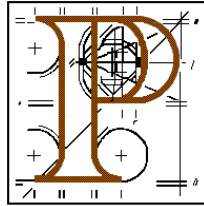

An Bord Pleanála



Inspector's Report

Ref.: PL07. CH3240

Order: Compulsory acquisition of land

Galway County Council (Re-alignment of the N67 Ballinderreen to Kinvara Phase 2 Road) Compulsory Purchase Order No. 2, 2015 (Roads, Transportation, Marine & General Services).

Local Authority: Galway County Council

Objectors: Michael and Anne Organ
Catherine Lyons c/o John M. Gallagher B.E.
Catherine & Peter Fahy c/o John M. Gallagher B.E.
Esther Lyons Forde c/o John M. Gallagher B.E.
Alex & Trish Venegas c/o Joyce, Mackie and Loughheed, Auctioneers & Valuers
Una Connell c/o Michael J. Duffy, Consulting Engineer
Michael J. Lyons c/o John M. Gallagher B.E.
Declan Lyons c/o John M. Gallagher B.E.

Inspector: Robert Speer

Date of Site Inspection: 30th October, 2015

Date of Oral Hearing: 10th November, 2015

1.0 INTRODUCTION:

1.1 This is an application by Galway County Council for confirmation by the Board of a Compulsory Purchase Order entitled '*Galway County Council (Re-alignment of the N67 Ballinderreen to Kinvara Phase 2 Road) Compulsory Purchase Order No. 2, 2015 (Roads, Transportation, Marine & General Services)*' which seeks the compulsory acquisition of those lands identified in Part I of the accompanying schedule (as further supplemented by Map Nos. N67-DEP-01, N67-DEP-02 & N67-DEP-03), in addition to the extinguishment of those public rights of way described in Part II of the same schedule. The purpose of the foregoing CPO is to facilitate the realignment and improvement of approximately 3km of the existing N67 National Secondary Route between Kinvara and Ballinderreen within the townlands of Dungory West, Dungory East, Cartron, Ballycleary and Tooreen West, Co. Galway.

2.0 SITE LOCATION AND DESCRIPTION:

2.1 The lands in question extend alongside a 3km section of the existing N67 National Secondary Route between Kinvara and Ballinderreen in the rural townlands of Dungory West, Dungory East, Cartron, Ballycleary and Tooreen West, Co. Galway, approximately 14-17km to the southeast of Galway City, and comprise a combination of agricultural land, sections of the existing public road, and several areas presently situated within the curtilage of a number of private dwelling houses (e.g. front gardens, parking areas, driveways, or parts thereof). Overall, the subject lands (as detailed in the original CPO documentation) encompass elements of a total of 203 No. individual land parcels / properties and extend to an area of 9.6748 hectares. With regard to the relevant section of the existing N67 National Secondary Road (which can be described in general terms as extending from a point to the north of its junction with Local Road No. L8559 southwards through 'Terrea Cross' to a position approximately 200m southwest of its junction with Local Road No. L45043), this presently comprises a single two-lane roadway which is narrow and poorly aligned in several places, with particular reference to the southernmost extent of same where the horizontal and vertical alignment of the carriageway is noticeably poor given the prevailing topography. Roadside boundaries typically comprise a combination of mature ditches, field gates and stone walling in addition to more recent examples of blockwork / stone walls and entrance piers etc. associated with the construction of contemporary housing.

3.0 COMPULSORY PURCHASE ORDER:

3.1 On 10th August, 2015 Galway County Council sought confirmation by the Board of a Compulsory Purchase Order entitled 'Galway County Council (Re-alignment of the N67 Ballinderreen to Kinvara Phase 2 Road) Compulsory Purchase Order No. 2, 2015 (Roads, Transportation, Marine & General Services)'. This order was made by the Council on 4th August, 2015 with the notices pertaining to same having also been issued on 4th August, 2015 whilst a newspaper notice was published on 7th August, 2015.

3.2 The memorandum prepared by the Council in connection with the making of the CPO, as forwarded to the Board for confirmation, has been accompanied by the following supporting documentation:

- A certified copy of the Chief Executive's Order authorising the making of the CPO.
- A copy of a memorandum from the Senior Executive Planner certifying that the acquisition of the referenced lands to provide for a National Secondary Road Scheme known as the Realignment of the N67, Ballinderreen to Kinvara, Phase 2 Road Scheme, conforms with the proper planning and sustainable development objectives for the area pursuant to the Planning and Development Acts, the Galway County Development Plan, 2015-2021, the Capital Investment Plan, 2012-2016, the Galway Transportation and Planning Study (GTPS) 2003, the National Spatial Strategy, 2000-2020 and the West Regional Authority Regional Planning Guidelines, 2010-2022.
- A copy of a memorandum from the Senior Executive Engineer certifying that Map Nos. N67-DEP-01, N67-DEP-02 & N67-DEP-03 provide a true and accurate representation of those lands proposed for acquisition as detailed in Part I of the Schedule to the Compulsory Purchase Order in addition to those lands over which it is proposed to extinguish public rights of way as described in Part II of the Schedule to the Order. This document also certifies that the Schedule to the CPO provides an accurate description of those lands that will be affected by the proposed realignment works and which are suitable and necessary for the said road scheme.
- A copy of the prescribed notice for the making of the CPO served on landowners and lessees in addition to a copy of certificate regarding the service of the notices (and a (sample) copy of the map enclosed with the notices).

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- A copy of the public notice published in the Connacht Tribune dated 7th August, 2015.
 - 3 No. copies of the relevant deposit maps and schedules attached to the CPO.

3.3 The CPO will facilitate a scheme of re-alignment works along a section of the N67 National Road between Ballinderreen and Kinvara as previously approved pursuant to the provisions of Part XI of the Planning and Development Act, 2000, as amended, and Part 8 of the Planning and Development Regulations, 2001, as amended. The scheme in question provides for the development of a 'Type 3' roadway with a carriageway width of 6.0m, 2 No. x 0.5m hard shoulders and verges, and a shared 2.5m wide footpath / cycleway along one side of the carriageway. The works will also include for the alteration of junctions to link the proposed realignment with the existing road infrastructure in addition to the carrying out of ancillary drainage works, utility diversion works and associated accommodation works.

4.0 PLANNING HISTORY:

4.1 Planning Authority:

On 23rd June, 2014 the Local Authority approved a scheme of re-alignment works along a section of the N67 National Road between Ballinderreen and Kinvara in accordance with the provisions of Part XI of the Planning and Development Act, 2000, as amended, and Part 8 of the Planning and Development Regulations, 2001, as amended.

4.2 An Bord Pleanala:

ABP Ref. No. PL07.HD0030. Was determined on 13th February, 2014 with the Board issuing a decision not to direct the road authority (Galway County Council) to prepare an environmental impact statement in respect of the proposed N67 re-alignment Ballinderreen to Kinvara Phase 2 Road Project, Co. Galway.

ABP Ref. No. PL07.JN0007. Was determined on 13th February, 2014 with the Board issuing a decision not to direct the local authority (Galway County Council) to prepare a Natura impact statement in respect of the proposed N67 re-alignment Ballinderreen to Kinvara Phase 2 Road Project, Co. Galway.

5.0 OBJECTIONS:

A total of 8 No. submissions have been received from interested parties and the grounds of objection contained therein can be summarised as follows:

5.1 Michael and Anne Organ:

- The proposed Compulsory Purchase Order will have an adverse impact on the objector's property.
- The proposed Compulsory Purchase Order is unnecessary.

5.2 Catherine Lyons c/o John M. Gallagher B.E.:

- The drawings (to a scale of 1:2500) made available for inspection in the offices of Galway County Council which aimed to identify those lands proposed for compulsory acquisition from the different landowners were of an insufficient scale to accurately detail the precise extent of the area of land being acquired from Ms. Lyons.
- In order to adequately assess the effect of the proposed Compulsory Purchase Order on Ms. Lyons' property the following drawings are required:
 - A site layout plan of the proposed road realignment (preferably to a scale of 1:500 and not less than 1:1000) which details the position and width of the realigned road, in addition to the road margins and the cycle lane, relative to the existing front boundary of her property and the dimensions of the area to be acquired.
 - Details of the vertical and horizontal alignment of the new roadway, including the radius of curvature of the different sections of the road and longitudinal sections showing the vertical alignment of the road.
 - Cross-sectional drawings detailing the level of the realigned road relative to the objector's property.
 - Details of the accommodation works to be provided, including the position, height and specification of the front boundary walls and the access proposed to the objector's lands.
- The CPO proposes the acquisition of approximately half of the front garden area of Ms. Lyons' dwelling house. In this respect it is submitted that the existing front boundary wall on the northern side of her property is presently in the order of 7m from the north-eastern corner of the dwelling house, however, the proposed CPO will acquire approximately 3.8m of the front garden area with the result that the proposed new front boundary

wall will be c. 3.2m from the front of the house. Furthermore, whilst the existing front boundary wall is presently located approximately 6.5m from the south-eastern corner of the dwelling house, the proposed acquisition of a depth c. 2.5m of the front garden area will result in the proposed new boundary wall being approximately 4m from the southeast corner of the site.

Given that the maps made available for inspection are only to a scale of 1:2500, the actual extent of the land proposed for acquisition and the corresponding distances from the objector's dwelling house are only estimates. Therefore, dimensioned maps showing the exact extent of the acquisition relative to the front boundary wall and the existing dwelling house are required.

- The proposed intrusion into Ms. Lyons' front garden is considered to be unnatural and appears to be as the result of the inclusion of a reverse curve in the carriageway to the north of her property in order to keep the roadway clear of the front boundary of the dwelling house sited on the opposite side of the road. In this respect it is submitted that as the existing dwelling house on the western side of the roadway is recessed almost 20m behind the front boundary wall of that property, the logical design for the proposed road improvement works at this location would be to move the roadway westwards by c. 3.5m thereby eliminating the need to intrude in any way on the objector's front garden area which is approximately only 7m in depth (*N.B.* The proposal presently under consideration does not seek to acquire any part of that property / dwelling house sited on the western side of the road). Any such repositioning of the roadway westwards would result in the depth of the front garden area of the dwelling house located opposite Ms. Lyons' property being reduced from 20m to 16.5m i.e. a relatively minor intrusion.

