



An
Bord
Pleanála

Inspector's Report

08.HA0052

08.KA0037

Development

N69 Listowel Bypass Proposed Road
Development and Compulsory
Purchase Order 2017

Address

Billeragh, Coolnaleen Lower,
Coolnaleen Upper, Garryantanvally,
Scartleigh (ED Ennismore),
Gortcureen (ED Listowel Rural) ,
Islandganniv North, Curraghatoosane,
Listowel, Ballygologue (ED Listowel
Urban), Listowel, Co. Kerry.

Applicant

Kerry County Council

Dates of Site Inspection

17th & 18th September

Dates of Oral Hearing

5th – 7th September

Inspector

Pauline Fitzpatrick

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1.0 Introduction

- 1.1. An application has been made by Kerry County Council for the provision of a road referred to as the N69 Listowel Bypass Proposed Road Development Compulsory Purchase Order of 2017. The Order was made pursuant to the powers conferred on the local authority by section 76 of the Housing Act, 1966, and the Third Schedule thereto, as extended by section 10 of the Local Government (No. 2) Act, 1960 (as substituted by section 86 of the Housing Act 1966) and amended by section 6 and the Second Schedule of the Roads Acts, 1993-2015, and the Planning and Development Acts, 2000-2016.
- 1.2. The Order would, if confirmed, authorise the local authority to acquire compulsorily the lands described in Part II of the Schedule to the Order, for the purposes of constructing a 5.95km western and northern bypass of Listowel town. The order would also authorise the local authority to extinguish the public rights of way described in Part III.
- 1.3. The full extent of the lands required for the scheme as described are shown outlined in red and coloured grey on the deposited maps (Drawings No's. 53-404A-A to 53-404A-F Maps A to F). The locations of the public rights of way proposed to be extinguished as part of the scheme are indicated between the lines coloured green.
- 1.4. The request for confirmation of the compulsory purchase order was received by the Board on the 18th May, 2017.
- 1.5. An application is also made for the approval by the Board of the proposed road development under Section 51 of the Roads Act 1993-2007 and is accompanied by an Environmental Impact Statement and a Natura Impact Statement.

2.0 Site Location and Description

- 2.1. The N69 National Secondary Road is c.101km long and is situated in counties Limerick and Kerry. It connects Limerick city to Tralee through a number of villages and towns including Mungret, Kildimo, Askeaton, Foynes, Glin, Tarbert and Listowel.
- 2.2. The route connects with the N7, N18 and N20 national primary routes at Limerick with onward connection to the N24. The route also connects with the N21 and N22 national primary routes and N70 and N86 national secondary routes at Tralee.

- 2.3. Limerick city is one half of a Gateway with Shannon under the National Spatial Strategy and Tralee is a joint Hub with Killarney. The N69 route forms an important link between the deepwater facility at Foynes and Limerick and the national road network. There is an existing car ferry at Tarbert crossing the River Shannon to Killimer in county Clare as part of N67 national secondary route.
- 2.4. The cross section of the existing N69 is a single carriageway road of varying width with an existing crossing over the River Feale at Listowel Bridge and a one way system in operation in the town centre. Traffic travelling south through Listowel use Church Street giving way to traffic joining the N69 from Courthouse Road. Traffic travelling north is directed via William Street onto the Cliveragh roundabout (junction with Ballylongford Road R552) and east onto the John B Keane Road to Caherdown roundabout (also referred to as Tim Kennelly roundabout) and then east along the N69.
- 2.5. John B Keane Road extends from the R553 (Ballybunion Road) to the Caherdown Roundabout and is approx. 2km in length.

3.0 Proposed Development

- 3.1. The proposed road development (PRD) as detailed in the public notices comprises of 5.95km of both new road construction through greenfield lands around the west of the town and the upgrade of the existing John B. Keane Road to the north of the town centre in addition to side road realignments, junction upgrades and the provision of new pedestrian and cycle infrastructure between N69 at Billeragh and the Caherdown roundabout at Ballygologue.
- 3.2. It consists of:
 - 3.65km new road
 - 2.3 km on line improvement
- 3.3. The proposal entails 3 no. roundabouts, 1 no. river bridge and 1 at-grade junction. 3 existing junctions are to be realigned with the junction with R552 to be upgraded to include traffic signals. There are a total of 9 side roads in the PRD.

- 3.4. The route is designed in accordance with NRA DMRB, in particular TD9/12 Roads Link Design, T27/11 Cross Sections and Headroom, TD41-42/11 Geometric Design of Major/Minor Priority Junctions and Vehicular Access to National Roads.
- 3.5. A Type 1 Standard Single Carriageway (S2) is proposed on the greenfield section. The S2 cross section will require a minimum road corridor landtake of 30.3 metres in width. The pavement will be 12.3 metres wide comprising of 2 x 3.65 metre carriageway and 2 x 2.5 metre hard strips. There will be 2 x 3.0 metres verge.
- 3.6. The design speed on the new build will be 100km/hr with 50km/hr applicable from the roundabout at the intersection with the R553 Ballybunion Road. Public lighting is to be provided at roundabout junctions.
- 3.7. The existing John B. Keane Road is classed as an Urban All Purpose Single Carriageway Relief Road and will have 2 x 3.5 metre carriageways. There will be 1.8 metre wide (minimum) footpath to the south with a shared cycle and pedestrian surface along the north which will be 3 metres in width which will be reduced locally at pinch points.
- 3.8. The existing Sive Walk which runs from Listowel Town Square to Derra Bog, partly along existing roads and partly along the disused Great Southern and Western Railway route is to be accommodated on a new pedestrian walkway to the north. The realigned Sive Walk will be c. 900 metres in length.
- 3.9. In addition, the proposed road development is to include:
- All necessary drainage works including culverts, attenuation ponds and local re-profiling of the Mill Stream adjacent to Greenville Road.
 - 3 no. accommodation underpasses to provide access to farmland severed.
- 3.10. The project will also require earthworks operations and will require in the region of 198,000 m³ of fill material.
- 3.11. The PRD comprises four sections which have been designated Sections A to D:-
- 3.11.1.1. *Section A (greenfield section) – from the N69 Tralee Road tie in to the N69/R557 roundabout (roundabout 1)*
- The proposal commences on the existing N69 in the townland of Billeragh approx. 0.7km south of its junction with the R557 (to Finuge) and continues along the N69 for

a distance of approx. 0.25km. It then leaves the existing road alignment and proceeds north as greenfield construction through the townlands of Coolnaleen and Garryantanvally intersecting the R557 at a new roundabout.

3.11.1.2. *Section B (greenfield section) – from the N69/R557 roundabout (roundabout 1) to the N69/L1011 road roundabout (roundabout 2).*

The route continues north from roundabout 1. It crosses the Ballygrenane Stream and Garryantanavally Stream, the River Feale and then Mill Stream Lower. It intersects Local Road L1011 (Greenville Road) at a new roundabout. The local road approaches to the roundabout will be realigned on either side to facilitate its construction. The bridge over the River Feale is a two span arrangement with an intermediate support located within the Lower Shannon SAC but outside of the high water channel. The length of the main span is c. 60 metres with a back span of 45 metres.

3.11.1.3. *Section C (greenfield section) – from the N69/L1011 Road roundabout (roundabout 2) to the N69/R663 roundabout (roundabout 3)*

The route turns north-east intersecting Local road L10112 (Forge Road). Access to the northern section of the L10112 will be provided by means of a T- junction while the section of the L10112 to the south will become a cul-de-sac accessed via L1011 (Greenville Road). The route continues northeast, crossing three small streams and turns east following the line of the disused railway for c.0.6km before turning north-east and crossing Mill Stream Upper. The route intersects the R553 Ballybunion Road at a new roundabout (roundabout 3) c.0.2km north of the existing John B. Keane Road/L1050 (Convent Street) junction. This roundabout will also provide access to an existing side road. The existing junction of the R553 John B. Keane Road/L1050 (Convent Street) will be realigned to give priority to national road traffic. A right turn lane is to be provided for traffic turning south onto Convent Street.

3.11.1.4. *Section D (existing road upgrade) from N69/R553 roundabout (roundabout 3) to the N69 in Ballygologue at the existing N69/John B. Keane roundabout (roundabout 4).*

The John B. Keane Road between the L1050 junction and the R552 Ballylongford Road junction will be redesigned as N69 National Secondary Road. It is currently designated as N69 from the junction with the R552 Ballylongford Road. The existing roundabout is to be replaced by traffic signals. The entire length of John B. Keane

Road is to be upgraded to include a new shared pedestrian and cyclist facility on its northern side. A short section of this facility will be directed behind Lartigue Cottages (also referred to as John B Keane Grove) onto a separate existing laneway due to lack of width along the existing road.

4.0 Submissions by Prescribed Bodies

4.1. Department of Communications, Climate Action and Environment

Acknowledgement of letter.

4.2. Transport Infrastructure Ireland

No specific comment to make.

4.3. Southern Regional Assembly

- The importance of the N69 Listowel Bypass to remove congestion and assist revitalisation of the town centre and improve connectivity between a strategic regional/energy hub in the Shannon Estuary and the wider region is noted. Particularly, connectivity between the Shannon Estuary and the Tralee-Killarney hub will be improved.
- The proposal is consistent with the South-West RPGs as far as practicable. Section 2.2.1 of the RPGs supports improvement to strategic inter-regional growth corridors including the N21/N69 from Tralee to Limerick. Table 5.1 supports improvement to the N69/N21/N67 corridor linking the Tralee/Killarney hub with the Tarbert/Ballylongford deepwater port and Limerick. The Bypass will contribute to the improvement of the N69 corridor in accordance with these objectives.
- Improved transport infrastructure will lever the economic assets of the region to fulfil their potential. The competitiveness of the regional economy and quality of life within the town centre will be enhanced by improving connectivity and reducing traffic congestion in the town centre.
- The contents and conclusions of the EIS and NIS are noted.

4.4. Irish Water

There is no objection in principle.

- The proposed development is within 1km of the Scartleigh Intake. It is concerned that this source may be impacted during the construction stage. This could be addressed by permanent monitoring through the installation of a piezometer at the borehole. A condition requiring installation of same at least 6 months prior to commencement of works is recommended and that monitoring continue for a 6 month period following project completion.
- A site investigation should be carried out prior to any development to locate underground infrastructure.
- Any proposals to divert existing services to be submitted for agreement and any temporary connection throughout the construction phase is subject to connection agreement.

4.5. Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs

- Details and mapping of location of embankments constructed by the OPW referred to on page 132 of the EIS are insufficient to determine their protective status.
- Further information is required as to be whether riverbank rock armouring is likely to be required at some time in the future to protect the southern part of the bridge or the proposed floodplain road embankment and whether the effects of same is likely to be significant.
- Further information is required on whether the modifications provided by the road and bridge, in addition to any likely armouring or similar modifications together, surpass a threshold of good ecological status (hydromorphology) when taken in combination with other existing modifications of the river and if so whether the effects of these modifications are likely to be significant.
- The extent of rough grass road verges and tree planting along the road needs to be assessed in more detail with regard to barn owl and hunting habitat and, where possible, the number of collisions should be predicted.

5.0 Observations on the Proposed Road Development

5.1. Residents of Forge Road

Forge Road is a small lane with 11 dwellings.

- Minimum assessment has been carried out in relation to the impact on Forge Road.
- The road will sever the lane and residents along same.
- The lane is a popular walk and nature trail as it links the old disused Great Southern and Western railway with the Sive walk. There is currently no conflict between pedestrian and motorist. The proposal would have a permanent negative impact. It would be contrary to town development plan objective 5.
- Residents will be exposed to more pollutants and greenhouse gas emissions, noise, dust and vibration.
- Access onto the road for 5 dwellings will be problematic as the volume of traffic will be greater.
- There are serious concerns with respect to drainage proposals. There is the potential for flooding.
- The noise barrier will be problematic. The existing lane is picturesque and tranquil. Noise barriers are not always effective. They may reduce but cannot eliminate traffic noise. They can give rise to overshadowing which could adversely impact on flora and fauna. They can obstruct breezes. They also create a visual barrier.
- Why an EIS was not undertaken for any of the other proposed routes is queried.

5.2. Kate Carmody

- The consultation process was flawed.

- The route will pass through a flood plain which is already infested with Japanese Knotweed. It poses a huge ecological threat. The use of chemicals to address its spread will have a catastrophic effect on the whole ecosystem.
- The EIS is very basic tending to concentrate on mitigation measures rather than prevention. The issues that arose in the Tralee bypass are noted.
- The long detour around the town will give rise to an increase in carbon emissions. A bridge crossing the River Feale from the Tim Kennelly roundabout would have less long term damage.
- The bypass will go through the most built up areas of Listowel creating noise and traffic issues for residents.
- The roundabout at the intersection with the Ballybunion road will give rise to issues in terms of traffic control and access to three schools and a grave yard.
- The need for the bypass is queried. Better traffic management would solve most problems.

5.3. Michelle Whelan & Others

- Better traffic management is an alternative to a bypass.
- The flora and fauna of the area is noted.
- The route along the John B. Keane road is very busy with four schools, two supermarkets and four housing estates. The traffic lights at Ballygologue Cross are regularly not in operation. It is a dangerous crossroads. The PRD would lead to increased traffic congestion and accidents.
- The Tim Kennelly roundabout is already very dangerous.
- A bypass will encourage people to shop elsewhere and will have a negative impact on businesses in the town.
- The bypass will disrupt funeral processions to the John Paul 2 cemetery on the Ballybunion Road.
- It will have a negative impact on the quality of life in the area.

- The Sive Walk is an important amenity and any interference with same will be a great loss to the town. Tourism would suffer as a result.

5.4. **Concerned Residents of Ballygologue Park** (accompanied by petition).

- Lack of proper consultation with residents.
- The proposal does not constitute a bypass.
- The route goes through a densely populated residential area. It will create a dangerous environment for pedestrians.
- The road design including junctions, creates confusion/ambiguity for road users that could lead to potential accidents. The John B Keane road is straight with high walls and retail units. Users will not be aware of it being a residential area in close proximity to schools.
- There are safety concerns about the traffic lights on Ballygologue Road and for motorists exiting Ballygologue Park onto the main Ballygologue Road.
- There are safety concerns arising from non-compliance with the speed limit. More noticeable signage is required.
- Removing 50% of passing traffic from the town will reduce trade to the town and have a negative impact on businesses.
- There will be severance of residents of Ballygologue Park and from the rest of the town.
- Noise, pollution, vibration and congestion will arise.
- The impact on the Sive Walk will be material.
- There would be knock-on impacts from funerals at the graveyard on the Ballybunion Road.
- Alternatives were not properly assessed including traffic management solutions.

5.5. **Listowel Anti-Bypass Community** (submission by The Planning Partnership on its behalf, accompanied by petition)

5.5.1.1. Adequacy of EIS

- The EIS is deficient in the manner in which it has presented and assessed the alternative route options and minimum intervention alternatives. It does not comply with the Article 5(3)(d) of the 2011 Directive. It is questioned if a competent person, when considering the submitted EIS and its findings, could determine with confidence that the proposed development is a more appropriate solution in comparison to other options.
- The baseline analysis is rudimentary and does not provide a comprehensive assessment of how the existing baseline environment of Listowel will evolve in the absence of the project. This is required by Annex IV of the 2014 Directive.
- The impact on the vitality of the town needs to be comprehensively addressed. It also fails to consider the potential impacts on human beings in the context of the overall vibrancy, vitality and viability of the town.
- The residual impacts of the proposal on Human Beings and Socio Economics within the study area as outlined in section 4.6 cannot be considered to represent the outcome of a comprehensive and robust assessment and, therefore, cannot be relied upon.
- The failure of the Oireachtas to transpose the 2014 EIA Directive should not be seen as a justification for failing to address the obligation to present and assess reasonable alternatives including minimum intervention alternatives.

5.5.1.2. Impact on the Town

- The attractive nature of Listowel town and the visible vibrancy of the streets that the N69 currently traverses adds significantly to the attraction of the town for passing motorists.
- The proposal will divert consumers both from the locality and passing traffic from the town centre. It will encourage retail spend leakage to Tralee from Listowel and its catchment. The leakage is evident within the Listowel Retail Strategy 2009-2015. Such diversion serves to erode the economic base of the

town which, in turn, inhibits economic activity, limits employment growth and could potentially threaten the economic viability of some enterprises.

- The proposal undermines Objective 2 and Policy 7 of the Listowel Town Development Plan by creating conditions which will serve to further erode the range and quality of Listowel's retail offer as well as diverting tourist traffic away from the town and its tourist focused attractions and services.
- It will reduce the volume of trade from passing tourists. Listowel has a strategic location relative to the key Shannon ferry crossing point between Kilimer and Kilrush which enables the town to act as a key waypoint for tourists and travellers. It has also benefitted from the Wild Atlantic Way.
- Isolated signage is an inadequate replacement for the inherent attraction of the business premises within a vibrant urban setting.
- Approval of the bypass in the absence of a comprehensive strategy aimed at reinforcing and enhancing the vitality and viability of the town centre will inhibit the achievement of the objectives for the proper planning and sustainable development for Listowel.
- A Framework for Town Centre Renewal issued by Department of Jobs, Enterprise and Innovation is of relevance. Listowel would need to be in the position to implement the recommended interventions that are set out therein with the aid of the County Council.

5.5.1.3. John B. Keane Road

- The area of John B Keane Road has been the focus of substantial growth since 1995 and is the focal point of future growth.
- Whilst it is acknowledged that the N69 is currently routed along the John B Keane Road in an east bound direction the proposal for routing two way N69 traffic along this road will result in a significant increase in traffic volume. It will reduce connectivity for residents, particularly those living on the northern side of the road, to the town centre and various schools, facilities and amenities. It will result in both visual, physical and social severance. It has the potential to have negative social and socio-economic impacts.

