:

- Ulster Canal pNHA – lands immediately to south of and parallel with the N54. CPO Plot nos. 16.14 and 7.12, which are proposed for temporary acquisition, are located within the pNHA.
- Wrights Wood pNHA – 0.6 km to the north-east
- Rosefield Lake and Woodland- pNHA – 1 km to the north
- Corcreeghy Lake and Woodland p NHA – 1.3 km to the south-west

- Slieve Beagh SPA – 9.3 km to the north-west

## 5.0 Planning History

The following planning history is of relevance to the CPO lands:

PA Ref: 178008: Part 8 application lodged by Monaghan County Council in August 2017 for: *The construction of a Type 1 carriageway for a distance of 3.1km from a location 500m west of Monaghan Town boundary to a location 180m west of the R187 regional road junction with the N54. The N54 realignment will consist of 7.3m carriageway with 2 x 2.5m hard shoulders and 2 x 3m verges, the provision of a ghost island junction located at the junction of the N54 with the R187 regional road and at the junction of the N54 with the local road L1600. The local roads L16004 and L1600 will be realigned to provide a stagger type junction with the local roads L21803 and L160005.* The application was withdrawn in November 2017.

PA Reg Ref: 18/8015: Part 8 granted on the 4<sup>th</sup> of February 2019 for the following development:

*“Construction of a Type 1 carriageway for a distance of 3.1km from the townland of Tullygrimes to the townland of Annaghervy. The N54 realignment will consist of 7.3km carriageway with 2x2.5km hard shoulders and 2 x 3m verges, the provision of a ghost island junction located at the junction of the N54 with the R187 regional road and at the junction of the N54 with the local road L1600. The local roads L16004 and L1600 will be realigned to provide a stagger type junction with the local roads L21803 and L16005”.*

## 6.0 Objections to the Compulsory Acquisition of Lands

- 6.1. A total of 10 no. valid objections to the CPO were received. The objection on behalf of Timberframe Partnership (Plot 20.1) was withdrawn in advance of the Oral Hearing. Objections on behalf of Ann Marron (Plots 08.1 and 08.2), Dunwoody Graham (Plots

11.1, 11.2, 11.3 and 11.4) and James Treanor (Plots 12.1, 12.2, 12.3 and 16.12) were withdrawn after the Oral Hearing.

6.2. The remaining objections are summarised as follows.

6.3. **Objection by Martin and Rea on behalf of Kenneth Harrison**

6.3.1. This objection relates to Plot ref. 04. Key points raised are summarised as follows:

- The development of the Road Scheme is not in accordance with EU Law.
- No full design detail has been made available to the property owner.
- The design as prepared for Part 8 planning is not legally binding on Monaghan County Council.
- The land take is excessive.
- No drainage design detail has been provided to the landowner.
- No material asset investigation or report has been made available to the landowner.
- The procedure used to issue CPO is in breach of G.D.P.R and as a result the CPO is considered invalid.
- Monaghan County Council have not considered all the design options in relation to drainage.
- The objector accepts the need for substantial improvement on this section of the road.

6.4. **Objection by Martin and Rea on behalf of Beverly Harrison**

6.4.1. This objection relates to Plot ref. 04 and raises the following points:

- No legally binding design detail has ever been presented to the property owner.
- The proposed new road is deficient in design.
- The owner has not been informed of the mitigation measures produced to reduce impact on her residence.
- The procedure used to issue CPO is in breach of G.D.P.R and as a result the CPO is considered invalid.



- The submission refers to Environmental Reports prepared as part of the Part 8 application. The property owner was not made aware of such reports and as a result the consultation process was inadequate.

#### **6.5. Objection by Martin and Rea on behalf of Mary & Donal McCormilla**

6.5.1. This objection relates to Plot nos. 05.1, 05.2,05.3, 06.1 and 06.2 and raises the following grounds:

- The objection outlines that the description of plots 06.1, 05.2 and 05.1 as road bed is incorrect. These should be described as road bed and curtilage.
- The design of the attenuation pond and associated plot at 04.6 is inadequate considering the proximity of 2 residential properties at Plot no. 0.5.
- Due to the removal of septic tank and percolation areas both properties will be rendered uninhabitable and useless.
- Arising from the removal of land at 05.3 the remaining land will be inadequate, and building will be useless.
- No material asset report has been made available to property owner.
- Procedure not in accordance with EU Law.
- The observer accepts the need for substantial improvement on this section of the road.

#### **6.6. Objection by Martin and Rea on behalf of John McCabe**

6.6.1. This objection relates to Plot ref. 07.1, 07.2,07.3, 07.4, 07.5, 07.6, 07, 07.8, 07.9, 07.13, 07.10, 07.11, 07.12 and raises the following grounds:

- Absence of proper consultations.
- No legally binding commitment in relation to design.
- No design detail provided.
- Land take is excessive.
- No detail in relation to noise mitigation in relation to two residences at Plot 7.3, 7.14 and 7.2.

- The submission raises concern in relation to the description of Plot 07.3 in Schedule Part 2 as “not capable of being rendered fit for human habitation at reasonable expense”.
- The submission outlines that the description for Plots 07.1, 07.4 and 07.7 as road bed within the schedule is incorrect and should read road bed and curtilage.
- The observer accepts the need for substantial improvements on this section of road.

### **6.7. Objection by Martin and Rea on behalf of Joan and Edmund Graham**

6.7.1. This objection relates to Plot ref. 16.2 and raises the following grounds:

- No detailed design has been provided and what has been provided is not legally binding on Monaghan County Council.
- Contrary to EU Law and procedures.
- As the procedure for issuing C.P.O is in breach of GDPR the issue of the C.P.O is invalid.
- The observer accepts the need for substantial improvement on this section of the road.

### **6.8. Objection by Martin and Rea on behalf of Malcom Graham**

6.8.1. This objection relates to Plot ref. 19.1 and raises the following grounds:

- The development of the road scheme is not in accordance with EU law.

## **7.0 Oral Hearing**

7.1.1. An Oral Hearing was held on Tuesday, 21<sup>st</sup> of November 2023. All objectors and Monaghan County Council were represented at the hearing and oral submissions were heard by, or on behalf of, all parties.

7.1.2. A summary of the Hearing is 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 was as 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.

