



An
Bord
Pleanála

Inspector's Report

ABP-319545-24

Development

N20 O'Rourke's Cross Road
Improvement Scheme Compulsory
Purchase Order 2020

Location

Townlands of Ballyfookeen and
Cappanafaraha, Co. Limerick

Planning Authority

Limerick City and County Council

Applicant

Limerick City and County Council

Type of Application

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

Observers

Denis and Betty Crean
Eimear Carey
Gerard Carey
James Beechinor

Date of Oral Hearing	24 September 2024
Date of Site Inspection	16 September 2024
Inspector	Cáit Ryan

1.0 Introduction

1.1. Overview

- 1.1.1. Limerick City and County Council (LCCC) is seeking confirmation by the Board of a Compulsory Purchase Order (CPO) entitled “N20 O’Rourke’s Cross Road Improvement Scheme Compulsory Purchase Order 2020”.
- 1.1.2. The CPO relates to the compulsory acquisition of lands and the extinguishment of public and private rights of way for the purposes of road improvements comprising a new roundabout controlled junction, alteration to the present junction layout, the construction of new N20 approaches to the junction, alteration of the existing R518 approaches to the junction, a new combined cycleway/footway, relocation of bus stops, road and drainage impact attenuation, fencing, landscaping, public lighting, accommodation works and associated site works through the townlands of Ballyfookeen and Cappanafaraha in the County of Limerick.
- 1.1.3. LCCC has made the CPO and submitted the request for confirmation pursuant to the powers conferred on it. This CPO is stated to be made under Section 76 of and the Third Schedule to the Housing Act, 1966, as extended by Section 10 of the Local Government (No. 2) Act, 1960 and amended and extended by the Planning and Development Acts 2000-2019, including Section 213 of the Planning and Development Act 2000 (as amended), Section 10 of the Local Government (Ireland) Act 1898 as amended by Section 11 of the Local Government (No. 2) Act 1960, the Local Government Acts 1925-2019, including Section 11 and 184 of the Local Government Act 2001, the Local Government (No. 2) Act 1960 (as amended), the Housing Acts 1966-2015, the Roads Acts 1993-2015 and all other acts thereby enabling.
- 1.1.4. The Board should note that a meeting on 19 October 2017 Cappamore/Kilmallock Municipal District noted the Chief Executive’s report proposing to proceed to a Part 8 for proposed N20 O’Rourke’s Cross Road Improvement Scheme (P.A. Ref. 17/8005) and generally welcomed the proposed development. A letter dated 8 December 2020 from LCCC confirms that the Part 8 was approved. The proposed acquisition is intended to support the delivery of these works.
- 1.1.5. 9no. objections were received in respect of the CPO, 5no. of which were withdrawn.

This report considers the issues raised in the objections submitted to the Board and, more generally, the application to acquire lands for the stated purpose.

1.2. Purpose of CPO

- 1.2.1. As set out in the CPO documentation, the purpose of the CPO is to acquire the lands required for the N20 O'Rourke's Cross Road Improvement Scheme as permitted by P.A. Ref. 17/8005, and to extinguish public and private rights of way. The development is outlined in further detail in Section 3.0 below.
- 1.2.2. Report by Senior Engineer, Mid-West National Road Design Office of Limerick City and County Council (LCCC) states that acquiring the land required by CPO would:
 - (a) Ensure the acquisition of all land required;
 - (b) Facilitate the acquisition of land within a reasonable timescale;
 - (c) Permit LCCC to plan a road construction programme for the road improvement scheme, confident in the knowledge that the land required will be available.
- 1.2.3. The Brief of Evidence from Mr. Bergin (consulting engineer) on behalf of LCCC in respect of the CPO outlines that the purpose of the proposed scheme is to address safety issues caused by a complex pattern of traffic movements at a sub-standard junction. 5no. scheme objectives are summarised as follows:
 - Safety: Improve traffic safety for all road users.
 - Economy: Deliver economic benefits through reduced accident costs.
 - Environment: Be designed to avoid significant environmental impacts or where avoidance is not possible, to incorporate mitigation measures.
 - Access and Social Inclusion: Incorporate bus facilities into the scheme and incorporate facilities for vulnerable road users.
 - Integration: Scheme to not compromise strategic importance of existing N20.

1.3. Accompanying Documents

The application lodged on 2 March 2020 was accompanied by the following

- Public notices (x 2; Irish Independent dated 27 February 2020 and Limerick Leader dated 29 February 2020)

- Site notices (x4)
- Certificate of site notice
- CPO
- CPO map (x 2; signed and sealed)
- Planning Report relating to P.A. Ref. 17/8005 (Part 8)
- Corporate Services, LCCC document contains minutes (extract) of Municipal District of Cappamore-Kilmallock meeting held on 19 October 2017 relating to Part 8 procedure – Proposed N20 O'Rourke's Cross Road Improvement Scheme. It states that it was proposed to proceed with the development as outlined in the Chief Executive's report, Members noted the report and generally welcomed the proposed development.
- A/Senior Planner, LCCC – Certificate
- Senior Engineer's Report, Mid West National Road Design Office, LCCC
- Director of Services, Physical Development Directorate, LCC - Certificate
- Chief Executive's Order
- Consulting Engineer's letter
- Transport Infrastructure Ireland (TII) letter confirming approval to LCCC to proceed from Phase 3 (Design and Environmental Evaluation) to Phase 4 (Statutory Process) of TII Project Management Guidelines in relation to N20 O'Rourke Cross Road Improvement Scheme.
- Notification letters sent to the landowners.

Documentation lodged to the Board on 9 April 2020 comprises

- LCCC letter regarding extended time for objections to CPO to 31 July 2020, due to Covid-19 and Government restrictions on access to certain offices.
- Notification letters sent to the landowners regarding notice of extension of time to object to the compulsory acquisition of land
- Copy of advertisement to be published (Limerick Leader on 18 April 2020 and Irish Independent on 16 April 2020) regarding extension of time to object
- LCCC certification of service of notices regarding extended date

Documentation lodged to the Board on 22 April 2020 comprises

- LCCC letter confirming deadline for objections extended to 31 July 2020.
- Public notices (x2; Irish Independent dated 16 April 2020, Limerick Leader

dated 18 April 2020)

- Certification of service of notices (regarding extended submission date)
- Photographs (x2) of site notices

Documentation lodged to the Board on 7 July 2020 comprises

- LCCC letter confirming deadline for objections extended to 28 August 2020
- Public notices (x2; Irish Independent dated 2 July 2020, Limerick Leader dated 4 July 2020)
- Site notice
- Certification of service of notices (regarding extended submission date)

Documentation lodged to the Board on 10 December 2020 comprises

- LCCC cover letter
- Part 8 plans and particulars (P.A. Ref. 17/8005)
- Planning Report in accordance with Section 179 3(a) of the Planning and Development Act 2000 (as amended)
- Extract of minutes of Cappamore – Kilmallock Municipal District meeting held on 19 October 2017

Documentation lodged to the Board on 27 June 2024 comprises

- Senior Engineer, Mid West Design Office, LCCC report dated 25 June 2024 refers to Further Information requested by the Board. It states the implications of the passage of time and adoption of Limerick Development Plan 2022-2028 on the CPO and the road development underlying same have been considered under the following:
 - (i) Community need
 - (ii) Alternatives considered
 - (iii) Suitability of property to be acquired
 - (iv) Consistency with proper planning and sustainable development
 - (v) Consistency with climate action plans
 - (vi) Proportionality
 - (vii) Conclusion

An updated statement from Senior Planner, LCCC, is appended to the report.

1.4. Reference to Previous Part 8 Application/Approval

1.4.1. A Part 8 process previously took place; P.A. Ref. 17/8005 refers. This gave consent for the O'Rourke's Cross Road Improvement Scheme on 19 October 2017. The Senior Engineer's Report dated 25 June 2024 states the members did not resolve to vary or modify the development other than as recommended in the Chief Executive's report and did not resolve not to proceed with the development in question.

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

- *A new roundabout controlled junction is to be constructed necessitating alteration of the present junction layout and the construction of new N20 approaches to the junction and the alteration of the existing R518 approaches to the junction.*
- *A new combined cycleway/footway*
- *Relocation of the Bus Stops*
- *Road and Drainage impact attenuation*
- *Fencing*
- *Landscaping*
- *Public Lighting*
- *Accommodation Works*
- *Associated Site Works*

The implementation of the works proposed will result in a rearrangement of the existing road network in the vicinity of the Scheme. Changes to the existing road network will include the relocation of points of access onto the national and local road network and the extinguishment of public rights of way by a separate statutory process.

1.4.3. The Particulars of Proposed Scheme document submitted in support of the Part 8 application under P.A. Ref. 17/8005 addresses need for the scheme, objectives for and description of the scheme including design standards, environmental assessment comprising ecology, cultural heritage, air quality and climate, noise and vibration and flood risk, and land acquisition and rights of way. The document

includes the following appendices:

- Appendix A: Ecological Impact Assessment and Appropriate Assessment Screening Report
- Appendix B: Cultural Heritage Assessment Report
- Appendix C: Report of Air Quality and Climate
- Appendix D: Noise and Vibration Assessment
- Appendix E: Site Specific Flood Risk Assessment.

1.4.4. Appendix A states with regard to Appropriate Assessment (AA) screening that the nearest Natura 2000 site is Tory's Hill SAC (Site Code 00439), c.12km from Ballyfookeen, and the proposed project will not significantly affect this site. It concludes that no impacts are likely as a result of the proposed works on the conservation or overall integrity of any Natura 2000 sites. However, I highlight to the Board that while the submitted report refers to integrity of European sites, no Natura Impact Statement (NIS) Report has been submitted.

Appendix B concludes in terms of predicted residual impacts, there are no predicted impacts in terms of cultural heritage on local history, archaeological heritage and architectural heritage. A worst-case scenario would arise where the development was permitted to commence without any mitigation requirements being implemented or appointment of an archaeologist to undertake mitigation requirements.

Appendix C concludes that the scheme will not lead to a significant increase in the concentration of either particulates and nitrogen dioxide in the immediate environment, and ambient air quality is expected to remain within acceptable limits specified in the Air Quality Standards Regulations 2011.

Appendix D concludes that with regard to noise, there will be no significant impacts on surrounding properties during operational stage, and at construction stage it is recommended that noise be kept below thresholds in Table 8. With regard to vibration, it states that there will be no significant impacts at operational stage. During construction stage it is recommended that vibration be kept below the thresholds in Table 9. However, I note that there is no Table 9 in this Appendix D.

Appendix E concludes that the scheme passes the justification test of the Flood Risk

Management Guidelines, having been designed in accordance with TII Publications (Standards) to meet an identified need for improvement of the N20/R518 junction, having been appraised positively under TII Project Appraisal Guidelines and having incorporated mitigation measures to ensure the scheme will not increase flood risk elsewhere.

- 1.4.5. For clarity, the Part 8 application contains 3no. drawings/mapping. Save for the OS scheme location map, there are no survey drawings on the Part 8 file.

1.5. **Format of CPO Schedule**

- 1.5.1. If confirmed, the Order will authorise the local authority to:
- A. Acquire compulsorily, for the purposes of the N20 O'Rourke's Cross Road Improvement Scheme and all associated works, lands described in the First Schedule attached and illustrated on the map titled 'N20 O'Rourke's Cross Road Improvement Scheme Deposit Map for Compulsory Purchase Order 2020' (Map Ref. No. 15032-CPO-DM-01);
 - B. Extinguish public rights of way as described in Second Schedule Part I and illustrated on map titled 'N20 O'Rourke's Cross Road Improvement Scheme Deposit Map for Compulsory Purchase Order 2020' (Map Ref. No. 15032-CPO-DM-01);
 - C. Extinguish private rights of way as described in Second Schedule Part II and illustrated on map titled 'N20 O'Rourke's Cross Road Improvement Scheme Deposit Map for Compulsory Purchase Order 2020' (Map Ref. No. 15032-CPO-DM-01).

All of said lands described

- in the First Schedule are situated in the townlands of Ballyfookeen and Cappanafaraha, and
- in the Second Schedule Parts I and II are situated in the townland of Ballyfookeen

in the County of Limerick.

2.0 **Site Location and Description**

- 2.1. The site subject of this proposed CPO is located 8km north of Charleville, 2km west of Bruree and 24km south of Limerick City. It is a rural setting.

2.2. The site is located at a staggered crossroads, known as O'Rourke's Cross. The R518 is generally aligned on an east/west axis at this location, where it intersects with the N20 which is aligned north/south. The N20 connects Cork city with the south western approach to Limerick city, where it joins the M20 south west of Patrickswell.

2.3. On the eastern side of N20,

- is a petrol filling station and shop premises (Texaco and Spar), which also has limited frontage to R518 to south. A residential unit located entirely within the service station site adjoins the commercial premises and is located at the southern end of the site. In terms of vehicular access/egress arrangements, there is a left-only exit to R518, near the residential unit. The service station's N20 roadside frontage has an entrance-only at its northern end, and access/egress near its southern end. There is a footpath along this site's N20 roadside frontage.
- on southern side of the R518 is a single-storey dwelling house and farmyard. This dwelling is in very close proximity to and fronts onto the N20. A bus stop sign is located at the southern end of this property's N20 roadside frontage.
- the R518 is bounded to the south by the house curtilage outlined above, associated farmyard and fields, and to the north by fields.

2.4. On the western side of N20,

South of R518:

- is a bus shelter and associated footpath, south of which is a bus pull-in area.
- There is recessed pull-in area a short distance north of the bus shelter, at which there are a number of light-frame bollards to deter access.

On R518:

- There is a cluster of individual dwelling houses a short distance further west of the junction on the R518, located approx. 130m and 155m to west on the southern and northern sides of this road respectively.

2.4.1. The staggered crossroads is within a 60kph speed limit. There are 2no. ghost islands at the staggered crossroads.

- On the approach to the crossroads from the south (Cork), there is a right-

turning lane for motorists to turn right onto R518 (east to Bruree), and almost directly thereafter is a filter lane/ghost island to turn right into the service station.

- On approach from the north (Limerick), there is a right turning lane to turn right (west) onto R518.

The junction of the R518 to west of the N20 is located approximately opposite the southern N20 entrance/exit to the service station.

- 2.4.2. The R518 junctions to the N20 from both the east and west include a left turning lane to south and north respectively. There is a minor traffic island on the R518 to east of N20, and light frame bollards.
- 2.4.3. Save for the existing residential unit at the service station, and 1 no. single-storey dwelling and associated farm buildings at the south eastern quadrant of the N20/R518 junction, there are no dwelling houses fronting onto this stretch of the N20. In general, lands on the eastern and western sides of the N20 are in agricultural use.
- 2.4.4. A stream at the northern end of the CPO lands flows from west to east under the N20 at Cappanfaraha Bridge, which I note is Maigne_040 (IE_SH_24M010400; EPA name: Cappanfaraha, as viewed on www.catchments.ie). This stream forms the boundary at this location between Cappanfaraha and Ballyfookeen townlands. The Part 8 SSFRA states there is a small stream to east of O'Rourke's Cross which flows in a northerly direction. As viewed on www.catchments.ie, this stream Maigne_040 (IE_SH_24M010400; EPA name: Knockaunavoddig) joins Cappanfaraha stream to north.
- 2.4.5. There is a ring form – rath (RMP National Monument No. LI039-054---) in Cappanfaraha townland, a very short distance north of the CPO lands, on the eastern side of the N20. Separately, there is a further ringfort – rath (LI039-091) a short distance east of the CPO lands in Ballyfookeen townland.
- 2.4.6. The Engineering Brief of Evidence from Mr. Bergin at the Oral Hearing on the CPO outlines the geometry of the existing junction does not comply with the requirements of TII Publications [Standards]. It sets out that traffic from the R518 crossing or travelling onto the N20 face regular challenges in finding safe gaps in the relatively

smooth flowing N20 traffic, and that drivers travelling from Bruree are further handicapped by limited sight distance on the N20 to the south. It outlines that the filling station further complicates traffic movements, as exiting traffic avails of gaps in the N20 traffic that would otherwise be available to traffic entering the junction from the R518.

- 2.4.7. It sets out that traffic volumes on this section of the N20 are based on a 2015 survey, and that more recently traffic counts undertaken for the N/M20 Cork to Limerick Project and data from TII's Traffic Management Unit indicate that traffic volumes have increased since 2015. Traffic flows are further detailed in Section 8.0, and in brief it outlines that average 2-way daily traffic flow on the N20 south of junction was 10,641 in 2015, increasing to 11,300 in 2023. The corresponding figures for R518 east of junction was 3,396 in 2015, with a very marginal increase to 3,400 in 2023.
- 2.4.8. For clarity, I note that the local authority's CPO mapping is dated 2020. However, having inspected the site and having viewed mapping and aerial photography on www.tailte.ie, I note that a detail shown on the service station site is incorrect. A rectangular-shaped area delineated on mapping at the southwestern corner of the service station is not evident on site. This rectangular-shaped detail would appear to be a previous canopy at the service station site. Separately, the existing bus shelter, bus pull-in area and footpath located a short distance south of the N20/R518 junction, on western side of road, are not shown on CPO Map Ref. No. 15032-CPO-DM-01.
- 2.4.9. I highlight these details to the Board, as matters relating to potential impacts of the CPO confirmation on the existing residential unit at the service station site, and the context of existing bus infrastructure are discussed elsewhere in this report. However, I do not consider that these discrepancies on the drawings materially impact on the assessment of the proposed CPO and extinguishment of rights of way.