- Allowing the John B Keane Road to become a barrier to pedestrian movement will have a significant negative impact in terms of encouraging car based commuting patterns or, in some instances, may become an active impediment.
- The potential impact on the residents along John B Keane Road in terms of visual, physical and psychological severance has not been assessed.
- The EIS does not include a traffic count of the John B Keane Road. No effort has been made to present traffic volume projections on the road in either the event of the proposed development being implemented or an unchanged scenario. Such detail is fundamental to determining the impact of the proposed development on the community.
- From the details available it is estimated that the traffic volumes along John B Keane Road will increase by approx. 48% by 2032.
- There is concern that the development will increase average speeds along John B Keane Road. It is one of the stated objectives of the project to increase the average speed of traffic travelling along the N69 through Listowel. This objective is in direct conflict with the necessity for lower ambient vehicular speeds for roads passing through residential or commercial areas.
- It will pose a threat to the safety of drivers, pedestrians and cyclists due to greater traffic volumes and greater speed and will increase the likelihood of accidents.

5.6. John O'Sullivan

- There is an obligation on Kerry County Council and the Board to ensure that all future developments will correct the social and economic imbalance in the County.
- The reasoning for the route selection is inadequate. There are no detailed cost benefit analysis or details of what projects were taken into account.
- In the absence of design details for the bridge the application is incomplete.

- Traffic management systems in the town are not considered.
- The weight put on construction jobs should not be a consideration.
- It is not possible to speculate with any degree of certainty what impact the bypass will have on the economy of Listowel or North Kerry. Points 2-7 of Table 1.1 in the non-technical summary are speculative and should be withdrawn.
- It would appear that traffic management will need to be introduced in the town to encourage lorries to use the bypass route rather than going through the town. This defeats the purpose of the project.
- The need for noise mitigation at 11 locations is unacceptable.
- Impact from illumination does not appear to have been assessed.
- Flight paths of the Whopper Swan have not been taken into account.
- Mortality rates of the Barn Owl need to be considered. There are 30 sites suitable for Barn Owl within 5km of the site.
- The Sive walk will be seriously impacted. The proposal will destroy a safe recreational and tourism asset for North Kerry and will hinder the future development of the railway walk from Listowel to Tralee.
- The opinions regarding impact on fauna during construction and operational phases are queried in view of the various protections under EU law. The River Feale is the only river open for salmon angling on the entire Shannon river system.
- There are otters and bats at Scartleigh Dam.

5.7. **Michael McKenna & Others** ¹

Mr. McKenna's dwelling is accessed from a private road the R553 - Ballybunion Road part of which, in proximity to the Ballybunion Road, is proposed to be acquired.

¹ Michael & McKenna & Others in their submission to the Board refer to CPO Ref. 340. As confirmed at the oral hearing Mr. McKenna is not named in the CPO Schedule due to the absence of proof of ownership.

The submission, which is accompanied by supporting detail, can be summarised as follows

- Access to their property will be directly off a major roundabout with increased volumes of traffic.
- The removal of two ditches will result in loss of privacy and rise in noise levels.
- There are issues of flooding and how the proposal will impact on same.
- The proposal would reduce the value, safety and amenity of their property.
- It is recommended that the road is closed, the ditches retained and a new entrance provided adjacent to plot 386a (map attached). This would also allow their neighbour to have direct access to his land.

6.0 Compulsory Purchase Order

6.1. The CPO submitted to the Board on the 19/05/17 refers and is titled Kerry County Council – N69 Listowel Bypass Proposed Road Development Compulsory Purchase Order of 2017. It is accompanied by:

- Chief Executive's Order No. M/2017/337 signed on the 09/05/17.
- Report from Director of Services, Operations, Health and Safety Department which is accompanied by supporting documentation including reports from Projects Engineer, Kerry National Road Design Office and Senior Planner.
- Copies of newspaper notices dated 13/05/17 and 18/05/17
- Schedule which consists of three parts, the first and second detail the lands being permanently acquired and the third detailing the public rights of way proposed to be extinguished.
- 6 no. officially sealed deposit maps (Maps A – F)

The full extent of the lands required for the scheme are shown outlined in red and coloured grey on the deposited maps. The extinguishment of burdens are coloured yellow and the location of the public rights of way proposed to be

extinguished as part of the scheme are indicated between the lines coloured green.

- Record of registered post regarding service of notices on landowners, lessees and occupiers.
- Copy of notice to landowners re. making of the CPO.

6.2. The report by the **Director of Services, Operations, Health and Safety** refers to the report of the Projects Engineer, Kerry National Road Design Office. The lands required for the development have been selected on environmental, engineering and economic grounds. The lands are necessary, sufficient and suitable for the proposed development and are urgently required for it. The proposed extinguishments of public rights of way are necessary for the development and that it would be convenient to effect acquisition of the lands and authorisation of extinguishment of the public rights of way by CPO.

6.3. The report from the **Projects Engineer, Kerry National Road Design Office**, which refers to the report from the Senior Planner, makes reference to plans and strategies in support of the development. All the lands contained in the schedule are necessary, sufficient and suitable for the proposed development to which the CPO relates. Acquiring the lands required for the development by CPO would, inter alia:

- Facilitate the acquisition of the lands within a reasonable timescale.
- Allow Kerry County Council to plan the road construction programme for the road development in the knowledge that the land required is available.
- Permit Kerry County Council to secure title to the lands referred to.
- Facilitate the implementation of national, regional and local policy.

6.3.1.1. The report from the **Senior Planner** states that the proposal is in accordance with the County Development Plan, in particular objectives RD4 – RD 6, RD17 – RD19 and RD21. It is also in accordance with the Listowel Town Development Plan, in particular objectives set out in MAC 31, MAC 32 and MAC35.

It therefore accords with the provisions of the said plans and with the proper planning and development of the area. It also gives effect to and facilitates the implementation of the said plans.

7.0 Objections to the CPO

The Board is advised that 32 written objections to the CPO were received.² At the time of writing this report 4 remain. The full list of the submissions and their status is attached in Appendix 3 for the Board's information.

7.1. Edmond Healy (CPO refs. 215a – 215g – Map D)

- There is a less disruptive and simpler route available which would require 80% less construction (map attached).
- The proposed route will not offer a traffic solution. It will bring increased heavy and continuous traffic onto an already busy John B. Keane Road which serves a number of large housing estates and supermarkets. This area is proximal to two large schools and a crèche on the Ballybunion Road. It already experiences congestion during school drop off and collection. There is also a busy builder's merchants yard.
- The route meets two busy traffic junctions at the Ballylongford and Tim Kennelly roundabouts. This area is currently a traffic bottleneck and is unlikely to be able to take the additional by-pass traffic.
- The increased traffic along John B Keane road will pose a threat to children, elderly and those with restricted mobility.
- The issues of noise and traffic emissions and impacts on health have not been addressed.
- Impact on Natura 2000 sites
- Loss of oak trees along the proposed Finuge route (R557).
- Adverse effect on fishing and wildlife along the River Feale.
- Destruction of good farming land in the Greenville area
- Interference with walking/cycling amenity along the Lartigue railway line.

² This excludes the submission from Michael & McKenna & Others which refers to CPO ref. 340. As confirmed at the oral hearing Mr. McKenna is not named in the CPO Schedule due to absence of proof of ownership. Their submission is summarised in section 5.7 above.

7.2. **Michael & Angela Moroney (CPO refs. 225a & 225B – Map D)** Submission by Corridan & Associates

- The PRD will sever a community along the lane. There are no provisions to reconnect residents. The route should be modified to keep the community intact. Direct access should be provided for residents to both sides of the intersection (move bypass, provision of underpass, overbridge or a pedestrian crossing).
- Some residents will no longer enjoy direct access to the Sive Walk.
- Right to bring turf home over existing rights of way shall be extinguished.
- The proposal will have a negative impact on flora and fauna including barn owls, badgers, hares, bats, newts and toads.
- There are health and safety concerns.
- The local area is subject to flooding. The current drainage system is inadequate. There are concerns that the proposed roadworks will exacerbate and increase risk of flooding of their property.
- Noise and dust will affect the enjoyment of their property
- Devaluation of property will result.
- The removal of their boundary ditch will result in loss of privacy, views being affected and noise levels increased. A replacement front wall in place of the existing timber fence is required.

7.3. **Andrea Taylor (CPO refs. 255a & 255b – Map D)** Submission by Corridan & Associates

- The PRD will sever the community along the lane. There are no provisions to reconnect residents. The route should be modified to keep the community intact. Direct access should be provided for residents to both sides of the intersection (move bypass, provision of underpass, overbridge or a pedestrian crossing).
- Some residents will no longer enjoy direct access to the Sive Walk.

- Right to bring turf home over existing rights of way shall be extinguished.
- The proposal will have a negative impact on flora and fauna including barn owls, badgers, hares, bats, newts and toads.
- There are health and safety concerns.
- The local area is subject to flooding. The current drainage system is inadequate. There are concerns that the proposed roadworks will exacerbate flooding.
- Noise and dust will affect the enjoyment of her property
- Devaluation of property will result.

7.4. **Denis Carroll (CPO ref. 315c – Map E)**

The submission can be summarised as follows:

- Lack of consultation especially with those affected.
- Destruction of Heritage/Historical trail from Workhouse to the Famine Graveyard.
- Safety concerns regarding new exit arrangements.
- Impact on dwelling arising from noise, lighting, vibration and exposure with increased security risk and potential for anti-social behaviour.
- New exit will become car park for funeral traffic.
- Devaluation of property
- Impact on Sive Walk. The old railway line should be used as a greenway. A footpath beside a main road is not the same. It is the only amenity this side of the town.
- Traffic from the graveyard nearby will cause traffic congestion.
- Traffic movements at the junction of the Ballybunion Road, John B Keane Road and Convent Street will give rise to hazard.
- John B Keane road is already busy.

- The proposal is not a bypass and will push more traffic through the most densely populated areas of the town.
- There are many alternatives for both traffic management in the town and other more suitable routes. The bypass is not for the good of the town. It is to move traffic quicker from Limerick to Tralee/Killarney. HGV's going to Kerry Ingredients will still go through the town.
- The old railway line has 3 species of bats. There was a parliament of owls.

8.0 Policy Context

8.1. National Development Plan

The National Development Plan (NDP) 2007-2013 states that dealing with infrastructure deficits is crucial to future economic growth, regional development and environmental sustainability.

Its states that the Limerick-Shannon Gateway has considerable potential to generate and drive accelerated rates of economic development and population growth. Key development and investment priorities over the period of the plan include the N69 route to Tralee.

8.2. Transport 21

Transport 21, published by the Department of Transport in 2005, is a capital investment framework through which Ireland's transport system will be developed over the period 2006-2015. The N69 Limerick Tralee is listed as a priority for renewal and upgrade.

8.3. Infrastructure and Capital Investment 2012-16 – Medium Term Exchequer Framework

The NRA will progress a limited number of improvement schemes together with some relatively low cost targeted improvements on the national secondary network, where road safety is an issue, and in tourist areas.

8.4. **Road Safety Strategy 2013-2020 (RSA)**

In terms of engineering measures it is noted that whilst there is reduced emphasis on large scale road construction, there is an increased focus on value for money road improvements that will enhance the safety of the road system as a whole.

8.5. **National Spatial Strategy**

Transport is identified in the NSS as a key part of overall spatial policy and an important tool in supporting balanced regional development. In terms of roads this means:

- implementation of key road investment programmes is a key element in enhancing regional accessibility and thereby underpinning balanced regional development;
- enhanced road links are needed to improve interaction between Gateways and Hubs;

A number of NSR routes which currently provide “strategic linking corridors” are identified within the NSS. The N69 is not listed.

The NSS notes that towns such as Listowel have historically developed to serve strong rural and agricultural hinterlands. Capitalising on the location and attractions of such centres on or near important transport corridors; will become an important part of diversifying these towns as their reliance on traditional economic activities lessen.

8.6. **Smarter Travel – A Sustainable Transport Future**

Goals include:

- improve quality of life and accessibility to transport for all and, in particular, for people with reduced mobility and those who may experience isolation due to lack of transport;
- improve economic competitiveness through maximising the efficiency of the transport system and alleviating congestion and infrastructural bottlenecks;

- minimise the negative impacts of transport on the local and global environment through reducing localised air pollutants and greenhouse gas emissions;
- reduce overall travel demand and commuting distances travelled by the private car;

In relation to roads, it is policy to retain investment in roads that will remove bottlenecks, ease congestion and pressure in towns and villages, and provide the necessary infrastructure links to support the NSS.

8.7. National Cycle Policy Framework

Objective 1 – support the planning, development and design of towns and cities in a cycling and pedestrian friendly way.

Objective 2 – Ensure that the urban road infrastructure (with the exception of motorways) is designed/retrofitted so as to be cyclist-friendly and that traffic management measures are also cyclist friendly.

8.8. National Secondary Roads Needs Study Network Options Report for the South-West Region (NRA 2011)

National Secondary Roads (NSRs) are a key economic asset for Ireland that are necessary to connect major cities and towns to each other and to the national primary roads and are an essential piece of national public infrastructure.

Preparation of the National Spatial Strategy (NSS) gave the NSRs a new significance as key routes linking Gateways to Hubs, other county towns and their hinterlands. Hence a variety of subsequent official reports and strategies, including Transport 21 and the National Development Plan, highlighted various NSRs as priority investments. The review of the NSS currently underway is also giving greater emphasis to the regional dimension of balanced spatial development, and the NSRs have a key role in helping all regions reach their potential.

Section 1.6 notes that whilst the current economic climate has put a very serious strain on the public finances, there are still a number of very strong arguments to be made for the NSR Network Programme.

including:

- the continuing need to address Ireland’s infrastructure deficit, which will help to maximise Ireland’s ability to make the most of an upturn in economic growth when it arrives;
- the critical role played by the NSRs as a link within Ireland’s overall road infrastructure;
- the relative under-investment in NSRs in recent NDPs, as this lack of investment reduces gains from recent improvements in National Primary Roads and local roads;
- reductions in transport costs, including freight costs, which will help to improve national competitiveness;
- the role played by an improved road network in supporting other necessary improvements, such as in regional public transport and the movement of goods and freight.

The report assessed a Listowel Relief Road (term used interchangeably with bypass) that runs to the south of the town which would involve a length of 3.31km. As a consequence of the relief road 8 Clar zones would experience improved access to Hub/Gateway

The Listowel Relief Road would have 2025 AADT of 4100 and is ‘red flag’.

8.9. **South-West Regional Planning Guidelines 2010-2022**

Section 2.1 identifies Strategic Growth Corridors that provide connectivity and linkages. The key corridors are:

- Atlantic Corridor from Waterford through Cork Gateway, Mallow Hub to Limerick.
- Inter-regional corridors including along the N21/N69 national road from Tralee to Limerick and
- Intra-regional corridors – main national roads linking main towns of regional importance throughout Cork and Kerry.

Chapter 5 – N69 is identified as a significant strategic road investment linking the Tralee/Killarney Hub with the Tarbert/Ballylongford deepwater port and landbank and Limerick through the Tarbert Ferry.

8.10. Kerry County Development Plan 2015-2021

The priority infrastructure requirements for the County are set out in Table 7.1a/b & 7.2 and include the N69 Listowel By-Pass.

In terms of infrastructure objectives RD-1 to RD-6 refer. Of note:

RD-4 – provide or facilitate the sustainable provision of all infrastructure projects set out in Table 7.1 a/b and 7.2, with priority given to infrastructure serving the Linked-Hub towns and Key Towns.

RD-6 – ensure that all objectives and any development will not have significant adverse effects on the built natural or cultural heritage, residential or visual amenity.

Objectives RD-7 to RD-16 pertain to sustainable transport.

Section 7.2.1.1 – it is an overall objective of the Plan to provide for balanced growth throughout the County by promoting and the strengthening of rural communities and to provide sustainable infrastructure to facilitate job creation in these areas. The road network throughout the County and particularly the national road network is a vital element of this infrastructure. It is essential that they are maintained to the highest standards possible and that their efficiency, safety and carrying capacity is maximised.

Objective RD-17 – protect the capacity and safety of the national road and strategically important regional road network in the County and ensure compliance with the Spatial Planning and National Roads Planning Guidelines (January 2012) and the NRA Traffic and Transport Assessment Guidelines (2007).

Objective RD-18 – reserve lands and prohibit development in areas identified for both the immediate and long term provision and improvement of roads throughout the County and the construction of relief roads as indicated in Table 7.1a/b.

Objective RD-19 – support sustainable improvements to the existing National Road network including road schemes and bypasses outlined in Table 7.1a/b.

Objectives RD-28 to RD-31 refer to pedestrians and cyclists

RD-29 – promote the sustainable development of the public footpath network, the walking and cycling routes and associated infrastructure in the County including, where possible, the retrofitting of cycle and pedestrian routes into the existing urban road network and in the design of new roads.

8.11. Listowel Town Development Plan 2009-2015 (extended pursuant to Section 11A of the Planning and Development Act, as amended)

Core Strategy Objective 3 – A Strong Local Economy

- To protect and enhance the ‘health’ of the town centre by facilitating and supporting measures which would improve its vitality and viability.
- To ensure that Listowel town maximises its potential as a regional centre within North Kerry and West Limerick.

Core Strategy Objective 4 – Strong and Inclusive Local Services and Amenities

- To encourage the role of Listowel as a local service centre for the surrounding rural hinterland.

Core Strategy Objective 5 – An Accessible and Legible Town

- To provide for a more pedestrian and cyclist friendly environment in the town
- To promote the concept of a walkable town centre which reduces conflict between the needs of pedestrian and motorist.
- To ensure that the local road network provides ease of access to and between various areas.
- To improve linkages between Listowel Town and the Tralee/Killarney development hub, the Limerick/Shannon gateway, the Tarbert Industrial landbank and the port of Foynes.

Roads Objectives

MAC 31 (by variation adopted April 24th 2017) – Provide a bypass of the town as indicated in Table 7.1a of the Kerry County Development Plan 2015-2021.

Note: Map 3 amended as a consequence of this variation with the removal of reference to the bypass (indicative route).

MAC 32 – reserve land for and cooperate with Kerry County Council and the NRA in order to provide the Listowel Bypass and to protect the route corridor for the Bypass from further development proper to the establishment of a final route.

MAC 33 – Promote transport linkages between Listowel and the Tralee/Killarney hub, the Port of Foynes and the Limerick/Shannon Gateway.