In addition to the foregoing, it is asserted that the relocation of the roadway some 3.5m westwards away from the front of the objector's dwelling house would eliminate the reverse curve on the road. This would ensure that the realigned roadway would run in an almost straight line from a point located 100m to the north of Ms. Lyons' property, and across the front boundary of her dwelling house, to meet the existing roadside boundary wall on the eastern side of the carriageway approximately 180m-200m to the south of her site.

Any difficulties with sight distance at the junction of the local road to the east with the N67 National Secondary Road could be overcome by realigning the minor road horizontally in order to meet the main carriageway at a right angle and by moving the junction southwards and further out onto the main road.

- The damage arising to the amenity of Ms. Lyons' property through the unnecessary acquisition of part of her small front garden area is unjustifiable. For example, if there were even a minor archaeological monument located within her front garden, the designers of the road scheme would have ensured that the roadway did not intrude into same. Accordingly, it is submitted that the proposed intrusion into the space occupied by a family should be held to be equally unacceptable.
- An initial design prepared by Roughan & O'Donovan, Consulting Engineers, in October, 2011 (as detailed on Drg. No. 100 MLA-005) did not appear to require the compulsory purchase of any substantial part of the front garden of Ms. Lyons' property (*N.B.* A copy of this drawing has accompanied the grounds of objection).
- The effect of the CPO on Ms. Lyons' property cannot be assessed in full due to the inadequacy of the documentation provided by Galway County Council.
- No accommodation works in relation to the objector's property have been agreed.

5.3 Catherine and Peter Fahy c/o John M. Gallagher B.E.:

- The drawings (to a scale of 1:2500) made available for inspection in the offices of Galway County Council which aimed to identify those lands proposed for compulsory acquisition from the different landowners were of an insufficient scale to accurately detail the precise extent of the area of land being acquired from the objectors.
- In order to adequately assess the effect of the proposed Compulsory Purchase Order on the property of Catherine and Peter Fahy the following drawings are required:
 - A site layout plan of the proposed road realignment (preferably to a scale of 1:500 and not less than 1:1000) which details the position and width of the realigned road, in addition to the road margins and the cycle lane, relative to the existing boundary of the objector's property onto the N67 National Road and the dimensions of the area to be acquired.

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- Details of the vertical and horizontal alignment of the new roadway, including the radius of curvature of the different sections of the road and longitudinal sections showing the vertical alignment of the road.
 - Cross-sectional drawings detailing the level of the realigned road relative to the objector's property.
 - Details of the accommodation works to be provided, including the position, height and specification of the boundary walls.
- The effect of the CPO on the property of Catherine and Peter Fahy cannot be assessed properly due to the inadequacy of the documentation provided by Galway County Council in respect of the proposed scheme.
 - No accommodation works relating to the objector's property have been agreed.

5.4 Esther Lyons Forde c/o John M. Gallagher B.E.:

- The drawings (to a scale of 1:2500) made available for inspection in the offices of Galway County Council which aimed to identify those lands proposed for compulsory acquisition from the different landowners were of an insufficient scale to accurately detail the precise extent of the area of land being acquired from the objector.
- In order to adequately assess the effect of the proposed Compulsory Purchase Order on the objector's property the following drawings are required:
 - A site layout plan of the proposed road realignment (preferably to a scale of 1:500 and not less than 1:1000) which details the position and width of the realigned road, in addition to the road margins and the cycle lane, relative to the existing front boundary of the objector's property and the dimensions of the area to be acquired.
 - Details of the vertical and horizontal alignment of the new roadway, including the radius of curvature of the different sections of the road and longitudinal sections showing the vertical alignment of the road.
 - Cross-sectional drawings detailing the level of the realigned road relative to the objector's property.
 - Details of the accommodation works to be provided, including the position, height and specification of the front boundary walls and the access proposed to the objector's lands.

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- The effect of the CPO on the objector's property cannot be assessed properly due to the inadequacy of the documentation provided by Galway County Council in respect of the proposed scheme.
 - No accommodation works relating to the objector's property have been agreed.

5.5 Alex & Trish Venegas c/o Joyce, Mackie and Lougheed, Auctioneers & Valuers:

- Technical aspects relating to the proposed works have not been addressed by Galway County Council to the satisfaction of the landowners and thus their objection stands.

5.6 Una Connell c/o Michael J. Duffy, Consulting Engineer:

- The origin or status of the roads scheme is unclear. Transport Infrastructure Ireland (TII), previously known as the NRA, referred the objector's queries to Galway County Council. The appellant sought information regarding which design standards were being applied and whether the proposed works were in the context of a 'Major Improvement', 'Minor Improvement', 'Road Safety Improvement' or a 'Maintenance Scheme'. The objector also queried who was funding the proposed works and it is submitted that the answer to these questions is relevant in the context of the applicable design of any works.
- Transport Infrastructure Ireland is charged with responsibility for the national primary and secondary road network and its website states that '*Transport Infrastructure Ireland operates, maintains and improves the national primary and secondary road network in Ireland*'. Whilst the objector was subsequently informed that the project in question is being managed by Galway County Council, enquiries with the Local Authority were anything but clear as to who designed the project and who is funding it. The objector has not been informed who the design organisation is for the project.
- On the same basis it is not clear who set the parameters or design standards for the proposed works.
- There is 11.4m of existing public space available between the appellant's boundary and that of her neighbour on the opposite side of the road. This is actually more than the width of the road involved in the provision of the same development in Stage 1 of this project, 2km north of the subject site.
- The design is flawed in that it does not propose to vertically realign the road at Terrea Cross which is commonly held to be dangerous. The local authority is using the guise of road safety to promote this project yet it will

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- not address the issue whereby approaching traffic disappears out of view into a dip 210m from Terrea Cross.
- If confirmed, the CPO will necessitate the removal of 23 No. mature trees and 40 No. shrubs which will have a catastrophic impact on the privacy and enjoyment of this long established dwelling. As already stated, it is possible to facilitate these proposals within the existing public space if a horizontal realignment of the existing road is considered. If, and this is not certain, any minor downstream adjustments are required they will have much less impact on adjoining property and much less impact on the established natural environment and biodiversity. Furthermore, it is risible that any works would be considered for the improvement of this road without vertical realignment.
 - As part of this process the objector engaged with the local authority. The objector put all of the issues mentioned herein to its representative. The objector specifically requested that the local authority would seek the opinion of its design consultant with respect to the points presented. It did not do so and simply reverted stating *'we will go with what we require and that we will have to take some of this property'*.
 - While the design parameters for the proposal are far from clear the objector wishes to note it does not comply with the design principles set out in HRA TD 300/14 Rural Cycle Scheme Design (including Amendment No. 1, dated December, 2014) or in HRA TD27/14 Cross-sections and Headroom (including Amendment No. 2).

5.7 Michael J. Lyons c/o John M. Gallagher B.E.:

- Following an examination of more detailed design drawings of the proposed scheme it was noted that the proposed road is being moved slightly to the east away from the front boundary wall of Mr. Michael J. Lyons' house. The existing double stone front boundary wall and entrance is to be retained even though the entrance wall to the side road and the separating wall with the property to the north are dilapidated and unstable and will be further damaged during the course of the works and will need to be upgraded. No proposals for the upgrading of these sections of wall have been provided.
- The drawings also show that the parking area to the front of Mr. Lyons house which was installed in the interests of safety and / or by virtue of a condition of the planning permission for the house is being eliminated and is being replaced by a grassed area.

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- Details of the accommodation works relating to the front and side boundary wall of Mr. Lyons house and site affected by the proposed works have not been agreed.
 - The elimination of the parking area for visitors to the front of the house will create a traffic hazard. As part of the works, a parking area finished in tarmac should be provided to the front of the house to replace the existing parking area.
 - The increased speed of traffic on the improved road will increase traffic sound within the house. The existing stone front boundary wall should be raised to reduce the increase in traffic noise.

5.8 Declan Lyons c/o John M. Gallagher B.E.:

- Following an examination of more detailed design drawings of the proposed scheme, in relation to Plot 137a.110, Plot 137a.111, Plot 137a.112, and Plot 137a.113, the Galway County Council design team have moved the alignment of the road eastwards by putting a reverse curve on the road from Chainage 2912 for a distance to 220m to what is described as Chainage 220 on Drg. No. GE-05. This has been done to avoid acquiring land on the west side of the existing road. In doing this they have significantly and unfairly increased the amount of land that they are taking from Mr. Lyons in this area and, additionally, have taken half of the front garden of Ms. Catherine Lyons' house. They have also sited a drainage percolation pond within Mr. Lyons lands.
- The frontage of Mr. Lyons lands onto the N67 is generally bounded by a combination of stone walls and clay ditches supplemented by well-established hedgerow which provide an effective stock-proof boundary. These boundaries are being replaced by timber post and rail fences which are alien to the area and unsupportive of the natural fauna and wildlife.
- The design adopted by the Galway County Council design team has moved the alignment of the road eastwards by putting a reverse curve on the road from Chainage 2912 or a distance to 220n to what is described as Chainage 220 on Drg. No. GE-05. This has been done to avoid acquiring land on the west side of the existing road. In doing this they have significantly and unfairly increased the amount of land that they are taking from Mr. Lyons.
- They have additionally sited a drainage percolation pond within Mr. Lyons lands when there is an existing adequate turlough / percolation area on the opposite side of the road.
- The existing stone walls and clay ditches that are supplemented by well-established hedgerow and which provide an effective stock-proof

boundary on Mr. Lyons lands fronting onto the N67 are being replaced by timber post and rail fences which are alien to the area and unsupportive of the natural fauna and wildlife of the area. Mr. Lyons is entitled to have his existing stone boundary walls and clay ditches replaced by similar stone walls and ditches supplemented with hedgerow.

