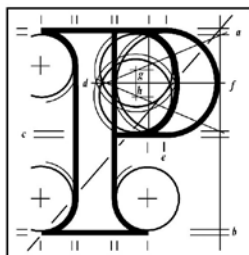


An Bord Pleanála



Inspector's Report

Ref.: PL07. CH3267

Order: Compulsory acquisition of land

Galway County Council (N63 Abbeyknockmoy to Annagh Hill Scheme) Compulsory Purchase Order No. 1, 2015 (Roads, Transportation).

Local Authority: Galway County Council

Objectors: Linda Burke
Padraic Burke
Edward & Anne Fahy
Gerard Kinane
Jamie Moran
Michelle Moran
Patrick Mulry
Margaret Murphy
Michael & Julia Nally
John & Noreen O'Brien

Inspector: Angela Brereton

Date of Site Inspection: 8th of June, 2016

Date of Oral Hearing: 14th and 15th of June, 2016

Enclosures : Appendix 1 - Inspector's photographs
Appendix 2 - Order of Proceedings, Persons making submissions, Attendance Sheets
and Documents presented to the Hearing
Appendix 3 - Digital recording of Hearing

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1.0 INTRODUCTION

This is an application by Galway County Council for confirmation by the Board of a Compulsory Purchase Order entitled '*Galway County Council (N63 Abbeyknockmoy to Annagh Hill Road Scheme) Compulsory Purchase Order No. 1, 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 the Maps submitted 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 3.22km of the existing N63 National Secondary Road between Abbeyknockmoy and Annagh Hill within the townlands of Pollsillagh, Caherphuca, Ballynakilla, Cuillagh South, Cuillagh North, Pollawarla and Ballyglooneen in Co. Galway.

2.0 REGARD TO THE PART 8 SCHEME

A Part 8 Chief Executive's Report (dated 21st of September 2015) was prepared on this proposal prior to presentation to the Councillors on the 28th of September 2015, where the Council declared the resolution to proceed with the works. It was recommended that the Part 8 as published, be accepted with two conditions as below:

- 1. The road scheme shall be carried out in accordance with the documents lodged with the planning authority on the 27th of November 2014 and the 5th May 2015 unless otherwise amended to comply with the conditions hereunder.*
- 2. The measures outlined in the screening for Appropriate Assessment and associated ecological report shall be fully implemented.*

The Part 8 Report prepared provides a description of the overall scheme. This notes that the N63 is a national secondary road linking Moylough to Galway City via the N17 national road. The proposed development, the N63 Abbeyknockmoy to Annagh Hill Road Scheme extends eastwards from the townland of Annagh Hill to just west of Abbeyknockmoy village, comprising of upgrade and improvement works to approximately 3.2km of the existing road alignment.

It is of note that the N63 Abbeyknockmoy to Annagh Hill scheme entails two discreet sections of the N63 of approx.3.2km with both sections to be upgraded on the existing alignment. The scheme will link the junction between the proposed N17/N18 Gort to Tuam Motorway and the N63 at Annagh Hill with the section of the N63 which was recently upgraded west of Abbeyknockmoy. It will also link the recently upgraded section with the village of Abbeyknockmoy to the west. It is proposed to provide a footway/cycleway along the proposed realignment.

It is provided that the proposed scheme will consist of the following:

- Widening and realignment of the existing N63 road to a Type 2 Single Carriageway – Including 7.0m carriageway, 2 x 0.5m hard strips and 2 x 2.5m verges;
- Completion of combined footway/cycleway from M17 Annagh Hill junction to Abbeyknockmoy village;
- 6 At Grade junctions;
- Replacement of the Railway Bridge and local railway line regarding works on the disused Athenry to Claremorris line;
- Drainage Works including the provision of culverts and incorporating SuDS;
- Utility Diversions;
- Earthworks;
- Roadworks, Road Pavement, Traffic Signage and Road Markings;
- Access and Accommodation works;
- Ancillary Road Works;
- Traffic Management

It is also provided that this order will authorise the local authority to extinguish the public right of way described in Schedule 3 Part 1 and Part 2.

3.0 REGARD TO THE CPO

The proposed road realignment has been subject to the process set out in Part XI of the Planning and Development Act, 2000, as amended, and Part 8 of the Planning and Development Regulations, 2001, as amended. On the 8th of March 2016 Galway County Council gave notice that they proposed the following works on the above lands: *To acquire compulsorily the land described in the First Schedule hereto for the purposes of constructing approx.3.22km of National Secondary Road and associated works including the provision of structures, road pavement and road markings, access and accommodation works, at grade junctions, utility diversions and other ancillary road works.*

A copy of the Public Notice relative to the CPO and a list of the lands to be compulsorily acquired which includes the landowners and plot nos. for landtake (with corresponding no. shown on the deposit maps) has been submitted. The CPO maps show the area proposed for CPO to facilitate the Part 8 Scheme within the red line boundary along the route. Also, the full extent of the plots required for the works associated with the Part 8 scheme are shown on these maps and included in the documentation submitted. In this respect regard is had to drawings nos. AA-DEP-001 - 004 which show each of the road sections proposed for upgrade and the area of landtake relative to individual the plot nos. They also show the location of the public right of way to be extinguished under Schedule 3, Part 1 & Part 2.

4.0 DESCRIPTION OF LANDS

The N63 is a National Secondary Road linking Roscommon and Longford towns to Galway City via the N17 National Primary Route. The proposed development, the N63 Abbeyknockmoy to Annagh Hill Road Scheme, extends in a north easterly direction from the townland of Annagh Hill to Abbeyknockmoy village, comprising of upgrade and improvement works to approximately 3.2km of the existing road alignment. The scheme is divided into two separate sections, on either side of the middle section which has been completed and was the subject of a separate CPO.

The overall route is relatively flat and surrounding lands are generally low lying and in a mixture of agricultural use interspersed with residential properties. Boundaries along the route comprise a mixture of stone walling, hedgerows and fencing and both sections of the existing N63 which are proposed to be the subject of upgrading works are characterised by significant numbers of dwellings. The existing road comprises a single carriageway road with an overall carriageway width of approximately 6 metres along both sections and with no verge. The section between the two locations proposed for upgrading as part of the current development has been upgraded to a carriageway of c. 7 metres in total width and with a narrow verge area on each side. A footpath / cycle path has also been provided along the completed section of the route. From the description of the development proposal contained in the submitted documentation it would appear that the works proposed would be essentially the same as the completed section of the N63 that separates the two sections of the currently proposed scheme.

The first section west of Abbeyknockmoy runs for a length of just under 1.1km and is characterised by a significant number of dwellings, structures and entrances. The alignment bends slightly to the north approximately three quarters of the way along the first section of the route and there is an existing narrow local access road junction on the southern side of the road just beyond the bend. The road then extends straight for a further c.330 metres to the western end of the first section which is characterised by an existing crossroads. Frontages to the existing N63 along this section are generally hedgerow or boundary walls and there is limited extent of trees or evidence of extensive vegetation away from the road or along field boundaries in this area.

The second part of the site comprises that section between the western end of the existing upgraded part of the N63 and Annagh Hill. This section of the route is longer with a total length of c. 2.1 km. The eastern end of this section comprises a straight section followed by a bend to the south of c. 650 metres as far as an existing railway bridge. Development in this area is predominately to the southern side of the road and the northern side is characterised by hedgerow boundaries leading to open fields. The wet grassland area of the Lough Corrib SAC is located to the north of the road in this section to the east of the railway bridge.

The bridge is on the Athenry to Claremorris line which is not now operational and the bridge itself comprises a stone structure with a horizontal width of c. 7 metres and a vertical clearance for traffic of c. 4.14 metres. The embankment

either side of the bridge is heavily vegetated and is characterised by scrub and mature trees. As part of the works it is proposed that the height of the road as well as the clearance of the bridge would be increased necessitating the regarding of the embankments either side of the bridge. Beyond, to the west of, the railway bridge the route runs along a section where there is no frontage development and where the roadside boundaries are characterised by trees and hedgerows. Beyond this there is currently a T junction with an additional arm serving a local access to the north west of the junction, which comprises a 5 arm junction. There are a number of buildings in the vicinity of the junction. Further to the west, the next section leading from the T junction to a local junction running south at chainage 0+280 comprises another relatively straight section with little or no frontage development and mature tree and hedgerow boundaries, with particularly trees being located on the southern side of the road. Further to the west, the final section has two houses to the south of the road well set back from the carriageway and the route terminates at an access to an agricultural complex.

5.0 PLANNING HISTORY

5.1 Planning Authority

On the 7th of March, 2016 Galway County Council approved a scheme of re-alignment works for the said N63 Abbeyknockmoy to Annagh Hill Road Scheme (CPO Order No.1 of 2015) 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.

5.2 An Bord Pleanála

ABP Ref. No. PL07.HD0034 was determined on the 23rd day of April 2015 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 upgrade of the existing N63 route to the west of Abbeyknockmoy, County Galway.

ABP Ref. No. PL07. JN0010 was determined on the 23rd of April 2015 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 upgrade of the existing N63 route to the west of Abbeyknockmoy, County Galway.

6.0 OBJECTIONS TO COMPULSORY PURCHASE ORDER

A total of 10 no. submissions have been received from interested parties and the grounds of objection contained therein can be summarised as follows:

John & Noreen O'Brien (Plot nos. 002 and 028)– c/o Gaynor Miller

- They object to the planned cycle lane/footpath being proposed outside their front boundary wall and entrance to their dwelling house.
- They are concerned as to how this will affect the ground level along the front of their wall which they consider is already unsafe and unacceptable and request confirmation of levels.

- They object to the removal of stone walls along the N63 and the planned erection of a timber post and rail fence in its place.
- They are concerned that inadequate drainage arrangements have been provided along the proposed new road scheme.
- They request that any services interfered with during the works are maintained at all times and on completion of the scheme are to be reinstated fully and properly.
- They request that access to their property be maintained during the works with no unauthorised parking of works associated vehicles.
- The proposed road widening will interfere with the movement of their stock (lands on both sides of the existing N63 in two locations) and will now require additional livestock transport and handling facilities.
- They reserve the right to raise other matters when more detailed design information is made available.

