



An
Bord
Pleanála

Inspector's Report

ABP-315313-22

Development	Maynooth Eastern Ring Road Compulsory Purchase Order, 2022
Location	Maynooth, Co. Kildare
Planning Authority	Kildare County Council
Type of Application	Housing Act
Prescribed Bodies	
Objectors(s)	<ol style="list-style-type: none">1) Christopher and Eileen O'Rourke2) Griffin Rath Hall Management (No. 1) Company CLG3) Griffin Rath Hall Management (No. 2) Company CLG4) Health Service Executive (HSE)

5) John, Bethann, Judith, Dan and Pippa Reilly

6) Loraine and Damien Gavin

7) Nicola Syron

Observers

None

Date of Site Inspection

28th April and 11th May, 2023

Date of Oral Hearing

4th May 2023

Inspector

Mary Mac Mahon

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1.0 Introduction

- 1.1. This is an application for the approval of a compulsory purchase order (CPO) and the extinguishment of public rights of way, following the decision by Kildare County Council to approve the Part 8 Maynooth Eastern Ring Road (MERR) (P82019-08), with modifications, on 29th of July, 2019.
- 1.2. The scheme provides for the provision of a new single carriageway relief road to the east of Maynooth town to facilitate the connection of the R148 Leixlip Road to the R405 Celbridge Road (circa 1.55km). It includes a 41m crossing of the Royal Canal and Dublin to Sligo railway line. Pedestrian and cycle facilities are provided on each side. Some 800 metres of existing road will also require upgrading.
- 1.3. To facilitate these works and the implementation of the road improvement scheme, the CPO would entail the temporary and permanent land acquisition of 100 plots of lands. The total land acquisition is approximately 16.7 ha. The majority of the lands are agricultural lands (13.8 ha). The remainder is a mix of roadbed and small areas of residential properties, save for a number of larger holdings. Some 32 landowners are affected by the CPO.
- 1.4. Twelve objectors challenged the CPO in relation to their properties. Five of the objections were subsequently withdrawn before or at the oral hearing. There were no objectors to the extinguishment of the public right of way.
- 1.5. The CPO had the seal of the Council affixed on the 11th of November, 2022 and was advertised on the 6th of December 2022. Formal notices were issued to landowners on the 2nd December, 2022. The application was lodged with An Bord Pleanála on the 9th of December, 2022.

2.0 Statutory Basis

- 2.1. Under Section 213(2)(a) of the Planning and Development Act, 2000 (as amended), a local authority may, for the purposes of performing any of its functions (whether conferred by or under this Act, or any other enactment passed before or after the passing of this Act), including giving effect to or facilitating the implementation of its development plan, acquire land, permanently or temporarily, by agreement or compulsorily.

- 2.2. Compulsory Purchase Orders are made pursuant to the powers conferred on the local authority by section 76 of the Housing Act, 1966, and the Third Schedule thereto, as extended by section 10 of the Local Government (No. 2) Act, 1960, (as substituted by section 86 of the Housing Act 1966), as amended by section 6 and the Second Schedule to the Roads Act, 1993, and as amended by the Planning and Development Act, 2000-2014. Orders are served on owners, lessees and occupiers in accordance with Article 4(b) of the Third Schedule to the Housing Act, 1966.
- 2.3. The Third Housing Act of 1966 provides if an objection has been made to a compulsory purchase order, the Board will facilitate the person making the objection to state their case at an Oral Hearing. However, with the transfer of the functions of compulsory acquisition to An Bord Pleanála, under the Planning and Development Act, Section 218 provides that the Board, at its absolute discretion, may hold an oral hearing.
- 2.4. In this case, the Board has decided to hold an oral hearing, which took place on the 4th May, 2023.

3.0 Site Location and Description

- 3.1. The proposed development is located on the eastern side of Maynooth. The proposed development is for a new road that would link the R148 Maynooth to Leixlip Road at the junction with the R157 Dunboyne Road, with the R405 Maynooth to Celbridge Road. Moving from northwest on the R148, Carton Wood is the adjoining housing estate to the north and the Blacklion Halting Site to the southwest. There is a bus stop which serves the Dublin bus routes C3, C5, X25, X26 and JJ Kavanagh & Sons route 139. On the eastern side of the R157 and north of the R148 is Carton House and Demesne, a Protected Structure (B06-09).
- 3.2. The road corridor will require to bridge over the Royal Canal and Dublin to Maynooth railway line.
- 3.3. The approved route passes through lands known as 'Railpark', on the southern side of the railway line. The lands are generally in agricultural use, but there are a number of residences located there. These are accessed via the Castlebridge and Parklands Estates.

- 3.4. Two schools are located towards the southern end of the route. The Maynooth Educate Together School is north west and Gaelscoil Uí Fhiach is south west of the R405. Road upgrades extend into the Griffen Rath housing estates at the southern end of the road corridor. Griffen Rath Hall to the west and Griffen Rath Manor is to the east of the upgraded road.
- 3.5. Griffen Rath Road continues onto Mullen Park, which connects to Straffan Road, but access to this is currently blocked off.

4.0 **Approved Development**

- 4.1. The approved development is a single carriageway, 1.55 km long, with pedestrian and cycle facilities on either side. Upgrades of the existing road network are required to tie the new roadway with the R148 and R157 to the north and the R405 and Griffen Rath estates.
- 4.2. The approved development will span the Royal Canal and Dublin-Sligo railway line (41 metre span) and embankments are required to slope up to meet the required height. Access from the Royal Canal towpath will be provided. Two compounds will be provided either side of the approved bridge. The approved road will be curved to allow for appropriate road speeds. Two new accesses are required to facilitate existing access. The public rights of way over the existing access will have to be extinguished. A number of surface water ponds will capture the surface water runoff from the roads.
- 4.3. The specifics of the scheme is set out in the **Part 8 Report P82019-08**. These are:
- Construction of approximately 1.55 km of Type 3 Single Carriageway.
 - Provision of a new 4-way signalised junction at the location of the existing R405 Celbridge Road / Griffen Rath Road priority 'T' junction.
 - Provision of a new 4-way signalised junction at the location of the existing R148 Leixlip Road / T157 Dunboyne Road priority 'T' junction.
 - Realignment and modification of approximately 200m of the R157 Dunboyne Road and the provision of a filter lane for vehicles turning left onto the R148 Leixlip Road from the R157.

- Realignment and modification of approximately 300m of the R148 Leixlip Road.
- Realignment and modification of approximately 230m of the R405 Celbridge Road.
- Realignment and modification of approximately 170m of Griffen Rath Road.
- Provision of pedestrian and cyclist facilities along the full length of the MERR.
- Provision of pedestrian and cyclist facilities along the realigned and modified R405, R148, R157 and Griffen Rath Road.
- The provision of a pedestrian and cycleway connection from the MERR to the Royal Canal Towpath north of the Royal Canal.
- Construction of a bridge structure spanning the Dublin to Sligo railway and the Royal Canal, and
- Accommodation works for properties affected by the proposed development.

5.0 Part 8 Development Process

- 5.1. The approved road upgrade project has been subject to the process set out under Part XI of the Planning and Development Act, 2000, as amended, Section 179 and Part 8 of the Planning and Development Regulations, 2001, as amended (Planning Authority Reg. Ref. **P82019-08**). On 29th July, 2019, the Part 8 Maynooth Eastern Ring Road was approved by Kildare County Council, with the modifications proposed by the Chief Executive, following the public consultation process (33 no. public submissions were made). An Amendment Modification to Modification No. 7, was made by the Elected Members. This amendment modification requires that a two metre high stone wall be built at Griffen Rath Hall and Griffen Rath Manor, with mature planting as a suitable noise barrier and that a table top ramp be installed at the entrance to Griffen Rath Hall.
- 5.2. The supporting documents included a Screening Report for EIA, a Screening Report for Appropriate Assessment and a Planning Statement Report. This included illustrations, traffic analysis, noise and vibration and flood risk assessment. A report on the submissions received was also presented.