3.0 The Proposal/CPO

- 3.1.1. The Compulsory Purchase Order relates to the compulsory acquisition of lands and the extinguishment of public and private rights of way for the purposes of road improvement works at the junction of the N20/R518 and all 4no. approach roads to same in the townlands of Ballyfookeen and Cappanafaraha in the County of Limerick

by Limerick City and County Council.

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

A. Permanently acquire compulsorily, for the purposes of road improvements comprising a new roundabout controlled junction, alteration to the present junction layout, the construction of new N20 approaches to the junction, alteration of the existing R518 approaches to the junction, a new combined cycleway/footway, relocation of the bus stops, road and drainage impact attenuation, fencing, landscaping, public lighting, accommodation works and associated site works through the townlands of Ballyfookeen and Cappanafaraha in the County of Limerick, described in the First Schedule hereto which land (hereinafter referred to as 'the land') is shown on map no. 15032-CPO-DM-01 marked Limerick City and County Council, N20 O'Rourke's Cross Road Improvement Scheme Compulsory Purchase Order 2020 and sealed with the seal of the Local Authority (hereinafter referred to as 'the deposited map').

B. To extinguish the public and private rights of way described in the Second Schedule hereto, by order made relating to the public rights of way after the acquisition of the land, where the said rights of way are over the land so acquired or any part thereof, or over land adjacent to or associated with the land so acquired or any part thereof.

Extinguish the following public rights of way as described in Second Schedule Part I:

- The public right of way between the lines coloured green A1-A1 to A2-A2 for a distance of approx. 250m on the deposited map.
- The public right of way between the lines coloured green B1-B1 to B2-B2 for a distance of approx. 70m on the deposited map.
- The public right of way between the lines coloured green C1-C1 to C2-C2 for a distance of approx. 130m on the deposited map.
- The public right of way between the lines coloured green D1-D1 to D2-D2 for a distance of approx. 350m on the deposited map.

Extinguish the following private rights of way over lands as described in Second

Schedule Part II:

- The private right of way between the lines coloured blue W1-W1 to W2-W2 on the deposited map.
- The private right of way between the lines coloured blue X1-X1 to X2-X2 on the deposited map.
- The private right of way between the lines coloured blue Y1-Y1 to Y2-Y2 on the deposited map.
- The private right of way between the lines coloured blue Z1-Z1 to Z2-Z2 on the deposited map.

3.1.3. The CPO contains 33no. individual plots in the First Schedule. I estimate having viewed the 33no. individual plots itemised in the First Schedule of the CPO that the overall extent of lands to be acquired total 5.861ha, comprising:

- Land: 3.619ha
- Public road: 2.099ha
- House curtilage: 0.134ha
- River: 0.009ha

There are 16no. owners/reputed owners listed, 4no. of which contain two distinct names in the entry.

3.1.4. However, with regard to the extent of the CPO, the letter from Senior Engineer, LCCC, dated 25 June 2024 states that the CPO proposes permanent acquisition of:

- Agricultural lands: 3.63ha
- Public road: 2.16ha
- House curtilage: 0.014ha
- River: 0.01ha

This would comprise an overall area of 5.814ha., i.e., slightly below the overall CPO site area based on the First Schedule. While this difference of 0.047ha is of limited size, it is nevertheless a difference.

3.1.5. In this regard I have noted that the Engineering Brief of Evidence cites the same 4no. site area categories as the Senior Engineer's letter, and also includes a table outlining the reason for acquisition of each individual plot. I note that incorrect site

areas for 2no. plots have been included, namely –

- Plot ref. no. 104b.02 (Owner/Reputed Owner: Eamonn O’Sullivan): 0.063ha is stated instead of 0.007ha.
- Plot ref. no. 105a.01 (Owner/Reputed Owner: Thomas Joseph Murphy): 0.0135ha is stated instead of 0.135ha.

Amending the overall 5.814ha figure provided to take account of the two amendments listed above would result in 5.8795ha. This figure does not match exactly the combined 5.861ha figure calculated from the CPO First Schedule, although this difference would be very marginal.

- 3.1.6. Accordingly, given the site area discrepancies between the LCCC submissions received on the file and that which I have calculated based on CPO First Schedule, I consider it appropriate that the relevant figures to be taken into account in this assessment are the plot details/site areas outlined in the First Schedule and deposited map. In the event that the Board was minded to confirm the CPO, I draw the Board’s attention to recommended Section 10.0 Reasons and Considerations, which includes reference to the permanent acquisition of land as set out in the First Schedule and deposited maps.
- 3.1.7. The lands the local authority is seeking to acquire are in mostly in agricultural use or comprise public road. The area of house curtilage (0.134ha) proposed to be acquired relates to one dwelling house on the southern side of R518 west of the N20; plot 107a.01 refers. Two minor areas of river are proposed to be acquired either side of the N20 at the northern end of the overall CPO site, comprising 0.004ha (plot 101c.01) and 0.005ha (plot 102c.01).
- 3.1.8. The proposed acquisition is intended to support the delivery of the approved Part 8 for the N20 O’Rourke’s Cross Road Improvement Scheme (P.A. Ref. 17/8005). The works would comprise construction of a new roundabout controlled junction and new N20 approaches to the junction, and alteration of existing R518 approaches to the junction. The scheme includes for combined cycleway/footway, relocation of bus stops, road and drainage impact attenuation, fencing, landscaping, public lighting, accommodation works and associated site works.
- 3.1.9. For clarity, and as outlined in Section 8.1, the extent of the CPO lands is marginally reduced from the red line boundary of the Part 8 site.

4.0 Policy Context

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

- 4.1.1. The National Planning Framework is a high-level strategic plan for shaping the future growth and development of the country. National Strategic Outcome (NSO) 2 Enhanced Regional Accessibility outlines that enhancing connectivity between centres of population of scale will support the objectives of the National Planning Framework, and that this will focus initially between Cork and Limerick. With regard to Inter-Urban Roads, this includes maintaining the strategic capacity and safety of the national roads network including planning for future capacity enhancements and improving average journey times to average inter-urban speed of 90kph.
- 4.1.2. The Updated Draft Revised National Planning Framework (November 2024) reiterates NSO 2 Enhanced Regional Accessibility regarding the importance of better connectivity between cities and strategic outcomes relating to Inter-Urban Roads.

4.2. Climate Action Plan 2024

- 4.2.1. The Climate Action Plan (CAP) 2024 states in Chapter 15: Transport (at Section 15.2.4.2 Major Public Transport Infrastructure Programme) that in the past year, new and revised Metropolitan Area Transport Strategies (MATs) have been published for *inter alia* the Limerick-Shannon metropolitan area, which reflect the latest policy commitments to reduce transport emissions by 50%.
- 4.2.2. Action No. TR/24/16 (TF) of this CAP is to prioritise and accelerate delivery of NTA Connecting Ireland and new town services, via demand responsive transport pilot initiatives, conventional and non-conventional modes of public transport service.
- 4.2.3. For clarity, CAP 2024 at time of writing (24 February 2025) is the most recent CAP available to on www.gov.ie (Department of the Environment, Climate and Communications).

4.3. Connecting Ireland - National Transport Authority

- 4.3.1. The Connecting Ireland Rural Mobility Plan is a public transport initiative developed by the NTA with the aim of increasing connectivity, particularly for people living outside major towns and cities. The Connecting Ireland Insights - Issue 1; Q4 (viewed on www.nationaltransport.ie) lists Route No. 320 Charleville-Limerick as

being operational since end of October 2022.

4.4. **Regional Spatial and Economic Strategy (RSES) for the Southern Region**

- 4.4.1. The RSES outline that Cork, Limerick and Waterford provide the focus to drive the development of the Region, and also that investment and delivery of infrastructure to improve the liveability of urban and rural areas is one of the key principles in developing the strategy. It sets out the transport vision for the Southern Region includes supporting improved strategic and local connectivity and providing for the safe and most efficient movement of goods and services.
- 4.4.2. Regional Policy Objective (RPO) 140 **International Connectivity** includes the aim to sustainably maintain the strategic capacity and safety of the national roads and rail network including planning for future capacity enhancements to ensure effective land transport connections to the major ports, airports and markets.

4.5. **Limerick Development Plan 2022-2028**

Chapter 2: Core Strategy

Policy CS P5 Road Network is to maintain the strategic function, capacity and safety of the national roads network, including planning for future capacity enhancements and ensure that the existing extensive transport networks, greatly enhanced over the last two decades, are maintained to a high level to ensure quality levels of service, safety, accessibility and connectivity to transport users.

The Core Strategy Map indicates 'National Primary' at the area subject of the proposed CPO, with the remainder of the area within 'Level 7 Open Countryside'.

Chapter 4: Housing

The proposed CPO site is located on unzoned lands in a rural area, approx. 2km west of Bruree. In terms of rural housing policy, the site is within Rural Housing Category 1 – Areas under Strong Urban Influence.

Chapter 7: Sustainable Mobility and Transport

Policy TR P5 Sustainable Mobility and Regional Accessibility is to support sustainable mobility, enhanced regional accessibility and connectivity within Limerick, in accordance with the NSOs of the NPF and RSES for Southern Region.

Policy TR P6 Delivery of Transport Infrastructure in line with National Policy is to support delivery of transport infrastructure identified within the NPF, National Development Plan 2021-2030 (and any update) and the RSES for the Southern Region and to support enhanced connectivity within Limerick and inter-urban connectivity within the regions.

Policy TR P10 Rural Transport is to continue to support the 'Local Link' rural transport service and to encourage operators to improve the service to meet the social and economic needs of the rural communities in Limerick.

Objective TR O25 Inter-city, Regional and Commuter Services is to support and facilitate the on-going review and enhancements to the inter-city, regional and commuter services in conjunction with the National Transport Authority.

Objective TR O26 Bus Transport Infrastructure is to support the development of bus shelters and bus stops to incorporate universal access and bicycle parking facilities, where possible.

Objective TR O29 N/M20 Cork to Limerick Project is to support delivery of the N/M20 Cork to Limerick Project, which will connect Cork and Limerick, subject to all environmental and planning assessments.

Policy TR P11 Road Safety and Carrying Capacity of the non-national Road Network is to safeguard the carrying capacity and safety of the non-national road network throughout Limerick.

Policy TR P12 Safeguard the Capacity of National Roads includes to (a) protect the capacity of the national road network, having regard to relevant Government guidance and associated junctions, including DoECLG Spatial Planning and National Roads Guidelines (DoECLG, 2012) in the carrying out of Local Authority functions and (b) ensure development does not prejudice future development or impair the capacity of planned national roads, including the N/M20 Cork to Limerick Scheme.

Policy TR P13 Strategic Regional Road Network is to protect investment in the strategic regional road network and maintain and improve road safety and capacity.

Objective TR O38 Improvements to Regional and Local Roads is to provide for and carry out sustainable improvements to sections of regional roads and local roads, that are deficient in respect of alignment, structural condition, or capacity,

where resources permit and to maintain that standard thereafter.

Section 7.9.2 Regional Road Network states the regional road network provides important links between the towns and villages, supplement the national road network, and that the regional road network in Limerick is subdivided into strategic regional roads and regional roads.

Objective TR O41 Strategic Regional Roads is to (a) improve, manage and maintain the strategic regional road network in Limerick, in a manner which safeguards the strategic function of the road network, and (d) this and other objectives apply to *inter alia* R518 Askeaton/Rathkeale/Ballingarry/Bruree/Kilmallock.

Objective TR043 Upgrade works/New Road Schemes is to provide for and carry out sustainable improvements to sections of the national, regional and local road network, to address deficiencies in respect of safety, alignment, structural condition or capacity where resources permit. N20 O'Rourke's Cross Improvements is one of the schemes included.

Section 7.4 Key Enablers for Growth in Limerick states the N/M20 Cork to Limerick Scheme is key to the delivery of improved connectivity between the urban centres and the wider region.

Section 7.9.1 National Road Network includes that Limerick occupies a strategic location on the national road network. The N20 Limerick to Cork National Primary route along with two other routes are identified as part of the EU TEN-T (Trans-European Network for Transport) Comprehensive Network.

Chapter 8: Infrastructure

Objective IN O12 Surface Water and SuDS is to *inter alia* (f) address the issue of disposal of surface water generated by existing development in the area, through improvements to surface water infrastructure, including for example attenuation ponds, application of sustainable urban drainage techniques, or by minimising the amount of hard surfaced areas, or providing porous surfaces as opportunity arises.

Chapter 9: Climate Action, Flood Risk and Transition to Low Carbon Economy

Policy CAF P1 Climate Action Policy is to implement international and national objectives, to support Limerick's transition to a low carbon economy and support the climate action policies included in the Plan.

Objective CAF O3 Sustainable Development is to support sustainable travel, energy efficient projects, provision of green spaces and open space and sustainable residential development projects, as a means of addressing climate change.

4.6. Other Planning/Policy Context

- 4.6.1. The N/M20 Cork to Limerick Project is a key element of Project Ireland 2040, a strategy which comprises the NPF and the National Development Plan 2021-2030.
- 4.6.2. The N/M20 Cork to Limerick – Project Update June 2024 (www.corklimerick.ie) outlines the location of six Transport Hubs has been identified, one of which is Bruree. It states these hubs will provide active travel and public transport connectivity, “Park and Share” options and EV charging points.
- 4.6.3. Mapping viewed on NM20 Cork to Limerick Interactive Web Map 2023 shows the Nov 23 Refined Corridor Outline to extend from the indicative motorway eastwards along the R518 to the junction with the existing N20 at O’Rourke’s Cross. Active Travel Concept C is indicated along this stretch of the R518 to O’Rourke’s Cross.

4.7. Section 28 Guidelines

4.7.1. Spatial Planning and National Roads Guidelines for Planning Authorities, 2012

These guidelines were issued by the Minister for the Environment, Community and Local Government under section 28 of the Planning and Development Act 2000, as amended, and set out planning policy considerations relating to development affecting national primary and secondary roads, including motorways and associated junctions. It outlines that the primary purpose of the national road network is to provide strategic transport links between main centres of population and employment, and to provide access between all regions. The Guidelines also acknowledge the need to maintain the efficiency, capacity and safety of the national road network.

4.8. Natural Heritage Designations

The site is not within or adjacent to any European sites. The nearest European sites are:

- Tory Hill SAC (Site Code 000439) is approx. 11.5km to north.
- Blackwater River (Cork/Waterford) SAC is approx. 12km to south.
- Ballyhoura Mountains SAC (Site Code 002036) is approx. 15km to south east.
- Glen Bog SAC (Site Code 001430) is approx. 14km to north east.
- Kilcolman Bog SPA (Site Code 004095) is approx. 20km to south.
- The nearest part of Stack's to Mullaghareirk Mountains, West Limerick Hill and Mount Eagle SPA (Site Code 004161) is approx. 24km to south west.
- River Shannon and River Fergus Estuaries SPA (Site Code 004077) is approx. 22km to north.

Other designations are as follows:

- Lough Gay Bog NHA (Site Code 002454) is approx. 27km to south west.
- Tory Hill pNHA (Site Code 000439) is approx. 11.5km to north.
- Heathfield Wood pNHA (Site Code 001434) is approx. 13km to west.
- Glen Bog pNHA (Site Code 001430) is approx. 14km to north west.
- Lough Gur pNHA (Site Code 000437) is approx. 14km to north west.

5.0 Planning History

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

P.A. Ref. 17/8005: Part 8 application approved on 19 October 2017 by elected members of Cappamore-Kilmallock Municipal District for proposal *'To upgrade the existing junction on the N20 Cork to Limerick National Road where it intersects with the Regional Road R518 between Kilmallock and Rathkeale, a junction widely known as 'O'Rourke's Cross'. The works will be located in the townlands of Ballyfookeen and Cappanafaraha.*

Nature and extent of the proposed development is as follows:

- *A new Roundabout controlled junction is to be constructed necessitating alteration to the present junction layout and the construction of new N20*

approaches to the junction and the alteration of the existing R518 approaches to the junction.

- *A new combined cycleway/footway*
- *Relocation of the Bus Stops*
- *Road and Drainage impact attenuation*
- *Fencing*
- *Landscaping*
- *Public Lighting*
- *Accommodation Works*
- *Associated Site Works*

The implementation of the works proposed will result in a rearrangement of the existing road network in the vicinity of the Scheme. Changes to the existing road network will include the relocation of points of access onto the national and local road network and the extinguishment of public rights of way by a separate statutory process.'

