



An  
Bord  
Pleanála

## Inspector's Report

### ABP-320230-24

#### Development

Connemara Greenway Project, Phase 1, Clifden to Oughterard County Galway. If confirmed, the order would allow for works to include the provision of structures, road pavement, road markings, access and accommodation works and other ancillary works.

#### Location

Within the townlands of Munga, Emlaghmore, Athry, Garroman, Lissoughter and Caher County Galway

#### Planning Authority

Galway County Council

#### Applicant(s)

Galway County Council

#### Type of Application

Compulsory Purchase Order

#### 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) by the

Planning and Development Act 2000  
(as amended)

**Objectors**

Mary Joyce c/o Oliver Joyce  
The late William Leahy c/o Moire Leahy  
Joe Kenny  
James Anderson (Receiver) over  
certain assets of William & Jill Hollinger  
Stephen Hollinger  
Patrick Joyce  
Noel Joyce  
Hilary Burke c/o Thomas Burke

**Date of site inspection**

14th day of November 2024

**Inspector**

Fergal Ó Bric

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## 1.0 Introduction

### Overview

- 1.1. This report relates to a Compulsory Purchase Order (CPO) sought by Galway County Council to complete a permitted Greenway route, known as the 'Connemara Greenway Project-Phase 1' which would provide an uninterrupted cycle and pedestrian route linking the town of Clifden and Derryneen in Connemara, Co. Galway and part of which is located within the Gaeltacht area of Connemara.
- 1.2. The Greenway is the Connemara Greenway and referred to as Galway County Council, Connemara Greenway Project, Compulsory Purchase Order (No, 2) 2024' (Physical Infrastructure, Fire and Emergency Services and Climate Change) within the formal documentation prepared by the Local Authority.
- 1.3. Galway County Council (GCC) is seeking to acquire compulsorily the necessary lands to implement and complete the scheme. This includes the permanent acquisition of lands, which are shaded grey within the deposit maps accompanying the CPO.
- 1.4. Ten objections were originally received in respect of the CPO from landowners, though subsequently two of these were withdrawn. This report considers the issues raised in the eight objections submitted to the Board and, more generally, the application to acquire lands for its stated purpose.
- 1.5. The CPO is made under and for the purposes of Section 76 of the Third Schedule to the Housing Act, 1966 (as amended), as extended by Section 10 of the Local Government (No. 2) Act, 1960, to be published in accordance with Article 4(A) of the Third Schedule to the Housing Act, 1966, the Planning and Development Act 2000 (as amended), the Roads Act 1993 (as amended) and all other Acts thereby enabling the compulsory purchase of lands.
- 1.6. Planning consent was received from An Bord Pleanála for the Connemara Greenway Project connecting Oughterard with Clifden under Board reference number PI 07. JA0033 on the 8<sup>th</sup> day of March 2013. The route permitted was to follow the original

route of the Galway to Clifden railway line (long disused), where possible, The Inspector outlined within Section 2 of his report that the 'Greenway would be developed as a permissive trail, and that in the event that agreement is not reached with landowners, the use of Compulsory Purchase Order (CPO) powers or the establishment of a public right of way along the route maybe examined at a later stage in order to proceed with the development'. The Local Authority (LA) set out that the Connemara Greenway project began as a community led project supported by local community groups in Clifden, Recess and Oughterard, with support from Failte Ireland, Galway County Council and Forum Connemara Ltd. The LA set out that the scheme received funding from various sources and the first section (for a distance of three kilometres east of the settlement of Clifden) was completed in 2016. Subsequently, Transport Infrastructure Ireland (TII) took over responsibility for the scheme as a project in 2022.

- 1.7. The Local Authority (LA) set out that once these incomplete sections of Greenway (the subject of this CPO) would be completed, it would ultimately link to the Oughterard to Galway Greenway scheme, presently at design stage. They also set out the broader context of the Greenway route which would form part of an overall cross country Greenway route linking Clifden to Galway and further east to Dublin and form part of the wider Euro Velo (Atlantic Coast) route, an 11,000-kilometre cycle route connecting Norway with Portugal.

### **Purpose of the CPO**

- 1.8. The purpose of this CPO is intended to connect existing constructed and under construction sections of the Connemara Greenway with undeveloped sections of the permitted Connemara Greenway network.
- 1.9. The Project Manager within the Galway National Roads Project Office (NRPO) Greenway Design team within her Brief of Evidence (BoE) to the Oral Hearing (OH) set out that the Greenway 'will be an important amenity to Connemara and will entice local, domestic and overseas visitors...will further strengthen, enhance and extend the tourism season in the region, provide momentum for new enterprise and rural regeneration and result in an increase in walking and cycling which will improve the health and general wellbeing of users, lead to reduced car usage and the associated carbon emission levels'.

## **2.0 Site Location and Description**

- 2.1. The Greenway route ('CPO lands') are stated to extend to approximately 6.75 kilometres (km) largely along the route of the dismantled Galway to Clifden railway line bed, but does veer off the route of the old rail line along parts of the N59 (National secondary route) and along a number of local roads within the townlands of Munga, Emlaghmore, Athry, Garroman, Lissoughter and Caher in Connemara, in west County Galway.
- 2.2. The Greenway route is in the most part linear and mainly flat. The Local Authority (LA) state and over half of the permitted Greenway has been developed to date and is operational (stated distance of 14.75 kilometres). The Local Authority state that a further 6.7 kilometres of the Greenway is presently under construction. The remaining 6.75 kilometres sections of the permitted Greenway have not commenced and remain undeveloped, and these lands are the subject of the current Compulsory Purchase Order (CPO), within the townlands set out within Section 2.1 above. The LA set out that the 'CPO process is required 'in circumstances where it has not been possible...to progress these specific 6.75 kilometre sections of the project by way of voluntary agreement...there is no alternative option available to Galway County Council/TII to progress and complete the Greenway project with a view to providing for a continuous, uninterrupted and viable Greenway along the approved project route'. It is stated that 'The Project Team is acquiring 'no more land than is necessary to complete the Greenway Project'.
- 2.3. The subject lands (subject of this CPO) pertain to specific sections of the Greenway Project totalling 6.75 kilometres which, if approved, would create a 28.2-kilometre length of continuous, uninterrupted Greenway route between Clifden and Derryneen. The subject lands generally lie along the disused railway line embankment of the former Clifden to Galway rail line. Many sections of the dismantled rail line were purchased by private landowners since the rail line ceased to operate in 1935. Other sections of the route take in the local road network and are taken-in-charge (TIC) by the Local Authority or under the management of Transport Infrastructure Ireland (along sections along the N59 national secondary route).
- 2.4. There are a number European and Natural Heritage sites, and features of architectural heritage, within and in the vicinity of the c.6.75 km linear sections of the

route. These include sections of the Connemara Bog Complex Special Area of Conservation (SAC- site code 002034), the Connemara Bog Complex Special Protection Area (SPA-site code 004181) the Connemara Bog Complex Natural Heritage Area (NHA-site code 002034) and sections of the Twelve Bens/Garraun Complex SAC and pNHA (site code 002031).

### 3.0 Application of the CPO / Proposal Description

#### 3.1 Documentation

3.1.1. The CPO documentation includes the following:

- Copy of CPO Order, signed by the A/Director of Services Order, directing the acquisition and making of Compulsory Purchase Order; and sealing, publication and submission of same for confirmation, signed and dated 9<sup>th</sup> day of July 2024,
- *CPO Maps*, (referred to as 'Deposit Maps'), including 5 no. drawing sheets, marked as Drawing No's CG-CPO-2024-01-05. to CG-CPO-2024-05-05, outlined in red and outlining the lands to be acquired,
- *Newspaper Notice* (original copy) published in The Irish Independent, and dated 18<sup>th</sup> day of July 2024,
- Copy of Receipt of Registered Post, dated 17<sup>th</sup> day of July 2024,
- *Notices served* (copy of letters) to landowners, lessees, and occupiers dated 16<sup>th</sup> day of July 2024,
- Memorandum from Annemarie Johnston, Senior Executive Engineer recommending that the CPO be made and notice published and served on landowners, lessees and occupiers as required
- Memorandum from Valerie Loughnane, Senior Planner, certifying that the CPO lands and the provision of the Connemara Greenway Project, setting out that the Clifden-Oughterard Greenway scheme is in conformity with the objectives and policies of the National Development Plan, The Northern and Western Regional Spatial and Economic Strategy, the Galway County

Development Plan, the Planning and Development Act 2000, as amended, and with the proper planning and sustainable development of the area.

- A Copy of Board decision, Board reference PL.07. JA0033 dated the 8<sup>th</sup> day of March 2013 consenting to the development of the Connemara Greenway Project. -Clifden to Oughterard.

#### **4.0 Reference to Approval of Connemara Greenway Project**

4.1.1 The Connemara Greenway Project-Oughterard to Clifden was the subject of a planning consent permitted by An Bord Pleanála in March 2013. The Project Manager/Senior Executive Engineer within the Galway National Roads Project Office (NRPO) Miss Johnston, within her Brief of Evidence (BoE) set out that to date approximately 14.75 kilometres of the permitted Greenway has been constructed, and that an additional 6.5 kilometres is presently under construction. This CPO pertains to the remaining 6.75-kilometre sections of the permitted Greenway Project which remain undeveloped to date.

4.1.2 An Environmental Impact Statement (EIS) and a Natura Impact Statement (NIS) were prepared and formed part of the assessment of the Connemara Greenway Project (Board reference PL.07. JA0033). The Board considered that the Greenway development would not be likely to have a significant adverse effect on the local receiving environment nor that it would have a significant impact either individually or in combination with other plans or projects on a European site(s), subject to the implementation of the mitigation measures set out within the Environmental Impact Statement (EIS) and Natura Impact Statement(NIS).

4.1.3 The planning consent for the Greenway addressed the relevant planning and environmental considerations arising.

#### **4.2 Description of proposed CPO / Greenway**

4.2.1 The proposed CPO lands mainly comprise sections of ground that are linear and flat. These particular sections of the Greenway ((the subject of this CPO) are approximately 6.75 km in length and are located in between sections of the



Connemara Greenway which either have been constructed and/or are under construction between Clifden and Derryneen. The lands, the subject of the CPO comprise agricultural lands, woodland, marshy and boggy lands and various sections of land through the Connemara landscape.

4.2.2 The Greenway corridor would comprise a shared walking and cycling route ranging in width from 2.5 – 3 metres and would be constructed mainly with a bound/asphalt surface,

- AMJ within her brief of Evidence (BoE) sets out that that the pavement structure is in accordance with best practice guidance set out by Transport Infrastructure Ireland (TII). The pavement materials and layer thickness for each section of the Greenway will be dependent on the traffic loading scenario. A lesser specification is to be used where there will be pedestrian and cycle traffic only and a higher specification is to be used where light traffic may be anticipated.
- Details of fencing and gateway access along the Greenway are provided within Appendix B of AMJ's BoE. A 1.2 m high post and rail timber fence or other appropriate boundary fencing on each side of the Greenway, including installation of stock proof fencing with a double barbed wire layer above sheep wire fencing, where appropriate.
- The Greenway is stated to be designed as a 2.5 – 3 metre wide bound/asphalt surface for walking and cycling and that the lands to be acquired are all within the scope of the permitted route
- An adjacent 0.5 - 1m wide over the edge 'v-ditch' drainage channel or French drain and a 0.5m buffer strip along the Greenway route. Existing drains will be recharged as set out within the information included within the Environmental Impact Statement (EIS) submitted as part of the original planning consent.
- The Local Authority (LA) stated that 'Access to side roads and properties will be maintained during the construction and operation period'.
- The LA also stated that the 'integrity of existing service connections will be maintained through the construction and operation period and no

interruptions to these are planned or anticipated during the construction phase’.

- The LA stated that welfare facilities will be provided at existing locations along the route under agreement with the operators. No new welfare facilities are proposed in this regard.
- Traffic and transport improvements such as new signage and road markings where the Greenway intersects/adjoins public roads, access controls (pedestrian and cycle friendly gates), road markings and traffic calming measures.
- All necessary site works such as tree felling, route clearance and fencing.

4.2.3 The technical design standards will be in accordance with the best practice guidelines as published by Transport Infrastructure Ireland, specifically Rural Cycle Design (Offline and Greenway) DN-GEO-0047-August 2022. These are referenced in the Council’s ‘Clifden-Oughterard Greenway - CPO Brief of Evidence Report’ within the appendices.

4.2.4 There are 5 no. drawing sheets / sections of the route accompanying the CPO. These can be generally described as follows:

- Sheet 1 of 5 (Deposit Map): This map refers specifically to plot numbers 5600.100, 5600-100A and 5600.101 within the townlands of Munga and Emlaghmore. This section refers to lands between chainage 5800 and 7100. These lands are stated to be in the ownership of Mary Joyce c/o Mr Oliver Joyce. This section of the Greenway is located north-west of a completed section of the Greenway at Ballynahinch and south-east of a section that is presently under construction at Derrylea. The route travels mainly easterly and south-easterly along the embankment of the dismantled Clifden to Oughterard railway bed. Land take is stated to be restricted to those lands necessary for completion of the Greenway scheme. However, this varies depending on the specific topography, cuttings and embankments associated with each individual section of Greenway. The route is restricted to and

focusses on disturbed ground and/or existing artificial surfaces ensuring that direct loss of/negative impacts upon sensitive habitats is avoided.

- Sheet 2 of 5 (Deposit Map): This refers specifically to plot numbers 5600.101, and 5600.102 within the townlands of Emlaghmore. This section refers to lands between chainage 8200 and 8400. These lands are stated to be in the ownership in the ownership of Mary Joyce c/o Mr Oliver Joyce. This section of the Greenway is located north-west of a completed section at 'Ballynahinch' and south-east of a section that is also sought to be acquired under this CPO at 'Na Munga'. The route travels mainly easterly and south-easterly along the embankment of the dismantled Clifden to Oughterard railway bed. Land take is stated to be restricted to those lands necessary for completion of the Greenway scheme. However, this varies depending on the specific topography, cuttings and embankments associated with each individual section of Greenway. The route is restricted to and focusses on disturbed ground and/or existing artificial surfaces ensuring that direct loss of/negative impacts upon sensitive habitats is avoided.
- Sheet 3 of 5 (Deposit Map): This refers specifically to plot numbers 1700.100, 1700.101 and 1700.102 within the townland of Athry. This section refers to lands between chainage 17200 and 17600. These lands are stated to be in the ownership in the ownership of the Leahy family. This section of the Greenway would intersect with the N59 National secondary route and pass between two existing dwellings. This section of the Greenway is located north-east of a completed section of the Greenway at Ballynahinch and south-west of a section that is completed at Garroman. The route travels mainly north-easterly along the embankment of the dismantled Clifden to Oughterard railway line. Land take is stated to be restricted to those lands necessary for completion of the Greenway scheme. However, this varies depending on the specific topography, cuttings and embankments associated with each individual section of Greenway. The route is restricted to and focusses on disturbed ground and/or existing artificial surfaces ensuring that direct loss of/negative impacts upon sensitive habitats is avoided.