6.0 PLANNING POLICY CONTEXT:

6.1 West Regional Authority Regional Planning Guidelines, 2010-2022:-

Chapter 5: Infrastructure Strategy:

Section 5.1: Transport Infrastructure

Section 5.2: Priority Access Infrastructure:

Section 5.2.1: Roads:

Policies:

IP2: - Support the National Roads Authority investment to remedy deficiencies generally in the roads network minimising environmental impact.

IP3: - Implement transport policy objectives of the NDP and of Transport 21 by supporting the NRA programme of works on national routes, minimising environmental impact.

Objectives:

IO5: - Identify the following works for priority completion in order to promote a balanced regional development. The following projects must be assessed as to their environmental impact, through relevant assessment, where necessary, including Habitats Directive Assessment in accordance with the requirements of the Habitats Directive, with preferred route options ensuring minimal impact, on the natural and built environment.

8. Upgrade and improve all National Secondary Roads in particular:

d) N67 Kilcolgan to North Clare; minimising environmental impact.

Section 5.2.5: Cycling and Walking:

Policies:

IP20: - Promote the Region as a premier destination for cycling and walking. This should take account of visual impacts and other environmental considerations.

IP21: - Promote a better environment for pedestrians, cyclists and persons with disabilities in the city, towns, villages and rural areas so as to facilitate increased mobility and access for citizens.

IP22: - Support the establishment of a network of interlinked cycle ways within the context of a West Regional Trails Strategy. This should take account of visual impacts and other environmental considerations.

Objectives:

IO29: - Promote a strong cycling culture in the West Region by providing a sustainable and useable cycling network in the city, towns and villages across the West Region. This should take account of visual impacts and other environmental considerations.

IO33: - Support the provision of designated rural cycle networks especially for visitors and recreational cycling and develop a network of walkway/cycleway through the region which includes green routes. This must take account of potential impacts on the environment and be guided by Habitats Directive Assessment, where appropriate.

6.2 Galway County Development Plan, 2015-2021:-

Chapter 5: Roads and Transportation:-

Section 5.1: Land Use Integration and Sustainable Transport Strategy:

Galway County Council will continue to support extensions and improvements to existing transport infrastructure within County Galway such as road, cycle, port and harbour networks and shall support in conjunction with other agencies improvements to rail, air and bus services including the Rural Transport Programme. It is acknowledged that the Council is a facilitator in the delivery of the public transport services and infrastructure as they are outside the jurisdiction of the Council. Galway County Council will collaborate with other agencies/service providers and will also work with Galway City Transportation Unit which has within its remit the implementation of the transportation recommendations of the GTPS and other relevant subsequent studies.

Table 5.1: 'Priority Transportation Infrastructure Projects for County Galway, 2015-2021':

<i>National Roads:</i>	N67 Kilcolgan-County Boundary Scheme (ongoing)
<i>Pavement Overlays:</i>	N67
<i>Cycle Routes:</i>	Support and develop the National Cycle Route from Oranmore to Clarinbridge, Kilcolgan, Ballindereen, Kinvara and on to the County boundary.

Section 5.1.1: Transportation – Strategic Aims:

- To provide a safe and efficient network of transport to serve the needs of the people and the movement of goods and services to, from and within County Galway;
- To promote and encourage the use of alternative sustainable modes of transport and to promote the use of transport energy from renewable resources;
- To safeguard the strategic transport function and carrying capacity of the motorway and national road network and associated junctions in order to provide for the safe and efficient movement of inter-urban and inter-regional traffic.

Section 5.2: Land Use Integration and Sustainable Transportation Strategy Policies and Objectives

Policy TI 2 – Development of an Integrated and Sustainable Transport System:

It is the policy of the Council to promote the development of an integrated and sustainable high quality transport system that shall:

- a) Promote closer co-ordination between land use and sustainable transportation;
- b) Continue the provision of a range of transport options within the County in collaboration with other statutory agencies and transport providers, including a safe road network, a range of bus and rail services, adequate facilities for walking and cycling and opportunities for air and water-based travel.

Objective TI 1 – Sustainable Transportation:

Support and facilitate any ‘Smarter Travel’ initiatives that will improve sustainable transportation within the County including public transport, electric and hybrid vehicles, car clubs, public bike schemes, park and ride/park and stride facilities, improved pedestrian and cycling facilities, as appropriate.

Section 5.3: Transport Infrastructure – Road and Transportation Networks:

Section 5.3.1: Strategic Routes: Motorway, National Primary and National Secondary Roads:

Ireland’s inter-urban motorway and dual carriageway networks provide vital, strategic transport links between our major cities, markets, ports and airports. The National Roads Authority’s (NRA) primary concern, in considering consent applications relating to these sections of the network, is to ensure that the roads concerned continue to fulfil their strategic objective and to protect the major investment that has been made by Government in the development of these roads.

Galway, due to its peripheral location relies heavily on its public road network for transportation. The NSS identifies the M6 national primary route as a strategic linking corridor and the N17/N18 as a strategic radial corridor. The Regional Planning Guidelines for the West Region designates the N/M6 and N17/18 as the main access routes in the region and the N59, N63, N83 and N84 as important inter-regional routes as well as the important inter-regional role of the N60, N65, N66 and N67 national secondary roads within County Galway.

Section 5.3.4: Road Safety:

Galway County Council will work with relevant bodies and authorities to encourage, develop and improve existing entrances and junctions to restricted routes.

Section 5.4: Roads and Transportation Policies and Objectives:

Roads and Transportation Policies:

Policy TI 5 – Roads, Streets and Parking:

It is the policy of Galway County Council in conjunction with all relevant statutory agencies and infrastructure providers to provide road and street networks that are safe and convenient, that have adequate capacity to accommodate motorised traffic and non-motorised movements, that have a high environmental quality with appropriate adjacent

development and built form, particularly in the case of urban streets and streetscapes, and that adequate parking facilities are provided to serve the needs of towns and villages within the County. In this regard, the principles, approaches, and standards set out in the Design Manual for Urban Roads & Streets (2013) (including any superseding document) shall be applied to new development as appropriate.

Policy TI 8 – Transportation Infrastructure Requirements for the Gateway and West of the County:

It is the policy of Galway County Council to work with Galway City Council and all relevant statutory bodies to develop an appropriate infrastructural response to the transportation needs of the Galway Gateway, its environs and the west of the County, with a view to relieving congestion, improving travel times, increased safety of all road users and enhancing connectivity and access within the region and enhanced accessibility of the western region in a national and international context. Any such solution shall have due regard to the necessity to protect the environment and will comply fully with the requirements of the Habitats Directive.

Policy TI 9 – Road Network Improvements and Western Rail Corridor/Greenway:

It shall be the policy of Galway County Council to ensure that any works to be carried out by Galway County Council or other statutory authority to any part of the road network which may affect the delivery of either the Western Rail corridor or any Greenway proposal shall be carried out in such a way so as not to compromise the longer term delivery of such alternative transportation proposals or any interim objectives to use the railway as a greenway.

Roads and Transportation Objectives:

Objective TI 5 – Roads and Transportation Network Improvements:

Facilitate the progression of and implement improvements to the existing National and Regional/Local Road networks including the priority transportation schemes, listed in Table 5.1: Priority Transportation Infrastructure Projects for Co.

Galway 2015-2021 and those listed within Table 5.2: Regional/Local Projects Proposed 2015-2021 subject to relevant Irish planning and European environmental legislation including Article 6 of the Habitats Directive and/or other environmental assessment, where appropriate.

Objective TI 15 - Transportation Infrastructure Requirements for the Gateway and West of the County:

It is an objective of Galway County Council to work with all other relevant bodies to deliver the necessary improvements to transportation infrastructure, including new infrastructure if necessary, to help secure the medium and long term economic and social development of Galway Gateway and the west of the County. Any such investment or project shall be carried out with due regard to the necessity to protect the environment and in full compliance with the provision of relevant legislation, including the Habitats Directive.

Public Transport Objectives:

Objective TI 19 – Galway County Walking and Cycling Strategy:

Implement the recommendations and proposals within The National Cycle Network Scoping Study (2010) and the Galway County Walking and Cycling Strategy 2013 as outlined within Table 5.1: Priority Transportation Infrastructure Projects for Co. Galway 2015.

Chapter 9: Heritage, Landscape & Environmental Management:

Section 9.3: General Heritage Policies

Section 9.10: Landscape Conservation and Management

Section 9.11: Landscape Conservation and Management Policies and Objectives

Landscape Conservation and Management Policies:

Policy LCM 1 – Preservation of Landscape Character:

Preserve and enhance the character of the landscape where, and to the extent that, in the opinion of the Planning Authority, the proper planning and sustainable development of the area requires it, including the preservation and enhancement, where possible of views and prospects and the amenities of places and features of natural beauty or interest

Landscape Conservation and Management Objectives:

Objective LCM 1 – Landscape Sensitivity Classification:

The Planning Authority shall have regard to the landscape sensitivity classification of sites in the consideration of any significant development proposals and, where necessary, require a Landscape/Visual Impact Assessment to accompany such proposals. This shall be balanced against the need to develop key strategic infrastructure to meet the strategic aims of the plan, and having regard to the zoning objectives of serviced development land within the Galway Metropolitan Areas.

Objective LCM 2 – 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.

N.B. From a review of Map No. 'Landscape Value Rating – LCM1' of the Galway County Development Plan, 2015-2021 it is apparent that the lands in question are located within an area which has been designated as having a 'High' landscape value rating.

It is also clear from Map No. 'Landscape Sensitivity and Character Areas - LCM2' that the lands in question are located within 'Landscape Character Area: 13 - East Galway Bay (Oranmore to Kinvarra Bay and inland to N128 road)' in an area which has been designated as 'Class 3: Medium' in terms of landscape sensitivity.

