



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316285-23

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<b>Development</b>	Galway County Council Compulsory Purchase Order (No. 1) 2023 for the provision of educational/community facilities.
<b>Location</b>	Garraun South, Oranmore, County Galway.
<b>Planning Authority</b>	Galway County Council
<b>Applicant</b>	Galway County Council
<b>Type of Application</b>	Compulsory Purchase Order
<b>Objector</b>	Personal Representatives of the late James Fahey
<b>Date of Site Inspection</b>	22 <sup>nd</sup> August 2023
<b>Inspector</b>	Ian Campbell

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## 1.0 Introduction

### 1.1. Overview

- 1.1.1. Galway County Council is seeking confirmation by the Board of a Compulsory Purchase Order (CPO) for the compulsory acquisition of lands for the provision of education/community facilities, CPO Order No.1, 2023, referred to as the 'Galway County Council Compulsory Purchase (Garraun South Community Lands) Order No. 1 2023').
- 1.1.2. The CPO relates to the compulsory and permanent acquisition of lands at Garraun South, Oranmore, Co. Galway. The proposed scheme is located on the Coast Road (R338), c. 1 km from the centre of Oranmore.
- 1.1.3. Galway County Council has made the CPO and submitted the request for confirmation pursuant to the powers conferred on it. The CPO is made under Section 76 and the Third Schedule to the Housing Act, 1966, as extended by Section 10 of the Local Government (No.2) Act, 1960, and amended by the Planning and Development Acts 2000-2022.
- 1.1.4. 1 no. objection was received in respect of the CPO, this is outlined in Section 6 below. This report considers the issues raised in the objection submitted to the Board and, more generally, the application to acquire lands for the stated purpose.

### 1.2. Purpose of the CPO

- 1.2.1. The purpose of the CPO is to facilitate the provision of a 1,000 pupil post primary facility for Galway Educate Together Secondary School (ETSS).

### 1.3. Accompanying Documents

- 1.3.1. The application for the CPO is accompanied by the following documentation:
  - Cover letter (dated 12<sup>th</sup> April 2023).

- Chief Executive Order, Order no. 4641 (dated 6<sup>th</sup> April 2023).
- Copy of Memorandum (dated 4<sup>th</sup> April 2023) from the Senior Planner stating that the proposed acquisition of lands subject to this CPO are in conformity with the National Planning Framework Project (NPF) Ireland 2040; The National Development Plan 2021-2030; the Policy Objectives of the Galway County Development Plan 2022 – 2028; the Galway County Transport and Planning Study (GCTPS); the Planning and Development Act, 2000 (as amended), and the proper planning and sustainable development of the area.
- Deposit Map - *Drawing No CGSO/01/01* (dated April 2023) A4 sheet size.
- Landowner Map - *Drawing No CGSO/01/LA01* (dated April 2023) A4 & A0 sheet size).
- Cover Letter, titled 'Recommendation for the Compulsory Purchase of Lands at Garraun South, Oranmore (dated 4<sup>th</sup> April 2023).
- Letter from Department of Education to Galway County Council (dated 20<sup>th</sup> January 2023).
- Galway County Council Compulsory Purchase Order No.1 2023 (dated 6<sup>th</sup> April 2023) signed and sealed.
- Copies of the Form of Notice served in connection with the Compulsory Purchase Order on the affected landowners/lessees/occupiers.(Proof of postage forwarded to the Board separately on 19<sup>th</sup> May 2023).
- Deposit Map - *Drawing No CGSO/01/01* (dated April 2023).
- Landowner Map - *Drawing No CGSO/01/LA01* (dated April 2023).
- Copy of the public advertisement/newspaper notice of the CPO which was published in Connacht Tribune on the 7<sup>th</sup> April 2023.

## 1.4. Format of CPO Schedule

1.4.1. It is stated in the Schedule to the Compulsory Purchase Order that the land includes;

- a house and the said house is, in the opinion of the local authority, unfit for human habitation and not capable of being rendered fit for human habitation at reasonable expense, and,
- land other than land consisting of a house or houses unfit for human habitation and not capable of being rendered fit for human habitation at reasonable expense.