- Sheet 4 of 5 (Deposit Map): This refers specifically to plot numbers 20,000.100 to 20,000.110 inclusive, 20,200-100 and 20.200.101, 20,400.100 to 103 inclusive, and 21,100.100 to 21,100.103 inclusive within the townlands of Athry, Garroman and Lissoughter. The first sixteen of these plots refer to lands in the immediate vicinity of the former station house and the junction of the N59 with the R344. These lands are constrained by the busy road junction between the N59 and the R344, at a point where the horizontal alignment on the N59 is substandard which restricts visibility and sightlines. Glendollagh lake to the south and south-west of the Station House. This section refers to lands between chainage 20150 and 20250. These lands are stated to be in multiple ownership, including Mr Joe Kenny, Mr Stephen Hollinger, The Provincial Loans Company and William and Jill Hollinger. This section of the Greenway immediately adjoins a section of the N59 National secondary route, and the Greenway would be located immediately north of two residential properties, one of which is the former Station House and immediately west of a commercial fishery business. This section of the Greenway is located east of a completed section of the Greenway at Lissoughter and west of a section that is under construction in Lissoughter. This part of the Greenway route travels alongside of the N59 due to the constraints of the N59/R344 junction and, if developed further north would require an additional road crossing. The existence of Glendollagh lake which is subject to designations as part of the Connemara Bog Complex SAC and pNHA also impacted upon the route selection. Land take is stated to be restricted to those lands necessary for completion of the Greenway scheme. However, this varies depending on the specific topography, associated with each individual section of Greenway. The route is restricted to and focusses on disturbed ground and/or existing artificial surfaces ensuring that direct loss of/negative impacts upon sensitive habitats is avoided.
- Sheet 5 of 5 (Deposit Map): This refers specifically to plot numbers 23,100.100 to 23,100.101, 23,100A-102 and 23.100B.103 24,000.100, 24,180-100 and 24,185-100, 24,400.100, 24,600.100 and 24,800.100-24,800.102 inclusive within the townlands of Caher and Garroman. This section refers to lands between chainage 24,300 and 25,000. These lands are

stated to be in the ownership in the ownership of Hilary Burke, Noel and Patrick Joyce. This section of the Greenway is located north-east of a completed section at Ballynahinch and south-west of a section that is completed at Garroman. The route travels north-easterly and then south easterly along the embankment of the dismantled Clifden to Oughterard railway line. Land take is stated to be restricted to those lands necessary for completion of the Greenway scheme. However, this varies depending on the specific topography, cuttings and embankments associated with each individual section of Greenway. The route is restricted to and focusses on disturbed ground and/or existing artificial surfaces ensuring that direct loss of/negative impacts upon sensitive habitats is avoided.

## **5.0 Planning Policy Context**

### **5.1 National Policy**

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

##### *National Policy Objective 22*

Facilitate tourism development and in particular a National Greenways, Blueways and Peatways Strategy, which prioritises projects on the basis of achieving maximum impact and connectivity at national and regional level.

##### *National Policy Objective 58*

Integrated planning for Green infrastructure and ecosystem services should be incorporated into the preparation of statutory land use plans.

#### **The Cycle Design Manual 2023**

The Cycle Design Manual (CDM) was published by the National Transport Authority (NTA) replaces the National cycle manual published by the same organisation in 2011. This new document draws on the experience of delivering cycle infrastructure across Ireland for over a decade as well as drawing on international best practice. It is guided by the need to provide 'safe cycle facilities for people of all ages and abilities'. The recommendations focus on 'segregating cyclists from traffic where speeds and volumes make roads unsuitable for sharing. The CDM will be a live

document and will be updated and expanded as required to reflect emerging best practice and feedback from user experience.

## 5.2 Regional Policy

### **Regional Spatial and Economic Strategy for the Northern and Western Region, 2020-2032 ('RSES')**

#### Section 3.6.13-Green Network

RPO 3.6.13: The Assembly supports the delivery of a strategic Greenway Network for the GTS to include National Dublin to Galway Cycleway, Oranmore to Bearna Coastal Greenway and the Galway to Clifden Greenway

#### Chapter 4 – Economy and Employment-Vibrant Region

#### Section 4.4-Tourism

RPO 4.5 To enhance access to our tourist assets, including the development of a Coastal Walking/Cycling Route along the Western Seaboard, which extends generally along the Route of the WAW, and incorporates existing resources, such as beaches, ports, harbours, piers and marinas. This coastal route to be subject to a route option analysis, and feasibility study in Counties Galway, Mayo, Sligo, Leitrim and Donegal. Stakeholders will include Fáilte Ireland, NWRA, the relevant local authorities and the public.

RPO 4.14-I Promote the development of integrated walking, cycling and bridle routes throughout the region as an activity for both international visitors and local tourists in a manner that is compatible with nature conservation and other environmental policies.

#### Section 5.8-Greenways

RPO 5.18- The Regional Assembly shall collaborate with Local Authorities, Fáilte Ireland, Waterways Ireland, DTAS, and other relevant stakeholders in developing an integrated network of Greenways across the region's catchments. To support, and enable the development of sustainable Greenway projects, the NWRA will encourage and promote: (a) The advancement and growth of Greenways through

several Key National and Regional Greenway Projects, which are high capacity, and which can in the medium/long term be extended and interlinked across County Boundaries and with Local Greenways, and other cycling/walking infrastructure. (b) Prioritisation of Greenways of scale and appropriate standard that have significant potential to deliver an increase in activity tourism to the region and are regularly used by overseas and domestic visitors, and locals, thereby contributing to a healthier society through increased physical activity.

## Section 6.2-Transport

### Rural Transport-

RPO 6.23- To provide sustainable travel which will be supported by providing walking and cycling facilities (including Greenway and Blueway projects) as a priority across the region.

RPO 6.26- The walking and cycling offer within the region shall be improved to encourage more people to walk and cycle, through:

- (a) Preparation and implementation of Local Transport Plans for Galway Metropolitan Area, Regional Growth Centres and Key Towns, which shall encourage a travel mode shift from private vehicular use towards sustainable travel modes of walking, cycling and use of public transport.
- (b) Safe walking and cycle infrastructure shall be provided in urban and rural areas, the design shall be informed by published design manuals, included the Design Manual for Urban Roads and Streets (DMURS) and the NTA Cycle Manual.
- (c) Development of a network of Greenways.

## 5.3 Galway County Development Plan 2022 – 2028

### Zoning

The lands that are the subject of this CPO extend over a distance of approximately 6.75 km and are located within Connemara (mainly within a Gaeltacht area, though not fully within it) within the western part County Galway, a rural area. None of the CPO lands are subject of a specific land use zoning objective under the provisions of the current Galway County Development Plan 2022 – 2028 ('the Development Plan').

## Chapter 6-

### Section 6.5.2.2-Greenways and Blueways

‘The Council actively supports the provision of greenway infrastructure within the county and acknowledges that benefits from a recreational amenity perspective which encourages an active and healthy lifestyle for our communities. The Council also acknowledges the economic benefits which arise from greenways particularly from a tourism perspective. The Council will continue support and facilitate the provision of greenways where appropriate within the county’.

#### GBW 1 Walkways and Cycleways

To promote and facilitate the development of walkways and cycleways at appropriate locations throughout the County subject to environmental considerations.

#### GBW 2 Future Development of Network of Greenways

To support the delivery of sustainable strategic greenway/blueways projects in the county in accordance with the Strategy for Future Development of National and Regional Greenways.

## Chapter 8 – Tourism and Landscape

### Section 8.9.1 Greenways/Blueways

‘Pillar 3 of the National Action Plan for Rural Development focuses on ‘*Maximising our Rural Tourism and Recreational Potential*’, with a specific recommendation to promote the development of greenways and blueways, and other recreational opportunities, and to support sustainable rural jobs through targeted tourism initiatives. The Council will continue to support and facilitate the provision of greenways/blueways where appropriate within the county.

Map 8.1 of the Development Plan identifies the appeal site as being located within the Uplands and Bog Landscape where the sensitivity is within both Classes 3 and 4-Special and iconic

Map 8.3 identifies the N59 as being part of the Galway to Clifden scenic route.

## Chapter 10-Natural Heritage, Biodiversity and Green/Blue Infrastructure



## Section 10.16-

### County Galway 's Network of Blueways, Greenways and Peatways

Policy objective BGP2- Support the development of an integrated Strategic Greenway Network of national and regional routes and maximise connectivity to existing greenways through linkages of cycling and walking infrastructure in a manner that is compatible with nature conservation and other environmental policies. This will include the following.

- Connemara Greenway i.e., (Clifden to Oughterard, Galway to Oughterard).

### Policy objective BGP3- Greenways, Blueways, Peatways and Trails

a) It is a policy objective to support the extension of greenways, blueways, peatways and trails within the county and the integration and linkage of them with other existing / proposed greenways, blueways, peatways and trails both within and outside the county.

b) It is a policy objective to support where relevant the concept of Greenways to consider local travel infrastructure, and connectivity to local towns and villages in the design of any Greenway route.

## Chapter 14- Climate Change, Energy and Renewable Resource

### Section 14.4- Climate Change Adaptation and Mitigation

Table 14.1 includes the following climate mitigation measures

Topic	Climate Mitigation Measures, including
Transport	<ul style="list-style-type: none"><li>• Support construction of green routes/cycleways/pedestrian routes</li><li>• Support car-free developments</li><li>• Strengthen public transport linkages and encourage their use</li></ul>

## LCM 3 Landscape Sensitivity Ratings

Consideration of landscape sensitivity ratings shall be an important factor in determining development uses in areas of the County. In areas of high landscape sensitivity, the design, and the choice of location of proposed development in the landscape will also be critical considerations.

#### PVSR 1 Protected Views and Scenic Routes

Preserve the protected views and scenic routes as detailed in Maps 8.3 and 8.4 from development that in the view of the Planning Authority would negatively impact on said protected views and scenic routes. This shall be balanced against the need to develop key infrastructure to meet the strategic aims of the plan.

### **5.4 Natural Heritage Designations**

- 5.4.1 The subject lands fall within and/or in the vicinity of a number of European and heritage sites as follows:

The Connemara Bog Complex Special Area of Conservation (SAC) and proposed Natural Heritage Area (pNHA-site code 002034)

The Twelve Bens/Garraun Complex SAC and pNHA (site code 002031).

### **6.0 Planning History**

- 6.1 The relevant planning history in the vicinity of the Connemara Greenway Project Route is that pertaining to the consent permitted by the Board in 2013 under Board reference number PL07.JA0033 for the development of a cycle/walking track, will comprise a bound asphalt surface, site compounds (during construction stage),

information boards and mapping predominantly along the line of the dismantled rail line between Oughterard and Clifden.

- 6.2 Most recent planning applications in the vicinity of the route are for rural dwellings and minor alterations/extensions to existing dwellings.

## 7.0 **Objections**

A total of eight submissions were received by the Board. The main issues raised are summarised as follows:

### 7.1 **Objection by Profe Building Engineering and Planning Consultants on behalf of Mr. Joe Kenny.**

- 7.1.1 Lands at Lissoughter, Co. Galway.

- 7.1.2 The lands are located to the north of Recess House (formerly Recess rail station).

- 7.1.3 The area of land to be acquired will require of substantial set back of the property, the removal and setting back of the front (roadside) boundary wall along the N59 and mature trees and interference with the on-site sewage treatment plant.

- 7.1.4 The proposals would result in the front boundary wall being moved closer to Recess House by approximately six metres. This would have a negative impact on the value,

amenity, privacy and future development potential of the property due to the proximity of the proposed Greenway.

- 7.1.5 Only a preliminary design scheme layout was provided to the landowner and no detailed scheme design maps, detailed construction drawings or specifications were provided by the LA.
- 7.1.6 An updated accommodation works map was provided subsequent to the issuing of the CPO.
- 7.1.7 No clarity has been provided in terms of the exact area of the CPO, the exact boundary set back, detailed drawings, including section/elevation plans of the set back wall boundary, road safety measures at the entrance to the property, in terms of safety for users of the Greenway and the residential property, details of tree removal and the impact upon the amenity of the property owner, details of works in the vicinity of the sewage treatment system.
- 7.1.8 A survey report by a conservation architect has not been furnished to the landowner, given that Recess House is a protected structure. A survey has been carried out on

behalf of the LA, but to date the property owner has not been furnished with a copy of the architectural survey.

7.1.9 It is not possible for the landowner to conduct a detailed valuation survey in the absence of the details set out above.

## **7.2 Legal reps of Mary Joyce c/o Oliver Joyce**

7.2.1 Lands at Emlaghmore, Clifden, Co. Galway

7.2.2 These lands form part of the old railway bed of the Galway to Clifden rail line and have been in his family ownership since the 1940's.

7.2.3 The lands, the subject of the CPO run through the middle of his property. The lands each side of the railway bed comprise both marshy areas and dry hilly areas.

7.2.4 The railway bed is used to move stock from one dry hilly area to another for grazing purposes without having to go through the marshy areas. This protects the marshy areas from cutting up.

7.2.5 The CPO lands act as the only access to his property and without them, his property would be landlocked.

7.2.6 The lands form part of the Connemara Bog Complex heritage site.

7.2.7 The original planning application stated that the surface of the Greenway would have a width of 2.5 metres, however the completed sections of the Greenway have a

macadamed width varying between 3 and 3.35 metres, in excess of what was permitted.

7.2.8 Galway County Council have not acted within the terms of the planning consent permitted by the Board.

7.2.9 He is seeking that the scheme be progressed on a permissive access basis as envisaged within the planning consent under Board reference PL07.JA0033.

7.2.10 Parts of the Greenway route developed to date include invasive species.

### **7.3 Harrington solicitors acting on behalf of the legal reps of Wiliam Leahy c/o Moire Leahy.**

7.3.1 Lands at Athry, Moyrus, Co. Galway.

7.3.2 The 2013 consent permitted by the Board was proposed and approved on the basis that the Greenway would be developed on a permissive access basis and not to be acquired under CPO powers, which is entirely different.

7.3.3 The detailed design, including section and elevation drawings for the scheme should have been prepared in advance of the CPO, otherwise the likely significant effects cannot be identified, mitigation measures proposed, as these should be detailed within the scheme drawings.