Chapter 10: Cultural, Social & Community Development:

Section 10.13: Public Rights of Way Policy and Objective:

Policy PRW 1 – Preservation of Public Rights of Way:

It is the Policy of the Council to preserve and protect verified public rights of way which give access to seashore, mountain, lakeshore, riverbank or other places of natural beauty or recreational utility.

Objective PRW 1 – Identification of Existing Public Rights of Way:

Seek to identify, map and protect verified existing public rights of way that give access to seashore, mountain, lakeshore, riverbank or other places of natural beauty or recreational utility as they become available to the Planning Authority over the lifetime of the plan.

7.0 SUMMARY OF THE ORAL HEARING:

7.1 An Oral Hearing was held on 10th November, 2015 in the Oranmore Lodge Hotel, Co. Galway, and those persons in attendance and any documentation presented to the hearing are attached in Appendix 1 of this report.

7.2 The objectors were represented as follows:

- Mr. Michael Organ on behalf of Michael and Anne Organ.
- Mr. John M. Gallagher B.E. on behalf of Catherine Lyons, Catherine and Peter Fahy, Esther Lyons Forde, Michael J. Lyons and Declan Lyons.
- Mr. Michael J. Duffy (Consulting Engineer) & Mr. John Callinan (Solicitor) on behalf of Ms. Una Connell.
- Mr. Owen Kennedy on behalf of Alex & Trish Venegas.

7.3 Galway County Council was represented by:

- Mr. Patrick Butler S.C.
- Ms. Valerie Loughnane-Moran, Acting Senior Planner, Galway County Council
- Mr. Hugh O’Sullivan, Roughan & O’Donovan, Consulting Engineers.

7.4 Submissions by Galway County Council:

7.4.1 **Mr. Patrick Butler S.C.** in an opening submission outlined the intended purpose of the oral hearing and indicated that it was proposed to call on 2 No. witnesses on behalf of Galway County Council to detail the rationale for the proposed CPO. Reference was also made to the decision of the Board on 13th February, 2014 (ABP Ref. No. PL07.JN0007) wherein it was determined not to direct the local authority to prepare a Natura impact statement in respect of the proposed N67 re-alignment Ballinderreen to Kinvara Phase 2 Road Project, Co. Galway. It was further asserted that following the presentation of the evidence it was anticipated that the Board Inspector would be in a position to recommend confirmation of the CPO to the Board.

7.4.2 **Mr. Hugh O’Sullivan** (Roughan & O’Donovan, Consulting Engineers) proceeded to give evidence on behalf of Galway County Council and read from a written submission (a copy of which is included in Appendix 1 of this report) referring at times to a visual presentation and the series of drawings appended to the submission. This brief of evidence sets out the background to the proposed CPO, including the approval of the N67 Ballinderreen to Kinvara Realignment (Phase 2) Scheme pursuant to Part XI of the Planning and Development Act, 2000, as amended, and Part 8 of the Planning and Development Regulations, 2001, as amended. It subsequently describes the existing road and the constraints along same, with particular reference to its substandard horizontal and vertical alignment and the inadequate forward visibility given the applicable 100kph speed limit. With regard to road safety and the wider need for the proposed realignment works, the submission notes that the existing roadway does not have any hard shoulder with only limited verge space available whilst reiterating the difficulties associated with the alignment of the carriageway and the limited forward visibility. It also states that road safety is further compromised by the number of at-grade junctions and private accesses along the route and that the narrow cross section of the roadway combined with sharp bends and restricted visibility makes it unsuitable and particularly hazardous for pedestrians and cyclists. At this point it is asserted that the purpose of the road improvement scheme is to bring up to standard the road alignment and cross section such that it is appropriate for the volume and speed of traffic whilst also ensuring the provision of facilities for pedestrians and cyclists. It is further stated that the works will serve to considerably improve visibility along the main road and at the junctions onto same. The remainder of the submission details the specific design standards applied to the proposed road construction, including the intended geometry, cross section, alignment, and junction / access arrangements, in addition to any departures / relaxations from the preferred minimum. It subsequently concludes by referring to any necessary accommodation works (such as the relocation / reinstatement of utilities and the provision of gates and fencing) and the anticipated phasing of the construction works.

7.4.3 The brief of evidence submitted by **Ms. Valerie Loughnane-Moran** (a copy of which is included in Appendix 1 of this report) refers to the Part 8 process and states that the Galway County Development Plan, 2015 supports the proposed realignment works by reference to Objective TI 5 – *‘Roads and Transportation Network Improvements’*, and more specifically, Table 5.1: *‘Priority Transportation Infrastructure Projects for County Galway, 2015-2021’*. It subsequently asserts that the works in question accord with the wider policies and objectives of the County Development Plan in addition to the National Spatial Strategy, 2002-2020

and the West Regional Authority Regional Planning Guidelines, 2010-2022 before concluding that the proposed road development is in accordance with the proper planning and sustainable development of the area.

7.4.4 Following the aforementioned submissions, **Mr. Patrick Butler S.C.** indicated that in response to the various grounds of appeal alternative arrangements had been presented to the objectors in an attempt to ameliorate specific concerns and that, notwithstanding any acceptance of same by those parties, it was the intention of the Council to put these revised proposals forward to the Board for consideration.

7.5 Submissions by the Objectors and Associated Cross-Questioning:

7.5.1 **Mr. John M. Gallagher (on behalf of Catherine Lyons)** queried the extent of progress made (both in terms of planning and financing) with regard to the provision of the cycle route between Kilcolgan and Kinvara and further asserted that no progress has been made as regards the section of the cycleway between Kilcolgan and Ballinderreen. In this regard it was submitted that as the Council was seeking to acquire approximately half of the objector's front garden area in order to provide for a cycleway which would not be operational for a number of years, it would be appropriate to defer any such acquisition until such time as progress has been made on the construction of said cycle route. It was also suggested that there was an alternative route for the roadway on the opposite side of the roadway and that whilst this would result in the loss of a very small portion of a 'preserved' area, it would allow the objector to retain her front garden. Accordingly, the case was put forward that the proposed CPO would unduly penalise the objector by way of a loss of amenity and that the proposed cycleway would not be provided for a significant period of time.

7.5.2 In response to the foregoing, the Council submitted revised proposals (as shown on Drg. No. 300-ACC-0050: *'Accommodation Works for CPO153'*) which detailed an amended design whereby the extent of the proposed landtake would be reduced by realigning the shared footpath / cycleway and through the omission of the verge between it and the boundary of the objectors property. It was further submitted by Mr. O'Sullivan that the need for the proposed landtake and the associated removal of the objectors' front boundary wall arose not only from the requirement to provide for the shared cycleway but was also related to the need to achieve improved sight distance / visibility from the adjacent junction onto the National Road to the south. Whilst Mr. Gallagher subsequently suggested that the necessary sightlines from the junction in question could similarly be achieved by realigning the roadway approximately 1.5m westwards

thereby avoiding impacting on the objectors' property, Mr. O'Sullivan responded by stating that although this may be the case it would not be possible to reduce the extent of intrusion into the objectors' lands further as to do so would pose difficulties in aligning the proposed works (Phase 2) with the existing roadway in both directions. In concluding his questioning Mr. Gallagher acknowledged that the amended proposals as presented by the Local Authority represented a considerable improvement as regards reducing the potential impact on Ms. Lyons' property, however, it remained his opinion that given the extent of the proposed interference with the objectors' property (and the absence of any proposal to acquire land on the western side of the roadway), the relocation of the roadway 1.5m further west would not have any detrimental effect on the wider road scheme.

7.5.3 At this point Mr. O'Sullivan was questioned by the inspector if the lands along the western side of the carriageway were subject to any amenity designation (e.g. by way of a Natura 2000 designation or if they formed part of a protected structure etc.) to which he responded by indicating that he was unaware of any such designation at the location in question.

7.5.4 **Mr. Michael Organ (on behalf of Michael and Anne Organ)** made a verbal submission wherein he indicated at the outset that he welcomed the proposed works along the N67 National Road, particularly given the danger / hazard in walking along same towards Terrea Cross. However, despite having had discussions with the Local Authority he expressed concerns as regards the lack of precision in the proposals, although he appreciated the efforts previously put forward by the Council earlier in the hearing in an attempt to address the concerns of Ms. Catherine Lyons as regards the potential impact on her property. He proceeded to detail how he had replaced the original concrete wall which defined the front boundary of his property with a new stone wall and expressed concerns with regard to the potential disruption arising from the submitted proposal to remove and replace this wall. Mr. Organ then referred to the fact that the lands on the opposite side of the roadway were in agricultural use and that it would have been appropriate to investigate an alternative road realignment at this location having regard to the likely cost savings and the minimisation of disruption to the residents of existing housing along the route. Accordingly, Mr. Organ suggested that there would seem to be no necessity to acquire part of his front garden (and to remove his front wall) in order to facilitate the improvement of the N67 National Road.