- 5.2. I have not been advised of any other planning history at or in the immediate vicinity of the CPO lands. However, I note the following current appeal in the vicinity:

ABP-319464-24 and P.A Ref. 23/60822: Permission is sought for a 24m high lattice tower, antennae, dishes and associated telecommunications equipment, enclosed by security fencing and all associated site works at Ballyfookeen, Bruree. The site of the proposed mast is accessed from L-1539. This road is to west of N20, a short distance south of N20/R518 O'Rourke's Cross junction. The mast would be approx. 1180m (as the crow flies) south west of O'Rourke's Cross.

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

- 6.1. A total of 9no. valid objections to the CPO were received. 5no. objections were subsequently withdrawn, all in advance of the oral hearing.

- 6.2. The withdrawn objections are:

- Declan Quain: Plots 103a.01, 103a.02, 103b.01

- Eamon O’Sullivan: Plots 104a.01, 104b.01, 104b.02
- Michael Lyons (Lessee or reputed Lessee): Plots 101a.01, 101c.01
- Thomas Joseph Murphy: Plots 105a.01, 105b.01

And Lessee or reputed Lessee in respect of the following plots:

102a.01, 102a.03, 102a.04, 102a.05, 102a.06, 102a.07 and 102c.01.

- Patricia O’Rourke: Plots 102a.01, 102a.03, 102a.04, 102a.05, 102a.06, 102a.07, 102b.01, 102b.02 and 102c.01.

Also Plot 108.01 (Representatives of John Joseph O’Rourke c/o Patricia O’Rourke)

6.3. The remaining objections are summarised as follows.

6.4. **Denis and Betty Crean of Ballyfookeen, Bruree, Co. Limerick (Objector A)**

6.4.1. This objection refers to plot ref. no. 115b.01. Points raised are as:

- i. Disturbance,
- ii. Severance of their property, and
- iii. Injurious affection.

6.5. **Eimear Carey of Ballyfookeen, Bruree, Co. Limerick (Objector B)**

6.5.1. This objection refers to plot ref. no.113b.01. Key points raised are that while the objector welcomes this very important initiative, the objector wishes to see footpaths, street lighting, a barrier if necessary to prevent excess noise coming back onto Newcastlewest road, and calming restrictions.

6.6. **Geard Carey of Ballyfookeen, Bruree, Co. Limerick (Objector C)**

6.6.1. This objection refers to plot ref. no.112b.01. Key points raised are that while the objector welcomes this very important initiative, the objector wishes to see footpaths, street lighting, a barrier if necessary to prevent the excess noise coming back onto Newcastlewest road, and calming restrictions.

6.7. **James Beechinor, Ballyanna, Sherin’s Cross, Kilmallock, Co. Limerick (Objector D)**

6.7.1. This objection refers to plot ref. no.s 106b.01, and 106b.02 and raises the following

grounds:

Submission on behalf of Objector (D) by Ger O'Keeffe Consulting Engineers:

- Drawings received from LCCC in July 2020 show substantial rise in level of roundabout over service station forecourt and of access roads. Cross sections indicated 2.4m height rise in bus stop area. Roundabout at existing grade should have been designed. There will be safety issues with raising the road.
- Estimates that approx. 14,000m³ extra volume of fill would be required for works above building at grade, adding over €250,000 to cost.
- Service area will be set back over 50m from the new N20. Earth berms and raised ground levels will obstruct the service area. Concerns regarding possible need for further lands to be acquired for raised roundabout.
- No reference in Part 8 to raising the roundabout. It included site layout plans, no longitudinal or cross sections. Extent of development and negative impact on service station was not indicated. There is a substantial change to Part 8.
- If CPO was confirmed what is to stop an attenuation area being incorporated on eastern portion of road in the large grassed area.
- CPO does not minimise the impact on the service station.
- There are issues with bus passengers and pedestrian movements across the proposed route. Proposal will conflict with proposed right turn lane into service area. This access, the bus lay-bys and pedestrian crossings will be in conflict.
- If CPO is confirmed with lack of design features this would allow changes which would be adverse to objector's business interests. Substantial reduction in customer numbers using the service station due to the right turn lane.
- Proposal will give rise to additional U-turn traffic movements at roundabout.
- Queries what is to become of lands acquired between the service station and the new N20, and the existing downgraded N20 cul-de-sac road. Proposal precludes objector from applying for planning permission for further development of the service station and changing the access.
- A 5-arm roundabout is safer than a 4-arm with a priority access in close proximity. Requests Board to vary the CPO to provide a 5-arm roundabout.

- Interests of dwelling house occupier not taken into account in CPO process.

In addition to a number of issues outlined above, the submission on behalf of Objector (D) includes a report by ILTP Consulting which outlines:

- Following approval of Part 8 scheme, a meeting sought to rescind the Part 8 and have alternative 5-arm roundabout considered, which was rebuffed. The 5-arm option was discounted on road safety grounds, as it would require a departure from standard set out in relevant TII Guidelines.
- Current layout junction is substandard. Accident remedial measures should be introduced for O'Rourke's Cross.
- AM Peak preliminary traffic surveys (Nov. 2019) show over 1,100 vehicles using the junction in a single hour. Annual Average Daily Traffic (AADT) flow approximately equates to 12,000, a high junction volume for a rural junction.
- Following meeting with LCCC on CPO consultation, new information provided. Elevation of roundabout is unnecessary and will require safety barriers.
- A future fifth arm off the roundabout to service station cannot be considered.
- Noise and access impact on dwelling were not known or properly assessed. Proposed extinguishment of rights of way have not adequately considered impacts on residential property. Proposed revisions would mitigate impacts.
- Vulnerable road users and those accessing the service area and residence will be negatively impacted.
- The site is currently served by two inter urban bus routes:
 - Bus Éireann Route 51 - Galway to Cork (via Limerick) – hourly
 - Bus Éireann Route 320 - Limerick to Charleville - 5 buses per day

Local buses and school buses use the area and passing coaches use service area, resulting in relatively high levels of pedestrian movement across N20.

- U-turn traffic at roundabouts should be avoided where possible.
- Concerns regarding maintenance of large grassed area in terms of ownership, access, security and anti-social activities particularly at night.
- Existing N20 and proposed car parking area listed as 'Accommodation

Road/Private Access' may have major negative impact on future viability of service road as it will not be accessed off public road. Any planning application for retained lands will require written consent of acquiring authority

- Once acquired, the authority can use the lands for any purpose it sees fit.
- Regarding the Part 8 decision process,
 - TII Technical Guidance Document TD 16/07 Geometric Design of Roundabouts (DN-GEO-03033 January 2009) does not recommend that 5-arm roundabouts should not be considered.
 - This Technical Guidance Document was withdrawn in April 2017 and should not be relied upon as basis for confirmation of CPO.
 - There are examples throughout Ireland and the UK of 5-arm roundabouts operating safely. There are additional road safety benefits by implementing a 5-arm roundabout at this location.
- Proposes modifications comprising two schematic layouts, each a 5-arm roundabout. Option A (Fig. 4.1) requires no changes to other arms of current proposal. Fig. 4.6 shows design changes on adjacent CPO lands. All modifications can take place within the current CPO proposed land take.

7.0 Oral Hearing

- 7.1.1. An Oral Hearing was held on 24 September 2024. One no. objector, Mr. James Beechinor and his companies N20 Service Station O'Rourke's Cross Limited and JB Beechinor Properties Limited (Objector (D)), and Limerick City and County Council were represented. Oral submissions were heard by or on behalf of both parties.
- 7.1.2. A summary of the Hearing is included in Appendix 1 of this report. Proceedings commenced with the opening statement. Participants were informed that the purpose of the oral hearing was to allow all parties, who wish to do so, to make further submissions on the case and to allow the Inspector to seek clarification on any relevant issues arising and submissions made, that the Inspector will prepare a report and recommendation to the Board.
- 7.1.3. Participants were also reminded that the Board has no role or jurisdiction in the

determination of compensation.

7.2. Modifications

- 7.2.1. For clarity, I note that no modifications to the proposed CPO have been sought by Limerick City and County Council.
- 7.2.2. During the course of the hearing, it was outlined by Mr. Esmonde Keane on behalf of LCCC that an area of land at the northern extent of the approved Part 8 site, on the eastern side of the N20, is not included within the CPO lands as it is not required. This is further outlined in the following section.

8.0 Assessment

8.1. Overview

- 8.1.1. The proposed CPO relates to the compulsory purchase of lands and to extinguish public and private rights of way for the purpose of providing road improvements comprising the replacement of the existing staggered cross roads at O'Rourke's Cross with a roundabout, construction of new approaches on N20 to junction, alterations to R518 approach roads to junction, new combined cycleway/footway, relocation of bus stops, road and drainage impact attenuation at Ballyfookeen and Cappanafaraha townlands in the County of Limerick.
- 8.1.2. The subject site is located on the N20 Cork to Limerick national primary road, where it intersects with R518. The R518 connects Kilmallock to Askeaton. The junction is a staggered crossroads, described as being widely known as 'O'Rourke's Cross'. The N20 serves a strategic function given that it links Cork and Limerick cities.
- 8.1.3. The proposed CPO acquisition is intended to support the delivery of the approved Part 8 for the provision of a roundabout on the N20 and the realignment of all approach roads which was approved by Limerick City and County Council in October 2017 (P.A. Ref. 17/8005).
- 8.1.4. The approved Part 8 works comprise construction of a new roundabout controlled junction, construction of new N20 approaches to the junction, and alteration of existing R518 approaches to the junction, a new combined cycleway/footway, relocation of bus stops, road and drainage attenuation, fencing, landscaping, public lighting and associated site works. The description of development also states that

changes to the existing road network will include the relocation of points of access onto the national and local road network and the extinguishment of public rights of way by way of a separate statutory process.

- 8.1.5. The plans and particulars on the approved Part 8 do not appear to quantify the site area, and the 3no. Part 8 drawings do not include annotated dimensions.
- 8.1.6. The extent of the Part 8 is slightly larger than the proposed CPO lands. I estimate that the overall area to which the CPO relates is 5.861ha, based on the combined 33no. individual plots listed in the First Schedule of the CPO. As outlined previously in Section 3.0, I note that this figure differs from the combined 5.814ha set out by the local authority.
- 8.1.7. At the Oral Hearing it was outlined by Mr. Keane, further to a query raised by the Inspector, that two areas shown within the Part 8 site are not included in the CPO. These are -

(a) lands at the northern extent of the Part 8 drawing on the N20, on the eastern side, and are generally to south of the stream, and

(b) on the R518 east of the N20 (northern side)

For clarity, I note that any reductions in site area based on (a) and (b) above do not account for the difference in CPO areas discussed in Section 3.0.

- 8.1.8. With regard to (b), the Inspector outlined that a field access is shown to be closed on the R518, east of the proposed roundabout on the northern side of this road, on the Part 8 drawing. In contrast, the CPO drawing does not annotate this detail. The Inspector requested the local authority to clarify this.
- 8.1.9. Mr. Keane on behalf of the local authority outlined that the existing field access is proposed to be closed, and a new field access can be created within the CPO line. Initially indentation was shown around that gate but the view is to create a field access but without the need to acquire any additional lands or excessive lands within the landowner's take. However, I consider that any reduction in site area of the CPO along this easterly stretch of the R518, below that shown on the Part 8 drawing, is not readily apparent.
- 8.1.10. I note that the Part 8 drawing shows 'new field access to replace closed access' a short distance south of 'existing field access to be closed'.

- 8.1.11. The CPO drawing shows plot ref. no. 102a.03 (Owner/Reputed Owner: Patricia O'Rourke). This proposed acquisition of land would appear to reflect 'new field access to replace closed access' on the Part 8 drawing. Based on the detailing shown on the CPO deposit map and the Part 8 drawing, there does not appear to be a reduction in the CPO site area at this location. Accordingly, I consider that there is no new material change at the proposed field access.
- 8.1.12. Having regard to the detailing of the Part 8 drawings, the CPO drawing and the information outlined on behalf of LCCC at the Oral Hearing, I consider that the principal difference between the Part 8 and CPO drawings is that part of the lands shown at the northern extent of the Part 8 site area, east of the N20 and south of the stream, are not included in the CPO drawing.
- 8.1.13. The existing road layout and access arrangements from R518 to N20, and access/egress to/from the existing service station are set out in Section 2.0.
- 8.1.14. The approved Part 8 comprises the construction of a Type S2 single carriageway on the realigned N20 both north and south of the new roundabout. A new 4m wide section of the existing N20 is to be used to provide private access to a dwelling house (existing dwelling at corner site of N20 and R518). On the eastern side of the realigned N20, a new bus set-down area is located north of the roundabout, a short distance north of which is the access/egress to the existing service station. A parking area for the bus set-down is located along the access route to the service station. A new bus set-down area is also proposed on the western side of the realigned N20, west of which is the indicative outline of compensatory storage for displaced flood plain storage. Indicative outline for detention basin is shown to east of realigned N20, near the northern extent of the Part 8 lands. The legend on Drg. Nos. 15032-P8-103 and 15032-P8-104 includes side-slope. Side slopes are indicated on these 2 drawings to be along either side of the realigned N20 and R518, including in the vicinity of the new roundabout.
- 8.1.15. The site layout indicates that all vehicles exiting the service station will be required to turn left towards the roundabout, such that any northbound vehicles will have to first do a U-turn at the roundabout.
- 8.1.16. The Chief Executive's report on the Part 8 states at Section 5.0 (condition 5) that the scheme shall allow for a controlled crossing on the realigned N20 for pedestrians

walking from the northbound bus stop to the parking area. For clarity, I note that while the drawings show a crossing point, a controlled crossing is not indicated.

8.1.17. At the Oral Hearing, the Inspector requested the local authority to confirm the total number of drawings on the Part 8. Mr. Keane on behalf of LCCC confirmed that there were 3no. drawings on the Part 8.

8.1.18. The Director of Services report submitted in conjunction with the CPO application outlines that the land for this road development is necessary, sufficient and suitable and that the proposed extinguishment of public and private rights of way are necessary together with all ancillary works associated therewith. It outlines that it is unlikely that the land can be acquired voluntarily.

8.1.19. The key principles to the Board in their considerations of whether or not to confirm the CPO are as follows:

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

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

8.1.21. I draw the Board's attention to the documentation received from LCCC on 27 June 2024, pursuant to Board's request to update the application having regard to the adoption of the Limerick Development Plan 2022-2028 and the passage of time.

8.2. Community Need

8.2.1. The proposed CPO acquisition is intended to support the delivery of the approved Part 8 for the realignment of N20 and R518, including construction of a roundabout

at the staggered crossroads at O'Rourke's Cross at Ballyfookeen and Cappanafaraha, Co. Limerick, which was approved by Limerick City and County Council in October 2017 (P.A. Ref. 17/8005).

- 8.2.2. The local authority Senior Engineer's report received on 27 June 2024 outlines that the existing junction is a staggered ghost island cross-roads, the geometry of which does not comply with TII Publications (Standards). Traffic crossing or travelling onto the N20 from the R518 face regular challenges in finding safe gaps in the flowing N20 traffic. The 2no. bus stops at the junction give rise to a higher number of pedestrian movements, for which there are no facilities for these vulnerable users. There are limited sight distances from the Bruree direction on the N20 to the south. The need for the scheme is to address the existing safety issues caused by complex traffic movements arising from the substandard crossing of the N20 by the R518, the significant traffic movements associated with the existing petrol station at the junction and the presence of the 2no. bus stops.
- 8.2.3. It outlines that the community need will be met through the acquisition of the lands and the extinguishment of rights of way which are subject of the CPO and will enable delivery of the scheme. It states no improvement works of any significance have been carried out at O'Rourke's Cross since October 2017, the Council subsequently made the N20 O'Rourke's Cross Road Improvement Scheme CPO in 2020, and the community need remains unchanged from when the scheme was designed.
- 8.2.4. The engineering Brief of Evidence presented at the Oral Hearing from Mr. Paul Bergin on behalf of LCCC states the scheme's objectives are to improve traffic safety and provide a safer environment for all road users, including providing facilities for vulnerable road users, deliver economic benefits through reduced accident costs, to avoid or mitigate for significant environmental effects, and to not negatively impact on accessibility and social inclusion. It aims to not compromise the strategic importance of the existing N20 and to not place constraints on regional development that would result in increased traffic flows on the R518. It outlines that the filling station reduces connectivity between the N20 and R518 as traffic exiting the filling station avails of gaps in the N20 traffic that would otherwise be available to traffic coming from the R518 (Bruree direction).
- 8.2.5. This Brief of Evidence provides more recent (2023) traffic flow figures and updated

information relating to traffic collisions. It outlines that traffic volumes on this section of the N20 south of junction is 10,641 vehicles per day and 10,545 vehicles per day north of the junction (2015), with corresponding figures for 2023 increased to 11,300 and 12,200 vehicles per day respectively. 2023 figures for 2-way daily traffic flows on R518 east of junction is 3,400 and is 2,600 to west. R518 traffic crossing the N20 is 1,160 (2023). The 1,399 (2015) 2-way daily traffic flow to the filling station is described as significant turning movements. It states TII records outline that between 2005-2023 there were 2no. fatal head-on collisions, 3no. serious collisions and 10no. non-serious collisions, most of which were associated with the complex turning movements at the junction.