Michael & Julia Nally (Plot no.009) – c/o Gaynor Miller

- They request that the council sub-divide plot 009B.002 into public road and part of house curtilage as their set back (parking area to the front of the house) is not part of the public road.
- They are concerned and request confirmation regarding levels relative to the frontage along their property from the proposed aligned N63.
- If any damages to the boundary arise as a result of the scheme works the entire boundary needs to be replaced with a block wall.
- They query the reason for acquiring Plot 009F.003 on a temporary basis and they want a commitment that this area will be reinstated.
- They query the reason for acquiring plot 009F.001 on a permanent basis and consider that it will reduce the size of retained lands thus removing the potential to construct another family dwelling.
- The council's plan will result in the removal of the mature hedge and reduce the size of the retained site below the minimum 0.2ha required for a second house.
- They object to removal of lands along the side of their garden and note there is an existing stone wall along the side boundary and they request confirmation that this will be reinstated fully.
- Inadequate drainage details have been provided along the proposed new road scheme.
- Any services interfered with during the works are to be maintained at all times and on completion of the scheme reinstated fully.
- They request that access to their property be maintained during the works with no unauthorised parking of works associated vehicles.
- They reserve the right to raise other matters when more detailed design information is made available.

Gerard Kinane (Plot no.030)– c/o Gaynor Miller

- Concern about the increase in levels along the front of his house and field and the negative impacts that may occur to their property.

- They consider that it is not possible to carry out the road works to TII (NRA) road design standards without negatively affecting his wall and entrance.
- Concerns regarding access and more detailed drawings are required.
- The planned replacement of a stone wall with a fence along the front of his field with the N63 is not suitable for his equine stock.
- Stone walls are an integral part of the landscape and character of the area.
- Inadequate drainage details have been provided along the proposed new road scheme.
- Any services interfered with during the works are to be maintained at all times and on completion of the scheme reinstated fully.
- They request that access to their property be maintained during the works with no unauthorised parking of works associated vehicles.
- They reserve the right to raise other matters when more detailed design information is made available.

Margaret Murphy (Plot 049) - c/o Gaynor Miller

- She requests a drawing showing the levels relative to her property and is concerned about increase in level on the N63, access and negative impact that may occur to her field.
- She requests a larger scale drawing and more detail of works planned in front of her house and driveway including confirmation of details to boundary treatment.
- Concern regarding impact of the works on the structure of her house and front garden, in particular as the existing house is lower than the N63.
- Objection to the replacement of the stone wall along the field boundary with a fence.
- Inadequate drainage details have been provided along the proposed new road scheme.
- Any services interfered with during the works are to be maintained at all times and on completion of the scheme reinstated fully.
- She requests that access to her property be maintained during the works with no unauthorised parking of works associated vehicles.
- She reserves the right to raise other matters when more detailed design information is made available.

Mireille Moran (Plot no.057) – c/o Gaynor Miller

- There is an excessive and unnecessary acquisition of land attached to this land holding which will result in the loss of any potential to develop it in the future.
- Undue consideration has been given to the people living in the locality that will be affected.
- Objection to the removal of stone walls along the N63 and in particular in front of her site and the erection of a timber post and rail fence in its place.

- Insufficient information provided to her in relation to the proposed levels of the realigned N63 as it runs in front of her property.
- Inadequate drainage details have been provided along the proposed new road scheme.
- Any services interfered with during the works are to be maintained at all times and on completion of the scheme reinstated fully.
- Access to her property should be maintained during the works with no unauthorised parking of works associated vehicles.
- There is a wall between her property and that of her brother's next door, which requires to be rebuilt as part of the scheme works.
- She reserves the right to raise other matters when more detailed design information is made available.

Linda Burke (Plot 062) – c/o Gaynor Miller

- She objects to the inclusion of her set back area in front of her boundary wall and entrances in the CPO Schedule as part of the public road and provides details as to amendments.
- A higher wall should be constructed in front of her property to provide greater privacy and noise protection. Also that the new wall and entrance be constructed in a similar angle/line to that which currently exists.
- Lelandi hedges along the frontage will need to be replaced.
- Insufficient information provided to her in relation to the proposed levels of the realigned N63 as it runs in front of her property.
- Inadequate drainage details have been provided along the proposed new road scheme.
- Any services interfered with during the works are to be maintained at all times and on completion of the scheme reinstated fully.
- Access to her property should be maintained during the works with no unauthorised parking of works associated vehicles.
- She reserves the right to raise other matters when more detailed design information is made available.

Padraic Burke (Plot 063) - c/o Gaynor Miller

- Confirmation of road levels in front of his property.
- Inadequate drainage details have been provided along the proposed new road scheme.
- Concerns regarding the impact of the drainage scheme relative to his property. He wants the drainage along the new road to be collected by the proposed drainage works on this scheme and taken to the new attenuation pond.
- Any services interfered with during the works are to be maintained at all times and on completion of the scheme reinstated fully.
- Access to his property should be maintained during the works with no unauthorised parking of works associated vehicles.
- He is looking for a stone wall along the entire front of his property.

- He reserves the right to raise other matters when more detailed design information is made available.

Edward & Anne Fahy (Plot no.53) - c/o Stephen Dowds Associates

- Inadequate detail of scheme provided on the drawings submitted and there is concern that this masks the impacts on their home and farm.
- Conflict with the County Development Plan and a number of relevant policies are quoted.
- The housing along both sides of the road constrains the scheme for road widening.
- They are seeking a redesign of this road so it achieves greater setbacks from the houses and is not further raised above them.
- No consideration of alternatives. The proposed alignment is ill considered and a new road realignment would have been advantageous for the amenity and safety of existing houses.
- Concerns that this will exacerbate existing problems with drainage and flooding at their home and farmyard which is at a lower level than the existing road. They include photographs.
- Inadequate details of drainage shown on the plans, any error in design in the implementation could be catastrophic for their farmyard and home. They have commissioned a report from a hydrologist and a copy of this is attached in Appendix C.
- They submit that it is imperative that accurate details be made available and that the drainage issue be sorted out prior to the confirmation of the CPO.
- They include comments from Traffic Transport and Road Safety Associates in Appendix C relative to road design and to the non-consideration of alternatives which they consider is a mistake and should be reconsidered by the Board.
- They note that this Report is unable to say if the proposed road works will improve safety and reduce collisions.
- They are concerned about the impact of additional noise levels.
- They cannot determine the impact of the proposed scheme on their house and garden due to the small scale of the plans submitted. It is a matter of concern that location-specific, section drawings are not provided.
- The impact of the proposal on the amenities of local residents has not been given due consideration.
- A detailed noise assessment has not been seen.
- The impact on their farm and farmyard including relative to flooding has not been determined.
- They are concerned about the impact of the scheme on the entrance to their hayshed and to the small paddock behind it.
- They seek assurances regarding the impact of the final road design on the existing farmyard, farm sheds and access arrangements.
- While they contend that the proposal should be rejected they advise that should the Board reject this argument they should require the submission of detailed plans/documentation to provide them with an opportunity to comment and provide a list of such.

- They ask the Board to reject the CPO and contend that it constitutes a material contravention of the County Development Plan as there is no specific objection for the carrying out of this project.
- They include Appendices A to C, the later providing further details relative to roads and hydrology and corresponding to their submission.

Jamie Moran (Plot nos.54 and 56) – c/o T.A O'Donaghue & Son

- The proximity of the public road to the front of his house will have a negative impact on noise.
- Removal of existing hedgerows and screening will reduce privacy and worsen noise problems.
- The further acquisition of lands to the south west of the Moran House will further reduce privacy for the occupants.
- The combined effect greatly reduces the security of the dwellinghouse.
- The existing parking space at the entrance will be lost.
- The type of replacement front boundary wall has not been specified.
- Details of the finished road levels and verge levels have not been provided. This is extremely relevant to surface water disposal.
- There is concern about the proposed location of the attenuation tank across the road from his property.
- The continued use of his farm yard after the proposed land acquisition at this location (they refer to colour coded map) will result in a substantial loss of land area which is not viable.
- In view of reduced land area it will not be possible for the owner to drive his tractor and trailer around the farm yard.
- The proposal will result in the loss of the existing splayed entrance to the farmyard. The location of the proposed new entrance is not appropriate.
- The type of the replacement boundary in front of the farmyard has not been specified.
- Security of the shed will be compromised after the proposed realignment of the road.
- The proposed realignment will have a serious detrimental effect on the future liability and construction of the farmhouse.
- The occupants who are the client's elderly parents will suffer a serious loss of amenity, privacy, and private amenity space.
- The new public area will only be 4m from the front wall of the dwelling house.
- The proposed development calls into question whether the dwelling house can continue to be used and the location of the existing septic tank will have to be discontinued.
- They consider that the occupants should be re-housed in a new house on the southern side of the existing dwellinghouse and a new treatment system provided.
- The continuous use of his farmyard, farm sheds will no longer be viable and will need to be provided with a new farmyard area.
- They have concerns about volume of surface water disposal, drainage and the location of the attenuation tank.

Patrick Mulry (Plot no.55) – c/o Joyce, Mackie & Loughheed

- His objection includes that the proposed acquisition if confirmed will severely impact upon his holding.
- Concerned about lack of information or dialogue with Galway County Council as to how the project will affect his property.
- It appears that no proper access to the property will be provided.
- No provision for water for stock on the severed lands.
- Possible contamination of the lands by the proposed ponds.
- The road widening will allow for increased speeds up to 100km/h which will have associated noise and dust implications, closer to his residence.
- No indication as to what will happen with surface waters and how drainage will impact on his home.
- No indication of how access will be provided to severed lands to the west of the home residence.
- There maybe Health and Safety risks relative to stock with the provision of a pond in the lands.