- 7.1.3. Participants were also advised that the planning merits of the Part 8 Scheme have already been determined by the Local Authority. 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 Schedule were submitted by Mr. Dermot Flanagan on behalf of Monaghan County Council (in respect of Plots 16.7 and 16.8 in Schedule Part II.a) and Mr. Richard Rea on behalf of James Treanor (in respect of Plots 12.1,12.2,16.12 in Schedule Part II.a and Plot 12.3 in Schedule II.b) during the course of the Oral Hearing.

- 7.2.2. These modifications relate to landownership and are detailed in the Table below:

| <b>Ownership set out within the CPO Schedule</b> |  |
|--|--|
|  | <b>Owner (s) or Reputed Owner(s)</b>                     |
| Schedule Part II.a Plots<br>12.1,12.2            | James Treanor  |
| Schedule Part II.a Plots<br>16.7, 16.8           | Monaghan County Council                                  |
| Schedule Part II.a Plot<br>16.12                 | Monaghan County Council                                  |
| Schedule Part II.b. Plot<br>12.3                 | James Treanor  |
| <b>Proposed Modifications</b>                    |  |
|  | <b>Owner (s) or Reputed Owner(s)</b>                     |
| Schedule Part II.a Plots<br>12.1,12.2            | James Treanor Junior                                     |
| Schedule Part II.a Plots<br>16.7, 16.8           | Reps of Christina McCarron and Reps. Of Edward McCarron, |

|                                  |   |
|----------------------------------|---|
|                                  | Tullybryan,<br>Monaghan,<br>Co. Monaghan. |
| Schedule Part II.a Plot<br>16.12 | James Treanor Senior                      |
| Schedule Part II.b. Plot<br>12.3 | James Treanor Senior                      |

7.2.3. No objections were raised in respect of the submitted modifications to the Schedule.

7.2.4. The Board was requested 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 proposed CPO relates to the N54 Tullygrimes to Annaghervy Road Realignment in Monaghan. The Compulsory Purchase Order relates to the compulsory acquisition of lands and the extinguishment of public rights of way for the purposes of realigning the N54 national secondary route from a point approximately 0.5km to the west of Monaghan Town to a point west of the junction of the N54 with the R187 in the townlands of Tullygrimes, Cornecassa Demesne, Ballyleck, Tullybryan, Brandrum, Kilnahaltar, Aghalisk, Annagola, Drumacaslan, Drummaconor, Aghnamallagh and Annaghervy Monaghan, in the County of Monaghan.

8.1.2. The N54 connects Monaghan Town to Butlers Bridge just north of Cavan Town. The road serves a strategic function as it connects the N2 and N3 national routes and provides a link with the A3 in Northern Ireland. The proposed CPO acquisition is intended to support the delivery of the permitted Part 8 for the realignment of the N54 Tullygrimes to Annaghervy which was approved by Monaghan County Council in February 2019 (PA Ref: 18/8015).

8.1.3. The approved Part 8 works comprise the construction of a Type 1 carriageway for a distance of 3.1km from the townland of Tullygrimes to the townland of Annaghervy. The N54 realignment will consist of 7.3 km carriageway with 2x2.5km hard shoulders and 2 x 3m verges, the provision of a ghost island junction located at the junction of the N54 with the R187 regional road and at the junction of the N54 with the local road L1600. The local roads L16004 and L1600 will be realigned to provide a stagger type junction with the local roads L21803 and L16005.

8.1.4. The Engineers CPO report submitted in conjunction with the CPO application outlines that the plots of land subject to the CPO comprise the necessary lands and temporary working areas for the construction of the approved Part 8 and the lands are described within the report as being suitable and necessary.

8.1.5. For the Board to confirm the subject CPO, it must be satisfied that the following criteria are addressed:

- There is a community need that is to be met by the acquisition of the lands in question.
- The project proposed and associated acquisition of lands is suitable to meet the community need.
- Any alternative methods of meeting the community need have been considered but are not demonstrably preferable.
- The extent of land-take should have due regard to the issue of proportionality.
- The works to be carried out should accord with or at least not be in material contravention of the policies and objectives contained in the statutory Development Plan relating to the area.

8.1.6. 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. The proposed CPO acquisition is intended to support the delivery of the permitted Part 8 for the realignment of the N54 Tullygrimes to Annaghervy which was approved by Monaghan County Council in February 2019 (PA Ref: 18/8015).

- 8.2.2. The N54 in the vicinity of the CPO lands is currently between 6m and 6.5m in width with no hard shoulders and limited visibility making it dangerous for vulnerable road users such as pedestrians and cyclists. The Engineering Brief of Evidence presented at the Oral Hearing outlines that traffic volumes on this section of the N54 is approximately 6,600 vehicles per day. The route accommodates a significant number of heavy good vehicles (c. 13% of all traffic along the route).
- 8.2.3. The road has experienced a high rate of collisions. The Planning Report which accompanied Monaghan County Council's Part 8 application under PA Ref: 18/8015 outlines that the collision rates along the route are twice above the national average. Section 4 of the Engineering Brief of Evidence outlines that between 2008 to 2019 a total of 29 collisions happened along this stretch of the N54, including 3 fatalities, 4 serious injuries and 22 minor collisions.
- 8.2.4. The proposed realignment seeks to improve safety for motorists and vulnerable road users, to reduce collisions, to reduce journey times, improve accessibility and encourage sustainable travel. The primary rationale for the scheme is to significantly enhance safety on this stretch of the N54 for all road users.
- 8.2.5. Having visited the site, I concur with the Local Authority that the current road substandard in terms of traffic safety. 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. I note many of the objectors to the CPO are in agreement in that the proposed N54 upgrade would be beneficial for the surrounding area and are, in principle, in favour of it. The primary grounds of objection relate to detailed design and access arrangements etc. as addressed in Section 8.7 of this report.
- 8.2.7. In conclusion, therefore, having inspected the lands and having conducted an Oral Hearing and having examined the information submitted by the Local Authority and the submissions/objections made, I am satisfied that Monaghan County Council has established a valid community need for the proposed N54 Tullygrimes to Annaghervy road realignment scheme.