- 8.2.6. While the local authority states no improvement works of any significance have been provided since October 2017, I note that a bus shelter and associated footpath have been provided a short distance south of the staggered crossroads on the western side of the N20, and appears to be of relatively recent construction. The footpath does not extend to the junction of the R518. The bus pull-in area is to west of road markings (broken white line and broken yellow line) on the main carriageway, such that it is off-set from the traffic flow on the N20. This bus shelter is not discernible in the photograph contained in the engineering Brief of Evidence showing the staggered crossroads as viewed from north of the junction, facing south (Figure 3-2 Complex Traffic Movements at Existing Junction refers).
- 8.2.7. I noted on site inspection that on the eastern side of the N20, the bus stop for south bound traffic does not have any associated bus infrastructure for passengers, and there is no distinct bus pull-in area entirely separate to the main N20 carriageway. There is a narrow footpath-type surface at this location, but no grade separation is discernible and this 'footpath' does not continue to the junction with R518.
- 8.2.8. Having visited the site, I consider that the lack of any footpath connectivity from the bus stops on the N20 to the R518 results in bus passengers/pedestrians having to negotiate heavily trafficked national primary and regional roads in order to access public transport, particularly on the eastern side of the N20. In my opinion, the existing bus infrastructure is deficient, in particular for vulnerable road users. I consider that the improvements in bus infrastructure shown in the approved Part 8, and to which the proposed CPO would give effect, would provide much safer access

for bus passengers. I consider that improvements in bus transportation infrastructure at this location would address a community need.

- 8.2.9. I note that two of the objectors welcome this initiative and wish to see the provision of a range of infrastructure such as footpaths, lighting, calming restrictions and a noise barrier if necessary.
- 8.2.10. The two other objectors raise a number of grounds objecting to the CPO. The submission on behalf of Objector (D) acknowledges (Traffic and Transport Assessment – Final, August 2020; Section 2.2.3) that the current junction layout is substandard and that accident remedial measures should be introduced for O'Rourke's Cross. Concerns raised in the submission (August 2020) on behalf of this Objector include safety issues with raising the road, additional U-turn traffic movements on the roundabout, and the pedestrian crossing proposed in centre of south-bound bus lay-by is not desirable from a pedestrian safety perspective. These and other grounds of objection relating to the design of the scheme are addressed in Section 8.7 of this report.
- 8.2.11. The submission on behalf of Objector (D) dated 23 September 2024 states the Council has failed to demonstrate that there is a community need to construct the proposed scheme and has not put any data before the Board regarding the traffic calming measures which have been introduced at O'Rourke's Cross. It states that speed limit signs were incorporated at the junction in 2011 and further traffic calming measures were introduced in 2014. The Council has not given details of the works carried out, or the effect they had on the junction.
- 8.2.12. I note the Part 8 was approved in 2017, i.e., subsequent to the 2011 and 2014 dates stated above. The engineering Brief of Evidence states the speed limit on the N20 approaches to O'Rourke's Cross was reduced from 100kph to 60kph in 2013. It outlines that anecdotal information suggests that this has made it more difficult for traffic to enter and/or traverse the N20 as the speed reduction increases the length of the traffic column on the N20, thereby reducing available safe gaps.
- 8.2.13. At the Oral Hearing Mr. Crean on behalf of Objector (D) Mr. Beechinor queried the anecdotal information presented. Mr. Bergin attributed the information to an (unnamed) municipal engineer of the local authority. I note that no quantitative information has been provided to support this, and I consider that the anecdotal

information as presented cannot realistically be robustly assessed. However, notwithstanding this, I consider that there is sufficient information on file to support the view that there is a community need for the road scheme, as discussed further in the following sections.

- 8.2.14. Mr. Bergin outlined that works carried out at the junction after 2017 related to some bollards.
- 8.2.15. While the engineering Brief of Evidence states no improvement works of any significance have been carried out since 2017 at O'Rourke's Cross to address concerns arising from geometry of the junction, I have noted the existence of some infrastructure provision in the assessment of this proposed CPO. I consider that the more recent provision of the bus shelter and associated footpath on the N20 results in some limited improvements to public transport infrastructure, but does not directly address the complex traffic turning movements at the staggered crossroads of the N20/R518. Moreover, I do not consider that this limited element of public transport infrastructure would in any way negate the community need for a road improvement scheme at O'Rourke's Cross.
- 8.2.16. The Traffic and Transport Assessment & Analysis – Final (September 2024) submitted on behalf of Objector (D) states that the Road Safety Authority (RSA) stopped sharing accident information to local authorities and roads engineers in 2020, that no new accident information was available from the RSA since 2018, that no accident data is currently available to the Board to justify the ongoing community need and the local authority's design response and there is no current demonstrable community need for the scheme.
- 8.2.17. As outlined previously, the engineering Brief of Evidence includes that TII outline there has been 15no. collisions over the period 2005-2023, and most of the recorded collisions were associated with the complex turning movements at the junction.
- 8.2.18. At the Oral Hearing there was discussion regarding accident statistics at this location. Ms. Deirdre Clarke (Executive Engineer, LCCC) outlined that their collision data is from 2014-2023, whereby there were 19no. material damage collisions, 4no. minor and 1no. serious collision and 1no. fatality, all of which related to movements at the junction. Ms. Clarke outlined that the site remains a high collision location as defined by TII in the HD programme. It has more than twice the number of collisions

that would be expected in a section of national road.

- 8.2.19. In this regard I note that the timeframe for collision data is over a longer period in the Brief of Evidence (2005-2023) than that outlined at the Oral Hearing (2014-2023), and that the number of collisions specified is higher over the shorter (2014-2023) timeframe. There would therefore appear to be an inconsistency between the number of accidents recorded. However, I note also that the nature of 'material damage collisions' is not specified, as distinct from minor and serious collisions, and as such it is not specified as to whether a different classification has been applied to recording accidents/collisions in this instance.
- 8.2.20. While I note that there appears to be some discrepancy in the number of collisions at this location presented in the Brief of Evidence on file and outlined at the Oral Hearing, I consider that even taking account of the lower accident rate (15no. collisions) over the longer 2005-2023 timeframe, that this demonstrates a level of accidents which are high. Having inspected the site, I have noted that the N20 was heavily trafficked, and also that traffic joined or traversed this route from both the east and west sides of the R518. My observations at the junction, including noting traffic volumes and complex traffic turning movements, would confirm deficiencies in road safety at this location.
- 8.2.21. Having visited the site, having regard to the complexities of traffic turning movements at the N20/R518 junction, all in the context of the heavily trafficked N20 combined with access/egress points to the existing service station, the lack of adequate transport/mobility infrastructure, in particular the lack of adequate infrastructure for pedestrians and other vulnerable road users to access public transport, and having regard to all information on file including submissions received on the proposed CPO and the information presented at the Oral Hearing, including that the site is considered a high collision location by TII, I consider that the current road layout is substandard in terms of traffic safety. I consider that the principal community need that would be met by the CPO of the lands in question to accommodate the road scheme is the provision of a safer and more efficient road layout at the N20/R518 intersection and approach roads to same, including improved infrastructure for bus passengers, particularly in terms of pedestrian access to bus stops.
- 8.2.22. I have noted in this assessment that the submission on behalf of Objector (D) of 23

September 2024 states the service station provides a valuable service to the local community, and the needs of these members of the community would be significantly impaired by the implementation of the road scheme as it would significantly inhibit access to the objector's service station, and there are no similar facilities in the area. The submission also raises concerns that there would be impacts on the future development of the service station. The objection (dated 26 August 2020) on behalf of Objector (D) outlines that the proposal precludes him from applying for planning permission for further development of the service station and changing the access.

- 8.2.23. In this regard, I note that the principal changes regarding access/egress at the service station are that (1) there would be 1no. access from the realigned N20 to the 'existing' N20 along the service station's roadside frontage, and (2) that the left-turn exit only on R518 (towards Bruree) would be closed up. While the implementation of the approved Part 8 would significantly alter existing access/egress arrangements to/from the service station on both N20 and R518, it would however remain accessible. More particularly, based on all information on file, I consider that implementation of the proposed road scheme would result in access/egress to/from this commercial premises being much safer than current arrangements. I do not consider that the proposed CPO and the implementation of the road scheme would significantly impair the needs of the community with regard to accessing the service station.
- 8.2.24. With regard to concerns that the proposal would preclude Objector (D) from applying for planning permission for further development at the service station, I note that the 2no. plots proposed to be acquired (plot ref. no.s 106b.01, and 106b.02) are both described in the First Schedule of the CPO as 'public road'. There is no information on file indicating that any part of the service station is proposed to be acquired. Accordingly, I do not consider that confirmation of the CPO would preclude Objector (D) from applying for planning permission for any future development on the service station site.
- 8.2.25. In conclusion, therefore, having inspected the lands, having conducted an Oral Hearing and having examined the information submitted by the local authority and the submissions made, and having regard to the information on file, I am satisfied

that Limerick City and County Council has established a valid community need for the proposed O'Rourke's Cross road scheme.

8.2.26. Accordingly, I am satisfied that there is a community need to be met by the acquisition of the lands in question.

8.3. Suitability of Lands to Serve a Community Need

8.3.1. The Oral Hearing Brief of Evidence prepared by Mr. Paul Berginon behalf of LCCC outlines that the lands to be acquired under the proposed CPO are necessary and sufficient and no more than is necessary for the construction, operation and maintenance of the scheme, and that the extinguishment of rights of way is appropriate and adequate measures provide for alternative means of access.

8.3.2. The Part 8 document Particulars of Proposed Scheme Made Available For Public Inspection states lands to be acquired for the purposes of the Scheme will predominantly be either agricultural or roadbed.

8.3.3. As previously outlined in Section 3.0, the report from Senior Engineer, LCCC, received by the Board on 27 June 2024 states that the CPO proposes permanent acquisition of:

- Agricultural lands: 3.63ha
- Public road: 2.16ha
- House curtilage: 0.014ha
- River: 0.01ha

I note that this would comprise an overall site area of 5.814ha

8.3.4. However, in contrast to the figures outlined above, I estimate having viewed the 33no. individual plots listed in the First Schedule of the CPO that the overall CPO area extends to 5.861ha, comprising:

- Land: 3.619ha
- Public road: 2.099ha
- House curtilage: 0.134ha
- River: 0.009ha

8.3.5. The overall lands extend primarily on and along the existing N20 north and south of the existing staggered crossroads, and to east and west of the crossroads along the

R518. An area of land either side of the N20 north of the crossroads are proposed to be acquired for the purposes of

- Compensatory storage for displaced flood plain storage
- Detention basin

8.3.6. 2no. plots comprise river. These are plots 101c.01(0.004ha) and 102c.01 (0.005ha). Both of these plots are located near the northern extent of the CPO lands, on either side of the N20.

8.3.7. At the Oral Hearing, it was confirmed by Mr. Keane on behalf of LCCC that an area of land at the northern extent of the Part 8 site, on the eastern side of the N20 (generally south of the stream), is not included on the CPO mapping as this area of land is not required. This has been previously outlined at Section 8.1.

8.3.8. Having regard to the extent of the acquisition, and having reviewed the drawings included in the CPO application and the proposed scheme drawings (submitted with the Part 8 application P.A. Ref.17/8005), and having conducted an Oral Hearing, I am satisfied that the extent of the lands that the local authority is seeking to acquire are proportionate to the identified community need and that the lands are necessary to facilitate the proposed roundabout and road realignment scheme.

8.3.9. In conclusion, based on the information on file, the submissions of the local authority and on behalf of the objector, and the questions put to both parties at the oral hearing, I am satisfied that the lands that are the subject of the CPO are suitable for the proposed road improvement works.

8.3.10. Accordingly, I am satisfied that the proposed project and associated acquisition of lands is suitable to meet the community need.

8.4. Compliance with Planning Policy

National and Regional Policy

8.4.1. An overview of the National Planning Framework (2018), the National Development Plan (2021-2030), Spatial Planning and National Roads Guidelines for Planning Authorities, 2012 and the Limerick Development Plan 2022-2028 are outlined in Section 4.0 of this report, key elements of which are set out below with reference to the subject CPO.

- 8.4.2. The National Planning Framework (NPF) sets out National Strategic Outcome (NSO) 2 Enhancing Regional Accessibility is to enhance connectivity between centres of population of scale will support the objectives of the NPF, and that this will focus initially between Cork and Limerick. With regard to Inter-Urban Roads, this includes maintaining the strategic capacity and safety of the national roads network including planning for future capacity enhancements and improving average journey times to average inter-urban speed of 90kph.
- 8.4.3. For completeness, I note that the Updated Draft Revised National Planning Framework (November 2024) outlines the overview of the NPF Strategy includes improving access between Cork, Limerick, Galway and Waterford, and reiterates the content of NSO 2 (NPF, 2018) with regard to Inter-Urban Roads.
- 8.4.4. The National Development Plan (2021-2030) includes the N/M20 Cork to Limerick as one of the Major Regional Investments planned in the Southern Region.
- 8.4.5. The Spatial Planning and National Roads Guidelines for Planning Authorities, 2012 state that better national roads improve access to the regions, enhancing their attractiveness for inward investment and new employment opportunities. The Guidelines also acknowledge the need to maintain the efficiency, capacity and safety of the national road network.

Limerick Development Plan 2022-2028

- 8.4.6. The Limerick Development Plan 2022-2028 includes a range of objectives and policies relating to connectivity across the county and the wider region, including with regard to the core strategy, and the national, regional and local road network, a number of which are reiterated below:

Policy TR P11 Road Safety and Carrying Capacity of the non-national Road Network is to safeguard the carrying capacity and safety of the non-national road network throughout Limerick.

Objective TR O38 Improvements to Regional and Local Roads is to provide for and carry out sustainable improvements to sections of regional roads and local roads, that are deficient in respect of alignment, structural condition, or capacity, where resources permit and to maintain that standard thereafter.

Objective TR O41 Strategic Regional Roads is to (a) improve, manage and

maintain the strategic regional road network in Limerick, in a manner which safeguards the strategic function of the road network, and (d) this and other objectives apply to *inter alia* R518 Askeaton/Rathkeale/Ballingarry/Bruree/Kilmallock.

Objective TR043 Upgrade works/New Road Schemes is to provide for and carry out sustainable improvements to sections of the national, regional and local road network, to address deficiencies in respect of safety, alignment, structural condition or capacity where resources permit. N20 O'Rourke's Cross Improvements is one of the schemes listed under Objective TR043.

Policy TR P6 Delivery of Transport Infrastructure in line with National Policy states that is policy to support delivery of transport infrastructure identified within the NPF, National Development Plan 2021-2030 (and any update) and the RSES for the Southern Region and to support enhanced connectivity within Limerick and inter-urban connectivity within the regions.

- 8.4.7. The Senior Planner's report included in LCCC's submission date-stamped 27 June 2024 refers to Development Plan Chapter 7: Sustainable Mobility and Transport and Objective TR043. The Senior Planner's Brief of Evidence sets out 7no. policies and 8no. objectives of the current Development Plan pertaining to transportation/accessibility and climate.
- 8.4.8. As the proposed CPO would facilitate the implementation of Objective TR043, which is to carry out sustainable improvements to sections of the national, regional and local road network where resources permit, and lists N20 O'Rourke's Cross Improvements as one such scheme, the CPO would therefore be in compliance with this Development Plan objective.
- 8.4.9. In addition, there are a range of other objectives and policies in the Development Plan relating to regional roads, such as safeguarding the safety of the non-national road network throughout Limerick (Policy TR P11), and improving the strategic regional road network in Limerick in a manner which safeguards the strategic function of the road network (Objective TR O41). The proposed CPO would be in compliance with these policies and objectives.
- 8.4.10. With regard to climate action, I note that Objective CAF O3 Sustainable Development includes to support sustainable travel as a means of addressing climate change. While noting the roads transportation nature of the N20 O'Rourke's

Cross Road Improvement Scheme, given that the scheme incorporates improved bus infrastructure, it would also support sustainable travel, and would be in compliance with Objective CAF O3 in this regard.

- 8.4.11. In addition, Policy CAF P1 Climate Action Policy is to implement international and national objectives, to support Limerick's transition to a low carbon economy and support the climate action policies included in the Plan. As outlined at Section 4.0, Action No. TR/24/16 (TF) of the Climate Action Plan 2024 includes to prioritise and accelerate delivery of NTA Connecting Ireland services. The NTA website (www.nationaltransport.ie) outlines that Route No. 320 Charleville-Limerick has been operational since October 2022. I consider that the proposed CPO would not be in conflict with the current Climate Action Plan, and in this regard would therefore be consistent with the Climate and Low Carbon Development Act 2015, as amended.