A subsequent letter was received on behalf of the Objector Patrick Mulry on the 26th of May 2016 requesting an adjournment of the Oral Hearing until Galway County Council had submitted the particulars of the scheme including surface water catchment facilities and disposal and other pertinent matters.

7.0 COUNCIL'S RESPONSE

The Council's response is dated 12th of June 2016 and was sent to the Objectors prior to the Oral Hearing held on the 14th and 15th of June 2016. HalcrowBarry has submitted a response on behalf of Galway County Council to each of the 10no. Objectors. While site specific this includes in general, regard to road levels, alignment, landtake, access to lands, drainage issues and boundary treatment, where it is provided. The response was read into the record by Mr Delaney at the O.H.

On request they also submitted maps to the Board showing the overall scheme and the location of the relevant plot nos. of the objectors on two separate sheets i.e. no.1 (refers to the western section of the scheme) and no.2 (refers to the eastern section adjacent to Abbeyknockmoy). This is as follows and includes the relevant Plot nos. as noted in the Table below:

Objector Name	Plot no.	Sheet no.
Linda Burke	Plot no.62	Sheet no.2
Padraic Burke	Plot no.63	Sheet no.2
Edward and Anne Fahy	Plot no.53	Sheet no.2
Gerry Kinane	Plot no.30	Sheet no.1
Jamie Moran	Plot nos.54 and 56	Sheet no.2
Mireille Moran	Plot no.57	Sheet no.2
Patrick Mulvy	Plot no.55	Sheet no.2
Margaret Murphy	Plot no.49	Sheet no.2
Michael and Julia Nally	Plot no.9	Sheet no.1
John and Noreen O'Brien	Plot nos.2 and 28	Sheet no.1

Council's written response to general issues raised:

Road alignment and proposed levels

- It is noted that the road improvement is an on-line scheme.
- Details are given of road alignment, proximity and levels relevant to the Objector's properties.
- It is not proposed to change the alignment significantly, any significant change will be communicated with the land owner.

Access

- The contractor will be required to accommodate landowners in terms of maintaining access to their property throughout construction of the scheme. No unauthorised parking will be permitted.
- The landowner will be accommodated in terms of provision of water for his stock as required.
- Details regarding access will be agreed at accommodation works phase.

Boundary Treatment

- Details of boundary wall replacement will be dealt with via accommodation works agreements.
- Regard is had to replacement walls and provision of boundary fencing. The latter shall be at non-residential locations.
- All lands acquired from the landowner as part of the CPO will be fenced off where necessary to provide a level of safety to the landowner, other land users and stock.
- The Preliminary Design Report section 13.3 states that:
Roadside fencing throughout the scheme shall be timber post and rail fencing with chain link. Where the existing house frontages are affected, however, fences and walls will be restored as existing or equivalent.

Drainage issues

- Drainage for the proposed development is to be designed and constructed in accordance with TII/NRA DMRB Standards.
- Chapter 8 (Drainage) of the Design Report sets out the standards, criteria and methodology to be used in the drainage design.
- Preliminary Drainage Design drawings have been prepared and are included in the drainage design.
- The drainage design is to be such that surface water run-off from the public road will be attenuated within the confines of the lands being acquired under this CPO.
- There will be no surface run-off from the public road into the landowner's property and consequently no negative impact on the drainage of retained land.
- Proprietary drainage systems will be installed at new driveways to ensure no surface water runoff.

- If any existing drains or land drains are permanently severed by the Works they shall be culverted beneath the road or connected into a new drain, pipe or ditch.
- The contractor will be required to maintain services throughout construction as far as possible and to consult with landowners regarding any temporary shutting off of services for connection/diversion purposes.

Flooding

- Issues concerning the removal of surface water in the locality are recognised and have been included in the design brief for improvement under the scheme.
- HalcrowBarry has carried out an extensive catchment analysis of the region and are currently progressing the detailed design of the proposed drainage system.
- The installation of the proposed drainage system will improve the levels of contaminants entering the soil and groundwater of the vicinity greatly.

Attenuation

- Details are given in relation to the revised location and purpose of the proposed attenuation pond. It will be fenced off to restrict access. In response to the Fahy Objection the Council provides that it is noted that the attenuation pond was originally proposed to be placed adjacent to the road as part of the Part 8 Planning Application. However, following landowner consultation on its location, it has moved approx. 150m northwest in order to locate it further away from the nearby dwellings and farm buildings. (Further details in the Moran response no.5) The pond is to be located at a distance of approx. 165m from Mr. Moran's property.
- The attenuation pond, along with the proposed pipe network and ditches will form part of a sealed drainage system.
- Regard is had to procedures for the removal of pollutants and the SuDs approach to drainage will be used.
- A separate system will be installed for the overland drainage to accommodate water flowing downhill from surrounding lands.
- The Attenuation pond will be designed to accommodate a sustainable run-off rate a 100 year return period. In the case that this is exceeded an overflow channel will be installed to direct overflow towards the existing channel watercourse.
- The installation of the attenuation pond is to restrict flow to the drain which is a tributary of the Abbert River.

Road Design issues

- The permanent landtake line is consistent throughout the scheme for all agricultural lands. Some temporary acquisitions for the duration of the works are also proposed. These will be reinstated post construction.
- Landlord liaison will continue throughout detailed designed phases and accommodation works negotiations phase.

- A drawing to an appropriate scale detailing proposed accommodation works will be provided to the landowner.
- Full pre-condition and post-construction surveys will be offered as part of the scheme.
- Safety signage will be brought into line with current road design standards which is intended to bring average speed down.
- A detailed noise model was developed as part of this study by AWN Consulting. Regard is also had to the Air Quality and Climate of the Design Report.
- Further details will be provided as part of the accommodation works stage.
- Works outside of the CPO lands are not normally undertaken.
- A cycleway/footway connecting the dwellings to Abbeyknockmoy village will be provided as part of the scheme.

Contrary to the County Development Plan

- They do not agree that the proposal is contrary to the Galway CDP 2015-2021 and provide it complies with planning policy and objectives.

8.0 PLANNING POLICY CONTEXT

National and Regional Policies

The Regional Planning Guidelines for the West Region designated the N63 as an important inter regional route, thus supporting this proposal.

County Policy

Galway County Development Plan 2015-2021

Objectives/Policies

Table 5.1 Priority Transportation Infrastructure 2015-2021 lists the priority projects that have been identified in the development plan period.

The N63 is included in these priorities.

Objective TI 5 – Roads and Transportation Networks improvements seeks to facilitate the progression of and the implementation of improvements to the existing national and Regional/local roads.

Objective TI 16 – Maintain the Western Rail Corridor as an option for the passenger train and cargo transportation and support the opening of the remainder of the Western rail corridor route from Athenry to Collooney.

Policy TI 9 - 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.

9.0 THE ORAL HEARING

An Oral Hearing in respect on the file PL07.CH3267, was held at Ard Rí House Hotel, Tuam, Co. Galway on the 14th and 15th of June 2016. An appendix to this report is attached which contains a signed sheet of attendees and a list of the documents presented to the hearing. The proceedings were digitally recorded and a copy is also attached in an Appendix to the file. Representatives on behalf of the Council and also for the 10no. Objectors were present at the Hearing. It is of note that in relation to the submissions made Gaynor Miller represented 7no. Objectors and the other Objectors were represented by their agents and other experts.

9.1 The Objectors were represented as follows:

- John & Noreen O'Brien – Gaynor Miller
- Michael & Julia Nally – Gaynor Miller
- Gerard & Aileen Kinane – Gaynor Miller
- Margaret Murphy – Gaynor Miller
- Michelle Moran – Gaynor Miller
- Linda Burke – Gaynor Miller
- Pdraic Burke – Gaynor Miller

Note: Jim Gaynor represented the above Objectors

- Edward & Anne Fahy – (agent) Stephen Dowds Associates – (represented by) Kate Kennedy. Also present on their behalf was Dr. Savithri Senaratne (Hydrologist) and Matt Steele (Roads Engineer).
- Jamie Moran – (agent) T.A.O'Donoghue & Son – (represented by) Oliver Higgins Chartered Civil Engineer
- Patrick Mulry – (agent) Joyce, Mackie & Loughheed – (represented by) Owen Kennedy

9.2 The Council

- Esmond Keane – Senior Council for Galway County Council
- Angela Casey – Law Agent for the Council
- Darragh Delaney – Senior Engineer at Halcrow Barry
- Valerie Loughnane – Moran – Acting Senior Planner, Galway County Council.
- Paul Murphy - Environmental Consultant EirEco

9.3 Proceedings

Proceedings got under way with my opening statement. Participants were informed that the purpose of the oral hearing is an information gathering exercise to assist me in considering the merits of the case and in drafting my report and recommendation to the Board in relation to the CPO order. They were also advised that the planning merits of the Part 8 Scheme have already been determined by the local authority. The purpose of the Hearing is to deal with the merits of the CPO process i.e the merits of the acquisition of the subject lands. Participants were reminded that there will be no decision on the matters raised made at the hearing and that the Board has no role or jurisdiction in the determination of compensation.

With respect to the format of the hearing, the Local Authority was asked to state their case first. The Representatives for the objectors were then asked to make their submissions and ask any questions to the local authority and this was followed by a question and answer session and responses from the local authority to the questions. I asked questions for clarification and information gathering purposes during and after the submissions. The hearing concluded with closing statements from the Representatives for the Objectors, the Local Authority and myself.

As the Oral Hearing has been recorded in full, and all the documentation is included for consideration by the Board, I am not proposing to do a separate summary of the hearing, rather the digital recording is included for the Board and consideration of the pertinent issues raised, is had under separate headings in the Assessment below.

10.0 ASSESSMENT

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.

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.

10.1 Community Need for the scheme

It is provided in the Part 8 that the existing road is substandard in terms of horizontal alignment and vertical alignment. The existing road cross section of the N63 comprises a single carriageway of varying width, generally 6.0m wide. The route does not have a hard shoulder or hard strip incorporated into the cross section. In addition a number of the existing junctions and accesses are substandard with inadequate sight distances and poor visibility for oncoming traffic.