7.3.4 The LA can only invoke CPO procedures whereafter it can clearly be established that meaningful engagement with landowners had occurred in advance and that it was not possible to agree a voluntary acquisition. The landowner states that no meaningful engagement occurred in this instance and, therefore, the CPO is premature in the absence of compliance with the statutory obligation to meaningfully engage with and owners.

7.3.5 It is unclear, having regard to the content of the public notices, the extent to which the acquiring authority are seeking to rely on the Housing Act 1966, as amended.

The appropriate statutory provisions are those set out within the Planning and Development Act 2000, as amended.

- 7.3.6 The scale, impact and extent are such that an Environmental Impact Assessment (EIA) would be required. The law in respect of EIA has changed significantly since 2012 when the EIA was prepared to accompany the 2013 consent permitted by the Board. There is an absence of information in terms of the current state of the receiving environment. The full impact and effect of the Greenway scheme is, therefore, impossible to quantify.
- 7.3.7 The scheme will have a significant visual impact on the landscape, particularly during the construction phase and adversely impact the character of the landscape.
- 7.3.8 The Greenway route would provide physical barriers along each side of the route and create an urban/suburban type environment.
- 7.3.9 The proposals will cause pollution in the area especially during the construction phase, and there are no proposals to mitigate any damage caused. The movement

of large numbers of people would impact upon flora, fauna, light, noise and general disturbance, and render lands which have traditionally been farmed impossible.

7.3.10 The adverse impact upon the landscape will have a negative impact on tourism industry, and particularly the pony trekking and trailing business operated by the landowners.

7.3.11 There will be disruption to the tourism business operated by the landowners, with no alternative operating route provided. The CPO would destroy the family business.

7.3.12 The proposals will result in the interference and destruction of archaeological heritage.

7.3.13 The assessment of proportionality by the Board requires the correct balance between the rights of those of the landowner and the necessity for the acquisition of the lands.

7.3.14 Access/egress to the lands will be severed.

7.3.15 The proposals will upset the biodiversity of these lands.

7.3.16 The works on the constructed sections of the Greenway have upset and distorted the natural unspoilt landscape.

7.3.17 The LA have failed to demonstrate that the CPO is necessary.

7.3.18 The LA should have proceeded on the basis of providing for the making of a public right of way. This procedure would align itself with the proportionality test, whereby the landowner(s) would retain their lands and confer all necessary rights on the LA.

7.3.19 An NIS was submitted with the 2012 planning consent proposals to the Board. The law in respect of Appropriate Assessment (AA) has changed significantly since 2012.



In the absence of an up-to-date NIS, it is not possible to detail the full extent of concerns in respect of environmental grounds arising from the scheme.

7.3.20 The CPO cannot be reconciled as being compatible with the current Galway County Development Plan (CDP). The CPO has not been considered in the context of the provisions of the current CDP.

7.3.21 In the absence of a Strategic Environmental Assessment (SEA), the proposals would be contrary to the SEA directive unless the LA can demonstrate definitively that the SEA directive has been complied with.

7.3.22 The LA has not complied with its obligations under the Water Framework Directive (WFD).

#### **7.4 James Anderson receiver over certain assets of William and Jill Hollinger (in receivership).**

7.4.1 Lands at Recess House, Recess, Co. Galway.

7.4.2 He understands that the CPO will affect the lands at the front of the property, inside the property boundary wall and the wooded area within the property.

7.4.3 As a receiver over the property by the Chargeholder, he has not been afforded adequate opportunity to consider how the proposed CPO will impact the property and take appropriate advice in relation to same.

#### **7.5 Objection by Provincial Loan Company (PLC) c/o Stephen Hollinger**

7.5.1 Lands at Garroman, Recess Co. Galway.

7.5.2 Mr Stephen Hollinger is a director of the Provincial Loan Company (PLC) which owns land, river and lakes in the Garroman and Recess areas of Galway.

- 7.5.3 Approximately four years ago, agreement was reached for the transfer of sections of their land abutting the N59 and across their river in order to develop the Greenway route.
- 7.5.4 Recently, the LA have requested to transfer additional sections of their land and river crossing in the area adjoining Recess Station house. He wrote to the LA to explain that the CPO plots are vital to access his property, and the LA wrote back to say that these additional plots were to be acquired by means of a CPO.
- 7.5.5 The CPO lands include the entrance to their former railway bridge and entrance to their property. This is the sole access to the lands owned by the PLC, including access to the lake, boat house, moorings and fishery. This access is used for occasional maintenance, parking for visitors and fishermen and result in devastating financial loss to the PLC. The removal of the access would land lock the property. It

is also the only access for larger vehicles to Recess Station House, adjacent to their property.

7.5.6 No explanation for specifically acquiring these lands has been provided by the LA.

7.5.7 No environmental assessments, surveys of impacts to the aquatic environment, detailed engineering design for the bridge construction or boundary fencing details have been provided.

7.5.8 The areas of land to be acquired by the LA does not correspond with the area required for the Greenway route. The CPO would block access to their lands on a dangerous section of the N59 where the required visibility splays are not achievable.

7.5.9 Other concerns in relation to depreciation of land value, adversely impacting his fishing business were also set out.

## **7.6 Legal Reps of Hilary Burke c/o Thomas Burke**

7.6.1 Lands at Caher, Moyrus, Co. Galway.

7.6.2 If the CPO is confirmed by the Board, it would have serious impact on his ability to continue farming on his retained lands.

7.6.3 No access provision, right of way or specific design details have been confirmed in writing by the Local Authority to date.

7.6.4 The LA would appear to be acquiring surplus lands, over and above what is needed for the CPO for the Greenway.

7.6.5 He was not consulted when the original planning was being sought for the Greenway in 2012-2013.

7.6.6 Inadequate drainage details have been provided along the Greenway and what will happen where existing drains are severed. Seeking a commitment from the LA that the retained lands and those of his family will not flood.

- 7.6.7 No permanent boundary provision or specific design details have been confirmed in writing or schedule of accommodation works.
- 7.6.8 No written commitments have been given by the LA in relation to maintenance of boundary fencing along the Greenway or for the replacement of any boundary treatment that may become damaged.
- 7.6.9 No written commitments have been given by the LA in relation to maintenance of invasive species and weeds or rubbish collection along the Greenway.
- 7.6.10 No written commitments have been given by the LA in relation to the increased risk to future farming on the retained lands and insurance matters as a direct result of the development of the Greenway route.
- 7.6.11 No permanent water or electric fencing supply have been confirmed in writing by the Council along the proposed Greenway route.
- 7.6.12 He is seeking confirmation that access to his retained lands is maintained and that no unauthorised parking of vehicles by Council contractors at his property will be permitted.
- 7.6.13 Seeking confirmation that the lands sought to be acquired are for the purposes of the Greenway route only and will not be used for any other purpose in the future.
- 7.6.14 No written commitments have been offered by the LA in relation to maintenance of boundary fencing along the Greenway, or for the replacement of any boundary treatment that may become damaged.

## **7.7 Objection by Noel Joyce**

- 7.7.1 Lands at Caher, Recess, Moyrus, Co. Galway
- 7.7.2 If the CPO is confirmed by ABP, it would have serious impact on his ability to continue farming on his retained lands, south of the Greenway scheme.

- 7.7.3 No access provision, right of way or specific design details, schedule of accommodation works has been confirmed in writing by the Local Authority to date.
- 7.7.4 Concerned that the Council have agreed to a realignment of the Greenway in a residential property adjacent to his property.
- 7.7.5 The LA seem to be acquiring surplus lands, over and above what is need for the CPO for the Greenway.
- 7.7.6 He was never consulted when the original planning was being sought for the Greenway in 2012-2013.
- 7.7.7 Inadequate drainage details have been provided along the Greenway and what will happen where existing drains are severed. Seeking a commitment from the LA that the retained lands and those of his family will not flood.
- 7.7.8 No permanent boundary provision or specific design details have been confirmed in writing or schedule of accommodation works.
- 7.7.9 No written commitments have been given by the LA in relation to maintenance of boundary fencing along the Greenway, of for the replacement of any boundary treatment that may become damaged.
- 7.7.10 No written commitments have been given by the LA in relation to maintenance of invasive species and weeds or rubbish collection along the Greenway.
- 7.7.11 No written commitments have been given by the LA in relation to the increased risk to future farming on the retained lands and insurance matters as a direct result of the development of the Greenway route.
- 7.7.12 No permanent water or electric fencing supply have been confirmed in writing by the Council along the proposed Greenway route.

7.7.13 He is seeking confirmation that access to his retained lands is maintained and that no unauthorised parking of vehicles by Council contractors at his property will be permitted.

7.7.14 He is Seeking confirmation that the lands sought to be acquired are for the purposes of the Greenway route only and will not be used for any other purpose in the future.

## **7.8 Objection by Patrick Joyce**

7.8.1 Lands at Caher, Moyrus, Co. Galway, H91NH61.

7.8.2 If the CPO is confirmed by ABP, it would have serious impact on his ability to continue framing on his retained lands.

7.8.3 No access provision, right of way or specific design details have been confirmed in writing by the Local Authority to date.

7.8.4 The lands are the primary location for feeding, handling and over-wintering of his farm stock.

7.8.5 He is willing to facilitate GCC, by means of a voluntary agreement on other lands within his folio for the development of the Greenway.

7.8.6 Concerned that the Council have agreed to a realignment of the Greenway in a residential property adjacent to his property.

7.8.7 The Greenway would impact the views from his home, which also operates as a guesthouse business.

7.8.8 The LA seem to be acquiring surplus lands, over and above what is need for the CPO for the Greenway.

7.8.9 He was never consulted when the original planning was being sought for the Greenway in 2012-2013.

- 7.8.10 Inadequate drainage details have been provided along the Greenway and what will happen where existing drains are severed. Seeking a commitment from the LA that the retained lands and those of his family will not flood.
- 7.8.11 No permanent boundary provision or specific design details have been confirmed in writing or schedule of accommodation works.
- 7.8.12 No written commitments have been given by the LA in relation to maintenance of boundary fencing along the Greenway, or for the replacement of any boundary treatment that may become damaged.
- 7.8.13 No written commitments have been given by the LA in relation to maintenance of invasive species and weeds or rubbish collection along the Greenway.
- 7.8.14 No written commitments have been given by the LA in relation to the increased risk to future farming on the retained lands and insurance matters as a direct result of the development of the Greenway route.
- 7.8.15 No permanent water supply or electric fencing details have been confirmed in writing by the Council along the proposed Greenway route.
- 7.8.16 He is seeking confirmation that access to his retained lands, home and farmyard are maintained during construction works for the Greenway and that no unauthorised parking of vehicles by Council contractors at his property will be permitted.
- 7.8.17 He is seeking confirmation that the lands sought to be acquired are for the purposes of the Greenway route only and will not be used for any other purpose in the future.

## **8.0 Oral Hearing**

### **Background**

- 8.1 An Oral Hearing was held on Monday, the 2nd of December 2024. The objectors in attendance and Galway County were represented at the Hearing and oral submissions were heard by, or on behalf of, the parties. The proceedings of the Oral

Hearings are summarised in Appendix A of this report and referenced in the assessment section of this report below (Section 8.0). The proceedings were also recorded and are available to the Board on an audio file.

## **8.2 Assessment**

### **8.3 Overview**

8.3.1 The proposed CPO is in relation to a number of sections of the Connemara Greenway comprising a total of 6.75 kilometre, which is intended to be constructed and would complete the permitted 28.2-kilometre Greenway between Clifden and Derryneen in Connemara. The subject lands to be acquired under this CPO would connect existing developed sections of the Greenway comprising 14.75 hectares and sections presently under construction, comprising 6.7 hectares of the overall Connemara to Oughterard Greenway, which, if completed would provide for a continuous uninterrupted 28.2 kilometres cycle and walkway route from Clifden to Derryneen. Upon completion of these sections of the Greenway, there would remain a further 24 kilometres of permitted undeveloped Greenway route to be developed between Derryneen and Oughterard.

8.3.2 The Local Authority is seeking to compulsorily acquire the necessary lands to implement and complete this continuous section of the Greenway scheme. The plots that are subject to the proposed CPO comprise the lands and site working areas, deemed necessary by Galway County Council for the completion of this section of the Connemara Greenway. The Council considers this to be appropriate having regard to the need to meet the required infrastructural standards and that the land take is proportional to its requirements.

8.3.3 The CPO lands ('application site') extend to approximately 6.75 km, mainly along the route of the disused Galway to Clifden rail line, sections of local road and along the



general direction and parallel with the N59 (National Secondary Road) in west County Galway. The site is generally linear and mainly flat.

8.3.4 Parts of the proposed route belong to private landowners. Many of these lands take in the sections of the dismantles rail line between Clifden and Oughterard, with many of these parcels now in private ownership of local landowners, other segments along sections of the local road network and sections along the N59 and are intended to be taken-in-charge (TIC) by Galway County Council.

8.3.5 My assessment of the proposed CPO considers the issues raised in the written objections submitted to the Board, the issues raised at the Oral Hearing (OH), and the general principles to be applied in assessing CPOs of this nature.

8.3.6 For the Board to confirm the subject CPO, it must be satisfied that, as set out in the judgement of Geoghegan J. in *Clinton v An Bord Pleanála* (No. 2) (2007) 4 IR 701, the Local Authority has demonstrated that the CPO is clearly justified by the “common good”. This has been interpreted by legal commentators, as per *‘Compulsory Purchase and Compensation in Ireland: Law and Practice, Second Edition, by James Macken, Eamon Galligan, and Michael McGrath (2013)’*, as a requirement to satisfy the four general principles, which are as follows:

- There is a **community need** to be met by the acquisition of the property in question.
- The particular **property is suitable** to meet the community need.
- The works carried out accord or at least not be in material contravention of the provisions of the **relevant statutory Development Plan**.
- Any **alternative methods** of meeting the community need have been considered but are not demonstrably preferable (taking into account environmental effects, where appropriate).

- 8.3.7 Furthermore, as set out by Garrett Simons in 'Planning and Development Law, Second Edition (2007)', the Board should consider whether the acquisition will have an excessive or disproportionate effect on the interests of the affected persons.
- 8.3.8 The proposed CPO is assessed below in the context of the above tests prior to addressing the specific issues raised in the objections received.
- 8.3.9 From the outset, I note the extent of the subject lands which are to be acquired, and the large number of landowners affected. The Schedule to the CPO includes the full list of 'owners or reputed owners' and 'lessees or reputed lessees'.