Proposed M20 Motorway

- 8.4.12. The strategic importance of linking the cities of Cork and Limerick is outlined in a number of policies and objectives of the current Development Plan.
- 8.4.13. As outlined at Section 4.0, the NM20 Cork to Limerick - Project Update June 2024 states that interactive mapping presents the Engineering Plan of the Developing Design within the refined November 2023 corridor. For clarity, I highlight that the motorway design has not been finalised nor approved.
- 8.4.14. Based on the information viewed at www.corklimerick.ie, I estimate that the indicative motorway route is approx. 1.4m west of the N20/R518 junction. This Corridor Outline shows Active Travel Concept C to extend from the indicative motorway route eastwards along the R518 to the existing N20 at O'Rourke's Cross. A transport hub is shown to west of the indicative motorway. I note the proximity of the indicative motorway and also that 'Nov 23 Refined Corridor Outline' overlaps with part of the proposed CPO site along the R518 west of the existing N20 at O'Rourke's Cross.
- 8.4.15. The Senior Planner's Brief of Evidence refers to Policy TR P12 Safeguard the Capacity of National Roads (a) to protect the capacity of the national road network, having regard to all relevant Government guidance including associated junctions, including DoECLG Spatial Planning and National Roads Guidelines (DoECLG, 2012) in carrying out of Local Authority functions. However, this Brief of Evidence does not

specifically refer to part (b) of this policy, which is to ensure development does not prejudice future development of planned national roads, including the N/M20 Cork to Limerick Scheme.

8.4.16. I note that a TII letter dated 29 January 2020 was lodged with the CPO, confirming approval to LCCC to proceed from Phase 3 (Design and Environmental Evaluation) to Phase 4 (Statutory Process) of TII Project Management Guidelines in relation to N20 O'Rourke Cross Road Improvement Scheme.

8.4.17. While I note the 2020 timeframe of this documentation on file, I note that the local authority has not raised any issues with the regard to the future design of the N/M20 scheme vis-à-vis the proposed CPO. The N/M20 project is not, at time of writing, a permitted scheme, and accordingly, based on all information on file, it is considered that the proposed CPO would not impact on any permitted roads/transportation scheme (save for giving effect to the approved Part 8 road improvement scheme), and would therefore be acceptable in this regard.

8.4.18. I consider that the proposed CPO to deliver the road improvement works at O'Rourke's Cross, at the staggered crossroads of the N20 and R518, is in compliance with the policy context set out at the national, strategic level and at the regional and county levels, which support improvements to inter-urban connectivity and maintaining the strategic capacity and safety of both the national and regional road networks.

8.4.19. Accordingly, I am satisfied that the works to be carried out accord with and are not in contravention of the policies and objectives contained in the Limerick Development Plan 2022-2028.

8.5. Consideration of Alternatives

8.5.1. In assessing CPO applications, the Board must be satisfied that any alternative methods of meeting the community need have been considered but are not demonstrably preferable.

8.5.2. The local authority's Senior Engineer report date-stamped 27 June 2024 states

- replacement of existing ghost island junction with an improved ghost island junction would not address problems caused by complex traffic movements.

- traffic signals would provide greater control but complex traffic movements would remain, and traffic signals are not appropriate in a rural location.
- An on-line roundabout would involve significant impact on commercial and residential properties. This was discarded in favour of an off-line roundabout.
- An off-line roundabout could be located either to east or west of the existing N20. East of the N20 would have a greater impact than on properties to west.
- A 4-arm roundabout was proposed as TII Design Standards did not recommend a 5-arm on national roads, and is regarded as a departure from Standards. A 5-arm roundabout would not reduce the required land-take area.
- Selected option is the best to achieve road improvements, impairs rights of affected landowners as little as possible and is proportionate taking into account the public good to be achieved and interference with property rights.

8.5.3. The Engineering Brief of Evidence outlines at Section 6 (Description of the Scheme) an overview of the alternatives considered, and I note that this is similar to that outlined in the Senior Engineer's report date-stamped 27 June 2024. It states that while the proposed solution will give rise to some degree of unavoidable delay to N20 traffic negotiating the new roundabout, this will not be significant and will be offset by improved and safer connectivity which the proposed scheme will provide.

8.5.4. It outlines that a 5-arm roundabout was considered which would serve both R518 approaches, both N20 approaches and provide direct access to the service station, but that TII Design Standards do not recommend 5-arm roundabouts on national roads. TII might agree to a Departure from Standard in exceptional circumstances where the standard is not realistically achievable, and in this case a 4-arm roundabout complying with TII Standards is achievable. It cites research (Report PPR206 International Comparison of Roundabout Design Guidance April 2007 – TRL) found accident frequency at roundabouts increases with the number of arms. It continues to state that a 4-arm roundabout was selected. To reduce conflicting traffic movements, the junction at the filling station will permit left-turn only from the filling station to the N20.

8.5.5. I note the various alternative options outlined by the local authority such as traffic signals or an online roundabout. I do not consider any of these alternative options

outlined are demonstrably preferable to the 4-arm roundabout and associated works. The matter of the alternative 5-arm roundabout proposed on behalf of Objector (D) is discussed further below.

8.5.6. The submission on behalf of Objector (D) to the Part 8 recommended replacing the proposed 4-arm roundabout with a 5-arm roundabout, such that the fifth arm would provide direct access to the service station. The Road Design Office comments in the Chief Executive's report states *inter alia* that

- Table 2/1 (TII Technical Guidance Document 16/07) shows accident frequency at 5-arm roundabouts to be 1.6 times that associated with a 4-arm roundabout
- TII Standards DN-GEO-03060 does not recommended 5-arm roundabouts on national roads. If provided must be applied for as a Departure from Standard.

8.5.7. The grounds of objection on behalf of Objector (D) to the CPO reiterate that a five-arm roundabout could be provided. The Traffic and Transport Assessment & Analysis - Final (August 2020) submitted includes a schematic layout showing the addition of a fifth arm on the roundabout providing direct access to the service station; Fig. 4.6: Alternative Layout Proposal – For Adjacent CPO Lands – Schematic Layout refers.

8.5.8. The submission includes (at Section 3.6) an extract from TII Design Standard Geometric Design of Junctions (priority junctions, direct accesses, roundabouts, grade separated, and compact grade separated junctions) DN-GEO-03060 (June 2017). It states that provision of a 5 or more-arm roundabout is not recommended on national roads and if provided must be applied for as a Departure from Standard. It sets out 5no. criteria to be addressed where adding a fifth arm to a 4-arm roundabout is being considered, of which criteria (d) and (e) are outlined below:

(d) Shall not result in high circulatory speeds on the roundabout itself;

(e) Shall not result in such close spacing of arms that there can be confusion about a driver's intended exit.

8.5.9. The submission of 23 September 2024 on behalf of Objector (D) includes that the Council did not consider alternatives after the Part 8 approval and before the CPO was made, and has not explained that departures from (TII) standard are frequently allowed in designing road schemes. A 5-arm roundabout was a viable alternative

and could be constructed, with a smaller land take from Objector (D).

- 8.5.10. The local authority's Brief of Evidence Appendix C-2 states the 4-arm roundabout with separate priority access to serve the filling station and parking area is the approved Part 8 scheme upon which the CPO is based. It notes the submission proposing an alternative 5-arm roundabout was also advanced during the Part 8 process, and as the Part 8 scheme has been approved, the local authority does not address objections relating to the alternative junction arrangement.
- 8.5.11. At the Oral Hearing, there was discussion between the local authority and Mr. O'Sullivan (on behalf of Objector (D)) regarding the suggestion that a 5-arm roundabout could be provided, with a direct access to the service station from the roundabout. Mr. Keane queried that if 5-arms were put on a roundabout, this would require an increase in the diameter of the roundabout and an increase in the circulatory speed. Mr. Keane queried that it would be impossible to provide 5 arms without expanding the diameter insofar as to breach policy (e).
- 8.5.12. Mr. O'Sullivan responded that the 5-arm proposal must be balanced with all aspects of the design of the roundabout. These include the removal of the right-turning lane across a very busy road that is approaching the roundabout, that has yet to be fully designed and they do not know where the controlled pedestrian crossing is, and there will be a bus stop in very close proximity.
- 8.5.13. For clarity, I have viewed TII Publications Design of Junctions (priority junctions, direct accesses, roundabouts, grade separated and compact grade separated junctions) DN-GEO-03060; May 2023 on www.tiipublications.ie. The online April 2017 and June 2017 versions are clearly indicated to be superseded or withdrawn. The June 2017 version which applied at time of approval of the Part 8 (October 2017) has since been withdrawn. The May 2023 document version contains the same 5no. criteria (a) to (e) to apply where consideration is being given to adding a fifth arm to a 4-arm roundabout.
- 8.5.14. On the basis of the information on file, I do not consider that the submissions received have shown that a 5-arm roundabout would be demonstrably preferable to the approved 4-arm roundabout. While I note that the drawings showing a potential 5-arm roundabout are schematic only, the addition of a fifth arm to a 4-arm roundabout as presented shows 3 arms in very close proximity to each other, namely

the northern N20 arm, the eastern R518 arm and the proposed fifth arm to the service station. The schematic layout (at Fig. 4.6 referenced above) also shows the proposed separate access/egress to/from the realigned N20 to the service station, such that the fifth arm would be additional to, rather than in lieu of the priority access from the realigned N20. I note however that at the Oral Hearing Mr. O'Sullivan raised safety concerns regarding the provision of the right-turning lane to the service station, and seeks its omission in the context of a 5-arm roundabout instead.

- 8.5.15. I do not consider that it has been demonstrated that the addition of a fifth arm to the proposed roundabout would result in a lesser land-take from the objector. For clarity, the 2no. plots (106b.01 and 106b.02) are described as public road, although I note that the proposed acquisition and the extinguishment of the private right of way (Y1-Y1 to Y2-Y2) would have impacts on the overall access/egress arrangement for the service station site as discussed elsewhere in this report.
- 8.5.16. I note that the provision of a fifth arm additional to the priority access from the realigned N20 would be contrary to Development Plan Policy TR P12 Safeguard the Capacity of National Roads (a) to protect the capacity of the national road network, having regard to all relevant Government guidance and associated junctions, including DoECLG Spatial Planning and National Roads Guidelines (DoECLG, 2012) in the carrying out of Local Authority functions. However, as outlined above, Mr. O'Sullivan seeks the omission of the right-turning lane in the context of any provision of a 5-arm roundabout.
- 8.5.17. I note that the engineering Brief of Evidence states (at Section 6.2) that the proposed scheme has been designed in accordance with TII Publications (Standards), and was subject to a Road Safety Audit by an independent accredited auditor, the recommendations of which were incorporated into the scheme.
- 8.5.18. On the basis of all information on file, I do not consider that it has been demonstrated that criteria (d) and (e) of TII's Departure from Standards (DN-GEO-03060; June 2017) would be complied with. In any event, a Departure from Standard requires traffic modelling to be undertaken to demonstrate compliance with criteria (a) to (e) using TII Project Appraisal Guidelines, although this I note is to be undertaken by the designer.
- 8.5.19. Having regard to all information on file, I am of the opinion that alternative methods

of meeting the community need have been considered but are not demonstrably preferable.

8.6. Proportionality and Necessity for the Level of Acquisition Proposed

- 8.6.1. I am satisfied that the process and procedures undertaken by Limerick City and County Council have been fair and reasonable, that the local authority has demonstrated the need for the lands and that all the lands being acquired are both necessary and suitable to facilitate the O'Rourke's Cross road improvement scheme approved under the Part 8 process.
- 8.6.2. I note that the grounds of objection on behalf of Objector (D) include that the elected members sought in 2018 to have the approved Part 8 rescinded, were advised that they do not have the authority to re-consider a decision made in 2017 in compliance with provisions of the Planning and Development Act 2000 as amended, and nevertheless unanimously agreed a motion calling on LCCC to rescind the decision made on the grounds that the members were given incomplete information at the meeting of 19 October 2017.
- 8.6.3. In this regard I note that the approved Part 8 or any deviations to same are not before the Board for adjudication.
- 8.6.4. The engineering Brief of Evidence states at Section 9 (Proportionality) that alternative methods of meeting the community need were considered but deemed less safe and/or less effective in meeting that community need and/or requiring greater and disproportionate interference with property rights. It outlines that lands subject of the CPO are proportionate to the community need, rationally connected to the legitimate objective of delivering the scheme in the public interest, sufficient for the construction, operation and maintenance of the scheme and that the proposed extinguishment of rights of way is appropriate and adequate measures provide for alternative means of access. It outlines that the effects of the CPO on affected landowners are considered proportionate to the benefits for the delivery of O'Rourke's Cross Road Improvement Scheme and means chosen to deliver same impair property rights of affected landowners as little as possible.
- 8.6.5. The submission on behalf of Objector (D) lodged to the Board on 23 September 2024 states *inter alia* that if the CPO is confirmed for the purposes of this particular road scheme, it will probably lead to the closure of the service station, resulting in

significant loss to the community. This submission includes a letter dated August 2020 from an accountancy firm, which outlines their belief that the significant adverse impact of the roundabout on the company's turnover is in the order of 70%. I note the information submitted and consider that this is a matter for the arbitrator.

- 8.6.6. With regard to potential impacts of the proposed CPO on the residential unit at the service station, at the Oral Hearing Mr. Bergin stated that there is no proposal to acquire lands there, and access will remain available as it is at the moment. I note that neither the realigned N20 nor R518 roads are being brought any closer to the residential unit.
- 8.6.7. In response to a question posed by the Inspector as to what Objector (D)'s particular concerns with regard to impacts on the dwelling unit are, Mr. Crean on behalf of Objector (D) outlined that notice was not served on the occupiers of the residential unit, that it is located next to the exit for the R518, which will be closed off.
- 8.6.8. The matter of notice of the CPO to the owner and occupiers is discussed at Section 8.7 of this report. With regard to the exit-only point to the R518 being closed off, at the Oral Hearing Mr. Bergin outlined that the reason for this is that it is too close to the roundabout. I note that the proposed extinguishment of this private right of way (Y1-Y1 to Y2-Y2) would result in a change to the current context of the subject site, essentially to the effect that vehicles would no longer traverse the area directly south west of the dwelling unit to access the R518. While I note that this results in a reduction in egress points from the overall service station site, I do not consider that closing off of this exit-only point would give rise to undue adverse impacts on the residential amenities of the dwelling unit.
- 8.6.9. I note the concerns raised on behalf of Objector (D) regarding the impacts of the proposed scheme on the service station and on any future development of the service station. I draw to the Board's attention that the proposed scheme would provide a single point of access/egress from the realigned N20 to the 'accommodation road/private access' route, whereby there is 1 no. existing entry-only and 1 no. existing entry and exit point to the service station.
- 8.6.10. As outlined by Mr. Bergin on behalf of the local authority at the Oral Hearing, no changes to the internal layout of the service station are envisaged. I note that there would be a net reduction in accessibility from the service station to the public road

(due to closure of exit-only to R518) in the event the CPO is confirmed. However, given that access/egress options for motorists remain onto the 'old' N20, I consider that the closure of the exit-only onto R518 and revised single access from the realigned N20 to the 'accommodation road/private access' route, could not in this context be regarded as a significant disproportionate effect.

- 8.6.11. The scheme would not prevent access to the service station, and would provide a different way of accessing and exiting the premises. The benefit is the increased traffic safety at this location and that is the proportionate balance.
- 8.6.12. Having regard to all information on file, the information outlined at the Oral Hearing, and policy context of the N20 as set out in *inter alia* the current Development Plan, I do not consider that the proposed CPO and extinguishment of public and private rights of way would have a disproportionate impact on the residential unit on site.
- 8.6.13. I consider that the effects of the CPO on the rights of affected landowners are proportionate to the objective being pursued. I am satisfied that the proposed acquisition of land and extinguishment of these rights of way would be consistent with the National Planning Framework NSO 2 Enhanced Regional Accessibility which supports enhancing connectivity between centres of population of scale, and which specifically states that this will focus initially between Cork and Limerick.
- 8.6.14. Having regard to the constitutional and European Human Rights Convention (EHRC) protection afforded to property rights, I consider that the acquisition of lands and the extinguishment of public and private rights of way as set out in the compulsory purchase order, First Schedule and Second Schedule (Parts I and II) and on the deposited maps pursues and is rationally connected to a legitimate objective in the public interest, namely the O'Rourke's Cross Road Improvement Scheme.
- 8.6.15. 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. As outlined previously at Section 8.1, an area of land at the northern extent of the Part 8 site has not been included within the proposed CPO.
- 8.6.16. In this regard, I have considered alternative means of achieving the objective referred to in the submissions to the Board. I am satisfied that the acquiring authority has established that the none of the alternatives are such as to render the means chosen and the proposed CPO unreasonable or disproportionate.

