



An  
Bord  
Pleanála

# Inspector's Report

## ABP-314306-22

### Development

Cork City Council- Ballyvolane  
Strategic Transport Corridor- North  
Ring Road to Mervue Acquisition  
Order No. 1 of 2022

### Location

Cork City

### Applicant

Cork City Council

### Type of Application

Compulsory Purchase Order

### Objector(s)

1. Breda Morrissey
2. Brendan and Gemma  
O'Donoghue
3. Cherry Land Developments Ltd
4. Dunnes Stores c/o Better  
Value Unlimited Company
5. Eric Ring
6. Gerhan Ltd
7. Liam and Marion O'Regan
8. Mary O' Sullivan
9. Patrick Canavan

10. Department of Education and  
Skills

**Date of Site Inspection**

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

**Inspector**

Karen Hamilton

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## 1.0 Introduction

- 1.1. Cork County Council is seeking approval from An Bord Pleanála of a Compulsory Purchase Order (CPO) relating to the *Ballyvolane Strategic Transport Corridor, North Ring Road to Merve*. The Order was made pursuant to the powers conferred on the local authority by section 76 of the Housing Act, 1966, and the Third Schedule thereto, extended by Section 10 of the Local Government (No.2) Act 1960 and amended and extended by the Planning and Development Acts 2000 (as amended); the Roads Acts 1993 (as amended) and the Local Government Act 1925 (as amended).
- 1.2. The CPO would entail the acquisition of lands in connection with Ballyvolane Strategic Transport Corridor (STC) which secured Part VIII approval from Cork City Council in February 2022. Ten objections to the CPO are before the Board. This report considers the issues raised in the objections submitted and more generally, the application to acquire lands.

## 2.0 Site Location and Description

- 2.1. The site is located to the north of Cork City Centre and comprises of lands along the North Ring Road (R635), the Banduff Road, the Rathcooney Road, the Ballyvolane Road and the Ballyhooley Road (R614). The site and associated works form part of (Phase 2) of the Ballyvolane Strategic Transport Corridor (STC) and totals c. 1.8km.
- 2.2. The Ballyvolane STC was approved by Cork City Council under a Part VIII at a full council meeting on the 14<sup>th</sup> of February 2022. The upgrade works start to the south at the North Ring Road junction with the Ballyvolane Road (R614) and run north, past the Ballyvolane shopping centre, include the junction with Rathcooney/ Banduff Road and proceed north c. 1km along the Ballyhooley Road.
- 2.3. The site adjoins the Ballyvolane District Centre, Fox and Hound public house, Transpart Ireland commercial premises and numerous housing estates.

## 3.0 Proposed Development

- 3.1. The CPO relates to project works associated with a permitted Part VIII which comprises of the following:

- Widening and realignment the existing R614 (Ballyhooly Road) to provide a 6m wide single carriage way along the full length of the scheme (1,000m in length) and improving the alignment to provide DMURS standard minimum and vertical radii and sight lines.
- The provision of continuous 2m wide footpaths on both sides of the R614 Ballyhooly Road from the North Ring Road to Ballyvolane Cross (Fox & Hound) (262m in length),
- The provision of a continuous 2m wide off-road cycle tracks on both sides of the R614 Ballyhooly Road from the North Ring Road to Ballyvolane Cross (Fox & Hound) (262m in length).
- The provision of bus lanes on both sides of the R614 Ballyhooly Road from the North Ring Road to Ballyvolane Cross (Fox & Hound) (262m in length).
- The provision of a 1.8m wide footpath on the right-hand side (looking to north) and 4m wide multi-use space on the left-hand side of the R614 from Ballyvolane Cross (Fox & Hound) to the proposed pedestrian crossing to Longview Developments residential site (738m in length).
- Widening and realignment of the existing Ballyvolane Road to provide a 6m wide single carriageway from Ballyvolane Road to from Ballyvolane Cross (Fox & Hound) to the R635 North Ring Road/Clonard Junctions (320m in length)
- The provision of a 6m wide single carriageway, a continuous 2m wide footpath and 2m cycle tracks on both sides of the Ballyvolane Road from Ballyvolane Cross (Fox & Hound) to the R635 North Ring Road/Clonard Junctions (320m in length)
- The upgrade of two major signal-controlled junctions at 1) North Ring Road/ Ballyhooly Road Crossroads and 2) Ballyvolane Cross (Fox & Hound) with revised signal phasing/ priority works etc,
- Upgrade of existing signal pedestrian crossing on North Ring Road,
- Additional associated works with the upgrade of the roads and junctions including pedestrian and cycle infrastructure, bus stops, upgrade of junctions.

- Widening of the Glen River Bridfe and lengthening of the culvert.
- The provision of new surface water drainage systems for part of the projects.

## 4.0 Documentation Submitted

4.1. The CPO was submitted to the Board on the 05<sup>th</sup> of August 2022. It was accompanied by:

- a) Three copies of the signed and sealed CPO comprising of Maps and Schedules;
- b) A certified copy of Chief Executive Order 2540/22 dated the 06<sup>th</sup> of July 2022 of the making of the CPO;
- c) Copies of reports of appropriate officers;
- d) Copy of the Irish Examiner dated 08<sup>th</sup> of July 2022 with the public advertisement;
- e) A certificate confirming delivery of notices to all known owners/lessees/occupiers on whom notice of the making of the CPO was served together with a sample notice of a listing of the parties served.

4.2. A report from the **Senior Executive Engineer of the Infrastructure Development** provides the main background to the CPO. The report includes a background to the proposal in the context of the relevant planning policy and the nature of the acquisition. It is stated that the proposed growth of Ballyvolane requires upgrade of the road, cycle, and pedestrian infrastructure. The CPO relates to the second phase of the Ballyvolane Strategic Transport Corridor (STC) where the first phase has been completed (widening and upgrade of 370m of the Ballyhooly Road (R614)). The proposal has Part VIII approval and final support through the National Transport Authority (NTA). The national and regional planning policy support the development of Cork City as a metropolitan area. The National Planning Framework and Climate Action Plan supports a modal hierarchy for active travel, public and private transport. The local policy supports the Ballyvolane East Expansion Area (lands to the east of the Banduff Road). The Ballyvolane STC is compatible with the Cork Metropolitan Area Transport Strategy (CMATS) and the BusConnects Cork. It is stated that the

lands to be acquired has been kept to a minimum to meet the requirements of the Ballyvolane STC which is needed to meet that community need.

- 4.3. The **Assistant Planner, Strategic & Economic Development**, submitted a supporting report which reiterates the engineers report from the Infrastructure Department, lists those planning objectives and strategic outcomes from the National Planning Framework (NPF) and the Regional Spatial and Economic Strategy (RSES) for the southern Region. The planners report also notes the proposal complies with:
- Cork Cycle Network Plan 2017
  - Cork Metropolitan Area Transport Strategy (CMATS)
  - Cork City Development Plan 2015
  - Cork County Development Plan 2014
  - Draft Cork Development Plan 2022-2028
- 4.4. The **Director of Services for Community, Culture and Placemaking** submitted a letter of support noting the proposed development, the area covered and the Part VIII approval which is also linked to NTA funding. It is considered the proposed scheme will address the significant infrastructural constraints in Ballyvolane and allow for consolidation and expansion of Cork City.
- 4.5. A letter of support from the **Director of Service for the Housing Directorate**, notes the support for the development of Cork City in the NPF and the RSES and considers that Ballyvolane will support the population growth for Cork. The proposed acquisition of lands is necessary to facilitate the overall development concept for the strategic transport corridor.
- 4.6. A letter of support has been submitted from the **Acting Director of Services, Corporate Affairs & International Relations** to state that the proposed scheme is required to support the objectives set out in the National Planning Framework for the improvement of the local road network.
- 4.7. A letter of support from the **Director of Services for the Infrastructure Development Directorate**, notes the report on the acquisition order and considers the proposal will deliver on improved transport facilities, support sustainable transport facilities, and comply with National, Regional and Local Policy including the

Cork Metropolitan Area Transport Strategy (CMATS) and the City Development Plan (CDP).