## **9.0 Community Need**

- 9.1.1 I note that Galway County Council (GCC) and a number of the objectors to the CPO are in agreement that the completion of these sections of this part of the Greenway Route would be of benefit to the locality and are, in principle, in favour of the project. The Greenway route, and its associated works, are required to pass through various sections of land owned by private landowners as per the planning consent. Agreement of permissive access has not been reached between the parties to date for these particular plots of lands. Therefore, it is necessary for the Council to acquire these land parcels by CPO, and this has generated a number of issues for the affected parties.
- 9.1.2 The main issues raised by objectors are in relation to privacy, security, noise / nuisance (lighting, construction, traffic, etc), impact on habitats and biodiversity, traffic and illegal parking of cars, costs or expense that might arise (because of implications arising from the CPO). Other issues raised were that the consultation and engagement process carried out by the LA has been inadequate and unsatisfactory, adverse impact upon operating farm holdings, the impact upon the residential amenities of local residents, potential for anti-social behaviour, and

potential impacts on the well-being and security of animals, including cattle, horses and sheep.

9.1.3 Having regard to these concerns, I note also that the scheme intends to deliver a series of overarching objectives, which were referenced in the Brief of Evidence (BoE) submitted to the OH by the Senior Executive Engineer/Project Manager within the Galway National Roads Project Office (NRPO). These objectives would result in positive community benefits for the locality and include the following:

- Provide a secure and safe environment for walkers and cyclists to travel between towns and villages along the route.
- Will be an important amenity to Connemara and will entice local, domestic and overseas visitors to explore its towns and villages.
- It will further strengthen, enhance and extend the tourism season in the region.
- The Greenway will provide momentum for new enterprise and rural regeneration.
- An increase in walking and cycling will improve the health and general wellbeing of users and will lead to reduced car usage and the associated carbon emission levels.

9.1.4 During my site visit, I observed that the proposed route generally following the dismantled railway bed of the former Clifden to Oughterard rail line but also including sections along the N59 and along local roads and that the broad views of the surrounding countryside were scenic and picturesque. The route would travel past and serve several houses in the area and also connect some small enclaves of houses to the settlements of Oughterard and Clifden as well as rural clusters in between including Lissoughter, Recess and Sráth Salach.

9.1.5 Therefore, the Greenway route, in addition to being a valuable tourist attraction for the area, would have the ability to deliver additional benefits to the local community in terms of being an important amenity to encourage a more active lifestyle through the provision of a safe off-road (mostly) walking and cycling route which would

encourage greater social cohesion, more sustainable forms of mobility, and result in improved local opportunities for people to walk and cycle as a means of transport other than driving, and all within a safe environment.

- 9.1.6 There would be certain potential adverse effects arising from the development of the Greenway on third party landholdings and these were referenced in Section 10.1.2 above. However, I note the relevant test is whether or not on balance the overall benefits of the proposed scheme to the wider community would outweigh these more localised impacts.
- 9.1.7 Therefore, having regard to the scheme benefits outlined above in Section 10.1.3, it is clear in my opinion that the completion of these sections of the Greenway route would be an appropriate means of meeting the stated objectives of the project and be in the interests of community need and gain. The completion of these sections of the Greenway would accord with national, regional and local planning policy, improve accessibility for pedestrians and cyclists, provide for better environmental conditions, and reduce energy consumption and carbon emissions. It would also likely deliver an economic return on investment and facilitate tourism development.
- 9.1.8 In summary, I conclude that the proposed completion of these sections of the Greenway would benefit the wider community, and that the CPO is justified in the interests of the common good. I conclude that 'the community need' for this scheme has been established and that this general principle in terms of assessing the CPO has been met.

## **10.0 Suitability of lands to serve the Community Need**

- 10.1.1 The proposed greenway route is intended to encourage more people to walk and cycle and undertake more trips for recreational, amenity and/or travel to work purposes.
- 10.1.2 At present the lands have a variety of stated uses including mixed agriculture including cattle and sheep rearing, horse trekking, woodland, residential, commercial fisheries, tourism and recreational uses. The c.6.75km route, the subject of this CPO would largely follow the route of the dismantled Clifden to Oughterard railway line bed but also incorporates sections of local roads and sections along the N59

route. The CPO lands are located within the rural townlands of Munga, Emlaghmore, Athry, Garroman, Lissoughter and Caher. No habitable dwellings will be acquired, and no public rights of way will be extinguished.

10.1.3 The Council has confirmed that it is proposed to permanently acquire the c 6.75 ha of land to accommodate the completion of this uninterrupted section of the Connemara Greenway corridor to facilitate construction works.

10.1.4 They have also outlined that given the number of plots and affected parties, that it was not possible, despite the best efforts of the Project Team, to progress this specific 6.75-kilometre section of the Greenway Project by way of voluntary agreements. The CPO process was, therefore, progressed in order to facilitate the completion of these specific sections of the Greenway because it was not possible for all the necessary lands to be acquired voluntarily. Accordingly, Galway County Council (GCC) submit that there is a compelling argument, which is in the public interest for exercising compulsory purchase powers in this instance. GCC state that the impacts on all landowners are proportionate to the public need, in that no more land than is necessary to complete the Greenway Project for which approval has been previously attained will be acquired under this CPO.

10.1.5 I further note that the Local Authority stated several times during the Oral Hearing that any replacement works to boundaries would be carried out on a 'like for like' basis and by agreement with the landowners and that certain flexibilities can be provided as part of accommodation works in terms of access gate locations. Among the issues raised related to locations of access points and gate openings along the route to allow for farm animal crossings or access for farm vehicles to lands along the Greenway route. These would be facilitated through an accommodation works agreement with each of the landowners. This process is separate to the CPO process.

10.1.6 I note that the extent of the land that would be acquired under the CPO is determined by the specifications of the proposed greenway layout design and its associated construction works. I am satisfied that the land proposed to be acquired by the Council is required to accommodate the completion of these sections of the

Connemara Greenway Route and that the amount of land take proposed is necessary and proportionate to ensure the delivery of this section of the scheme and to allow it to meet the necessary design standards. I am also satisfied that the lands, which currently accommodate a range of uses (mainly agricultural and open fields) are suitable for the construction and operation of the greenway for cyclist and pedestrian use.

10.1.7 Large sections of the proposed greenway route comprise the dismantled Clifden to Oughterard rail line (long disused), in addition to short sections of the local road and national secondary road network. The parts of the greenway utilising sections of public road would result in some minor road improvements and related safety upgrades. However, these upgrades would mainly comprise information signage, road signage, line markings and traffic calming measures, and I consider that these would be to the benefit of improved traffic and road safety in the area generally.

10.1.8 In summary, and having regard to the above, I am satisfied that the lands identified in the CPO are required for the completion of this section of the Greenway route and meet the criteria in relation to suitability of the lands.

## **11.0 Compliance with Planning Policy (including County Development Plan)**

11.1.1 The proposed route is part of a wider interconnected greenway network through which it is proposed to meet several national and regional policy-based objectives. These national policy objectives are mainly focused on achieving a modal shift in transport away from car-based and fossil fuel dependent transport to more sustainable and less energy reliant modes of transport, including walking and cycling.

11.1.2 The National Planning Framework (NPF) includes a policy objective (NPO 22) which states that it is an objective to facilitate tourism development and in particular a 'National Greenways, Blueways and Peatways Strategy', which prioritises maximum impact and connectivity at national and regional level. These dedicated cycleway/pedestrian paths meet a community need generated by both locally based

commuters, and the tourist industry, by the provision of off-road, segregated and safe cycling and walking facilities.

11.1.3 The proposal in this instance would link in with the wider cross country route and once completed, this Greenway route will be extended to Oughterard and subsequently from Oughterard to Galway, which is stated to be presently at design stage and further eastwards to Dublin and forms part of the wider Eurovelo 1 (Atlantic Coast) route, which is an 11,000 kilometre cycling route connecting Norway with Portugal. Therefore, the project is recognised as a nationally important project deriving benefits across multiple areas and regions.

11.1.4 The 'Regional and Spatial Economic Strategy for Northern and Western Region, 2020 ('RSES')' includes relevant planning policies and objectives in relation to the delivery of the proposed greenway. Regional Policy Objective 3.6.13 seeks to 'support the delivery of a Greenway network which includes the National Dublin to Galway cycleway, Oranmore to Bearna coastal Greenway and the Galway to Clifden Greenway, which would include the current CPO lands, amongst other Greenways. Regional policy objective 4.14 seeks to 'Promote the development of integrated of walking, cycling and bridle routes throughout the region as an activity for both international visitors and local tourists'.

11.1.5 The Galway County Development Plan 2022 – 2028 includes several policies and objectives which seek to support Blueway and Greenway projects, including the Connemara Greenway. Section 6.5.2.2 sets out the following 'The Council actively supports the provision of Greenway infrastructure within the county and acknowledges that benefits from a recreational amenity perspective which encourages an active and healthy lifestyle for our communities. The Council also acknowledges the economic benefits which arise from Greenways particularly from a

tourism perspective. The Council will continue to support and facilitate the provision of Greenways where appropriate within the County’.

11.1.6 Chapter 8 within the GCDP relates to Tourism and Landscape and Section 8.9.1 relates specifically to Greenways/Blueways.: ‘To support and facilitate the provision of Blueways/Greenways, where appropriate within the County’.

11.1.7 Section 10.16 in the GCDP which also supports the promotion of Blueways and Greenways specifically within policy objectives BGP; s 1, 2 and 3 regarding developing Strategic Greenway Networks. Policy objective BGP2 specifically references the Connemara Greenway Project.

Policy Objective BGP2-Development of Strategic Greenway Network Support the development of an integrated Strategic Greenway Network of national and regional routes and maximise connectivity to existing greenways through linkages of cycling and walking infrastructure in a manner that is compatible with nature conservation and other environmental policies. This will include the following.

- Connemara Greenway i.e., (Clifden to Oughterard, Galway to Oughterard).

Policy objective BGP3- Greenways, Blueways, Peatways and Trails

a) It is a policy objective to support the extension of greenways, blueways, peatways and trails within the county and the integration and linkage of them with other existing / proposed greenways, blueways, peatways and trails both within and outside the county.

b) It is a policy objective to support where relevant the concept of Greenways to consider local travel infrastructure, and connectivity to local towns and villages in the design of any Greenway route.

11.1.8 It is, therefore, evident to me that that national and regional policy, and the current Galway County Development Plan 2022, including specific policy objectives that



support the delivery of the proposed greenway that is currently before the Board for consideration.

11.1.9 Having regard to the foregoing, I am satisfied that the lands affected by the proposed CPO accord with national, regional and local planning policy and specifically policy objectives GBW1, GBW2 and BGP2 as set out within the current Galway County Development Plan (GCDP) 2022 – 2028. relating to the promotion, facilitation and delivery of Green infrastructure, including walkways and cycleways.

## **12.0 Consideration of Alternatives**

12.1.1 The Connemara Greenway Project Clifden to Oughterard was permitted by An Bord Pleanála in the 8<sup>th</sup> day of March 2013. The current CPO relates to sections of the Greenway that have not been developed to date. The CPO lands remain within the Greenway route as permitted in 2013. These lands are illustrated within the deposit maps, submitted as part of this CPO and prepared by the Galway County Council National Roads Project Office. The overall objective is to allow Galway County Council to acquire the remaining sections of the permitted Greenway between Clifden and Derryneen for the completion of this section of the Greenway route, in order to provide a complete 28.2 kilometre section from Clifden to the Derryneen Road.

12.1.2 The Section 3.2 of the Brief of Evidence (BoE) sets out the alternatives considered for each of the plots of land, subject to this CPO, identify the constraints that exist and drawings/chainages for each of the plots of land sought to be acquired. In all instances the Local Authority (LA) set out ‘there were no viable alternatives available’ as the Local Authority ‘are constrained by the route which received planning in 2013’. I note that all of the plots to be acquired are within the bounds of the consent permitted by the Board under Board reference number PL.07.JA0033, Among the constraints identified for the plots of land included the proximity of the N59 national secondary route and finding a safe point for crossing this busy route, the existence of a major road junction between the N59 and the R344 regional route and designated sites, in the form of Natura 2000 sites and proposed Natural Heritage Areas, the existence of lake features along/in proximity to the route and the

existence of bridge abutments associated with the dismantled Galway to Clifden rail line and steep embankments and cuttings along each side of the dismantled rail line bed.

12.1.3 The LA also set out in their evidence at the Oral Hearing that the land take was restricted to land necessary for the construction and operation of the Greenway route. The LA also set out that the lands were specifically chosen to cause least impact upon residential amenity of adjacent residential property owners. The CPO lands selected 'restricted and focussed the route to disturbed/existing artificial surfaces..... whilst ensuring that direct loss of and negative impacts on sensitive habitats are avoided'. In many instances the route selected follows the dismantled Clifden to Galway rail line bed and the LA set out that access to lands will be maintained at all times to lands owners along the Greenway route, this point was reiterated by the LA within their evidence to the Oral Hearing. Indicative crossing points along the Greenway route are shown on the deposit maps, however, final details of access/crossing points along the route would be agreed as part of the accommodation works. This would facilitate landowners who own land/have access to lands north and south of the Greenway corridor route.

12.1.4 Section 3.2 of the BoE report also outlines the assessment criteria that were applied to each plot of land and why an alternative route option was not available in each of the cases. The Local Authority stated that a resolution was reached with many of the landowners (stated to be twenty landowners by the LA) affected by the development along the Greenway Route, The CPO pertains to the remaining and relatively modest number of landowners (seven landowners participated at the Oral Hearing) along these incomplete sections of the Greenway route between Clifden and Derryneen. Within Section 2.3 of the BoE submitted by the Project Manager for the Greenway route, she sets out that 'the CPO is required in circumstances where it has not been possible, despite the best efforts of the Project Team, to progress these specific 6.75 kilometre sections of the Greenway Project by way of voluntary agreement ...Given the said set of circumstances, there is no alternative option available to Galway County Council/Transport Infrastructure Ireland to progress and complete the Greenway Project with a view to providing for a continuous uninterrupted and viable Greenway along the approved project route. As such, the

Project Team is acquiring no more land than is necessary to complete the Greenway Project '. However, some landowners still objected to the route selected and the matter was debated at length during the Oral Hearing, as summarised in this section of the Report and outlined in Appendix A 'Proceedings of the Oral Hearing'.

12.1.5 Several landowners expressed their dissatisfaction and frustration with the level and type of communication and engagement carried out by Galway County Council with them. It was submitted to the Local Authority by some of the objectors that a more appropriate route would have been available outside of their particular land plots and removed from their lands or within different parts of their land holdings, especially those landowners actively involved in farming and those operating commercial/tourism businesses, fisheries and pony trekking. This would have allayed some concerns raised by objectors in relation to animal welfare and viability of commercial/farm enterprises.

12.1.6 The LA in response to these concerns stated that project had gone through the planning consent process and was the subject of a detailed community consultation process undertaken by Galway County Council, Fáilte Ireland and a number of local community groups including Forum Connemara Ltd. A preferred route was then identified following the public consultation, and this struck a balance in terms of potential impacts and the delivery of a high-quality greenway.