### **8.3. Suitability of Lands to Serve Community Need**

- 8.3.1. The Oral Hearing Brief of Evidence prepared by Mr. Tommy Scanlon, on behalf of Monaghan County Council outlines that 14 no. landowners are affected by the proposed CPO. There were 10 initial objections to the CPO, 4 of which were withdrawn. The submission confirms that the total land to be permanently acquired for the N54 realignment is 17.59 hectares and a total of 1.35 ha is to be temporarily acquired. Section 6.1 of the Brief of Evidence outlines that 7.28 ha of land to be acquired is in the ownership of Monaghan County Council. At the Oral Hearing Mr. Scanlon and Mr. Flanagan confirmed that the proposed landtake was the minimum required to facilitate the scheme.
- 8.3.2. The realignment, and its associated works, is required to pass through various sections of land owned by third parties, it is necessary for the Council to acquire these land parcels, and this has generated a number of concerns for the affected parties as detailed further in Section 8.7 and Appendix 1 of this report.
- 8.3.3. The lands that the Local Authority is seeking to acquire are primarily in agricultural use. The area of agricultural land to be acquired is 8.71ha, the area of house curtilage to be acquired is 0.28ha from 8 domestic properties and 4.63ha is to be acquired from public roadbed.
- 8.3.4. I note that the majority of lands proposed for acquisition are located to the north of the N54 and I consider that this reflects the existing constraints for expansion to the south of the N54 including the Ulster Canal pNHA, protected structures and greenway objectives. The approved Part 8 outlines that provision has been made within the Scheme to facilitate the delivery of the proposed greenway.
- 8.3.5. With regard to the extent of acquisition, having reviewed the drawings submitted with the CPO application and the proposed scheme drawings (submitted with the Part 8 application PA. Ref. 18/8015), 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. The lands which are proposed for acquisition are located direct adjacent to the existing N54 and local routes.
- 8.3.6. In conclusion, and based on the documentation submitted, the submissions 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.
- 8.4.2. 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. Regional Policy Objective 6.8 of the Regional Spatial and Economic Strategy for the Northern and Western Regional Assembly 2020-2032 specifically identifies the upgrade of the N54/A3 Cavan to Monaghan Town as a priority project and identifies the route as one of several key strategic Cross Border Transport Corridors within the border region that require further investment.
- 8.4.3. At a local level, The Monaghan County Development Plan 2019-2025 acknowledges the importance of the national road network in Monaghan. Objective S0 8 seeks of the MCDP seeks: *“To maintain the strategic capacity and safety of the national roads network and to safeguard the investment in national roads”*. Table 7.1 of the Development Plan specifically identifies N54 Tullygrimes to Annaghervy (Tullybryan) realignment as a Remaining Un-realigned Sections of National Routes.
- 8.4.4. The N54 realignment is furthermore supported by Objective RPO1 of the MCDP which seeks *“to construct new roads and improve the existing road network in, around and through the towns, to open up development lands and improve traffic safety”*. Policy TP4 furthermore safeguards the delivery of the Scheme and seeks *“To plan for future traffic and transportation needs in County Monaghan and to ensure that new development does not prejudice the expansion of road and cycling corridors in the County. Proposed road routes, road realignment schemes and future cycle route corridors shall be kept free from development that would compromise their future delivery”*.



- 8.4.5. I note the objective to provide the Ulster Canal Greenway to the south of the site. The policies and objectives of the Monaghan County Development Plan 2019-2025 support the delivery of the greenway (Policy CFP 1, MPO 9). The Planning Statement submitted in conjunction with the permitted Part 8 of the scheme outlines that the proposed realignment has sought to facilitate this proposal by providing a minimum of 5m between the northern side of the canal and the proposed realigned road in most instances (except at a pinch point at CH 1450 to CH 1700). I am satisfied that that the permitted Part 8 or the proposed CPO does not preclude the delivery of the Ulster Canal Greenway
- 8.4.6. I note that the extent of the CPO also extends to include lands within the Ulster Canal pNHA (Site Code 001611). The Ulster Canal is listed as a site of biodiversity importance within Table 6.4 of the Monaghan County Development Plan. Plot nos. 16.14 and 7.12, which are proposed for temporary acquisition, are located within the designated pNHA. Policy HLP 14 of the MCDP seeks to *“resist development in or adjacent to a NHA or p NHA where it would result in the deterioration of that habitat or detrimentally impact on any species reliant on it”*. The approved Part 8 Scheme for the realignment of the N54 extended to include lands within and adjacent to the Ulster Canal pNHA and the potential impact of the scheme was addressed within that application. I am satisfied that the temporary acquisition of Plot nos. 16.14 and 7.12 is not contrary to Policy HLP 14 of the MCDP.
- 8.4.7. I am likewise satisfied that the approved Part 8 addressed the potential impact of the Part 8 scheme on existing bridges within the vicinity of the CPO route which are listed as protected structures (RPS Ref No. 41400953 Carsons Bridge/Whites Bridge - Stretch of Ulster Canal with two single arch road bridges, Ulster Canal Monaghan).
- 8.4.8. In conclusion, I am satisfied that the proposed CPO to facilitate the road realignment scheme would be in accordance with National, Regional and County level planning policy which support the strategic capacity and safety of the national road network and specifically identify the N54 as being in need of improvement.

## 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. During the course of the Oral Hearing, Mr. Flanagan on behalf of Monaghan County Council made reference in the Oral Hearing to a High Court challenge in 2006 (Ballyedmond 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.
- 8.5.3. The submission presented by Mr. Tommy Scanlon of RPS Consulting Engineers at the Oral Hearing addresses the Consideration of Alternatives (Section 4.3.2). This outlines that 4 alternative options were considered for the N54 Tullygrimes to Annaghervy scheme in order to improve the existing alignment and improve the road safety of the route. The submission outlines that of the routes examined Option A, the selected route, had the smallest footprint and least required landtake. The submission outlines that the land identified for the compulsory acquisition represents the minimum landtake in order to construct the proposed road development.
- 8.5.4. While the chosen alignment will result in acquisition of a residential property, loss of residential curtilage and land 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 N54 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. Proportionality and Necessity for the Level of Acquisition Proposed**

- 8.6.1. I am satisfied that the process and procedures undertaken by Monaghan County Council have been fair and reasonable, that Monaghan County Council has demonstrated the need for the lands and that all the lands being acquired are both necessary and suitable to facilitate the provision of the realignment of the N54 as approved under the Part 8 process.
- 8.6.2. Having regard to the constitutional and Convention (ECHR) protection afforded to property rights, I consider that the acquisition of lands and a residential property and the extinguishment of public rights of way as set out in the compulsory purchases order, schedule (Parts I, II and III) and on the deposited maps pursues and is rationally

connected to, a legitimate objective in the public interest, namely the N54 Tullygrimes to Annaghervy Road Realignment.