- 4.8. A letter of support from the **Director of Service, Roads & Environment Operations Directorate**, confirms the necessity of the CPO to deliver the Ballyvolane STC and support the wider CMATS and BusConnects.

## 5.0 Planning History

- 5.1. Site of the Fox and Hound

### **Reg Ref 23/41917**

Proposal to redevelop the Fox and Hound site to include the demolition of the dwelling and ancillary structures and construction of a mixed use residential and commercial development in a three-storey blocks with a discount retail store, 3 no retail units and 34 no. apartment units.

The application is currently on further information (requested 06<sup>th</sup> of June 2023) for a number of points. In relation to the road upgrades, additional information on the integration of the footpaths with the Ballyvolane STC and compliance with the upgrade works along the north of and bordering the site.

## 6.0 Planning Context

- 6.1. **Cork City Development Plan 2022-2028**

The Cork City Development Plan 2015-2021 was the plan in place when the CPO was advertised. The Cork City Development Plan 2022-2028 came into effect on the 08<sup>th</sup> of August 2022. I note the policies and objectives for the Ballyvolane Strategic Transport Corridor have been replaced by the Cork Northern Distributor Road (CDNR) in the new plan.

### Ballyvolane Expansion Area

- Objective 10.75: To support the growth and development of Ballyvolane East and West Expansion Areas as strategic City consolidation and expansion areas, as identified in the Core Strategy.



- Objective 10.76: Cork City Council will work with relevant stakeholders to produce a Framework Plan to support the sustainable growth of Ballyvolane and provide a coherent and coordinated land use plan for Ballyvolane and its immediate environs.

#### Chapter 4 Transport and Mobility Development Objectives – Strategic Objective 3

- Tab 4.5: Core Bus Corridor Routes: CBC 3- Ballyvolane to City Centre

Section 4.121: The Cork Northern Distributor Road (CNDR) is a short-term objective and considered critical to the Cork Metropolitan Area Transport Strategy 2040 (CMATS) as it:

- Creates opportunities for sustainable development of existing land banks in the North City Cork Metropolitan area including the Ballyvolane Urban Expansion Area;
- Facilitates the rollout of sustainable transport measures including public transport services for the North City area,
- Facilitates the introduction of an HGV ban in the City Centre;

#### 6.2. Cork Metropolitan Area Transport Strategy 2040 (CMATS) (Adopted by NTA in 2020)

- Sets out an integrated transport planning policy framework for Cork with supporting investment priorities.
- Takes its lead at national level from NPF 2040 and NDP 2018.
- The delivery of CMATS is a critical objective of the Regional Spatial and Economic Strategy for the Southern Region and Cork Metropolitan Area Strategy Plan, which also came into effect in 2020.

#### Walking

- Ballyhooly Road: to support on-going regeneration in the Ballyvolane UEA area and access to increased bus services.

#### Core Radial Bus Network

- Improve bus network including, Ballyvolane -Donnybrook

## 7.0 Objections

7.1. Ten objections have been received by An Bord Pleanála in relation to the CPO. These are summarised below:

7.2. Breda Morrissey (countersigned by 6 residents of Woodview, Ballyvolane)

- The CPO will affect the road/ pedestrian safety.
- The CPO will affect the access/egress into the site.
- The proposal will impact the residential amenity.
- Additional traffic calming measures and landscaping should be included.
- We intend on seeking compensation.

7.3. Brendan and Gemma O' Donoghue (countersigned by 6 residents of Woodview, Ballyvolane)

- The CPO will affect the road/ pedestrian safety.
- The CPO will affect the access/egress into the site.
- The proposal will impact the residential amenity.
- Additional traffic calming measures and landscaping should be included.
- We intend on seeking compensation.

7.4. Cherry Land Developments Ltd

- The Ballyvolane Strategic Transport Corridor (North Ring Road to Merve) and the associated CPO will have a negative impact on the "Fox and Hound".
- The "Fox and Hound" and other lands owned by the objector are zoned as district centre and are not facilitated in the transport corridor.
- The existing commercial use will be seriously affected because of the acquisition of a permanent easement over the lands and the temporary construction areas and rights of way.
- The District Centre is to accommodate a significant growth in population for Ballyvolane.

- The existing commercial property has access on to the Banduff Road and surface parking directly on to the Ballyhooly Road, this will be affected by the CPO.
- There are plans for expansion on the district centre site with access onto the Ballyhooly Road, at the west. There has been positive feedback from the council in relation to the proposal for development.
- The removal of the existing car parking along the Ballyhooly road will result in the business becoming unviable.

#### 7.5. Department of Education and Skills

- If the CPO proceeds the remaining area will become landlocked
- It is requested that access across the CPO lands is retained to ensure the future developments are not affected.
- It is assumed the lands will be placed in public ownership although the CPO notice does not state this.
- Any permanent infrastructure relating to the public transport corridor should be located not to impede possible future development of the school.
- The consultations with the school are questioned.

#### 7.6. Dunnes Stores c/o Better Value Unlimited Company

- It is requested that an oral hearing is considered due to the significant effects on the properties.
- A background to the development of the Dunnes Store site/ Ballyvolane Shopping Centre is provided.
- The primary customer access is from the Ballyhooly Road (also known as the new Ballyvolane Road).
- There are 417 car parking spaces on the site, the eastern carpark which will be affected by the CPO has 89 parking spaces.
- HGV and other service delivery vehicles use the Ballyhooly Road entrance.
- A background to the Ballyvolane Strategic Transport Corridor is provided (a copy of the Part VIII drawings has been submitted).

- As part of the Part VIII process Dunnes Stores made a submission. The concerns raised were not addressed in the planning report prepared by the Council's Director of Services
- Concerns raised during the Part VIII process included the loss of parking spaces and the removal of the shopping centres delivery access route.
- Copy of the observation letter to the Part VIII is submitted (Appendix 2).
- Copy of the Director of Service Part VIII Planning Report is submitted (Appendix 3).
- The Cork City Development Plan 2022-2028 came into effect on the 08<sup>th</sup> of August 2022. The plan supports the expansion of Ballyvolane although also requires a Framework Plan.
- The Ballyvolane District Centre is required to support the wider catchment area.
- The BusConnect emerging preferred routes are on public display and the Ballyvolane Strategic Transport Corridor is not a preferred route.
- There are no specific written or mapped objectives to facilitate the provision of new bus routes and/or cycle lanes.
- The grounds of objection include:
  - The CPO notice is served incorrectly.
  - The land type, ownership, and occupiers of lots 33A, 33B and 42 are incorrectly described on CPO plot maps.
  - The proposed widening will have a disproportionate negative impact on the shopping centre.
  - The CPO will result in the reduction of the centres development potential.
  - The Council has failed to give adequate reasons for the CPO.
  - The Council has failed to justify a common good for acquiring plots 33A, 33B and 42.
  - There are no reasonable alternatives for the road design.
  - The CPO should be annulled.