1.4.2. If confirmed, the Order will authorise the Local Authority to acquire compulsorily:

(a) lands described in Part I of the presented Schedule, which lands are shown coloured pink on Deposit Map (*Drawing No. CGSO/01/01*), consisting of a house unfit for human habitation and not capable of being rendered fit for human habitation at reasonable expense, and

(b) lands described in Part II of the presented Schedule, which lands are shown coloured grey on Deposit Map (*Drawing No. CGSO/01/01*), consisting of land other than land consisting of a house or houses unfit for human habitation and not capable of being rendered fit for human habitation at reasonable expense.

1.4.3. All of said lands described in the Schedule are situated in the Townlands of Garraun South, Oranmore, Co. Galway in the Administrative County of Galway County Council.

## 2.0 Site Context and Description

2.1. The lands which are the subject of this CPO application are located in the townland of Garraun South, Oranmore, Co. Galway. Garraun is c. 8 km east of Galway City. The lands extend northwards from the Coast Road (R338) at a location approximately 1 km north-west of the centre of Oranmore.

The northern part of the lands are bound by a rail line and the N67. The lands to be acquired comprise a single storey detached house, 2 no. sheds (one of which is located to the front of the dwelling and the second which is located to the rear of the

dwelling), and agricultural lands. The lands are bound by a dry stone wall. Costa na Mara housing estate is located to the immediate east of the lands. The lands to the west accommodate a detached dwelling. Further west is a housing estate (An Inse Ghlas).

- 2.2. The lands which are the subject of this CPO are indicated on Deposit Map (*Drawing No. CGSO/01/01*) and Landowner Map (*Drawing no. CGSO/01/LA01<sup>1</sup>*) and comprise the following plots;

Part I of the presented Schedule, consisting of a house unfit for human habitation and not capable of being rendered fit for human habitation at reasonable expense;

101b.201 – described by Galway County Council as a house which in the opinion of the local authority is unfit for human habitation and not capable of being rendered fit for human habitation at reasonable expense – 0.01 Ha.

Part II of the presented Schedule, consisting of land other than land consisting of a house or houses unfit for human habitation and not capable of being rendered fit for human habitation at reasonable expense

101a.201 – described as 5.278 Ha. of agricultural land.

101a.202 - described as 0.134 Ha of agricultural land.

101a.203 – described as 0.112 Ha of road frontage.

101a.204 - described as a shed, 0.003 Ha.

101a.205 - described as a garden, 0.524 Ha.

101a.206 - described as a shed, 0.001Ha.

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<sup>1</sup>*Drawing No. CGSO/01/LA01* titled 'Landowner Map' refers to Schedule I Lands as comprising Plot no.'s 101a.201 – 101a.206 inc. and Schedule II Lands as comprising Plot no. 101b.201, whereas, the CPO Order refers to Schedule I Lands as comprising Plot no. 101b.201 and the Schedule II lands as comprising Plot no.'s 101a.201 – 101a.206). *Drawing No. CGSO/01/01* titled 'Deposit Map' annotates Plot no. 101b.201 as corresponding to lands affected under Part I of the Schedule and Plot no.'s 101a.201 – 101a.206 as corresponding to Part II of the Schedule and is commensurate with the CPO Order. On this basis I consider that the reference to the plots on *Drawing No. CGSO/01/LA01* titled 'Landowner Map' is a typographical error. I do not consider this anomaly to be prejudicial to any party as the exact location and nature of the lands to be acquired are readily identifiable.