5.3. The modifications related to noise mitigation measures, signalised pedestrian crossing, road markings, screening and landscaping, lighting, Road Safety Audits, construction management, archaeology and relocation of an entrance.

6.0 Relevant Planning History

6.1. **07/1419** – permission granted and since expired for the construction of a road, circa 1.4km on roughly the same line as the approved road.

6.2. **02/872** – permission granted for the Glen Rath estates for 241 dwellings. A duration of permission was granted under **09/75** and to complete the development in **11/1137**.

6.3. **16/1153** - permission granted for a residential development of 214 no. dwellings southwest of the site, which would complete the connection between the MERR and the R406 Straffan Road (main access from the M4 to Maynooth) and the R405 Celbridge Road. This is currently under construction, but the road is not open at the Griffen Rath Road. Related permissions are **18/761** and **18/762**, granted on 31.01.2019.

6.4. **17/383** - permission granted for a new two storey 16 classroom primary school.

6.5. **21/1108** permission granted for a 10 year permission for 76 units and vehicular link to approved MERR on 03.10.2022 at Parklands Grove, Railpark. Condition 3 requires that the MERR shall be operational prior to the occupation of housing unless otherwise agreed in writing. Two other decisions are on appeal at present, which are reliant on the road - **ABP 312671-22 (21/155)** and **ABP 312685-22 (21/256)** for 105 residential units.

7.0 Compulsory Purchase Order

7.1. On the 11th of November, 2022, the Chief Executive and County Secretary of Kildare County Council, signed an Executive Order that the Maynooth Eastern Ring Road be submitted to An Bord Pleanála for confirmation, to authorise the council to compulsorily acquire the lands described in Part I of the submitted schedule, for the purpose of providing a road development between R148 Leixlip Road and R405 Celbridge Road, together with all ancillary and consequential works, for the purposed

of providing infrastructure facilitating public transport. Lands to be temporarily acquired are described in Part II of the submitted schedule. The Public Rights of Way to be extinguished are described in Part III of the submitted schedule.

7.2. The application for CPO was advertised in the Nationalist newspaper on 6th of December, 2022. The application was lodged to An Bord Pleanála on the 9th of December, 2022. Objections were to be submitted by 27th January, 2021.

7.3. The application was accompanied by the following documents:

- Newspaper notices (2 no. for Kildare Nationalist and Leinster Leader (both for 6th of December, 2022))
- CPO Schedules, 2022
- EIA Screening Report, 2019
- Appropriate Assessment Screening Determination, 2019
- Deposit Maps (1-5) Signed and Sealed
- Right of Way Notices
- Unregistered Plot Notice Location Maps
- Unregistered Plot Notice.

7.4. Prior to the oral hearing, there were 100 no. plots of land to be permanently acquired and 25 no. plots to be temporarily acquired by the CPO. Prior to and at the oral hearing, the local authority agreed that two of the plots to be acquired on temporary basis only (details in Section 10.4.6).

8.0 Planning Policy Context

8.1. *Kildare County Development Plan 2023-2029*

8.1.1. The *Kildare County Development Plan 2023-2029* applies. The Maynooth Eastern Ring Road (MERR) is a priority road and bridge project listed in the development plan in **Table 5.4**.

- 8.1.2. **Objective TM 066** is to secure the implementation of the Priority Road and Bridge Projects and to maintain corridors free from development to facilitate future roads, cycle facilities and other transport infrastructure improvements identified in the plan.
- 8.1.3. Maynooth, along with Naas is a Key Town. Key towns are large towns that are economically active and provide employment for their surrounding areas. High quality transport links are essential. The degree to which the Key Towns can grow to will influence the county's ability to attract additional multinational companies.
- 8.1.4. The core strategy for Maynooth is to provide for 2,741 persons up to 2031, which equates to 997 housing units. However, the EMRA redistribution of the NPF Cities and Suburbs allocations increases this to 10,000 persons, [which is the equivalent of 3,636 units]. The precise allocation of this will be determined at LAP stage. There is a proposal under **CS 010** to prepare a Joint Local Area Plan for Maynooth and Environs with Meath County Council. This will assist in meeting the housing needs of the Dublin and Metropolitan Area Strategic Plan (**HO 03**).
- 8.1.5. **Objective RE 019** requires the council to co-ordinate the delivery of strategic infrastructure, including pedestrian and cycle linkages with Maynooth and the Royal Canal Greenway and road linkages forming part of the Maynooth Outer Orbital Route in a manner that supports future development and population growth. **TM 032** is to ensure the provision of improved cycle and walking infrastructure linking Maynooth Town Centre, the Royal Canal Greenway, the proposed Maynooth Outer Orbital Route and to Kilcock, Celbridge and Leixlip.

8.2. *Maynooth Local Area Plan 2013-2019*

- 8.2.1. The council at the oral hearing stated that the Maynooth Local Area Plan 2013-2019 is still extant, notwithstanding that there was no motion to extend the life of the plan passed by the Elected Members. The council cited precedent cases where An Bord Pleanála has referred to the aforementioned plan in its reasons and considerations. This matter will be discussed below in the Assessment section of the report.
- 8.2.2. It should be noted that that the bulk of the lands west of the Maynooth Eastern Ring Road were zoned 'C' New Residential, with 'E' Community and Education around the Maynooth Educate Together School. The lands to the east of the approved road were zoned 'I' Agricultural use.

- 8.2.3. The LAP notes that traffic congestion is a major problem in the town centre and the proposed road infrastructure is vital for economic development and quality of life. **TRO 2:** Road Objective is to facilitate the construction of the following roads and in the interim, protect the route corridors. The proposed road between the Celbridge Road and the Leixlip road is listed.
- 8.2.4. The LAP was amended in 2018 to rezone lands from Agriculture to New Residential and from Office to New Residential, to facilitate the core housing strategy for the *Kildare County Development Plan 2017 – 2023*. The bulk of the lands rezoned are adjacent to the MERR route corridor. A Key Development Area was designated, bounded by Parklands and Rockfield estates to the west, the railway line to the north and the Celbridge Road to the south. Agricultural lands formed the boundary to the east.
- 8.2.5. The vision for the lands was to provide for a new residential neighbourhood with a mix of tenure and housing unit size and typologies. Sustainable forms of travel will be provided.

8.3. ***National Plan Framework 2018-2040***

- 8.3.1. The National Planning Framework (NPF) provides policies, actions and investment to deliver 10 National Strategic Outcomes (NSO) and priorities of the National Development Plan. These NSOs include compact growth, enhanced regional accessibility, sustainable mobility and transition to a low carbon and climate resilient society. Compact growth can be delivered by improving ‘liveability’ and quality of life, enabling greater densities and ensuring transition to more sustainable modes of travel.
- 8.3.2. Enhanced regional accessibility will be achieved by enhancing connectivity between centres of population of scale. In particular, more effective traffic management within and around cities and re-allocation of inner-city road space in favour of bus based public transport and walking/ cycling facilities should be enabled. NSO 2 refers to the need to advance orbital traffic management solutions.
- 8.3.3. Cities and major urban areas have become too heavily dependent on road and private, mainly car-based transport, with the result that roads are becoming more and more congested. The NPF will therefore encourage the expansion of attractive public transport alternatives to car transport to reduce congestion and emissions and enable

the transport sector to cater for the demands associated with longer term population and employment growth in a sustainable manner. The development of a comprehensive network of safe cycling routes in metropolitan areas will be sought to address travel needs.