MAC 35 – reserve part or all of the lands generally along the Lartigue railway jointly in the ownership of Listowel T.C. and Kerry County Council for the continuation of an Inner Relief Road with footpaths and cycle ways with the co-operation of Kerry County Council.

8.12. Listowel/Ballybunion Functional Areas Local Area Plan 2013-2019

Objective NR-1 – facilitate the sustainable development of the N69 Listowel Town Bypass Scheme subject to Environmental Impact Assessment and Article 6 Habitats Directive Assessment at project level stage.

8.13. Natural Heritage Designations

The PRD crosses the River Feale which is part of the Lower River Shannon SAC.

9.0 Assessment

Under the proposed scheme consent is being sought for the road development as well as for the compulsory purchase of the lands required for its construction. The first sections of this assessment deal with the policy context and justification of the proposed road development (PRD). This is followed by consideration of the proposed development to include an environmental impact assessment and appropriate assessment. The CPO will then be assessed followed by any outstanding planning and CPO considerations. Reference will be had throughout to the documentation on the file including the EIS and NIS, in addition to the information provided at the oral hearing.

9.1. Nature and Extent of Development Proposed

Public Notices

- 9.1.1. The public notice for the PRD refers to a 5.95km western and northern bypass of Listowel Town Centre comprising approximately 3.65km of Type 1 Single Carriageway new road and 2.30km urban all purpose single carriageway on-line improvement, linking the N69 Tralee-Limerick Road north and south of Listowel town centre via the R553 Ballybunion Road and all ancillary and consequential works. The wording of the CPO notice differs marginally in that it refers to a western and northern bypass of Listowel Town with the word 'centre' omitted. These descriptions differ somewhat from the description as given in section 2.2 of the EIS and replicated in other sections throughout the document which refer to approx. 7km of construction consisting of approx. 3.8km of new greenfield road construction, 1.2km upgrade/realignment of existing road and 2km of upgrade of the existing John B. Keane Road.
- 9.1.2. Mr. Flanagan on behalf of Kerry County Council informed the hearing that the 5.95km referenced in the public notices refers to what can be considered to be the 'mainline' works, namely the new build and on-line improvement along the John B Keane Road. As measured from the plans accompanying the application I can confirm that the said mainline works equate to in the region of 5.95km with 3.65km new road and 2.3km on-line improvement. Mr. Flanagan submitted that the

ancillary and consequential works as referenced in the notices pertain to approx. 1.1km regrading of roads perpendicular to this mainline as delineated on the map accompanying the notices which is the same as that shown in Figure 1.1.1 of the EIS. This would equate to the 7km as referenced in the EIS. The said works include regrading along the existing R557 Finuge Road on approach to roundabout no.1, along the L-1011 Greenville Road on approach to roundabout no.2 and along the R553 Ballybunion Road on approach to roundabout no.3. I can confirm that the extent of the said works as delineated on the plans accompanying the application equates to approx. 1.1km

- 9.1.3. This lack of consistency in the description of the development between the notices and the EIS is somewhat unfortunate. However I consider that the public notices adequately describe the nature and extent of the development before the Board with the regrading works on the road network perpendicular to the mainline covered by the term 'consequential works' thereby adequately reflecting the extent of the works as delineated on the plans accompanying the application. I consider that the PRD notice complies with Form No.4 of S.I. 49/2008 Roads (Schemes)(forms) Regulations 2008 which requires a brief, non-technical description of the PRD with the map illustrating the route showing the terminal points of the project and key intermediate points and includes existing roads and significant proposed ancillary works. I also note that the lands to be acquired to facilitate the PRD, including any lands required to facilitate the consequential works as detailed above, are fully covered in the CPO Schedule and the accompanying maps. I therefore consider that no individual would have been disenfranchised or their rights compromised. Should the Board not concur it may consider the option of requiring revised public notices.

Terminology Used

- 9.1.4. I submit that the PRD before the Board cannot be considered to be a bypass for the town in the context of what is reasonably considered to constitute such a development. A bypass is reasonably defined as a road passing round a town to provide an alternative route for through traffic. In my opinion this is not strictly the case in this instance with the route to use the John B Keane Road. In this regard I note the level of development that has been facilitated to date to the north of the

road, the existing access arrangements to residential and commercial development from same and the further development potential arising from the lands zoned for development in the current Listowel Development Plan.

9.1.5. In the context of the specific need for the project as set out in Section 1.4 of the EIS the proposal is effectively a compromise in that it provides for an alternative route for N69 through traffic to avoid the congested town centre, which will assist in alleviating the prevailing traffic management issues and congestion in the town centre.

Having regard to the definitions given in TD9/12: Road Link Design, I submit that the term urban relief road would be more accurate in that its purpose is to divert traffic within an urban area away from the town centre and avoid congestion or other obstacles to movement.

9.1.6. In my opinion the John B Keane Road already serves as an urban relief road in that northbound traffic on the N69 is currently directed along same. Whilst I note reference made by Ms. Jacqueline Madigan representing the Concerned Residents of Ballygologue Park to relief roads in urban areas and section 3.4.4 of DMURS, the guidance does not preclude such a scenario but requires that moderate speeds be applicable and integration of the route within the urban fabric so that a sense of place is maintained and to prevent severance between adjoining areas.

9.1.7. Ms. Smith in response to questions at the oral hearing acknowledged that the stated purpose of the PRD changed somewhat through the iterative process but that the terminology did not, namely use of the term 'bypass', so as to provide for consistency. In my opinion the continued use of the term 'bypass' through the progress of the project and references made in the policy documents as detailed in section 9.2 below has not assisted in the proper understanding of the purpose of the PRD.

9.2. **Compliance with Policy Provisions**

9.2.1. There is a suite of documents to which reference has been made by the applicant in setting the policy context of the PRD dating back to 1998. The NRA National Roads Needs Study 1998, in addressing the N69, makes reference to a Listowel By-Pass within the Backlog Phase needs. The subsequent National Secondary Roads

Needs Study Network Options Report for the South-West Region (NRA 2011) includes a Listowel Relief Road with an indicative line shown running to the south of the town with an approx. length of 3.31km. The need for the road was 'red flagged' and was listed for inclusion in the major projects of the NRA.

- 9.2.2. Transport 21, published by the Department of Transport in 2005 which is a capital investment framework for the period 2006-2015 listed the N69 Limerick Tralee as a priority for renewal and upgrade. Subsequent to this the National Development Plan under its Transport Programme identified the N69 route to Tralee as one of its key development and investment priorities.
- 9.2.3. The NSS, whilst not referencing the PRD, notes that towns such as Listowel have historically developed to serve strong rural and agricultural hinterlands and that capitalising on the location and attractions of such centres on or near important transport corridors will become an important part of diversifying such towns as their reliance on traditional economic activities lessen. Therefore I would accept the view that as one of the aims of the PRD is to reduce congestion within the town centre, it will serve to capitalise on the town's location which is consistent with the aspirations of the NSS.
- 9.2.4. In terms of Smarter Travel I note that the PRD would support the removal of through traffic from the town, reduction in journey times on the N69 and reduction in congestion, but would not, in itself, encourage greater levels of traffic. I therefore do not consider that it would be counter to the policies and objectives of the document.
- 9.2.5. At a regional level the South West Regional Planning Guidelines identifies Strategic Growth Corridors that provide connectivity and linkages including the inter regional corridors, with the N69 identified as a significant strategic road investment linking the Tralee/Killarney linked Hub with the Tarbert/Ballylongford deepwater port and landbank and Limerick. I note that the Southern Regional Assembly in its written submission to the Board considers that the proposal is in line with the policies and objectives for the region as set out in the RPGs, as far as is practicable.
- 9.2.6. The current Kerry County Development Plan 2015, which would be informed by both national and regional policy, explicitly identifies the N69 Listowel bypass in Table 7.1a and to which objective RD-4 refers.

- 9.2.7. The Listowel Town Development Plan 2009 which remains in force (extended pursuant to Section 11A of the Planning and Development Act 2000, as amended) was amended by way of variation in April 2017. Prior to this amendment the relevant objective (MAC 31) sought, what was referred to as a 'full bypass' of the town, with an indicative corridor set out on Map 3 which largely corresponds to the line as delineated in the National Secondary Roads Needs Study Network Options Report for the South-West Region (NRA 2011). The said objective was amended to refer to the provision of a 'bypass' of the town as indicated in Table 7.1a of the County Development Plan with the indicative line on Map 3 removed.
- 9.2.8. In view of the fact that the preferred route was identified in 2012 as to why the Town Development Plan was not amended sooner, or indeed Map 3 amended to show the preferred route, is not clear from the Local Authority's submissions and answers to questions at the oral hearing. The fact remains, however, that the amendment was adopted, albeit less than a month before the lodgement of the application to the Board. Mr. Ginty in his submission to the hearing stated that the variation went out to public consultation twice during the statutory process.
- 9.2.9. I would also bring to the Board's attention objective MAC 35 which seeks to reserve lands generally along the line of the Irtigue railway line for the continuation of the Inner Relief Road. I assume that this refers to the line of the railway route that is now the Sive Walk which is the natural extension of the John B. Keane. I note that an indicative line to this effect is delineated on Map 3 of the Plan. Thus, in reading objectives MAC 31 and MAC 35 in tandem it can be inferred that a 'full by pass' of the town was originally considered independent of, and in addition to, an inner relief road when the plan was originally adopted. Mr. Ginty confirmed to the hearing that MAC 31 would have primacy in view of its reference to the provisions of the County Development Plan.
- 9.2.10. Whilst I accept that circumstances alter and that as part of the iterative process in coming to the preferred route option for the PRD into which the said development plan indicative route was incorporated, it is somewhat unfortunate that in amending the development plan by way of variation in April 2017, the County Council did not take the opportunity to amend, and possibly consolidate, the objectives so that any ambiguity was removed. In this regard I would concur with Mr. Flanagan that the

development plan needs to be viewed and read in its totality in the context of the current County Development Plan and in that regard the provision of a town bypass is explicit.

- 9.2.11. Concurrently I would agree with the view as expressed by Mr. Ginty to the oral hearing that the PRD would allow for the realisation of other policies and objectives for the town as set out in the Town development plan in the Core Strategy Objectives 1 through to 5 including seeking to protect and enhance the health of the town centre by facilitating and supporting measures which would improve its vitality and viability and to promote the concept of a walkable town centre which reduces conflict between the needs of pedestrian and motorist
- 9.2.12. Finally I note that objective NR-1 of the Listowel/Ballybunion Functional Area Local Area Plan 2013 seeks to facilitate the sustainable development of the bypass scheme subject to EIA and Article 6 Habitats Assessment at project level stage.

Conclusion

- 9.2.13. I submit that the understanding of the actual function of the PRD is not assisted by the terminology used which, in my opinion, has been exacerbated by the terminology that permeates through the relevant policy documents although I note the removal of the phrase 'full bypass' from the relevant objective in the Town Development Plan. Notwithstanding I consider that the PRD is supported in terms of the local policy documents when read as whole and would be in accordance with same.
- 9.2.14. In conclusion, therefore, I submit that the project has support at national, regional and local policy levels with the proposal being in accordance with, and would advance specific objectives as set out in the current County and Listowel Town Development Plans.

9.3. Justification for Proposed Road Development.

- 9.3.1. The background and need for the scheme is set out in Section 1 of the EIS and in Ms. Tracy Smith's submission to the hearing (Day 1 – Sub.1)

- 9.3.2. The N69 National Secondary Road is c.101km long and is situated in counties Limerick and Kerry connecting Limerick city to Tralee through a number of villages and towns including Mungret, Kildimo, Askeaton, Foynes, Glin, Tarbert and Listowel.
- 9.3.3. The route connects with the N7, N18 and N20 national primary routes at Limerick with onward connection to the N24. The route also connects with the N21 and N22 national primary routes and N70 and N86 national secondary routes at Tralee.
- 9.3.4. Limerick city is one half of a Gateway with Shannon under the National Spatial Strategy and Tralee is a joint Hub with Killarney. The N69 route forms an important link between the deepwater facility at Foynes and Limerick and the national road network. There is an existing car ferry at Tarbert crossing the River Shannon to Killimer in county Clare as part of N67 national secondary route. This route is subject to extensive tourism driven seasonal variation in traffic volumes.
- 9.3.5. The cross section of the existing N69 is a single carriageway road of varying width with an existing crossing over the River Feale at Listowel Bridge and a one way system in operation in the town centre. Traffic travelling south through Listowel use Church Street giving way to traffic joining the N69 from Courthouse Road. Traffic travelling north is directed via the Square, onto William Street through the Clieveragh roundabout and east onto the John B Keane Road to the Caherdown roundabout and then east along the N69. By reason of its route through the central retail area and on-street parking on both sides along the majority of the route, traffic movement is slow with congestion arising from conflicting vehicular movements.
- 9.3.6. The John B Keane Road extends from the R553 (Ballybunion Road) to the Caherdown Roundabout on the N69 National Secondary Road and is approx. 2km in length. It was constructed between 1996 and 2000 primarily as a relief road for the town. There is a signalised junction at the crossroads at Ballgologue in addition to a number of accesses to housing estates both north and south of the road, the Fire Station, Lartigue Railway Museum and two supermarkets.
- 9.3.7. Mr. McGinley in his submission to the hearing noted that approx. 2000 vehicles per day pass through Listowel as through traffic on the N69 with 5% being HGVs. He submitted that the figures provided in the document '*N69 Listowel By-Pass, 2007*' presented by Mr. Healy of the Listowel Anti Bypass Community to the oral hearing

(Day 2 – Submission 11), and specifically the reference to approx. 11,000 vehicles using the N69 through Listowel each day, would more appropriately apply to the traffic in the town in totality rather than specifically referring to through traffic. He suggested that the detail suffered from the language used in the brochure. Having regard to (a) the AADT figures recorded for 2012 as set out in Figure 1.1.2, (b) section 4.2.3 (e) of the EIS which sets out the baseline commuting patterns in which it is noted that a large number of journeys conducted by residents are short distance travel within the town which conflicts with the traffic on the N69 and (c) the 2025 projections of 4100 AADT as set out in the National Secondary Roads Needs Study Network Options Report, 2011, I would tend to concur with this explanation.

9.3.8. In this regard I note the following AADT recorded for 2013:

- Church Street (one way flow) 8170 vehicles
- Bridge Road (two way flow) 14950 vehicles
- William Street (one way flow) 9480 vehicles

9.3.9. Congestion associated with the traffic volumes is evident in the town and results in journey time delays for traffic travelling along the N69 particularly at peak times. The time delays are anticipated to increase with the predicted increase in traffic volumes as set out in Table 1-4 of the EIS, notably along Bridge Street which is anticipated to have a 30% increase in traffic between 2013 and 2032. For traffic travelling northwards it takes approx. 8 minutes to navigate the town. Without intervention this is anticipated to increase to over 18 minutes by 2032. With intervention the time would be in the region of 7.5 minutes. For traffic travelling in a southerly direction the current journey time is 7 minutes which is predicted to increase to 15 minutes in 2032 without intervention. With intervention this would be under 7 minutes.

9.3.10. Between 2005 and 2016 there were 59 recorded collisions resulting in injury in the Listowel urban area of which 25 involved pedestrians. All bar one of the collisions involving pedestrians were located within the town centre.

9.3.11. I therefore accept that there is a lack of capacity on the existing route to accommodate the current traffic volumes and that there is a specific need to address

the current congestion issue which, without intervention, will be exacerbated in the future to the detriment of the town centre.

Alternative Routes

- 9.3.12. Detail is given in the EIS to the background to the PRD dating back to November 2011 and is supplemented by the submission made by Ms. Smith to the oral hearing. There are criticisms of the detail given on the alternatives in Section 3 of the EIS particularly the information supporting the conclusions reached however I note that reference is clearly made to the route selection report prepared and which is provided in support of the application. The following gives a brief synopsis.
- 9.3.13. The examination of alternatives commenced with a route selection process conducted in 2011 and 2012 culminating in the production of a Route Selection Report. The said report refers to a feasibility report dating back to 2006 and a constraints report in 2007 with an Environmental Assessment of the Route Corridor option completed in 2009 with public consultation undertaken in 2011. Three types of alternatives were considered, namely Do Nothing/Do Minimum, Traffic Management and Infrastructure Alternatives as required by the NRA Project Appraisal Guidelines 2011. The 2012 Report concluded that the former two options would not alleviate the traffic congestion, accident patterns and environmental concerns as the road geometry of the Town Square and existing River Feale Bridge allow for only limited improvements, which would not change the traffic patterns.
- 9.3.14. In terms of infrastructure alternatives 5 route options were initially identified and are set out in Figure 3.1.1. The options were assessed against environmental, engineering and economic criteria. The route corridor options are divided into two broad groups. Route Corridor Options A, B and B1 which go the east and south of Listowel and Route Corridor Options C and D which go to the west and north with the latter availing, in part, of the existing road infrastructure in the town.
- 9.3.15. The Route Corridor Options A, B and B1 are stated to encounter significant difficulties in terms of the River Feale SAC, the associated structures, difficult topography and safety concerns associated with the junctions. The options progressed to Stage 2 Project Appraisal are Route Corridor Options C and D with an option amalgamating Options C and D, on conclusion of which it was recommended

that route corridor option C/D progress as the preferred route corridor option. This is now before the Board for adjudication.