### **3.0 Details of the Compulsory Purchase Order**

- 3.1. The purpose of the CPO is to facilitate the provision of a 1,000 pupil post primary facility for Galway Educate Together Secondary School (ETSS).
- 3.1.1. The documentation submitted (see Cover Letter dated 12<sup>th</sup> April 2023) states that Galway County Council received a formal request from the Department of Education to carry out the Compulsory Purchase of community zoned lands at Garraun South, Oranmore for the development of educational facilities for Galway Educate Together Secondary Schools (ETSS), that the lands were the only appropriately zoned lands within the functional area of Galway ETSS and were identified and assessed by the Department of Education as suitable for the level of accommodation required. The cover letter also states that the Department of Education made attempts to acquire the lands by negotiation, however, the registered landowner died intestate and an Executer has not been appointed and as such it is not possible to acquire good marketable title. The cover letter notes that agreement has been reached with the legal and personal representatives of the Estate to acquire the lands through the CPO process, and as such no objection to same is anticipated. The cover letter states that once the title is secured the land will transfer into the ownership of the Minister of Education, subject to the approval of the Elected Members of Galway County Council.
- 3.1.2. The documentation titled 'Recommendation for the Compulsory Purchase of Lands at Garraun South, Oranmore' states that the Department of Education has an urgent requirement for suitable lands to develop the facilities (1,000 pupil post primary facility) with numerous sites having been identified and assessed as unsuitable. The document notes that the lands which are subject of this CPO are appropriately zoned, accessible, being located c. 1km from the centre of Oranmore, within walking distance of Oranmore Village and Railway Station, with footpath provision to both, and as the lands are intestate, CPO is necessary.
- 3.1.3. Correspondence from the Department of Education to Galway County Council (dated 20<sup>th</sup> January 2023) notes the Department's requirement for a permanent school site to accommodate a 1,000 pupil post primary facility for Galway Educate Together Secondary School (ETSS), which are currently accommodated temporarily in the Our

Lady's College premises in Newtownsmyth. The correspondence refers to difficulties in identifying a deliverable school site but notes that the subject site meets the requirements of Galway ETSS, and that it is envisaged that further education provision will be accommodated on the site to meet the educational needs of the area. The correspondence states that development of educational facilities is in line with the Galway County Development Plan 2022-2028 and meets a community need in the area. Reference is made to the Department's attempts to acquire the lands by negotiation but notes that as the registered landowner has died intestate and an Executer has not been appointed it is not possible to acquire good marketable title. The cover letter notes that agreement has been reached with the legal and personal representatives of the Estate to acquire the lands through the CPO process, and as such no objection to same is anticipated. The correspondence requests that Galway County Council use its powers under the Housing Act, 1996, as amended by the Planning and Development Act, 2000, to compulsory purchase the lands, and states that once the title is secured the land will transfer into the ownership of the Minister of Education, subject to the approval of the Elected Members of Galway County Council, however construction may need to commence in advance of this and consent to proceed with this may also be required.

## **4.0 Planning History**

- 4.1. Having reviewed Galway County Council's public planning viewer I note that there are no recent planning applications on the lands which are subject of this CPO.

## **5.0 Planning Policy Context**

### **5.1. National & Regional Policy, and Guidance**

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

The NPF is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards 'compact growth', which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings.



National Policy Objective 31 - aims to prioritise the alignment of targeted and planned population and employment growth with investment in education, including the provision of new schools on well-located sites within or close to existing built-up areas, that meet the diverse needs of local populations.

5.1.2. *Regional and Economic Spatial Strategy (RSES) for Northern and Western Region 2020 – 2032* – Chapter 7, Section 7.5 refers to the role of education in sustaining economic success and building strong communities.

5.1.3. *Development Plans, Guidelines for Planning Authorities (DoEHLG, 2007)* - outline that consideration should be given to the future provision of supporting infrastructure, including schools, when allocating land for development.

5.1.4. *The Planning System and Flood Risk Management, Guidelines for Planning Authorities (DoEHLG & OPW, 2009)* - requires the avoidance of development in areas at risk of flooding unless appropriately justified and mitigated, the adoption of a sequential approach based on avoidance, reduction and mitigation, and the incorporate flood risk assessment into the decision-making process.

5.1.5. *The Provision of Schools and the Planning System, a Code of Practice for Planning Authorities (Department of Education and Science, and Department of the Environment, Heritage and Local Government, 2008)*.

