

An
Coimisiún
Pleanála

Inspector's Report

ACP-323833-25

Development	Section 146B request for proposed alterations to the previously granted Maam Cross to Oughterard Road Project - HA0041
Location	Maam Cross to Oughterard, Co. Galway
Planning Authority	Galway County Council
Requester	Galway County Council
Type of Application	Application under Section 146B of the Planning and Development Act, 2000 (as amended) to alter previously approved Strategic Infrastructure Development.
Date of Site Inspection	9 th January 2026
Inspector	Donal Donnelly

Contents

1.0 Introduction	3
2.0 Legislative Provisions	4
3.0 Planning History.....	6
4.0 Background to the Proposed Alteration	6
5.0 Scope of Request	7
6.0 Public Submissions.....	8
7.0 Assessment.....	8
7.4. Whether the proposed alteration is or is not material.....	9
7.5. Appropriate Assessment.....	11
7.6. Conclusion	11
8.0 Recommendation.....	12
9.0 Draft Order.....	12

1.0 Introduction

1.1. The Board confirmed the N59 Maam Cross to Oughterard Road Project Compulsory Purchase Order (07.KA0027) and approved the associated road development under Section 51 of the Roads Act 1993-2007 as amended by the Planning and Development Acts 2000-2011 (07.HA0041). The decision date was 20th December 2013. The main elements of the approved development are as follows:

- 15km of National Secondary Road upgrade,
- 0.55km of local road improvements/realignments,
- Improvement of 8 public road junction layouts,
- 2.0 km of farm/accommodation/access roads and accesses,
- 3 bridge structures comprising 2 no. new bridges over watercourses and upgrade/extension of 1 no. bridge over watercourse and 32 piped/ culverted watercourse crossings,
- 260m of retaining walls,
- Earthworks and pavements,
- 1.65 km of footway/cycle track,
- Fencing and safety fencing works, drainage works, landscaping works, environmental mitigation measures, utility and services diversion works, accommodation works and all ancillary works.

1.2. The total land area included in the CPO is 65.1 hectares with 15.1 hectares classified as public road. The published CPO schedule included the proposed acquisition of 312 plots from a total of 56 landowner groups. The application for the development included an Environmental Impact Statement (EIS) and a Natura Impact Statement (NIS).

1.3. Section 146B of the Planning and Development Act, 2000 (as amended) allows for the Commission to alter the terms of a permission for a strategic infrastructure development on request of the person intending to carry out the development. The Commission shall alter the planning approval if it decides that the making of the

alteration would not constitute the making of a material alteration in the terms of the development concerned.

- 1.4. A request has been made to the Commission to alter the terms of HA0041 and specifically Condition 2 of this permission.

2.0 Legislative Provisions

- 2.1. Section 146B(1) of the Planning and Development Act 2000 (as amended) (the Act), provides that, subject to subsections (2) to (8) and to section 146C, upon request of any person who is carrying out or intending to carry out a strategic infrastructure development, the Commission may alter the terms of the development the subject of planning permission, approval or other consent granted.
- 2.2. Under sub-section 2(a), as soon as practicable after making such a request, the Commission is required to make a decision as to whether the making of the development would constitute a material alteration to the development concerned.
- 2.3. Under sub-section (2)(b), before making its decision under sub-section 146B (2), the Commission may invite submissions as it considers appropriate and is required to have regard to any submission made to it on foot of the invitation.
- 2.4. Under sub-section (3)(a), if the Commission decides that the making of the alteration would not constitute a material alteration, it is required to alter the planning permission/approval/consent accordingly and to notify the requester and the planning authority of the alteration.
- 2.5. Under subsection (3)(b), if the Commission decides that the making of the alteration would constitute the making of a material alteration, the Commission is required to:
 - Request the information specified in 7A, unless it or an EIAR has already been provided by the requester (sub-section (3)(b)(i)). This information is required to be accompanied by any further relevant information on the characteristics of the alteration and its likely significant effects on the environment including, where relevant, how environmental effects pertaining to EU legislation other than the EIA Directive have been taken into account (sub-section (3A)) and can include mitigation measures (sub-section (3B)).