The need for the Scheme was also highlighted at the O.H by Mr Keane, Senior Council (on behalf of Galway County Council) and the Statement of Evidence of Mr Delaney, Senior Engineer, HalcrowBarry. There is a copy of the later presented at the O.H on file. The Council provides that deficiencies in the road have led to accidents on the existing N63 and provided details of this at the O.H. It is provided that the Benefits of the proposed scheme include the following:

- A safer transportation route for motorists and pedestrians, as well as a reduction in the number of accidents along the N63;
- The provision of a road designed to national road standards will help alleviate platooning and driver frustration while also resulting in a better quality of travel experience;
- The removal of height restrictions at the railway bridge to allow the movement of HGVs along this route;
- The improvement layout of junctions and direct accesses and the associated improved visibility/sightlines as a result of the new road will greatly improve safety;
- The provision of a cycleway/footway will improve the environment and safety for non-motorised users;
- The improved vertical geometry and drainage of the road will alleviate the localised ponding/flooding issues;
- Improvement for the local community living along the route.

Currently there is a height restriction of 4.14m on the existing railway bridge. The N17/N18 Gort to Tuam PPP Scheme is expected to open in 2018. This will bring a number of HGVs onto the N63. This restriction must be removed in order for the motorway to operate to its full potential. The Roads Section of Galway County Council has had discussions with the NRA with regard to the railway bridge element of the scheme. On foot of these discussions an undertaking has been given that the funding of the design and replacement of the bridge will be fully covered by the NRA.

Questions were asked by the Inspector at the O.H concerning the replacement of the railway bridge relative to retention of the railway line having regard Objective 2.4.12 of the Galway CDP. Mr Keane responded that the headroom of the existing bridge height at 4.14m is below standard and needed to be increased to allow for HGV's. In the event of Iarnród Éireann deciding to reopen the line the bridge will be reconstructed and the railway line would be reinstated. This would require ramping up on either side to allow for headroom for HGVs. A letter from the NRA has been received on the 26th of May 2015 with regard to their commitment to reinstate this Railway bridge. Mr Keane said that the funds would be made available by the TII as confirmed in this letter and it was noted that the reinstatement of this bridge is consistent with government objectives and ensures that there is no prejudice caused by

this development to the reinstatement of the western rail corridor and redevelopment of same.

In his closing statement Mr Keane provided that the acquisition of the CPO lands is necessary for the construction of the road scheme which includes the associated drainage works. There are two significant issues affecting the road in question, one is the substandard nature of the existing road, the second is the issue of flooding particularly at the north eastern end of the scheme. Both are matters which need to be addressed and this is what the Council has set out to do in accordance with its statutory powers under the relevant legislation and powers of compulsory purchase. The Council provides that it is in the interests of the common good, there is a need for some urgency for this given the deficiencies in the existing road, the issues with drainage and the need to for linkages with the intending completion of the N17/N18 link road scheme. Upgrade works are also in the interests of safety including the need to improve the five arm junction to the west of the railway bridge and to raise this bridge to allow for HGV traffic.

In view of the documentation submitted and the Council's case presented at the O.H it is considered that the need for the scheme has been established.

10.2 The Suitability of the Lands for the Development Proposed

The predominant land use is agricultural with dispersed residential development which is significant and constitutes ribbon development in places especially in the eastern portion of the scheme proximate to Abbeyknockmoy. Regard is had to the maps submitted in particular Sheet nos. 1 and 2 which show that there are a significant amount of landholdings spread out along the route of the scheme. These plots which are part of the CPO landtake are primarily in residential or agricultural usage. The location of the Objector's plots are shown on the Sheet nos.1 and 2 submitted to the Board on the 24th of May 2016.

The proposed route is located in a Class 1 designated landscape with a Landscape Sensitivity Rating of 'Low sensitivity' as set out in the 2015-2021 Galway CDP. There are no particular designations associated with the CPO lands. It is not located on Natura 2000 site although the proximity to Lough Corrib SAC has been noted. With regard to the suitability of the lands in question, it should be noted that the Board's determination of ABP Ref. Nos. PL07.HD0034 & PL07.JN0010 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 view of this it is also considered that the issues of impact on Archaeological and Architectural Heritage have been previously discussed and regard is had to the HalcrowBarry – Mr Delaney's (Section 5.9) submission to the O.H in this respect.

The lands are low lying and as noted in the submissions made and discussed at length in the flooding section at the O.H (Section 10.5.1 of this Report) there is a significant issue with surface water flooding in the vicinity of the existing road. It has been concluded that the mitigation measures to be implemented in the proposed scheme would serve to alleviate flooding problems in the area. The issue of the need for the relocation of the attenuation pond within the CPO lands has been discussed at the O.H (Section 10.5.2 of the Report below refers) and regard is had to Paul Murphy's (Environment Consultant on behalf of the Council) Statement of Evidence and conclusion. Therefore on the basis of the documentation submitted it is not considered necessary to explore issues further relative to the suitability of land take for the relocation of the attenuation pond in the subject CPO.

The concern about the amount of landtake relative to some individual Objectors and the impact on their residential amenities and agricultural activities has been noted in the documentation submitted, on the site visit and during the course of the O.H. It is noted that the scheme will result in the loss of some agricultural lands and elements of the curtilage of several private properties, such as frontage area of farm yards, front gardens, parking areas, driveways, or parts thereof, boundary walls and planting including some roadside trees. However, while this online route will impact on the individual landholdings and in particular the loss of front boundary treatment and on the current more rural character of these undulating narrow stretches of the N63 road, it must be noted that these lands are not subject to any designations/constraints, which would render them unsuitable for the proposed development. Having regard to the information submitted including as discussed in the landtake and boundary treatment sections of the O.H it is considered that these lands that are the subject of this CPO are suitable to facilitate the improvement works in the Part 8 Scheme. The impacts of this landtake on individual private property, is an issue for the Council to pursue relative to accommodation works and compensation. The issue for the Board to consider in this case is whether the amount of landtake is excessive, taking into account the greater benefits for the wider area of the continuing upgrade and improvement works of the road network in the area and the N63 National Secondary Road.

10.3 Compliance with the Provisions of the Development Plan

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: N63 Leacht Seorise – Ballygar Scheme
- Pavement Overlays: N63
- Cycle Routes: Support and develop walking and cycling routes in accordance with the *Galway County Walking and Cycling Strategy 2013*.

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.

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 N63 National Secondary Route (Galway to Roscommon connecting the Gateway to the County town of Roscommon; minimising environmental impact) 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'*.

The Fahy objection raised the issue of conflict with the County Development Plan, this was reiterated by Kate Kennedy on their behalf at the O.H. They had regard to Table 5.1 of the development plan and provide that while a significant number of road schemes are detailed, there is no specific mention of the current scheme. They note that the reference to the upgrading appears to refer to the entire N63 within the county boundaries and that the reference

to 'Leacht Saoirse' is the location where the N63 joins the N17 and Ballygar is close to the Roscommon county boundary.

It is of note that a Brief of Evidence by the Council's Acting Senior Planner Valerie Loughnane Moran was read out at the O.H. This provided that the N63 Abbeyknockmoy to Annagh Hill Road project as proposed and the subsequent CPO is in accordance with the policies and objectives of the Galway County Development Plan 2015-2021 and complies with the relevant National and Regional policies as expressed in the National Spatial Strategy 2002-2020 and the Regional Planning Guidelines for the West Region 2010-2022. Her statement concluded that the proposed road development is in accordance with the proper planning and sustainable development of the area.

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 N63 National Secondary Road between Annagh Hill and the village of Abbeyknockmoy. Accordingly, I am satisfied that the subject proposal is in compliance with the policies and objectives of the Development Plan.

10.4 Consideration of Alternatives

From a review of the available information, it is apparent that the road improvement scheme in question forms part of a larger project. The Council provides that the scheme will link the junction between the proposed N17/N18 Gort to Tuam PPP Scheme and the N63 at Annagh Hill with the section of the N63 which has recently upgraded west of Abbeyknockmoy village. It will also link the recently upgraded section of the N63 with the village of Abbeyknockmoy.

The objection from Edward and Anne Fahy is concerned that there does not appear to have been given any consideration to bypassing the village. They consider that a new alignment would have a number of advantages. These include a reduction in traffic volumes in the village, with associated benefits of reduced noise and disturbance and greater safety; improved road service without the need for reduced speed limits; fewer entrances and turning movements outside the village. Avoidance of existing houses strung out on both sides of the road. They consider that this would mean less disturbance, reduced impact on housing amenities and greater safety for road users. This lack of consideration of alternatives was reiterated by Ms Kennedy on behalf of the Fahy's at the O.H.

The Council's response to the Objectors (E & A. Fahy – issue 2) includes: *The extents of the scheme were defined as being from Abbeyknockmoy to the proposed N17/N18 PPP Scheme tie in location at Annagh Hill. A bypass of Abbeyknockmoy is currently not being considered by TII or Galway County Council.* Therefore the Council provides that the consideration of alternatives is not being considered in this case, having regard for the need for improvements to these sections of the N63, and to tie in with the centrally improved section.

The Description of the Lands in the CPO is described in Section 4.0 of this Report. The two discreet sections were further clarified by Darragh Delaney – Senior Engineer at HalcrowBarry Ltd at the O.H i.e. this includes: a) The western section in the vicinity of the railway bridge which is c.2.15kms in length, then there is the 1km middle section which has already been upgraded (subject to a previous separate CPO) and then, also part of the current CPO; b) the eastern section to Abbeyknockmoy village c.1.05kms i.e. 3.2km in total.

The submitted documentation provides that the western end of the site is such that it would link in with the junction between the proposed N17/N18 Gort to Tuam PPP Scheme and the N63 at Annagh Hill. Construction of the road network in this location is well underway and there are works in this area to date. Drawing no.Y14106-104 shows the alignment of the road scheme in this location as indicated on the submitted drawings. This shows the roundabout of the N17 and the junction in the environs of Annagh Hill that provide a connection with the N63, located to the west of the end of the currently proposed online upgrade scheme on the N63.