This document recognises that the integration of schools and the planning system is integral to compact and sustainable urban development, and acknowledges the importance of an integrated approach between the planning functions of planning authorities and the Department of Education. It states that Planning Authorities will anticipate the demand for new school infrastructure arising from new development within the drafting process for development plans and local area plans, and through these plans, facilitate the identification of suitable lands to meet the need for new schools or expansion of existing schools. Regarding the location of new schools, it is stated that Planning Authorities will ensure that school sites are fit for purpose in terms

of their location, access to services and the provision of space for recreational and sports activities; seek to situate new schools within the existing/proposed catchment in a manner that aids ease of access and encourages sustainable mobility; insofar as possible, reserve lands for educational purposes in locations close to the areas of greatest residential expansion and adjacent to community developments so that facilities can be shared; following the identification/reservation of suitable sites, initiate immediate contact with the Department to clarify the suitability of the site and the specific timeframe for acquisition of the site; generally base their approach in assessing school site requirements on the Department's site standards, as well as taking into account other urban design and sustainable development considerations; and consider the use of multi-campus schooling arrangements in appropriate cases.

5.1.6. *Technical Guidance Documents/School Design Guides (Department of Education)*

*SDG 02-03 Post Primary School Design Guide (April 2021)* - Sets out detail design guidance for post-primary schools.

*TGD-027 (revised 1 September 2019)* - Sets out criteria for the assessment of sites for post-primary schools, including, that lands are suitably zoned; that flood risk is taken account of; that sites should be regular in shape, have road access and road frontage, sufficient space to allow for expansion, and that consideration should be given to access, traffic management and mobility considerations. Table 1 sets out recommended site areas for post-primary schools based on pupil numbers. A 4.57 Ha. site is recommended for a 1,000 pupil school. The document however provides that due to the scarcity of land in urban areas it is not always possible to achieve the ideal site size for school buildings.

**5.2. Development Plan – Galway County Development Plan 2022 – 2028**

- 5.2.1. The majority of the site which is subject of this CPO is zoned 'Community Facilities' in the Galway County Development Plan 2022-2028. An area to the south of the site adjacent to the R338 is zoned 'Open Space/Recreation and Amenity'. A narrow strip along the western boundary of the site (stated in correspondence submitted by the Objector as being 0.066 Ha.) is zoned 'Residential (Phase 1)'.

- 5.2.2. The site is located within the Metropolitan Area Strategic Plan area. Garraun is identified as being within the Metropolitan area and has a Core Strategy population allocation of 1,258 in the Galway County Development Plan 2022-2028. Garraun is identified as key strategic growth area within County Galway that will contribute significantly to meeting the aspirations of the NPF and RSES.
- 5.2.3. The Garraun Urban Framework Plan (see Section 3.2, Volume 2, Galway County Development Plan 2022-2028) sets out the vision, principles and framework for the area. Within this Urban Framework Plan the site corresponds with an area identified for a dual use education site (indicated as c. 6 Ha), and for open space and amenity further north.
- 5.2.4. The site is located within the Galway County Transport and Planning Study.
- 5.2.5. There are a number of relevant objectives in Chapter 11 'Community Development and Social Infrastructure' of the Galway County Development Plan 2022 – 2028. These are listed as follows;
- Policy Objective SS1 - Galway County Council shall support the important role of the Metropolitan Area Strategic Plan (MASP) which is inextricably linked to Galway City, as a key driver of social and economic growth in the County and in the wider Western Region and will support the sustainable growth of the strategic settlements, including the future development of the Urban Framework Plans identified for Briarhill and Garraun and the settlements of Baile Chláir, Bearna and Oranmore, within the Galway Metropolitan Area.
  - Objective EDU1 – Facilitate the provision of primary, second-level, third-level, vocational, outreach, research, adult and further educational facilities, lifelong learning facilities and digital capacity for distance learning to meet the needs of the County. Multiuse facilities which can accommodate both educational and childcare facilities are also encouraged.
  - Objective EDU3 – Ensure that existing and new school sites are protected for educational use and lands adjacent to existing schools are protected for future educational use to allow for expansion of these schools, if required, subject to site suitability.