12.1.7 The Local Authority submitted during the Oral Hearing that the potential impact and effects on all landowners would be proportionate to the public need for the completion of these sections of the scheme and the extent of land being acquired. It was also set that the alignment of the route is consistent with the planning consent permitted by An Bord Pleanála in 2013 and the route as permitted represents the most reasonable means of delivering a high-quality greenway, which would achieve the scheme objectives and community need, and would be in the interests of the common good. The LA acknowledged that all of the CPO lands are within the permitted corridor as set out within the 2013 planning consent.

12.1.8 Having reviewed the consideration of alternatives within the Brief of Evidence Report presented at the Oral Hearing, the submissions and various other information on file

and the submissions received during the Oral Hearing, I note the lands to be acquired are in accordance with the route and consistent with the consent approved by the Board under Board reference PL/07 JA0033 in 2013. Notwithstanding this, I acknowledge given the nature and extent of the proposed CPO that concerns relating to property and landownership will inevitably arise regardless of which route option is selected.

12.1.9 Furthermore, having regard to the relevant legislation and test concerning consideration of alternatives, it is my opinion that the chosen route would outweigh any potential adverse impacts caused by formally acquiring third party lands, and that this represents a reasonable balance between achieving the interest of the community and protection of landowner rights. Insofar as the matter of compensation is concerned, I note that this is a separate issue which cannot be addressed under the CPO process. However, I note that Galway County Council acknowledged during the Oral Hearing that a separate scheme of compensation would be available, if any such loss or damage were to occur.

12.1.10 I note the technical information shown in Appendix A of the BoE Report from the Greenway Project Manager which illustrates via a cross section drawing some of the specifications and general physical arrangement of the Greenway in addition to a number of photographic images of completed sections of the Greenway. The route is a shared surface stated to be approximately 2.5 -3 metres metres in width, although Miss Johnston acknowledged somewhat wider along some sections of the Greenway route, but all works are within the permitted route corridor. This width allows for pedestrians and cyclists travelling in opposite directions to pass one another safely and conveniently. It also includes for a 0.5 – 1metrre verge or ‘v-ditch’ alongside the Greenway and allows for safe movement, drainage, stopping and passing purposes.

12.1.11 In summary, and having regard to the above, I consider that alternative route options have been adequately explored by the Council. The proposed route alignment represents the most reasonable means of achieving the scheme objectives and I submit that this would meet the identified community need. I

consider that GCC have demonstrated a reasonable consideration of the alternatives available and that the preferred and permitted Greenway route is the optimum one.

12.1.12 The Local Authority has shown that they have sufficiently considered alternative methods of meeting the community need and, taking into account the responses provided to the objectors' concerns at the Hearing, I conclude that the criteria in relation to consideration of alternatives has been met.

### **13.0 Proportionality and Necessity for the Level of Acquisition Proposed**

13.1.1 I consider that the scheme will benefit all users, including visitors and tourists, but also local people who choose to use the facility for exercise and as a means of active travel by walking or cycling along the existing and proposed Greenway route.

13.1.2 I acknowledge that proposed scheme has the potential to have adverse impacts upon adjoining lands during both the operational and construction phases. Impacts experienced during the construction of the scheme would be temporary in nature. These would potentially be managed by implementing various mitigation measures, including, for example, as part of a construction and environmental management plan for the project, or as part of future accommodation works.

13.1.3 A number of objectors raised concerns regarding the potential impact which the proposed scheme could have on the residential amenity of their respective properties, including loss of privacy, impact upon their views, increased noise, littering, dog fouling, threat to farm animals from dogs, and the potential to introduce invasive species etc. These matters were explored during the course of the Oral Hearing, and it is clear from the deposit maps submitted by Galway County Council that the proposed scheme would be in close proximity to a small number of residential properties, farm holdings and commercial enterprises. It would also require the acquisition of lands compulsorily that are used for not only agricultural

purposes, but also for access purposes to agricultural lands, and access to a commercial fishery and a pony trekking enterprise.

13.1.4 During the OH proceedings, GCC noted that any interference with private property rights must be supported by the relevant legislation and that it must strike a balance between the interests of the local communities and the protection of landowners' rights. The Council stated during the proceedings that the greater public good would be achieved by completing these incomplete sections of the Connemara Greenway route and that its benefit for the people of the area and community at large would outweigh the negatives caused by formally acquiring the third-party lands in order to implement the scheme.

13.1.5 A number of the landowners, specifically those stated to be involved in active farming (including Thomas Burke, Noel and Patrick Joyce) set out that the CPO should be modified to allow them to continue their farm practices and not subdivide/sever their holdings, north and south of the Greenway. Mr Stephen Hollinger set out that he had already ceded lands to Galway County Council for the completion of the Greenway and under this CPO a further portion of his lands, (stated to be approximately 45 metres by 25 metres) would be acquired. Mr Hollinger stated that the acquisition of his lands would restrict his ability to maintain access to his commercial fishery and restrict parking at the fishery access. The LA (Miss Johnston) set out that these lands, the subject of the CPO were necessary to complete these incomplete sections of the permitted Greenway route and that 'the land take is restricted to lands necessary for the construction and operation' of the approved Greenway route. Miss Johnston stated that the section of Mr Hollingers' lands to be acquired (approximately 45 metres by 25 metres) were being CPO'd for 'design reasons' and to retain a safe access to Mr. Hollingers' lands and for users of the Greenway, where his lands intersect with the Greenway and to ensure that adequate sightlines are achieved.

13.1.6 Miss Johnston set out that access to the retained lands would be maintained along the route both during the construction and operational phases of the Greenway and retained lands would not be landlocked or deprived of an access. This would avoid the lands owned by Mr Burke, Noel and Patrick Joyce and Mr Stephen Hollinger and

the Leahy family being split into two separate parcels, as contended within their submissions, and that adequate provision will be made for all landowners to maintain access to their lands at all times, both during construction and operational phases of the Greenway project.

13.1.7 I also consider that future accommodation works would be an appropriate mechanism by which to address these matters and that this would help ensure that any land affected by the CPO would not be landlocked or cut-off from its residual balance. This could be achieved either by way of enhancing/preserving existing access points, or creating new access points, as appropriate, as part of more detailed discussions informing the future accommodation works agreement. I acknowledge that the Council indicated during the OH that it is their intention to construct and facilitate appropriate access arrangements, potentially in the form of gated access and egress points so that none of the retained lands belonging to the landowners would be landlocked. I consider this approach to be both reasonable, proportionate and appropriate.

13.1.8 I acknowledge the concerns raised by the Objectors in relation to increased potential for public liability risk due to the presence and proximity of the future greenway to his lands. However, as users of the greenway would have no direct/permitted access to the retained lands from the greenway route itself. I do not consider that concerns of this nature are likely to materialise, or be significantly exacerbated, by the project itself. I do not consider that the potential issue regarding public liability risk is sufficient grounds under which to annul the CPO.

13.1.9 It is also in the interests of the Council to discourage anti-social behaviour from happening along what is an important tourism product for the County and Connemara. I further consider that the increased pedestrian and cyclist activity brought into the area because of the Greenway route would lead to increased passive surveillance and informal monitoring of activities. Finally, and on this point, I would note that there is a potential option available to the Objectors to serve a notice

on the Council to acquire the retained land parcels, but that such a mechanism cannot form part of Board's assessment of this proposed CPO.

13.1.10 In summary, I consider, it is not possible, nor appropriate, for the Board to compel the Council to extend the amount of land take that is proposed to be compulsorily acquired for the purposes of delivering the subject scheme. The Board would be acting beyond their remit if there was an attempt to do so. In any case, I do not consider the land in question to be necessary to accommodate the greenway and that this is one of the tests upon which to assess the appropriateness of the proposed CPO.

13.1.11 Therefore, the Board's assessment of the subject CPO is confined to whether the land proposed to be acquired is necessary to accommodate the proposal and if it is in accordance with the relevant Development Plan, which in this case is the Galway County Development Plan 2022 – 2028.

13.1.12 In relation to Mr Patrick and Noel Joyce's, Mr Stephen Holliger's and Mr Burke's lands, I note that a recurring issue raised by a number of the objectors in relation to this estate was the potential removal of existing access points to accommodate the greenway. The objectors state that there are existing gateways associated with their land parcels that are used to access lands from the public road. The acquisition of these plots of lands would render the lands inaccessible and require a new form of accessway in lieu of access gateways lost. The matter was discussed at length during the Oral Hearing, and it was argued that any new access required to compensate for the loss of the gateway in question would incur excessive costs.

13.1.13 In response, the Local Authority confirmed that the extent of land take has been kept to a minimum and that every effort has been made to facilitate landowner



requests. This could be done as part of future discussions between the Council and landowners in terms of the accommodation works agreement.

13.1.14 In the light of the above assessment, I conclude that GCC has demonstrated that the CPO would be proportionate and necessary and meet all the relevant criteria for establishing that it would be clearly justified by the common good.

## 14.0 Additional Issues Raised by Objectors

### Impact upon residential property

14.1.1 In relation to Mr Joe Kennys' lands, he set out that the domestic entrance and roadside wall would be set back to accommodate the Greenway Route and adversely impact upon his Station House residential property and move the roadside boundary in greater proximity to the dwelling, result in loss of mature trees in the front garden area and potentially impact upon his domestic septic tank system. Mr Frank O' Reilly (acting for Mr Kenny) submits that the Greenway should instead be developed by acquiring an alternative section of land from a neighbouring landholding, on the opposite side of the road, and which is currently used for agricultural purposes. This would be further away from his house and avoid taking part of his garden.

That the EIA/NIS assessments submitted as part of the 2013 consent by the Board are outdated.

14.1.2 The current approval for the Connemara Greenway route dates back to 2013. However, the purpose of this Compulsory acquisition process is whether or not to acquire the subject plots of lands or not. The tests for CPO are set out above within Sections 10 to 14 inclusive of this report this report.

### Boundary treatment along the Greenway

14.1.3 It was also submitted by the Council that as each individual property has unique screening/fencing requirements these would need to be agreed through individual discussions with landowners, which I consider reasonable and appropriate. It was

submitted by the Local Authority that the overall selected route is the most appropriate one from a design perspective and that it has been chosen to integrate with the existing landscape features of the area. I acknowledge that the Local Authority's legal representative confirmed during the Oral Hearing that a separate scheme of compensation would be available to cover potential losses – including the loss of private lands and/or agriculture farmland– because of the CPO, but I note that such matters lie outside the scope of this case, which is concerned exclusively with land acquisition matters only. Other landowners who would be similarly affected may also be liable for potential compensation; however, I reiterate, that this is a matter for a separate forum.

#### Access to the Greenway

14.1.4 I consider that the greenway – with unfettered access rights for all of the landowners would be adequate to transport and accommodate agricultural vehicles and the type of machinery and materials typically required for the running of a farm enterprise. I also consider that the measures undertaken by the Council to prevent unauthorised vehicles accessing the greenway and, thus, causing potential obstruction or hindrance are appropriate. In this regard, I note the Local Authority's intention to install a set of closely spaced and staggered barriers to form a type of restricted access arrangement or chicane. This proposed setup would facilitate access for local people living in the area, as well as walkers and cyclists but, importantly, not vehicles being driven by unauthorised persons or other third parties. Landowners would be able to pass through the barriers unhindered. The Local Authority has also undertaken to install appropriate signage to help control and deter unauthorised car parking/access from happening, which is a concern cited by several objectors. I consider that this – in tandem with other measures – would be beneficial and assist in addressing this concern.

#### Traffic and Car Parking

14.1.5 Concerns were raised by objectors regarding traffic safety; mainly due to the volume of walkers and cyclists that are envisaged to use sections of the public road network, pass-by private driveways and interact with various forms of road traffic. In particular,

objectors cited the part of the greenway route which would be on-road and incorporate a section of the N59.

14.1.6 In my opinion, the parts of the proposed greenway that are intended to utilise local roads and sections of the N59 are limited, and this has only occurred where it has shown that taking an alternative route would be less advantageous. The sections of road which would be used as part of the greenway would also result in some minor road improvements and upgrades, which would be to the benefit of improved traffic and public safety generally. Such a scenario is not uncommon for other successful greenways operating elsewhere in the country whereby small sections of the public road form part of the overall greenway route. Therefore, I am satisfied that traffic safety would not be an issue and that utilising sections of the public road network would not be prejudicial to public health.

14.1.7 Concerns raised in relation to unauthorised parking of vehicles along public roads would not be condoned by the Local Authority and this would be discouraged by signage and other means of car parking control. Similarly, cul-de-sac roads and laneways leading to the greenway off the N59 will be marked with 'no access to greenway' signposts to dissuade such practices from occurring. Therefore, it would be far more convenient and likely for greenway users to park at the formally designated and advertised starting locations in my opinion.

14.1.8 I consider such measures sufficient to control the potential for unauthorised parking next to the Greenway and note that these methods are commonplace for other types of walking and cycling routes where similar concerns exist.

#### Illegal Dumping

14.1.9 The issue of illegal dumping was referenced by a number of third parties as a recurring concern during this part of the Oral Hearing. It was stated that the proposed route includes land that has been subjected to fly tipping and this has led to potential contamination of the land. Certain landowners stated that some of this illegal dumping is occurring along sections of the existing constructed/under

constructions sections of the permitted Greenway route. Materials include discarded tarmac, concrete and various pieces of construction and demolition waste.

- 14.1.10 However, while such a problem may exist – and I note that potential activity of this sort was observed during my physical inspection of the route – such matters lie outside the remit of the CPO process. In other words, the relevant considerations in relation to land acquisition / CPO matters are confined to those relating to the CPO process only, and this does not extend to environmental considerations, including alleged matters of illicit dumping and potential soil/land contamination. [This is clearly set out in the High Court case of *Wymes v An Bord Pleanála and Meath County Council* [2002] No. 196 JR] HC 275/04 where the Judge adjudicated that considerations in respect of land acquisitions by way CPO are limited to those pertaining to the CPO process and not the planning process.].

#### Engagement between GCC and the objectors/landowners

- 14.1.11 A number of the objectors expressed dis-satisfaction regarding the inadequate and absence of engagement by GCC Connemara Greenway Project team until close to Oral Hearing date.