The Council provides that the aim of this CPO scheme is to improve the safety and carrying capacity of these two discrete sections of the N63 National Secondary Road between Abbeyknockmoy to Annagh Hill. It will further serve to facilitate the on-going development and continuation of a cycle/pedestrian route between Abbeyknockmoy westwards to the roundabout. In this regard I would advise the Board that the proposed road scheme represents a continuation and linkage either side of the 'Phase 1' realignment / improvement works that have been undertaken and completed in the central section of road between the subject lands i.e Abbeyknockmoy Realignment at Pollawarla, Ballynakill & Culliagh North, Co Galway. A copy of this separate Part 8 is included in the Appendix to this Report.

Mr Delaney's Statement of Evidence on behalf of the Council (as read at the O.H) provides details of permanent and temporary land acquisitions. It also provides a list of a number of constraints along the existing N63. This notes that the main deficiencies associated with the existing alignment are very poor vertical alignment, inadequate road cross section, poor junction layout, poor visibility and storm water problems. This includes that taking account of the

constraints listed and in particular the existing farms and dwellings the only viable solution is to upgrade the existing alignment with the aim to improve the vertical geometry, road cross section, improve access layouts, improve visibility on the N63 and also from accesses and to eliminate the existing ponding and flooding issues. This provides that the route options consisted of establishing the optimum horizontal and vertical alignment while taking into account the requirement to provide access to dwellings.

Having considered the foregoing, it is my opinion that, while it appears that not much consideration has been given by the Council to alternatives, 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, it is not considered that a more suitable alternative is available and the subject lands are considered suitable and necessary for the construction and operation of the scheme.

10.5 Issues Raised by the Objectors

Regard has been had to the issues raised by the Objectors in the Submissions made and to the Council's written response a summary of which is included in the relevant section above. It is of note that the Objectors and their Representatives were concerned that the Council's written response was only sent to them the day before the hearing giving them a very short time span to consider the issues. To ensure that the Council's response was known to all the objectors and their representatives I asked Mr Delaney to read this response in full into the record at the O.H.

The Objectors also expressed concern that in general the scale of the mapping did not allow them to fully consider the implications of the landtake on their properties, and that there was a lack of information to demonstrate the workings of the scheme. I reminded them that the purpose of an O.H is as a fact gathering exercise, and consider that the Council's presentation of the Scheme including as detailed in their Statements of Evidence at the hearing and the accompanying drawings and maps were important to provide further clarity in an explanation of the purpose of the Scheme and as to justify the need for the CPO landtake. It is of note that 'Preliminary Design Drawings' showing the online route and sections of the proposed upgrade were included on display and are now included as an Appendix to this Report. A DVD of the information presented by the Council was also submitted at the O.H and is included on file.

While a number of issues were raised relevant to specific plots, and were noted, and are included in the digital record, in general there were some issues of major concern to the Objectors that were discussed at the O.H. These included the following:

- Flooding and surface water drainage
- Relocation of the attenuation pond
- Road design and Road safety
- Concern regarding the amount of landtake
- Boundary treatment

10.5.1 Flooding and surface water drainage

Concerns regarding flooding and disposal of surface water have been raised by the Objectors in their submissions and at the O.H. Mr Gaynor represented 7no. separate parties who all had concerns about this issue, relative to potential impact on their properties. It is also a particular issue raised in the Fahy, Moran and Mulry submissions. Objectors are concerned that any increase in the levels, width and alignment of the road will worsen the existing situation. Photographs have been submitted with the Fahy submission showing that flooding occurs. As noted in the Council's written response to Objectors (12th of June 2016) a relatively standard response was given to the drainage issue. In view of the level of concern from all the objectors there was considerable time devoted to this issue and to attenuation at the O.H.

Mr Delaney's Statement of Evidence to the O.H (Section 3.6.7) provided details of the preliminary drainage design for the N63 Abbeyknockmoy to Annagh Hill Road Scheme. This noted that a sealed drainage system will be provided throughout due to the high vulnerability of the local ground water aquifers. This means that the road drainage run off will be kept completely separate from the overland drainage water and local watercourses until it has passed through pollution control measures.

As evidenced in the Fahy objection (see photos submitted) and reiterated at the O.H there is evidence that there are problems with surface water flooding in the area during times of heavy rainfall. Their house and that of Mr Moran on the opposite side of the road are at a low point lower than the level of the road. Mr Delaney's Statement of Evidence provides that the proposed road drainage system will be designed to ensure the speedy removal of surface water by provision of continuous drainage measures, the impacts of increased features in order to provide safe driving conditions and to minimise the impact of runoff on the receiving environment. This notes that the preliminary drainage proposals will be developed in accordance with the Design Manual for Roads and Bridges and the principle of SuDS will be applied throughout.

It is proposed to attenuate surface water from the additional paved surface for the road catchments to greenfield run-off rates through the provision of attenuation ponds and ditches. In this way it is provided that the impacts of increased peak flows are mitigated and it is not anticipated that there will be any appreciable impacts on flooding. The information submitted provides that

as the proposed road development is an online upgrade, the proposed system will replace the current one where the road run-off is discharging directly to the receiving water courses without any pollution control or attenuation and that this will provide an improvement in terms of drainage and water quality.

Mr Gaynor asked how the Council are going to deal with the serious drainage problem in front of the Murphy entrance (Plot no. 049) and queries road levels, drainage and culverts. He also referred to drainage issues and boundary treatment relative to Mirelle Moran (Plot 057) and considers the landtake excessive. He also is concerned in relation to road levels and drainage relative to Linda Burke's property (Plot 062). In relation to Padraic Burke (Plot 063) he is concerned that water off the road is flooding some of his fields and wants confirmation that this will not be the case relative to new scheme. On behalf of Gerry Kinane (Plot no.30) he has concerns regarding the alignment of the road relative to this plot and seeks that issues regarding the reinstatement of the culvert to prevent ponding can be clarified. Mr Delaney refers to the Council's written response to these submissions and provides that their proposed road scheme will have a continuous drainage system along the kerbline and drains will be provided. All water courses within the CPO boundary will be picked up as part of the overland drainage flow scheme including culverts.

Mr O. Kennedy on behalf of Mr Mulry (Plot no.55) at the O.H considered the overall implications of the scheme relative to flooding. He noted concerns about the volume of water that may be diverted to their property and considered that sufficient details have not been provided of this. He outlined the current drainage situation relative to the use of swallow holes, he notes the one near the new line (N63) etc. They would expect that the current system would be protected and that the water not be diverted onto their lands. They have no concept of the volume of water that will enter onto their lands. He noted that the existing culverts are partly blocked and this needs to be rectified. There is no agreement in relation to the location of the attenuation pond. They know nothing as to how it is to be maintained, access to it etc.

Mr Delaney acknowledged that there are flooding and ponding issues in particular relative to this part of the eastern section of the scheme. The Council accepts that the current drainage system in the area is questionable. He noted that an extensive Catchment Analysis Study has been done and provides details of the flow regime in the area. Currently the flow rate is not managed properly. They are proposing to intercept the flow and to capture that in attenuation and the construction of infiltration ditches. They note the bedrock is fractured in the area and are satisfied they will be able to discharge the water to the groundwater aquifer. Maintaining the use of the shallow hole referred to by Mr Kennedy is outside the CPO scheme. They will be proposing a similar scheme of discharge to groundwater aquifer. He provided details of

infiltration to reduce flow rate and noted that this will reduce significantly the catchment flow rate towards the lower lying lands that currently suffer from flooding. They will be taking the overland flow to the east which will be diverted to the drainage spur being taken as part of the land acquisition. The road drainage will be kept completely separate from the overland flow by the provision of a sealed drainage system. He provided details of this and referred to the Council's written response to the objectors. This controlled piped system will be diverted either to an attenuation ditch or pond.

In response to concerns raised Mr Keane referred to drainage from Knockroe Hill and surrounding high ground towards the road. The proposed drainage system will pick up the overland flow before it reaches the road and that will be kept separate from the surface water system. This drainage system will be in the direction of Mr Moran's property (Plot nos.54 and 56) and they refer to the land shown orange in his property. Infiltration trenches will allow the discharge of surface water into the ground and this will prevent ponding and flooding outside Fahy (Plot no.53) and Mulry (Plot no.55) properties. For extreme rainfall events there is an overflow channel, but all of the water is expected to infiltrate into groundwater. The road drainage for that section is contained within a sealed system and all of this will be brought to the attenuation pond before it is discharged to surface water in the area. The levels of this pond is above the highest flood level recorded in the area, water will continue to will flow out and there will no back up.

Mr Gaynor asked for clarification as to what infiltration trenches were made up of and where the surface drainage network will be and wondered if culverts would be picked up. Mr Delaney gave details of granular material and referred to pipes or open drains and said there will be plenty of volume capacity to allow for attenuation. He said there will be both a road drainage network and overland drainage network and there will be no water flowing from the road onto any retained land of the properties that will not be intercepted. He also said that the culverts will be picked up to take the flow capacities required. Mr Delaney said they were only dealing with the water falling within the catchment of the CPO which will be discharged to the drainage pond.

Mr Kennedy asked if the Council had any idea of the volume of water that will be disposed of and considered that this was of particular interest to his client. Also whether there were proposals to move surface water from the village end into this proposed channel on Mr Mulry's land and whether it is proposed that there would be a second attenuation pond. Mr Delaney did not have figures for volume of water to hand but referred to infiltration trenches and said that volume will be calculated as part of the details of the scheme. The proposed ditch will be within the area they are proposing to acquire. Mr Kennedy considered that sufficient detail on drainage capacity including trenches has

not been submitted. Mr Delaney said the infiltration trench will also serve an attenuation feature.