7.5.5 Mr. Organ proceeded to query if the new road realignment could be redesigned and moved eastwards along the opposite side of the existing roadway to avoid any encroachment of his property given that the current proposal would result in the new roadway being positioned closer to his dwelling house which would have a consequential detrimental impact on the value of same. He also submitted that the existing recessed position of his wall was required as part of the original grant of planning permission for the dwelling house and that he purchased same on the understanding that if the roadway were ever to be widened there would be no need to acquire / disturb his property due to the existing set back position of the boundary wall. In response, Mr. O'Sullivan stated that the proximity of the lands in question to Terrea Crossroads limited the horizontal alignment of the roadway to some extent and that whilst the road realignment was being curved away from Mr. Organ's house it was hard to avoid necessitating the removal of the boundary wall. At this point it came to light that the Council was in a position to submit an amended proposal with regard to Mr. Organ's property and copies of same were submitted to the hearing (and the relevant parties) for consideration. Mr. O'Sullivan stated that this revision (Drg. No. 300-ACC-002: *'Accommodation Works for CPO141'*) was intended to ameliorate the impact on Mr. Organ's property by reducing the extent of the lands proposed to be acquired by approximately half (i.e. moving the existing wall back by a distance of 3.3m). Whilst Mr. Organ was pleased at this reduced impact on his property he noted that it continued to necessitate the removal of his boundary wall and he indicated that he did not accept the case put forward by the Council as regards the limitations imposed on the proposed new road alignment by the proximity to Terrea Cross. Mr. Organ also questioned the lack of consultation with local landowners prior to the commencement of the design process and suggested that a revised design whereby the roadway would be relocated further eastwards could avoid the unnecessary expense of reconstructing boundary walls thereby speeding up the overall road construction. In response, Mr. O'Sullivan stated that as the lands to the east fell away from the road there would be an associated increased cost for the roadway over a distance of 700m and that the proposal to remove Mr. Organ's wall (with the associated cost of same) was considered the best compromise at this location.

7.5.6 **Mr. John M. Gallagher (on behalf of Esther Lyons Forde)** indicated that he had examined a revised drawing provided by Galway County Council (in reference to Drg. No. 300-ACC-006: *'Accommodation Works for CPO 143'* which was subsequently submitted to the hearing by the Council) and noted that it provided for 'Boundary Detail No. 1' alongside Ms. Lyons' property which comprised 2 No. parallel lengths of timber post and rail fencing with hedgerow

planting in between same. In this respect he submitted that it was the preference of the objector for a 1.35m high stone wall be provided to the front of her lands and that the intervening ground between the edge of the carriageway and the new boundary be graded to the base of this wall (as opposed to the steeper embankment arrangement shown in Section 'F – F' of Drg. No. 300-ACC-006).

7.5.7 Mr. O'Sullivan responded by stating that as the lands in question were in agricultural use and did not form part of a domestic / residential property that the timber fencing proposed was an appropriate boundary treatment, however, it was seemingly indicated that the Council was amenable to the re-grading works sought by the objector.

7.5.8 In relation to a query by Mr. Gallagher as regards the future maintenance of the proposed stock-proof fencing, Mr. O'Sullivan confirmed that this would be the responsibility of the Roads Authority i.e. Galway County Council.

7.5.9 **Mr. John M. Gallagher (on behalf of Catherine and Peter Fahy)** referred to a revised drawing provided by Galway County Council (in reference to Drg. No. 300-ACC-003: '*Accommodation Works for CPO 144*' which was subsequently submitted to the hearing by the Council) and noted that some alterations had been made to the position of the new boundary wall along the realigned route of the N67 National Road arising from the use of a minimum separation of 500mm as opposed to that previously proposed. These revisions were subsequently confirmed by Mr. O'Sullivan. Mr. Gallagher then queried the presence of a gap between the proposed walling and the existing boundary wall in the north-western corner of the objector's property, however, Mr. O'Sullivan responded by indicating that this gap was not intentional. With regard to the 1.1m high stone wall proposed alongside the national road, Mr Gallagher requested that the height of same be measured from the level of the proposed cycleway (as opposed to the existing ground level) and that the intervening ground between the edge of the cycleway and the new boundary be graded to the base of the wall. In response, Mr. O'Sullivan indicated that it would be acceptable to the Council for the wall in question to be 1.1m in height above the level of the cycleway, however, he also stated that from a structural point of view it may be preferable to have the ground flat at the base of the wall rather than to have an area where cars could go down into and Mr. Gallagher deferred to the Council's requirements on this issue.

7.5.10 **Mr. John M. Gallagher (on behalf of Declan Lyons)** referred to a series of revised drawings provided by Galway County Council (in reference to Drg.

Nos. 300-ACC-008, 300-ACC-009, 300-ACC-010, 300-ACC-011 and 300-ACC-012: *'Accommodation Works for CPO 137 (Nos. 1-5)'* which were subsequently submitted to the hearing by the Council) and noted that the existing roadside boundary of Mr. Lyons' property was defined by a stone and clay boundary wall supplemented by established hedgerow. With regard to the proposal to replace the aforementioned boundary with a timber post and rail fence, Mr. Gallagher submitted that such a boundary would be alien to the area and unsupportive of the natural fauna and wildlife of the area and that a new 1.35m high stone wall should be erected along the entirety of this boundary. Notwithstanding the foregoing, Mr. Gallagher also clarified that Mr Lyons' objection in principle to the acquisition of his lands remained.

7.5.11 In response to the foregoing, Mr. O'Sullivan stated that as the lands in question were in agricultural use and did not form part of a domestic / residential property that the timber fencing proposed was an appropriate form of boundary treatment.

7.5.12 **Mr. John M. Gallagher (on behalf of Michael J. Lyons)** referred to a revised drawing provided by Galway County Council (in reference to Drg. No. 300-ACC-001: *'Accommodation Works for CPO 136'* which was subsequently submitted to the hearing by the Council) and noted that the original objection concerned the proposed elimination of a parking area situated to the front of Mr. Lyons' dwelling house. He proceeded to submit that the proposed provision of a grass verge (c. 3-4m in width) along the edge of the roadway would excessively interfere with access to the parking area in question. Whilst Mr. Gallagher then acknowledged that the Council's revised proposals included for the retention of the existing parking area it was submitted that significant difficulties would be encountered as regards access to and from same and thus it was suggested that a new opening be provided in the centre of the parking area onto the N67 National Road in order to allow ease of access / egress. At this point the inspector clarified that Mr. Gallagher was seeking the provision of a new vehicular entrance. In response to the foregoing, Mr. O'Sullivan stated that the purpose of the grassed area was to delineate the edge of the roadway, however, the Council was amenable to the provision of the requested additional access point.

7.5.13 **Mr. Michael J. Duffy (on behalf of Ms. Una Connell)** read from a written submission (a copy of which is included in Appendix 1 of this report) and referred at times to a simultaneous visual presentation. He acknowledged the receipt of a written response from the Local Authority (a copy of which was subsequently

submitted by the Council to the hearing) and that this had addressed some of the grounds of objection raised in the original submission to the Board, however, he continued to have concerns relating to the specific design standards applied to the proposed road construction and the limited use of permissible relaxations in the design of same. Mr. Duffy proceeded to refer to a series of applicable design standards given the location of his client's property relative to Terrea Cross and questioned the lack of reference to the relaxations / departures allowed under the design standards. More specifically, he rejected the assertion by the Council that there was a requirement to provide a 3m verge and submitted that the relevant design standards allowed for a relaxation in this regard. He then proposed that an amended road design could be accommodated through the use of permissible relaxations within the existing 11.4m width of carriageway / public space available at Chainage 2770.00 as follows:

- A verge of 2.4m along the western side of the carriageway from the existing stone wall
- A carriageway width of 6m
- A separation of 1m
- A cycleway measuring 1.75m in width
- A lateral clearance to the eastern boundary of 0.25m

7.5.14 Mr. Duffy also submitted that there were difficulties with the detailed design of the proposed road and that notwithstanding the revised proposals provided by the Local Authority, the necessary works would still require the removal of mature trees / planting within Ms. Connell's property or result in damage being caused to same. Mr. Duffy proceeded to provide a detailed analysis of the road scheme referring to a variety of design manuals (including TD 9/12, TD 27/14, TD 41-42 & TD 300/14) and suggested that inadequate consideration had been given to various issues including the cost-effectiveness of the proposed design, the use of relaxations or departures as regards the applicable design standard (particularly as this is an existing, as opposed to new, roadway), the likely usage of the proposed cycleway, the use of a relaxed junction design at the crossroads, and the need to address the dip in the roadway north of the existing crossroads as a priority. Concerns were also raised as regards the need for coherence in the development of the cycleway, particularly as it was suggested that a somewhat haphazard provision had been made for same further north of the road scheme in question. In addition, Mr. Duffy was of the opinion that through the use of permissible relaxations the proposed road realignment could be accommodated within the existing

carriageway / public space thereby avoiding the need for the compulsory acquisition of lands and the associated costs.

7.5.15 Following a break for lunch the hearing subsequently resumed with Mr. Duffy directing questions to the Local Authority. He queried what consideration had been given to the use of the relaxations in the design of the road scheme at Ms. Connell's property and Mr. O'Sullivan responded by stating that a one-step relaxation had been applied pursuant to TD 300 with the separation distance between the cycle track and the carriageway being reduced to 1.5m. With regard to the cycle track Mr. O'Sullivan indicated that 2.5m was the desirable minimum width although Mr. Duffy questioned why it was not deemed appropriate to permit a further relaxation of this standard at his client's property. In response, Mr. O'Sullivan submitted that any further relaxations at this location would serve to compromise the sightlines available from the adjacent junction and that (contrary to Mr. Duffy's view) any further combination or multiplicity of relaxations at this location would not be warranted. Mr. Duffy proceeded to assert that there was a need to consider the cost-effectiveness arising from the full use of the available relaxations (prior to any consideration being given to CPO as a matter of 'last resort') and that through the use of such relaxations it would be possible to fit the road design into the existing space available at the location in question without the necessity to acquire his client's land. Mr. O'Sullivan responded by stating that the use of multiple relaxations at this location (including a reduction in the 'X'-distance at the adjacent junction to 2.4m i.e. the point from which sightlines onto the major carriageway are measured) would be contrary to the safe operation of the junction and that whilst a balance had to be achieved between cost and safety it was considered that the circumstances in this instance did not warrant any further relaxation in the applicable standards.