7.7. Eric Ring (countersigned by 6 residents of Woodview, Ballyvolane)

- The CPO will affect the road/ pedestrian safety.
- The CPO will affect the access/egress into the site.
- The proposal will impact the residential amenity,
- Additional traffic calming measures and landscaping should be included.
- We intend on seeking compensation.

7.8. Gerhan Ltd

- This is the same submission as that received by Cherrylane Developments Ltd. The concerns relate to the Fox and Hound

7.9. Liam and Marion O'Regan (Transpart Ireland)

- Submission is made by a solicitor and a consultant on behalf of the applicant who has commercial business.
- The council failed to engage with the applicant's consultants on the realignment.
- There is serious loss of land and amenity.
- The proposal would lead to huge safety concerns.
- There should be an oral hearing to adequately address the impact on the business.
- The land take extent would remove 12 car/van spaces within the secure compound and spaces outside the secure compound.
- The land take would be a serious problem for the business of Transpart Ireland.
- The basic swept path analysis shows the loading and unloading of goods unworkable.
- The critical movements of goods in/out of the site will still be impaired even if the marshalling area was improved.
- The 3m temporary wayleave during construction is unacceptable as this residual area will not facilitate any turning at all.

- The proposal will have a significant impact on the business.
- Appendix A- Maps

7.10. Mary O' Sullivan (countersigned by 6 residents of Woodview, Ballyvolane)

- The CPO will affect the road/ pedestrian safety.
- The CPO will affect the access/egress into the site.
- The proposal will impact the residential amenity,
- Additional traffic calming measures and landscaping should be included.
- We intend on seeking compensation.

7.11. Patrick Canavan (countersigned by 6 residents of Woodview, Ballyvolane)

- The CPO will affect the road/ pedestrian safety.
- The CPO will affect the access/egress into the site.
- The proposal will impact the residential amenity,
- Additional traffic calming measures and landscaping should be included.
- We intend on seeking compensation.

## 8.0 Further Information Request

8.1. The Board issued a request for additional information to the applicant on the 02<sup>nd</sup> of May 2023 as detailed below:

The following information is requested to enable the Board to determine this appeal:

1. For the Board to undertake a full assessment of the necessity of the compulsory purchase order, Cork City Council is requested to submit all Part VIII documentation relating to the Ballyvolane Strategic Transport Corridor, North Ring Road to Meruve including any supplementary background information in relation to community need, consideration of alternatives, proportionality of land take etc. The information submitted shall also include those maps (and other associated documentation) on public display for the Part VIII, the Report to the Elected Members and any other documentation the

Council considers the Board will require in the determination of this proposed land acquisition.

2. A number of observations refer to the impact of the Part VIII, and this associated land acquisition, on their current car parking provision. These sites relate mostly to the commercial properties within the Ballyvolane District Centre, namely the Fox and Housing and Dunnes Stores, and the Transport Ireland site. The council is requested to confirm the impact, if any, the proposed works would have on the current car parking provision of those commercial premises, including, *inter alia*, the quantum of parking to be removed either directly or indirectly (due to any alteration to vehicle manoeuvring within the site).
3. The applicant is requested to submit the above information within 2 weeks of the issuing of this request.

8.2. **Cork City Council** responded to the further information request on the 15<sup>th</sup> of May 2023. This submission included the following information:

Under Item No 1:

1. Cover note and copy of Part VIII documentation.
2. Cover note outlining the community need for the scheme (including update on BusConnects) and policy updates since submission of the application.
3. Copy of Options Report for the scheme prepared in line with the common appraisal framework.

Under Item No 2 the council submitted a detailed response on the:

1. Impact on parking and development at Fox and Hounds
  - Since making the CPO, Cherry Lane have applied for the development of the site (Reg Ref 23/41917) and is currently being assessed by Cork City Council
  - The surface parking directly onto the Ballyhooly Road consist of 5 spaces and one disabled space, each accessed from the road.
  - The current perpendicular parking with no defined footpath results in an increased risk to pedestrians at a busy junction.

- As part of the current permission, it is likely the applicant will be conditioned to amend this parking.
- The scheme could be amended to accommodate parallel parking spaces and accommodate a disabled space with a 15-minute set down space to allow access into the premises.
- There is available parking to the rear of the premises with access onto Banduff Road, affected by the scheme.
- The pedestrian environment and the footpath at the side of the pub will be upgraded to allow wheelchairs and buggy access.
- The impact of the scheme greatly improves active and sustainable modes of transport.
- There is currently inadequate footpath and cycle facilities for those in the catchment.
- As per previous planning application (TP 15/36520 PL28.245709) a new entrance and access has been refused as a traffic hazard and impact on congestion.

## 2. Impact on parking and disproportionate impact of the land acquisition on Dunnes Stores

- It is acknowledged that the proposal will lead to the removal of 23 carparking space.
- The works will lead to alterations to the current delivery truck access and customer traffic using the eastern car park.
- The layout and access road requires realignments.
- Representatives of both the City Council and Dunne Stores have met on site.
- There are two options to mitigate against car parking loss:
  - Proposal 1: construction of 33 no car park space in the landscaped area to the north of the existing eastern carpark, a net increase of 4 no spaces (new layout mapped).



- Proposal 2: New car park at the west of the site (this option was not considered acceptable by Dunne Store representatives).
  - The proposal allows for bus priority, improvements to local road infrastructure and additional routes for two-way carriageway. (Fig 5.5: illustrates the proposed Ballyhooly Road Cross-Section between the North Ring Road and Ballyvolane Cross)
  - The Glen River Bride is a constraint at this location. Interference with the bridge could cause flooding. Because of this bridge and the Fox and Hound building the lands at Dunnes are required for the widening.
3. Impact on parking and overall impact on site operations at Transpart Ireland
- The yard at Transpart Ireland has two areas, one to the front of the site and a secure area along the south. There is informal unmarked parking along the front (c. 10 no spaces) and c. 10 no spaces in the secured yard.
  - Swept path analysis of an articulated truck and a rigid truck with both the existing layout and the proposed layout have been submitted.
  - It is unclear from the applicant's illustrations if the swept path analysis is based on a background survey or if the "construction lines" are based on temporary or permanent land take.
  - During consultation it has been agreed that the temporary land take could be reduced from 3 m to 2m. During the temporary land take a number of formal spaces will be reduced to 28 no and the number of parking spaces along the Banduff Road will be changed to parallel parking during works. More space will be required for movement of articulated trucks.
  - Therefore, there will be one layout for parking during temporary construction works (Fig 6.7 and Fig 6. 8) and a final layout on completion of works (Fig 6.5 and Fig 6.6).
4. Other Landowners objections.
- Other landowners: Cork City Council continue to engage with landowners in relation to the valuation and compensation. Mr Patrick Canavan has

accepted a sum of money and will be asked to withdraw his objection, other agreements are likely in the coming weeks.

- Department of Education: The lands along the verge of the North Rong Road are required to provide a footpath. Valuers have met with the Dept and proposed a sum of money, and it is likely an agreement will be reached in the coming weeks.