Mr Keane said the light green lines shown on the maps are the locations of the infiltration trenches and these are the proposals being made. He noted that this not an EIA or AA O.H and the Council is making a case that alleviation measures are necessary to deal with the flooding that occurs at present and the acquisition of these lands for infiltration trenches is required. The Council's evidence is that the Contractor will be required to ensure that the infiltration areas will be adequate to deal with the surface water flows to be reduced to greenfield runoff rates. This should improve and will not worsen the existing situation regarding flooding. The purpose of requiring these lands (Mr Mulry's – Plot 55) includes that the ditch is being acquired as part of the CPO to ensure that the Council has the full right and capacity to provide for adequate drainage to be provided to prevent flooding.

The Inspector asked the Council to confirm whether the existing situation regarding flooding is improved. Mr Keane on behalf of the Council confirmed that the proposed drainage system will improve drainage on the public road which is a hazard to traffic and will address drainage issues for local landowners. Mr Kennedy on behalf of Mr Mulry did not accept this answer or that the information submitted was adequate to base a decision relative to drainage issues.

Mr Keane referred to the purpose of infiltration trenches as to allow for attenuation of surface water into ground water and noted that this will be a marked improvement. While he did not have the precise specifications the Council considers that the proposed drainage scheme will reduce the amount/flow of surface water and will improve drainage and flooding. Measures to prevent and alleviate flooding into the future are required and the CPO lands are required for this purpose.

Ms Kennedy on behalf of the Fahy's (Plot no.53) enquired about drainage relative to kerbed drains along the road and geo-technical issues regarding bedrock below the surface. Mr Delaney responded regarding the piped system which will be contained in the verge and all of the road water will be diverted to the attenuation pond. Also that it is proposed to excavate (blasting not anticipated) the bedrock if needs be. The attenuation pond will be sealed with a granular impermeable liner to maintain the sealed system and so it won't be discharging directly to groundwater. It will only discharge to watercourse once it has passed though the pollution control measures that will be contained within the attenuation pond. They intend to maintain the current system and discharge into the OPW drain. To address her concerns about flooding he provided that they will be attenuating and treating and removing pollution in the pond and discharging at a green field runoff rate which

reduces the flow rate of the water being discharged and does not worsen flooding.

Mr Kennedy on behalf of Mr Mulry in his closing statement considered that the questions that he asked had not been answered and urged the Board to reject the proposal to deal with flooding in view of the lack of information submitted relative to the scheme. He considers that the Council's responses to the issues raised are inadequate, they have no idea of the proposed or consequential effects or directing surface water through their lands. They are not against the CPO in principle but in so far as it attempts to deal with the question that hasn't been answered. The Council have not given details of the volume of water or the extent of the trenches to be put in place, cleaning or maintenance of the attenuation pond etc and are concerned that dealing with this is problematic. He urged the Board to refuse this aspect of the CPO.

Ms Kennedy noted in her closing statement that her client's the Fahy's have no objection to the scheme if it achieved the stated aim of improving the drainage and alleviating the flooding that occurs on a regular basis in this area. Also that the way in which the drainage aspect has been dealt with by the Council does not provide adequate details. She notes that the Preliminary Drainage Design and Plans were not provided to the Objectors and in particular for their Hydrologist. In the absence of adequate documentation relative to this issue and road safety they are concerned that the scheme being proposed doesn't justify that the land take is beneficial to the landowners or the common good.

In his closing statement Mr Keane provided that the drainage of this scheme will be in accordance with the TII/DMRB standards and the surface water runoff from the public road will be attenuated within the CPO lands and will lead to a significant improvement to drainage in the area, particularly at the north eastern end of the scheme. Significant pollution control measures will be included which are not there at present. There is a significant advantage to persons in the area both in relation to the alleviation of flooding and to the improvement of water quality likely to result. He notes that this hearing is not an EIA or AA hearing and is limited to the consideration of whether or not the lands to be acquired in the CPO are in the interests of the common good. The Council considers that they have provided adequate information and seek to improve road safety and minimise the disruption to lands in the CPO. They commend this proposal to the Board.

In relation to the discussions had at the O.H, I am satisfied that it has been provided by the Council that the proposed development will regularise and improve the drainage regime, assist in reducing flooding and is in accordance with planning policy.

10.5.2 Relocation of the attenuation pond

Discussion was had regarding the relocation of the attenuation pond and regard is had to Paul Murphy's (Environmental Consultant on behalf of the Council) Statement of Evidence, a copy of which is included with the documentation submitted at the O.H in the Appendix to this Report. He referred to a revision to the drainage layout having regard to the relocation of the attenuation pond further to the north west by approx. 150m. This is shown set further back from the road on the maps submitted with the CPO. The pond serves as both attenuation and partial treatment for surface water discharge to the Abbert River further north, which is within the Lough Corrib SAC (Site code no.000297). The initial proposed location for the attenuation pond at Ch.3750 was adjacent to the N63 road. He provided that this relocation arose following concerns by local residents of potential fly nuisance associated with the location of the proposed attenuation pond at CH.3750. His statement concludes that the relocation of the proposed attenuation pond 150m northwest from the original proposed location as assessed in the Ecological Assessment and Screening Report for Appropriate Assessment (September 2014), will not result in any direct or impacts on the Lough Corrib SAC or any other European site, whether solely by reason of this scheme or in combination with any other developments in the area.

Ms Kennedy on behalf of the Fahy's had specific concerns about flooding and noted that there is bedrock below the surface which would impact on drainage and attenuation. They are concerned that the proposals presented by the council have not given sufficient consideration to the underlying drainage conditions. A submission from Dr. Savithri Senaratne (Hydrologist) did not consider sufficient detail had been provided by the Council on drainage. At the O.H she had regard to the Council's response and noted that the two concerns are surface water runoff from Knockroe Hill and the attenuation pond. While drainage from the road will be in a separate surface water system, they were concerned about drainage from the hills also going into the pond. She referred to the OPW drain outflow and overflow. She was concerned that the way of outflow from the pond has not been addressed and that this could lead to further flooding. I asked if this was to do with the relocated attenuation pond and she responded that it does not matter because detail regarding outflow channel is still the same connected to the OPW drainage. Regard was had to the location of the Abbert River and the floodplain and the location of this and the OPW channel was shown. The relevant landtake is shown on Sheet 2 (Plot nos. 053/Fahy and 055/Mulry) submitted on the 24th of May 2016.

Mr Delaney provided that the attenuation pond will be designed to 1:100 year storm event. The water within will be held back to allow for restriction of flow and discharge to the existing drainage channel to ensure it is not overused. The historical flood level as set out in the Fahy response is approx 36m O.D,

the proposed attenuation invert level will be approx 37.5 m O.D with overflow approx 1m higher i.e. 38.5m O.D. The water in the channel will not back up as far in the future. Once the invert level of the pond is higher than that flood rate it will flow down towards the flood level of 36m O.D. They are not blocking up the drain that discharges to the Abbert, once the invert level is altered and they reduce the frequency of back up onto the land (Mr Fahy and Mr Mulry's land) this will reduce the number of times the Abbert River floods back onto this land. They will use the OPW drain as a primary discharge from the pond as opposed to the Abbert River which is an SAC.

Mr Owen Kennedy for Mr Mulry (owner of the land relative to the relocation issue (Plot no.55), provides that while Mr Mulry requested a relocation from the original location proposed by the main road there is no decision made by Mr Mulry nor has an agreement been made with him in relation to the location of the attenuation pond.

Mr Keane clarified that this relocated attenuation pond is within the landtake for the CPO and is not within an additional area, outside of the CPO area. He referred to the landtake as noted in Mr Delaney's Brief of Evidence (Section 3.6.10 refers to permanent and temporary acquisitions). He said that the original location for the attenuation pond adjacent to the N63 has not been included in the landtake nor has it formed part of the CPO.

Mr Delaney responded that the road drainage from the CPO will discharge to the attenuation pond. Mr Kennedy asked how the water from the road to the attenuation pond will be treated and was concerned about contamination issues, cleaning and access and would like to see a policy document and schedule of proposals from the Council on this point. Mr Delaney replied there will be a ditch to take the overland flow between the Fahy and Mulry lands. Mr Keane said that the road water will be piped so the water falling into the ditch will not be contaminated. The sealed system of drainage will be a marked improvement on the existing. He also gave further details of access via the CPO land from the edge of the public roadway to the attenuation pond.

Having regard to the information submitted it has been established that the relocation of the attenuation pond further away from residential properties does not involve further landtake and is within the CPO boundaries. The Council have provided that this is necessary to provide attenuation relative to the proposed drainage scheme and that treatment measures to prevent pollution will be provided. In view of the pollution control measures to be implemented including its impermeable sealed nature the Council has provided that it will not have a significant impact on the environment or Lough Corrib SAC. Also that it will serve to alleviate flooding which will improve residential amenities.

10.5.3 Road Design and Road Safety

This issue relative to levels, road alignment and road safety was raised by a number of the Objectors. In regard to concerns raised by the various landowners I asked the Council if they could provide any confirmation on the levels of the road within the scheme. I also requested a copy of the Preliminary design drawings (the Council had these on display at the O.H) which provide some indication of road design levels. It is of noted that these drawings include the lands made available as part of the CPO outlined in red and provide the following provisory: *Whilst the proposed improvement has been designed sufficiently to be shown as a practical scheme, the design will be further refined during the detailed design process which may result in changes of parts of the alignment and this may affect other information on this drawing.* These drawings are now included with this Report. Mr Keane provided that these Preliminary Design Report drawings have the levels proposed for the road along the centre line. He also referred to the Council's written response to each individual Objectors regarding levels concerning their properties.

Mr Delaney's Statement of Evidence at the O.H provided a description of the proposed road works (Section 3.5.1) relative to the CPO road area. This includes that the engineering parameters for the scheme were adopted from standard TII documents and policies including the *Design Manual for Roads and Bridges* (DMRB). Section 3.6.3 includes a drawing showing – *Proposed Typical Cross Section*. This cross section includes for a 7.0m carriageway, 2x 0.5m hard strips and a 2.5m verge on the north side of the road. A footway/cycleway is provided on the south side of the road as shown in Figure BOE/3.6.3.