- 8.6.3. I am also satisfied that the acquiring authority has demonstrated that the means chosen to achieve that objective impair the property rights of affected landowners as little as possible; in this respect, I have considered alternative means of achieving the objective referred to in submissions to the Board, and am satisfied that the acquiring authority has established that none of the alternatives are such as to render the means chosen and the CPO made by the acquiring authority unreasonable or disproportionate.
- 8.6.4. The effects of the CPO on the rights of affected landowners are proportionate to the objective being pursued. I am further satisfied that the proposed acquisition of these lands / extinguishment of these rights of way would be consistent with the Policy Objective 6.8 of the Regional Spatial and Economic Strategy for the Northern and Western Regional Assembly 2020-2032 which specifically identifies the upgrade of the N54/A3 Cavan to Monaghan Town as a priority project and identifies the route as one of several key strategic Cross Border Transport Corridors within the border region that require further investment.
- 8.6.5. At a local level, the provision of the Monaghan County Development Plan 2019-2025 highlights the strategic importance of the national road network within the County. Table 7.1 of the Development Plan specifically identifies N54 Tullygrimes to Annaghervy (Tullybryan) as a remaining un-realigned section of a national road and Objective S0 8 seeks: *“To maintain the strategic capacity and safety of the national roads network and to safeguard the investment in national roads”*. Accordingly, I am satisfied that that the confirmation of the CPO is clearly justified by the exigencies of the common good.

## 8.7. **Issues Raised by Objectors**

### Procedural/Legal Matters

- 8.7.1. A number of the observations on the CPO outline that the development is contrary to EU Law. During the course of the hearing, it was clear from the evidence presented by Mr. Rea that such references related to the permitted Part 8 scheme. At the Oral Hearing it was made clear to all parties that the Part 8 approval for the said road

improvement scheme was secured on the 4th of February 2019 and it is not before the Board for comment or adjudication.

- 8.7.2. In terms of the concerns raised within the observations in relation to the notification procedures for the CPO Mr. Flanagan representing Monaghan County Council confirmed that all appropriate procedures had been adhered to in terms of notification to landowners of the CPO. I am satisfied that no evidence to the contrary was provided within the submissions on the CPO or at the Oral Hearing.

#### Impact on Residential Amenity

- 8.7.3. As detailed within Section 6 of this report a number of the submissions on the CPO outline that the scheme will reduce the residential amenity of dwellings and wider area on the basis of noise impact, access, impact on existing infrastructure, severance of land and impact on development potential. Further elaboration of these points was provided by Mr. Rea during the course of the Oral Hearing as summarised within Appendix 1 of this report. Mr Rea raised concern in relation to information deficiencies in respect of the impact of the scheme on residential amenity. During the course of the Oral Hearing Mr. Flanagan outlined that such issues were a matter for a property arbitrator and did not provide further elaboration on impacts on residential amenity. I note that the road improvement scheme has already been subject to assessment as part of the Part 8 process.
- 8.7.4. While I acknowledge the concerns raised by landowners, 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. I note that a number of the observations to the CPO support the principle of the proposed works. I consider that the matters raised within the objections and at the hearing could be addressed in the compensation package. Matters relating to compensation are not within the remit of the Board.
- 8.7.5. This is not to discount any potential negative impacts on property owners, where they arise. Ultimately, however, I consider that the significant benefits of the N54 realignment for the common good of the area outweigh any impacts on affected property owners and, on that basis, I consider the proposed scheme to be generally justified and acceptable.

### Lack of Detailed Design

- 8.7.6. A number of the submissions on the CPO raise concern in relation to the lack of detailed design for the development and lack of consultation with the affected landowners. This point was raised by Mr. Rea during the course of the Oral Hearing.
- 8.7.7. At the outset, I note that the design of the proposed realignment is set out within the permitted Part 8. Further detailed design drawings illustrating the impact of the proposed realignment scheme on individual landowner plots and properties were submitted to An Bord Pleanála and the objectors on the 16<sup>th</sup> of November 2023 in advance of the Oral Hearing. These drawings were presented by Monaghan County Council at the Oral Hearing.
- 8.7.8. During the course of the Oral Hearing some deviations in design were noted between the drawings presented and the permitted Part 8 and there was some discussion on the detail of same. In this regard I note that the permitted Part 8 or any deviations to same is not before the Board for adjudication. I am satisfied that the Planning Authority has demonstrated that the lands proposed for acquisition within the CPO are necessary for the delivery of the permitted Part 8 Scheme.

### Description to Plots within the Schedule

- 8.7.9. The objections to the scheme raise a number of concerns in respect of the description to individual plots within the CPO Schedule which are detailed in brief below:
- Mary and Donal McCormilla – Plots 6.1,5.2,5.1 – These plots are described as public road bed within the Schedule II.a. It is requested that the description is changed to road bed and curtilage.
  - John McCabe Plots 7.1,7.4 and 7.7 - These plots are described as public road bed within the Schedule II.a. It is requested that the description is changed to road bed and curtilage.
  - The submission on behalf of John McCabe raises concern in respect of the description of the existing house as “*unfit for human habitation and not capable of being rendered fit for human habitation at reasonable expense*” within Schedule Part I. I note that the submission refers to location of this property at Plot 7.3 but on review of the deposit map, I consider that the correct reference is Plot 7.14.

- 8.7.10. The above points were raised by Mr. Rea during the course of the Oral Hearing. Mr. Flanagan on behalf of Monaghan County Council set out a rationale for the classification of the various plots as public road bed and outlined that a dispute in terms of a definition of the individual plots is a matter for the property arbitrator. I note that there was no dispute in relation to the acquisition of the identified plots or their boundaries. I am satisfied that the classification of each individual plot is a matter which can be addressed by a property arbitrator.
- 8.7.11. In terms of the reference to the dwelling at Plot 7.14 Mr. Flanagan referred to a Habitation Report attached as Appendix F of the Brief of Evidence prepared by Mr. Scanlon which sets out a rationale for the classification of the property “*as unfit for human habitation*”. Mr. Flanagan outlined that the classification of the property was a matter for the property arbitrator.
- 8.7.12. I note that the demolition of this structure forms part of the approved Part 8. No objection was raised in relation to the demolition of the structure in the observation submitted on behalf of Mr. McCabe or at the Oral Hearing. I consider that the description of the dwelling is a matter for the property arbitrator.