### 8.3. Third Party submissions

The FI response from Cork County Council was circulated to the third parties on the 22<sup>nd</sup> of June 2023. Submissions were invited up to the 12<sup>th</sup> of July 2023. Three submissions were received as summarised below:

#### 1. Liam and Marion O Regan (Transpart Ireland)

- The submission was accompanied by an engineer's report.
- The applicant will lose 14 parking spaces in a and a secure loading area to the rear and 7 staff spaces to the front of the site.
- There was an additional meeting on site with Cork City Council on the 27<sup>th</sup> of June 2023.
- Cork City Council has submitted a swept path analysis to detail that extra spaces can be achieved. The spaces illustrated are only 2.4m x 4.0m and are not big enough to accommodate the large vans that Transpart have in their fleet (7m in length).
- A picture submitted in Appendix A indicates that the side car park is used by Transpart Ireland vehicles.
- Cork City Council engineers contend that 35 spaces can be provided in the revised site layout after the permeant land-take although this does not consider the operational requirements of Transpart Ireland and their safety requirements.
- It is considered that only 26 of the 35 spaces can be achieved.
- Cork City Council submission does not recognise that three parking spaces (No. 23, 24 & 25) are already allocated spaces within the secure yard (No. 09, 10 & 11) on Drwg No. 1850-SK-03 Rev A.

- The car parking spaces do not allow sufficient space for the drivers to exit their vehicles as the spaces will be against a fence. This layout will lead to dangerous manoeuvres.
- A swept path analysis is included in Appendix B (CCC submission) which illustrates that the 10m rigid trucks will no longer be able to turn in the unloading yard.
- The spaces illustrated on the site plan by Cork City Council (No. 1 to 4) are currently used for trucks to queue.
- To minimise the number of spaces lost the existing single storey office to the front and side of the building will need to be demolished with a commensurate office area to maximise the parking area and allow the functioning of the Transpart Ireland delivery van.
- Cork City Council have proposed a reduced 2m temporary wayleave which is still not acceptable as vehicles will not be able to pass when loading/unloading is underway.
- There is no detail on the type of boundary/ retaining wall constructed along the south of the site.
- There are concerns the contractor will not adhere to the wayleave restrictions and further encroach and cause disruption for Transpart Ireland.
- There will be significant accommodation costs to Transpart Ireland to be able to efficiently operate their business along with staff and delivery vehicle parking.
- Appendix A: Site Photos
- Appendix B: Drawings showing existing site layout, areas proposed for temporary and permanent wayleaves, possible site layout and vehicle tracking on the existing layout.

## **2. Cherry Lane Development Ltd and Gerhan Ltd**

- Both companies have attached the same submission and are both associated with the Fox and Hound property.
- A number of issues from the initial submission are reiterated.

- The council has failed to address the concerns raised in the submissions.
- Access from the Ballyhooly Road is still not available.
- The Council have failed to integrate the proposals under Reg Ref 23/41917 (currently out on further information) which proposed an access onto Ballyhooly Road.
- The further information sought by the Council under Reg Ref 23/41917 requests the applicant to co-ordinate the access with this Part VIII and Reg Ref 23/1917.
- As part of the proposal under Reg Ref 23/41917 a left in/left out onto the Ballyhooly Road is proposed.
- The Council state that existing access will not be altered although this is not true as the access to Ballyhooly Road and Ballyvolane Road will not remain.
- The Council has stated that a 15-minute set down for parking and disabled parking will be considered along the Ballyhooly Road. At present there is 5 spaces and 1 disabled space.
- While the set down areas are welcome the removal of the parking spaces will lead to the business becoming unviable.
- Without adequate access in the owners' lands, the key objectives of delivering a district centre cannot be met.

#### 8.4. **Better Value Unlimited Company**

Submission on behalf of the occupants of the Ballyvolane District Centre. The issues raised are summarised as follows:

- Summary of the FI information submitted.
- The Part VIII infrastructure project has not been mentioned in the Cork City Development Plan 2022-2028.
- There are currently 2 bus routes along the Ballyvolane road and the Ballyhooly Road. The NTA new design does not include any more bus frequencies along this route. The Bus Connects does not include any alterations to the Ballyhooly Road.

- It is questioned why there is a need for the Ballyhooly road to be upgraded.
- The FI does not adequately justify the need for the works.
- ABP granted permission for 753 dwellings in Ballyvolane. This proposal included a TTA which indicated how the road could be upgraded without additional bus lanes.

#### Impact on the Ballyvolane Shopping Centre

- There is an excessive amount of land proposed to be acquired along the eastern side of the Ballyhooly Road in comparison to the western side (Fox and Hound).
- The applicant is required to address the issues of proportionality.
- The FI response does not show that alternative road design options have been considered or ruled out.
- The presence of a structure does not prevent the council from considering other alternatives.
- An existing bungalow is to be demolished as part of a proposal under Reg Ref 2341917.
- Ballyvolane district centre is a destination with convenient car parking.
- The new parking design is acknowledged but does not adequately deal with issues raised in the initial submission.
- The proposed parking will result in the removal of trees and open space and there is concern it will limit the safe movement of HGVs on the site.
- Parking layout 2 is unworkable and will lead to disjointed car parking.
- The road widening scheme will lengthen the Glen River Culvert and have an impact on ecology.
- The Part VIII scheme is not supported by an Ecological Impact Assessment.
- A map of the habitats recorded within the Ballyvolane District Centre has been submitted (DixonBryson Environmental Consultants) illustrating the woodland, grass, park and river as per Fossit classification.

- The CPO has been incorrectly served as the land type, ownership, and occupiers of Plots 33A, 33B and 42 are incorrectly described on the CPO Plot Maps.
- Appendix 1: Illustration of a potential carriageway realignment to reduce the land take at Ballyvolane Shopping Centre.

## 9.0 Oral Hearing

- 9.1. The submissions by both Dunnes Stores and Transport Ireland request an oral hearing. The request is made having regard to the significant impacts on properties and businesses.
- 9.2. As stated above, further information was received by the Board on the 17<sup>th</sup> of May 2023. The submission from the PA included detailed responses to those issues raised by the objectors.
- 9.3. Having regard to the information submitted with the application and further information the Board considered there was sufficient information to allow for a proper and full assessment of the case without recourse to an oral hearing.

## 10.0 Assessment

### Introduction

- 10.1. The statutory powers of the local authority to acquire land are contained in section 213 (2)(a) of the Planning and Development Act 2000, as amended. Under its provisions the local authority may acquire land compulsorily for the purpose of performing any of its functions including giving effect to or facilitating the implementation of its development plan.
- 10.2. The lands which are the subject to this CPO are located along the side of North Ring Road (R635), the Ballyhooly Road (R614), the Ballyvolane Road, Rathcooney Road and the Banduff Road. The works include the widening and upgrade of existing roads, integration of footpaths along each side of the roads and cycle tracks on both sides of the Ballyvolane Road from the Ballyvolane Cross. Upgrades to the junctions to facilitate works and prioritise vulnerable users is also included.

- 10.3. The CPO provides for the acquisition of lands on a permanent and temporary basis to facilitate the works. The Part VIII proposal and associated CPO relate to the front of properties along the Ballyvolane Road, Ballyhooley Road and Banduff Road. Works at three junctions being the North Ring Road/ Ballyvolane New Road, the Ballyvolane crossroads and Ballyhooley Road/ Ballyvolane Road relate, in the most part to the Ballyvolane District Centre with commercial properties at Dunnes, Fox & Hound and Transpart Ireland affected by the CPO. Submissions have been received from these owners in addition to other residential properties located long the Ballyvolane Road. There is no proposal to compulsory purchase any property.
- 10.4. It is accepted that there are five criteria that should be applied where it is proposed to use powers of compulsory purchase to acquire land or property namely:-
- There is a community need which is met by the acquisition of the land in question,
  - The works to be carried out accord with the Development Plan,
  - Alternative methods of meeting the community need have been considered but are not available,
  - The suitability of the land to meet the community need.
  - Is the land take proportionate to fulfil the objectives of the CPO?