- 8.6.17. I consider that the proposed CPO would be in accordance with the RSES for the Southern Region which sets out that the transport vision includes supporting improved strategic and local connectivity and providing for the safe and most efficient use of the movement of goods and services, and RPO 140 International Connectivity includes the aim to sustainably maintain the strategic capacity and safety of the national road network.
- 8.6.18. With regard to the local level, Objective TR043 Upgrade works/New Road Schemes of the current Development Plan outlines the aim to carry out sustainable improvements to sections of *inter alia* the national road network, and N20 O'Rourke's Cross Improvements is specifically listed as one of the schemes. Accordingly, I am satisfied that the confirmation of the CPO is clearly justified by the exigencies of the common good.
- 8.6.19. Accordingly, I am satisfied that the lands and extent of the CPO are adequate and are necessary for the approved road improvement scheme, and have had due regard to the issue of proportionality.

8.7. Issues Raised by Objectors

Procedural/Legal Matters – Notification

- 8.7.1. The submission of 23 September 2024 on behalf of Objector (D) contends that the Council failed to comply with statutory requirements, arguing that
- Article (sic) 4 of the Third Schedule of the 1966 Act provides that the local authority is obliged to serve on every Owner, Lessee and Occupier of any land to which the order relates 'a notice in the prescribed form, stating the effect of the Compulsory Purchase Order and specifying the time within which and the manner in which objections can be made thereto'.
 - Individuals concerned and objectors have been deprived of the opportunity of having all views and objections canvassed before the Board.
- 8.7.2. This submission states the Council served the CPO on Objector (D) by way of letter dated 25 February 2020. It outlines that a dwelling house on Objector (D)'s property was occupied by a named occupier until October 2019, then subsequently by various tenants until occupation was taken up in May 2020 by a named tenant, and the Council did not notify either of these two named persons of the CPO.

- 8.7.3. At the Oral Hearing, Mr. Bergin in response to a question raised by Mr. Crean outlined that lands included in the CPO in the Objector's ownership are roadbed only. In closing statements Mr. Keane outlined that there is no evidence that the Objector gave a tenancy of the roadbed to the tenants and the assumption that they were obliged to have been served with notice of the CPO is incorrect. Mr. Keane stated (in response to queries raised by Mr. Crean) that notices were erected in relation to the extinguishment of the rights of way along the scheme including at the entrances to the garage on the R518. In closing statements, Mr. Keane outlined that these notices were erected in proximity to the houses¹, that none of those parties objected, and that the extinguishment of a right of way cannot be conflated with a CPO of lands where they have never seen a tenancy.
- 8.7.4. Separately, I note that there is a certificate on file dated 28 February 2020 signed by a local authority Assistant Engineer confirming that notices were erected in prominent positions at each end of the public and private rights of way proposed to be extinguished as set out in the Second Schedule Parts I and II of the CPO.
- 8.7.5. I note that James Beechinor is listed as the owner or reputed owner of plot ref. no.s 106b.01 (0.041ha) and 106b.02 (0.056ha) in the CPO (First Schedule), both of which are stated to be 'public road' on the CPO Schedule. Given that lessees/reputed lessees are listed as 'None' on the CPO Schedule for both plots, I do not consider that it has been demonstrated that a notification requirement for any others person(s) regarding these 2no. plots arises.
- 8.7.6. With regard to the proposed extinguishment of public and private rights of way, the private right of way Y1-Y1 to Y2-Y2 is shown on the CPO deposit map at/adjacent to plot ref. no. 106b.02. The extinguishment of same would result in the exit-only point from the service station site directly onto the R518 being closed up.
- 8.7.7. I have noted the matter raised on behalf of Objector (D) regarding notification and the local authority's response to same. I have noted the lack of any objections from any occupiers/tenants of the residential unit on the proposed CPO and extinguishment of rights of way, and also the information regarding the site notices erected outlined at the Oral Hearing by the local authority and the information

¹ The information on file indicates that there is a residential unit on the service station site. There does not appear to be any information provided on the file to indicate that there is more than one such unit on the premises.

relating to same on file.

- 8.7.8. On the basis of the information on file, and as outlined at the Oral Hearing, I am satisfied that the local authority discharged their responsibility with regard to notification as reasonably as may be expected.

Approved Part 8

- 8.7.9. The grounds of objection to the proposed CPO on behalf of Objector (D) include that the Board has been asked to approve a CPO for a materially different scheme to that which had been proposed. It outlines that in 2020 after the Council made the CPO, it produced drawings which signified the Council's intention to construct a road rising to 2.4m above surface level of the service station forecourt, and which would entail the importation of approx. 14,000m³ of infill. The elected members did not approve such works or development. The noise assessment proceeded on the basis that the scheme would be at grade.
- 8.7.10. There was discussion at the Oral Hearing regarding the overall height of the road improvement works, specifically the height of the new roundabout and approach roads to same. Mr. Crean highlighted that no sections were provided on the Part 8. Mr. Keane on behalf of the local authority highlighted that side slopes were shown on the Part 8 drawings.
- 8.7.11. I note that the Mr. Bergin's Brief of Evidence (Appendix C-2) outlines that the finished level of the scheme is dictated by drainage and geometry generally, that it will require import of material, and that much of the earthworks material required is processed material which would have had to be imported in any case. It outlines that the section drawing enclosed with the Brief of Evidence shows the finished level of the proposed roundabout is typically 50.0m OD, and the existing road level is typically 48.8m, a difference of 1.2m.
- 8.7.12. The matters raised on behalf of Objector (D) relating to the absence of sections on the Part 8 are noted. However, I note that the approved Part 8 or any amendments to same are not before the Board for adjudication. With regard to concerns raised regarding impacts on the Objector's property and service station business, I consider that this is a matter that should be considered under any compensation process. I am satisfied that the extent of lands being acquired is reasonable and proportionate.

The matter of the lands and extent of the CPO being adequate and necessary for the approved Part 8 scheme has been discussed previously at Section 8.6.

CPO - Development consent

- 8.7.13. The submission of 23 September 2024 on behalf of Mr. Beechinor includes that CPO is a development consent. It outlines that there are conflicting authorities in the High Court on this point, and that there is no binding authority on whether a CPO is or is not a development. Recent cases cited include *Clancy v. An Bord Pleanála* [2023] IEHC 233 and [2023] IEHC 464 and *King v. An Bord Pleanála* [2024] IEHC 6.
- 8.7.14. The submission outlines that in *Clancy v. An Bord Pleanála* [2023] IEHC 233 and [2023] IEHC 464 Humphreys J. accepted that 'one project may require multiple consents' but did not accept that this meant that a procedure such as CPO 'was, or should be treated as if it was a development consent'.
- 8.7.15. It further outlines that in *King v. An Bord Pleanála* [2024] IEHC 6, whereby the application to confirm the CPO was determined first, in advance of an intended application for planning permission for a water treatment plant, that Simons J. states in his judgement 'Crucially, the decision to confirm the compulsory purchase order is one which has been reached following consideration of the environmental effects of the proposed development project'.
- 8.7.16. Having regard to all information on file, in noting that the Part 8 scheme was approved in 2017, I do not consider that the arguments made relating to the CPO being a development consent, based on the judgement in *King v. An Bord Pleanála* [2024] IEHC, precludes the Board from confirming the subject CPO.

EIA Directive

- 8.7.17. The submission on behalf of Objector (D) of 23 September 2024 states that the Council did not conduct mandatory EIA screening process during the Part 8 procedure. At the Oral Hearing the Inspector queried if the local authority had any comment regarding queries raised in this submission relating to EIA.
- 8.7.18. Mr. Keane responded that the scheme will have no likely significant impacts on the environment and therefore EIA Directive 2011/92/EU, as amended by Directive 2014/52/EU, does not require the carrying out of an EIA. There was no requirement to screen, and there is no requirement for the Board to carry out a screening

exercise. There is no breach and no remedial requirement.

8.7.19. I note that the Part 8 was approved by the members in October 2017, i.e., prior to commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018 (S.I. No. 296 of 2018) which transposed the requirements of the 2014 EIA Directive (2014/52/EU). That development consent remains extant.

8.7.20. Having regard to the information on file and to the extant Part 8 approval, I do not consider that the Board are precluded from confirming this CPO on grounds of EIA.

Road Infrastructure Safety Management Regulations, 2021

8.7.21. The submission on behalf of the Objector received on 23 September 2024 states (at Para.s 115-119) that a road safety impact assessment was not carried out in respect of the proposed road improvement scheme, and the requirement to carry out such an assessment is mandated by the European Communities (Road Infrastructure Safety Management) Regulations 2021. It contends that the proposed CPO cannot represent a proportionate interference with these objector's property rights for the purpose of a road scheme which has not obtained the necessary consents.

8.7.22. At the Oral Hearing, the Inspector asked Mr. Crean if the Road Safety Impact Assessment Regulations 2021 referred to in the submission were applicable at time of the local authority's decision on the Part 8. Mr. Crean outlined that they were not, but subject to the caveat that while the regulations were not directly binding on the Council until they were made in 2021, they apply to all road schemes that had not commenced by then, and Regulation (3) of these Regulations was referred to.

8.7.23. There were differing views at the Oral Hearing on the applicability of the 2021 Regulations.

8.7.24. Mr. Keane outlined that Directive EU/2019/1936 requires that before approval, design or construction of roads of the type set out in the Directive, those roads would be subject to a road safety audit or inspection, and that that does not act as a bar to the Board confirming a CPO in relation to lands necessary for this sort of road scheme on the N20 and R518 which are not motorways or of the type specified. The Directive required transposition by member states by 17 December 2021 and in no way post-dates itself to the consent process.

8.7.25. While I note that Mr. Keane outlined (in closing statements) at the Oral Hearing that there will be fine-tuning up to time of design and construction, I note that it remains that the approved Part 8 or any deviations to same are not before the Board for adjudication.

8.7.26. For completeness, I have viewed S.I. No. 612/2021 European Communities (Road Infrastructure Safety Management) Regulations 2021. It contains Articles 1 to 12 inclusive, of which I outline the following:

Art. 3 (1): These Regulations apply to roads in the State which are part of the trans-European road network (TERN), to motorways and to other National Primary Roads, whether they are at the design stage, under construction or in operation.

Art. (5)(1): Any person undertaking a substantial modification to a road to which these Regulations apply shall ensure that a road safety impact assessment is carried out for that project, in accordance with guidelines issued by the Authority.

Art. 5(2): The road safety impact assessment shall be carried out at the initial planning stage of the infrastructure project, before—

(a) in any other case, submitting an application for consent for the infrastructure project under the Planning and Development Act 2000 (No.30 of 2000) and Regulations made under Part XI of that Act.

8.7.27. I have noted the cited content of S.I. No. 612/2021, and the arguments outlined on behalf of Objector (D) and on behalf of the local authority. I note that the road scheme is an approved development. I consider that the lands proposed to be acquired by the CPO are suitable and necessary to implement the approved scheme, as outlined previously in this report. There is no basis to conclude that the application of such regulations to the scheme, if required prior to design finalisation, would give rise to any material modification to the scheme or extent of lands to be acquired.

8.7.28. Accordingly, I do not consider that S.I. No. 612/2021 would preclude the Board from confirming the CPO.

Impacts on Residential Amenities

Objectors (A)

8.7.29. Concerns raised by **Objectors (A)** relate to disturbance, severance of their property

and injurious affection. Plot ref. no. 115b.01 is located at the western boundary of the CPO lands on R518. It comprises 0.013ha and comprises public road. The eastern end of the Plot ref. no. 115b.01 is approx. 85m from the 'tie in to existing R518' shown on the Part 8 drawings.

- 8.7.30. The subject dwelling house is located along a short stretch of ribbon development.
- 8.7.31. The local authority's response is that the relevant property is located with the R518 tie into the existing R518 and only roadbed is being acquired, and the objection does not specify how severance of their property or injurious affection would occur. Works on the public road network in the vicinity will be short-term and subject to planned traffic management. A noise impact assessment (NIA) found that there will be no significant impacts on surrounding properties at operational stage. Noise reduction measures will form part of the construction stage environmental management plan.
- 8.7.32. With regard to concerns raised relating to severance of the property, I note that while Plot ref. no. 115b.01 is located along the dwelling house's roadside frontage, and is stated to be 'public road', I do not consider that the proposed CPO of 0.013ha at this location would result in any severance of the overall property.
- 8.7.33. As construction works would be temporary, as 'Condition 7' in the Chief Executive's report on the Part 8 (P.A. Ref. 17/8005) requires a construction management plan to be agreed prior to commencement of development, and having regard also to the distance of Plot ref.no. 115b.01 from tie-in to existing R518, I do not consider that the proposed CPO would adversely impact on residential amenities of Objectors' (A) property at construction or operational stage.

Objectors (B): plot ref. no.113b.01 and (C): plot ref. no.112b.01

- 8.7.34. Key points raised in the 2no. separate submissions are that while the objectors welcome this very important initiative, they wish to see footpaths, street lighting, a barrier if necessary to prevent excess noise coming back onto Newcastlewest road, and calming restrictions.
- 8.7.35. Plot ref. no.113b.01 (0.022ha) and plot ref. no.112b.01 (0.021ha) are located near the western end of the CPO lands on the R518. Both plots comprise public road. These 2no. plots are located opposite or in the immediate vicinity of plot ref. no. 115b.01 discussed above (Objector A).

- 8.7.36. The local authority's response to these 2no. submissions is that these properties are located where the R518 realignment ties in to the existing R518 and only roadbed is being acquired from these landowners. The scheme does not include footways or traffic route lighting beyond the tie-in to the existing R518. The NIA found there will be no significant impact on surrounding properties during operational stage, and noise reduction measures will be implemented during construction stage.
- 8.7.37. With regard to concerns raised in these 2no. submissions, I consider that given that the area of land to be acquired in both cases is public road, is of limited extent, and at minimum 40m from the eastern boundary of plot ref. no. 112b.01 roadside frontage, I do not consider that the proposed CPO would adversely impact on the residential amenities of the Objectors' (B) and (C) properties at construction stage.
- 8.7.38. With regard to concerns raised relating to a noise barrier, I note that Noise & Vibration Impact Assessment (Appendix D) forms part of the Part 8 documentation. It includes that the noise model assumes the topography is flat, that in all likelihood there is no acoustical impact of not including road heights in this particular model, and earth bunds, barriers and other topographical features may impact the noise levels at receiver positions, most likely reducing them. The Part 8 drawings indicate 'side slopes' on all N20 and R518 approaches to the roundabout. No noise barriers are shown. However, as outlined previously, I note also that the approved Part 8 or any deviations to same are not before the Board for adjudication.

9.0 Conclusion and Recommendation

- 9.1.1. I am satisfied that the process and procedures undertaken by Limerick City and County Council seeking confirmation of the CPO have been fair and reasonable, that Limerick City and County Council seeking confirmation of the CPO has demonstrated the need for the lands and that all the lands being acquired are both necessary and suitable to facilitate the provision of the N20 O'Rourke's Cross Road Improvement Scheme.
- 9.1.2. Having regard to the constitutional and Convention protection afforded to property rights, I consider that the permanent acquisition of land as set out in the compulsory purchase order and on the deposited maps with the extinguishment of any public and private rights of way as indicated, pursues and is rationally connected to a legitimate objective in the public interest, namely the O'Rourke's Cross Road

Improvement Scheme. As outlined in Section 3.0 of this report, I have noted that there appears to be a discrepancy between the combined 5.814ha CPO site area cited in both the letter from Senior Engineer, LCCC (dated 25 June 2024) and the separate Engineering Brief of Evidence, and the combined 5.861ha which I have calculated from the 33no. individual plots in the CPO First Schedule. Accordingly, on the basis of information on file, I consider it relevant to draw the Board's attention to recommended Section 10.0 Reasons and Considerations, which includes that the recommendation to confirm the CPO refers to the permanent acquisition of land as set out in the First Schedule and deposited maps.

- 9.1.3. 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 the 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.
- 9.1.4. The effects of the CPO on the property rights of affected landowners are proportionate to the objective being pursued. I am satisfied that the proposed permanent acquisition of land as set out in the compulsory purchase order and on the deposited maps with the extinguishment of any public and private rights of way as indicated would be consistent with the policies and objectives of the Limerick Development Plan 2022-2028 and gives effect to the objective TR O43 Upgrade Works/New Road Schemes, which specifically identifies N20 O'Rourke's Cross Improvements as one such scheme (Volume 1 Limerick Development Plan 2022-2028). Accordingly, I am satisfied that the confirmation of the CPO is clearly justified by the exigencies of the common good.
- 9.1.5. I recommend that the Board CONFIRM the Compulsory Purchase Order based on the reasons and consideration set out in Section 10.