- Following receipt of such information, determine whether to make the alteration, make an alteration of the terms of the development which differs from the proposed alteration (subject to it not representing a more significant alteration), or refuse to make the alteration (sub-section (3)(b)(ii)).
- 2.6. Under subsection (4), before making a determination under sub-section (3)(b)(ii), the Commission is required to determine whether the extent and character of the alteration being requested, or being considered by the Commission, would be likely to have significant effects on the environment.
- 2.7. Under subsection (5), if the Commission determine that no significant environmental effects will arise, they proceed to make a determination under subsection (3)(b)(ii). If the Commission determines that significant effects will arise, the provisions of section 146C apply. These provisions relate to the preparation of an environmental impact assessment report.
- 2.8. Under subsection (7)(a), in making their determination, the Commission is required to have regard to:
- The criteria for the purposes of determining which classes of development are likely to have significant effects on the environment set out in any regulations made under section 176,
 - The criteria set out in Schedule 7 to the Planning and Development Regulations 2001,
 - The Schedule 7A submitted by the requester,
 - The further relevant information, if any, referred to in subsection (3A) and the description, if any, referred to in subsection (3B) (summarised above),
 - The available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive, and
 - Whether the development is situated in or would have potential to impact on a European site, or a recognised or protected area of natural heritage,
- 2.9. Under subsection (7)(b), the Commission is required to include in its determination, the main reasons and considerations, with reference to the relevant criteria listed in

Schedule 7 to the Planning and Development Regulations 2001, on which the determination is based.

- 2.10. Under subsection (8)(a) before making a determination under subsection (3)(b)(ii) or (4) the Commission is required to require the requester to make information about the alteration available for inspection, notify appropriate persons that the information is available and invite submissions or observations from these persons. Further under subsection 8(b) the Commission is required to have regard to these submissions in its determination.

3.0 **Planning History**

An Bord Pleanála Ref: 07.HA0041

- 3.1. On 20th December 2013, the Board approved the proposed road development consisting of the construction of approximately 15 kilometres of standard single carriageway national secondary road passing through the townlands of Lurgan or Shindilla, Derreenagusfoor, Bunnakill, Tullaghboy, Letterfore, Derryerglinna, Glengowla West, Glengowla East and Claremount, County Galway, to include local road improvements/realignments, farm/accommodation roads, bridge and culvert structures, footpaths/cycleways, fencing, drainage and landscaping, material deposit areas, environmental mitigation measures, utilities and services diversions, accommodation works and other ancillary works.

An Bord Pleanála Ref: KA.070027

- 3.2. The Board also confirmed the associated Galway County Council Compulsory Purchase Order (No. 1) 2012 (N59 Maam Cross To Oughterard Road Project).

4.0 **Background to the Proposed Alteration**

- 4.1. The proposed alteration, as set out in the requester's cover letter and particulars received by the Commission on 30th October 2025, relates to the approved N59 Maam Cross to Oughterard Road Project approved under HA0041.
- 4.2. A request is now made by the authority intending to carry out the development (Galway County Council) to alter Condition 2 of HA0041, which reads as follows:

“The proposals, mitigation measures and commitments set out in the environmental impact statement and Natura impact statement and supporting documentation, and as further clarified in the “Revised Schedule of Additional Mitigation Measures & Environmental Commitments” submitted by the road authority to the oral hearing on the 20th day of August, 2013 shall be implemented as part of the proposed road development.