#### Community Need

- 10.5. At the outset I note the Ballyvolane Strategic Transport Corridor Scheme- North Ring Road to Mervue has been subject to approval under Part VIII. Twenty submissions were received by Cork City Council (CCC), some of which were supportive, and others recommended alterations. Some of the objectors to the CPO also made submissions to the Part VIII. CCC included all submissions in a report to the Elected members.
- 10.6. In a response to the FI request CCC included a submission on community need. The submission refers to the current development plan, the strategic development of Ballyvolane east and west and the need to provide sustainable forms of transport infrastructure as detailed in the policies and objectives of Chapter 4.

10.7. CCC provided the following information in support of the community need for the project and associated CPO:

- The National Development plan has identified Cork City as an area of substantial growth.
- The Cork City Development Plan 2022-2028 identifies the district centre to serve a growing population north of the city.
- The population growth targets for Ballyvolane indicate a potential yield from lands of c. 3,000 by 2028.
- To date two large Strategic Housing Development (SHD) proposals have been permitted in Ballyvolane.
- As part of the SHD proposal (ABP 306325) site clearance is underway and significant contracts to install the necessary water services.
- A second SHD proposal (ABP 312076) is required to reserve a 20m corridor for the future sustainable transport infrastructure.
- The existing pedestrian environment and road networks is substandard. The vehicle speeds along the road are too fast, and the design makes it difficult for pedestrians to cross. There is a lack of pedestrian crossings along the roads and at junctions.
- While separate pedestrian and cycle infrastructure would have been preferred, there are areas of multi-use space to minimise the requirement to acquire lands.
- The proposed development will serve the existing Route 207 and Route 201.
- Some of the route will form part of the Cork New Network (part of BusConnects) North Ring Road junction along the Ballyhooly Road. The NTA and CCC hope to roll out the first phase in Q2 2024.
- A letter of support from the NTA has been submitted.

10.8. Upon site inspection the deficiencies in the pedestrian and cycle facilities along these routes were evident. The policies and objectives of the development plan clearly indicate the Ballyvolane area has been identified for substantial population growth and this proposal would provide access to both the existing district centre and



towards the City Centre for both the current and future population. The delivery of sustainable and active travel and supporting infrastructure benefits the wider community and is a key strategic vision of the Cork City Development Plan 2022-2028. The community need for the project and associated CPO is considered acceptable.

#### Compliance with the Development Plan

- 10.9. The Cork City Development Plan 2015-2021 was the development plan in place when the CPO was advertised. The Cork City Development Plan 2022-2028 came into effect on the 08th of August 2022. As stated above, reference to the Ballyvolane STC, and those policies and objectives, have been replaced in the new plan by reference to the Cork Northern Distributor Road (CDNR) and relevant policies from the Cork Metropolitan Area Transport Strategy 2040 (CMATS).
- 10.10. The PA response to the additional information notes the policies have been updated in the adopted Cork City Development Plan 2022-2028 and considers that the provisions of the Ballyvolane Strategic Transport Corridor- North Ring Road to Merve remain supported by the development plan and other newly introduced policies for sustainable development including the BusConnects Network Plan. As stated above, a letter from the NTA confirmed that bus network improvements were required to serve a new route along to the Ballyvolane area (routes 10, 21 and 54) to facilitate the anticipated expansion of this area.
- 10.11. Submissions from third parties refer to the change in development plan, the removal of the reference to the Ballyvolane Strategic Transport Corridor and consider the proposal is no longer justified. They consider the infrastructure for the bus routes is sufficient to serve the needs of the community.
- 10.12. I note the direction of growth to the Ballyvolane Urban Expansion Area (UEA) remains a priority in the newly adopted development plan. Objectives 10.75 supports the growth of this area in line with the Core Strategy and Objective 10.76 includes support for the delivery of a *“Framework Plan to support the sustainable growth of Ballyvolane and provide a coherent and coordinated land use plan for Ballyvolane and its immediate environs.”* The response of the PA to the FI request notes the population growth targets for Ballyvolane which indicate a potential yield from lands of c. 3,000 by 2028.

- 10.13. Chapter 4 of the development plan includes policies and objectives for the delivery of an Integrated Transport System. The plan supports a co-ordinated approach to the delivery of sustainable transport provision. Specific plans and projects include the Cork Metropolitan Areas Transport Strategy (CMATS) (includes BusConnects), the Cork Cycle Network Plan, Cork Bus Corridor Routes and the Cork Northern Distributor Road. I note that all these plans and projects support elements of the delivery of the Ballyvolane Strategic Transport Corridor and the roll out of sustainable transport options for the north of Cork City.
- 10.14. Whilst the direct reference to the Ballyvolane Strategic Transport Corridor has been removed from the new plan, it is clear that the policies and objectives for pedestrian, cycle and bus infrastructure remain in place in the new plan. The delivery of the Part VIII project provides a plan led approach to the delivery of sustainable transport infrastructure for an area identified for substantial growth. In addition, elements of the project are also supported in the Cork Metropolitan Area Transport Strategy 2040 (CMATS) (Adopted by NTA in 2020) and the forthcoming BusConnects project, both of which are supported under the development plan policies.

#### Consideration of Alternatives

- 10.15. The Ballyvolane Strategic Transport Corridor- North Ring Road to Merve Part VIII has been approved by Cork City Council. An Options Report accompanied the Part VIII proposal, as submitted by the PA as a response to the FI request. This report notes the investigation of deficiencies in the transport corridors in the north of Cork City from 2016 where the council commissioned the Northern Strategic Transport Corridors study. A significant amount of information has been collated including traffic surveys, costings data collection and assessed in line with the “Common Appraisal Framework for Transport Projects and Programmes” DTTaS which requires all projects to undertake a “Multi-Criteria Analysis” (MCA). A ranking system for various options was used in this analysis.
- 10.16. Four different road geometry and traffic and bus priority improvements were considered (Scheme A-D). The final scheme was modelled to reduce the bus journey times including, *inter alia*, the existing Route 207. Five corridor options were also assessed against the MCA with option 5 ranking the highest from the matrix. The conclusion states that Option 5 complies with the objectives in the CMATS,

delivers new footpaths and integrated segregated raised cycle tracks on both sides of the roads.

- 10.17. Biodiversity constraints were assessed as part of the scheme with the Glen River located within the site. Works to the Glen River require the replacement of a culvert. Works will be undertaken to minimise any impact on, an area identified as having a high risk of flooding to the east of the Glen River.
- 10.18. A third-party submission considered the assessment of alternatives should not have been dictated by the location of the Glen River, an existing bungalow on the eastern side of the Ballyhooly Road and the Fox & Hound pub. In this regard, they consider the alignment of the works connecting the North Ring Road junction to the north of the Ballyvolane District Centre should have been moved eastern, away from the district centre shopping. I note this option, while not fully assessed, would have the potential to require the CPO of buildings including the bungalow and Fox and Hound pub. In my opinion, this option would have a more severe impact on the compulsory purchase of properties rather than lands currently proposed for purchase.
- 10.19. On the basis of the information submitted in the Options Report, the PA response to the FI and the third-party submissions, I accept the option selected is appropriate to meet the objectives and purpose of the road improvement scheme.