#### Extent of Land Acquisition

- 8.7.13. The objections on the CPO argue that the land take for the scheme is excessive. At several stages during the Oral Hearing both Mr. Flanagan and Mr. Scanlon outlined that the land acquisition represented the minimum amount of land required to facilitate the development.
- 8.7.14. The proposed N54 realignment scheme is generally online with the proposed landtake affecting lands in the immediate vicinity of the N54 and local roads. On review of the deposit maps and the permitted Part 8 drawings I note that the extent of lands to be acquired primarily reflect the boundary of the permitted Part 8 for the road realignment.
- 8.7.15. 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.

### Impact of Attenuation Ponds

- 8.7.16. The objections to the CPO raise concern in relation to the siting and design of the proposed attenuation ponds and their potential impact on residential properties. Particular concern was raised in relation to the siting of the attenuation pond in Plot 4.6 in the vicinity of lands in the ownership of Kenneth and Beverly Harrison. Mr. Rea requested that alternative locations for the siting of this attenuation pond are considered including lands in the ownership of Monaghan County Council to the south of the N53.
- 8.7.17. In considering the grounds of objection I note that the permitted Part 8 includes the provision of an attenuation pond in Plot 4.6. I refer to Section 5.2 of the Brief of Evidence by Mr. Scanlon presented at the Oral Hearing which sets out a rationale for the proposed attenuation ponds within the scheme. This outlines that the proposed attenuation ponds will reduce flood risk and improve water quality. The report outlines that the attenuation ponds are sited at locations where there is sufficient space. I consider that the Planning Authority has provided a sufficient justification for the siting of the proposed attenuation ponds.
- 8.7.18. On site inspection I noted that the existing open drainage system overflows onto the road network potentially resulting in dangerous road conditions. At the hearing it was confirmed by Mr. Scanlon that the attenuation ponds and drainage proposals will result in improved drainage arrangements for residents in the vicinity of the N54.

### Status and Design of Access Road

- 8.7.19. During the course of the hearing Mr. Rea requested that the status of an access road to Joan and Edmund Grahams landholding (Plot 16.2) within the scheme be amended from a public roadway to an access roadway. At the hearing it was confirmed that this road provides access to the observers lands and residential property and a proposed attenuation pond (as illustrated on RPS Drawing no. LA2721 – Land Holding Map – Occupier Plot 16.2 Joan and Edmund Graham).
- 8.7.20. On review of Drawing no. DP1004 Deposit Map: Extinguishments of Public Rights of Way I note that there is no proposal to extinguish a public right of way along the existing access road to the dwelling occupied by Joan and Edmund Graham. At the Oral Hearing Mr. Flanagan outlined that access to the Graham lands from the N54 would be facilitated within the proposed scheme via Plot 20.1. There was some

discussion in relation to the design of the access road at this location and deviations in layout from the permitted Part 8. Mr. Flanagan on behalf of Monaghan County Council outlined that such changes were based on road safety considerations. No objections to the change in road layout to improve safety was raised during the course of the Oral Hearing.

8.7.21. In considering the points raised I note that the permitted Part 8 or any deviations to same is not before the Board for adjudication. I am satisfied that the Planning Authority has demonstrated that the lands proposed for acquisition at this location are necessary for the delivery of the N54 Tullygrimes to Annaghervy Road Realignment Scheme. In principle I am satisfied that safe access to the observer's landholding will be maintained. I consider that the detailed design and status of this access road is a matter for the Planning Authority.

## 8.8. **Conclusion**

8.9. 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 Monaghan County Development Plan 2019-2025.

## 9.0 **Conclusion and Recommendation**

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 Monaghan County Council and Mr. Richard Rea on the 21<sup>st</sup> of November 2023, based on the reasons and considerations set out below.

## 10.0 Reasons and Considerations

Having considered the objections made to the compulsory purchase order, the written submissions and observations made at the Oral Hearing held on the 21<sup>st</sup> of November 2023, the report of the Inspector who conducted the oral hearing into the objections, the purpose for which the lands are to be acquired as set out in the compulsory purchase order, to provide for the N54 Tullygrimes to Annaghervy Road Realignment and also having regard to the following;

- (i) The constitutional and European Human Rights Convention protection afforded to property rights,
- (ii) Existing road conditions which are characterised by a restricted width, limited visibility making it dangerous for vulnerable road users such as pedestrians and cyclists and resulting in high collision rates.
- (iii) The approval of the N54 Tullygrimes to Annaghervy Road Realignment under the Part 8 process (PA Ref: 18/8015),
- (iv) 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,
- (v) The design response, which has been appropriately tailored to the identified need,
- (vi) The suitability of the lands and the necessity of their acquisition to facilitate the provision of the N54 Tullygrimes to Annaghervy Road Realignment
- (vii) Policy Objective 6.8 of the Regional Spatial and Economic Strategy for the Northern and Western Regional Assembly 2020-2032 specifically identifies the upgrade of the N54/A3 Cavan to Monaghan Town as a priority project and identifies the route as one of several key strategic Cross Border Transport Corridors within the border region that require further investment.
- (viii) The policies and objectives of the Monaghan County Development Plan 2019-2025 including Objective S0 8 which seeks: *“To maintain the strategic*

*capacity and safety of the national roads network and to safeguard the investment in national roads”* and Table 7.1 which specifically identifies N54 Tullygrimes to Annaghervy (Tullybryan) realignment as a Remaining Un-realigned Sections of National Routes.

- (ix) The modifications submitted to the Board on the 21<sup>st</sup> of November 2023,
- (x) The submissions and observations made at the oral hearing held on the 21<sup>st</sup> of November 2023
- (xi) The report and recommendation of the Inspector,

It is considered that subject to modifications, the permanent and temporary acquisition of the land in question and the extinguishment of public rights of way, as set out in the Order, Schedule (Parts I, II and III) and on the deposited map by Monaghan County Council, as set out in the compulsory purchase order and on the deposited maps, is necessary for the purpose stated, which is a legitimate objective being pursued in the public interest, and that the CPO and its effects on the property rights of affected landowners are proportionate to that objective and justified by the exigencies of the common good.

In reaching this conclusion, the Board agrees with and adopts the analysis contained in the report of the person who conducted the oral hearing into the objections.