Ms Kennedy queried the dimensions given in this cross section drawing relative to the Type 2 Single Carriageway as defined in the DMRB TD27. She provides that TD27 requires a 5m verge on either side of the roadway. A copy of this document was submitted and this was shown at the O.H. Mr Steele, Engineer on behalf of the Fahy's – referred to Table 3 sets the minimum verge width of 5m for type 2 single carriageway. (Copies of the TII documents referred to at the O.H are included with the documentation submitted). It does allow a reduction for a cycle track to 3m. The need to apply for Departures was referred to otherwise there was concern that the Council may not be able to construct the road as shown on the plans. A copy of the Council's response to this was circulated at the O.H and read out by Mr Delaney. This noted that it will be necessary to apply for departures from TD standards in this case.

Mr Keane referred to the cross section drawing as noted above, and noted that the 2m verge should be 2.5m in addition to the 0.5m i.e. 3m verge on the north side. On the south side of the road the 3.25m verge should read 3.7m (to include the hard strip). Ms Kennedy asked if they now required additional

lands to facilitate this and why the Council had not applied for Departures before now. Mr Delaney provided that additional lands would not be required. He said that they have been in discussions with the TII and that it is normal practice to apply for all departures at one go at detailed design stage and they have been given an indication from the department that these will be approved. Ms Kennedy provided that it is her understanding that departures should be provided for first. Mr Steele (Engineer) considered that the departures should have been agreed at the preliminary design stage. Mr Keane provided that the position at this stage is that departures, other than relative to accesses and junctions etc a formal application relative to the cross section has not yet been made.

The Inspector noted that the O.H is dealing with the CPO acquisition lands and this was a broader issue. Ms Kennedy responded that the issue here is that if the Council do not have the relevant departures they cannot construct the road. One of the justifications for this scheme is to improve road safety and they are concerned that the scheme as applied does not comply with the relevant standards. She provided that it is of significant importance to the Board to ensure that the scheme complies with relevant safety standards. These departures should have been approved by the TII, if they can't be acquired the scheme cannot proceed.

Mr Keane responded that if the road complied with TD27/14/15 in full, a significant greater landtake would be required and would result in a further loss of lands and adverse impacts for the landowner's properties. The relevant departures will be applied for and the TII have indicated that the departure for the cross section will be forthcoming. This has already been applied for in the central 1km section that has been completed. The Part 8 process will allow for the scheme and no additional land will be required for the road proposed, but a departure will be required from the standard. Ms Kennedy responded that they did not wish for a rigid adherence of the standard but that they considered that it is important to clarify that the road did not comply with standards and that the departure has not been applied to the scheme.

Ms Kennedy asked in relation to sightlines about the design speed of the road, and wondered what the speed limit on the road would be. She was concerned that the improved alignment would increase the speed on the road and have safety implications and that inappropriate sightlines had been applied. Mr Delaney provided that the design speed is 85km/h and the road would have 100km/h speed limit, which is also the current speed limit and ties in with design speeds in the area. Sightlines would be 160m either side, and 100km/h design speed would require 250m sightlines. The design speed is the expected speed of the vehicles travelling and is not a target and is an assessment of the alignment of the road. Mr Keane reiterated that the design

speed in relation to the road remains at 85km/h and 100km/h speed limit was not a target.

I noted relative to my site inspection that this is currently a narrow road with poor alignment, with high speeds and road safety issues. Mr Steele considered that the realignment of the road will result in a more open vista and allow faster speeds of traffic on this stretch of road and traffic travelling at 90-95km/h and the need for 200m sightlines. They want to ensure that lower standards had not been applied to the road design and that the appropriate standards have been applied relative to road safety issues for the local residents. Ms Kennedy provided that this is of particular concern relative to sightlines for their client's the Fahy's who have 3no accesses onto the road. Mr Delaney said that they have applied the appropriate standard (TD9) for design speeds and consistent with adjacent schemes constructed and were in compliance with DMRB standards. There is a need to have a consistent speed limit across the scheme as a whole and it does not increase the current speed of the road.

Mr Steele questioned the appropriateness of the speed limit. Mr Keane replied that the adoption of a special speed limit for a road would be done by bylaws and that the design speed is considered appropriate and that the improvement of safety of the road would be beneficial. Mr Delaney provided that the TII are aware of the issues, including departures relative to the scheme. Mr Steele questioned the need to improve road safety as he noted that there have not been many collisions on this stretch of road which is substandard. He is concerned that the justification for the improved alignment of the road relative to the CPO does not correspond to evidence that this is in the public interests of the common good. Mr Keane noted that the Part 8 approval process has already been gone through and regard has been had to the benefits of the scheme relative to the desirability of the scheme in improving the alignment of this substandard stretch of road, providing for cycle lane, increasing the height of the bridge etc.

Ms Kennedy noted in her closing statement their concerns with regard to road safety, and departures required from the prescribed standard, design speed and sightlines. They are concerned that the scheme will provide for increased road traffic speeds and that this will create an increased risk of collisions as the surface of the road has been improved for motorists.

Mr Gaynor asked relative to a number of objectors as to what was meant by the Council's written response that 'it is not proposed to change the alignment significantly' and considered that this is open ended. He referred to concerns about raising the levels of the road in particular relative to the O'Brien (Plot nos.002, 028), Kinane (Plot no.030) and Murphy properties (Plot 049). This was reiterated by Mr O'Brien who had considerable concerns that the level of

the road would be significantly higher. Mr Keane clarified that 'changing the alignment significantly' means from the proposed design (any further change) and is not contradictory. He said that in view the amount of accesses along the scheme will not allow for much significant deviation from what is proposed, however they were not in a position to give final details on levels at present. This would not be a design and build scheme and he assured that the Council will retain control over final levels in relation to the entire scheme.

Mr Keane's closing statement provides that the acquisition of the land is necessary relative to the construction of the road scheme due to the substandard vertical and horizontal alignment of the road and the lack of visibility at junctions and road safety issues, the presence of an unsafe 5 arm junction and limited sight visibility relative to the junctions.

It is considered that given the deficiencies of the existing substandard road that it is in the interests of public safety and improvement of traffic safety that the upgrade of this road proceeds and links in with the existing road network in the vicinity that has already been upgraded.

10.5.4 Concern regarding the amount of Landtake

It is noted that at the O.H there was concern expressed that this proposal involves excessive landtake and is not in the interests of the amenities of the individual objectors. There was particular concern expressed by Mr Higgins, on behalf of Mr Moran (Plot nos. 054 -dwellinghouse and 056 – farmyard and buildings) in relation to the impact of the landtake on his property and the lack of clarity in the maps submitted. As shown on their larger scale maps the proposal would lead to considerable loss of his residential amenity and agricultural landholding (colour coded maps and photographs were submitted and referred to at the O.H). This is the sole farmyard and building he owns.

Mr Higgins considered that the proposed scheme would have a serious impact on his dwelling and agricultural holding. The front wall of the house is only 7m from the carriageway and the proposed public area after realignment would be only 4m from the front of the house (area to be acquired shown shaded in green on the maps). Therefore they consider that the continued use of the dwelling house with such a limited setback from the road is unsustainable and they refer to County Development Plan recommended setbacks from the public road of 35m. It will have a negative impact on noise and privacy and the security of the dwellinghouse. An existing parking space in front will be lost and a splayed entrance to the farmyard will be removed. They also consider that the continued use of the farmyard will not be viable and a new replacement house (septic tank) will have to be built for the occupants on the southern side of the existing house. He notes that the area shown orange to be acquired will become a public area and will have a huge impact on the south western side of the dwellinghouse. The type of boundary wall has not

been provided. Road Levels have not been provided and his house is located at the lowest point relative to the need for drainage works to be adequate and to alleviate flooding. Also he considered that the Council's response was not adequate and that it would have a detrimental impact on human beings and did not agree that the impact would only be slight and moderate and rejected the Council's response in its entirety.

In relation to Mr Moran, regard is had to the Council's written response. Mr Keane had regard to the colour coded maps submitted at the O.H. and said that the land to the South West (coloured orange) is to be acquired not as a public area but for drainage purposes relative to infiltration trenches for the scheme. In relation to the temporary acquisition of the farmyard that is to be done relative to regrading. The pink area will be returned to Mr Moran on completion of the works. He considered that the farmyard could be extended and without interfering with the septic tank. He referred to moving the existing access north eastwards.

Mr Higgins in his closing statement provided that the proposal has a serious detrimental effect on the viability and residential amenity of Mr Moran's dwellinghouse, the new public area will only be 4m away from the front of the house. Additional land to be acquired to the south west of his house for infiltration trenches is also of concern. If the scheme is approved the use of the dwellinghouse will have to cease and the occupants will need to be rehoused in a new house to the southern side of the existing using the location of the existing as private amenity space between the new house and the realigned carriageway. An amount of land is being taken from the farmyard and this will need to be extended in a south easterly direction. This building is the only farm building Mr Moran owns and it is crucial that he has access and manoeuvring room within the farmyard to work it properly. He notes that the doorway on the south eastern side of the farm building will have to be accessed from the proposed new farmyard and that the septic tank in the vicinity will need to be relocated. Both the house and farm building are severely impacted. While he notes extensive discussion has taken place relative to flooding they are not fully satisfied that the issues will be properly addressed. Mr Moran was very dissatisfied with the map received from the Council and for the project of this scheme, the maps should have been to a larger scale i.e. 1:250 or 1:500. His main concern was that the impact was being minimised and ignored by the Council.