8.3.4. The following national policy objectives are also of relevance to the CPO:

National Policy Objective 4:

Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

National Policy Objective 9:

In each Regional Assembly area, settlements not identified in Policy 2a or 2b of this Framework, may be identified for significant (i.e. 30% or more above 2016 population levels) rates of population growth at regional and local planning stages, provided this is subject to: Agreement (regional assembly, metropolitan area and/or local authority as appropriate); Balance with strategies for other urban and rural areas (regional assembly, metropolitan area and/or local authority as appropriate), which means that the totality of planned population growth has to be in line with the overall growth target.; and A co-ordinated strategy that ensures alignment with investment in infrastructure and the provision of employment, together with supporting amenities and services

National Policy Objective 27:

Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages.

National Planning Objective 54:

Reduce our carbon footprint by integrating climate action into the planning system in support of national targets for climate policy mitigation and adaptation objectives, as well as targets for greenhouse gas emissions reductions.

National Policy Objective 64:

Improve air quality and help prevent people being exposed to unacceptable levels of pollution in our urban and rural areas through integrated land use and spatial planning that supports public transport, walking and cycling as more favourable modes of transport to the private car, the promotion of energy efficient buildings and homes, heating systems with zero local emissions, green infrastructure planning and innovative design solutions.

National Policy Objective 68

A Metropolitan Area Strategic Plan may enable up to 20% of the phased population growth targeted in the principal city and suburban area, to be accommodated in the wider metropolitan area i.e. outside the city and suburbs or contiguous zoned area, in addition to growth identified for the Metropolitan area. This will be subject to: any relocated growth being in the form of compact development, such as infill or a sustainable urban extension; any relocated growth being served by high capacity public transport and/or related to significant employment provision; and National Policy Objective 9, as set out in Chapter 4.

8.4. Climate Action Plan 2023

- 8.4.1. Chapter 15 considers transport. The focus is transport abatement, to provide a reduction in total vehicle kilometres, a reduction in fuel usage and significant increases in sustainable transport trips and modal share. The framework to reduce car use and emissions is to apply the Avoid-Shift-Improve approach (reduce or avoid the need to travel, shift to more environmentally sustainable modes and to improve energy efficiency of vehicle technology). Spatial and land use planning is critical in this regard. Sustainable access, in terms of reduced travel time and well being. It includes the reallocation of road space.
- 8.4.2. A target to achieve a 30% reduction in private car use to education journeys is set. DMURS is to be widely implemented to ensure placemaking and accessibility. 1,000 km of walking / cycling infrastructure is to be provided. National Cycle and Greenway networks are to be rolled out.

8.5. National Sustainable Mobility Policy 2022

8.5.1. The aim is to shift people to travel on more sustainable modes of transportation – walking, cycling or public transport. This is to be achieved by way of infrastructural and service improvements, demand management and behavioural change. The approach is through safe and green mobility, people focused mobility and integrated mobility (adopting Transport Orientated Housing Development as a way forward).

8.6. ***Design Manual for Urban Streets 2019***

8.6.1. The manual deals with street design in urban areas. It recognises that the design of the road should be influenced by where the road is located and that the needs of all users has to be balanced. Alternatives to private car use is to provided to create connections. Roads are to be designed to reduce road speeds. Walking and cycling are to be made more attractive, particularly for local trips.

8.6.2. Urban relief roads should direct traffic away from cities, towns and villages and should integrate into the surrounding street network. Moderate speeds reduce noise and pollution. A speed in excess of 50 kph should not apply to streets where pedestrians are active. Ideally, traffic speeds should be self-regulating, via design.

8.7. ***National Cycle Manual 2011***

8.7.1. The National Cycle Manual emphasises sustainable safety, a coherent network, as direct as possible, an attractive route and comfortable cycle infrastructure.

8.8. ***Eastern and Midlands Regional Spatial and Economic Strategy (RSES) 2019-2031***

8.8.1. The Eastern and Midlands RSES identifies Maynooth as a key town (one of three) in the region. The lands to the northeast of the approved road are identified as a growth area, with significant residential development potential. It notes that the opening of the lands will be via a new road, that is subject to LIHAF funding.

8.8.2. **RPO 3.2** requires that local authorities in preparing their core strategies set out measures to achieve compact urban development of at least 30% of all new homes within or contiguous to the built-up urban area.

8.8.3. **RPO 4.3.3** provide support for the continued development of Maynooth, co-ordinated with the delivery of strategic infrastructure including pedestrian, cycle and road linkages forming part of the Maynooth Outer Orbital Route. This should support future development and population growth and builds on synergies with Maynooth University.

9.0 Objections to the Order

9.1. There were 12 no. objections to the order. By the time of the oral hearing, a number of objections were withdrawn. The remaining, individual objections are summarised below.

9.2. *Christopher and Eileen O'Rourke*

9.3. *Permanently acquire plots*

(112a.101, 0.018ha House Curtilage)

(112a.102, 0.0073ha House Curtilage)

(112a.103, 0.0094ha House Curtilage)

(112a.104, 0.0661ha House Curtilage)

(112a.105, 0.0157ha House Curtilage)

(112a.106, 0.0135ha House Curtilage)

(112a.107, 0.0291ha House Curtilage)

(112a.108, 0.0268ha Public Road)

9.3.1. Represented by Tom Corr, to object to the CPO.

9.3.2. The lands appears to be surplus for the scheme requirements.

9.3.3. Inadequate drainage details have been provided, such as the realignment of existing drains may be impacted due to severance, which would adversely affect the retained lands. There is inadequate details on services.

9.3.4. Inadequate information regarding noise mitigation, lighting, screening and planting

9.3.5. Lack of detail on the access to the retained property.

9.3.6. Inadequate treatment in relation to the type of boundary to be provided along the CPO line.

9.3.7. Other matters that may arise when more detail becomes available.

- 9.4. *Griffen Rath Hall Management (No. 1) Company CLG*
- 9.4.1. Concerns over increased traffic volumes and impacts on the estate.
- 9.4.2. Increase in noise due to increased passing traffic.
- 9.4.3. Overlooking from passing bus.
- 9.4.4. Impacts on the value of property.
- 9.5. *Griffen Rath Hall Management (No. 2) Company CLG*
- 9.5.1. Concerns over increased traffic volumes and impacts on the estate.
- 9.5.2. Increase in noise due to increased passing traffic.
- 9.5.3. Overlooking from passing bus.
- 9.5.4. Impacts on the value of property.
- 9.6. *Health Service Executive (HSE)*
- 9.7. *Permanently Acquire Plots -*
 - (117a.101 - 0.0122ha public road)*
 - (117b.101 - 0.0013ha public road)*
 - (118a.101 - 0.0177ha public road)*
- 9.7.1. While welcoming the proposed road, there are concerns in relation to access to the site for the Disabilities Services, during construction and operation. Adequate sight lines are required.
- 9.7.2. No interruptions to utility supplies is essential.
- 9.7.3. Any permanent or temporary works that cause damage or reduce site size needs to be addressed in detail. This includes financial loss, boundary treatment and car parking.
- 9.7.4. Noise mitigation during and after construction.
- 9.7.5. Vermin control during construction.
- 9.8. *John, Bethann, Judith, Dan and Pippa Reilly*
- 9.9. *Permanently Acquire Plots*
 - (106a.101- 1.1166ha New Residential)*

(106a.102 - 0.0343ha Public Road)

Temporarily Acquire Plots

(106a.103 -0.3540 New Residential)

- 9.9.1. Represented by Demesne Architects, supported by Watermoylan Consulting Engineers.
- 9.9.2. The road corridor has significantly changed from that approved in 2008.
- 9.9.3. The approved road bisects their lands (stated as 2.03 ha), leaving two small, disconnected parcels within the landholding. The lands are zoned for 'New Residential' use. The approved road seriously impacts their property via severance, noise, visual intrusion and the development potential of the remain zoned lands.
- 9.9.4. A series of drawings are submitted. The first shows that the full site could have achieved 80 no. residential units, at a density of 40 units per hectare or 100 no. residential units if the density was 50 units per hectare. A second drawing shows how the land is impacted by the road. The third drawing illustrates that the southern parcel can only accommodate 13 no. units (23 units per hectare) and the fourth drawing shows the lands to the north which are being acquired on a temporary basis only. Six no. units could only be achieved on this parcel (density of 16 units per hectare) and these may not be developable due to the shade cast by the embankments of the road. A section showing the road gradient is included and some shadow diagrams.
- 9.9.5. It is requested that the CPO for the road is refused in its current form.