## 11.0 **Schedule**

The Compulsory Purchase Order shall be modified in accordance with details submitted to the Board at the Oral Hearing on the 21<sup>st</sup> day of November 2023 as follows:

| <b>Ownership set out within the CPO Schedule</b> |  |
|--|--|
|  | <b>Owner (s) or Reputed Owner(s)</b>   |
| Schedule Part II.a Plots<br>12.1,12.2            | James Treanor  |
| Schedule Part II.a Plots<br>16.7, 16.8           | Monaghan County Council  |
| Schedule Part II.a Plot<br>16.12                 | Monaghan County Council  |
| Schedule Part II.b. Plot<br>12.3                 | James Treanor  |
| <b>Proposed Modifications</b>                    |  |
|  | <b>Owner (s) or Reputed Owner(s)</b>   |
| Schedule Part II.a Plots<br>12.1,12.2            | James Treanor Junior   |
| Schedule Part II.a Plots<br>16.7, 16.8           | Reps of Christina McCarron and<br>Reps. Of Edward McCarron,<br>Tullybryan,<br>Monaghan,<br>Co. Monaghan. |
| Schedule Part II.a Plot<br>16.12                 | James Treanor Senior   |
| Schedule Part II.b. Plot<br>12.3                 | James Treanor Senior   |

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought

to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

---

Stephanie Farrington  
Senior Planning Inspector

9<sup>th</sup> of January 2024

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

## **Background**

An Oral Hearing (OH) was held on Tuesday the 21<sup>st</sup> of November 2023 in relation to the proposed compulsory acquisition sought by Monaghan County Council (MCC) to realign the N54 national secondary route from Tullygrimes to Annaghervy, Monaghan, Co. Monaghan.

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.

### **Submissions on behalf of Monaghan County Council (MCC)**

- Dermot Flanagan, Senior Counsel, representing MCC – **opening remarks and legal context.**
- Mr. Tommy Scanlon, Project Engineer - **Engineer Specification; MCC's written response to objections**

### **Submissions by Objectors**

Mr. Richard Rea confirmed that he would be presenting on behalf of the following objectors to the CPO:

- Kenneth Harrison
- Beverly Harrison
- Mary & Donal McCormilla
- John McCabe
- Ann Marron
- Dunwoody Graham
- James Treanor
- Joan and Edmund Graham
- Malcom Graham

Mr. Rea confirmed that Ann Marron was in attendance at the hearing and the following attendees would be present at later stages during the course of the hearing: Kenneth Harrison, James Treanor Jnr., Joan & Edmund Graham and Malcom Graham.

Mr. Rea also confirmed that he was accompanied by the following attendees:

- Joe Henry,
- Marian Ryan
- Peter Sweetman

### **Opening of Oral Hearing**

- The Inspector formally opened the hearing at 10.00am.
- A number of procedural issues were raised. Mr. Rea raised concern in relation to the virtual format of the hearing. The Inspector noted that it was at the absolute discretion of the Board to hold a hearing and that Mr. Rea had confirmed attendance.
- Mr. Rea requested an amendment to the Order of Proceedings in terms of timeframes for questions to Monaghan County Council. The Inspector outlined that it is proposed to follow the Order of Proceedings set out within the Agenda.
- Mr. Rea raised concern in relation to the proposed closing of the hearing at 4pm. The Inspector confirmed that it was proposed to progress the hearing in a timely manner. No undue repetition of points will be facilitated. The Inspector noted that one objection was withdrawn in advance of the hearing and there would be scope to progress beyond the 4pm finish time if necessary.
- Mr. Flanagan raised concern in relation to the suggested expansion of the scope of the hearing and points of observation beyond issues which related to the CPO.
- Following the above queries, it was requested that the Local Authority make its formal submission.

### **Submissions by Monaghan County Council**

#### **Legal Overview**

##### Dermot Flanagan

- Mr. Flanagan SC for Monaghan County Council opened by indicating that he would provide a brief overview of issues identified in agenda and that Mr Scanlon would focus on the merits of the Objections received. Mr Flanagan also referred to the Submission from Mr. Toirleach Gourley, Senior Executive Planner, Monaghan County Council. Mr. Flanagan outlined that no challenge

to policy support for the development is raised within any of the objections to the CPO.

- Mr. Flanagan referred to the provision of Sections 213 and 216 of Planning and Development Act which relate to compulsory acquisition.
- Mr. Flanagan summarised the “Outline Legal Submission on Behalf of the Acquiring Authority” that was submitted to the Board on 16<sup>th</sup> of November 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, the implementation of development plan policy, and relevant case law.
- Mr. Flanagan 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 outlined that of the 17ha of land required, 7ha is owned by Monaghan County Council. This demonstrates the case that it is minimum amount of land in private ownership that is to be acquired.
- Mr Flanagan outlined that the OPW has given Section 50 approval for works to which the acquisition relates.
- Mr Flanagan introduced Mr. Tommy Scanlon, Project Engineer, to give an overview of the proposed development and address the concerns raised within the objections to the CPO.

## **Overview of CPO**

### Mr Scanlon

- Mr Scanlon summarised his Brief of Evidence that was submitted to the Board on 16<sup>th</sup> of November 2023 in advance of the hearing and which is on file. The Inspector confirmed receipt of same. Mr. Rea also confirmed receipt of the planning authority’s submissions.



- Mr Scanlon provided a summary of a number of sections of the Brief of Evidence including Project Objectives and Alternatives (Section 4). He outlined that the amount of land to be acquired was the minimum amount of land required to facilitate the development.
- Mr Scanlon provided an overview of description of the development as set out in Section 5 of the Brief of Evidence. He made specific reference to Section 5.4 of the brief of evidence which related to extinguishment of public rights of way and outlined that replacement access arrangements would be in place.
- He outlined works for the benefits of the retained lands as set out in 6.2 of his report. Mr Scanlon's evidence concluded with a summary of the need for the acquisition as set out within Section 8 of the Brief of Evidence.
- Mr. Flanagan provided an overview of the Appendices attached Mr. Scanlon's report.

## 11.2. Council Response to Written Submissions

11.2.1. Mr Flanagan invited Mr. Scanlon to provide the Local Authority's response to the matters raised by the Objectors. A written response to the submissions is set out within Appendix D of the Brief of Evidence prepared by Tommy Scanlon received by the Board in advance of the hearing. Mr. Flanagan outlined that the objections to the CPO accepted the need for the development.