Mr Kennedy noted concerns about landtake relative to a small area of land inside their external front wall on Mr Mulry's property adjacent to the N63. If this land is acquired it will become public property and they are not aware what this is for, this is also private property and is not part of the public road. They are concerned as to what this landtake is for. He wanted clarification on the accessibility of Mr Mulry's farmyard and to his front shed. The acquisition

would present difficulties relative to this access and provides details of his plot nos. The Council provides that their view is that the access will remain as at present, but that the visibility will be improved by virtue of the road scheme. But that if there is any problem with this access that is a matter for compensation. Mr Kennedy is concerned that there is no improvement to this access post scheme. Mr Keane refers to the sight distances required and Mr Kennedy considers that adequate plans have not been submitted. Mr Delaney provides further details on the access and regard is had to swept path analysis drawings submitted at O.H stage. Mr Keane notes both drawings relate to the future scheme and are post scheme. Mr Kennedy is concerned that Mr Mulry's entry and access are restricted. Mr Keane considers that if the access to the property is restricted by virtue of the scheme that this is a matter for compensation.

Mr Keane on behalf of the Council said the first plot referred to by Mr Kennedy is down as temporary access for temporary regrading of the access or as rest area for vehicles. Mr Delaney provided that this is needed due to the increase in proposed road levels to provide an access relative to the TII Standards. Mr Kennedy was concerned that adequate information has not been provided. Mr Keane said that in general that, temporary acquisitions along this route are for the purposes of regrading relative to the designed level of the roadway, and this was also relative to the temporary acquisition of the paddock on the Fahy lands. This would allow for full access in and out of the shed.

Mr O'Brien is concerned about the impacts of the proposed cycleway/footpath along the frontage of their property and the raising of levels. The acquisition will be above the field level and they are concerned as to how safe access will be provided with a proper gradient. Mr Gaynor provided that they are concerned that there is a significant landtake is needed involving their property. He is also concerned about the raising of levels of the new road relative to Plot 028. Mr Delaney considers that there may be some temporary acquisition and that safe access will be provided for the property owners as required. They are satisfied that they have taken sufficient land as part of the CPO to provide adequate access.

Ms Kennedy asked for clarification about whether landtake relative to the Fahy's includes temporary acquisitions. Mr Delaney noted that areas shown in pink within the red CPO boundary including the paddock area will be temporary acquisitions.

The Council was asked if it is proposed to extend the cycleway throughout the scheme. Mr Keane responded that the roadworks stop at the eastern boundary of the O'Brien property and that the acquisition from this property is relative to the cycleway/footpath to connect back to Abbeyknockmoy. He said the extension of this from that property to the roundabout as part of the

N17/N18 is part of a separate scheme. Mr Gaynor on behalf of Mr O'Brien asked for further details of this scheme. Mr Keane later pointed out that the Part 8 also included the extension of the cycleway/footpath to the roundabout. Mr O'Brien said that this is going to be queried and he did not know this had been granted. Mr Keane provided that the Part 8 approval appears to have continued the completion of the cycle/footway to the roundabout to the west of the O'Brien property. There is no CPO required in relation to this, other than in relation to the strip along the field frontage of O'Brien property. Any further CPO of land is a separate issue and is not the subject of the current CPO and is outside the scope of the current O.H. It could be done either by way of a separate CPO or it may be possible to fit it into the road acquisition that has already been done as part of the N17/N18 scheme that has already been approved. Mr O'Brien was concerned that this extension of the cycle/footway to the roundabout was not known to him and is not acceptable. Mr Keane noted that if any other CPO of land was required the CPO process will have to be followed.

Issues relative to concerns regarding landtake in this CPO have been noted relative to the submissions made on behalf of the objectors both prior to and in the course of the O.H. It is noted that as outlined by the Council that these acquisitions are of a permanent and temporary nature and that access to the landholdings will be maintained or facilitated during the construction works. It is considered that while there will be an impact on the objectors lands, some landholdings will be more impacted than others. However in view of the proposed on-line scheme, changes to the alignment of the road in various locations in the interest of individual land holdings would not be in the interests of the road scheme as a whole, road safety or take precedent over the interests of the common good, in improving the alignment of what is now a substandard stretch of road. It is considered that if the Board decides to approve this CPO in the interests of the implementation of this road upgrade scheme that the proposed landtake is justifiable and necessary.

10.5.5 Boundary Treatment issues

It was noted on site that there is a distinct difference between the more open vista of the middle section which has been upgraded and widened with the provision of cycleway and footpath and the sections either side which currently appear as a more traditional undulating narrow country road, with stone walls and trees/hedgerows along the boundaries. There was concern that the loss of stone walls would affect the heritage and character of the area. Objectors have raised a number of concerns regarding boundary treatment issues and the Council's written responses to each of the submissions relative to this issue are noted. A discussion of this issue was held at the O.H.

Mr Keane for the Council notes TII (formerly NRA) policy for this type of road (National Secondary Road) standard boundary treatment is stone walls in front of existing dwelling houses (like for like) and fencing (post and rail)

in front of other including agricultural lands. The reason for this is due to traffic hazard posed by stone walls. Mr Gaynor queried this policy and Mr Keane noted that this policy is quoted from the Preliminary Design Report (Section 13.3) and has been referred to in the Council's written response to the submissions. He referred to Plot 063 (Padraic Burke) said it is open to the landowner to accept the boundary wall proposed by the Council or to apply for compensation from the Council. Mr Gaynor considered that the stone walls there at present are not a traffic hazard and noted there are walls down the centre of dual carriageways. Mr Keane provided an explanation of this relative to the need for solid barriers at dual carriageways.

Mr O' Brien referred to the need to maintain the heritage of stone walls and that if a stone wall is there it should be replaced with a stone wall 'like for like'. Mr Keane again reiterated the TII policy noted above in relation to boundary treatment and noted that compensation can be applied for relative to the accommodation works. Compensation is outside the scope of this hearing and is a matter for the Council.

Mr Kennedy on behalf of Mr Mulry is concerned as to the type of fencing to be erected along his frontage and along the sides of the attenuation pond and who will be responsible for replacing this in the future. Mr Delaney provided that the attenuation pond will be fenced off with security fencing which will be maintained by the Council. The remainder will be post and rail fence. Mr Kennedy queried who would be responsible for this relative to health and safety issues relative to security of livestock etc. Mr Keane responded that the Council are responsible for maintaining fencing along the national road, other boundaries are the responsibility of the landowners. Other issues relative to fencing relative to the access to the attenuation lands maybe discussed with the Council.

Mr Gaynor asked about the replacement of the wall in the Murphy property (Plot 049). He was also concerned as to what the implications of the landtake would be from the Murphy garden and how the Council is to deal with the reinstatement of the front boundary wall (photographs were submitted at the O.H). He provided that accommodation works may not be a satisfactory answer. Mr Delaney provided that the contractor will not be permitted to go outside the CPO boundary to construct any accommodation works or retaining wall that may or not be required.

Mr Gaynor asked about Mireille Moran's (Plot 057) landholding and as to why the large amount of landtake proposed is necessary and noted the owner was hoping to build a house in this location. He noted that she wants her stone wall replaced on a like for like basis. Mr Delaney referred to the Council's written response and noted that this is an area necessary to be acquired for

drainage reasons. The outlet will be discharged across the road to the water course to eventually connect the OPW drain (overland flow).

Mr Gaynor mentioned clarification on the width of the side road and also referred to the removal of stone wall for Michael and Julia Nally (Plot 009). He queried if they remove a stone wall in front of the house that they will replace it like for like. Mr Keane provided that the section to be removed will be replaced and details will be agreed in accommodation works. Agreements with the Council were sought relative to this boundary treatment and it was considered that these are issues for the Council.

Mr Higgins on behalf of Jamie Moran is concerned about the level of landtake and notes that the land owned by Mr Moran. He provides that the proposal will necessitate the removal and relocation of the septic tank. Mr Keane has regard to the drawings submitted and the eastern boundary and considers that there is sufficient area for a relocation of the farmyard but added that this is a matter for compensation.

Mr Gaynor notes Mr D O'Brien's concern relative to boundary treatment for the site which he has planning permission (Plot 002) and is concerned that this stonewall be replaced on a like for like basis. In relation to (Plot 028) they are concerned about boundary treatment and that stud fencing be provided as a minimum along this boundary.

Mr Gaynor referred to Gerry Kinane (Plot no.30) who has a stone wall in front of his paddock which he wants reinstated. He is concerned that a post and rail fence will not be suited to his equine livestock and could be a health and safety issue. He considers that an effort should be made to replace stone walls particularly considering the heritage of this part of Galway.

Mr Gaynor also notes Linda Burke (Plot 062) is concerned about alignment of her wall with the road boundary and drainage issues. Padraic Burke (Plot 063) requires confirmation relative to the front boundary treatment i.e. replacement with a stone/block wall.

Having regard to the issues raised concerning boundary treatment while it is noted that it is not roads policy to replace stone walls along field boundaries for safety reasons, I am satisfied that the boundary treatment is an issue that can be addressed by the Council relative to accommodation works after the confirmation of the CPO.

10.5.6 Application for payment of certain costs

It is noted that S. 219 of the Act (as amended) allows for the Board to direct payment by the applicant to any person appearing at an oral hearing as a contribution towards the costs incurred by that person of attending the Hearing. This issue was raised by Mr Kennedy at the O.H. I would suggest that the Board indicates its conclusions on this matter in determining this application for an acquisition order.

11.0 CONCLUSION AND RECOMMENDATION

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 the public right of way to be extinguished 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 without modification the compulsory purchase order for the reasons and considerations set out below.

12.0 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 on-line improvement of the N63 and to:

- (a) The provisions of the Regional Planning Guidelines for the West Region 2010-2022, including Objective I05, which seeks to upgrade and improve all national and secondary roads including the N63;
- (b) the provisions of the current Galway County Development Plan 2015-2021 and the policies stated therein, including Objective TI 5 and the functions of the Road Authority;
- (c) 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,
- (d) the present drainage and flooding issues and the overall improved drainage measures proposed to be implemented and
- (e) 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,
- (f) The Objections made to the Compulsory Purchase Order,
- (g) The Submissions and Observations made at the Oral Hearing,

It is considered that the acquisition of the lands in question by the local authority is necessary for the purposes stated in the order and the objections cannot be sustained having regard to this necessity.

Angela Brereton,
Planning Inspector,
17th of August 2016