***Reason:** In the interest of clarity and to mitigate the environmental effects of the proposed road development and to protect the amenities of the area and of property in the vicinity.*

5.0 Scope of Request

- 5.1. The basis of the request is that subsequent to the scheme approval, Galway County Council, the National Parks and Wildlife Service (NPWS) and Inland Fisheries Ireland (IFI) have reached an agreed opinion that neither the NPWS nor IFI have a statutory basis in relation to formal ‘agreement’ or ‘approval’ of construction stage method statements.
- 5.2. Galway County Council seeks an amendment to the Schedule of Environmental Commitments to remove this requirement for the ‘agreement’ and/or ‘approval’ with these statutory bodies in order to facilitate the continued delivery of the scheme in accordance with the plans, drawings and documentation submitted with the application.
- 5.3. The Commission is therefore requested to alter the terms of the development by approving an Amendment Order pursuant to Section 146(b) of the Planning and Development Act 2000, as amended, to incorporate the newly proposed Schedule of Additional Mitigation Measures & Environmental Commitments. A copy of the ‘Revised Schedule of Additional Mitigation Measures & Environmental Commitments’ dated 20th August 2013, along with the proposed version dated 23rd October 2025 is attached with Galway County Council’s Request to the Commission.
- 5.4. Galway County Council considers that this alteration of the Schedule of Additional Mitigation Measures & Environmental Commitments does not give rise to any additional significant impacts over and above those contained in the Environmental

Impact Statement. It is also considered that the proposed alteration would not amount to a material alteration of the terms of the development concerned.

- 5.5. Galway County Council's request is supported by letters of support from the NPWS and IFI. The letter from IFI confirms that it has no objection to the proposed amendment application to An Coimisiún under Section 146(B) of the Planning and Development Act 2000 (as amended). In this regard, it appears to IFI that it is for Galway County Council to approve the method statements, and as such, the responsibility for ensuring that the method statements comply with the EU Habitats Directive lies with the Council. NPWS also confirms its support for the proposed amendment.

6.0 Public Submissions

- 6.1. I have considered the provisions of section 146B(2)(b) which provides for, at the Commission's discretion, the invitation of submissions from persons, including the public. I am of the opinion that the inviting of submissions from the public in this instance is not necessary and is not required for the purposes of the Commission in determining the matter for the following reasons:
- (a) I am satisfied that the proposed alterations are minor in nature.
 - (b) Galway County Council, NPWS and IFI have reached an agreed opinion that neither the NPWS nor IFI have a statutory basis in relation to formal 'agreement' or 'approval' of construction stage method statements.
 - (c) The amendment removes the requirement for NPWS and IFI to be involved in the planning decision making process.

7.0 Assessment

- 7.1. Under Section 146B of the Planning and Development Act, 2000 (as amended), the requester is seeking to alter the terms of a strategic infrastructure development (HA0041) approved by the Board under Section 51 of the Roads Act 1993-2007 as amended by the Planning and Development Acts 2000-2011.
- 7.2. The purpose of the proposed alteration is to remove the requirement for NPWS and IFI to be involved in the 'agreement' and/or 'approval' of construction stage method

statements. It is considered that there is no statutory basis for these prescribed bodies to be involved in the formal 'agreement' or 'approval' of method statements at construction stage.

7.3. The first consideration to assess is whether the proposed alteration would constitute a material alteration of the terms of the strategic infrastructure development approved under HA0041. Should the Board decide that the proposed alteration is not material, it shall alter the approved development accordingly. However, if it is decided that the proposed alteration is material, the Board shall consider the proposed alteration in terms of the significant effects on the environment and other related matters.