9.10. *Lorraine and Damien Gavin*

9.11. *Permanently Acquire Plots*

(117a.101 - 0.0122ha public road)

(117b.101 - 0.0013ha public road)

- 9.11.1. Inadequate drainage and service details have been provided.
- 9.11.2. Inadequate information on noise mitigation, lighting, screening and planting
- 9.11.3. Lack of detail on the access to the retained property.
- 9.11.4. Other matters that may arise when more detail becomes available.

9.12. *Nicola Syron*

9.13. *Temporarily Acquire Plots*

(114b.101 – 0.0113ha amenity area)

(114b.102- 0.0206ha amenity area)

(114b.103 – 0.0187ha amenity area)

9.13.1. These lands are to be temporarily acquired.

9.13.2. These lands are part of the common area for the apartment block and should be in the possession of the relevant owners management company (Griffen Rath Hall Management (No. 1) Company for 114b.101 and Griffen Rath Hall Management (No. 2) Company for 114b.102 and 114b.103). The developer is currently listed as owner.

9.13.3. Objection to the temporary acquirement of these lands on grounds of security, due to the demolition of the existing wall when the new, higher wall is being constructed. There will be noise while these works are on-going and overlooking.

9.13.4. No public meeting was held in relation to the CPO.

10.0 **Oral Hearing**

10.1. The oral hearing was held via teleconference on 4th May, 2023. An audio recording of the proceedings was made. The Local Authority presented their statement of evidence. The two objectors who attended the oral hearing (who were Ms. Pippa Reilly along with the professional representative of the Reilly family, Mr. Eoghan Foley and Ms. Nicola Syron on her own behalf) outlined their positions. Cross questioning was then facilitated. I asked questions after submissions. A closing statement was made by the Local Authority. The objectors did not consider it necessary to make a closing statement. The oral hearing was then closed.

10.2. Lorraine and Damien Gavin contacted the board on the following day to explain that they could not attend the hearing due to personal circumstances but wanted to confirm that their objection remained.

10.3. A list of the attendees and who they represented is provided in Appendix 1.

10.4. The main points made by **Kildare County Council** were as follows:

- 10.4.1. **Mr. Dermot Flanagan** outlined the legal tests for approval of the CPO. These are whether there is a statutory basis for the CPO, for example, a specific objective in a County Development Plan (or at least, not materially contravening the statutory development plan); whether there is a community need being met; that the lands are suitable for this need and whether alternative lands were considered but are not demonstrably preferable. He drew attention to the need to minimise the land take to that only necessary for the project. He differentiated between the Part 8 procedure, which approved the MERR and the CPO process. He noted that the mitigation measures attached to the approved scheme would be implemented in full.
- 10.4.2. **Mr. Flanagan** stated that issues raised relating to compensation were matters for the arbitrator. This includes injurious affection and disturbance can be claimed. Any compensation package would include necessary works to retained land to deal with noise mitigation, drainage, etc. Some lands taken can be returned at a later date by agreement.
- 10.4.3. He drew attention to the *Climate Action Plan 2023* and that the CPO is in accordance with Active Travel, government policy.
- 10.4.4. He noted that the CPO includes the extinguishment of public rights of way.
- 10.4.5. The Board needs to direct itself to whether the material before it is sufficient to justify the approval of the CPO and if there is any alternative proposal, that it is not such that it would render the CPO proposed unreasonable or disproportionate.
- 10.4.6. **Mr. Flanagan** stated that changes were submitted to the schedules as Plot. No. 112a.104 for the O'Rourkes lands, is now proposed for temporary rather than permanent acquisition. These lands were being acquired to provide the O'Rourkes with a new access from the MERR. Plot no.104a.101 relating to George Mullis and Sinead Gormally is now being acquired on a temporary basis.
- 10.4.7. **Mr. Flanagan** stated that the *Maynooth Local Area Plan 2013-2019* is extant and will be until it is replaced, as there are no conflicts in zoning arise from the newly adopted County Development Plan. He noted two board decisions that referenced the plan as a reason for granting permission for development, including Strategic Housing Development TA09.310865 for 194 no. residential units, on 1st November, 2021, on lands zoned for residential use and the policies and objectives of the aforementioned local area plan. The statutory test in any event is met with the objective in the *Kildare*

County Development Plan 2023-2029 as a priority road. The purpose of the road is to meet present and future needs. Mr. Flanagan confirmed that there was no resolution passed in Kildare County Council to extend the life of the Local Area Plan.

- 10.4.8. **Mr. Mark Kilcullen** outlined the statement of evidence for the need for the CPO. The road proposal has been a Local Area Plan Objective since 2002. It is listed in Table 5.4 as a Priority Road and Bridge Project. Its provision would significantly reduce through traffic in Maynooth town centre, as the road would form a bypass for traffic, south to north, to travel to Leixlip and Dunboyne and from north to south to the M4 and Celbridge. This would enhance road safety in the town as local roads are currently being used for this purpose. It is in accordance with the *National Sustainability Mobility Policy Action Plan 2022-2025* for active travel as it provides pedestrian, cycle and bus facilities. It connects to the Royal Canal Greenway, allowing for sustainable modes of transport to Maynooth railway station. It would allow new routes to schools, again reducing congestion. It is in keeping with the *Climate Action Plan 2023*. The road would open lands to release their development potential for housing (35 ha). The project includes foul and water supply, which will service these lands. Surface water from the road will be dealt with within the envelope of the scheme.
- 10.4.9. The CPO would allow the delivery of the MERR, which has LIHAF funding.
- 10.4.10. The *County Development Plan* has a target of 9,144 housing units for the plan period. The CPO will facilitate compact settlements that will mitigate against climate change. The Maynooth Orbital Route is identified in **RE019** as strategic infrastructure. It is consistent with the aim of integrating landuse and transport planning to enable a safer, efficient, inclusive and connected transport system.
- 10.4.11. MERR is consistent with DMURS, which assists with curtailing greenhouse gas emissions.
- 10.4.12. Alternative routes were considered under the Part 8 process, including a Do-Nothing Scenario, Do-Something and Public Transport. The route chosen was the optimum route. Land take is the minimum necessary to safely construct the road in accordance with current design standards.
- 10.4.13. The **Response to Objectors** is dealt with thematically and in individual responses. In relation to **surplus land**, there is none but it may be possible, following construction, to transfer some lands back to a landowner. This would apply in the

O'Rourke's case, where the lands for their new access could be transferred back to them and access to undertake maintenance work is provided by the granting of a right of way for this purpose.

- 10.4.14. The impact on existing **drainage** has also been identified as a cause for concern. The MERR has been designed so that surface water drains to the existing drainage network. Any new development on the lands opened up for development will have to provide for their own surface water systems. Any existing drains severed will be included in the MERR surface water system, as part of accommodation works.
- 10.4.15. **Noise** mitigation has been incorporated into the scheme. During construction, noise mitigation measures will be provided and will comply with TII guidelines. The road has been designed in accordance with DMUS for lower speed, which will reduce noise. A low noise surface will be provided on the MERR. Masonry clad walls will be provided at different locations, varying in height from 2.0m to 3.0m.
- 10.4.16. **Access to retained lands** or impinging on the right of an existing access has been raised. The landowners have a right of access to their lands. The detail of reinstatement will be subject to agreement with the council and/or statutory compensation.
- 10.4.17. Details in relation to landscaping for **screening purposes and boundary treatment** has been raised and a landscaping plan has been provided as part of the road scheme and is included in Appendix F. Walls, as referred to above, will also be provided at selected locations. The **O'Rourkes** will have 2.5m high masonry blockwork wall along the front of their property and a 3.0m high masonry blockwork wall to the western boundary. A new gated access will be provided into their property, as the existing access will be blocked up, if the CPO is approved. Walls will also be provided along Griffen Rath Hall and Griffen Rath Manor fronting onto the R148 and along Griffen Park Road.
- 10.4.18. Concerns in relation to **Lighting** have been raised. Lighting will be in the form of 10m high lighting columns, spaced at 35m along the roadway. LED lanterns will provide directed light distribution and minimise overspill.
- 10.4.19. Provision has been made for services in the MERR, but not through Railpark.