Traffic modelling and cross section proposed

- 9.3.16. The traffic modelling has been undertaken using the industry standard software package VISUM. Additional traffic modelling sensitivity forecasting was undertaken to assess the impact of updated national traffic forecasts as set out in the revised TII Project Appraisal Guidelines Unit 5.3 published in October 2016 generating 2035 design year flows. These new traffic forecasts project slightly lower levels of traffic growth than were assumed in 2013, which largely offsets a later opening and design year than was initially assessed. I accept that these forecasts have no significant impact on the assessment undertaken.
- 9.3.17. The model indicates that the PRD is expected to bring relief to Listowel town centre. It is also expected to act as a local distributor road and is likely to be used by traffic from the south wishing to access areas to the north of the town such as the Listowel Business Park. It is predicted that 75% of N69 through traffic would use the bypass. Of this, 98% of north-bound traffic is predicted to use the road, the figure for south bound traffic is materially less at 43%. The latter is on the basis that the current route through the town centre will remain shorter than travelling the new road which, when coupled with the reduction in traffic congestion and delays, would have a knock on effect in terms of reducing journey times.
- 9.3.18. The PRD would also collect traffic from the R553, R552 and some from the R557 by providing an alternative means of access rather than through the town. Figure 2.1.40 of the EIS sets out the modelled traffic figures for the years 2017 and 2032 with a reduction of approx. 40% on Bridge Street (2017), 25% on William Street and 20% on Church Street in 2017.
- 9.3.19. As noted above the John B Keane Road to the east of Cliveragh roundabout is already used for northbound N69 traffic and the directing of two way traffic would not result in a substantial increase in traffic movements. The modelled increase for 2017, which would have regard to the impacts of other local traffic movements arising from the PRD, is in the region of 2.4% and would have a minimal impact with regards to access to the residential estates, the fire station and commercial

development including the existing supermarkets. This would reduce further in 2032 with a net positive impact largely arising as a consequence of the impact of the PRD and change in local traffic movements. Traffic volumes along the western section of the John B Keane Road would increase materially and would be in the region of 32% for 2017 reducing to c.15% in 2032. Save for the Lartigue Museum and cottages adjoining there are no accesses along this section of the road. Both sections of the road have sufficient capacity to accommodate the increases.

9.3.20. As noted above HGVs account for 5% of through traffic and the PRD is expected to bring about a comparable reduction. However it is not anticipated that traffic patterns from the commercial premises at Tanavalla, including that from the Kerry Ingredients Plant, would be altered. The assertion that north-bound vehicles including HGVs would turn right to access the bypass rather than take the original, shorter route through the town with decreased journey times arising from the removal of other through traffic is not accepted. For this to happen in any material manner would defy logical behaviour. As confirmed by Ms. Smith at the oral hearing no weight restriction or HGV ban is proposed to be placed at Listowel Bridge or within the town to preclude such travel patterns as part of this PRD and but that such measures could be considered separately as part of a wider management plan for the town.

9.3.21. In terms of the cross section a Type 1 Standard Single Carriageway is proposed for the greenfield section of the PRD where a design speed of 100km/h would pertain. Having regard to Table 8.1 of the TII publication DN-GEO-03031 Rural Road Link Design and to the 8690 AADT recorded in 2013 at Tanavalla on the N69, the proposed cross section is considered to be reasonable (AADT capacity for level of service D for Type 1 Single carriageway is 11,600). 3 no. roundabouts are proposed. In line with TII policy new accesses will generally not be facilitated onto the new build.

9.3.22. The requirements of DMURS would apply from the 50km/h limit which would be applicable from the proposed roundabout at the intersection with the Ballybunion Road. The carriageway on the John B Keane Road is to be reduced to a uniform 7 metres with the footpath widened along the northern side providing for shared pedestrian and cyclist facilities. Ms. Smith informed the hearing that such measures

will assist in reducing vehicular speeds. The roundabout at the junction with the Ballylongford Road is to be replaced with lights with dedicated pedestrian phasing whilst new hardware is to be installed at the existing signalised junction at Ballygologue. Ms. Smith also stated that the realisation of existing zoned lands in the vicinity will be via existing access provisions.

Conclusion

9.3.23. As noted in section 9.1 above I consider that the terminology used throughout the process from inception has not assisted in the full understanding of the purpose of the project. Rather than providing a strategic function in terms of removal of traffic from the town centre it has a two-fold purpose to facilitate the removal of N69 through traffic and provide an alternative route for other traffic using regional and local roads that feed into the town centre and thereby assisting in the alleviating of the congestion which has an adverse impact on the setting and character of the town. The cross section and junction arrangements are considered acceptable.

9.4. Environmental Impact Assessment of Proposed Road Development

9.4.1. Introduction

9.4.1.1. Kerry County Council is also seeking EIS approval for the PRD. A NIS has been submitted to facilitate the Appropriate Assessment of the works on Natura 2000 sites in the vicinity of the development which will be dealt with in section 9.5 below.

There is an element of overlap which is reflected in the report.

9.4.1.2. The applicability of the 2014 EIA Directive has been raised by the Planning Partnership on behalf of the Listowel Anti ByPass Community, with particular reference made to population and human health and consideration of alternatives. This application was made to the Board prior to 16th May 2017, the date for transposition of Directive 2014/52/EU amending the 2011 EIA Directive. Under the transitional provisions of the 2014 Directive, the 2011 Directive (Directive 2011/92/EU) as transposed into Irish legislation will apply to the application.

9.4.1.3. This section of the report provides an assessment of various environmental topics correlating with the various sections of the EIS. I submit that this assessment is informed by the contents and conclusions of the EIS, and also by information

provided at the various stages of the process in relation to the likely effects of this development on the environment and its possible consequences for proper planning and sustainable development in the area in which it is proposed to be situated. The assessment also has regard to potential mitigation measures, including those indicated in the EIS, those proposed at the hearing, and any others which might appropriately be incorporated into a decision to approve the development through the attachment of conditions.

9.4.1.4. Copies of the Traffic Modelling Report August, 2015 and Junction Traffic Modelling Assessment July, 2014 as referenced in sections 1.4 and 2.12 of the EIS were provided to the hearing. The said documents provide the background information to the detail as provided in the EIS. The results of a Traffic Sensitivity Test carried out in August 2017 following updated national traffic forecasts as set out in the revised TII PAG, Unit 5.3 was also provided to the hearing which stated that the data relied on in the EIS is considered robust and accurate but that the exercise was so as ensure that where the adoption of the revised national traffic growth forecasts may have given effect to an increase in any required mitigation this could be considered for included within the environmental commitments. I consider the presentation of this information to the oral hearing to be acceptable and allows for the elucidation of details before the Board.

9.4.1.5. I am satisfied that the level of information provided in the EIS is such as to enable an assessment of the likely significant effects on the environment arising from the proposed scheme and that the information presented is such that it is in compliance with the requirements of the EIA Directive and Irish legislation, notably Section 50 (2) of the Roads Act. Whilst the EIS is an essential part of the process, I would comment that the acceptance of its adequacy does not necessarily oblige the Inspector or the Board to accept any or all of the assessments of effects in it or the conclusions reached in relation to the development in question.

Consideration of Alternatives

9.4.1.6. In addition to the criticisms regarding the consideration of alternatives addressed in section 9.3 above the adequacy of the detail provided in the EIS has also been raised.

9.4.1.7. Section 3 of the EIS sets out an outline of alternatives considered and effectively gives a summary of the route selection process as set out in the Route Selection Report, 2012, a copy of which accompanies the application. The alternatives considered included 'do-minimum' and 'traffic management options'. Whilst the detail inserted into the document in support of the conclusions reached is brief, the various stages of the process are acknowledged which led to the selection of the preferred route. The process was subject to public consultations and the development plan process with provisions being made in both the current Kerry County Development Plan and the Listowel Town Development Plan, the latter by way of variation of the adopted plan.

9.4.1.8. The benefits of the route option selected over the options of traffic management solutions and a route to the south of the town are elucidated in Ms. Smith's submission to the oral hearing which, in response to the issue raised in the written submissions, states that of the 5 corridor options assessed those to the south, namely A, B and B1, would involve the construction of a substantially more significant bridge structure resulting in visual impact and impact on the River Feale Valley including ecological impacts with increased land take and the consequent increased costs. Route corridor C/D emerged as the preferred route corridor option in that it was preferred from an environmental perspective in terms of the crossing location of the River Feale, and provided the best return on investment from the Cost Benefit Analysis.

9.4.1.9. I consider that the detail provided is sufficient to comply with the requirements in terms of an 'outline of the main alternatives' considered.

EIA Headings

9.4.1.10. The issues arising in the following assessment can be addressed under the following headings:

- Human Beings
- Ecology
- Soils & Geology
- Water
- Air & Climate

- Landscape and Visual Impact
- Material Assets
- Cultural Heritage
- Interaction of the above

9.4.2. Human Beings

9.4.2.1. Although there is a specific section titled Human Beings, as would be expected the likely effects of the PRD on human beings are addressed under several of the headings of this environmental impact assessment and, as such, should be considered as a whole. Of particular relevance, in my opinion, are issues arising from severance, noise, visual impact, agronomy and socio-economic impacts. I propose to address the latter three issues in further sections below.

Severance

9.4.2.2. The Board will note both from the written submissions and submissions made to the oral hearing, that the issue of severance is a material concern particularly with regard to Forge Road and John B Keane Road with ancillary concerns relating to community impacts, loss of amenity, nuisance and pedestrian and vehicular safety.

9.4.2.3. The PRD is to traverse the Forge Road which is minor local road serving 11 dwellings and will sever the northern and southern sections from each other. No vehicular or pedestrian connectivity is proposed between the two sections. Ms. Smith informed the hearing that a crossroads would not be accordance with the Design Standards for National Roads schemes due to safety concerns, whilst options for staggered junctions were examined but not progressed due to the length of new road required and the impact on existing land use and residential development. Access for dwellings to the south of the new road will be onto the Greenville Road, with access for the northern properties via a T-junction onto the new road with pedestrian links via the new road and a new footpath along the Greenville Road

9.4.2.4. There is no doubt that there will be a material social and physical severance impact for the residents of Forge Road. A number of objectors also noted that in addition to those residing along it many walkers and groups use the road as it links with the Sive

Walk and line of the Great Southern and Western Railway. Whilst not wishing to undermine or underestimate the concerns expressed regarding the inconvenience and disruption that will be generated and noting that all of the impacts cannot be completely eliminated this has to be balanced against the identified need to provide a national secondary road to an acceptable standard and the exigencies of the common good. In that context, therefore, the impacts are considered acceptable.

9.4.2.5. In terms of John B. Keane Road, whilst it is acknowledged by the Listowel Anti ByPass Community and Concerned Residents of Ballygologue Park that the N69 is currently routed along part of the road in an east bound direction, it is considered that the proposal for routing two way N69 traffic will result in a significant increase in traffic volumes which would reduce connectivity for residents, particularly those living on the northern side of the road, to the town centre and various schools, facilities and amenities and thereby result in both visual, physical and social severance.

9.4.2.6. I note that the majority of the residential schemes developed to date are along the eastern section of the John B Keane Road along which east bound N69 traffic is already directed. The PRD, in providing for two way traffic, will result in an increase in traffic flows of in the region 2.3%. The traffic modelling concludes that there is sufficient capacity to accommodate the increased traffic flows. Improved pedestrian and cyclist facilities are proposed as part of the scheme which will result in a narrowing of the existing carriageway with additional pedestrian crossing facilities proposed with the replacement of the roundabout with a signalised junction at the R552 Ballylongford junction (Cliveragh roundabout). I submit that in the context of the prevailing situation the PRD would not result in an adverse impact on connectivity and pedestrian safety along the John B. Keane Road.

Noise and Vibration

9.4.2.7. Section 10 of the EIS and the submission by Mr. Stephen Smyth for the applicant presented at the oral hearing refer (Day 1- Sub.3 & Day 2-Sub.1).

9.4.2.8. Concerns regarding the impact of noise and vibration arising from the development were raised by a number of persons who made submissions to the Board and to the hearing.

9.4.2.9. The PRD follows the standard practice of adopting the traffic noise design goal contained in the NRA documents *Guidelines for the Treatment of Noise and*

Vibration in National Road Schemes and Good Practice Guidelines for the Treatment of Noise during the Planning of National Road Schemes. The design goal is day-evening-night 60dB L_{den} (free field residential façade criterion). This is a well established standard which has been considered to be reasonable in previous road development projects, including those which have come before the Board.

9.4.2.10. The EIS includes details of the existing noise climate along the route of the PRD. The survey methodology used followed that as detailed in the above guidelines with measurements taken at over 18 locations along the length of the PRD. I consider that the location of survey points are acceptable and adequately cover the study area. As noted the 60dB L_{den} parameter is exceeded at 9 of the survey locations (Table 10-2 and Figure 10.1.1). Two of the locations are along the existing N69 at Coolnaleen Lower, two on the L-1011 Greenville Road, one on the Ballybunion Road with the remainder along the John B. Keane Road.

9.4.2.11. Noise predictions were conducted using an acoustic modelling package which generates predicted noise levels for selected receiver points. The prediction methodology is based on the calculation of road traffic noise (CRTN) method which is the approved calculation method set by the TII and which is also prescribed in the *Irish Environmental Noise Regulations 2006*. Traffic noise levels have been predicted at a total of 118 receiver locations along the proposed road and are as detailed in Figures 10.1.3 – 10.1.6 in Volume 3 of the EIS. Any receptor experiencing road traffic noise exposure level greater than 60dB L_{den} was deemed to be eligible for assessment. A worst case assessment was undertaken ie. using the high growth traffic forecast for 2017 and the design year 2032. Mr. Smyth informed the hearing that additional noise modelling was undertaken to consider the implications of the traffic modelling sensitivity forecasting consequent to the updated national traffic forecasts set out in the revised TII Project Appraisal Guidelines, October 2016 generating 2035 design year flows.

9.4.2.12. Noise mitigation measures are deemed necessary whenever all of the following 3 conditions are satisfied:

- (a) The combined expected maximum traffic noise level ie. the relevant noise levels from the proposed scheme, together with other traffic in the vicinity, is greater than the design goal,

- (b) The relevant noise level is at least 1dB more than the expected traffic noise level without the proposed road scheme in place,
- (c) The contribution to the increase in the relevant noise levels from the proposed road scheme is at least 1dB.

9.4.2.13. The results of the modelling for 2017 show that the expected maximum traffic noise level is greater than 60dB L_{den} at 69 receptor positions. Noise mitigation measures will be required at 9 locations where the noise level is increased by 1dB or more as a result of the PRD. In terms of the results for the design year 2032 75 receptors will have levels in excess of 60dB L_{den} with 11 locations requiring noise mitigation measures. The locations are at Coolnaleen Lower, Forge Road and Curraghatoosane in the vicinity of the disused Railway Line. Following the additional noise modelling referred to above no additional receivers were identified as requiring mitigation but that mitigation at three receivers would need to be increased to achieve the TII design goals (RO50, RO51 & RO52 located in proximity to the junction of the R553 Ballybunion Road and John B Keane Road).

9.4.2.14. The noise mitigation measures proposed include a combination of acoustic barriers and low noise road surfacing. Mr. Smyth informed the hearing that foliage such as hedgerows offer no significant benefit with respect to acoustic screening. In response to the submission from the Residents of Forge Road Mr. Smyth stated that in terms of barrier efficiency the only limitation is in terms of specification and design. In this regard all barriers to be installed will be specified to offer a surface density of at least 10kg/m² and, where required, meet category A3 in terms of absorptive characteristics as tested in accordance with *BS EN 1793-1:2012 Road Traffic Noise Reducing Devices – Test Method for Determining the Acoustic Performance – Intrinsic Characteristics of Sound Absorption*. All barriers are to be designed and installed in accordance with TII guidance *Specification for Road Works Series 300 – Fencing and Environmental Barriers*. Solid barriers are proposed save at receptors R50 and R52 where, due to the absence of sufficient space, it will be necessary to increase the height of the existing boundary walls. Post mitigation the predicted noise levels are within the design goal.

9.4.2.15. Mr. Smyth informed the hearing that whilst it is acknowledged that road traffic noise levels along the main section of the John B Keane Road, including the section

adjacent to Ballygologue Park, are high the modelling exercise and assessment confirmed that road traffic noise levels do not exhibit a minimum 1dB increase in noise levels and mitigation is therefore not required. Low noise road surfacing providing a minimum source reduction of 2.5dB will be provided between chainage 5000 to 5440.

9.4.2.16. In terms of vibration a survey was not undertaken as levels associated with existing roads would not be expected to be of a magnitude sufficient to cause disturbance to people or structural damage to property. Vibration was not perceptible at any of the noise survey locations. Problems attributable to road traffic vibration can largely be avoided by maintenance of the road surface.

9.4.2.17. Whilst it is inevitable that there will be an increase in noise levels arising I consider that the information and analysis of the likely impact of noise contained in the EIS is robust and that the stated conclusion that the operation of the road, subject to the stated mitigation measures, complies with the appropriate guidance is accepted. Therefore the associated impact is considered acceptable.

9.4.2.18. In terms of construction noise it is not possible to conduct detailed prediction calculations as the programme for the construction works has not been established in detail. There is no published Irish guidance relating to the maximum permissible noise level that may be generated during the construction phase. TII guidance suggests a range of recommendations and maximum noise levels for road schemes covering activity during the daytime, evening, Saturdays and weekends (Sundays/Bank holidays). The TII recommends a daytime noise limit of 70 dB $L_{Aeq(1hr)}$, at 1m from the façade of any potentially affected sensitive properties. Whilst no specific requirements have been identified the contract documents will specify the obligation to take specific noise abatement measures and compliance with the recommendations of *BS 5228 Code of Practice for Noise and Vibration Control on Construction and Open Sites, and European Communities (Noise Emission by Equipment for Use Outdoors) Regulations, 2001*.

In conclusion I accept that an increase in noise levels is an evitable consequence of the construction activity, which has the potential to impact on the residential amenity of properties in close vicinity. This being said, the construction phase is temporary and due to the linear nature of the works, noise related impacts will be transient,

which will limit the duration of exposure to individual properties. The restriction of noisy activity to daytime periods, only, together with standard mitigation methods for construction activity and noise control monitoring to ensure levels are not exceeded, will mitigate the potential for adverse impacts on sensitive receptors. In terms of the construction phase and vibration TII guidance recommends value limits not to be exceeded.

9.4.3. **Ecology**

9.4.3.1. Section 6 of the EIS and Ms. A. Cawley/Mr. A. Speer's submission to the oral hearing (Day 1- Sub.8) refer. Mr. A. McGinley's submission to the hearing with regard to riverbank rock armouring is also of relevance (Day 1- Sub 2). As the PRD traverses an area designated for nature conservation there is the potential for direct impacts on same as a result of construction and operation. Whilst an appropriate assessment is undertaken in section 9.5 below there will be a degree of overlap.

Flora

9.4.3.2. The principal land uses along the proposed development are agriculture and urban and suburban development. The off-line section passes through mainly managed agricultural and urban landscapes save at the crossing of the River Feale and along the Sive Walk.