7.5.16 Mr. Duffy then queried what regard had been given to his client's property during the design of the road scheme in relation to matters such as the loss of mature trees / planting and biodiversity etc. He also stated that the trees within Ms. Connell's property would continue to be lost despite the amended proposals proffered by the Local Authority (please refer to Drg. No. 300-ACC-004: *'Accommodation Works for CPO147'*). In his response Mr O'Sullivan referred to the reduced landtake in the amended proposal and indicated that those trees closest to the dwelling house could be protected, however, he also stated that for safety reasons, with particular reference to the available visibility from the adjacent junction, the scheme as designed was warranted. At this point Mr. Duffy and Mr O'Sullivan disagreed as regards the degree to which the existing trees / planting in Ms. Connell's property interfered with the available sight distance with

Mr. Duffy asserting that the primary hazard at this location was associated with a dip in the roadway to the north and the obstruction of sightlines by street furniture and signage. Mr. Duffy then suggested that the design of the road scheme should have been informed further by the use of the available relaxations which was followed by an interjection by Mr. Butler that two relaxations had been detailed in the evidence provided by the Local Authority. In response, Mr Duffy indicated that he was not satisfied that 2 No. relaxations had been used and he proceeded to suggest that the cycleway could be reduced to 1.75m in width and the kerb reduced to 250mm by way of further relaxations. He then queried if his proposals for the road scheme as set out on Page No. 4 of his submission could be utilised to which Mr. O’Sullivan responded by stating that an investigation of same would be a further exercise and that it was not simply a matter of any such revisions ‘fitting’ into the available space at the location in question. In elaborating on the foregoing point, Mr. O’Sullivan emphasised the need to consider the safety implications associated with the application of certain relaxations and stated that it was not an appropriate design approach to simply apply the lowest possible standard at the outset. Instead, the road should be reviewed and the relevant standards applied with suitable relaxations. Accordingly, Mr. O’Sullivan did not accept that the further relaxations as described by Mr. Duffy would be warranted.

7.5.17 In closing his questioning Mr. Duffy queried why the amended proposals as presented to the hearing now proposed to reduce the intended landtake by approximately half to which Mr. O’Sullivan responded by stating that there had been no change in the applicable standards.

7.5.18 **Mr. Owen Kennedy (on behalf of Alex & Trish Venegas)** submitted that the individual objectors were seeking to protect their interests as was their constitutional right and proceeded to raise concerns with regard to the costs likely to be incurred by those objectors in engaging the services of engineers etc. to protect their property. He then commented on wider issues pertaining to the role and resources of the Board and Galway County Council as agents of the State and the alleged inequitable representation of objectors at the hearing at which point he was advised by the inspector to focus his submission on those specific issues which directly concerned the proposed compulsory acquisition of his client’s property. Mr. Kennedy subsequently raised concerns with regard to the treatment of ESB and water services etc. and was of the belief that Galway County Council would not be in a position to present information which would address such matters. He also was concerned that on the basis of previous experience with the Local Authority that the proposed accommodation works

would not be undertaken as detailed and that inadequate provision would be made for suitable and safe traffic management measures during the construction phase. At this stage the inspector informed Mr. Kennedy that the points he had raised would be noted although the alleged failure of the Local Authority to previously construct agreed accommodation works and its obligations as regards health and safety during construction were beyond the remit of the hearing. Mr. Kennedy proceeded to question the Local Authority in respect of its treatment of utilities such as water services and ESB poles and if it was aware of the plans of the service providers in this regard. In response, Mr. O'Sullivan indicated that discussions would be held with the ESB as regards its utilities and that the Council generally sought to underground any overhead Eircom lines with a view to minimising the number of poles. In relation to the specific treatment of certain services (including water connections) Mr. O'Sullivan conceded that such matters would have to be addressed at the detailed design stage of the road scheme. This concluded the submission and questioning by Mr. Kennedy.

7.6 Inspector's Questions:

7.6.1 The Local Authority was requested to clarify that the reference in the legend shown on Drg Nos. N67-DEP-01, N67-DEP-02 & N67-DEP-03 to *'Part III: Lands affected under the Schedule'* was included in error given that the schedule attached to the CPO only contained two parts. In response, Mr. Patrick Butler S.C. confirmed that this was the case.

7.6.2 Galway County Council was subsequently requested to provide details of any alternative route options that had been explored / investigated prior to the approval of the roads scheme in its present format. In this respect the inspector noted that documentation which had accompanied the grounds of objection of Ms. Catherine Lyons included a drawing that seemingly indicated an earlier design for the proposed road realignment works which did not extend as far northwards as her property. In addition, it was also noted that a previous scheme of road realignment works had been approved by the Local Authority in 2001.

7.6.3 In response to the foregoing, Mr O'Sullivan stated that the most effective design involved an 'on-line' realignment of the existing roadway and that there were no real alternatives in terms of 'off-line' routes. He proceeded to submit that the current scheme involved minor iterations of geometry in order to minimise the impact on landholdings and to facilitate the 'buildability' of the realignment works. It was further submitted that the original scheme did not include for the provision of the cycleway and that this was the principle difference when compared to the most recent design proposal.

7.6.4 Following a request by the inspector as regards details of accident ratios and traffic collision rates along the section of roadway in question the Local Authority submitted a written response to same which was circulated to the parties at the hearing.

7.6.5 Finally, upon further questioning by the inspector, Galway County Council indicated that whilst consideration was given to a possible 'off-line' route for the road scheme this was discounted in order to minimise the likely environmental impacts likely to be associated with same and thus an 'on-line' design was pursued.

7.7 Closing Submissions:

7.7.1 **Mr. Michael Organ** indicated that he was appreciative of the reasonableness shown by the Local Authority during the course of the hearing and its willingness to facilitate some, if not all, landowners. He accepted that the road had to be improved and was thus hopeful that all parties could cooperate into the future.

7.7.2 **Mr. John Callinan (on behalf of Una Connell)** accepted that whilst the hearing was primarily concerned with planning matters it also gave rise to issues relating to property rights and the need to consider the principle of proportionality and to avoid the impairment of those rights as much as possible. He further stated that legislation will not constitute an unjust attack on those property rights and should be passed to reconcile the exercise of those rights with the requirements of the common good. He proceeded to submit that nothing which had been proposed earlier by Mr. Duffy was irreconcilable with the 'common good'. It was asserted that Ms. Connell was not suggesting that the road improvement works were not required but rather that they should be carried out in such a manner that they would not interfere with her property. With regard to compensation, Mr. Callinan stated that this should be proportionate and sensitive to the property rights of the landowner, however, it was not always the answer. He suggested that insufficient regard had been afforded to his client's property rights and that it seemed that 'lines on a map' could be moved almost arbitrarily by the Local Authority once an objection to same had been received which served to undermine the credibility of the proposal. Mr. Callinan then indicated that Ms. Connell was not interested in compensation and simply wanted to continue to enjoy the amenity of her private home. It was further submitted that the inclusion of the cycleway would seem to have complicated the road alignment since the approval of the original (2001) scheme and that

consideration should have been given to an 'off-line' roadway and cycle path. This submission concluded by asserting that it had been demonstrated that both the CPO as initially submitted to the Board and the amended proposals presented at the hearing would result in damage to Ms. Connell's property, including the removal of trees, shrubs etc.

7.7.3 In the closing statement made on behalf of Galway County Council, **Mr. Patrick Butler S.C.** referred to the purpose of the hearing as regards the proposed CPO and noted that the need for the road scheme and CPO had been outlined by Mr. O'Sullivan whilst Ms. Loughnane-Moran had detailed how it accorded with the proper planning and development of the area. He also suggested that it was notable that there appeared to be no objections in principle to the proposed scheme and that most of the objectors seemed to welcome it with the core of the issues raised involving matters of detail and preferences for one design over another. With specific reference to the submission made by Mr. Duffy on behalf of Una Connell, the spectrum of design tools available to the designer was acknowledged, however, it also was emphasised that a number of factors had to be balanced, including safety considerations, and that Mr. Duffy's submissions did not override the safety concerns of Galway County Council. Mr. Butler's statement concluded by noting that no issues pertaining to the environment arose as these matters had already been addressed during the Part 8 process and thus the CPO was commended to the Board for approval.

8.0 ASSESSMENT:

8.1 The statutory powers of a local authority to acquire land are contained in Section 213(2)(a) of the Planning and Development Act, 2000, as amended, and under these provisions a local authority may acquire land compulsorily for the purpose of performing any of its functions *including 'giving effect to or facilitating the implementation of its development plan'*. It is accepted that the following four criteria should be applied in instances where it is proposed to use the aforementioned powers of compulsory purchase to acquire land or property:

- There is a community need, which is met by the acquisition of the property in question.
- The particular property is suitable to meet the community need.
- The works to be carried out accord with the Development Plan.
- Any alternative methods of meeting the community need have been considered but are not available.

8.2 These criteria will be applied to the compulsory acquisition of land currently before the Board for confirmation prior to addressing the issues raised by the objectors.

8.3 Community Need:

8.3.1 The N67 National Secondary Route forms part of the defined coastal touring route known as the *'Wild Atlantic Way'* which extends from Tarbert Island in Co. Kerry (via a ferry crossing) through the western extent of Counties Clare and Galway before ultimately terminating at its junction with the N18 National Route at Kilcolgan, Co. Galway. In this respect it is clear that the route in question performs a key function both in promoting tourism in the wider area and in serving as the main inter-regional roadway linking the village of Kinvara with settlements such as Lisdoonvarna and Ennistymon to the southwest, and perhaps more importantly, with Galway City to the north / northwest (via the N18). Accordingly, it is my opinion that the N67 National Secondary Route is of national, regional and local significance.

8.3.2 From a review of the available information, it is apparent that the road improvement scheme in question also forms part of a larger project the aim of which is to improve the safety and carrying capacity of the N67 National Road between Kilcolgan and the county boundary to the west of Kinvara. It will further serve to facilitate the on-going development of a National Cycle Route from Oranmore to Clarinbridge, Kilcolgan, Ballindereen, Kinvara and on to the county boundary. In this regard I would advise the Board that the proposed road scheme represents a continuation of the 'Phase 1' realignment / improvement works undertaken between Ballindereen and Kilcolgan in 2012 to the north of the subject lands.