- 10.4.20. **Lorraine and Damien Gavin (Plot 117a)** have objected to the acquisition of roadbed outside their property. The existing road will be resurfaced following the installation of a water pipe. Other concerns have been addressed above.
- 10.4.21. **HSE (Plot 118a)** which adjoins the Gavins and relates to the acquisition of roadbed. Both it and the Gavin's property will be screened at the rear by a 2.5m high masonry block wall. Continued access to the site will be an obligation on the contractor for the works, as will the maintenance of utilities. If any need arises, it will be for a short duration and will be in consultation with the landowners. No impact will arise on parking. A pest and vermin control plan will be in place during construction.
- 10.4.22. **John, Bethann, Judith, Dan and Pippa Reilly** have objected to the route of the approved scheme, due to a number of reasons including severance and impact on development potential and the extent of impact on zoned land. They also requested that the drainage wayleave is relocated at to the Featherston lands. The concerns can generally be dealt with by the Property Arbitrator. In relation to the wayleave, it is necessary to be at this location due to topographical constraints.
- 10.4.23. The lands associated with **Griffin Rath Hall Management Companies and Nicola Syron** are being acquired on a temporary basis to enable the building of walls and this is considered appropriate.
- 10.4.24. **Chris and Eileen O' Rourke** lands inside the wall are needed to construct the concrete foundation and provide working space. These lands can be returned after construction once a right of access has been provided. The land for the revised access can be returned after works are complete and so the status of the lands can change from permanent to temporary acquisition.

10.5. Objectors

- 10.5.1. **Mr. Eoghan Foley**, representing **the Reilly family** stated that the family had no objection to a road in principle and indeed had supported an application in 2007 for the original MERR (07.1419). However, an extension of duration application was refused in 2013. There is no argument with the community need for the road. The issue is the proportionality test in both the means by and the ends are achieved.

10.5.2. There will be a significant impact on the Reillys lands where there are alternatives available, such as the original line of the MERR. The legal principle of least interference with lands arises, which does not appear to have been considered by the Kildare County Council. There has been a disproportionate impact on the Reilly lands. It is not sufficient to rely on policy to support the need for the road – the route itself has to be justified, given its impacts on the lands. The planning authority has not dealt fairly with the Reillys, having invited them to a Pre-application consultation meeting on 24th of May, 2019, then deciding that their presence was not appropriate as it was premature in relation to the ring road. However, lands to the west of the Reillys have been granted planning permission under 21/1108 for dwellings, which is reliant on the development of the ring road to allow occupation. The delay in the CPO has cost the Reilly's and in this particular proposal, would prevent the development of their property. The proposed CPO fails the proportionality test, as the local authority has not considered the impact on individual property owners and has not presented a reasoning why this route has been chosen over alternatives.

10.6. **Ms. Nicola Syron** stated that that she had met with Kevin Kane from Kildare County Council and as a result, a lot of her fears have been allayed. Her only concern now is who will the lands be returned to, as she believes it should be the Griffen Rath Hall Management Companies. The landowner listed in the Schedule is the developer of the site and the lands have not been transferred.

10.7. **Response from the Local Authority**

10.7.1. **Mr. Flanagan** stated that since the 2007 permission for MERR, there has been a significant change in policy in that the Design Manual for Roads and Streets has been introduced, which has changed the way that roads are designed.

10.7.2. **Mr. Kilcullen** stated that there was now a need to look at a wider corridor for the road, to provide for pedestrian and cycle facilities as sustainable modes of transport, which made the corridor larger. In addition, there are specific challenges in relation to the northern section of the road. There is need to reach a height clearance over 5.4 metres clearance crossing the railway line (to facilitate electrification), to cross the canal and then the road needs to drop down to the R157 over a short distance. These issues have produced the particular road alignment upon which the CPO is based.

10.7.3. **Mr. Flanagan** referred to RPO 4.23, in the RSES, which supports the Maynooth Orbital Route. The first part of the road has also been constructed, so this CPO has to relate to that route. **Mr. Kilcullen** said options to the east, which did not impact on the Reilly lands were considered. However, that gave rise to complexities and the alternatives fell away during the multi-criteria analysis that was carried out. The detail of construction of the junction with the regional road was a factor and the need to avoid impacts on protected structures. **Mr. Flanagan** noted that the road would give rise to interference on zoned lands, irrespective of the route.

10.8. Closing statements

10.8.1. The Local Authority made a closing statement. The two objectors declined.

10.8.2. **Mr. Flanagan** drew attention to the Ballyedmond Case, that there is sufficient evidence of community need to justify the impact on the lands, which overcomes the proportionality test, without reference to comparison with any other routes. The principle of equivalence arises in relation to the right of compensation. The statutory test is whether the project is rationally connected with planning considerations. The council considers that it is, so the objections to the CPO cannot be sustained. The objectors will be compensated for the impacts on their properties.

11.0 Assessment

11.1. The statutory powers of the Local Authority to acquire land are contained in section 11(7)¹ of the Local Government Act 2001 and sections 212 and 213 of the Planning and Development Act 2000, as amended. Under S212 of the Planning and Development Act 2000 a Local Authority may, in order to carry out its functions powers and duties, carry out forms of development and in so doing a Local Authority is entitled to use CPO powers. S212(1) of the Act confirms the general power of a Planning Authority to develop, secure or facilitate the development of land and may do one or more of the following:

(a) secure, facilitate and control the improvement of the frontage of any public road by widening, opening, enlarging or otherwise improving;

¹ Local Government Act 2001 (7) A Local Authority to which subsection (3) or (4) relates shall (a) continue to be a body corporate with perpetual succession and power to sue and be sued in its corporate name and to acquire, hold, manage, maintain and dispose of land or any interest in land,

(b) develop any land in the vicinity of any road or public transport facility which it is proposed to improve or construct;

(c) provide areas with roads, infrastructure facilitating public transport and such services and works as may be needed for development;

11.2. Section 212(2) of the Planning and Development Acts states that a Planning Authority may provide or arrange for the provision of:

(c) transport facilities, including public and air transport facilities, and

(d) any services which it considers ancillary to anything which is referred to in paragraph (a), (b) or (c).

11.3. Section 212(4) of the Act states that:

A planning authority may use any of the powers available to it under any enactment, including any powers in relation to the compulsory acquisition of land, in relation to its functions under this section and in particular in order to facilitate the assembly of sites for the purposes of the orderly development of land.

11.4. Section 213(1)(i) of the Act concerns land acquisition, the power conferred on a Local Authority to acquire land, permanently or temporarily, by agreement or compulsorily, purchase, lease, exchange or otherwise. Section 213(2)(a) of the Act states that a Local Authority may, for the purposes of performing any of its functions including, giving effect to or facilitating the implementation of its development plan. Section 213(2)(a)(iii) allows the Local Authority to restrict or otherwise interfere with, on a permanent or temporary basis, by agreement or compulsorily, any right over or in respect of any land or water or any substratum of land.

11.5. Other points of note is the land may not be immediately required, but will be required in the future in relation to the authority's functions, even though the authority has not determined the manner or the purpose for it will use the land.