9.4.3.3. Invasive species Indian balsam and Japanese Knotweed are present at the crossing point of the River Feale as well as upstream and downstream. There is also a small area of *Crococima x crocosmilifora* on the northern bank in proximity to the crossing, whilst Spanish bluebell & hybrids and three cornered garlic have been identified in other parts of the study area.

9.4.3.4. Given the abundance of the invasive plant species cover there is a probability that these species will recolonise the vegetated areas within the CPO fence line post construction, particularly Japanese Knotweed along the River Feale corridor and along the disused rail line embankments. As such there is the risk that routine maintenance works may inadvertently spread contaminated vegetation cuttings. All invasive species are to be removed in accordance with the Guidelines on the Management of Noxious Weeds and Non-native Invasive Plant Species on National Roads (NRA 2010). An Outline Invasive Species Management Plan has been

prepared (Appendix 6.8). The treatment of the invasive species was raised by Ms. Kate Carmody who presented a copy of a paper to the oral hearing as to the impacts of glyphosate (Day 2- Sub.5). Ms. Cawley noted that in view of the ecological sensitivity of the area stem injection, only, will be used to control Japanese Knotweed and that removal by mechanical means within the SAC would be more damaging. Following Mr. Good's (Department of Culture, Heritage and the Gaeltacht) submission to the hearing, the schedule of commitments has been amended to reflect his recommendation that the application of glyphosates would be on foot of the advice of a certified pesticide advisor and/or in compliance with guidelines for glyphosate use near aquatic ecosystems, 2 years prior to construction to ensure its effectiveness (mitigation no.10).

Fauna

- 9.4.3.5. The River Feale is nationally important for Atlantic Salmon and Brown Trout. Previous studies undertaken noted the presence of holding pools for Atlantic Salmon in the vicinity of the proposed crossing point and spawning and nursery areas were present throughout the River in the locality (2012). The species would be susceptible to changes in water quality. Measures to attenuate and treat carriageway runoff have been incorporated into the drainage design of the PRD to ensure that water quality is not adversely impacted upon. The system entails 6 new outfall points to surface water features from the road drainage network during operation. Surface water runoff will be passed through a three stage train system of petrol/oil interceptor, attenuation pond and constructed wetland prior to discharge. The results of the HAWRAT assessment indicate that impacts to water quality in all receiving watercourses as a result of the operational phase would be considered to be imperceptible or neutral to negligible. The likelihood of a serious pollution incident is so low that it is not deemed necessary to further reduce the risk of serious pollution incident through other measures. Given that all surface water will be captured by the three stage system this would provide some level of protection should such an unlikely event occur. The attenuation ponds and constructed wetlands will also have a penstock valve to contain any accidental spillage. The recommendations made by the IFI in its submission to the oral hearing with regard to culverts and attenuation ponds are noted and have been included as appropriate into the Updated Schedule of Environmental Commitments submitted to the oral hearing.

- 9.4.3.6. Monitoring during construction as outlined in the preliminary Erosion and Sediment Control Plan (Appendix 8.5) is proposed and will include pre-construction monitoring once a week for a 6 month period prior to commencement up and downstream of the proposed crossing point. In addition real time telemetric monitoring will be used to measure turbidity upstream and downstream. The turbidity level recorded downstream shall not exceed the upstream level by 10%
- 9.4.3.7. The bridge crossing has been designed in consultation with IFI, the design criteria set out in Guidelines for the Crossing of Watercourses during the Construction of National Road Schemes (NRA 2005a) and the Guidelines on Protection of Fisheries During Construction Works in and Adjacent to Waters (IFI 2016). Fish passage will be maintained.
- 9.4.3.8. Badger and otter activity was recorded throughout the study area. Badger activity is concentrated in the agricultural fields to north and south of River Feale, in Curraghatoosane between the Greenville Road and the disused railway line with evidence of otter activity along the banks of the River Feale and also on the Mill Stream Lower with one holt potentially within the study area at Coolnaleen Lower/Garrynatavally.
- 9.4.3.9. At a minimum the species will be subject to indirect temporary disturbance as a result of increased human presence, noise and vibration associated with construction. During operation, initially, habitat severance will result in a significant impact at a local level but is predicted to reduce to a neutral impact in the short term as species habituate to using the mammal passage features (bankside access underneath bridge and agricultural passes). The risk of road collisions will probably increase, the impact being significant at a local level.
- 9.4.3.10. The mitigation measures follow the recommendations set out in the Guidelines for the Treatment of Badgers during the Construction of National Road Schemes (NRA 2006c), Guidelines for the Treatment of Otters Prior to the Construction of National Road Schemes (NRA 2008b) and Design Manual for Roads and Bridges: Volume 10: Environmental Design and Management, Section 4: Nature Conservation: Part 4, HA 81/99; Nature Conservation Advice in Relation to Otters (Highway Agency, 2001b). As required by the guidelines quarterly monitoring of the effectiveness of

the measures will be taken in the 1st year following construction. The comments made regarding water quality above are also relevant.

9.4.3.11. Mr. Good informed the hearing that the Department is not aware of any ecological grounds why the derogation licences sought by the applicant for badger and otter should be refused.

9.4.3.12. A probable sand martin breeding site c. 20 metres to the east of the bridge would be subject to disturbance effects if constructed during breeding season. A licence application will be made to the NPWS to permit the temporary obstruction of the sand martin nests and the remaining area of suitable nesting habitat along the river bank.

9.4.3.13. The areas of highest bat activity were recorded in the vicinity of farm buildings and tree lines along the R557, along hedgerows and treelines on the banks of Ballygrenane Stream and field boundaries to the north, the River Feale in the vicinity of the proposed crossing, farm outbuildings adjacent to proposed Greenville Road junction and the eastern end of the disused railway line at the R553. However there will be no loss of any known bat roosting sites. The loss of available foraging habitat and hedgerows/treelines used by commuting bats in areas of high bat activity (figures 6.1.18-6.1.22) is predicted to result in a significant impact at a local level during construction. During operational phase habitat loss/severance/barrier effect depends on bat species and magnitude of severance effect (eg. gap present on a treeline used by commuting bats following construction). Given the gaps that will be present the impact is predicted to be significant at a local level. Mitigation measures as detailed in section 6.6.1(d)(ii) of the EIS entail best practice in terms of tree felling, provision of appropriate alternative roosting sites if any identified and to be removed, and acknowledgement of need for a derogation licence from the NPWS should this arise.

Avifauna

9.4.3.14. The issue of impact of the PRD on Barn Owl which is a red-listed species was raised in a number of submissions on file and at the oral hearing including Ms. A. Taylor, Mr. D. Carroll and Michelle Whelan and Others.

9.4.3.15. Birdwatch Ireland was commissioned to undertake surveys for Barn Owl within a within 5km radius of the PRD, which identified two known nest sites and one

potential nest site. The risk of road collisions is predicted to result in a significant negative impact at least at a local level. Measures to reduce the risk of mortality focus on deflecting flight paths and discouraging it from coming into contact with roads or from hunting along road verges. In areas where there is a high probability that Barn Owls will regularly attempt to cross the PRD, lines of closely spaced trees greater than 3 metres in height will be planted along the top of the road embankments outside of the safety barrier and clear zone as shown on Figures 6.1.28-6.1.33. The intention of this measure is to deflect the flight path above the height of traffic. Sections where the road is on embankment will be planted with dense low growing scrub cover while grass verges will be maintained short. These are proposed to discourage barn owls from foraging near the road. A schedule of monitoring is proposed for two years to assess mortality and breeding success. Ms. A.Taylor considers that notwithstanding the measures proposed the species is not being protected and that monitoring would not prevent mortality in a species that is in dramatic decline.

- 9.4.3.16. In response to the written submission from the Department of Culture, Heritage and the Gaeltacht Ms. Cawley informed the hearing that information has been obtained from Birdwatch Ireland who have been conducting Barn Owl studies on the Tralee Bypass including bird mortality which, when extrapolated for the new build section of the road (online improvements discounted as being unsuitable for nesting barn owl), would equate to 2.964 barn owls per year
- 9.4.3.17. On balance I consider that the applicant, in its consideration of the impact of the PRD on the species, has incorporated appropriate mitigation measures and as noted by Mr. Good is (as far as he is aware) the first road project which has full Barn Owl mitigation. I note that his recommendations in terms of monitoring are included in the updated schedule of environmental commitments presented to the oral hearing (commitment no.27).
- 9.4.3.18. There is an internationally important population of wintering whooper swans resident in the locality with reference made to same by Michelle Whelan & Others and Mr. John O'Sullivan. Surveys were undertaken at the known principal feeding site at Ballyouneen (6km west), feeding subsite at Finuge (Galvin's Farm) (320 metres west of river crossing) and all suitable agricultural fields within 400 metres of the off line section. 300 metres is considered to be a precautionary buffer in defining the zone

of influence of disturbance effects associated with general construction activities. Such disturbance is not predicted to result in a significant impact at any geographic scale and is not predicted to adversely affect the species' conservation status.

- 9.4.3.19. All known feeding sites are to the west of the PRD with no regularly used flight paths for the species that cross the PRD. Construction will not cause any significant collision risk or disturbance effects along their commuting routes between feeding and roosting sites. During operation the PRD will be more than 300 metres from the area used by feeding Whooper Swans at the Finuge Bridge site and disturbance from road traffic will not result in any significant impact at any geographic scale.
- 9.4.3.20. The use of the large agricultural fields to the north of the proposed crossing by Golden Plover is occasional. It feeds on both cultivated land and grassland. There is an abundance of alternative suitable habitat in the locality. The impact of the PRD is not predicted to adversely affect the species' conservation status.
- 9.4.3.21. NO_x is identified as of concern in relation to sensitive ecosystems, in this instance the River Feale which is part of the Lower Shannon SAC. The results of the baseline air quality monitoring indicate that predicted annual average NO_x levels are materially below the limit value of 30 ug/m³ for the Do Something scenario in both the opening and design years. The road contribution to the NO₂ dry deposition rate along the 200 metres transect within the SAC at Islandganniv South is calculated at reaching only 7% of the critical load for inland and surface water habitats of 5-10 Kg(N)/ha/yr.
- 9.4.3.22. In conclusion I consider the detail provided to be comprehensive and robust and I am satisfied that subject to the identified mitigation measures the PRD would not have an adverse impact on the ecology of the area.

9.4.4. **Soils & Geology**

- 9.4.4.1. Section 7 of the EIS addresses soils and geology and Section 13 addresses Waste Management.
- 9.4.4.2. Information on ground conditions is based on ground investigation comprising of 17 boreholes and 41 trial pits along the length of the PRD. No karst features have been identified however since part of the bedrock within the study area is made of limestone, karst features may be present. Peat deposits were encountered in 9

locations namely TP22-TP26, TP28, TP29, TP40 & TP41. Alignment Section C, Culverts 5-7 and Pond A5 are proposed within these locations.

- 9.4.4.3. The proposed development comprises the construction of embankments and structures with a height up to approx. 8m. The proposed development has minimal requirements for cuttings with less than 0.5 metres depth along the main line and a short section of cutting to approx. 5.5 m. for underpass ST11. The bridge, which is proposed to be piled, will have one of the bridge piers located within the Lower Shannon SAC. It was confirmed at the oral hearing that due to the constraints along the route including the river crossing, there would be minimal scope for changes to the horizontal alignment as presented in the documentation accompanying the EIS.
- 9.4.4.4. Approx. 64,000m³ of material will be removed as part of the site clearance works, the reconstructive and resurfacing works on the John B. Keane Road and topsoil strip works. It is likely that this material will be unacceptable for reuse in road embankments in fill areas, but is likely to be acceptable for reuse as landscaping material. On this basis it is estimated that all of this excavated material will be reused. Any surplus material which cannot be reused will be disposed to an appropriate water management facility. The scheme will have a gross earthworks deficit with c. 198,000m³ of fill material required to be imported from off site sources, in particular for the embankments associated with the approach to the River Feale Bridge.
- 9.4.4.5. The contractor will be required to produce a site and work specific Environmental Operating Plan (EOP) for all construction activities. This will be produced in line with the *'Guidelines for the Creation, Implementation and Maintenance of an Environmental Operating Plan (NRA 2007)'*. In line with this guidance the contractor will also be required to maintain a construction and demolition waste management plan.
- 9.4.4.6. Overall it is predicted that there will be no likely significant geological impacts.

9.4.5. **Water**

Sections 7 and 8 of the EIS address hydrology and hydrogeology. Mr. A. McGinley's submission to the hearing is also of relevance (Day 1 – Sub.2).

Hydrology

- 9.4.5.1. The study area lies within the Shannon River Basin District, Hydrometric Area 23 within the Feale Water Management Unit. The catchment of this hydrometric area is drained by the River Feale with all associated watercourses entering tidal water in the Cashen/Feale Estuary, north-west of Listowel. The River Feale is 75km long running northwards from its source in the Mullaghareirk Mountains through Abbeyfeale and Listowel before discharging to the Shannon Estuary close to Moneycashen. It is tidal up to Finuge Bridge to the west of the study area. The River Feale is classified as being of good status c. 1.7 km upstream at Listowel Racecourse footbridge and is classified as being of moderate status at Scartleigh Weir c. 1.3km downstream. It is designated as a Water Framework Directive (WFD) water body at the proposed bridge crossing. The overall WFD water body length is identified as 15.43km.
- 9.4.5.2. Drainage works were undertaken on the main channel downstream of Listowel during the 1970's. It was also subject of a comprehensive arterial drainage scheme between 1951-1959. As part of these works the river channel was deepened with rock armouring, concrete reinforcement and embankments constructed at various locations including sections at, and in the immediate vicinity of the proposed bridge crossing. These are stabilisation/protection measures to minimise erosion of the riverbank. These works increased the capacity of the channel whilst disconnecting the river from its floodplain. Runoff in the area flows into a system of local back drains before flowing into the river via flapped outfalls.
- 9.4.5.3. There are a further 9 no. minor watercourses in the study area including:
- Ballygrenane Stream which flows underneath the N69 via a culvert that forms the western extent of the proposed tie-in within the N69 from the R557 junction,
 - Garryantanvally Stream which drains a number of agricultural fields to the east of the proposed alignment joining up with the Ballygrenane Stream c.130 metres west of the crossing point.
 - Mill Stream Upper and Mill Stream Lower which flows in a south-westerly direction from the area surrounding the Famine Memorial Graveyard in the townland of Curraghtoosane to the River Feale at Scartleigh.

None of these watercourses are classed as WFD water bodies (Table 8.1 of EIS).

- 9.4.5.4. In terms of the River Feale bridge a two span arrangement with an intermediate support located within the Lower Shannon SAC but outside of the high water channel is proposed. The south abutment is set back, with the intermediate pier setback from the northern edge of the high water channel. The pier set back allows for a natural bank path to be maintained for future access for maintenance and fishing and includes an allowance for the curvature of the river. The northern back span has been sized to minimise the overall length of the structure while preventing uplift at the abutment bearings. The length of the main span is approx. 69 metres with a back space of 45m.
- 9.4.5.5. In addition to general construction works in the vicinity of Mill Stream Upper (WF0) Mill Stream Lower (WF1), Ballygrenane (WF4) and Garryantanvally (WF5) there will also be a requirement for in-stream works in these watercourses. WF0 and WF4 will require a realignment of 200m and 45 m respectively with culverts also required. In total 9 stream and ditch culverts of varying sizes are proposed. Inland Fisheries Ireland in its submission to the oral hearing made comments with regard to the length of a number of culverts recommending alternative intervention. The updated schedule of commitments has regard to same.
- 9.4.5.6. Invariably there is the possible risk of surface water quality deterioration during both the construction and operational stages of the PRD. In terms of the online section the drainage outfalls into the existing drainage system and it is not possible to segregate it. There will be minimal change in the volume of runoff to this system as a result of the upgrade works.
- 9.4.5.7. In terms of the greenfield section measures to attenuate and treat carriageway runoff have been incorporated into the drainage design to ensure that water quality is not adversely impacted upon. The system entails 6 new outfall points to surface water features from the road drainage network during operation. Surface water runoff will be passed through a three stage train system of petrol/oil interceptor, attenuation pond and constructed wetland prior to discharge. The results of the HAWRAT assessment indicate that impacts to water quality in all receiving watercourses as a result of the operational phase would be considered to be imperceptible or neutral to negligible. The likelihood of a serious pollution incident is so low that it is not

deemed necessary to further reduce the risk of serious pollution incident through other measures. Given that all surface water will be captured by the three stage system this would provide some level of protection should such an unlikely event occur. The attenuation ponds and constructed wetlands will also have a penstock valve to contain any accidental spillage.

9.4.5.8. Monitoring during construction as outlined in the preliminary Erosion and Sediment Control Plan (Appendix 8.5) is proposed and will include pre-construction monitoring once a week for a 6 month period prior to commencement up and downstream of the proposed crossing point. In addition real time telemetric monitoring will be used to measure turbidity upstream and downstream. The turbidity level recorded downstream shall not exceed the upstream level by 10%.

9.4.5.9. The study area is served by the Dromin Water Works north of the existing N69 which is connected to the main Kerry County Council water supply. Water is abstracted at Scartleigh to serve the water works c. 1.3km downstream from the proposed river crossing. Whilst I note that the applicant is amenable to additional monitoring 6 months in advance of construction and 6 months post completion as requested by Irish Water in its written submission to the Board (see Mr. McGinley's submission to the hearing) this was not included in the updated schedule of environmental commitments presented at the oral hearing. I consider that this could be addressed by way of condition should the Board be disposed to a favourable decision.