## 6.0 Objection to the Compulsory Acquisition of Lands

6.1. 1 no. objection, summarised below, was received to the CPO. This objection was prepared on behalf of the representatives of the late James Fahey and refers to Plot no. 101b.201 (Part I of the Scheme), and Plot no.'s 101a.201, 101a.202, 101a.203, 101a.204, 101a.205 and 101a.206 (Part II of the Scheme). Objection is raised on the following grounds:

- Folio GY14438 relates to 9.486 Ha and is registered to the late James Fahy. This Folio comprises lands zoned Residential (Phase 1); Community Facilities; and Open Space, Recreation and Amenity.
- The CPO relates to 6.076 Ha<sup>2</sup>. and comprises lands zoned Community Facilities (5.259 Ha), Open Space, Recreation and Open Space (0.747 Ha), and a narrow area of land zoned Residential (Phase 1) (0.066 Ha.) along the western site boundary.
- The vast majority of the Residential (Phase 1) zoned lands (3.405 Ha.) are not being acquired. A small area of land zoned Recreation Facilities (0.0084 Ha.) is also not being acquired.
- Galway County Council intended to use its CPO powers to acquire all the lands within Folio GY14438, which was agreeable to the beneficiaries of James Fahy's Estate. Agreement had been reached with Galway County Council to purchase all the lands in Folio GY14438 for a sum of €6.75 million, with the Department of Education offering €2.75 million for the lands zoned Community Facilities and Galway County Council offering €4 million for the land zoned Residential (Phase 1). The beneficiaries of James Fahy's estate were surprised when a CPO was served which only included part of the lands in Folio GY14438, excluding the lands zoned Residential (Phase 1). This proposal is unacceptable to the representatives of the late James Fahy for the following reasons;
  - It contravenes the agreement which was originally made with Galway County Council.

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<sup>2</sup> The CPO Order refers to 7 no. plots totalling 6.062 Ha.

- The proposed CPO results in 3.413 Ha. of land primarily zoned Residential (Phase 1) being landlocked and the landowners having no means of access to their land. The Residential (Phase 1) zoned lands will be bound to the north by the railway line, houses to the south and west, and lands which will be owned by the Department of Education to the east.
- The remaining lands would suffer a dramatic reduction in value and would never be developed without the cooperation of adjoining landowners, which would be unlikely without the payment of a significant amount of compensation.
- If the CPO is confirmed there is no guarantee that the remaining lands would be acquired by Galway County Council.

#### 6.1.1. **Response of Planning Authority to Objector's submission**

A response from Galway County Council to the Objector's submission in respect of the CPO was received by An Board Pleanála on the 30<sup>th</sup> November 2023. The submission notes the following;

- Verbal agreement had been reached with the legal and personal representatives of the Estate of James Fahy to acquire both the R1 lands and the community lands<sup>3</sup> contained within Folio GY14438 through the CPO process. The purchase of lands for the provision of social and affordable housing and for community facilities are separate and it was considered appropriate to acquire these lands through separate CPO processes.
- Galway County Council have addressed the concerns of the Objector by agreeing to sign the contract to purchase the R1 zoned lands subject to the successful CPO of the Community Facilities lands. The signing of this contract negates the requirement to carry out a second CPO process for the R1 lands.

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<sup>3</sup> Reference to R1 lands appears to relate to the lands zoned Residential (Phase 1) and reference to community lands appears to refer to lands zoned 'Community Facilities', as per the Galway County Development Plan 2022-2028.

### 6.1.2. **Response of Objector to Planning Authority**

A response was received from the Objector in relation to the submission of Galway County Council (see above at paragraph 6.1.1). The submission notes the following;

- Galway County Council have agreed to sign the contract to purchase the 'R1' zoned lands subject to a successful CPO of the Community Facilities zoned lands. While this is welcome they have not signed and returned the Contracts for Sale for same. The objection to the CPO therefore stands.