#### Invasive Species

- 14.1.12 Mr. Oliver Joyce raised the issue of introduction and spread of invasive species along the developed sections of the Greenway route. The LA refuted the claim by Mr. Joyce on this particular matter but acknowledged that there were obviously some examples of invasive species (Himalayan Balsam) noted along the route of the developed Greenway corridor. Miss Johnston stated that a Consultant Ecologist is appointed to carry out a detailed Environmental Method Statement (EMS) in advance of the purchase of each plot of land and recommendations are made in terms of the management of particular environmental sensitivities within each plot of land to be acquired, including mitigation measures to address any particular environmental sensitivities which may arise, including where invasive species would arise. Mr Joyce stated that he was not happy how the LA were managing the ecology and biodiversity along the route of the Greenway and that the LA would need to improve their vigilance in this regard, which he considered to be poor or non-existent within the sections of the Greenway route constructed to date.

14.1.13 The objectors set out that invasive species were noted along sections of the developed Greenway and that these species would potentially adverse upon their agricultural lands and their ability to comply with the provisions of various agricultural schemes, including for example the 'Acres' scheme, which requires that landowners manage their lands in accordance with best practice environmental standards in return for financial aid. GCC set out that a Consultant Ecologist would be hired in advance of acquiring the relevant land parcels and that the Ecologist would carry out a survey of the lands and identify any species, invasive and non-invasive, and make best practice ecological/environmental recommendations in terms of optimising the retention of biodiversity within the lands to be acquired, which would include the management on non-invasive species if, and where applicable.

## 15.0 Recommendation

15.1 Having regard to the above, I conclude that:

- the acquisition of lands proposed under the CPO would serve a community need that advances the common good,
- the land is suitable to meet that need,
- alternatives have been considered, and that there is no alternative which is demonstrably preferable,
- the proposal does not materially contravene the Development Plan, and
- the proposed acquisition is proportionate and necessary.

15.2 I recommend that the Board confirm the Compulsory Purchase Order, as submitted by Galway County Council on 22<sup>nd</sup> day of July 2024, based on the reasons and considerations set out below.

## 16.0 Reasons and Considerations

16.1 Having considered the written objections made to the Compulsory Purchase Order, the report and recommendation of the Inspector who conducted the Oral Hearing into the objections, and having regard to the following:

- a) the purpose of the compulsory acquisition of lands for the 'Connemara Greenway, Clifden to Oughterard, Compulsory Purchase Order No 2, 2024',
- b) the community need, public interest served and overall benefits that would be derived, particularly in terms of encouraging and facilitating active travel, promoting tourism and healthy living, enabling more sustainable forms of mobility on a cross-border basis, increasing cross-border commuting by cycling and walking, improving social cohesion, improving cyclist safety through the construction of a predominantly 'off-road' shared cycle / pedestrian network, and reducing energy consumption and carbon emissions,
- c) the design of the proposed greenway that is proportionate to the identified need,
- d) the policies and objectives of the Galway County Development Plan 2022 – 2028, which are not materially contravened, and
- e) the submissions and observations made at the Oral Hearing held on 2nd December 2024, and
- f) the report and recommendation of the Inspector,

it is considered that the compulsory acquisition of the lands comprising the Compulsory Purchase Order by Galway County Council are necessary for completion of this section of the Connemara Greenway scheme for the purpose stated in the Order, Schedule, and Deposited Maps, and that the objections cannot be sustained having regard to this necessity.

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Fergal Ó Bric  
Planning Inspectorate

31st day of March 2025

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

### **Background**

An Oral Hearing (OH) was held on Monday, 2<sup>nd</sup> day of December 2024 in relation to the proposed compulsory acquisition sought by Galway County Council (GCC) to construct a greenway from Clifden to Oughteard in Co. Galway. It was held remotely at the offices of An Bord Pleanála using Microsoft Teams software. The following were in attendance and made submissions at the Oral Hearing.

#### **1. Submissions on behalf of Galway County Council (GCC)**

- Esmond Keane, BL representing GCC – legal context
- Annemarie Johnston, Senior Executive Engineer, GCC – greenway design and engineering specification; GCC's written response to objections
- Valerie Loughnane-Moran, Senior Planner, GCC – planning context and CPO's compliance with Planning policy including the County Development Plan

#### **2. Submissions by Objectors**

- Mr. Oliver Joyce
- Reps of Mr. William Leahy (deceased) represented by Mr. Michael O'Donnell, BL, (instructed by Harrington Solicitors).
- Mr. James Anderson-did not attend
- Mr. Stephen Hollinger
- Mr. Joe Kenny represented by Mr. Frank O Reilly (Consultant Engineer).
- Mr. Patrick Joyce
- Mr. Noel Joyce
- Mr. Thomas Burke representing the late Hilary Burke.

### **3. Opening of Oral Hearing**

- The Inspector formally opened the hearing at 9.30am.
- Following some introductory remarks, and confirmation of attending parties, it was requested that the Local Authority make its formal submission.

### **4. Submissions by Galway County Council**

#### Overview of CPO and Justification

##### Mr. Esmonde Keane BL

- Mr Keane, BL for the Local Authority opened by indicating who was present to give evidence on behalf of the Local Authority.
- He proceeded to set the context for the CPO and that it is for the purposes of developing a Greenway. He outlined who would make submissions on behalf of GCC, including Miss Annemarie Johnston (Senior Executive Engineer) and Miss Valerie Loughnane (Senior Planner) and that other people on behalf of the Council were also available to answer questions as the need may arise.

##### Miss Annemarie Johnston

- Brief of Evidence (BoE) prepared and submitted to the Oral Hearing from the Connemara Greenway Project Engineer (Miss Annmarie Johnston) within the Galway National Roads Projects Office (NRPO) dated November 2024. This report provides a context and background to the project, a justification for the lands to be acquired including consideration of alternatives, a written response to the submissions received and a conclusion that the CPO lands are necessary and suitable for the development of the Greenway.
- Miss Johnston provided an overview of the CPO. She stated that the Connemara Greenway Project was initially driven by community groups and Fáilte Ireland, the local community and visitors etc largely along the line of the dismantled Galway to Clifden rail line. The project first received planning consent in 2013. Part of Galway to Athlone Will link to Galway to Oughterard scheme, currently at design. Part of Euro velo route 1-connecting Norway to Portugal. 14.75km already constructed and 3 km on local road being updated. Important tourism and commercial benefits would accrue. The proposals



would encourage rural regeneration and the health and wellbeing of users, result in decreased car usage and it would lengthen the tourist season. 3km of the route was completed in 2016 towards Clifden, a further 6km was completed in 2019 near Ballynahinch. In 2022, Transport Infrastructure Ireland (TII) took over responsibility for project. 3.4 km are currently under construction and a further 3km has been developed along local roads. Approximately 21km of the permitted section of the Connemara Greenway between Clifden and Derryneen has been developed or is under construction currently and the remaining sections, comprising 6.75 remain to be developed and would provide a continuous and uninterrupted Greenway from Clifden to Deery Neen. Pavement design in line with current design in terms of a bound asphalt surface. Full access to all land holdings will be maintained during construction and operation as will access to services. A detailed Environmental Method Statement (EMS) prepared by Consultant Ecologist (CE) will be prepared for each section of lands to be acquired. The project now at a critical stage Made significant efforts to engage with landowners. Where agreements have not been possible, GCC have made progress elsewhere along the route such as along the 'Quiet road' at Derryneen. This was considered by GCC to represent a good finishing point for this phase of the permitted scheme. GCC have no alternative but to proceed in order to complete this section of the Connemara Greenway project, therefore, the CPO has been deemed necessary, as no agreement with the remaining landowners has been reached. Alternatives considered at each section.

- Miss Johnston stated that the purpose of the Project is 'To provide all members of the local community and visitors alike with a safe and accessible way of using the dismantled railway line for walking and cycling. overarching objectives / goals of the Greenway were to:
  - Will be an important amenity to entice local, domestic and overseas visitors.
  - Will strengthen, enhance and extend the tourist season.
  - Will provide momentum for new enterprise and rural regeneration.

- Will increase the levels of walking and cycling and improve the health and general wellbeing of users.
  - Will lead to reduced car usage and associated carbon emission levels.
- She made the following observations regarding each of the plots to be acquired:
- No viable alternative at the Station House property at Recess (Joe Kenny lands) least impact upon enjoyment of dwelling. Lands restricted those needed for the CPO only
- Oliver Joyce lands, no viable alternative at Emlaghmore. Restricting route to already disturbed lands, and avoiding sensitive lands, lands restricted to lands necessary, Railway bed lands largely used. Access will be maintained along the route at all times during construction and operation of the project.
- Leahy family lands-no viable alternative at Athry. GCC restricted the route to disturbed ground and land take restricted to those lands needed,
- Burke family lands-constrained by route that received permission in 2013, no viable alternative route, restricted the route to disturbed ground and/or artificial surfaces.
- Noel Joyce lands-constrained by PP route, no viable alternative. Restricted the route to disturbed ground, only lands necessary will be acquired.
- Patrick Joyce-constrained by 2013 pp. No viable alternative, Route chosen restricted to existing artificial surfaces and disturbed ground. Route restricted by rail bridge abutments.
- Stephen Hollinger-constrained by 2013 planning route, no viable alternative route available. The proposed crossing on the N59 is at the safest point. Design reasons determined the extent of the land take which will provide for a safe access to his retained lands and optimising safety for users of the Greenway and that adequate sightlines on the N59 are achieved

## Responses to Submissions

- Miss Johnston set out that a total of twenty-seven landowners written to by GCC regarding land ownership and that ten submissions made to An Bord Pleanála (two of which were subsequently withdrawn). Seven parties are in attendance today or represented at the OH.
- Lands are necessary and suitable for the completion of this section of the permitted Connemara Greenway.
- Mr Frank O'Reilly on behalf of Mr Joe Kenny stated that a detailed response and drawings was received by GCC in August 2024 including a conservation architect report. The report proposes the reconstruction and setting back of roadside natural stone wall, existing natural stone to be re-used in the revised boundary location with lime mortar. The setting back of the roadside boundary wall is to be supervised and carried out by qualified stone mason. Wall to be reconstructed in accordance with Conservation Architect drawings. The proposals will improve sightlines at this location. Miss Johnston stated that it is intended to seek speed reduction in this area in the future to improve road safety, Replanting will occur as part of accommodation works. The existing sewage treatment system is not included within the area of land to be acquired. The Conservation Architects report has been made available to Mr Kenny.
- Legal reps of Mary Joyce c/o Olver Joyce. Permissive access requested. Continued opposition to scheme, Access to lands will be maintained and to retained lands via the greenway corridor. CPO of lands will occur as illustrated within the deposit maps only and no other/additional lands will be acquired. Mitigation for invasive species will occur if required, and GCC have plan for managing such species as they arise. Guided by TII guidelines for management of invasive species and in accordance with Environmental Method Statement (EMS) prepared by a Consultant Ecologist specifically for each section of land to be acquired by the LA.
- Reps of William Leahy-Miss Johnston stated that horses are not permitted on the Greenway, the Greenway is for pedestrians and cyclists only, ongoing consultation originally with Mr Leahy and later with his estate. Originally discussions were on a permissive access basis, but no agreement was

reached with GCC engineers. EIA, AA dealt with as part of 2013 consent and, therefore, not appropriate to deal with under CPO process. WFD, and SEA dealt with under 2013 planning consent process. All procedures duly followed under P & D Act and Housing Act. 2013 decision was not challenged. Route previously before board and permitted and not challenged. Greenway would have positive economic benefit, increased footfall and extend the tourist season. The proposals were previously duly considered by the Board under PL.07.JA0033. The proposals were considered to accord with the proper planning and sustainable development of the area. Each plot of land to be acquired is subject to the preparation of an Environmental Method Statement (EMS) by a Consultant Ecologist who would identify any invasive species and recommend measures for their management. Miss Johnston stated that the Pony trekking business owned by the Leahy family at Athry has not operated since the Covid 19 Pandemic, a matter that was not contested by their representatives. The Greenway previously permitted considered the issue of archaeology. The Greenway is to be completed in agreement with landowners and its completion is subject to the availability of funding. Access to land holdings will be maintained and provided along the route during and post construction.

- Legal reps of Hilary Burke-Access will be maintained during construction and operation. Land minimised to those needed. No impact upon drainage. Boundary fencing will be provided and maintained by GCC.
- Noel Joyce-Access will be retained lands to north of N59. Lands to be acquired are within original route corridor as permitted in 2013. A follow up survey in relation to sons' domestic entrance will be conducted.
- Patrick Joyce-Access will be maintained, based on grades, route is as per the 2013 consent.
- Provincial loan company-Access will be retained on eastern side of Greenway-Gates will be provided. Land take as per original consent.
- Outlined that certain measures would be undertaken in relation to environmental management, control of noise, landscaping and boundary treatments and earthworks.

- Concluded that all the lands which are the subject of the proposed CPO are necessary to implement the permitted scheme.
- Miss Johnston accepts that GCC has an obligation not to introduce/spread invasive species along the Greenway route. She set out that Environmental Method Statements (EMS) are carried out in advance of construction commencing along each section of the Greenway route. Miss Johnston stated that if invasive species were encountered, that a management plan/programme for the treatment of the specific species is set in place by a Consultant Ecologist. Miss Johnston also stated that each plot of land is subsequently inspected upon completion of construction for invasive species. She stated that monthly inspections are carried out by a member of her Project team (Kurt Lydon) and an Ecologist is consulted, if the need arises. Mr Joyce submitted photographic images of invasive species along the developed Connemara Greenway Route. Mr Joyce submits that the invasive species were introduced to the area during the construction of the Greenway Route.
- Miss Johnston refuted this claim and did not accept that invasive species were introduced during the construction of the various sections of the Greenway Route that have been developed to date.
- Miss Johnston also stated that the Connemara Greenway Project team follow the guidance provided within the Transport Infrastructure Ireland (TII) document-The Management of Invasive Alien Plant Species on National Roads, 2020.

#### Miss Valerie Loughnane

- Brief of evidence prepared and submitted to the Oral Hearing (OH) by the Senior Planner (Miss Valerie Loughnane) dated December 2024. This confirms that the Connemara Greenway Project received consent from the Board in 2013 and that the scheme accords with a number of national and local sustainable transportation and planning policy documents including the Galway County Development Plan 2022 – 2028 and concluded that the proposed CPO is in accordance with the proper planning and sustainable development of the area.

- The Connemara Greenway Project received planning consent in 2013, largely along the dismantled rail line between Clifden and Oughterard.
- It was approved on basis of permissive access, but failing that, Rights of Way/CPO procedures could be initiated.
- Policy projects Failte Ireland Plan 2008-2010-Environmental sustainability.
- Current policy-in NPF, specifically NPO 22, RSES for Northern and Western Region 2020-32-RPO, s 4.5, 4.14 and 5.18-Promote, enhance and develop walking and cycling routes.
- Supported by policy in current Galway County Development. Plan. Specifically, within Sections 6.5.2.2, 8.9.1 and 10.16 support development of Greenways, includes specific reference to the Connemara Grenway Route.