Hydromorphology

9.4.5.10. In response to the written submission by the Department of Culture, Heritage and the Gaeltacht Mr. McGinley in his submission to the hearing noted that the River Feale at the proposed bridge crossing is designated as a Water Framework Directive (WFD) water body with a hydromorphological status identified as unknown and an ecological status identified as moderate. The reinforcement proposed at the location of the crossing would extend for a length of approx. 65 metres and would occur approx. 10 metres south of the existing channel bank and would not require the removal of the river bank during construction (ie. the reinforcement would be placed in the earth isolated away from the river bank). This would not impact on the extent of physical modification within the WFD water body catchment as designed. As noted above there is significant existing modification to the River Feale as a

consequence of the OPW drainage scheme. Should the rock armour become exposed over time through ongoing river erosion the 65 metres of modified bank would represent approx. 0.4% of the WFD water body length on one side only

- 9.4.5.11. Mr. McGinley stated that additional riverbank rock armouring is very unlikely to be required in the future with the proposed design future proofing the southern abutment against this eventuality through the inclusion of rock armouring to the southern abutment during its construction. It is concluded that the PRD is not considered to cause deterioration to the Feale water body and therefore there is not a risk to compliance with WFD from a hydromorphological perspective.
- 9.4.5.12. Mr. Good informed the hearing that whilst the bridge addition could be seen as an in combination effect with the other interventions it is not an issue taken in the context of the wholesale modifications that have occurred within the water body due to the OPW Drainage Scheme

Hydrogeology

- 9.4.5.13. Based on GSI mapping the proposed development is underlain by a Regionally Important Karstified Limestone Aquifer comprised of Dinantian aged Pure Unbedded Limestones except for the most north-eastern part of the study area which lies on Namurian Undifferentiated bedrock described as of Local Importance.
- 9.4.5.14. The GSI National Vulnerability Map indicates that the majority of the area is underlain by an aquifer with a low degree of vulnerability. Some areas to the north (roundabout 3) are underlain by an aquifer with moderate vulnerability and areas to the east at the existing John B. Keane Road are underlain by an aquifer with a moderate to high vulnerability. The area immediately south of the PRD at Coolnaleen Lower/Upper has moderate to extreme degree of vulnerability (see Figure 7.1.3). Groundwater monitoring recorded relatively shallow levels at 0.5mbgl and thus it is concluded that groundwater is vulnerable to pollution.
- 9.4.5.15. There are 6 no. private water supplies within 120 metres of the PRD. As noted above Listowel's public water supply is via abstraction from the River Feale and not groundwater. The nearest large industrial groundwater abstraction is for the Listowel Dairy & Food Ingredients Plant and the abstraction is located 2km away from the development outside the study area.

- 9.4.5.16. The potential for impacts in terms of groundwater arise from the construction of pilings for the two abutments and intermediate pier for the bridge over the River Feale, but potential groundwater flow disturbance is expected to be very localised and of imperceptible significance to the aquifers and River Feale. Potential also arises from cuttings but few are proposed. The only significant cutting is c. 6 metres long and c.5 metres deep for the proposed underpass ST11. It is not expected to intercept the bedrock as the superficial layer in the area is at least 10 metres deep. The potential significance of impacts without mitigation of the underpass on groundwater is detailed in Table 7-11, none of which exceed slight.
- 9.4.5.17. Appropriate and established practice mitigation measures are proposed during construction phase to protect from accidental spillage and runoff which could infiltrate into the ground. This includes piling to be completed in accordance with Environment Agency (England and Wales)(2001) *Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention* although no contamination identified in the area.
- 9.4.5.18. Mitigation measures to monitor and minimise the impact on groundwater levels during construction are detailed in section 7.3.4 of the EIS including monitoring requirements of private wells.

Flood Risk

- 9.4.5.19. Listowel town is one of the areas under assessment in the Shannon Catchment Flood Risk Assessment and Management Study (CFRAMS). A Stage 2 Detailed Flood Risk Assessment is attached in Appendix 8.2. The proposed development cuts through 3 areas of flood risk with the areas at risk from fluvial flooding associated with the River Feale and Mill Stream. There is a lower risk of flooding from overland flow, artificial drainage systems and groundwater. Whilst the PRD can be engineered so as not to be at risk, of material concern is the increase in the risk of flooding in other areas arising from the PRD. Following the hydraulic modelling the areas currently at risk of flooding are delineated in Figure 5.1 attached to the assessment with Figures 6.1 and 6.2 delineating the areas at risk post development with and without mitigation measures. Without mitigation the potential impacts are significant and would lead to an increase of flood depth and extent to a number of properties.

- 9.4.5.20. The mitigation measures include the addition of flood relief culverts which remove the barrier of the proposed development to the flow of flood waters. Additionally localised profiling of the Mill Stream has been prescribed. The modelled flood risk following mitigation are set out in Table 5-A and show marginal increases at three locations and marginal reduction over existing in 4.
- 9.4.5.21. The issue of flood risk to properties and land on Forge Road has been raised by Residents of Forge Road, Michael & Angela Moroney (CPO re. 225) and Andrea Taylor (CPO ref 255) The topography in the area is flat with vegetation and pattern of drainage ditches reflective of poorly drained lands. This area of Forge Road corresponds with Area 4 identified as being at risk of flooding. The modelling concluded that the proposed development would act was a barrier to flood flow which causes an increase in flood depth and extent to the development directly to the south. In mitigation 6 no. 900mm diameter culverts and introduction of a land drain are to be provided. Following mitigation the modelled flood risk has been decreased marginally as detailed in Table 5-A. (between 0.2 and 0.5m. reduction).
- 9.4.5.22. Mr. Corridan on behalf of the Moroney's in his submission to the oral hearing noted that there are two existing water features that are not shown on the map and there is concern that they have not been taken into consideration with a map delineating same provided to the hearing. Mr. McGinley, in response, confirmed that Lidar data was used to collect topographical information of lands which is different to information presented in the hydrology report. Mr. McGinley noted that their property was identified as being at risk of flooding. Following further separate assessment the proposed flood relief culverts as detailed above are to be supplemented with a further 900mm culvert. It is predicted that there will be a very modest reduction in the 1 in 100 year flood event. As such the PRD will not have an adverse impact on the prevailing situation. Mr. Corridan's request that Kerry County Council undertake a study of the flooding risk in the area independent of PRD is noted.

Conclusion

- 9.4.5.23. In conclusion, I consider that the assessment of the impacts on hydrology, hydrogeology and flood risk are robust and that the measures proposed, incorporating well established engineering controls and monitoring, are comprehensive and would ensure that the potential for contamination of surface

waters, ground waters and private water supplies is minimised during both the construction and operational phases of the proposed scheme and that it would not exacerbate the risk of flooding. Sufficient information has also been provided to support the conclusion that the PRD will not compromise the ability of the River Feale WFD designated waterbody from maintaining good status and consequently no impact at the WFD water body scale. The conclusion that it is in compliance with the WFD is accepted.

9.4.6. Air Quality and Climate

- 9.4.6.1. Section 9 of the EIS and Ms. Claire Flynn's submission to the oral hearing refer (Day 1 – Sub. 4).
- 9.4.6.2. The baseline air quality along the route was assessed by means of air quality measurements at sensitive locations close to the PRD, by an analysis of representative EPA monitoring data for the region and by air dispersion modelling. The results of the baseline air quality monitoring indicate that each of the pollutants was well below annual limits for the protection of human health and for protection of vegetation.
- 9.4.6.3. Ms. Flynn informed the hearing that the air quality modelling undertaken was supplemented by further modelling arising from the additional traffic modelling sensitivity forecasting undertaken in August 2017 to assess the impact of updated national traffic forecasts as set out in the revised TII Project Appraisal Guidelines published in October 2016 generating 2035 design year flows. No significant changes to the classifications of the predicted impacts as presented in the EIS were identified.
- 9.4.6.4. Road traffic is expected to be the dominant source of emissions during the operational phase. Assessment was undertaken using the UK DMRB air dispersion model performed at 15 sensitive receptors along the proposed route including locations in proximity to objectors to the PRD including Forge Road, Ballybunion Road and John B. Keane Road including a location in proximity to Ballygologue crossroads (see Figure 9.1.1). CO and Benzene, PM₁₀, PM_{2.5} and NO₂ modelled results for both the design years 2017 and 2032 are all well below the relevant ambient limit values.

- 9.4.6.5. In response to questions from Ms. Madigan of Ballgologue Concerned Residents regarding nitrous oxide Ms. Flynn referred to TII Guidelines for the Treatment of Air Quality During the Planning and Construction of National Road Schemes and at the local scale, the principal pollutants that need to be considered are nitrogen dioxide (NO₂) and fine particulate matter (both PM₁₀ and PM_{2.5}). The said guidance notes that empirical evidence has shown that there is no risk of emissions from road traffic leading to exceedances of the relevant air quality standards for any other pollutants at even the most heavily-trafficked locations. Ms. Flynn also advised that mitigation measures to reduce emissions generally are subject to higher level intervention in terms of international and national policy.
- 9.4.6.6. NO_x is identified as of concern in relation to sensitive ecosystems, in this instance the River Feale which is part of the Lower Shannon SAC. I refer the Board to Sections 9.4.3.21 and 9.5.13.in which I have addressed this issue.
- 9.4.6.7. The main impacts associated with the construction period relate to dust emissions. There are numerous activities that have the potential to generate dust and these include normal road building operations, movement of material etc. A dust minimisation plan is to be formulated with established practices to be put in place with dust minimisation measures set out in Appendix 9.3
- 9.4.6.8. With regard to climate EPA guidance states that a development may have an influence on global climate where it represents a significant proportion of the national contribution to greenhouse gases. The EIS concludes that based on an analysis of the increase in traffic resulting from the PRD CO₂ emissions resulting from the development would be 0.00001% of Ireland's Kyoto target in 2017 and 0.003% of the relevant target for 2032. I would therefore accept the conclusion that the impact of the PRD on national greenhouse gas emissions will be negligible in terms of Ireland's obligations under the Kyoto Protocol.
- 9.4.6.9. I am satisfied that the impacts on air and climate arising from the construction and operational phases of the development have been adequately assessed in the EIS. I consider that it has been effectively established that pollutant levels will remain below statutory limits and that dust levels will be controlled to ensure that there will be no impacts on public health. I therefore accept the conclusions that the impact of the PRD would not be significant.

9.4.7. **Landscape and Visual Impact**

- 9.4.7.1. Section 11 of the EIS and the accompanying appendices, in addition to the submission made by Mr. David Bosonnet to the oral hearing (Day 1 – Sub.6) refer.
- 9.4.7.2. Outside of the town itself the PRD comprises of flat pasture land straddling both sides of the River Feale with ribbon development along the surrounding road network. Within the town the route runs along the old railway line developed as the Sive Walk which has some residential development framing it to the south-east in addition to the John B Keane road with residential and commercial development to either side.
- 9.4.7.3. As per the current Kerry County Development Plan there are no designated scenic landscapes within the study area. In this regard I note Mr.O’Sullivan’s written submission, supplemented by his submission to the oral hearing (Day 2 – Sub.8), with respect to the Kerry County Landscape Character Assessment prepared for the Renewable Energy Strategy 2012 and the adequacy of same in terms of the landscape designation for North Kerry. I submit that this is more appropriately applicable to renewable energy development and not the project before the Board.
- 9.4.7.4. The visual impact for 35 properties/groups of properties were assessed, the locations of which are detailed on Figures 11.1.2 to 11.1.5. The anticipated significant visual impacts arising are largely to the west corresponding with the offline section and crossing of Forge Road with the exception for 2 properties north and south of the PRD as it intersects the Ballybunion Road.
- 9.4.7.5. The off line section will inevitably alter the character of the receiving environment including the new bridge structure with elevated embankments north and south of the structure, roundabout construction, noise barriers, signage and lighting. However, I would concur with the view that due to the flat nature of the surrounding landscape with intervening hedgerows and riparian vegetation, visual impacts would be localised to the immediate surrounding agricultural areas and dwellings at Coolnaleen, Garryanvantally, Greenville Road and Forge Road. Landscape mitigation measures are set out in Figures 11.1.6 – 11.1.8. The residual impacts following mitigation are considered to be moderate at all save PR-31 in the vicinity of Forge Road which will remain significant. I consider these conclusions to be reasonable.

- 9.4.7.6. Ms. O'Connor on behalf of the Residents of Forge Road expressed concern regarding the visual intrusion of the attenuation ponds, notably that proposed to the north-east of the properties along the road. In view of the flat topography of the area, the existing hedgerows to be retained and the proposed level of the pond the boundary of which is to be screened by native hedgerow, I do not consider that it will be visually obtrusive. Appropriate fencing to prevent access will be required.
- 9.4.7.7. In terms of the online section of the PRD there are a number of important sites including the Lartigue Monorailway and visitor centre and Teampaillin Ban (famine graveyard), both of which are protected structures. In addition there is the Sive Walk, formerly part of the old Great Southern Railway line, which is used as an amenity walk leading from the town to Derra Bog c.2km to the west and which is to form part of the proposed Great Southern Trail (cycling and walking trail).
- 9.4.7.8. In terms of the Lartigue railway and visitor centre it is not anticipated that the proposed on-line improvements would have a material impact in terms of its visual setting as the buildings already have a roadside setting onto John B Keane Road and this will remain the same albeit with a widened footpath, although increased vehicular movements will arise.
- 9.4.7.9. New access arrangements to the Teampaillin Ban graveyard via the new roundabout at the intersection of the PRD and Ballybunion Road is proposed. The landscaping measures proposed at this point, coupled with the fact that the graveyard is setback from the road, will ensure that its setting would not be adversely impacted.
- 9.4.7.10. The impact on the Sive Walk is specifically mentioned in a number of written and oral submissions to the Board. The PRD runs along the route of the walk for a distance of c.900 metres with the route to be relocated to the north of the road. A noise barrier is to be installed along part. Mitigation measures including planting of native hedgerow and trees on both sides of the walk are detailed in Figure 11.1.8 of the EIS with a photomontage provided in View 06 of Appendix 11.2.
- 9.4.7.11. There is no doubt that the setting of the walk will be irrevocably altered from that currently existing. I submit that the existing quality is dictated by the fact that a large proportion of the lands to either side are, as yet, undeveloped although a number of residential schemes are noted to the south-eastern section of the road. However as noted from the current zoning provisions arising from variation no.2 of the Listowel

Development Plan adopted in April 2017, a significant percentage of the lands to either side remain earmarked for development, notably for residential and educational purposes. Were these provisions to be realised I submit that the setting and context of the walk would be altered to that more akin with a suburban environment.

9.4.7.12. In terms of cumulative effects the proposal will result in a new transport corridor being introduced into the landscape to the west of the town but I consider that the spatial separation between the existing and proposed, the existing topography and roadside vegetation will provide a visual separation. An increased combined massing of the existing and proposed alignments will be limited to the tie in location at Coolnaleen Lower.

9.4.7.13. In conclusion, notwithstanding the robust nature and generally low sensitivity of the surrounding landscape the PRD will have a material and permanent impact on the landscape to the west of the town including Forge Road and the Sive Walk but I submit that the impact has to be balanced against the wider benefits that will accrue from the project and the exigencies of the common good.

9.4.8. **Material Assets**

9.4.8.1. Sections 5 and 14 of the EIS address matters that arise in this context with a number of the Local Authority's submissions to the oral hearing of relevance notably those by Mr. Ginty, Ms. O'Gorman, Ms. Smyth and Mr. Farrelly. The Listowel Anti By Pass Community's written and oral submissions made specific reference to the impact on the town centre in terms of economic vitality and viability.

Listowel town centre

9.4.8.2. Listowel town centre has a specific urban quality characterised by a strong frontage onto the narrow streets with Celtic Revival shop frontages noted throughout. The town is designated as a heritage town and is one of three designated historic towns under the Historic Towns Initiative which aims to promote the heritage led regeneration of Ireland's historic towns. In addition there are the existing and potential benefits accruing the town from its literary associations, whilst it also plays an important service function for the surrounding area. Thus, both tourism and commerce are of importance to the town.

- 9.4.8.3. I submit that the quantum of traffic, the narrowness of the streets and conflicting vehicular movements give rise to a level of congestion that detracts from the town centre amenities. Contrary to the view held I would suggest that such prevailing conditions would heighten motorist frustration and would actually discourage, rather than encourage, through traffic to stop.
- 9.4.8.4. A number of objectors to the PRD express concern as to the loss of passing trade and the potential loss of trade arising from improved linkages to other retail centres notably Tralee. As acknowledged by Ms.O’Gorman in her submission to the oral hearing a certain level of passing trade would be negatively impacted upon by the PRD such as petrol stations and short stop retailing. I submit that the proposal, in assisting to reduce, but not eliminate through traffic in the town core will, in effect, assist in improving local access and will have a positive impact on the town’s environment. In my opinion this would have a knock-on impact in improving its attractiveness, allow for the realisation of the objectives of the Historic Town Initiative and improvement the tourism product, whilst also allowing for the continuation and strengthening of its function as an important service centre which could assist in addressing the retail spend leakage as identified in the Listowel Retail Strategy 2009-2015.
- 9.4.8.5. Mr. Ginty in his submission to the oral hearing stated that whilst residential zoned lands remain on the fringes of the town (reduced from 120 hectares to 15 hectares in variation no.2 of the Town Development Plan) the emphasis in terms of the town’s development is the compaction and consolidation of the centre with the local authority seeking to the redevelopment/reuse of brownfield and derelict sites. Mr. Ginty stated that the Development Contribution Scheme as adopted on the 26/07/17 contains specified additional development contribution measures for the town with the proceeds of the contribution to be ringfenced to assist in the delivery of projects outlined in the Listowel Heritage and Community Led Regeneration Strategy. Notwithstanding this emphasis and as noted in the Listowel Anti Bypass Community submissions future development, including both educational and commercially zoned land, remain to the north of the PRD. Therefore it is reasonable to anticipate that the town will continue to expand in a northerly direction.
- 9.4.8.6. I submit that it will be incumbent on the County Council to spearhead the initiatives as set out in the Listowel Heritage and Community Led Regeneration Strategy and to

garner the support of the local community. The said document has been in preparation for a period of time and was presented to the Council in 2016. Whilst developed in parallel with the PRD there is nothing to suggest that it is, in effect, a mitigation measure of the project to address potential loss of trade.

- 9.4.8.7. The Listowel Business and Community Alliance in its submission to the oral hearing sets out a number of recommendations which would advance the shared goals for the town's development into the future.