11.2.2. Mr Scanlon presented drawings illustrating the interface of the scheme with each objector's landholding. Mr Scanlon provided a response to each of the written objections, summarised as follows:

### Beverly and Kenneth Harrison (Plot 4)

- Submission accepts need for improvement to N54.
- Lands are acquired to facilitate the realignment of the road.
- A right of way is extinguished, and realignment is proposed for safety reasons.
- A new entrance is proposed to facilitate access.
- The proposed road drainage will result in an improvement to the existing situation.

#### Mary and Donal McCormilla (Plot 6)

- Lands are acquired to facilitate the local road realignment and drainage works.

#### John McCabe (Plot 7)

- Lands acquired are along the N54 road frontage.
- A staggered junction is proposed to enhance safety.
- Mr. Flanagan outlined that the submission questions the description of an existing property on the site within the schedule. Mr. Flanagan referred to the Habitation Survey attached to Mr. Scanlon's brief of evidence (attached as Appendix F) which sets out a rationale for MCC's classification of the property.

#### Joan and Edmund Graham (Plot 16.2)

- An existing right of way is being extinguished and a new right of way is proposed.
- The revised access arrangements are proposed to improve safety.
- Access to Joan and Edmund Graham's land is also provided over an existing bridge.

#### Malcom Graham

- Access is being provided via the N54.
- The revised access arrangements are proposed to improve safety.

#### Overall Response

11.2.3. Mr. Flanagan provided the following overall response to the issues raised within the submissions:

- The points raised in relation to GDPR and EU Law are not relevant to the CPO process.
- Planning matters are not raised within the submissions.
- Matters relating to detailed design are of relevance to the approved Part 8 scheme and are a matter for the compensation process.
- Potential impact on lands including any potential dwelling and farm reorganisation and devaluation are matters for the statutory arbitrator. The

written submissions received raise issues which are of relevance to the statutory arbitrator.

- In a legal sense the submissions are not sustainable.

After the above presentation the Inspector requested that the drawings of individual plots are made available during the objectors' presentations as an aid to the proceedings.

### 11.3. **Submissions of Objectors**

The Inspector reopened proceedings after a short break. The Inspector confirmed that the next section of the Hearing was for objectors to elaborate on their written submissions.

Mr. Rea represented all 9 objectors to the CPO. The Inspector requested at the outset that Mr. Rea was clear in respect of which objector and Plot number he was speaking of.

Mr. Rea requested an opportunity to pose questions to Monaghan County Council in relation to each submission. Monaghan County Council had no objection to the proposed format and the Inspector agreed that the format would save repetition.

Mr. Rea took the opportunity to expand upon written submissions during the proceedings and posed questions to the Local Authority to clarify certain matters. The matters raised can be summarised as follows:

#### Kenneth and Beverly Harrison

Mr. Rea provided an overview of the objectors' concerns in relation to the CPO:

- Extent of land acquisition is excessive.
- Concerns were raised in relation to the siting of the attenuation pond in the vicinity of residential properties.
- Mr Rea requested the relocation of the attenuation pond elsewhere to lands within the ownership of the Planning Authority.
- Lack of detailed design for the scheme.

*Monaghan County Council Response*

- The lands are acquired to accommodate drainage associated with the permitted Road Scheme.
- Mr. Scanlon set out a rationale for the proposed attenuation ponds – to reduce drainage to greenfield run off rates from the Road Realignment Scheme and negate against flood risk.

#### *Discussion*

- Mr. Rea outlined that he was not satisfied with Monaghan County Council's response to the questions posed. He outlined that no rationale was provided for the siting of the attenuation pond and why it couldn't be accommodated on lands in the ownership of MCC.
- The Inspector questioned if the siting of the attenuation pond reflected that set out within the approved Part 8. Mr. Scanlon confirmed that this was the case.

#### Mary and Donal McCormilla (Plots 5 & 6)

Mr. Rea provided an overview of the objectors' concerns in relation to the CPO:

- Mr. Rea raised concern in relation to the definition of plots 5.1, 5.2 and 6.1 as road bed. It was requested that these are identified as road bed and curtilage.
- The design of the attenuation pond is inadequate in proximity to residential units.
- Removal of septic tank renders the properties uninhabitable.
- Concerns are raised in relation to the land requirement being inadequate.
- Improper consultation with landowners.
- There is insufficient detail in relation to the height of the road above existing. The drawings are illegible.
- Mr Rea questioned the depth of the deepest cut to facilitate the road.
- The design is inadequate beside a farmyard.
- The attenuation pond is outside of the observers landholding so there is no scope for compensation.

- Mr. Rea asked MCC to confirm existing and proposed noise levels on adjacent properties and asked MCC to confirm the proposed road surface.
- Mr. Rea questioned liability in the event that the observer built a wall which subsided.

#### *MCC Response*

- Mr. Flanagan outlined that the points raised relative to description are a matter for property arbitrator.
- Issues relating to height of the road, depth of cut and noise levels are not relevant and are issues for property arbitrator.
- The concerns in relation to future boundary treatment/wall are not of relevance and is not being addressed.

#### *Discussion*

- The Inspector asked MCC to provide a response to the observers concerns in relation to the removal of septic tanks. Mr. Flanagan confirmed that in the instance that this does arise it is a matter for the property arbitrator.
- Mr. Flanagan outlined that it is MCC's position that the works do not render the lands uninhabitable.
- Mr. Rea again requested the reclassification of the lands within the schedule. Mr. Flanagan outlined that he did not accept the classification but that this is a matter which could be resolved by a property arbitrator. The description in schedule does not restrict arbitrator from addressing this. The onus is on the landowner to demonstrate a rationale for the classification of the lands.

#### John McCabe (Plot 7)

Mr. Rea provided an overview of the objectors' concerns in relation to the CPO:

- Absence of proper consultation.
- No detailed noise mitigation.
- Landtake is excessive to the west in the vicinity of the staggered junction.
- Raises concern in relation to the definition of an existing dwelling (Plot 7.14) as not being fit for human habitation.

- The observer is a dairy farmer. At present there are gates at opposite sides of the local road. Replacement gates are being provided at staggered locations which is unsuitable for cows passing (as illustrated on Drawing no. Plot 7-AC2707A).
- Mr. Rea requested that 2 gates be provided at opposite locations in this area.
- Mr. Rea also requested that the existing agricultural gates along the N54 to the east of the Garden Centre are retained (as illustrated on Drawing no. AC2707B).