## 7.0 **Oral Hearing**

7.1. An Oral Hearing was not held.

## 8.0 **Assessment**

### 8.1. Overview

8.1.1. For the Board to confirm the subject CPO, it must be satisfied that the following criteria is satisfied;

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

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

## 8.2. **Community Need**

8.2.1. The community need for the proposed school is set out in the correspondence submitted from the Department of Education to Galway County Council (dated 20<sup>th</sup> January 2023). It is stated that Galway Educate Together Secondary School were initially accommodated on an interim basis at Grianach House, Merlin Park, Co. Galway before moving to a larger premises at Our Lady's College in Newtownsmyth, also as an interim arrangement, and that the proposed school will meet the educational needs of the area. Having reviewed the information submitted, and in particular noting that Galway Educate Together Secondary School are currently using accommodation on an interim arrangement basis I am satisfied that there is a need for a new school campus to cater for existing and projected needs in Oranmore and the wider catchment. I am therefore satisfied that a community need exists and that it would be facilitated by the proposed acquisition.

## 8.3. **Project Proposed and Lands to be Acquired are Suitable to Meet Community Need**

The suitability of the project proposed and the lands to be acquired to meet the community need is a critical issue in determining whether to confirm the CPO. I propose to address this matter under a number of headings set out below. As addressed above the proposed project will allow for a permanent school facility meeting the educational needs of the local area, and therefore the proposed project meets a community need.

8.3.1. Location – the NPF (see NPO 31) and Ministerial Guidelines on the provision of schools advocate compact development and sustainable transport patterns through the provision of schools within or close to existing built-up areas. This approach is effectively supported at local level (see paragraph 1.9.4 of the Galway County Development Plan 2022-2028) which states '*compact places should be built by accommodating growth and delivering housing through compact growth where housing opportunities are close to schools, community facilities, health facilities, shopping and employment*'. The CPO site is located c.1km from the centre of

Oranmore and in close proximity to the areas of residential development within Oranmore. The site fronts onto the R338 which is served by a public footpath, facilitating pedestrian connectivity with the wider area. Accordingly, I am satisfied that the proposed location would support the principle of compact urban development and would encourage sustainable mobility by facilitating walking/cycling trips. The proximity of the site to the town centre would also support economic vitality, while its proximity to existing and planned areas of residential development would provide significant social benefits.

8.3.2. Size – TGD-027 (published by the Department of Education) sets out criteria for the assessment of sites for post-primary schools. Table 1 of this guidance sets out recommended site areas for post-primary schools based on pupil numbers. A 4.57 Ha. site is recommended for a 1,000 pupil school. This site area is based on a two storey building. The cumulative area of land which is the subject of this CPO is 6.062 Ha. and therefore exceeds the recommended site area for a 1,000 pupil school. I note that the guidance states that the inclusion of a Special Needs Unit (SNU) would increase the footprint of the building on the site. Noting the size of the school proposed and its catchment I consider it likely that a SNU (and possibly more than one SNU) would be incorporated into the design of the school, thereby increasing the footprint of the school building, giving rise to the requirement for a larger site. I also note that the area of the site fronting the R338 is indicated as being at risk of flooding (Flood Zone A and B), with implications for the development and layout of the school on the site, and the likelihood that a larger site would be required. Having regard to the forgoing, I consider the size of the site to be appropriate and reasonable to cater for the requirements of the proposed school.

8.3.3. Flooding – as stated above, the southern part of the site is indicated in the Galway County Development Plan 2022-2028 as being within Flood Zone A and B. The Flood Risk Guidelines classify schools as ‘highly vulnerable development’ and such uses are generally considered inappropriate in Zone A and B, unless the requirements of the ‘justification test’ can be met. The Guidelines outline two types of ‘justification test’, one which assesses the zoning of land at plan-making stage, and the other which assesses development proposals at planning application stage. The current CPO case



is not part of either stage and the criteria of either test are not directly applicable. However, I have considered the applicable criteria and note the following:

- For the most part<sup>4</sup> site is zoned 'Community Facility' and 'Open Space, Recreation and Amenity' in the Galway County Development Plan 2022-2028 under which 'Education-Primary/Secondary' use class is permitted in principle and open for consideration respectively. Additionally, the Garraun Urban Framework Plan (Section 3.2, Volume 2, Galway County Development Plan 2022-2028) indicates the lands to be acquired as a dual use education site for a school.
- The site comprises significant under-utilised lands within/adjoining the urban core.
- Other suitable alternatives in areas of lower risk are not readily identifiable.
- A Strategic Flood Risk Assessment (SFRA) has been completed as part of the Galway County Development Plan 2022-2028 and the site has been zoned 'Community Facilities' and specifically identified as being suitable for educational use.