Agricultural landholdings

- 9.4.8.8. Severance of land is an unavoidable consequence of the off-line development and alterations to individual properties will occur. The proposal will have a direct impact on 21 farms either by subdividing them or reducing the area of the farm (see figures 5.1.1 – 5.1.3). The area to be removed from agricultural production is approx. 24.56ha. The majority of the landtake is to the west of the town where the PRD is off line. Whilst significant to the landowner the loss is not significant on a county or national level. The main farm enterprises are dairy and mixed livestock.
- 9.4.8.9. As per Table 5-5 the PRD will have a major overall impact on two farms (nos. 4 and 8) arising from subdivision, reduction in area farmed, impact on farm management, interruption of water supply and impact on existing access points. 6 farms are identified as experiencing a moderate impact. Following mitigation, including the provision of underpasses, one farm would continue to have a major impact (Farm 8) with 6 having a moderate impact.
- 9.4.8.10. The account given in section 5 of the EIS is considered to be a comprehensive and reasonable description of the likely impact of the proposed roads development on material assets comprising agricultural property. It also describes the measures designed to mitigate the impact from severance, namely farm underpasses. The proposed measures are considered proportional to the impacts they are designed to address. Increased management input and/or operational changes due to be land take are effectively matters for compensation should the CPO be confirmed by the Board.

Utilities

9.4.8.11. Diversion of utilities, including electrical power lines, will be required as a consequence of the PRD. Table 14.3 of the EIS set out the utilities in question and the measures required.

9.4.9. **Cultural Heritage**

9.4.9.1. Section 12 of the EIS and the brief of evidence by Mr. Byrn Coldrick at the oral hearing (Day 1- Sub.5) refer.

9.4.9.2. In accordance with the relevant NRA Code of Practice the applicant stated that every effort has been made to avoid direct impacts on archaeological and architectural heritage features.

9.4.9.3. The study area extended 50 metres beyond the footprint of the PRD defined as the earthworks, carriageway, structures, attenuation treatment ponds and lands made available and is wider than the 50 metre either side of the centre line of the road recommended in NRA guidance. 35 archaeological and cultural heritage sites were recorded within the identified study area and are set out in Table 12-2 and Figures 12.16-12.1.10 of the EIS. The riverine environment is considered to be of high archaeological potential.

9.4.9.4. Construction will remove extant remains associated with the holy well in Coolnaleen Lower (AR10) and remains associated with Coolnaleen Lower burnt spread (AR11), both of which are recorded monuments. Both were subject of geophysical surveys in 2014.

9.4.9.5. Specific mitigation measures are to include archaeological investigation in the form of test excavation, resolution excavation as required, topographic surveys and written and photographic records. The significance of the impact on the area of archaeological potential associated with the current and former course of the River Feale has yet to be fully determined through palaeoenvironmental assessment in line with the *Guidelines for Testing and Mitigation of the Wetland Archaeological Heritage (NRA 2005)*, in addition to test excavation with the former banks and course of the river to be examined by metal detector survey. This is a normal approach for such schemes.

- 9.4.9.6. As noted above in section 9.4.7 dealing with Landscape and Visual Impact the PRD will lead to the loss of c.1.1km of the route of the Great Southern and Western railway along what is known as the Sive Walk. It is not listed on the Record of Monuments and Places or as Protected Structure. I have addressed this issue in section 9.4.8 above. The cultural association of the wider Bog Walk arising from John B Keane's use of it could continue to be highlighted by means of interpretive signage etc.
- 9.4.9.7. In terms of architectural heritage 16 sites were identified within the study area three of which are protected structures. The PRD also traverses a very small segment of an Architectural Conservation Area. I would concur with the view that the PRD by removing traffic from the town centre, will have a positive impact on the historic core of the town and the Architectural Conservation Areas.
- 9.4.9.8. Two protected structures are associated with the former railway comprising of the goods shed and former railway station. Whilst the works along the R553 will occur directly to the south of the buildings there will be no direct impact. They already have a roadside setting and this will remain the same, albeit with a widened footpath.
- 9.4.9.9. Whilst the route crosses the former route of the Listowel and Ballybunion Lartigue monorailway (AH10) no physical evidence of the line survives in the area.
- 9.4.9.10. Teampaillan Ban famine graveyard is just outside the study area. A new roundabout is proposed directly to the west of its entrance with a new access track linking from the roundabout to the graveyard entrance. Whilst introducing a new element of infrastructure into its setting there would be no physical impact on the gateway or the cemetery itself. Planting is proposed to reduce the visual impact of the junction.
- 9.4.9.11. Following the written submission from Mr. Denis Carroll the road from the former Listowel Workhouse to the Teampaillin Ban famine graveyard on the Ballybunion road known as Bothar Dubh is put forward as an additional cultural asset. It currently has no legal designation. The physical conditions of the track has been altered since the 1850s as a consequence of severance to the south, its crossing by the railway line and other modern interventions. There would be a direct impact on the route from the PRD but pedestrian access to the graveyard via an Bothar Dubh

can be maintained whereby pedestrians would cross the Ballybunion Road via a splitter island.

9.4.9.12. I submit, on the basis of the information available, that the conclusions reached on the impact of the PRD on archaeology and cultural heritage to be reasonable and note the proposed landscaping and mitigation measures detailed. The residual impacts are balanced against the overall gain that will be achieved by the proposed road in the interests of the common good.

9.4.9.13. I note that the relevant prescribed bodies that have a remit in terms of cultural heritage were notified of the PRD and were invited to submit any observations/comments on same. No such submissions were received.

9.4.10. Interaction of the Foregoing

9.4.10.1. Section 15 of the EIS in setting out the interaction of impacts reiterates, in summary, the interactions arising as identified in the preceding sections of the EIS with a matrix provided in Table 15-1.

9.4.10.2. I would concur that the most dynamic interactions pertain to human beings with other interactions between ecology, hydrology, air, landscape and material assets. All of the aforementioned have been assessed above and I am of the view that the interactions identified are unlikely to cause or exacerbate any potentially significant environmental impacts.

9.4.10.3. Each section of the EIS sets out the mitigation measures proposed with the information on potential residual effects and their significance. A summary of the said mitigation measures are set out in the updated Schedule of Environmental Commitments submitted to the oral hearing.

9.5. Appropriate Assessment

9.5.1. This section of the report considers the likely significant effects of the proposal on the relevant European sites in view of the conservation objectives. A Natura Impact Statement accompanies the application.

Description of the Project and Site Characteristics

9.5.2. The lands of the proposed development and project are as described in sections 2 and 3 above.

Stage 1 – Screening

9.5.3. Section 3.2.4 of the NIS identifies the sites within a 15km radius of the proposed development. There are two SACs and three SPAs. The qualifying interests for the sites are detailed in Table 1 of the NIS. In summary:

- *Lower River Shannon SAC (site code 002165)*. The site crosses the SAC via the proposed bridge over the River Feale. In addition drainage outfalls will discharge to the SAC. Significant direct and indirect effects arising from habitat loss from the proposed bridge crossing of the River Feale, habitat degradation from the spread of invasive plant species, effects on the existing hydrological regime and pollution of the river and other watercourses during construction and operation phases cannot be ruled out.
- *Moanveanlagh Bog SAC (site code 002351)*. The designated site is 3.2km to east of the proposal. Due to the absence of hydrological connection, the site will not be impacted indirectly by the proposed development by emissions or drainage effects of the proposed development. Therefore effects on the European Site resulting from the proposed development can be excluded.
- *Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (site code 004161)*. The SPA is 3 km to the south of the proposed development. Hen Harrier is the qualifying interest of the designated site. The proposed development is outside the 2km core but within the 10km foraging range for the species. Given the distance from the known nest sites, none of which are within 6km, and the low probability of the species to forage within the zone of influence of any construction disturbance due to the low suitability of the habitats impacted and the low susceptibility of the species to impact from the road traffic, the proposal will not result in any significant effects on this species.
- *River Shannon and River Fergus Estuaries SPA (site code 004077)*. The SPA is c10.7 km to the north of the proposal. The proposal is within the River

Feale catchment which does not drain directly to the European site. As per the ecology surveys undertaken in the preparation of the NIS golden plover, whooper swan, teal, black-headed gull and cormorant were recorded which are qualifying interests of the site. These birds are most likely from Cashen Estuary Flocks, given the relative close proximity and the River Cashen/River Feale corridor that connects the estuary with the site. Even if the bird species were to be from the River Fergus/Shannon Estuaries displacement of the species would not result in a significant population level impact. This is because there are large areas of suitable foraging habitat of similar quality within the locality which have the capacity to absorb any displaced birds. No significant effects on the qualifying species of the designated site will arise.

- *Kerry Head SPA (site code 004189)* is 14.2km to the west. In view of the distance separating the sites and the qualifying interests of the site which are coastal birds no significant effects on the designated species will result.

Stage 1 – Screening Conclusion

- 9.5.4. It is reasonable to conclude, on the basis of the information on the file, which I considered to be adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European sites Moanveanlagh Bog SAC (site code 002351), Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (site code 004161), River Shannon and River Fergus Estuaries SPA (site code 004077) and Kerry Head SPA (site code 004189). Potential for significant direct and indirect effects on the features of interest of the Lower River Shannon SAC (site code 002165) as detailed above cannot be screened out. Accordingly a Stage 2 Appropriate Assessment is required to determine the potential of the proposed development to adversely affect the integrity of the Lower River Shannon SAC.

Appropriate Assessment

- 9.5.5. The Appropriate Assessment concerns the said Lower River Shannon SAC (site code 002165).
- 9.5.6. The qualifying interests for the said designated site are as follows:

- Sandbanks which are slightly covered by sea water all the time
- Estuaries
- Mudflats and sandflats not covered by seawater at low tide
- Coastal lagoons
- Large shallow inlets and bays
- Reefs
- Perennial vegetation of stony banks
- Vegetated sea cliffs of the Atlantic and Baltic coasts
- Salicornia and other annuals colonising mud and sand
- Atlantic salt meadows
- Mediterranean salt meadows
- Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation
- Molinia meadows on calcareous, peaty or clayey-silt-laden soils
- Alluvial forests with Alnus glutinosa and Fraxinus excelsior
- Freshwater Pearl Mussel
- Sea Lamprey
- Brook Lamprey
- River Lamprey
- Salmon
- Common Bottlenose Dolphin
- Otter

9.5.7. A copy of the detailed conservation objectives for the site is attached in an Appendix to this report. The overall aim of the objectives is to maintain or restore the favourable conservation status of habitats and species of community interest.

Potential Effects

9.5.8. As the site crosses the SAC there is the potential for both direct and indirect effects. The key elements are as detailed above, namely habitat loss from the proposed bridge crossing of the River Feale, habitat degradation from the spread of invasive plant species, and water quality impacts both of the River Feale and other watercourses during construction and operation phases. Based on same the key sensitive receptors are considered to be as follows:

- Atlantic Salmon
- Sea Lamprey
- Brook Lamprey
- River Lamprey
- Freshwater pearl mussel
- Otter
- Estuaries
- Water courses of plain to montane levels with the *Ranunculus fluitans* and *Callitriche-Batrachium* vegetation.
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior*

Loss of Habitat

9.5.9. The construction of the bridge will result in the loss of 765m² of habitat within the SAC boundary which is made up of 409 m² of scrub (north bank) of non-Annex 1 woodland (which will be lost in association with the installation of the outfall to the river from the attenuation pond on the north bank) and 288m² of improved agricultural grassland. None of the habitats directly impacted by the proposed development within the boundary of the SAC correspond with any of the Annex 1 habitats for which the SAC is designated. The loss of habitat does not represent an adverse effect on the integrity of the SAC in consideration of the site's conservation objectives and qualifying interests. The minimum working area on the ground necessary to facilitate the construction of the intermediate pier of the bridge and proposed outfall A3 will be used (2284m² - see Figures 2 and 8). The area will be

clearly delineated and fenced off. No other on ground works within the SAC boundary will be undertaken outside of this zone.

Water Quality

9.5.10. Water quality during both the construction and operational phases has the potential to significantly impact on the fish species. The surface water drainage system designed for the proposed development entails surface water passing through a three stage system of petrol/oil interceptor, attenuation pond and constructed wetland prior to discharge. The design of the treatment system has taken account of the size of the catchment drained and the types of contaminants. The results of the HAWRAT assessment show that the designs are adequate and that no additional measures are required. The operating water quality of the drainage outfalls will not have any perceptible impact on water quality in the receiving watercourses. Extreme flood events may temporarily affect the functioning of the attenuation and wetland elements of the treatment chain but the petrol interceptor would continue to function as designed. Given the increased dilution factor and flow rates associated with such events the predicted impact on water quality is predicted to be imperceptible. The probability of risk of contamination from accidental spillage is calculated as being less than 0.5%. As the likelihood is so low it is not deemed necessary, in accordance with the Highway Agency's guidance, to further reduce the risk through other measures.

9.5.11. In terms of impact on water quality during the construction period, established preventative measures are to be put in place through a detailed Erosion and Sediment Control Plan which will be part of the Environmental Operating Plan. Such measures would include installation of a temporary impervious barrier to ensure that all works associated with the bridge pier construction at the River Feale are protected against the 1:100 year return period flood event to ensure that there is no hydraulic connectivity between the temporary works and the river during construction; pouring of cement based materials in the dry and allowed to cure for 48 hours before re-flooding and measures to handle, store and re-use material removed from the banks of the river where feasible and a monitoring programme both pre-construction and construction stage.

Invasive Plant Species

- 9.5.12. The invasive alien plant species Indian Balsam and Japanese Knotweed are present at the river crossing and are both upstream and downstream. In addition Spanish bluebell and three cornered garlic are recorded within or in close proximity to the proposal.
- 9.5.13. All invasive species are to be removed in accordance with the Guidelines on the Management of Noxious Weeds and Non-native Invasive Plant Species on National Roads (NRA 2010). An Outline Invasive Species Management Plan has been prepared (Appendix 6.8). In view of the ecological sensitivity of the area stem injection, only, will be used to control Japanese knotweed. The schedule of commitments has been amended to ensure that application of glyhosates would be on foot of the advice of a certified pesticide advisor and/or in compliance with guidelines for glyphosate use near aquatic ecosystems 2 years prior to construction to ensure its effectiveness (mitigation no.10).

Air Quality

- 9.5.14. The results of the baseline air quality monitoring indicate that predicted annual average NO_x levels are materially below the limit value of 30 ug/m³ for the Do Something scenario in both the opening and design years. The road contribution to the NO₂ dry deposition rate along the 200 metres transect within the SAC at Islandganniv South is calculated and is predicted to be well below the critical load for inland and surface water habitats of 5-10 Kg(N)/ha/yr.

Atlantic Salmon/Lamprey Species

- 9.5.15. As the proposal will not significantly impact on water or result in any aquatic habitat degradation there is no predicted impact.
- 9.5.16. The use of the clear span bridge over the River Feale with no construction works within the river channel avoids any loss of river substrate habitat that would affect same. The bridge design avoids the potential for the proposal to result in any barrier effect to fish passage. The existing flood prevention measures on the tributaries crossed by the proposal are likely to already result in a degree of barrier effect. The design of the structures proposed will not pose a risk of any significant effects as a result of barrier effects.

- 9.5.17. The tributary streams were all noted as low/moderate potential for juvenile salmonids and lamprey species. The potential for indirect impacts arising from habitat loss associated with the installation of structures on the said tributary streams are not predicted to result in any significant effect.
- 9.5.18. Any disturbance during construction including the installation of the temporary piles required to construct the bridge abutments in isolation from the river is not predicted to be significant principally due to the absence of any in-stream works on the river and the temporary nature of the works.
- 9.5.19. Any armouring could have effects downstream in terms of bed gravel erosion. The reinforcement proposed at the location of the crossing would extend for a length of approx. 65 metres, would occur approx. 10 metres south of the existing channel bank and would not require the removal of the river bank during construction. The proposed works would not result in adverse affect on downstream gravel bed habitats of fish species.

Freshwater Pearl Mussel

- 9.5.20. This species relates specifically to a catchment that is not hydrologically connected to the site.
- 9.5.21. There is the potential for indirect impact on this species by virtue of the fact that the larval stage of the species' life cycle relies on salmonid fish as a host species. Any potential effects on salmonid fish species could, therefore, also potentially affect freshwater pearl mussel recruitment in the catchment. The potential for significant effects has been discussed above in relation to Atlantic Salmon. As there is not likely to be any significant effects on water quality or host fish species there is no risk to any population upstream.

Estuaries

- 9.5.22. The extent of the Cashen River estuary is from the coastline south of Ballybunion to the Finuge Bridge. The estuarine system and habitat could be affected either by reduction in water quality or through the introduction of invasive plant species.

9.5.23. Since the proposed development will not significantly affect water quality or result in any habitat degradation of invasive plant species there is no predicted impact.

Otter

9.5.24. Evidence of otter activity was recorded along the banks of the River Feale and also on the Mill Stream Lower. A potential holt is located along the boundary of the proposed development at Garryantanvally. Whilst this burrow along the stream bank displayed the characteristics of an otter holt, no evidence of any otter activity was recorded in its vicinity throughout the survey period. The proposed development will not result in a decline in the number of available holt or couch sites within the SAC. The use of a clear span bridge design will ensure that there will be no reduction in the extent of freshwater habitat for the otter.

9.5.25. The construction of the bridge will result in the loss of 477m² of bankside vegetation at two locations. As per the document Threat Response Plan – Otter *Lutra lutra* 2009-2011 (DoEHG 2011) the otter habitat is a 10 metre zone of riparian habitat long river banks. The riparian zone on the south bank consists of c.5m high cliff face with bramble scrub covered earth bank. Given that otter activity was restricted to boulders lining the base of the cliff in this area, the absence of any existing substantial vegetation cover in this zone, and the clear span bridge design the vegetation loss in this area is not predicted to result in any significant decline in the extent of the available terrestrial habitat; evidenced by the continued use by otter of areas under bridge structures in the surrounding area. At the outfall for proposed Pond A3 the riparian zone consists of a narrow band of woodland. Given the modified nature of the river bank immediately to the north of this location where concrete bank reinforcement works have been carried out which is still used by otter, the removal of the vegetation required to install the outfall and associated headwall is not predicted to result in any significant decline in the extent of the available terrestrial habitat for the species.