11.6. For the Board to confirm the subject CPO proposal, it must be satisfied that Kildare County Council has demonstrated that this CPO "is clearly justified by the common good". It is generally accepted that there are five test criteria that should be applied where it is proposed to use powers of compulsory purchase to acquire land or property. These are that:

- There is a community need for the CPO, which is met by the acquisition of the properties in question.
- The particular properties are suitable to meet the community need.
- The extent of the land take is proportionate to the purpose of the CPO.
- Alternative means of meeting the community need have been considered but are not available.
- The works are in accordance with or at least, not be in material contravention to the provisions of the statutory development plan.

11.7. I will also consider the remaining issues raised in the objections, the unregistered plot and the extinguishment of the public rights of way.

11.8. Community Need for the CPO, which is met by the acquisition of the properties in question

11.8.1. Kildare County Council has outlined that the approved road will form part of a ring road around Maynooth, allowing for traffic to bypass Maynooth Town Centre, thus reducing traffic congestion and providing for alternative sustainable forms of travel with pedestrian, cycle and bus facilities. The Part 8 Process has been open to public participation, interrogated by the Elected Members and approved by the Members as necessary for the development of Maynooth.

11.8.2. The approved road will allow road users to coming from the M4 to the R157 Dunboyne Road, and *vice versa*, to avoid the town centre. This will also benefit the local road network, where alternative, unofficial routes are being impacted.

11.8.3. The MERR will provide new walking and cycle facilities. It will provide access to the Royal Canal for pedestrians and cyclists and facilitate access via the Royal Canal Greenway to Maynooth and its train station. It will provide alternative routes to the local schools and Maynooth University.

11.8.4. The MERR will facilitate the continued development of Maynooth through providing access to zoned lands (35 hectares), east of the town. The *Kildare County Development Plan 2023-2029*, has identified that 10,000 persons will need to be accommodated in Maynooth over the plan period.

- 11.8.5. As bus laybys are to be provided there will be improved connectivity with and access to public transport, which will promote sustainable travel. This is in accordance with *Climate Action Plan, 2023*.
- 11.8.6. I note that the Part 8 report submitted with the schedules, refers to a Traffic Management Plan for Maynooth, undertaken by AECOM, in 2017, which found that the development of the MERR would have a positive impact on the existing road network, reducing congestion and travel times for both the AM and PM peak hours.
- 11.8.7. This road has been approved for Local Infrastructure Housing Activation Fund and therefore there is a pressing need for the CPO.
- 11.8.8. None of the objectors to the CPO are opposed to the development of a road to the east of Maynooth.
- 11.9. I am satisfied that the purpose of the CPO will serve identified community needs, both in terms of traffic distribution and housing provision. There are clear public benefits from the scheme. Given the need to provide access to lands for housing purposes, I am satisfied that there is a significant social need for the CPO. It is therefore considered that the case for the community need for the proposed road has been established and can be justified by the exigencies of the common good and the overall community benefit would be positive. The CPO will enable the MERR to be implemented, which will significantly enhance pedestrian, cycling and road infrastructure in the area and reduce adverse impacts on the town centre and local roads currently being used as an unofficial bypass. Land will be opened up for housing purposes within easy reach of the town and facilities (including schools and the railway station), which can be accessed by sustainable modes of transport, in accordance with the *Climate Change Plan 2023*.

11.10. Are the particular sites suitable for the community need?

- 11.10.1. At the Oral Hearing, **Mr. Foley** for the **Reilly** family argued strongly that while the need for the road was apparent, the route chosen was not. I will return to this discussion under the heading of alternatives. He also argued that the area of lands associated with the drainage (on Plot 106a.102) should be relocated to the adjoining landowner, **Mr. Featherstone** (107a.103).

- 11.10.2. The road has been designed to link the regional roads east of Maynooth town centre. It includes for a two way vehicular carriage, pedestrian and cycle facilities. The new road has to connect to the R157 and cross over the Royal Canal and railway bridge and land on the southern side. The northern section of the CPO is relatively fixed in its location. Equally, the southern section has to connect to the R105 and the recently constructed Mullen Park Road, to achieve connection with the Straffan Road (R406). Therefore, I am satisfied that there are limited options for this section of the route.
- 11.10.3. I note that during the hearing, **Ms. Syron** was satisfied in relation to her concerns for the plots of land to be temporarily required in the Griffen Rath Hall and Griffen Rath Manor estates, provided that the lands would be returned to the owners management company for the two estates.
- 11.10.4. The **O'Rourkes** objected to the acquisition of their lands but did not attend the oral hearing. At the oral hearing, Kildare County Council amended the schedule to provide for the plot of land containing for the new access to their house would be acquired on a temporary basis only. The council also offered that the plots required for maintenance of the proposed wall could also be returned, providing a right of access to the lands could be awarded to the council for maintenance purposes. The council noted that in the absence of the **O'Rourkes**, these details could still be made by way of agreement, after the CPO. Therefore, some elements of the **O'Rourkes** objections have been accepted by the council, in that not all the lands which are subject to the CPO require to be retained indefinitely by the council. In the absence of the **O'Rourkes**, the offer by the council to return lands necessary for access for maintenance purposes, provided that a right of way over the lands in favour of the council, could not be responded too. On that basis, I concur that these lands should be subject to permanent CPO, with a view later to any change by way of agreement.
- 11.10.5. The **O'Rourkes** have also referred to inadequate drainage details, noise from the road, absence of detail for their new access, inadequate screening and planting, inadequate detail on the type of boundary on the new CPO line, lighting, services and any other matter in their submission. Much of this information was provided at the Oral Hearing by **Mr. Kilcullen**. The new boundary treatment will be block masonry walls, 2.5 metres in height to the front boundary and 3 metres in height to the western boundary with the MERR. In addition to these walls, the surface of the road will be low

speed, reducing noise levels. Any drainage issues will be dealt with via accommodation works. The detail in relation to the access will be subject to agreement and / or statutory compensation, but will be gated. The generic issues raised in the submission will be dealt with in Section 11.24.

11.10.6. The central section of the MERR is meandering. The bulk of the curving alignment is embanked and is largely located on the **Reilly** lands. This is the core of the **Reilly** objection. The section of the MERR which crosses their lands severs their lands. More land is required to provide access into the remaining separate parcels. The developability of the parcel to the north is further thrown into question due to the adverse impacts of the road, which is embanked to enable it to rise to meet the bridge height requirements at this point. This could give rise to overshadowing and a poor quality residential environment. The Reilly considers that the impact on their land is disproportionate and that other alternatives have not been properly considered.

11.10.7. **Mr. Flanagan** at the Oral Hearing, noted that the design of the road reflected the change in policy in road design since DMURS was first introduced (2013). He also noted that the matters raised were matters relating to the Property Arbitrator.

11.10.8. DMURS has given rise to the need to design in low speed roads, which introduces bends. Also the infrastructure needs of pedestrian and cyclists have to be accommodated. Landscaping and surface water requirements have also increased the land take necessary for a road. **Mr. Kilcullen** stated that the location of the drainage through Plot 106a.101 is necessitated due to topographical reasons and could not be moved to other lands.

11.10.9. I note that the remaining objectors have not maintained that their individual plots are surplus to the needs of the CPO.

11.10.10. I am satisfied that the particular CPO lands are suitable for their intended uses and will consider the issues raised in relation to the **Reilly** lands in the next section.

11.11. Alternative means of meeting the community need have been considered but are not available

11.11.1. In relation to alternative means of meeting the community need, **Mr. Kilcullen** referred to the Part 8 process, where a range of alternative means were considered, including a Do-nothing approach. Four options were progressed to the Stage 1

assessment. These were then subject to a common appraisal criteria relating to the environment, economy, safety, accessibility and social inclusion, integration and physical activity. The approved Part 8 was considered the optimal route.