8.3.3 In its submission to the oral hearing the Local Authority sought to stress that the overall vertical and horizontal alignment of the existing roadway was seriously substandard which resulted in poor forward visibility and thus necessitated improvement. It was further emphasised that with there was no hard shoulder and limited verge space available along the route and that safety was also compromised by the number of at-grade junctions and private accesses. Reference was similarly made to the narrow cross-section of the carriageway which, when taken in combination with the presence of dangerous bends and the restricted visibility, served to undermine the safety of non-motorised road users such as pedestrians and cyclists, and in this respect it is of particular relevance to note the absence of any dedicated footpath or cycleway facilities along this section of roadway at present. At this point it should also be noted that those

parties represented at the oral hearing were not opposed to the realignment of the road in principle but were rather objecting to the specific design and manner in which the said improvements were to be undertaken.

8.3.4 Having conducted a site inspection of the stretch of roadway in question, I would concur with the local authority that the overall condition and alignment of same is substandard and thus necessitates improvement in the interests of traffic and pedestrian safety. I would also agree that the provision of a *'consistent alignment and cross section with an adjacent shared footway and cycle track to the National Roads Authority's (now Transport Infrastructure Ireland) Design Manual for Roads and Bridges'* would serve to reduce driver frustration and the likelihood of unsafe overtaking manoeuvres and would provide a safe route for pedestrians and cyclists. Furthermore, I am satisfied that the proposed works will improve visibility both at various points along the main carriageway and also from the junctions of minor roads onto same.

8.3.5 Therefore, in my opinion, it is reasonable to conclude that the section of roadway in question is substandard and that the works proposed are in the interests of traffic safety and the improvement of the carrying capacity of the road. Accordingly, I am satisfied that a demonstrable public interest would be served by the acquisition of those lands subject to the proposed CPO.

8.4 The Suitability of the Lands in Question for the Development Proposed:

8.4.1 The proposed road realignment works will extend alongside a 3km section of the existing N67 National Secondary Route and will tie into the carriageway of the existing roadway to the immediate north and south of same. The scheme itself will necessitate the acquisition of a total of 203 No. individual land parcels / properties which extend to a combined area of 9.6748 hectares and comprise a combination of agricultural land, sections of the existing public road, and several areas presently situated within the curtilage of a number of private dwelling houses (e.g. front gardens, parking areas, driveways, or parts thereof).

8.4.2 With regard to the suitability of the lands in question, it should be noted at the outset that the Board's determination of ABP Ref. Nos. PL07.HD0030 & PL07.JN0007 held that those lands were not affected by any nature conservation designations and concluded that the development would not necessitate the preparation of an environmental impact statement or a Natura Impact Statement. In addition, it is of relevance to note that the lands are not subject to any tree preservation orders and that the works will not impact to an unacceptable degree on Focal Point / View Nos. 42 (Old church and well north of Kinvara) & 43

(Round tower at Kinvara) as identified on Map No. FPV1 of the County Development Plan. I am also satisfied that there are no recorded or national monuments within the scheme area and thus the proposed acquisition will not have a direct impact on any identified items of archaeological significance. With regard to the impact of the scheme on landscape considerations, whilst the subject lands are located within an area designated as having a 'High' landscape value rating, the actual landscape sensitivity has been deemed to be of 'Medium' significance and in this respect, having conducted a site inspection, it is my opinion that, on balance, the lands proposed for compulsory acquisition are of limited significance in terms of their contribution to the scenic amenity of the wider area. Furthermore, I am inclined to suggest that the likely landscape impact of the proposed on-line realignment scheme would be significantly less than that associated with any 'off-line' alternative route option.

8.4.3 Whilst the scheme will result in the loss of some agricultural lands and elements of the curtilage of several private residential properties, such as front gardens, parking areas, driveways, or parts thereof, these lands are not subject to any designations / constraints, which would render them unsuitable for the proposed development. In addition, it should be noted that the works will not result in the bisecting of any agricultural lands and that no buildings of any description will be removed to facilitate the road scheme. Therefore, I am satisfied that the CPO lands are suitable in principle for the proposed scheme.

8.5 Compliance with the Provisions of the Development Plan:

8.5.1 At the outset it should be noted that the National Roads Authority's 'National Secondary Roads Needs Study, 2011' states that in excess of 60% of the entire route length of the N67 National Secondary Road is below the minimum standard required in terms of accepted road design. It subsequently elaborates on this assertion by stating that the N67 National Route as a whole is of relatively poor quality in terms of existing carriageway widths and sight distances which serves to severely limit overtaking opportunities that are typically constrained by horizontal and / or vertical alignment. It further states that there are limited forward visibilities over the poorer standard parts of the route with a lack of overtaking opportunities whilst the available data also suggests accidents regularly occur along the route. In specific reference to that section of the roadway south of Tooreen West, the route is described as quite bendy, narrow and hilly with very poor pavement condition in places between Ballindereen and Kinvara. More notably, it is the realignment works already approved for this section of the roadway that will be facilitated by the proposed Compulsory Purchase Order presently under consideration.

8.5.2 In addition to the foregoing, it is of relevance to note that the wider policy provisions of the *'West Regional Authority Regional Planning Guidelines, 2010-2022'* also seek to support the National Roads Authority's programme of works on national routes and its remedying of deficiencies in the roads network through further investment (*N.B.* The NRA was merged with the RPA to form Transport Infrastructure Ireland in August, 2015). More specifically, Objective IO5 of the Regional Planning Guidelines has expressly identified the upgrading and improvement of the N67 National Secondary Route (Kilcolgan to North Clare) as a priority for completion in order to promote balanced regional development. Similarly, it is of note that the Regional Planning Guidelines also place a considerable emphasis on the promotion of the Western Region as a premier destination for cycling and walking and in this respect I would draw the Board's attention in particular to Objective IO29 which seeks to promote *'a strong cycling culture in the West Region by providing a sustainable and useable cycling network in the city, towns and villages across the West Region'* and Objective IO33 which aims to support *'the provision of designated rural cycle networks especially for visitors and recreational cycling and develop a network of walkway/cycleway through the region which includes green routes'*.

8.5.3 Having reviewed the available information, it is apparent that the roads and transportation strategy set out in the Galway County Development Plan, 2015-2021 has been derived from consideration of the foregoing documentation, and in this regard I refer in particular to Objective TI 5: *'Roads and Transportation Network Improvements'* which seeks to facilitate the progression and implementation of improvements to the existing National and Regional / Local Road networks, including the following works which are listed as priority transportation schemes in Table 5.1: *'Priority Transportation Infrastructure Projects for Co. Galway 2015-2021'*:

- National Roads: N67 Kilcolgan-County Boundary Scheme (ongoing)
- Pavement Overlays: N67
- Cycle Routes: Support and develop the National Cycle Route from Oranmore to Clarinbridge, Kilcolgan, Ballindereen, Kinvara and on to the County boundary.

8.5.4 Indeed, it is a strategic aim of the Development Plan to provide a safe and efficient transport network, that has adequate capacity to accommodate both motorised traffic and non-motorised movements, to serve the needs of the

County whilst it is also a stated objective of the Local Authority to work with all other relevant bodies to deliver the necessary improvements to transportation infrastructure, including new infrastructure, if necessary, to help secure the medium and long term economic and social development of Galway Gateway and the west of the County.

8.5.5 Therefore, in light of the foregoing, it is my opinion that the proposed CPO will give effect to the overall policy of the Local Authority as expressed in the County Development Plan to improve the safety, functioning and carrying capacity of national secondary roads within the county and, more specifically, the completion of the previously approved realignment and improvement works to that section of the N67 National Secondary Road between Ballinderreen and Kinvara (Phase 2). Accordingly, I am satisfied that the subject proposal is in compliance with the policies and objectives of the Development Plan.

8.6 Consideration of Alternatives:

8.6.1 The need for improvements to this section of National Secondary Road appears to be well founded and in this respect I would reiterate that those parties represented at the oral hearing were not opposed to the realignment / improvement of the road in principle but were rather concerned with the specific design of same. Therefore, during the course of the oral hearing, the presiding inspector requested the Local Authority to provide details of any alternative route options that had been explored / investigated prior to the approval of the roads scheme in its present format. In this respect it was noted that a previous scheme of 'on-line' road realignment works had been approved by the Local Authority in 2001 and that documentation which had accompanied the grounds of objection of Ms. Catherine Lyons included a drawing that seemingly indicated an earlier design for the proposed realignment works which did not extend as far northwards as her property. It was also queried if any consideration had been given to an alternative 'off-line' route for the roadway.

8.6.2 In response to the foregoing, the Local Authority stated that the most effective design involved an 'on-line' realignment of the existing roadway and that whilst consideration was given to a possible 'off-line' route for the road scheme this was discounted in order to minimise the likely environmental impacts associated with same and thus an 'on-line' design was pursued. In this respect I note that although the Board determined on 13th February, 2014 under ABP Ref. Nos. PL07.HD0030 & PL07.JN0007 respectively that the proposed N67 realignment Ballinderreen to Kinvara Phase 2 Road Project would not require the preparation of an environmental impact statement or a Natura impact statement,

given the presence of a number of protected sites, including the Lough Fingall Complex Special Area of Conservation (Site Code: 000606) and the Galway Bay Complex (Site Code: 000268), in the wider environs of the N67 National Secondary Road, I would concede that depending on the specifics of any 'off-line' route selection there could be an increased possibility of impacting on said sites. In addition to the foregoing, it is noteworthy that the surrounding area has been designated as having a 'High' landscape value rating in the County Development Plan which is also of 'Class 3: Medium' landscape sensitivity and thus the likelihood would seem that any new 'off-line' route would have a significantly greater impact on landscape considerations than the proposed 'on-line' realignment option.