#### Suitability of the Lands

- 10.20. As stated above, I consider the lands subject to the proposed CPO are suitable and needed to meet the community need for the scheme. As noted previously the scheme has been approved under Part VIII. Cork City Council has submitted that the extent of the lands to be acquired has been kept to a minimum. I note the Multi-Criteria Analysis" (MCA) used to assess the options assessed, *inter alia*, the impact on third party lands as an economic consideration, therefore reducing the need for unnecessary compulsory purchase.
- 10.21. In relation to the bus routes raised in the third-party submissions, the response from CCC to the FI request notes the inclusion of Ballvolane Road, as an existing bus route and within the overall Cork BusConnect network. Public consultation was undertaken in July 2021 for Bus Network Design Choices Report. I note that BusConnects is subject to public consultation by the National Transport Authority, in liaison with Cork City Council, who are currently in the process of phasing this new

project with a view to commencing in Q2 2024. The Part VIII proposal, the subject of the CPO, was also informed by the BusConnects proposals. The Part VIII proposal does not solely relate to the provision for bus routes but also provides essential infrastructure to support pedestrian and cycle activity. I am satisfied that the lands contained within the CPO area suitable to meet the needs of the scheme.

#### Proportionality of the CPO

- 10.22. The proposed land take, in general terms, follows the route of the permitted Part VIII scheme. The areas of permanent land acquisition relate to the need to widen the road for the bus lanes, footpaths and cycle lanes along the North Ring Road, Ballyvolane New Road, Ballyvolane Road, Ballyhooly Road and Banduff Road. The proposal includes all other associated works required to provide this infrastructure including, *inter alia*, access into housing estates, access into private properties etc.
- 10.23. The temporary land acquisition relates to those additional areas required during the construction works which in the most part relate to lands at the Ballyvolane District Centre. The impact on individual properties has been addressed separately below. The Cork City Council response to the FI submission has reduced the width of these areas, where possible, to lessen the impact on properties.
- 10.24. I consider that the land take proposed, both permanent and temporary, is fully reflective of the Part VIII, Ballyvolane STC, and is proportionate to fulfil the delivery of this scheme. I am also satisfied that where possible, CCC are accommodating the concerns of those third parties along the route whilst also delivering essential sustainable transport infrastructure.

#### Objections

Ten objections were received on the initial Compulsory Purchase Order (CPO) and three submissions on Cork County Council further information (FI) request. The submissions have been summarised above in Section 7.0 and 8.0. I have addressed the objectors' points of concerns below having regard to the FI submitted the planning context and the proper planning and sustainable development.

#### 10.25. **Breda Morrissey (countersigned by 6 residents of Woodview, Ballyvolane)**

##### CPO proposal

- Schedule No. 11: 151m<sup>2</sup> Permanent Land acquisition along the front of a semi-detached property at Woodview, Ballyvolane.

##### Objection

- Impact on road/ pedestrian safety, access and egress into the site, impact on residential amenity and need for additional traffic calming and landscaping.

##### Assessment

The property is located along the west of the Ballyhooly Road, adjoining the areas proposed to widen to accommodate multi-use space. The Part VIII illustrates access from the public road into the site. No physical works are proposed to the appellants property. The purchase of 151m<sup>2</sup> of land along the front of the site will not have a significant impact on the residential amenity and I consider the acquisition of lands is considered reasonable and appropriate.

#### 10.26. **Brendan and Gemma O' Donoghue (countersigned by 6 residents of Woodview, Ballyvolane)**

##### CPO proposal

- Schedule No 13: 102m<sup>2</sup> Permeant Land Acquisition along the front of a detached property "Hickory Hill", Ballyvolane.

##### Objection

- Impact on road/ pedestrian safety, access and egress into the site, impact on residential amenity and need for additional traffic calming and landscaping.

##### Assessment

The property is located along the west of the Ballyhooly Road, adjoining the areas proposed to widen to accommodate multi-use space. The Part VIII illustrates access from the public road into the site. No physical works are proposed to the appellants property. The purchase of 102m<sup>2</sup> of land along the front of the site will not have a significant impact on the residential amenity and I consider the acquisition of lands is considered reasonable and appropriate.

## 10.27. Cherry Land Developments Ltd and Gerhan Ltd (as Fox & Hound site)

### CPO proposal

- Schedule No. 29 (B): Temporary land acquisition of 274m<sup>2</sup> of forecourt of the Fox & Hound.
- Schedule No. 29 (A): Permanent Land acquisition of 636m<sup>2</sup> of half of the public roadway.

### Objection

- The objection relates to the works associated with and the redevelopment of the Fox & Hound Site.
- It is considered the land take is too great at the Ballyvolane Cross junction where the existing 5 carparking spaces will be impacted by the Part VIII works and access will be removed from the existing site onto the Ballyhooly Road.

### Further Information

- The FI response from the PA notes the removal of the parking spaces along the west of the site and considers that there is scope to include short stay parking for disabled access or 15m drop off area.
- The current application (Reg Ref 23/41917) is noted and the current FI request to amend the layout in line with the Part VIII proposals.

### Assessment

The Fox & Hound Site is bounded by the Ballyhooly site to the west and the Banduff Road to the north. The main access into the rear of the site is from the Banduff Road and there is currently 5 no parking spaces accessed directly from the Ballyhooly Road. The Part VIII proposal includes upgrade of the junction directly adjoining the Fox & Hound site and the widening of the road for bus lane, bus stop and cycle lanes. The current parking along the side of the road is included in the CPO.

The objectors' concern relates in the most part to those works along the Ballyhooly Road, the impact on the current parking layout and access to the side of the site onto the Ballyhooly Road. As stated above the Part VIII project is considered reasonable to support the growing population of Cork. This includes the widening of the road and junction to accommodate the project. The loss of the permeant parking spaces will

be required to accommodate the Part VIII works, although I note a substantial amount of parking will remain to the rear of the site. The PA response to the FI notes the potential for short stay spaces (15min drop off) in lieu of the removal of parking spaces. Having regard to the location of the site on the junction and the need to integrate additional pedestrian and cycle routes, I consider the loss of parking spaces acceptable, and I consider Cork City Councils proposal to provide short stay drop off parking at this location reasonable to serve the needs of the public house, having regard to the significant amount of car parking in the vicinity of the site.

The appellant references a current planning application Reg Ref 23/41917 and the need for access onto the Ballyhooly Road (left in/left out). The appellant notes this access has not been accommodated for in the Part VIII. I note there is currently a FI request on Reg Ref 23/41917 to amend this layout in keeping with the Part VIII permitted development. I consider these alterations a matter for the PA and not for the Board to assess.

#### 10.28. Department of Education and Skills

##### CPO proposal

- Schedule No. 32: Permanent Land acquisition 1,216m<sup>2</sup> of open space/embankment along the north of the site, adjoining the North Ring Road and Ballyvolane New Road.

##### Objection

- There is concern the acquisition of lands will lead to the site becoming landlocked.
- The proposed infrastructure and works should not impede any future development on the school site.
- The consultations are questioned, and it is assumed the lands will be placed in public ownership.

##### Assessment

This CPO area is associated with the Mayfield Community School. Access into his school is currently to the south via, either the Old Youghal Road or through a

housing estate off Glencree Cresnet. The parcel of lands subject to the CPO is along the North Ring Road, at the junction with the Ballyvolane New Road.