11.11.2. **Mr. Flanagan** at the Oral Hearing pointed out that that the concept of alternatives in CPO are not to be confused with alternatives associated with Environmental Impact Assessment. He refers in his legal brief to *Ballyedmond v. Commission for Energy Regulation 2006*. The High Court stated that the specific issue which the commission has to decide is not whether an alternative may be preferable, but whether the acquisition sought should be made. In *Wymes v. An Bord Pleanála, 2003*, the High Court found that there is no basis to challenge the decision of the Board on the CPO on planning considerations that were properly part of the Part 10 procedure. The Board in this instance is concerned with the choices of approving or annulling the CPO or considering the extent of lands which are being acquired.

11.11.3. **Mr. Foley** referred to *Reid v. IDA, 2015*, which found that the exercise of such powers has to be tempered with the impairment of the individual's rights, which should not exceed what is necessary to obtain the legitimate object sought to be pursued. In other words, the interference must be the least possible consistent with the delivery of the approved scheme. **Mr. Foley** said that proportionality was key in this instance – how the means were being employed to achieve the aims. There is a significant impact on the Reilly lands where alternatives could be considered i.e. the route permitted under 07/1419. That route had a much smaller impact on the Reilly lands. Mr. Foley clarified that his clients were seeking the annulment of the CPO.

11.11.4. **Mr. Kilcullen** indicated that the older route was no longer appropriate, as a wider corridor is needed to facilitate pedestrian and cycle needs. He referred to RPO 4.23 in the Eastern and Midlands RSES which supports the Maynooth Orbital Route including the pedestrian and cycle facilities. The topographical constraints relating to the spanning of the railway line and Royal Canal requires the significant land take from the Reilly's lands.

11.11.5. **Mr. Foley** said that use of his clients lands for this purpose interferes with zoned lands, which would otherwise be available for development. Mr. Flanagan noted that wherever the route would land would impact on zoned land.

11.11.6. In my opinion, there are two main community needs being addressed by the MERR. The first is the need to remove through traffic from the centre of Maynooth and the second to open up lands suitable for housing development. To address these two needs necessitates a road. Alternatives have been addressed through the Part 8 Approval Process.

11.11.7. The issue is then is whether there is an alternative to the extent of the land take from the Reilly landholding. Having regard to the physical constraints outlined by the local authority, I am satisfied that there is no alternative available and that the extent of land required is proportionate to the physical needs of the road, which has been justified on the grounds of community need.

11.12. Is the amount of land to be acquired proportionate to the needs of the purposes of the CPO?

11.13. I note the agreement at the Oral Hearing that two plots of land which were to be acquired on a permanent basis are now being acquired on a temporary basis (see Para 10.4.6). There is a willingness on the behalf of Kildare County Council to return lands which might be no longer needed at a later stage to the previous owners. I would accept that there might be opportunities following construction, to return land in this manner. This does not infer, in my opinion that the lands being acquired are unnecessary or disproportionate – it simply means that the council is being prudent, given the works involved.

11.14. In relation to the Reillys lands, **Mr. Foley** made a strong argument that there has been a disproportionate impact on these lands. **Mr. Kilcullen** said that options to the east had been considered, but that these fell away when constraints were considered.

11.15. The Reilly lands, Plot 106A.101 (1.1166 ha), which is being permanently acquired, abuts the Royal Canal towpath. The canal and towpath must be bridged over at a sufficient height to enable boats, pedestrians, cyclists and vehicles to pass under without interference. The approved road after it passes through the lands, curves sharply southeast. It introduces this curvature to reduce road speed, among other reasons. An alternative to this would be to continue straight in a southerly direction. I would consider that this alternative would have required the entirety of the Reilly lands. For clarity, the roadbed (106a.102) in front of the Reily lands is also being acquired

(0.0343 ha), but as this is in use as a public road, it is not in the control of the owners and the land is not available for development purposes.

11.16. The narrow neck of land required coming out to the road is needed for drainage purposes. Drainage needs to come out at a low point, so there is topographical reason underlying this requirement.

11.17. Plot 106a.103 (0.3540 ha) is being acquired on a temporary basis and will be returned to the Reillys, post construction.

11.18. In short, I am of the opinion that the land take is sizeable, but it could have been more extreme with a different route alignment and a significant portion of the lands will be returned to the Reillys. The extent is necessary so as that cycle lanes and public transport facilities can be provided, in line with development plan **Objective TM 032**. Therefore, I do not consider that the land being acquired from the Reillys is disproportionate, but rather reflective of the need to provide for sustainable forms of transport, in line with Climate Action Plan priorities.

11.19. **Does it accord with or at least not be in material contravention of the statutory development plan.**

11.20. The relevant development plan is the Kildare County Development Plan, 2023-2029, which came into effect from 28th January, 2023. There is a specific reference to the MERR in Table 5.4 – Priority Road and Bridge Projects. **Objective TM 066** seeks to secure the implementation of these projects, keep the corridors free from development and facilitate cycle and other transport facilities.

11.21. **Objective RE 019** requires the council to co-ordinate the delivery of strategic infrastructure, including pedestrian and cycle linkages forming part of the Maynooth Outer Orbital Route in a manner that supports future development and population growth.

11.22. I also note that the Core Strategy of the plans anticipates significant population expansion and additional housing in Maynooth, which is categorised as a key town, equivalent in status to Naas. While the figures in the development plan are not definitive, some 10,000 persons, which would equate to 3,636 residential units may be required for Maynooth over the time period of the plan. Therefore, access to the lands east of the town centre is critical to facilitate housing development.

- 11.23. Further support is provided for the MERR in the Eastern and Midlands RSES, which acknowledges the need for pedestrian, cycle and road facilities for the orbital route.
- 11.24. I would consider that the CPO is consistent with the *National Planning Framework* as it will facilitate compact growth within Maynooth (**NSO 1**) and the MERR provides for sustainable mobility. It will also enhance connectivity between Maynooth, Dunboyne, Celbridge and Leixlip. The MERR provides for bus facilities. **NSO 2** calls for orbital traffic management solutions, to enhance regional accessibility, which the MERR would provide.
- 11.25. The MERR is consistent with *Climate Action Plan 2023* as it would reduce fuel emissions from traffic in congested conditions in Maynooth Town Centre. It would allow for the Shift to alternative sustainable modes of transport, such as walking and cycling. It would allow for a reduction in private car escort to schools, as two schools are located at the southern end of the route and lands developed for housing west of the route will be able to walk or cycle to these schools.
- 11.26. This is also consistent with the *National Sustainable Mobility Policy 2022* as a safe and attractive routes to the schools and connections made along the Royal Canal to Maynooth Railway Station.
- 11.27. The need for the width and alignment of the MERR and this CPO arises from the adoption of **DMURS**, which seeks to provide alternatives to private car use and reduce the speed of cars. It is also consistent with the policy to direct traffic away from centres and integrate with the surrounding street network. The CPO will allow for connections through Griffen Rath Hall and Manor estates and Mullin Park.
- 11.28. The Local Authority notes that there has been an objective for the transport link between the R148 and R405 since the *Maynooth Town Plan* of 2002. There is a road objective for the permitted road in the *Maynooth Local Area Plan, 2013-2019, Incorporating Amendment No. 1* (relating to core strategy).
- 11.29. The local authority has presented the opinion that *the Maynooth Local Area Plan 2013-2019* is still extant and this offers significant support for the approved road and is the basis on which lands in Maynooth are zoned. The council acknowledged that no motion was passed to extend the life of the plan, as required under Section 19 of the *Planning and Development Act, 2000*, as amended. However, the Local Area Plan is not inconsistent with the county development plan. Mr. Flanagan also cited references

to the *Maynooth Local Area Plan* in Board decisions post 2019, in the Reasons and Considerations for granting planning permission, including SHD permissions.