7.4. **Whether the proposed alteration is or is not material**

- 7.4.1. This request relates to Condition 2 only of the approval under HA0041 which states that *"the proposals, mitigation measures and commitments set out in the environmental impact statement and Natura impact statement and supporting documentation, and as further clarified in the "Revised Schedule of Additional Mitigation Measures & Environmental Commitments" submitted by the road authority to the oral hearing on the 20th day of August, 2013 shall be implemented as part of the proposed road development."*
- 7.4.2. The Revised Schedule of Additional Mitigation Measures & Environmental Commitments contains measures and commitments in addition to those indicated in Chapter 18 of the EIS. Item 1.2 of this document refers to the Construction Stage Erosion and Sediment Control Plan (CESCP) as part of the Environmental Operation Plan, which shall be based on the Preliminary Erosion and Sediment Control Plan included in Appendix 5 of the EIS.
- 7.4.3. The Revised Schedule states that *"prior to the commencement of construction, the Construction Stage Erosion and Sediment Control Plan and all method statements will be finalised by the construction stage contractor and will be subject to the approval of Galway County Council and the agreement of NPWS and IFI. Same will be required to include all of the measures and controls described in the Preliminary Erosion and Sediment Control Plan. This final construction stage plan will be*

described to the level of detail agreed with NPWS and with methods approved by NPWS and shall incorporate their requirements in this regard...”.

- 7.4.4. Galway County Council is seeking to remove the requirement that the Construction Stage Erosion and Sediment Control Plan and all method statements shall be agreed with NPWS and IFI. Galway County Council, NPWS and IFI have reached an agreed opinion that neither the NPWS nor IFI have a statutory basis in relation to formal ‘agreement’ or ‘approval’ of construction stage method statements. The Commission is therefore requested to alter the terms of the development to incorporate a newly proposed Schedule of Additional Mitigation Measures & Environmental Commitments.
- 7.4.5. From the outset, I note that both NPWS and IFI have submitted letters of support for the proposed S.146B amendment. It is IFI’s view that the responsibility for ensuring that method statements comply with the EU Habitats Directive lies with the Council. NPWS has also stated that it supports that removal of the condition of planning permission regarding NPWS approving method statements.
- 7.4.6. Section 34(4) of the Planning and Development Act, 2000 (as amended) sets out 18 circumstances which are appropriate for conditions to be attached to a planning permission. Conditions are often applied that require measures to be agreed prior to commencement of construction works. These may include measures to protect existing landscaping or features of interest, Construction Management Plans, measures for biodiversity protection, phasing plans and method statements. Methods statements would be submitted at this stage as the site will have been properly investigated.
- 7.4.7. What is important to note in the context of this Section 146B request is that any measures to be agreed prior to construction are to be agreed in writing with the Planning Authority. It is the responsibility of the Planning Authority to agree to the condition before the development can move ahead to the next phase. It may be useful if a prescribed body is consulted before such a compliance condition; however, this should not be a formal agreement. The prescribed body is not part of the planning decision making process and I would be in agreement that neither the NPWS nor IFI have a statutory basis in relation to formal ‘agreement’ or ‘approval’ of construction stage method statements.

7.4.8. Having regard to the above, I consider that Condition 2 of HA0041 should be altered by adding “*as altered by the submission to An Coimisiún Pleanála dated the 25th October 2025*” to Condition 2. This removes the requirement for the approval of IFI and NPWS as part of a compliance condition.

7.4.9. I consider that the proposed alteration would not be material to the terms of the development, and that the outcomes of the previous EIA process, including mitigation measures, will not alter, nor will compliance with any other conditions of the planning permission. There are no physical alterations proposed and there are no changes in circumstances, and no new or materially different considerations arising from the proposed alteration that were not assessed under the parent permission.

7.5. **Appropriate Assessment**

7.5.1. Having considered the Board’s determination on Appropriate Assessment in case HA0041, and having regard to the nature and limited scale and extent of the proposed alteration relative to the development that was approved under HA0041, the nature of the receiving environment, together with the distance to the nearest European sites, no additional Appropriate Assessment issues arise and it is not considered that the proposed alteration to the approved development would be likely to have a significant effect individually or in combination with other plans or projects on any European sites.

7.6. **Conclusion**

7.6.1. Having considered the proposed alteration and the development as approved under HA0041 and KA0027, I consider it reasonable to conclude that the alteration of Condition 2 of HA0041 to remove any approval requirement of IFI and NPWS for compliance conditions, would not constitute the making of a material alteration of the development as approved under HA0041. Furthermore, there are no changes in circumstances and no new or materially different considerations arising from the proposed alteration that were not assessed under HA0041.