The Part VIII proposal includes widening and upgrade to accommodate additional left turning, pedestrian and segregated cycle routes along the North Ring Road. The remaining lands are to be re-graded and landscaped.

The PA response to the FI request notes further consultations with the Department was held and there is potential the Department may withdrawal their objection. The Board will not that no further correspondence was received. This aside the proposal works will not impact any current access into the site. Proposals for future access are speculative and no plans to development the site have been submitted.

The amount of land take is considered reasonable and necessary to deliver the Ballyvolane Strategic Transport Corridor.

#### 10.29. **Dunnes Stores c/o Better Value Unlimited Company**

##### CPO proposal

- Schedule No. 33 (B): Temporary Land acquisition of 2,808 m<sup>2</sup> along the side of the Dunnes Stores site and some of the open space.
- Schedule No. 33 (A): Permanent Land acquisition of 5,571 m<sup>2</sup> along the north, east and south and entrance into the Dunnes site.
- Schedule No. 42: Easement of 467m<sup>2</sup> in the open space to the south of the Dunnes Store and into the Glen River site.

##### Objection

- The main access into the site is via the Ballyhooly Road and the impact on the car park layout (89 no spaces) and movement of delivery vehicles is not acceptable.
- An oral hearing is requested.
- The land type, ownership, and occupiers of lots 33A, 33B and 42 are incorrectly described on CPO plot maps, the council has filed to justify the common good for acquiring these plots and they are incorrectly described on mapped objectives.



- The BusConnect emerging preferred routes are on public display and the Ballyvolane Strategic Transport Corridor is not a preferred route.
- The BusConnects route does not align with the proposal.

### Further Information

A submission was received on the PA submission to the FI request. A number of issues were reiterated. In relation to the FI the following comments are made:

- The FI still does not adequately justify the need for the works.
- ABP granted permission for 753 dwellings in Ballyvolane. This proposal included a TTA which indicated how the road could be upgraded without additional bus lanes.
- The impact on the Ballyvolane district centre is still great. The new parking design is acknowledged, still does not address previous issues and Parking Layout No 2 is unworkable.
- There has not been a sufficient number of alternatives considered for the upgrade of the road.

### Assessment

Dunnes stores is located in the Ballyvolane District Centre to the west of Ballyhooly Road and south of Ballyvolane Road. The main access into the site is via the Ballyhooly Road. The proposal land take along the north, east and south of the current District Centre is required for the upgrade and widening of the North Ring Road (junction), Ballyhooly Road and Valebrook/ Ashgrove View. A temporary area is required on the northeast corner of the site during construction works.

Section 5 of the PA response to FI includes a detailed response to the issues raised by the appellant, in particular the car parking layout. The loss of 23 spaces is acknowledged.

Two new car parking layouts have been put forward, in discussions with Dunnes Store, to address concerns raised in the initial submission. The FI response notes that on discussion with the appellant Parking Layout No. 1 appears to be the most workable. The appellants response also notes that Parking Layout No. 2 is not acceptable. Whilst I note there will be some impact on the current car parking layout

at the Ballyvolane District Centre, I consider the impact can be mitigated by the proposal put forward in Parking Layout No 1, which includes additional parking in the temporary construction area, currently used as open space. I consider the proposed works can be amended without any significant impact on the overall Part VIII design to facilitate a more appropriate car parking layout at the Ballyvolane District Centre.

In relation to the proportionality of the works at this location the PA response considers the size of the road corridor for the Ballyhooly road (increase of 12m to 21m) is required to accommodate two-way carriage traffic, separate bus lanes and segregated cycle and footpaths in each direction. The option put forward is the least disruptive option. There are constraints beside the site, including the Glen River and the Fox and Hound pub. As stated above, I have assessed those options proposed as part of the Part VIII process. I consider the proposed land take at this location is not excessive and in proportion to those proposed Part VIII project.

The PA did not make any further comments on the appellants concerns regarding the details in the CPO on Plots 33A, 33B and 42. I note the maps and accompanying schedule clearly indicate the intention for the permanent and temporary acquisition of Plots 33A and 33B and an easement over the Glen River for Plots 42. I consider the information presented is appropriate.

Having regard to the scale of the works proposed in the Part VIII proposal and the alterations to the car park layout I do not consider the purchase of lands will have a significant negative impact on the operation of the Ballyvolane District Centre and I consider the acquisition of lands is considered reasonable and appropriate.

#### 10.30. **Eric Ring (countersigned by 6 residents of Woodview, Ballyvolane)**

##### CPO proposal

- Schedule No 10: 160m<sup>2</sup> Permeant Land acquisition along the public road in front of a dwelling fronting onto the Ballyhooly Road

##### Objection

- Impact on road/ pedestrian safety, access and egress into the site, impact on residential amenity and need for additional traffic calming and landscaping.

### Assessment

The property is located along the edge of the Ballyhooly Road, adjoining the areas proposed to widen to accommodate multi-use space. The Part VIII illustrates access from the public road into the site. No physical works are proposed to the appellants property. The purchase of 160m<sup>2</sup> of land along the front of the site will not have a significant impact on the residential amenity and I consider the acquisition of lands is considered reasonable and appropriate.

#### **10.31. Liam and Marion O'Regan (Transpart Ireland)**

### CPO Proposal

- Schedule No 21 (A): 1,026m<sup>2</sup> Permeant Land acquisition of lands along the south of the site, adjoining the Ballyvolane Road.
- Schedule No 21 (B): 327m<sup>2</sup> of Temporary Land acquisition land at Transpart Ireland.

### Objection

- There are serious concerns as to the land take, impact on the carparking on site, the delivery of goods into the site and the potential for large vehicles to turn at the delivery point at the rear of the current building.

### Further Information

An additional submission was received from Transport Ireland on the CCC FI submission. The following additional comments are summarised below:

- The FI response does not adequately address the previous concerns, the car parking spaces provided will be too small to allow the delivery vehicles to park and the drivers to unload their goods.
- It is considered that only 26 of the 35 spaces can be achieved.
- A swept path analysis is included in Appendix B which illustrates that's the 10m rigid trucks will no longer be able to turn in the unloading yard.
- To minimise the number of spaces lost the existing single storey office to the front and side of the building will need to be demolished with a commensurate office area to maximise the parking area and allow the functioning of the Transpart delivery van.

- There is no detail on the type of boundary/ retaining wall constructed along the south of the site.

### Assessment

The Transport Ireland is a commercial operation which deals with the distribution of truck and trailer parts on a national scale. The current operation includes a large warehouse with associated office/ sales areas accessed from the front of the building and along the southern portion of the building. There is customer parking to the front of the site and staff parking/ delivery access to the south rear.

The proposed CPO includes the acquisition of lands along the south of the site, to accommodate widening of the Ballyvolane Road and the junction of Ballyvolane Road/ Ballyhooly Road. Transport Ireland are concerned that the acquisition of lands will have a significant negative impact on the car parking on the site and insufficient space for the delivery of vehicles to the rear. It is considered the proposed CPO will have a significant impact on the operation of the business.