11.30. In my experience, not all planning authorities go through the process of passing a resolution to extend the life of a Local Area Plan, but continue to act as if it is in effect. However, as this application is for the purposes of compulsory purchase, I would recommend to the Board that there is sufficient policy to support the CPO in the *Kildare County Development Plan*, as the statutory development plan and to rely on that, should it consider approving the CPO. I am satisfied that the works are in accordance with the statutory development plan.

11.31. **Other issues raised in the submissions**

11.31.1. The other issues raised in the submissions were drainage, noise, access to retained land, screening and boundary treatments and lighting.

11.31.2. More detail was provided at the oral hearing in relation to the Gavin and HSE properties. The lands being acquired is the road bed in front of the houses. Noise will be mitigated by 2.0 metre high wall is proposed to the side and rear of the **Gavin** house, which will continue to rear of the adjoining house in the property of the HSE. Access, parking and the maintenance of utilities, will not generally be affected, but if it is to occur, the owners will be consulted. A pest and vermin control plan will be in place during construction.

11.31.3. The submissions made by the **Griffen Rath Hall Management Companies** No.1 and No. 2 generally relate to issues suitable for the Part 8 process. However, the information provided by the local authority in relation to the height of walls (2.0 metres and 2.5 metres) in the vicinity of Griffith Rath junction and along Griffen Park Road, are relevant in relation to noise and privacy. The issue of devaluation of lands is a matter for the Property Arbitrator.

11.32. The local authority stated that any services that are interrupted will be made good in the accommodation works.

11.33. A planting / landscaping scheme has been submitted.

11.34. Lighting will be provided along the road, using 10m high columns with LED bulbs directed onto the road.

11.35. I am satisfied that the concerns of the objectors have been considered by the local authority, which has been responsive to the issues raised.

11.36. I note that no objections have been raised in relation to the unregistered plots of land (Plots 139a.101 and 139a.102) on the R148 (Leixlip Road).

11.37. I note that no objections have been raised in relation to the extinguishment of rights of way on the R148 (PUA1 and PUA2), R157 (PUB1 and PUB2), PUE1 at Plot 105a.101, PUE2 at 106a.103 and R405 (PUC1, PUC2) and Griffen Rath Park (PUD 1 and PUD2).

12.0 Conclusion

12.1. I am satisfied that the process and procedures undertaken by Kildare County Council have been fair and reasonable, that Kildare County Council have demonstrated the need for the lands and that all the lands being acquired are both necessary and suitable to facilitate the Maynooth Eastern Ring Road, as approved under the Part 8 process.

12.2. Having regard to the constitutional and Convention protection afforded to property rights, I consider that the acquisition of the lands and extinguishment of public rights of way as set out in the compulsory purchase 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 purposes of providing a new road development, the Maynooth Eastern Ring Road.

12.3. 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.

12.4. 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 and extinguishment of these rights of way would be consistent with the policies

and objectives of the *Kildare County Development Plan, 2023-2029*, which includes Table 5.4 Priority Road and Bridge Projects and Objective TM 066 which seeks to secure the implementation of these projects. Accordingly, I am satisfied that that the confirmation of the CPO is clearly justified by the exigencies of the common good.

13.0 Recommendation

13.1. I recommend that the Board CONFIRM the above Compulsory Purchase Order with the modifications proposed at the Oral Hearing, based on the reasons and considerations set out below.

14.0 Reasons and Considerations

14.1. Having considered the objections made to the compulsory purchase order, the written submissions and observations made at the Oral Hearing held on the 4th of May, 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 a new road development, the Maynooth Eastern Ring Road, and also having regard to the following;

- a) The constitutional and European Human Rights Convention protection afforded to property rights,
- b) The volume of traffic travelling through Maynooth town centre and the need to provide access to lands east of the town to provide for future housing,
- c) The community need for the road development, which will include for public transport and cycling facilities,
- d) The location of the road in proximity to Maynooth town centre, which would facilitate compact growth and would facilitate regional connectivity and advance orbital traffic management solutions, consistent with the National Strategic Objectives of the *National Planning Framework*,
- e) The suitability of the lands and the necessity of their acquisition to facilitate the provision of the Maynooth Eastern Ring Road,

- f) The design of the approved Maynooth Eastern Ring Road (P82019-08), which is consistent with the policies of the *Climate Action Plan 2023* and the *National Sustainable Mobility Plan 2022* by providing pedestrian, cycle and bus transport facilities to enable the shift to sustainable modes of transport, particularly in regard to access to schools,
- g) The design response, which has been appropriately tailored to the identified need, and which is consistent with the *Design Manual for Urban Streets* as updated in 2019, which necessitates a wide corridor of land to enable sustainable modes of transportation and that the approved design will facilitate a low speed traffic environment,
- h) The approval of the Maynooth Eastern Ring Road under the Part 8 process, P82019-08,
- i) The policies and objectives of the *Kildare County Development Plan 2023-2029*, including **Objective TM 066**, which seeks to secure the implementation of the Priority Road and Bridge Projects, which includes the MERR, the subject of this CPO. **Objective RE 019** requires the delivery of strategic infrastructure, including the road for which this CPO is sought and the core strategy of the development plan, where Maynooth is due to grow by 10,000 persons over the life of the plan and **Objective TM 032**, where pedestrian and cycle infrastructure are to be provided on the approved road,
- j) The CPO is consistent with Policy Objective RPO 4.3.3 of the *Eastern and Midlands Regional Spatial and Economic Strategy 2019*, which supports the delivery of the Maynooth Eastern Ring Road, to enable future development and population growth in Maynooth,
- k) The community need, public interest served and overall benefits to be achieved from the proposed road development works.
- l) The extent of the lands sought, constituting a design response that is proportionate to the identified need,
- m) The suitability of the particular properties sought and the absence of suitable alternatives having regard to the topographical constraints, the need for the width of the route corridor sought and to effect the low design speed of the approved road.

- n) The submissions and observations made at the Oral Hearing held on 4th May, 2023 via teleconference.
- o) 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 Kildare County Council, are necessary for the purposes 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 are 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.

15.0 Schedule

The Compulsory Purchase Order shall be modified in accordance with details provided in the document titled CPO Amendments October 2018 submitted to the Board at the Oral Hearing on the 4th day of May, 2023 as follows

1. Plot no.104a.101 to be removed from Part I and added to Part II of the Schedule.
2. Plot. No. 112a.104 to be removed from Part I and added to Part II of the Schedule

Reason: These lands are only required for temporary acquisition only.

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.

Mary	Mac	Mahon
Senior	Planning	Inspector

05 December, 2023

16.0 Attendance at Oral Hearing

Local Authority and Representatives

Dermot Flanagan, SC.

Mark Kilcullen ROD

Eoghan Lynch Kildare County Council

Karen Quigley McCann Fitzgerald

Kate Boyd Crotty McCann Fitzgerald

Iwona Formanowska ROD

Ernesto Picardi ROD

Noel Hopkins Kildare County Council

Ciara Gallagher Kildare County Council

Andrew Nolan Kildare County Council

Kevin Healy Kildare County Council

Marie Kelly Kildare County Council

Claire Whelan Kildare County Council

Mark McLoughlin Kildare County Council

Daragh Conlan Kildare County Council

Stephen Deegan Kildare County Council

Lisa Kirwan Kildare County Council

Donal Hodgins Kildare County Council

Niamh Corcoran Kildare County Council

Jason Moore Kildare County Council

Gillian Whitty Kildare County Council

Lauren O'Reilly Merits.ie

Objectors and Representatives

Pippa Weld Eoghan Foley

Ciaran Ledwith

William Coonan (on behalf of Michael Featherstone who had
withdrawn his objection)

Members of the Public

George

Lauren O'Reilly

Xin

An Bord Pleanála

Mary Mac Mahon

Eimear Reilly

Shaun McGee

Kludia Wieszowska

William Cullen