### **Submissions from objectors**

#### **Mr. Oliver Joyce**

- Objectors made written submissions on the CPO by August 2024 and only received responses from GCC to those submissions late on Friday evening (29<sup>th</sup> November 2024). He only had 2 weekend days to consider the GCC responses to his submission.
- That the project was to be progressed on a permissive access basis and not to be progressed by means of a Compulsory Purchase Order (CPO).
- Mr. Joyce did not object to the original permission to the Greenway scheme in 2012 as the scheme was to be developed on a permissive access basis.
- Mr Joyce states that he has been harassed by GCC officials to give over his lands for the development of the Greenway.
- Received correspondence from Matt O Sullivan auctioneers on behalf of GCC stating following consultation with Project Manager for the Connemara Greenway within GCC, that it is their objective to purchase his land and seek tenure over the CPO lands.

- Invasive species have been noted on existing developed sections of Greenway. There are no invasive species within his land holding and he is part of the 'acres' environmental scheme. GCCs response to the invasive species issue is to spray with chemicals. Invasive species are not properly managed by GCC. GCC's response to the issue of invasive species is unacceptable from an environmental perspective.
- Galway County Council have an obligation to prevent the introduction of invasive species within the project.
- The Greenway route as permitted was to comprise a 2.5 metre bound asphalt surface. The current route as constructed is 3.3 metres wide in places. Therefore, the whole of the Connemara Greenway route will be 41.000 square metres larger than set out in the original planning consent.
- Mr Joyce said he was in favour of the principle of the Greenway development, but not at the expense of ecology and biodiversity.

Harrington Solicitors represented by Mr. Michael O Donnell BL for legal Reps of William Leahy (deceased) c/o Moire Leahy

- Unacceptable the manner in which they received documentation relevant to the Oral Hearing from GCC.
- That the Council issued their responses to the written submissions from the objectors very late in advance of the Oral hearing. Therefore, the objectors had very little time to examine the LA's responses to the issues raised.
- That the project was to be progressed on a permissive access basis as per the 2013 planning consent and not to be progressed by means of a Compulsory Purchase Order (CPO).
- Written submission made on the CPO on the 30/8/24. Harrington solicitors not notified of web link to join the Oral Hearing (OH) until after close of business at 5.30 on Friday evening (29<sup>th</sup> November 2024) in advance of the OH date, Monday morning on 2/12/2024. Notification received after the 5.30 timeline, therefore web link not available until this morning (2/12/2024) when office re-opened after the weekend.

- Mr O Donnell's clients are trustees of Leahy estate. How can they participate meaningfully in an OH if they are not notified until after close of business on Friday evening before the Monday morning hearing.
- Mr. O Donnell was only informed of the OH this morning (2/12/2024), and sought an alternative link to access the OH as the original link to the OH did not allow him access to the OH.
- Mr O Donnell missed the directions and preliminaries as set out by the Inspector at the start of the OH. This has resulted in additional prejudice to a hearing with profound consequences for his clients.
- Mr O Donnell set out that the highest level of scrutiny is required when it comes to CPO's.
- Mr O Donnell nor his clients have not been provided with the documentation from GCC, how can the OH proceed if this information has not been furnished to his clients/solicitor.
- Other concerns loss of land value, adversely affect his clients' lands and their ability to run their pony trekking business in an efficient manner.

Mr. James Anderson.

- Did not attend OH

Mr. Stephen Hollinger

- Mr Hollinger stated that GCC intend to acquire lands with a dimension of 45 metres x 25metres of land area. Mr Hollinger wrote a letter of objection to GCC in June 2024 and only received a response on the 24/11/24.
- The Council issued their responses to the written submissions from the objectors very late in advance of the Oral hearing. Therefore, the objectors had very little time to examine the LA's responses to the issues raised.
- That the project was to be progressed on a permissive access basis and not to be progressed by means of a Compulsory Purchase Order (CPO).



- The CPO will result in the loss of most of his lands from which is his only means of access to his land and commercial fishery.
- No EIAR submitted as part of the CPO documentation, except for the EIA submitted with the 2013 planning consent.
- After his lands are CPO's. he would be left with only a 4ft gate and left with no parking. Anyone can gain access into his lands over the 4ft gate.
- Why do the LA need the 45metre x 25metre section of land if the Greenway is only to have a width of 4-5 metres.

Mr Joe Kenny c/o Frank O Reilly (Consultant Engineer)

- Only received information from GCC on the Friday evening (29<sup>th</sup> November 2024) in advance of the OH, including a copy of the Architectural Conservation Report and accompanying drawings.
- Therefore, his client has had very little time to examine the LA's responses to the issues raised.
- That the project was to be progressed on a permissive access basis and not to be progressed by means of a Compulsory Purchase Order (CPO).
- A lack of information on detail of precise lands to be acquired has been provided by GCC in a timely manner, hence Mr Kenny had no choice but to object. Mr Kenny met with the LA on site and spoke on the phone to Council officials about it. Regarding the set back of the roadside boundary wall of Mr Kennys' property along the N59, there is an absence of detail, only on Friday last (date 29/11/2024). his client (Mr Kenny) received section/elevation drawings, very little time to duly consider the proposals and accommodation works. Mr Kenny needs to be afforded adequate time to consider and discuss the proposals.
- No details of the precise boundary wall set back nor the type of building materials that would form part of the revised boundary wall location. On Friday last, Mr Kenny only received a copy of the Architectural Conservation Report prepared by John McLoughlin regarding the setting back of walled boundary,

removal of trees etc. No dates were included within the reports as to when the surveys on behalf of the LA were carried out.

- The septic tank & percolation area are not shown on CPO drawings. The Station house has a Population equivalent of 14, a 400-litre tank requirement and a requirement for a percolation area of 245 square metres. Mr Kenny does not know where pipes from the percolation area are, but likely to be to the north of the site, away from Glendollagh lake. Mr Kenny understands that there would be a 3-metre set back of the boundary wall and no drawings of the percolation area or septic tank have been provided. It is not viable to give away lands, and Mr Kenny must ensure that he has a working wastewater treatment plant (WWTP) and percolation area to serve his residential property. Ideally, Mr Kenny would be seeking a new location for the WWTP and percolation area. Can't adequately compensate for property without a functional WWTP and percolation area. Mr Kennys' water services must be protected.
- Bat ecology and wildlife. There is a bat infestation within the grounds of Station House Property and a full bat survey should be carried out, Soprano Pipistrelle bats are known in this vicinity. No works should take place until a full bat survey has been completed. A derogation licence may be needed to carry out such a bat survey.
- Mr Kenny received preliminary drawings from GCC on 9/8/24, however these were not detailed drawings. No details of sightlines, junction details etc were included within the drawings.
- Mr Kenny is aware that ABP don't deal with compensation, however ABP must consider overall impact upon his client, and don't approve the CPO until all works agreed with GCC.
- Existing and future restrictions regarding ecology, wastewater treatment plant reduction in area of property would adversely affect Mr Kenny. This CPO is not simply a land acquisition but will reduce the development potential of the property. The existing septic tank and percolation area are vital to the continued use of the dwelling.

#### Points of order made by Planning Inspector after small break

#### Response by Planning Inspector to issues raised by Mr. Noel Joyce & Mr. O'Donnell

- Mr Joyce sought to make his OH submission 'As Gaeilge'. He had not made a request to ABP to make his submission 'As Gaeilge'
- The Board can accept Mr Joyces' submission 'As Gaeilge' if the other objectors are agreeable with this request.
- Noel Joyce informed the hearing that he was happy to make submission in English.

#### Planning Inspector response to issues raised by Mr. O'Donnell and Mr. O'Donnell's observations

- Inspector outlined details of notifications of OH sent to Harrington solicitors as made available to the Inspector by his administrative colleagues.
- Agenda for OH received by Harringtons on the 11/11/24.
- Prejudice to Leahy estate, as did not receive the information from GCC until the morning of the hearing.
- Sought adjournment of hearing to consider the GCC responses in relation to his client's lands.
- That it is very difficult to ask questions of GCC by means of Teams meeting.
- Quality of the maps received are indecipherable.
- An adjournment of the OH would facilitate the potential for agreement with the landowners.
- Inspector informed Mr O'Donnell that he would be proceeding with the OH as ABP are satisfied that proper procedure has been followed.
- Mr O'Donnell said that he was Unable to take instruction from his elderly client.

#### Mr. Patrick Joyce

- It has only been over the last 3 or 4 months that GCC made contact with him.
- Project was meant to be developed on a permissive access basis only.
- That the Council issued their responses to the written submissions from the objectors very late in advance of the Oral hearing. Therefore, the objectors had very little time to examine the LA's responses to the issues raised.
- On his lands he has the remains (buttresses) of a unique bridge structure, of handmade limestone. He is willing to give other lands on the northern side of the bridge abutments for the completion of the Greenway project.
- Proposed route on drawings shows the Greenway to the front of Caher House and would line up with the lands that Mr Joyce would be happy for the LA to acquire.
- GCC are seeking to go to the rear of Caher house, contrary to information included on Page 27 of 44 of the GCC submission.
- What about his farming rights, the remainder of his lands (outside of those to be acquired) are not usable during the winter months, as they are boggy and wet and not suitable for grazing animals.
- Only one meeting with Mr P Joyce occurred, this is not significant interaction with him as GCC contend.
- GCC not liaising with the people, attempting to bully landowners.
- Mr Joyce sought an in person OH, not an online OH.
- Danger from dogs on Greenway, dogs observed running loose on the Greenway further west of his lands.
- His lands would be severed and landlocked by the proposed Greenway route.
- Other concerns regarding loss of value of objector's retained lands, security issues for his animals; insurance costs would increase; loss of privacy; littering and dog fouling in the area; increased traffic on surrounding road network; illegal car parking; and antisocial activity.

- The proposed greenway would meet two dead ends at either side of a small strip of land, which is marked as plot numbers 106a.01 and 108a.01 on the CPO maps.

Mr. Noel Joyce

- Late notification regarding availability of office to objectors within GCC offices to participate in the OH.
- That the Council issued their responses to the written submissions from the objectors very late in advance of the Oral hearing. Therefore, the objectors had very little time to examine the LA's responses to the issues raised.
- That the project was to be progressed on a permissive access basis and not to be progressed by means of a Compulsory Purchase Order (CPO).
- Mr Joyce would have preferred in person OH.
- No significant interaction with landowners. Only one meeting with GCC officials on the side of the road was had with Mr. Noel Joyce.
- Access to his lands was never refused to GCC.
- Mr Joyce noted that GCC are presently working on the Connemara Greenway at Derryneen. Are the construction materials treated for invasive species, wild rhubarb, Japanese knotweed etc?
- Are the sandbags used by GCC as part of the Greenway construction certified that no invasive species are within the bags.
- Mr Joyce contends that a Bat survey was recently conducted to the rear of Caher House. He states that there are Badgers and foxes on his lands. Have GCC conducted any flora or fauna surveys?
- How will foxes and badgers be protected. If badgers move, they spread TB and would have an adverse impact upon his cattle.
- Adverse environmental impact on natural habitats and biodiversity.
- Mr Joyce notes the length of time the Connemara Greenway project has been going on for, since 2013.

- There are problems with dogs running loose along the Greenway and this is problematic as Mr Joyce rears pedigree sheep.
- Access and egress onto the N59 is very dangerous. He cannot take a safe right turn onto N59 from his side road at Caher.
- The Greenway will have a massive impact upon their residential amenity.
- GCC have provided very generic answers to the issues raised by the objectors, not specifically addressing the issues raised by the landowners.
- No advantage to the locals will arise from the Greenway. Only the bigger tourist operators will benefit from its development.
- Mr Joyce contends that there was intimidation of objectors by GCC staff. Landowners were not treated with dignity and respect.
- Mr Joyce was requested to consider withdrawing his objection on Friday 29/11/24 in advance of OH by GCC.
- His land holding would be severed and landlocked by the CPO.
- Other concerns regarding loss of value of objector's remaining land.
- The proposed greenway would meet two dead ends at either side of a small strip of land, which is marked as plot numbers 106a.01 and 108a.01 on the CPO maps.
- Mr Joyce stated that he fully supports the Greenway in principle, its proposed route and, that it would be for the good of the public. However, the CPO process was not necessary, and the land being taken would result in significant personal loss.

#### Mr. Thomas Burke

- That the Council issued their responses to the written submissions from the objectors very late in advance of the Oral hearing. Therefore, the objectors had very little time to examine the LA's responses to the issues raised
- That the project was to be progressed on a permissive access basis and not to be progressed by means of a Compulsory Purchase Order (CPO).

- He is a farmer and operates in the 'Acres' environmental scheme, and the introduction of invasive species to his lands would result in his lands being lowly scored and, therefore reduced farm payments.
- What happens if his farmlands score poorly in the 'Acres' environmental scheme due to invasive species being introduced into this area by the development of the Greenway.
- There are no invasive species on his land holding
- The LA are proposing to acquire 169 metres on the north side of the Greenway and provide one 3.65-metre-wide gateway and access. A lot of his lands are very soft, so his cattle would not be likely to be able to travel distances to get to this proposed gateway.
- The LA are proposing to acquire 261 metres on the south side of Greenway with one 3.65-metre-wide gateway and access. It would be impossible to get his cattle to the point of the proposed 3.65 m access gateway. Cattle will pick their own route.
- Will a safe apron be provided at the gateway to provide for loading/unloading from a vehicle and trailer. He does not wish to cause obstruction to users of the Greenway or that he would be obstructed from accessing his lands.
- Mr Burke contends that not enough consultation with landowners has been conducted by GCC.
- On east side of his land, this area is to be used as a base/depot for the construction of this section of Greenway. What way will his lands be left if and when construction of the Greenway is completed? Would they be gravelled, clay and/or with invasive species?
- Presently cattle cross the area of the proposed Greenway themselves, they have freedom. The construction of the Greenway will restrict them, the Greenway could cause difficulties for animals getting stuck in the marshy ground.
- His cattle will be boxed in between the N59 to the north and the Greenway route to the south.

- From the details submitted, there will be minimal access points available to him to access his lands.
- Potential Health and safety issue in terms of interaction between the public and his cattle.
- Cattle will navigate the lands to graze throughout the day.
- No agreement has been reached with any of the GCC Greenway Project team.
- The land would be severed and landlocked by the CPO.
- Another concern is regarding loss of value of objector's retained lands.

#### Mr O Donnell's Questioning of the LA and LA responses

- Do GCC have copy of an architectural survey of the remaining buttresses of the railway bridge on Patrick Joyce's lands?
- Miss Johnston stated that there is no architectural conservation report of the remaining abutments of the railway bridge on Mr. Joyces' lands.