In response to the FI request, CCC submitted a redesign of the car parking layout and confirmed that the temporary area would be reduced from 3m to 2m to allow more truck manoeuvrability during the construction phase. The orientation of the parking spaces is proposed to be parallel during construction to allow more room to the west of the premises. An engineer report submitted with the Transport Ireland response notes the swept path analysis submitted by CCC (Drwg No 150-SK-002 Rev B) indicates no turning on the site, only reverse in and reverse out. I note the plans submitted by CCC clearly illustrate the existing turning on the site by a ridged truck and an articulated truck. The ridged truck can currently turn onsite and will still be able to do so following the implementation of the CPO, should it proceed. In addition, it is illustrated that the articulated truck currently must reverse in/out and will retain the same manoeuvring. Having regard to these drawings I consider CCC has provided adequate technical illustration to demonstrate manoeuvring of delivery vehicles into and out of the site.

The appellants note the carparking layout does not allow for a truck set-down and queuing area to the front of the site. No details of the projection or timing of these delivery trucks has been submitted. Upon site inspection it was noted that there is currently no parking at this location. The truck manoeuvring drawings (Fig 6.5 and

Fig 6.6) submitted with CCC FI submission illustrate a truck waiting in the front of the premises, although no formal delineation is provided. The CCC have stated they will continue to engage with Transpart Ireland, and I consider, having regard to the limited impact of a set down area, the CPO would have no significant impact.

The size of the parking spaces is raised in the Transpart Ireland submission. They refer to the fleet of vans used by the business, in the rear secure parking, and consider the standard 2.4m x 4.8m is not adequate for the safe parking and unloading of vehicles where the driver must reverse into the space. Transpart Ireland consider spaces of 3.5m x 8m should be provided. I note the normal dimensions for car parking spaces in Section 4.4.9 of DMURS is 2.4m x 4.8m. Those dimensions for a loading bay to cater for larger vans is 2.8m x 6m. Upon site inspection I noted many vehicles had driven directly into the spaces to allow access to the rear of the vans. The larger van was slightly larger than the space although there was sufficient space for the safe manoeuvring on the site. I note the applicant's requirement for larger spaces is more than the DMURS standards for larger vans (i.e., delivery). This aside, having regard to CCC response to FI and noting the movement of vehicles on Fig 6.5 and Fig 6.6, there is potential for longer spaces in line with DMURS standards (1.2m longer than standard spaces).

In relation to the boundary treatment the PA have stated that a retaining wall along the south of the site will be constructed as part of the Part VIII works.

I note the technical drawings submitted with both the Part VIII and the PA response to the FI request and I consider they have adequate evidence to support the delivery of car parking on site and turning on the site to serve the Transpart Ireland business. Transpart Ireland has submitted no evidence to suggest that the PA recommendations would not work on site. CCC have stated that 35 no formal parking spaces can be provided albeit a little closer to the truck manoeuvring.

It is the appellants opinion that having regard to the difficulty relating to insufficient car parking spaces and manoeuvring into the site, the office building along the south of the site should be removed and rebuilt on the first floor. Having regard to the permitted Part VIII, the alterations to the car parking layout and the movement of and flow of traffic into the site, I consider the acquisition of lands is reasonable and

appropriate. In this regard, I do not consider a requirement for alterations to the building layout.

**10.32. Mary O' Sullivan (countersigned by 6 residents of Woodview, Ballyvolane)**

CPO Proposal

- Schedule No 12: 149m<sup>2</sup> Permeant Land acquisition along the public road, adjoining the property at "Roseville", a detached dwelling adjoining the Ballyhooly Road

Objection

- Impact on road/ pedestrian safety, access and egress into the site, impact on residential amenity and need for additional traffic calming and landscaping.

Assessment

The property is located along the edge of the Ballyhooly Road, adjoining the areas proposed to widen to accommodate multi-use space. The Part VIII illustrates access from the public road into the site. No physical works are proposed to the appellants property. The purchase of 149m<sup>2</sup> of land along the front of the site will not have a significant impact on the residential amenity and I consider the acquisition of lands is considered reasonable and appropriate.

**10.33. Patrick Canavan (countersigned by 6 residents of Woodview, Ballyvolane)**

CPO Proposal

- Scheule No 8: 486 m<sup>2</sup> Permeant Land acquisition of a strip along the public roadway. A semi-detached dwelling facing towards and adjoining the Ballyhooly Road.

Objection

- Impact on road/ pedestrian safety, access and egress into the site, impact on residential amenity and need for additional traffic calming and landscaping.

Assessment

The property is located along the edge of the Ballyvolane Road, adjoining the areas proposed to widen to accommodate multi-use space. The Part VIII illustrates access from the public road into the site. No physical works are proposed to the appellants

property. The size of the land take at 486m<sup>2</sup> is larger than the proposed land take of dwellings along the same area of the Ballyhooly Road, which I consider is representative of the location of the site close to the junction between the Ballyhooly Road and Meelick Park. The purchase of 486m<sup>2</sup> of land along the front of the site will not have a significant impact on the residential amenity and I consider the acquisition of lands is considered reasonable and appropriate.

### Conclusion

10.34. Under Section 214 of the Act, the Board has the powers transfer of all necessary ancillary powers in relation to substrata, easements, rights over land (including public rights of way), rights of access to land, the revocation or modification of planning permissions or other such functions as may be necessary in order to ensure that the Board can fully carry out its functions in relation to the enactments referred to in subsection (1) ( compulsory acquisition of land by a local authority).

10.35. The Board will note my assessment above and the proposed works have been approved under the Part VIII planning process. With regard to the objections received by the Board, I submit that the acquisition is suitable, appropriate, proportionate and meets the requirements of the approved scheme. I consider that the road improvement scheme:

- meets a distinct community need.
- is compatible with development plan provisions.
- constitutes a suitable option to meet the objectives of the scheme.
- provides for a scale and location of land acquisition that is appropriate to meet the approved scheme's objectives, and
- necessitates the inclusion of all lands contained within the CPO to permit the provision of the approved scheme.

On this basis it is considered that the proposed scheme is seen to accord with the proper planning and sustainable development of the area.

## 11.0 Recommendation

**CONFIRM** the compulsory purchase order **WITH MODIFICATION** (as per alterations to the temporary compulsory acquisition submitted by Cork City Council in response to the further information request) for the reasons and considerations set out below.

### Reasons and Considerations

Having considered the objections made to the Compulsory Purchase Order and having regard to the following:

- (a) the purpose of the compulsory acquisition for the Ballyvolane Strategic Transport Corridor, North Ring Road to Merve which has been subject to the provisions of Part XI of the Planning and Development Act 2000, as amended, and approved under Part VIII of the Planning and Development Regulations 2001, as amended;
- (b) the present substandard configuration of the Ballyhooly Road;
- (c) the community need, public interest served and overall benefits in terms of traffic management and road safety and sustainable transportation infrastructure to be achieved by the proposed road improvement works;
- (d) the design of the proposed road improvement works constituting a design response that is proportionate to the identified need;
- (e) the policies and objectives of the Cork City Development Plan 2022-2028 and the need for sustainable transport infrastructure to the Ballyvolane area;
- (f) the alterations proposed by Cork City Council to the carparking layout at the Ballyvolane District Centre, Transport Ireland and the Fox and Hound premises,
- (g) the written submissions to the Board; and
- (h) the report and recommendation of the Inspector

it is considered that the acquisition by the local authority of the lands and the extinguishment of the public and private rights of way, as set out in the Order and on



the deposited map, are necessary for the purposes stated and the objections raised to it cannot be sustained having regard to the said necessity.

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.

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Karen Hamilton  
Senior Planning Inspector

31<sup>st</sup> of July 2023