10.0 Reasons and Considerations

Having considered the objections made to the compulsory purchase order, the written submissions and observations made at the Oral Hearing held on 24

September 2024, the report of the Inspector who conducted the oral hearing into the objections, the purpose for which the lands are to be acquired as set out in the compulsory purchase order, to provide for the O'Rourke's Cross Road Improvement Scheme and also having regard to the following:

- (i) the constitutional and European Human Rights Convention protection afforded to human rights,
- (ii) existing road conditions at the staggered crossroads of the heavily trafficked national primary road N20 and its intersection with regional road R518, the complexity of the traffic turning movements at this staggered crossroads, the existence of a number of access/egress points to the service station at O'Rourke's Cross, and the lack of adequate bus infrastructure and pedestrian facilities to access existing bus stops on the N20, and the resulting high collision rates,
- (iii) the approval of the O'Rourke's Cross Road Improvement Scheme under the Part 8 process (P.A. Ref. 17/8005),
- (iv) The community need, the public interest served and overall benefits, especially in terms of road traffic safety to be achieved from the proposed road improvement scheme,
- (v) the design response, which has been appropriately tailored to the identified need,
- (vi) the suitability of the lands and the necessity of their acquisition to facilitate the provision of the O'Rourke's Cross Road Improvement Scheme,
- (vii) National Strategic Outcome (NSO) 2 Enhanced Regional Accessibility of the National Planning Framework (NPF) includes that Inter-Urban Roads to maintain the strategic capacity and safety of the national roads network
- (viii) the policies and objectives of Limerick Development Plan 2022-2028 including Objective TR O43 Upgrade Works/New Road Schemes, whereby it is an objective to provide for and carry out sustainable improvements to sections of the national, regional and local road network, to address deficiencies in respect of safety, alignment, structural condition or capacity where resources permit, and which specifically identifies N20

O'Rourke's Cross Improvements as one such scheme,

- (ix) The submissions made at the oral hearing held on 24 September 2024,
and
- (x) The report and recommendation of the Inspector

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

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

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.

Cáit Ryan
Senior Planning Inspector

24 February 2025

Appendix 1: Proceedings of the Oral Hearing

A. Background

An Oral Hearing (OH) was held on 24 September 2024 in relation to the proposed compulsory acquisition sought by Limerick City and County Council (LCCC) for road improvements comprising a new roundabout controlled junction, road realignment and other works at N20 O'Rourke's Cross in the townlands of Ballyfookeen and Cappanafaraha, Co. Limerick.

It was held remotely at the offices of An Bord Pleanála using Microsoft Teams software.

The OH was recorded. This report does not constitute a verbatim record of the hearing. Should the Board wish further detail, a recording of the OH is available.

List of attendees:

On behalf of Limerick City and County Council (LCCC)
Ms. Maria Woods, Senior Planner, LCCC
Mr. Tim Fitzgerald, Senior Engineer, LCCC
Ms Deirdre Clarke, Executive Engineer, LCCC
Ms. Jennifer Brett, LCCC
Mr. Esmonde Keane, barrister, instructed by Leahy Reidy & Company Solicitors, on behalf of LCCC
Mr. Paul Bergin, Consulting Engineer (Kilgallen & Partners Consulting Engineers)
Mr. William Leahy, Solicitor
Objector
Mr. James Beechinor
Mr. Frank Crean, instructed by Kennedy Fitzgerald Solicitors, on behalf Mr. Beechinor.
Mr. Jack Fitzgerald, Solicitor
Mr. Ger O'Keeffe, Engineer
Mr. Christy O'Sullivan, Engineer

Mr. Keane, on behalf of LCCC, confirmed that some others may be observing the Oral Hearing online.

B. Participants

Local Authority

Mr. Esmonde Keane, barrister, representing LCCC

Ms. Maria Woods, Senior Planner, LCCC

Mr. Paul Bergin, Consulting Engineer (Kilgallen & Partners Consulting Engineers), representing LCCC

Ms. Deirdre Clarke, Executive Engineer, LCCC

Objector

Mr. Frank Crean, on behalf of Mr. Beechinor

Mr. Christy O'Sullivan, ILTP Consulting

C. Opening of Oral Hearing

- The Inspector formally opened the hearing at 10:00am
- The agenda of the hearing was outlined. The Inspector outlined one change to the circulated agenda, whereby the objection from Ms. Patricia O'Rourke had been withdrawn.

D. Submissions by Limerick City and County Council

Legal Overview

Mr. Esmonde Keane

- Mr. Keane, barrister, on behalf of Limerick City and County Council opened by indicating that the Oral Hearing is solely in relation to the CPO. It is the Council's view that the Order accords with the proper planning and sustainable development of the area, provides for the acquisition of lands in order to carry out a road improvement scheme which is incredibly important to the public safety and public benefit of the area in question, is proportionate and has minimised the land taken for the construction of the roundabout and associated developments. The extinguishment of public and private rights of

way as indicated within the CPO limited to the extent necessary is proportionate and has minimised interference with constitutional property rights of landowners affected.

- Part XI of Planning and Development Act process was engaged in and was approved by members in October 2017. That approval process remains valid and has not been challenged by any party.
- The alternative 5-arm roundabout advanced for this location (on behalf of Mr. Beechinor) does not accord with TII safety standards. It would require a far greater diameter roundabout with significant increase in circulatory speed, and if a single arm was inserted onto the roundabout as currently exists arms in such close proximity would result in confusion as to the driver's intentions, of drivers entering and exiting from that roundabout in question.
- The Council have considered all matters in relation to same, and indicated that evidence of Mr. Paul Bergin and of Ms. Maria Woods, Senior Planner, would be outlined.

Overview of the CPO and Council Response to Written Submissions

Mr. Paul Bergin, Director, Kilgallen and Partners Consulting Engineers²

- Mr. Bergin summarised his Brief of Evidence that was submitted to the Board on 19 September 2024 in advance of the hearing and which is on file. The schedules in the CPO are reproduced in the Brief of Evidence and these tables also set out the reason for each acquisition or extinguishment.
- Mr. Bergin outlined to varying degrees the content of Brief of Evidence relating to community need for the proposed scheme and CPO (Section 3), scheme objectives (Section 5), description of proposed scheme (Section 6), proportionality (Section 9), suitability of property to be acquired (Section 10) and publication of CPO and submissions received (Section 11).
- Mr. Bergin outlined the Council response to the submission on behalf of Mr. James Beechinor under 3no. headings – assessment, planning and observations. It includes that scheme is for a 4-arm roundabout with a separate priority access to the filling station. The submission proposed a fifth

² Brief of Evidence for Oral Hearing Regarding Compulsory Purchase Order outlines the report was prepared by Paul Bergin, Director of Kilgallen and Partners Consulting Engineers.

arm to the roundabout accessing the filling station, also advanced by the Objector during Part 8 process. Given that the scheme had been approved under the Part 8 process, this response will not address objections relating to the alternative junction arrangement. The response is outlined under the following headings/sub-headings

Assessment

Finished Level: Scheme's finished level is dictated by drainage and geometry generally. No safety issues arise with finished level. Scheme will require the import of material. Much of the earthworks material required is processed material which would have had to be imported in any case. An attenuation area in the grassland area in front of the filling station site is not proposed.

Impact: The scheme seeks to minimise impact on landowners. The lands being acquired are sufficient for the scheme.

Pedestrian Crossing: There is a refuge between northbound and southbound lanes

Design Changes: No fundamental changes to the proposed scheme are envisaged. LCCC will consider minor changes which do not compromise the proposed scheme.

Safe Access: Scheme provides safer access to the filling station. For example, the current right-turn lane into filling station is 10m long and immediately follows the right turn lane from N20 to the R513³. The scheme will provide a 30m long right turn lane.

Traffic turning: The scheme requires traffic exiting the filling station to turn left onto the realigned N20, northbound traffic will use the roundabout. TII Design Standard for Junctions lists the facilitation of U-turns as an advantage of roundabouts.

Area of land between N20 realignment and existing N20: Drawing in this Brief of Evidence shows proposed landscaped area between N20 realignment and existing N20 in front of the filling station. This landscaped area will be constructed to a uniformly graded finished level which will allow a clear view of the filling station from the N20 realignment. Bollards will be installed along the perimeter to deter illegal parking. Back-drop lighting incorporated into the traffic route will illuminate the landscaped area.

³ This is presumed to be an erroneous reference to R518.

Part 8 Planning

An at-grade scheme would require greater excavation, giving rise to a greater requirement for disposal of surplus excavated material. The existing road level at O'Rourke's Cross is above that of the surrounding fields. The section drawing in this Brief of Evidence shows that the finished level of the proposed roundabout is typically 50.0m OD, the existing road level is typically 48.8m, a difference of 1.2m.

Observations

The scheme is proposed to improve safety at a sub-standard junction on a national road. It does not preclude the Objector from applying for development at his site. It is presumed that future applications would be assessed by LCCC in accordance with proper planning and sustainable development.

- Mr. Keane requested Mr. Bergin to confirm that TII standard DNGO 03060 dates to April 2017, and was upgraded in June 2017 and in May 2023, to which Mr. Bergin confirmed that the advice (in each of these standards) has been consistent in being against the 5-arm roundabout.

Ms. Maria Woods

- Ms. Woods referred to her Brief of Evidence, and outlined the scheme was authorised pursuant to Part XI, Part 8 on 19 October 2017. Proposed scheme was published and accompanied by drawings including green shading which denote side slope between proposed roundabout and filling station. Chief Executive's report on Part 8 addressed each submission, and concluded that proposed design is the optimum design and that proposed development is in accordance with the proper planning and sustainable development of the area and Limerick Development Plan 2010-2016 as extended.
- The scheme underlying the lands to be acquired as part of the CPO and rights of way to be extinguished does not vary from the Part 8 design.
- Upgrade of N20 O'Rourke's Cross remains an objective of Limerick Development Plan 2022-2028, cited a range of Development Plan policies and objectives, and outlined that the RSES for Southern Region identifies N20 Cork to Limerick road as an important corridor.

Mr. Keane

- With reference to submission on behalf of Mr. Beechinor regarding a motion put before members of a municipal district in 2018, Mr. Keane stated the Part 8 process has been complied with and remains in full force and in effect.

E. Submissions by Objector

Mr. Frank Crean on behalf of Mr. James Beechinor and 2 of his companies, N20 Service Station O'Rourke's Cross Limited and JB Beechinor Properties Limited (hereafter referred to as 'on behalf of Mr. Beechinor' or Objector (D)) provided an overview of Mr. Beechinor's objections to the CPO.

- Objection to the CPO is for reasons set out in the written submission delivered to the Board the previous day. Oral presentation at Hearing will make brief opening remarks and then emphasise 6no. specific points thereafter.
- The test which the Board must apply, that enunciated in Supreme Court cases such as Heaney, Reid and Clinton, is not satisfied in this case. Confirmation of CPO will result in very significant restriction of Objector's constitutionally protected property rights. Restriction is not necessary to meet any identified public need. Confirmation of CPO would entail very significant interference with property rights - acquisition of land, extinguishment of public and private rights of way, and probable loss based on evidence of service station business. This is wholly disproportionate and does not accord with proper planning and sustainable development.
- EIA Directive: The Council promotes a road scheme and seeks confirmation of the CPO. This is a significant road improvement scheme and would have significant effects of the environment, but no EIA or screening has ever been carried out. No application was made under Section 50 of the Roads Act. No EIA carried out and that is a flagrant violation of EIA Directive. The only decision the Board can make consistent with remedial obligations in accordance with the Directive is to annul or to refuse to confirm the CPO.

Points of objection:

- Board's powers derive from Section 217C of the Act. The statute gives little or no guidance as to factors to take into account. An Bord Pleanála email dated

8 January 2021 to the Council sets out a different test which the Board at that time proposed to apply. It refers to 4 point test which relies on some text, but the Board must apply in its analysis that set out by the Supreme Court.

- Onus in persuading the Board to confirm CPO rests on the Council alone, and it must identify a public need which necessitates this significant interference with property rights. Council's evidence is clearly insufficient. Improvements were made at this junction in 2011, a 60kph speed limit was introduced. In 2013/2014 the extent of the speed limit was increased, and traffic calming measures introduced. Any decrease in speed will result in a decreased frequency in accidents and danger posed by accidents, but there is no analysis of these data. Mr. Bergin's Brief of Evidence says there is anecdotal evidence that changes at the junction have made it difficult to find gaps and to access the junction. The Council cannot ask the Board to rely on anecdotal evidence. It is unlawful, unattributed, cannot be quantified and is inadmissible. There is no data regarding the present functioning of junction.

Question of community need is complex in this case. New road scheme would significantly impair access to and decrease visibility of service station, and would result in the business becoming unviable. Local community relies on the service station for purposes such as restaurant, late-night convenience store and sale of agricultural fuel. Community need would be damaged by confirmation of CPO.

Viable alternative of a 5-arm roundabout, proposed by Mr. Beechinor from the outset, could address any safety concerns at O'Rourke's Cross junction. As 5-arm roundabout was a Departure of Standard it was not further considered. Mr. Bergin in Appendix C-2 states Council have not and will not consider any alternative after Part 8 and in context of CPO application. Viable alternative has been supported by Mr. O'Sullivan's and Mr. O'Keeffe's evidence.

- Proper planning and sustainable development: Council's submission is that it the elected members' will and their decision that a 4-arm roundabout is required. Members confirmed Part 8 approval on 19 October 2017, and subsequently tabled a motion to rescind decision on 21 November 2018. The Executive refused to list motion on the agenda, saying its legal advice was the Part 8 approval could not be revisited. Members passed a resolution calling

on the Council not to proceed with proposed scheme; minutes appended. Council letter dated 11 March 2019 states it would not consider members' views on the matter further. While the Part 8 is approved, the will of the members is the opposite.

Road improvement scheme has not been approved in final form by members. Part 8 drawings were site layout drawings, no elevations. Experts retained by Mr. Beechinor were shocked to learn in July 2020 that roundabout would be constructed 2.4m above level of the old road. Mr. O'Keeffe estimates this requires importation of approx. 14,000m³, possibly 16,000m³ of fill. It cannot be compatible with proper planning and sustainable development to construct a development which was never fully explained to public or members.

- Confirmation of CPO would result in wholly disproportionate interference of objector's property rights. Alternative 5-arm roundabout would result in much lesser interference with objector's service station. Council did not consider this and refuse to countenance consideration of a 5-arm roundabout at this stage.
- EIA Directive: Road improvement scheme will have significant effects on the environment, which have never been assessed. No EIA screening conducted during Part 8 process. The Council and the Board are subject to the remedial obligation. Cites CJEU cases Wells and Commission of Ireland. CPO itself is a development consent. Cites recent High Court cases, Clancy and King. The question remains an open one and it arguable that it is development consent. Environmental effects of what is now proposed to be constructed, a materially different scheme from that approved in 2017, have never been assessed. AA screening: There is a serious deficiency in the screening for AA. Section 5.3 (Table 8) of Flynn Furney report concludes that there would be no significant effects on any protected sites. It relied on mitigation measures that would be implemented. That is unlawful.
- Article 4 to Third Schedule of Housing Act 1966 sets out mandatory statutory procedure. A residential dwelling on Mr. Beechinor's property has at all times been let out to various tenants. No notice was served on any tenants. The Board has no power to overlook this deviation from statutory procedure or to proceed to confirm the CPO.

Break

F. Questioning between the parties

The Inspector reopened proceedings after a short break.

The Inspector outlined that prior to continuing to the next section of the Hearing, she would refer to an extract from the Board's correspondence of 30 April 2024 to the parties. The extract refers to the Board's previous decision on ABP-306784-20, by order dated 23 April 2021, which was quashed by order of the High Court, dated 25 October 2023. The case has been remitted to the point in time immediately after receipt of the last withdrawal of objection, received on 28 January 2021 and prior to the holding of the Oral Hearing.

The Inspector requested all attendees to bear in mind this timeframe in terms of discussions at this Oral Hearing.

Questioning between the parties

The Inspector confirmed that the next item on the agenda was questioning between the parties.

(i) Questioning by Objector of LCCC

(a) Mr. Crean on behalf of Mr. Beechinor questioned Mr. Paul Bergin (Kilgallen & Partners Consulting Engineers) on behalf of LCCC.

- Mr. Crean queried if a 5-arm roundabout was designed or modelled at this location. Mr. Bergin responded that preliminary design of 5-arm roundabout was prepared, no drawings were prepared, and never proposed as an option.
- Mr. Crean queried that when the noise assessment was conducted, it was understood that the roundabout would be at grade. Mr. Bergin confirmed that this was so.
- Mr. Crean outlined that based on drawings received/discussed in 2020, an elevation of 2.4m above service station forecourt was proposed, and that had not been shown on site layout plans. Mr. Bergin responded that the site layout plan included side slopes, which would be indicative of a difference in level.
- Mr. Crean asked Mr. Bergin to confirm that he has no data regarding the effect of traffic calming measures. Mr. Bergin confirmed that the survey information was 2015. There was some discussion on the matter of anecdotal

evidence in Mr. Bergin's Brief of Evidence. Mr. Bergin outlined that it was based on comments from the municipal engineer, that it gives a context and that he does not ask that the Board to rely completely on that and that his Brief of Evidence stands.