#### Council Response to Oral Hearing Submissions

- The Inspector then called for the Council to respond to the objectors' oral submissions and the Council's individual responses to the Observers were read into the record.
- Note: The Council's response is outlined in the Council's written submission to the Board which is on file and entitled 'Galway County Council Response to Submissions – Clifden to Oughterard Greenway CPO'.
- Miss Johnston outlined the following in terms of engagement with landowners:
- Correspondence with all landowners as far back as 2013. The Greenway scheme being developed over the following ten years.
- Miss Johnston provided details of engagement between GCC and the objectors in the form of telephone calls, on site meetings, written



correspondence and texts. A log of these communications was provided by GCC as well as some details of what was discussed within these communications.

- Miss Johnston made reference to the ERATA Report as appended to the EIS presented at 2013 OH. She stated that within Section 1.6 in Chapter 15, it sets out that where permissive access cannot be obtained, it may be necessary to acquire the lands by CPO to realise the Greenway.
- Miss Johnston stated that access to the Greenway will not be prohibited, Gates will be placed at locations deemed most suitable to the landowner. If the access has to be staggered, straight across access is preferable as the gates would close off access to the Greenway when opened to allow the farm animals to cross from one side of the Greenway to the other, and therefore, allow the farmlands to remain functional and viable.
- GCC have sought to minimise the land take in each instance. A preliminary design at each location has been developed to minimise the land take.
- With regard to the 25m x 45 m take at Mr S Hollingers' land holding, this extent of lands are required for design and safety reasons, to maintain safe access to Mr Hollinger's' lands and to achieve adequate sightlines onto the N59 and for cyclists along the Greenway. for design and safety reasons, this extent of land is necessary.
- In terms of Invasive species, for each section of land to be acquired, a detailed environmental method statement prepared by ecologist and any measures required are implemented, including for management of invasive species.
- Any sections where there are Invasive species, they would be treated in accordance with the recommendations from the Consultant Ecologist.
- Access will be maintained to all land holdings at all times during construction.
- LA will take advice from an ecologist if badgers setts or fox's dens are encountered during the development of the Greenway

- GCC will provide suitable access and areas for loading of cattle by means of accommodation works and following agreement with individual landowners.
- Areas acquired for the Greenway will be properly fenced and maintained by LA.
- An initial survey to ascertain if Invasive species exist within the land holdings and follow-inspections will be periodically conducted thereafter.
- It is not GCC's intention to introduce Invasive Species along the Greenway.
- Will provide gates at location agreeable with the landowners, by means of accommodation works, which is separate to the CPO process

#### Submissions by Objectors after lunch break, elaborating on written submissions

- The Inspector reopened proceedings after a short break, at approximately 2pm, and confirmed that the next section of the Hearing was for objectors to elaborate on their written submissions.
- Each of the various plot owners, or their representatives, made submissions to the CPO. Concerns raised by the objectors are summarised in Section 7 of this report and assessed in further detail under Section 8.
- No significant new issues outside of the written submissions made to the Board were identified by the submitters during this part of the OH. However, objectors took the opportunity to expand upon their written submissions during the proceedings and, in some cases, posed questions to the Local Authority to clarify certain matters.
- The Local Authority responded directly to the submissions made by each objector.

#### Cross questioning of LA to parties.

- LA had no questions to the parties.
- LA pointed out that CPO procedures are provided for within various sections of the Planning Inspectors' report prepared under PL.07.JA0033. CPO's are

specifically referenced within pages 29, 30 & 56 of 105 of SPI report where no agreement is reached on a permissive basis.

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

- Several points were discussed and/or expanded upon during this stage of the proceedings. However, no new significant matters arose. Relevant points of interest are referred to in the assessment section of this report above (Section 8).
- Mr Oliver Joyce requested that the Board do not confirm the CPO of his lands but rather proceed on a permissive access basis.
- Mr. O Donnell raised a number of issues to GCC and GCC responded as follows:
  - Greenway will be a Greenway for pedestrians and cyclists. It will not be used/envisaged as a public road; the only vehicles that could use it would be emergency vehicles.
  - Mr O Donnell stated that the scheme was permitted on a permissive access basis and that there is no CPO element attached to the scheme.
  - Miss Johnston stated that it was permitted on a permissive access basis but that where no agreement reached CPO powers could be invoked.
  - Mr O Donnell stated that on Pag 29 of the inspectors' 2013 report- Development as proposed can only be progressed with agreement of landowners.
  - Miss Johnston stated that at the 2012 OH, in response to further information received, that the 2013 Board decision in no way restricted the development to a permissive access basis only-as set out in ERATA doc, appended to the EIS.
  - Miss Johnston referenced page 58-3<sup>rd</sup> para of the Planning Inspectors 2013 report 'Consent of affected landowners is not required by

approval. If consensus with landowners cannot be reached, then CPO powers by the PA can then invoke CPO powers. Consent is not required for scheme to proceed’.

- Mr O Donnell asked of GCC if the mitigation measures in EIS and NIS been implemented as per Condition 2 (a) of the 2013 ABP decision.
- Miss Johnston stated that agreements have been reached with all landowners for the existing constructed sections of the Connemara Greenway. In the area around Ballynahinch castle, permissive access was achieved
- Miss Johnston stated that 3 sections of the Connemara Greenway towards Clifden have been completed, these were accessed on a permissive basis. Land ownership is currently being transferred along other sections of the Greenway with some agreements in place, though not transferred as of yet. Agreements to acquire lands have been reached in some instances. Some by means of simple agreements.
- Mr O Donnell asked if there was any consideration of habitats directives within agreements with landowners?
- Miss Johnston stated that Method statements are produced for each section of land acquired by a Consultant Ecologist.
- Mr O Donnell asked if there was a document available to demonstrate compliance with the 2013 planning conditions?
- Miss Johnston again made reference to the detailed environmental method statements. She showed copy of sample environmental method statement.
- Mr. Stephen Hollinger to GCC-Mr Hollinger stated that GCC are seeking to acquire more lands than originally planned under original CPO.
- Miss Johnston responded stating that the ‘Route is as within the original 2013 planning route. Route as now proposed is within the original permitted planning route, GCC were looking at an alternative in 2020, but did not proceed with the alternative.

- Mr Hollinger stated that GCC were acquiring most of his lands, no parking nor no access to his commercial fishery would remain. He stated that the current proposal is not safe.
- Miss Johnston stated that Mr Hollinger will retain access to his retained lands. She stated that the current route is as per the planning consent from 2013. In 2020, an alternative was being investigated but was not progressed.
- Mr Hollinger stated that the proposals are landlocking his property. They will leave his property very exposed and accessible by anyone.
- Miss Johnston stated that the Greenway route is located to the north of Mr. Hollingers' access. GCC acquired additional lands outside of the CPO lands from Mr Hollinger, CPO lands in addition to lands voluntarily acquired from Mr Hollinger a number of years back. Majority of land voluntarily acquired is necessary for the CPO. CPO lands are required under the 2013 permission. The Greenway route now proposed is in compliance with the 2013 consent and the CPO is similarly consistent with the 2013 consent.
- Miss Johnston stated that Mr Hollinger's lands will not be landlocked as a result of the CPO and cyclists will be kept separate from his lands.
- Mr Hollinger stated that he has not enough land retained for parking to serve his fishery enterprise.
- Mr Joe Kenny c/o Mr Frank O'Reilly stated that the CPO was issued by GCC on the 16<sup>th</sup> of July 2024, yet other related reports were issued after that date. There is an absence of detail specifically in relation to his clients' access to his property access and junction details between the N59 and the R344. Mr O'Reilly queries If the land take within the CPO is not sufficient, would GCC come back and look to acquire additional lands. Mr O'Reilly also asked that if the bat infestation within the grounds of Recess Station House covers a greater extent than originally thought and if the trees cannot be felled due to the existence of bat roosts, it could impact upon the lands to be CPO's.
- Miss Johnston in response stated that a preliminary design has been conducted in the vicinity of the Station house and GCC is satisfied that the CPO land acquisition as per CPO drawings, is sufficient. In relation to the

existence of bats within the grounds of the Station House, Miss Johnston stated that she cannot be certain without detailed bat survey results. She said that GCC would rely on expertise of a Consultant Ecologist and any recommendations that the Ecologist may make, including if the bats need to be relocated.

- Mr Patrick Joyce stated that within Page 27 of Miss Johnstons report illustrates the Greenway route traversing to the front of Caher House, yet at a meeting with Mr. Joyce, Miss Johnston stated the Greenway Route would traverse to the rear Caher House. Mr. Joyce reiterated that he has no other suitable lands area outside the railway embankment to feed his livestock. If the CPO is confirmed and the Greenway is constructed, where will his animals be accommodated. Mr Joyce suggested to himself that he could seek a valuation for his lands. He also stated that he had been made an offer for his lands by GCC, but that the offer would not feed his sheep for the year.
- Miss Johnston in response to Mr P Joyce stated that Caher House is not part of this CPO. Caher House is located adjacent to Mr P Joyces' lands. Ms Johnston stated that if the Grenway route traversed to the rear of Caher House, that it would not be following 2013 consent. She clarified that the 2013 planning consent related to lands to the front of Caher house.
- Mr P Joyce stated that 'A little bit of hardcore for his sheep will not suffice' for wintering purposes and that his sheep climb to the railway embankment to lamb.
- Mr P Joyce stated that the National Parks and Wildlife Service (NPWS) have carried out a bat survey at Caher House and 600 bats noted in a survey carried out 3 or 4 months ago.
- Mr P Joyce concluded that he is not giving up his lands for the development of the Greenway. He wants to pass the lands onto the next generation (his sons) and be left alone by GCC. He is seeking that his lands are not acquired by GCC.
- Mr Noel Joyce stated in relation to engagement with GCC that he had only received one phone call seeking a meeting with the LA, and that this would

not constitute significant interaction. All other interactions were conducted by email. He stated that the maps sent out by GCC to the objectors are not legible. Mr Joyce also queried whether the sandbags used in part of the Greenway construction have been certified as being invasive species (IS) free? Mr. N Joyce submits that invasive species have been introduced into this area by GCC and Coillte. He stated that sandbags have been deposited within the adjoining Special Area of Conservation and material growing out of them.

- Miss Johnston referenced a Consultant Ecologist report, prepared by RPS Consultant Engineers in August 2020, commissioned by GCC that noted the existence of invasive species (specifically Japanese knotweed) in the area. She stated that a Management Plan would be prepared for the management of IS on site.
- In terms of the interaction between GCC and the landowners, Mr N Joyce stated that locals were not informed that GCC were carrying out Greenway related works on low usage local roads. Nobody within GCC should intimidate any landowners, a point that was acknowledged by Miss Johnston. Mr N Joyce stated that the CPO signs were erected the day after he had a conversation with GCC about the CPO. GCC have afforded no dignity or respect towards landowners.

### Closing Comments

The following parties made closing comments, and these are summarised as follows:

#### Mr O Donnell

- Requesting the inspector review the decision of the Board in 2013
- When ABP approved the scheme in 2013-they did so on a permissive basis.
- GCC cannot alter a permitted scheme, cannot adopt a different approach.
- Furnishing of reports and documentation on a Friday evening before an Oral Hearing, given the extent of detail contained in the GCC information, was not sufficient time for the objectors to consider the information.

- LA not aware that the Greenway Route will be a public road, which will allow for vehicles. There is a difference between a public road (maintained by GCC) and a public right of way.
- Permissive access is consent and is fundamentally different from a CPO where compulsion is involved.
- There is a huge distinction between permissive access and compulsion.
- GCC have proceeded with the CPO on an erroneous basis. They did not adequately assess impacts on landowners.
- Specifically in relation to Mr. P Joyce's lands, GCC are seeking to acquire lands on one side of the railway bridge abutments and not on other side. How will the Greenway route be progressed on neighbouring lands. The LA may change their minds as to how route will traverse at the Caher House hotel.
- The Greenway scheme has been constructed in excess of 2.5 to 3 metres.
- The Board cannot approve illegality as unauthorised.
- The scheme is in breach of habitats directive
- In relation to the 2020 report from RPS regarding invasive species, the scheme operated before 2020, so IS may have been there from earlier parts of the scheme.
- With regard to Management Plans, reports and mitigation measures, no record of compliance with these has been submitted by GCC.
- EIS prepared under the 2011 directive, no regard to 2014 directive. It is now 15 years old as is the NIS and past their sell by dates, the EIA directive has been incorporated into the CPO procedure.
- One cannot identify the full extent of land to be acquired if the mitigation measures have not been properly identified.
- CEMP and preliminary design. A CPO must be the last stage after all other details have been provided. Plans must be clear and precise; boundaries must be clear and precise.



- Typical cross sections have been provided by GCC, there is absence of detail.
- In many instances, Information has not been provided or is inadequately provided by GCC.
- It is disrespectful to the Board and landowners when GCC are requesting landowners to withdraw objections when the CPO is before the board for consideration.
- No assessment of compliance with WFD and damage to the local water environment during the construction of the Greenway has been conducted by GCC to date.
- This Connemara Greenway CPO should not be confirmed.

Mr. Noel Joyce

- No audit process conducted by the LA regarding environmental obligations.
- No maintenance of surface water traps along the Greenway has been conducted by GCC. GCC not maintaining the Greenway in an appropriate manner.

Mr. Esmond Keane

- The Connemara Greenway was previously approved by LA in 2013 and was subject to an Environmental Impact Assessment and Appropriate Assessment.
- The CPO lands are suitable to meet community need.
- The CPO is proportionate and acknowledges property rights.
- The acquisition of lands has similar effects whether by permissive access or by means of the CPO process,
- The CPO proposed is consistent with that as permitted by ABP in 2013.
- There is no suggestion or evidence of deviation from permitted route.
- Impacts upon landowners were assessed under the 2013 consent.

- No evidence has been submitted in terms of a breach of the WFD or habitats directives.
- CPO will give effect to national, regional and local planning policy.
- The tests for the making of a CPO have been met by GCC.
- LA tried to achieve permissive access with landowners where possible
- LA attempted to engage with landowners with respect and dignity.
- LA would like to apologise if any discourtesy was shown to landowners.
- The Greenway scheme will incorporate pedestrian and cycle facilities.
- It will promote tourism and be available as an amenity for local people,
- There will be compensatory process for landowners in the future, if the CPO is approved.
- It is clearly reflected in the 2013 Planning Inspectors report that the CPO of lands is an option available to GCC, where permissive access is not achieved

#### Closing of Oral Hearing by Planning Inspector

- The Inspector made some brief final comments and thanked the participants.
- It was confirmed that a report would be prepared and presented to the Board, who will make a determination on the proposed CPO in due course.
- The Inspector closed the Oral Hearing at approximately 6.15pm.