8.6.3 With regard to the wider design of the proposed 'on-line' improvement works, the Local Authority has submitted that when compared to the previous scheme of works approved by the Local Authority in 2001, the current scheme involves minor iterations of geometry in order to minimise the impact on landholdings and to facilitate the 'buildability' of the realignment works. It was also submitted that the principle difference between the subject works and the previous scheme was the inclusion of the proposed cycleway (in accordance with the policies and objectives of both the West Regional Authority Regional Planning Guidelines and the County Development Plan).

8.6.4 In relation to the specific design of the scheme and the impact of same on individual properties, I note that the Local Authority has emphasised that a number of factors had to be considered, including safety considerations, whilst it should also be noted that the overall design of the new roadway will be constrained by the need to take into account both the alignment and positioning of the existing N67 (including those sections of the roadway to the immediate north and south of the proposed scheme) and the proximity of adjacent properties.

8.6.5 Having considered the foregoing, it is my opinion that, on balance, the selection of an on-line route is the most reasonable option in terms of minimising the wider environmental impact of the scheme and in providing an appropriate design response to the identified need to improve this section of roadway. Therefore, the subject lands are considered suitable and necessary for the construction and operation of the scheme.

8.7 Issues Raised by Objectors:

8.7.1 Michael and Anne Organ:

8.7.1.1 During the course of the oral hearing, the Local Authority submitted an amended drawing (Drg. No. 300-ACC-002: '*Accommodation Works for CPO141*') for consideration by the Board which sought to ameliorate the impact of the proposed roads scheme on the objectors' property by reducing the extent of those lands proposed to be acquired by way of the subject Compulsory Purchase Order. Having reviewed this submission, whilst I would acknowledge that it does not address the objectors' principle concerns as regards the removal of their front boundary wall, in my opinion, it serves to demonstrate that the acquisition of the full extent of those lands detailed in the CPO (as initially submitted to the Board for confirmation) is unnecessary and thus I would recommend to the Board that any confirmation of the CPO include a requirement that the boundaries of same be modified to reflect the revised landtake requirements as set out in Drg. No. 300-ACC-002: '*Accommodation Works for CPO141*'.

8.7.2 Catherine Lyons:

8.7.2.1 In relation to the property of Catherine Lyons, concerns were raised as regards the proposal to compulsorily acquire a considerable extent of the front garden area of Ms. Lyons' dwelling house. Accordingly, in an effort to ameliorate this impact the Local Authority submitted amended proposals (as detailed on Drg. No. 300-ACC-005: '*Accommodation Works for CPO 153*') at the oral hearing for consideration by the Board which detailed a lesser landtake arising from a re-design of the proposed footway and cyclepath to the front of the property. This submission also detailed the various accommodation works proposed at the property.

8.7.2.2 Whilst it would be the preference of Ms. Lyons for the proposed roadway to be realigned further west thereby avoiding the need for any acquisition of her property, I am satisfied that any such proposal would give rise to difficulties in aligning the proposed works (Phase 2) with the existing roadway in both directions. Accordingly, in light of the need to provide for improved sightlines from the adjacent junction and to accommodate the proposed footpath / cycleway, it is my opinion that the reduced landtake is warranted to facilitate the roads scheme and thus I would recommend to the Board that any confirmation of the CPO include a modification to reflect the aforementioned revised landtake requirements.

8.7.3 Catherine & Peter Fahy:

8.7.3.1 With regard to the property of Catherine & Peter Fahy, the Local Authority has submitted Drg. No. 300-ACC-003: 'Accommodation Works for CPO 144' for consideration by the Board which details a marginally reduced landtake arising from a revised positioning of the new boundary wall to be erected along that stretch of the objectors' property bounding the realigned route of the N67 National Road. Whilst these revisions are minor, I would recommend to the Board that any confirmation of the CPO include a requirement to reflect the aforementioned revised landtake requirements.

8.7.4 Esther Lyons Forde:

8.7.4.1 The revisions detailed in Drg. No. 300-ACC-006: 'Accommodation Works for CPO 143' (as submitted by Galway County Council at the oral hearing for consideration by the Board) relate solely to the specifics of the accommodation works on the objector's lands and do not seek to amend the extent of those lands proposed to be acquired by the subject CPO. In this respect I am satisfied that the grounds of objection can be adequately addressed by compensation and proper accommodation works and therefore I am recommending that the acquisition of the lands set out in the CPO documentation proceed without modification.

8.7.5 Alex & Trish Venegas:

8.7.5.1 In relation to the proposal to acquire those lands identified as Plot Nos. 134a.101 & 134a.102, it is apparent that this concerns the acquisition of an area of land situated between the existing roadside boundary of the objectors' property and the carriageway (*N.B.* The area in question is presently surfaced in loose hardcore / tarmacadam and is proposed to be replaced with a grass margin pursuant to the approved roads scheme). Considering that the acquisition of these lands will not directly impact on the present physical boundary defining the curtilage of the objectors' property and thus will not give rise to any significant loss of residential amenity, I am amenable to the acquisition of same by way of the proposed CPO without modification.

8.7.6 Una Connell:

8.7.6.1 In respect of the proposed acquisition of part of the property of Ms. Una Connell, there was extensive discussion during the course of the oral hearing between her representatives and the Local Authority as regards the specifics of the road design and it was asserted on behalf of Ms. Connell that the road improvement works could be carried out within that area of 'public space' already available to the Local Authority without the need to acquire any part of her

property subject to the use of permissible relaxations / departures in line with accepted road design. In response, the Local Authority emphasised the need to consider the safety implications associated with the application of certain relaxations and stated that it was not an appropriate design approach to simply apply the lowest possible standard at the outset. However, it did submit revised proposals to the hearing as per Drg. No. 300-ACC-004: *'Accommodation Works for CPO 147'* for consideration by the Board which details a reduced landtake arising from a revised positioning of the CPO boundary.

8.7.6.2 Whilst I would acknowledge the legitimacy of the objector's concerns as regards the acquisition of part of her property, it is my opinion that the reduced landtake is warranted to facilitate the roads scheme in the interests of traffic safety and thus I would recommend to the Board that any confirmation of the CPO include a modification to reflect the aforementioned revised landtake requirements.

8.7.7 Michael J. Lyons:

8.7.7.1 With regard to the proposed acquisition of part of the property owned by Mr. Michael J. Lyons, the original objection to same primarily concerned details of the accommodation works and the proposal to replace an existing parking area alongside the roadway with a new grassed margin. In response to these concerns, the Local Authority submitted revised proposals as detailed in Drg. No. 300-ACC-001: *'Accommodation Works for CPO 136'* to the hearing which provided for the retention (in part) of the existing parking area in combination with the provision of a grassed margin along the new road edge. Whilst further concerns were raised on the objector's behalf as regards vehicular access and egress to this area with the Local Authority subsequently indicating that it was amenable to a request that an additional access point be provided in the centre of the parking area onto the N67 National Road in order to serve same, I would suggest that such issues can be adequately addressed by compensation and proper accommodation works. Therefore, the Board is not advised to amend the plots proposed for acquisition as set out in the submitted CPO.

8.7.8 Declan Lyons:

8.7.8.1 The series of revised drawings submitted by Galway County Council (in reference to Drg. Nos. 300-ACC-008, 300-ACC-009, 300-ACC-010, 300-ACC-011 and 300-ACC-012: *'Accommodation Works for CPO 137, Nos. 1-5'*) relate solely to the specifics of the accommodation works on the objector's lands and do not seek to amend the extent of those lands proposed to be acquired by

subject CPO. Accordingly, I am recommending the acquisition of these lands as set out in the CPO documentation without modification.

9.0 CONCLUSION AND RECOMMENDATION:

9.1 I am satisfied that the process and procedures undertaken by the Local Authority have been fair and reasonable and that Galway County Council have demonstrated the need for the lands and that all the lands being acquired are both necessary and suitable. I consider that the proposed acquisition of these lands and extinguishment of the identified rights of way would be in the public interest and the common good and would be consistent with the policies and objectives of the County Development Plan. I recommend that the Board confirm the submitted compulsory purchase order with modifications for the reasons and considerations set out below.

REASONS AND CONSIDERATIONS

Having considered the objections made to the compulsory purchase order, and not withdrawn, the report of the person who conducted the oral hearing into the objections, the purposes of the compulsory acquisition for the improvement of the N17 and to:

- i. the provisions of the current Galway County Development Plan and the policies stated therein, and the functions of the Road Authority,
- ii. the present substandard nature of the existing road in relation to alignment and width and the resultant improvement arising from the proposed road improvement and in the interest of traffic safety, and
- iii. the community need, public interest served and overall benefits to be achieved from use of the acquired lands for the purpose identified in the order,

it is considered that, subject to the modifications set out below, the acquisition of the lands in question by the local authority and the extinguishment of public rights of way, as set out in the order and on the deposited maps, are reasonable and necessary and that the objections cannot be sustained having regard to that necessity and having regard to the purposes of the order.

MODIFICATIONS

1. Plot Numbers 141a.101, 141a.102, 141a.103, 144a.102, 147a.101, 147a.102, 147a.103, 147a.104, 147a.105, 147a.106, 153a.101 and 153a.103 as referred to in the Schedule and indicated on the maps referred to in the order shall be modified and divided (as necessary) as indicated in the revised maps (Drawing Numbers 300-ACC-002, 300-ACC-003, 300-ACC-004 and 300-ACC-005) submitted by Galway County Council to the oral hearing on 10th November, 2015.

Reason: It is considered that the acquisition by the local authority of the entirety of those lands encompassed by Plot Numbers 141a.101, 141a.102, 141a.103, 144a.102, 147a.101, 147a.102, 147a.103, 147a.104, 147a.105, 147a.106, 153a.101 and 153a.103 is not necessary for the purposes stated in the compulsory purchase order, and that the reduced landtake proposed is a reasonable compromise that will minimise the impact on this property.

Signed: _____
Robert Speer
Inspectorate

Date: _____