- Mr. Crean queried the lack of information provided regarding accidents at this location. Ms. Deirdre Clarke (LCCC) outlined that their collision data is from 2014-2023. There were 19no. material damage collisions, 4no. minor and 1no. serious collision and 1no. fatality, all of which related to movements at the junction. The site remains a high collision location, as defined by TII in the HD 15 programme. It has more than twice the number of collisions than would be expected in a section of a national road. There was some discussion on the matter of accident statistics at the junction. Mr. Crean outlined that no information has been provided to outline was caused those accidents.
- Mr. Crean queried that it won't be possible to see the service station from the Cork side and that it would be harder to see more generally. Mr. Bergin stated that it would be visible from the N20. In response to whether it is proposed to erect noise barriers on the roundabout about or any part of the scheme, Mr. Bergin replied no.
- Mr. Crean asked Mr. Bergin to confirm that no notice had been served on any occupant or lessee of the dwelling house on site, to which Mr. Bergin stated that he did not think so.

(b) Mr. Crean questioned Ms. Maria Woods, Senior Planner

Questions for Ms. Woods related generally to the Part 8 and a 5-arm roundabout. However, no new significant issues arose.

(ii) Limerick City and County Council to Objector

Mr. Keane posed a number of queries to Mr. Christy O'Sullivan (ILTP Consulting, on behalf of Mr. Beechinor)

- Mr. Keane asked Mr. O'Sullivan if he accepted that 5-arm roundabouts have higher accident rates than 4-arm roundabouts, as set out in TD-016-07 Guidance Document, withdrawn approx. April 2017, but the standards it informed remain. Mr. O'Sullivan said that it was partially correct, that it was

correct in terms of number of accidents but that in terms of severity of accidents 3-, 4- or 5-arm roundabouts are identical.

- Mr. Keane queried if Mr. O'Sullivan would accept that this junction is dangerous. Mr. O'Sullivan responded that he was not furnished with accident data to quantify. He accepted that it has a historic accident rate and remedial work was carried out at various stages, he does not have the data and it is no longer available to third parties from the RSA that would allow him to say what the accident rate over past 5 years and previous 5 years before that was.
- Mr. Keane queried if Mr. O'Sullivan would disagree with the Council's evidence that this is a very dangerous junction. Mr. O'Sullivan responded that this has been a historically dangerous junction, that road improvements at any junction would improve accident rates, and that he does not have up-to-date information. In response to Mr. Keane's question as to whether he agrees that this junction needs safety improvements, Mr. O'Sullivan responded yes.
- Mr. Keane queried if setting out an argument for a 5-arm roundabout formed part of Mr. O'Sullivan's brief, to which Mr. O'Sullivan indicated not directly.
- There was discussion regarding the detailing of side slopes shown on the Part 8 drawings. Mr. O'Sullivan indicated that (at Part 8 stage) he was primarily involved with layout of the design and accessibility, did not look at it in detail and was looking at a proposal for a 5-arm roundabout and to try ameliorate the impact on Mr. Beechinor's property.

There was much discussion regarding the merits of a 5-arm roundabout being provided instead of a 4-arm roundabout.

Mr. O'Sullivan outlined his view that Departures from Standard (in terms of providing a 5-arm roundabout) could be done, previous reports which were before the Board carried out detailed traffic assessments of the 4- and 5-arm roundabouts which showed that a 5-arm roundabout would result in less traffic passing through the roundabout, as it would remove U-turn traffic.

Mr. Keane queried, in relation to Mr. Bergin's evidence regarding policies (a) to (e) that would be required to be considered in any Departure from

Standard, as to whether Mr. O'Sullivan disagreed with anything said by Mr. Bergin and if so, what? Mr. O'Sullivan said it was incorrect that the capacity of the roundabout would be reduced, a 5-arm roundabout would result in less traffic as less U-turns, and that he does not accept that the ICD necessarily needs to be expanded.

(iii) Inspector to (a) Limerick City and County Council and (b) Objector

(a) The Inspector posed some queries to Limerick City and County Council.

- Regarding whether the proposed CPO reflects the approved Part 8 scheme and as to whether the total number of drawings on the Part 8 is 3no.

Mr. Keane on behalf of LCCC confirmed –

- the proposed CPO reflects the approved Part 8 scheme.
- the total number of drawings on the Part 8 file is 3no., which are Drawing No.s 15032-P8-102, 15032-P8-103 and 15032-P8-104.

- The Inspector referred to Part 8 Drawing No. 15032-P8-102, and requested LCCC to clarify if based on this drawing there are any changes to the existing access arrangements to the service station.

Mr. Bergin outlined that the change primarily is the extinguishment of a right of way on the R518. Regarding access onto current N20, this will remain largely unchanged. Access and egress from the site itself won't change.

- The Inspector queried whether to the drawing contained in Brief of Evidence – Appendix C-2 (Mr. James Beechinor); Drawing No. 15032-CPO-160-1 (dated 28 January 2021) provides for any changes to existing access arrangements from the N20 to the service station (a) at the northern end of N20 roadside frontage and (b) the separate existing access and egress point to the service station.

Mr. Bergin confirmed that the hatched brown/beige area is largely existing N20, and this is unchanged as it fronts onto the site.

- The Inspector referred to a letter dated 23 March 2018 from Mid West National Road Design Office addressed to Ger O'Keeffe Consulting Engineers

Ltd. regarding N20 O'Rourke's Cross - Part 8 Development. It refers to the CPO to be prepared and states that if one assumes the Council is successful vehicles will arrive at the service station entirely via one entrance, and that this will be true regardless of where the vehicles originated from. The Inspector asked the local authority to clarify this.

Mr. Bergin outlined that this statement is consistent with the drawings shown. Vehicles will arrive from one point and that is the realigned N20, then join the existing N20 and have the option of entering the filling station site as at the moment.

- The Inspector outlined that the letter continues to state that it may require some additional adjustments to the internal layout to deal with a single entrance into the station scenario that would arise from a successful Council application to An Bord Pleanála.

Mr. Bergin outlined the only thing would be signage and not turning left coming out of the service station. He does not envisage any necessity to amend the internal layout.

- The Inspector queried a detail on the Part 8 drawing (Drawing No. 15032-P8-102), which shows an existing field access to be closed on the northern side of the R518, east of the proposed roundabout. As no detail/annotation relating to an existing access to be closed at this location is shown on the CPO drawing, the local authority was requested to clarify this.

Mr. Keane outlined that the existing field access is proposed to be closed, and new field access can be created within the CPO line. Initially an indentation was shown around that gate but the view is to create a field access into the field without the necessity to acquire any additional lands or excessive lands within the landowner's take. Accommodation works might be necessary if any difference in grade. While that field access was shown as potentially requiring a CPO, it has not proved necessary to acquire the actual area inside the field access in order to provide that gate along R518.

Mr. Keane further outlined that there is a small reduction from the Part 8 drawings at the north eastern section, whereby south of the ring fort there is an indentation where the Council has been able to reduce the CPO landtake. It was confirmed that there are no plot numbers for these areas. Mr. Keane confirmed no changes were proposed to the CPO.

- The Inspector asked if the local authority had any comment regarding queries raised in the Objector's submission of 23 September 2024 relating to Appropriate Assessment (AA) and Environmental Impact Assessment (EIA).

Mr. Keane responded that AA Screening was carried out. There is no suggestion of any significant impacts or potential for such impacts on a European site that would require the preparation of a NIS and the carrying out of AA Part 2. There is no requirement for same, no breach of the legislation and no remedial requirement.

Regarding EIA, environmental assessments are contained within the Part 8 report. There was no requirement for environmental impact of this scheme. It will have no likely significant impacts on the environment and therefore EIA Directive 2011/92/EU, as amended by Directive 2015/52/EU do not require the carrying out of an EIA. There was no requirement to screen, and there is no requirement for the Board to carry out a screening exercise. There is no breach. Any challenge to the Part 8 approval would have had to have been made pursuant to the provisions of the Planning and Development Act by judicial review. There is no remedial requirement.

Clancy, King, etc. cases referred to related to protective costs applications brought whereby questions were raised as to whether such an argument could possibly be weighed in relation to extinguishment of rights of way, etc. but do not hold that same were necessary, or that the decision of Board in this case to confirm the CPO would require the Board to carry out EIA or AA where same was not necessary at time of the Part 8 and is not necessary now in the absence of any evidence and any suggestion of significant impacts arising from the scheme.

- The Inspector asked if the local authority has any view on impacts on the dwelling unit as a result of the CPO.

Mr. Bergin responded that it is only the public road that is being acquired. There is no proposal to acquire private lands there. Access will remain available as it is.

Mr. Keane outlined that none of the tenants/former tenants have made any objection to confirmation of the CPO. The property remains fully accessible, no part of it or its curtilage are being acquired. It retains fully functional access during construction and operation of the scheme. Any impacts during construction would be extremely minimal and it would have a safer access once constructed. The extinguishment of the exit-only onto the R518 is accompanied by a far safer access onto the N20 which will have a roundabout giving direct access onto the R518.

(b) Inspector to Objector

- The Inspector queried what the Objector's particular concerns are regarding the proposed CPO on the residential unit at the service station.

Mr. Crean responded that notice was never served on the tenants, and no-one has suggested that these tenants were notified of the CPO. While no part of the dwelling is being acquired as part of the CPO, this does not address the issue. The dwelling is located next to the current exit onto the R518. Traffic flow within this service station as a whole and for the benefit of the service station and the dwelling is arranged currently to ensure safety in accordance with access and egress arrangements. The means of egress onto R518 will be closed off and this will have a very significant impact on the residential amenity of this property.

- The Inspector referred to the matter raised in the Objector's submission (23 September 2024) regarding a Road Safety Impact Assessment (RSIA) not having been carried out, and stated to have been transposed into Irish law by

the European Communities Road Infrastructure Safety Management Regulations 2021. The Inspector asked if these Regulations were applicable at the time of the local authority's decision on the Part 8 in October 2017.

Mr. Crean responded no, but subject to a caveat. They didn't come into force in Ireland and were not directly binding on the Council until they were made in 2021, and it is clear that they apply to all road schemes that hadn't commenced by 2021. Regulation 3 of 2021 Regulations deals with its scope of application. Regulation 3(1) states it applies to roads in the state which are part of the trans-European road network, motorways and other national primary roads whether they are at design, under construction or in operation.

There was some discussion between the parties regarding the applicability of the Road Infrastructure Safety Management Regulations 2021 to the subject case. Mr. Keane outlined that the N20 is not a TEN-T road and is not a road to which the 2021 Regulations apply. Mr. Crean outlined that this is not accepted, and that it is set out in written submissions the basis on which they do apply. It is a national primary road within the meaning of Regulation 2(1).

G. Closing Statements

Closing Statements were provided by Mr. Crean on behalf of the Objector and by Mr. Keane on behalf of Limerick City and County Council, summarised as follows:

Mr. Crean on behalf of Objector (D) (Mr. James Beechinor)

- The Council promotes this road improvement scheme, and seeks the CPO confirmation for that specific purpose. The Council bears the onus of satisfying that a CPO is necessary to facilitate a community need, and that it would be a proportionate response to that need which would respect the Objector's property rights. The Council cannot and has not done that.
- With regard to Mr. Beechinor's property rights and that of his companies, a public need to construct this road improvement scheme has not been established. There is a reliance on anecdotal data regarding the junction

performance, and no evidential basis to establish a need to construct a 4-arm roundabout at this location. A conversation with un-named Council engineer regarding the junction performance is not a reliable indicator and is not admissible. Two alternative schemes would meet the same public need, the difference being that one would result in a significantly lesser impairment of the Objector's property rights.

- There will be significant interference with access to the facility. It will be necessary for motorists from Cork direction to pass by the service station before considering turning in and service station will be much less visible to potential users. It will be much less readily accessible to users in the community than now.
- All of these things individually and cumulatively will have very significant effect on the Objector's service station. The evidence suggests it will result in loss of that business. There will be significant interference with rights of way, and permanent acquisition compulsorily of property. This is a serious interference with the Objector's property rights and those of his companies and it is disproportionate. There is no public need. They are due to apply the test propounded by the Supreme Court in Heany and Ireland and Reid and the IDA, and does not believe that there is any other test. Even if there is any need, it could be met by an alternative which would have a significantly lesser impairment on the Objector's property rights. The Board ought to refuse to confirm the CPO.
- Any service station has a flow of traffic designed to meet the existing access and egress arrangements, it has signposts, road markings and a scheme of working. This would be changed utterly if the CPO is confirmed.
- Consideration piecemeal of certain environmental impacts or effects of a development is no substitute for EIA or EIA screening. As at Para. 84 of their submission, Directive Class 10(d) of Annex II states that construction of roads is a category to which the Directive applies, and there is authority from the CJEU interpreting this and Class 10(e) that road improvement works are

required to be screened for EIA purposes. Provisions of Section 50 of the Road Act, 1993. No EIA or EIA screening has been carried out. The Board cannot discharge its remedial obligation by ignoring that failure. The only thing the Board can lawfully do is annul the CPO. This is a significant development which will have effects on the environment. None of that has been assessed.

- Mandatory statutory procedure has not been complied with regarding notification, delivery of notice to the owner or occupier of the residential dwelling. There is no evidence that such a notice was served on any person. The Supreme Court has said in *Alphabet and Monaghan UDC* that where statutory procedures have been set out, that they must be followed. The Board cannot authorise any departure from them, unless that departure is in the Board's reasonable assessment *de minimis*. The procedural requirement has not been satisfied.

Mr. Keane on behalf of Limerick City and County Council

- The suggestion that Section 50(1)(c) of the Roads Act 1993 requires an EIA is not the case. The local authority does not consider that construction of N20 O'Rourke's Cross roundabout very close to the existing junction and realignment of N20 and R518 is a development which would give rise significant environmental effects. While Class 10(d) of Annex II of the EIA Directive refers to roads, that does not require mandatory EIA. There is no requirement to carry out EIA for this development, nor for screening at time of Part 8 approval. The fact that a local authority may apply to the Board cannot be incorrectly conflated with an obligation to have done so. There has been no breach of European law. There are no likely significant effects on the environment. It is an existing road which is being moved to the west to alleviate a significant public risk.
- Directive EU/2019/1936 requires that before approval, design or construction of roads of the type set out in the Directive, those roads would be subject to a road safety audit or inspection. That does not act as a bar to the Board confirming a CPO in relation to lands necessary for this sort of road scheme on the N20 and R518 which are not motorways or of the type specified.

Where there is that obligation, the Council would carry out inspection prior to construction and operation of the road. The scheme was approved by the local authority. That Directive came into effect in 2019, required transposition by member states by 17 December 2021 and in no way post-dates itself to the consent process.

- The position in relation to the house within these lands is that the Objector or his companies owned these houses. Owner has been served notice as he owns the entire development including the road bed. There is no evidence that he gave a tenancy of the roadbed to tenants. No part of the let-out property has been subject of a CPO. Assumption that they were obliged to have been served with notice of CPO is incorrect.

Notices of the intention of extinguishment of rights of way in proximity to those houses were erected as required in law. None of those parties have objected. Extinguishment of a right of way cannot be conflated with a CPO of lands where they have never seen a tenancy. In any event, these houses' residential amenity will be increased as passing traffic will be reduced and what is a through route will become a cul-de-sac.

- CPO is entirely necessary. While Objector may prefer a 5-arm roundabout, Mr. Bergin's evidence is that it would require a larger diameter. That would increase the CPO of others or involve having to go into the service station. That would be an unfair and disproportionate interference with constitutional rights of landowners. The Council and the Board have to take into account all members of the public including those on other side of N20. These lands are reasonably required for the CPO and Mr. Keane does not think that there is any objection to same. The public need is not being seriously contested. Mr. Keane outlined that Ms. Clarke (LCCC) gave statistical evidence that there is a significant number of road accidents occurring at this junction since 2016, and it remains a highly dangerous junction as per the NRA's classification of junctions.

The Council have shown the necessity for the CPO, the public benefit and strongly required improvement in road safety. They have considered the proportionality of trying to balance interference with property owners' rights, a matter of a separate compensation process. The 5-arm roundabout was dealt with and contained within the Chief Executive's report to the members in 2017. The effects on the Objector have been considered.

- The scheme complies with proper planning and sustainable development of the area and with the Development Plan. It remains to commend to the Board to approve this scheme without modification, or that modifications be limited to anything that the Board considers necessary. They have sought to minimise the CPO to lands required. The scheme and the CPO accord with each other.
- The change in levels between the road as proposed and side slopes were shown in 2017. It is not necessary to get into exquisite detail as appears to be suggested for the Part 8 process to be valid. There is no inconsistency with the Part 8 process. There will be fine-tuning up to time of design and construction but this will not give rise to significant environmental effects.

H. Closing of the Oral Hearing

The Inspector made final comments and thanked the participants. It was confirmed that a report would be prepared and submitted to the Board who will make a determination on the CPO, and all parties will be informed of the Board's decision in due course.

The Inspector closed the Oral Hearing at approx. 1:30pm.