Notwithstanding that any subsequent development proposal would require a commensurate Site Specific Flood Risk Assessment to be carried out, I do not consider the site to be unsuitable to meet a community need on the basis of flood risk.

8.3.4. Access and Connectivity – The lands to be acquired are located c. 1km from the centre of Oranmore and the site fronts onto the R338, which is served by a public footpath, facilitating pedestrian connectivity with the wider area. I therefore consider the site to be appropriate to meet a community need and cater for the proposed school in the context of accessibility and connectivity.

#### 8.4. **Consideration of Alternatives**

8.4.1. The documentation submitted (see Cover Letter dated 12<sup>th</sup> April 2023) states that the lands are the only appropriately zoned lands within the functional area of Galway ETSS and were identified and assessed by the Department of Education as suitable for the level of accommodation. No alternatives which are demonstrably preferable to

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<sup>4</sup> A narrow area along the western boundary of the lands to be acquired appears to be zoned 'Residential (Phase 1)'. Based on the Objector's submission this zoning relates to an area of 0.066 Ha.

the lands which are to be acquired to meet the community need have been indicated. I note that there are no other lands zoned 'Community Facility' of a sufficient size within Oranmore to cater for the proposed project. Noting the zoning of the lands and their location, contiguous to the built-up area of Oranmore, I am satisfied that there are no demonstrably preferable alternatives to meet the community need.

## 8.5. **Proportionality**

8.5.1. In determining whether to confirm a CPO, the extent of land-take should have due regard to the issue of proportionality, and there should be a necessity for the level of acquisition proposed. As addressed at paragraph 8.3.2. (above) the size of the proposed site is appropriate with reference to the requirements of the TGDs, and noting that the proposed school will likely accommodate a SNU, and that part of the site is within an area at risk of flooding, I do not therefore consider that the extent of land-take is excessive. I am satisfied that the extent of the lands which is the subject of this CPO is necessary and proportionate to the community need and that the measures proposed under the CPO will not have an excessive or disproportionate effect on the interests of affected party/parties. The CPO is therefore acceptable in this regard.

## 8.6. **The Development Plan**

- 8.6.1. The lands to be acquired are zoned 'Community Facility' (the objective of which is 'to provide for civic, community and educational facilities') and 'Open Space/Recreation and Amenity' (the objective of which is 'to protect and enhance existing open space and provide for recreational and amenity space') in the Galway County Development Plan 2022-2028. From reviewing Galway County Council's GIS system a narrow strip along the western boundary of the lands to be acquired appears to be zoned 'Residential' (Phase 1) (with a zoning objective to protect, provide and improve residential areas within the lifetime of this plan').
- 8.6.2. The Garraun Urban Framework Plan (Section 3.2, Volume 2, Galway County Development Plan 2022-2028) indicates the lands to be acquired as a dual use education site (indicated as c. 6 Ha.), and for open space and amenity further north.

Under Table 1.10.2 'Land use zoning matrix for County Galway Metropolitan Area' (see Volume 2, Galway County Development Plan 2022-2028), 'Education – Primary/Secondary' use class is permitted in principle under the 'CF' Community Facilities zoning and is 'open for consideration' under the 'R' Residential and 'OS' Open Space/Recreation and Amenity zoning. The proposed project, the land for which is being acquired by this CPO, would not therefore result in any material contravention of the relevant statutory plan for the area, that being the Galway County Development Plan 2022-2028.