7.6.2. I have considered the provisions of S.146B(2)(b) which provides for, at the Commission’s discretion, the invitation of submissions from persons, including the

public. Having considered the nature and extent of the alteration, the information on file and the nature, scale and extent of the development approved under HA0041, I am of the opinion that the inviting of submissions from the public in this instance is not necessary and is not required for the purposes of the Commission in determining the matter.

8.0 Recommendation

- 8.1. I recommend that the Commission decides that the making of the alteration the subject of this request does not constitute the making of a material alteration of the terms of the development as approved under HA0041.

9.0 Draft Order

REQUEST received by An Coimisiún Pleanála on the 30th October 2025 from Galway County Council under section 146B of the Planning and Development Act 2000, (as amended) to alter the terms of a strategic infrastructure development, comprising the N59 Maam Cross to Oughterard Road Project, Co. Galway the subject of an approval under An Bord Pleanála reference number HA0041,

WHEREAS the Board made a decision to approve, subject to conditions, the above-mentioned development by order dated the 20th December 2013,

AND WHEREAS the Board has received a request to alter the terms of the development, the subject of the approval,

AND WHEREAS the proposed alteration is described as the amendment of Condition 2 of HA0041, to remove the requirement for the ‘agreement’ and/or ‘approval’ with NPWS and IFI as part of said condition,

AND WHEREAS the Board decided, in accordance with section 146B(2)(b) of the Planning and Development Act 2000, as amended, not to invite submissions or observations from the public in relation to whether the proposed alteration would constitute the making of a material alteration to the terms of the development concerned,

AND WHEREAS the Board decided, in accordance with section 146B(2)(a) of the Planning and Development Act 2000, as amended, that the proposed alteration

would not result in a material alteration to the terms of the development, the subject of the approval,

AND WHEREAS having considered all the documents on file and the Inspector's report, the Board considered that the making of the proposed alteration would not be likely to have significant effects on the environment or on any European Site,

NOW THEREFORE in accordance with section 146B(3)(a) of the Planning and Development Act, 2000, as amended, the Board hereby alters the abovementioned decision so that the approved development shall be altered in accordance with the plans and particulars received by An Bord Pleanála on the 30th day of October 2025 for the reasons and considerations set out below.

MATTERS CONSIDERED

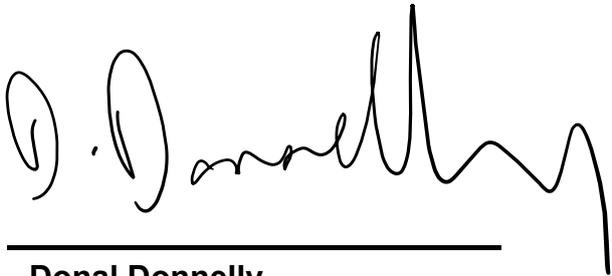
In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard.

REASONS AND CONSIDERATIONS

Having regard to:

- (i) the nature of the proposed alteration which seeks to remove the requirement that the agreement of NPWS and IFI be required as part of a compliance condition under HA0041,
- (ii) the examination of the environmental impact, including in relation to European Sites, carried out in the course of that application,
- (iii) the limited nature and extent of the proposed alteration when considered in relation to the overall approved development,
- (iv) the absence of any significant new or additional environmental concerns (including in relation to European Sites) arising as a result of the proposed alteration, and
- (v) the report of the Board's Inspector, which is adopted,

It is considered that the proposed alteration would not be material. In accordance with section 146B(3)(a) of the Planning & Development Act, as amended, the Board hereby makes the said alteration.

A handwritten signature in black ink, appearing to read 'D. Donnelly', written over a solid black horizontal line.

Donal Donnelly

Senior Planning Inspector

26th January 2026

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.