*Monaghan County Council Response*

- Mr. Flanagan outlined that the issue in relation to the siting of gates is a matter for the property arbitrator. The CPO process doesn't relate to gates.
- Detailed design issues and noise are not of relevance to the CPO.
- In terms of the definition of the plots, the applicant can make their case with the property arbitrator.

Mr. Rea outlined that there is a substantial area of land identified which is not required. He outlined that the design is inappropriate and requested MCC to consider changes.

The Inspector asked Mr. Rea to elaborate on the point raised in his submission in relation to lack of consultation. Mr. Rea outlined that landowners were unaware of the detail of proposals when he presented them with maps.

Joan and Edmund Graham (Plot 16.2) Malcom Graham (Plot 19.1)

Mr. Rea provided an overview of the objectors' concerns in relation to the CPO:

- No legally binding design.
- Mr. Rea referred to changes in the design of the access road serving the Graham lands.
- The proposed access arrangements do not facilitate crossing of livestock across the Graham landholding.
- Access needs to be on western side of Malcom lands.

- Requests a change in the status of the access road to the Garnham's Property from public access road to accommodation road. Illegal dumping has been an issue in the area.

#### Monaghan County Council

- The issues raised within the submission are operational issues which arise during compensation process.
- No principal objection to the scheme is raised within the objection but there are operational issues.
- The relationship between the landholdings and cattle crossing is an operational issue.

#### Mr. Rea

- Ownership and use of the road is not arbitrator issue.
- Request as amendment to status of road from public to accommodation road.

#### Mr. Flanagan

- Detailed design arrangements arise where there is parallel CPO and Scheme.
- The use of the access road and impact on retaining lands is a matter to be addressed by arbitrator.

#### *Discussion re Status and Design of Access Arrangements to Graham lands*

- The Inspector questioned if the layout of the road reflected that of the permitted Part 8.
- MCC presented drawings of the approved scheme and the drawings submitted to the Board in advance of the hearing.
- Mr. Flanagan outlined that revisions from the approved Part 8 are proposed for enhanced safety measures.
- Mr. Rea outlined that the amendment is not compliant with the approved Part 8 and the variation was not brought for public consultation. Mr Rea considered that the change improves safety and requested that the status of the road is changed from a public road to an access road for the benefit of the Graham's and Monaghan County Council.

- Mr. Flanagan outlined that access to the Graham lands is proposed and any design deviation is a matter which can be addressed by means of compliance.
- The Inspector questioned the status of the existing and proposed access. Mr. Flanagan outlined at present the slip road serves the property occupied by Malcom Graham. It is proposed that the road would serve the attenuation pond and Mr. Grahams property. He also noted alternative access arrangements to the Grahams property.
- Mr. Flanagan referred to Mr Rea's request to change the status of the Road to accommodation road. While he did not support the request he outlined that the CPO can have modifications or conditions. Mr. Flanagan outlined that operational issues can be resolved as part of the compensation package.
- Mr. Rea reiterated his request for the change in status of the road.

#### Other Objections

I note that Mr. Rea also provided elaboration on objections from the following objectors Ann Marron (Plot 8), Dunwoody Graham (Plot 11) and James Treanor (16.12, 12.1 and 12.2 Plots). However, objections on behalf of these landowners were withdrawn after the hearing.

This module of the hearing concluded and was followed by a lunch break.

#### **Questioning between Parties**

The objectors were afforded the opportunity to question Monaghan County Council.

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).

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

The Inspector posed some queries to Monaghan County Council. The planning authority was requested to provide a response to the assertions by the objectors that the land take was excessive. Mr. Flanagan and Mr. Scanlon outlined that the CPO lands represented the minimum land take required to accommodate the scheme.



The Inspector also questioned that manner in which the Planning Authority would like to confirm any changes to the Schedule. Proposed amendments were verbally relayed by Mr. Flanagan and Mr. Rea. The Inspector confirmed that she required written confirmation of any changes to the schedule and a short break was provided to facilitate submission of same.

### **Closing Statements**

Closing Statements were provided by Mr. Rea and Monaghan County Council.

These are summarised as follows:

#### Mr. Richard Rea on behalf of the Objectors:

- MCC have been less than diligent in relation to road design and consultation. Other Planning Authority's would engage with landowner in detailed design.
- Mr. Rea referred to a lack of information in relation to noise levels associated with the road development. He outlined that MCC is refusing to provide this during the course of the hearing.
- MCC made a change in design of the approved Part 8 in the vicinity of the Graham property. It is requested that a similar change in design is made in respect of Plot 7.9 where staggered gates are proposed. Opposite gates are required for operational issues.
- Mr. Rea raised concern in respect of the siting of an attenuation pond relative to the Harrison lands (Plot 4). He questioned why publicly owned lands cannot be used to accommodate the attenuation tanks.
- Mr Rea. requested that the access road off the N54 serving the Graham lands is changed in status from a public road to an accommodation road.
- Mr. Rea raised concern in respect of potential liability on landowners of Plot 6.
- Mr. Rea referred to a change in design on east side of the scheme in relation to new entrance. On this basis it was stated that the road is not in compliance with Part 8 planning and is therefore invalid.
- Mr. Rea made a general statement that the system unfair and biased on behalf of LA's in relation to costs for oral hearings for objectors.
- Mr. Rea thanked Brian Braniff in MCC for consultation.

- ABP were requested to make variations requested.
- Mr. Rea referred to the following withdrawal of objections – Dunwoody Graham (Plot 11), James Treanor Jnr. & Senior (Plot 12 & 16.12), Ann Marron (Plot 8). The Inspector provided a short break to confirm procedures for same. The Inspector confirmed that these should be submitted in writing to the Board at any time prior to a decision.
- Mr. Rea outlined that if the LA agree change from public road to accommodation road further objections may be withdrawn.

#### Closing Statement on behalf of Monaghan County Council

The following provides a brief summary of the points raised within Mr. Flanagan's Closing Statement:

- The Acquisition of lands is justified and fully supported by Planning Policy
- Legal test – no objection in principle.
- The N54 road upgrade is urgently required.
- Matters raised by Mr. Rea are related to compensation.
- Of 20 landowners there were 10 objections. The objections are further reduced on foot of withdrawals.
- ABP has no role in adjudicating on the approved Part 8 process.
- Matters raised will be a matter for the statutory compensation process.
- Requests that the CPO is upheld by the Board.

#### **Closing of Oral Hearing**

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

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.

The Inspector closed the Oral Hearing at approximately 15.10pm.