#### **8.7. Issues raised by Objector**

- 8.7.1. Based on the information submitted by the Objector and Galway County Council it appears that agreement had been reached to acquire the residential zoned lands as part of the CPO process however as the process progressed the residential zoned lands (with the exception of the narrow area along the western site boundary) was omitted from the CPO. Correspondence from Galway County Council notes that the purchase of the residential zoned land is intended to facilitate the provision of social and affordable housing, and as the provision of the school on the community facilities zoned land is separate it was decided to acquire the site for the school through a separate CPO process. Galway County Council have indicated that it is their intention to purchase the residentially zoned lands from the Objector upon the successful CPO of the Community Facilities lands. The Objector notes that contracts have not been furnished by Galway County Council in respect of the purchase of these lands.
- 8.7.2. The crux of the Objector's opposition to the CPO relates to the approach of Galway County Council, as outlined above. The Objector contends that the CPO, which primarily relates to the lands zoned 'CF' (Community Facilities) and 'OS' (Open Space/Recreation and Amenity) will result in 'landlocking' of the lands zoned 'R' (Residential Phase 1) within their ownership, and that should the CPO be confirmed, access to these residentially zoned lands will be dependent on the agreement of third parties, which will likely require payment to these parties. The Objector argues that the CPO, if confirmed, would devalue their land.
- 8.7.3. Having reviewed the information submitted I am satisfied that the approach of Galway County Council in seeking to acquire the lands for the proposed school separately to

the residential zoned lands, which it states are for a different purpose, is logical and is acceptable. I note the concerns of the Objector in relation to the issue of 'landlocking' however I note that issues relating to the severance of lands on foot of a CPO are issues to be addressed at arbitration and I submit to the Board that this issue does not require further examination as part of this application to the Board for confirmation of the CPO.

## 9.0 Conclusions and Recommendations

I am satisfied that:

- (a) The process and procedures undertaken by Galway County Council have been fair and reasonable, that Galway County Council has demonstrated the need for the lands and that all the lands being acquired are both necessary and suitable to facilitate the provision of a 1,000 pupil post primary facility.
- (b) Having regard to the Constitutional and Convention protection afforded to property rights, I consider that the acquisition of the lands referred to in Part I (i.e. Plot no. 101b.201) and Part II (i.e. Plot no.'s 101a.201 – 101a.206) of the presented Schedule as set out in the Compulsory Purchase Order and on the deposited maps pursues, and is rationally connected to, a legitimate objective in the public interest, namely the provision of a 1,000 pupil post primary facility.
- (c) 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.

(d) The effects of the CPO on the rights of the affected landowner are proportionate to the objective being pursued. I am further satisfied that the proposed acquisition of these lands referred to in Part I (i.e. Plot no. 101b.201) and Part II (i.e. Plot no.'s 101a.201 – 101a.206) of the presented Schedule as set out in the Compulsory Purchase Order would be consistent with the policies and objectives of the Galway County Development Plan 2022-2028 where the Development Plan expressly provides for the scheme for which the CPO is proposed though the applicable land use zoning and the Garraun Urban Framework Plan. Accordingly, I am satisfied that that the confirmation of the CPO is clearly justified by the exigencies of the common good.

I recommend that the Board CONFIRM the Compulsory Purchase Order, without modifications, based on the reasons and considerations set out below.

## 10.0 Reasons and Considerations

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

- (a) The purpose for which the lands are to be acquired as set out in the Compulsory Purchase Order,
- (b) The community need, public interest served and overall benefits to be achieved from the proposed school campus,
- (c) The provisions of the National Planning Framework and the Section 28 guidelines on 'The Provision of Schools and the Planning System (2008)' and 'The Planning System and Flood Risk Management (2009)',
- (d) The policies and objectives of the Galway County Development Plan 2022 – 2028, and
- (e) The submissions and observations made to the Board by the Objector and Galway County Council,

It is considered that, the acquisition permanently of the lands in question, as set out in the CPO and on the deposited maps, are necessary for the purposes stated and the objection 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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Ian Campbell  
Planning Inspector

16<sup>th</sup> April 2024