9.5.26. Construction works will result in some severance along watercourses but it would be expected to habituate to the modified landscape quite quickly and it not predicted to result in any significant effects to the local otter population.

9.5.27. In terms of water quality and the qualifying interest, as the proposed development will not significantly affect water quality there is no predicted impact.

9.5.28. The mitigation measures follow the recommendations set out in the Guidelines for the Treatment of Otters Prior to the Construction of National Road Schemes (NRA 2008b) and Design Manual for Roads and Bridges: Volume 10: Environmental Design and Management. Section 4: Nature Conservation: Part 4, HA 81/99; Nature Conservation Advice in Relation to Otters (Highway Agency, 2001b). A derogation licence has been applied for from the NPWS. A period of monitoring of at least 5 days will be required in order to determine the status of the potential holt. Otter passage facilities are to be provided at watercourses used. Underpasses will be constructed in accordance with the above guidelines. As required by the guidelines quarterly monitoring of the effectiveness of the measures will be taken in the 1st year following construction.

Watercourses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation

9.5.29. Water-crowfoot occurs c.70 metres to the east of the river crossing, the principal species of which is *Ranunculus penicillatus* var. *penicillatus*. This area of habitat (given that this species is characteristic) may correspond with the Annex 1 habitat type 'watercourses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche – Batrachion vegetation*.' There is no agreed definition of this habitat and its sub-types in Ireland. As per the SAC conservation objectives supporting document the description of the habitat is broad and a number of sub-types of the habitat exist in Ireland. It is considered that the habitat as defined is too broad for a single set of conservation guidelines to cover it and that site specific conservation objectives for the habitat identify, and concentrate on the high conservation value sub-types. The qualifying interest habitat within the SAC includes three high conservation elements (sub types); Opposite leaved Pondweed, Palla, Triangular Club-rush and Bryophyte-rich streams and rivers. The area of east of the bridge crossing does not correspond with same. The habitat, irrespective of its classification, does not form part of the qualifying interest. In addition the habitat is located upstream of the bridge location and consequently will not be directly impacted.

9.5.30. As the proposed development will not significantly affect water quality, the existing hydrological regime, or result in any aquatic habitat degradation there is no predicted impact

*Alluvial forests with *Alnus glutinosa* and *Faxinus excelsior*.*

9.5.31. The only area of this habitat type is near Toornafulla which is c.25 km upstream of the proposed development. However there may be, as yet, unknown areas of this habitat type at a distance downstream. If present it could be at risk of indirect impact from a reduction in water quality and spread of invasive plant species.

9.5.32. As the proposal will not significantly affect water quality, the existing hydrological regime or result in habitat degradation from the spread of invasive species there is no predicted impact.

In combination effects

9.5.33. I note that the NIS assesses the potential cumulative impacts which could possibly arise with due cognisance had Listowel Waste Water Treatment Plan, the permitted windfarm at Lissahane/Ballyhorgan c.2.8 km to the south, the Shannon River Basin Management Plan 2009-2015, Kerry County Development Plan and Listowel/Ballybunion Functional Area Local Area Plan. No potential for significant in-combination impacts are identified. I am satisfied that no in-combination effect will arise.

Appropriate Assessment – Conclusion

9.5.34. On the basis of the information provided with the application, including the Natura Impact Statement, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, and the assessment carried out above, I am satisfied that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of European Site No. 002165, or any other European site, in view of the site's Conservation Objectives.

9.6. **Compulsory Purchase Order**

9.6.1. The CPO was made pursuant to the powers conferred on the local authority by section 76 of the Housing Act, 1966, and the Third Schedule thereto, as extended by

section 10 of the Local Government (No. 2) Act, 1960 (as substituted by section 86 of the Housing Act 1966) and amended by section 6 and the Second Schedule of the Roads Acts, 1993-2015, and the Planning and Development Acts, 2000-2016.

9.6.2. An Erratum to the CPO Schedule was presented to the oral hearing and provides for amendments and/or additions to the owners or reputed owners and occupiers. The amendments reflect information that the applicant obtained after the submission to the Board. No changes were made to plot boundaries, plot identifications, plot descriptions, plot areas, plot location townlands or plot location DEDs. I consider that the proposed amendments to be reasonable and would not be likely to prejudice the position of any person.

9.6.3. 32 written objections to the order were received by the Board.³

9.6.4. It is accepted that there are four criteria that should be applied where it is proposed to use powers of compulsory purchase to acquire land or property namely:-

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

Community Need

9.6.5. The stated purpose of the CPO is to facilitate a 5.95km western and northern bypass of Listowel town.

9.6.6. I note that a number of objectors to the PRD and CPO dispute the need for the proposed development. As set out in section 1.4 of the EIS and referenced in section 9.3 above the scheme is justified in terms of the existing unsatisfactory traffic conditions in the town centre that result in delays when seeking to travel through the town via the N69. I submit that the PRD will benefit road users, will relieve traffic

³ This excludes the submission from Michael McKenna & Others which references CPO 340. As confirmed at the oral hearing Mr. McKenna is not named in the CPO schedule due to absence of proof of ownership.

congestion thereby assisting in capitalising on the town's location and attraction on an important transport corridor and it would also assist in reducing the journey times along this strategic road corridor which links the Tralee/Killarney Hub with the Tarbert/Ballylongford deepwater port and landbank. It will also facilitate amenity improvements for the town centre and allow for improved pedestrian and cyclist facilities. I therefore consider that the CPO can be justified by the exigencies of the common good and that the community need for the scheme has been established.

Compliance with Development Plan

9.6.7. As detailed in section 9.2 of this assessment the PRD accords with national and regional policy. In light of same it is contended that the PRD plays an important role in the context of the removal of traffic from the town centre and improvement of journey times along the N69. At the county level the Kerry County Development Plan has been informed by both national and regional policy and notes the importance of the N69. The fact that the PRD has been specifically referenced as an objective is noted. As set out in the report from the Senior Planner attached to the Chief Executive's report that accompanied the CPO the PRD is accordance with the County Development Plan, in particular objectives RD4 – RD 6, RD17 – RD19 and RD21. It is also in accordance with the Listowel Town Development Plan, in particular objectives set out in MAC 31, MAC 32 and MAC35.

9.6.8. There was some discussion at the oral hearing as to the timing of the variation to the town plan to remove reference to an indicative route to the south of the town. However the power to make and vary development plans rests with the elected members of the planning authority. The Town Development Plan must be taken as it is. The Board is therefore advised that the CPO submitted for confirmation complies with the relevant development plans.

Alternatives

9.6.9. I refer to the consideration of alternatives in section 3 of the EIS, Ms. Smith's submission to the oral hearing and sections 9.3.12 and 9.4.1.6 of this assessment above. The process dates back to route selection report of 2012 where feasible options were drawn up and were then vetted based on environmental, economic and operational assessments. The do minimum and traffic management options were

also assessed but not considered feasible to achieve the necessary improvements within the town centre.

9.6.10. I am of the opinion that the applicant has submitted sufficient detail in terms of the alternative route options considered and the reasons for the choice of the alignment proposed in the scheme and that the level of detail provided in the EIS meets the requirements of section 50(2)(d) of the Roads Act, 1993 (as amended) and the 2011 EIA Directive. I would conclude that, at this stage of the assessment, the chosen option appears to be the most reasonable solution, while at the same time minimising the impacts on the ecological, visual and residential sensitivities of the area.

9.6.11. Objections submitted by landowners focus on the scheme having an adverse impact on amenities, properties and lands. Such an impact is likely to arise no matter what route is selected. It is acknowledged that the preferred route presents burdens in relation to residential owners and agricultural operations. These impacts will, in many cases, be permanent impacts notwithstanding the mitigation measures proposed. Issues relating to severance and loss of lands arising are matters to be addressed by way of compensation.

Suitability of lands to meet community need

9.6.12. I refer to section 9.3 of this assessment and the conclusion that the proposed cross section and junction strategy are appropriate. The extent of the land that would be acquired under the order is determined by the specifications for same.

9.7. Outstanding Planning and CPO Issues

9.7.1. Forge Road Access

9.7.1.1. I have addressed the issues of severance, noise, vibration, air quality and visual impact.

9.7.1.2. There are 11 properties with access onto Forge Road, 6 of which will be to the south of the PRD. Access was specifically raised in the submissions made by Residents of Forge Road, Michael & Angela Moroney and Ms. Andrea Taylor.

- 9.7.1.3. Access to the north section of Forge Road will be provided by means of a T-junction onto the PRD while the section to the south will become a cul-de-sac, accessible from the L1011 Greenville Road. No vehicular or pedestrian connectivity is proposed between the two sections of the road. Connectivity between the severed sections is to be provided by way of a footpath along the new road from the Forge Road junction to the Greenville roundabout and along the Greenville road to Forge Road. Forge Road and Greenville Road at its junction is currently governed by the 50km/hr speed limit. The PRD at the point it will cross Forge Road will have a design speed of 100km/hr.
- 9.7.1.4. In terms of potential connectivity Ms. Smith informed the hearing that a crossroads would not be in accordance with the Design Standards for National Roads schemes due to the safety concerns, whilst options for staggered junctions were examined but not progressed due to the length of new road required and the impact on existing land use and residential development. The arrangement as proposed is seen as a reasonably better solution. In terms of Mr. Corridan's proposal for an at grade crossing and traffic calming measures such as that on the N21 at Croagh, Ms. Smith stated that the Forge Road junction is not comparable as the 100km/hr speed limit would apply whilst the arrangement at Croagh is within the village where a lower speed limit is applicable. Such an arrangement is not considered appropriate at this location and would be unsafe. Ms. Smith also stated that an overbridge for side roads is generally not permitted on single carriageway roads, whilst the option for a pedestrian underpass is constrained by existing watercourses and outfalls, whereas the height increase in the mainline that would be required would have a visual impact on the dwellings closest to the underpass and would increase costs.
- 9.7.1.5. In response to a query from Ms. O'Connor on behalf of the Residents of Forge Road Ms. Smith stated that the traffic turning movements would be below that at which the provision of a ghost island on the PRD for right turning vehicles would be required. She advised that the project would be subject to further safety audits and, if recommended such a measure could be provided on foot of same. Mr. McGinley stated that in terms of vehicles exiting onto the PRD there would be sufficient sightlines to go from a standing start with a 6 second wait for vehicles turning left and 8 second wait time for vehicles turning right. In addition it is noted that the new

scheme would not change the name of the road which is a function of the Elected Members of Kerry County Council.

9.7.1.6. There is no doubt that there will be a material social and physical severance impact for the residents of Forge Road with the proposed pedestrian connectivity provisions materially longer than is currently the case. Whilst not wishing to undermine or underestimate the concerns expressed regarding the inconvenience and disruption that will be generated and noting that all of the impacts cannot be completely eliminated, this has to be balanced against the identified need to provide a national secondary road to an acceptable standard and the exigencies of the common good. I consider that alternative measures to provide connectivity have been assessed and the reasons for not pursuing same set out. In that context, therefore, the vehicular and pedestrian access arrangements are considered acceptable.

9.7.2. **John B Keane Road including Ballygologue Junction**

9.7.2.1. The John B Keane road is effectively divided into two sections intersected by the Cliveragh roundabout at its junction with the R522 Ballylongford Road. As noted previously it was originally developed between 1996 and 2000 as a relief road for the town. As a consequence of its original stated purpose the road is relatively straight with a wide carriageway which is up to 8/8.5 metres in places and, as noted by Ms. Madigan for the Concerned Residents of Ballygologue, large sections are delineated by high boundary walls with development set back behind same. In terms of the western section, access to the Lartigue Museum and adjoining dwellings are available with no access to the residential development to the south of the road. In terms of the eastern section of the road five housing estates have access onto same in addition to two supermarkets and the Fire Station. There is also the signalised junction at Ballygologue. As noted previously northbound N69 traffic is currently routed along this eastern section.

9.7.2.2. As part of the PRD the carriageway is to be reduced to a uniform 7 metres with the footpath widened to between 3.5 and 4 metres along the northern side providing for shared pedestrian and cyclist facilities. The roundabout at the junction with the Ballylongford Road is to be replaced with lights with dedicated pedestrian phasing whilst new hardware is to be installed at the existing signalised junction at

Ballygologue. A number of submissions raised the adequacy and reliability of the existing lights.

9.7.2.3. Having regard to the 2.4% modelled vehicular increase for 2017 on the eastern section of the road, I consider that there would be minimal impact with regards to access to the residential estates and commercial development including the Fire Station and the existing supermarkets. The proposed measures will assist in alleviating somewhat, the vehicular dominated environment and will assist in reducing vehicular speeds. It would also improve pedestrian and cyclist facilities and, in terms of the proposed pedestrian crossing facilities at the Ballylongford junction, would assist in improving pedestrian connectivity over the current prevailing situation.

9.7.2.4. The provision of cycling facilities with the 50km/hr speed limit of the PRD is in accordance with the national cycle policy framework. The proposal entails a shared facility with pedestrians and will be required to be in accordance with the National Transport Authority's National Cycle Manual including requirements for signage. The guidance states that delineation markings should not be used as they give cyclists an incorrect sense of a dedicated cycle space. Due to the narrower existing road width on the section between the Lartigue Railway Museum and the R552 Ballylongford Road junction cyclists are to be given the option of diverting via the laneway to the rear of the properties at John B Keane Grove/Lartigue Cottages. This is undoubtedly a pinch point with inset vehicular parking provided to the front of the dwellings. Whilst the proposed arrangement is not optimum in view of the existing rear access and vehicular parking that occurs along the lane, I would accept that vehicular movements are limited and, as such, the potential for conflict would be limited. Appropriate warning signage would offset, somewhat, the concerns in this regard.

9.7.3. **Proposed Limerick Foynes Road**

9.7.3.1. Listowel Anti By Pass Community raised the potential cumulative impact with the proposed Foynes to Limerick Improvement Scheme. The said proposed road improvement scheme is on foot of the publication of the National Ports Policy in 2013 which categorised Shannon Foynes Port Company as a Port of National Significance (Tier 1) and identified, as a matter of priority, the improvement of the road and rail

freight connection to Shannon Foynes Port. The Trans-European Transport Network regulations (European Union Regulation No. 1315/2013), published in December 2013, identified Shannon-Foynes Port and the road access connecting it as part of the Core Trans-European Transport Network.

- 9.7.3.2. The preferred option has been identified and is to include a by-pass of Adare with the route extending to Ballycannon (Croagh), Blossomhill (Rathkeale) roughly parallel to the north of the existing N21 before turning north to Ballyclough and connecting to Foynes with a tie back into the N69 at Askeaton.
- 9.7.3.3. I would concur with the view that traffic on the N21 travelling to Tralee/Killarney would be more likely to continue on the national primary road rather than availing of the alternative routing via Foynes and then onto Listowel and Tralee. Certainly vehicles originating at Foynes and travelling south would, most likely, travel on the N69 via Listowel as is currently the case and to which regard is had in the EIS.
- 9.7.3.4. Mr. O’Gorman of the Listowel Anti Bypass Community also raised the cumulative impact of the PRD with the proposed M20 Limerick-Cork Road. As per the current information available the project is currently suspended with no further details as to the timelines for its realisation.
- 9.7.3.5. I do not consider that there is an explicit or obvious connection between the proposed road projects as referenced and that currently before the Board and I would concur with Mr. Flanagan for the applicant that the consideration of cumulative impacts with a prospective future road project that has not been confirmed is not a reasonable requirement of an EIS. Certainly this is a matter for SEA in terms of the national roads programme. It will be incumbent on later projects to consider cumulative impacts if any.

9.7.4. **Sive Walk**

- 9.7.4.1. The PRD is to run along the Sive Walk which has been developed along the disused railway line accessed from the Ballybunion Road connecting to Derrha Bog to the west. As per Ms. Smith’s submission to the hearing the lands were purchased by Kerry County Council in 1992 specifically for the purpose of providing a relief road. In this regard I note that an indicative road line running parallel with the walk is delineated on Map 3 of the current Listowel Town Development Plan and as such,

the development of this route for such purposes has been envisaged for a period of time.

9.7.4.2. The impact on the Sive Walk is specifically mentioned in a number of written and oral submissions. The PRD runs along the route of the walk for a distance of 900 metres with the route to be relocated to the north of the road. A 4 metre wide pedestrian and cyclist trackway segregated from the carriageway will be provided. The said walk is to form part of the Great Southern Way between Listowel and Tralee and the proposed layout is stated to be suitable for same. Mitigation measures including planting of native hedgerow and trees on both sides of the walk and are detailed in Figure 11.1.8 of the EIS with a photomontage provided in View 06 of Appendix 11.2.

9.7.4.3. There is no doubt that the setting of the walk will be irrevocably altered from that currently existing. I submit that the existing quality is dictated by the fact that a large proportion of the lands to either side are, as yet, undeveloped although a number of residential schemes are noted to the south-eastern section of the road. However as noted from the current zoning provisions arising from variation no.2 of the Listowel Development Plan adopted in April 2017 a significant percentage of the lands to either side remain earmarked for development, notably for residential and educational uses. Were these provisions to be realised I submit that the setting and context of the walk would be altered and would, most likely, be more akin to a suburban environment.

9.7.4.4. I consider that the proposed alterations to the Sive Walk are acceptable and will not prejudice its incorporation into the proposed Great Southern Way.

9.7.5. **Graveyard and Schools - Ballybunion Road**

9.7.5.1. A number of submissions made reference to potential congestion arising from the PRD and funerals at the graveyard on the Ballybunion Road. As noted there is an existing car park at the graveyard and whilst it may not meet the requirements at all occasions with overspill onto the road, funerals are not such a frequent occurrence which would warrant special permanent measures to be implemented. As confirmed by Ms. Smith at the oral hearing whilst parking will not be permitted on the roundabout no additional parking restrictions are to be introduced along the Ballybunion Road.

9.7.5.2. There are two schools and a crèche accessed from Convent Street to the south of the PRD. The priority arrangement is to be altered at the junction of the Ballybunion Road and John B Keane Road with vehicles accessing/exiting Convent Street giving way to traffic on the PRD. There is no evidence to suggest that the PRD would have an impact on the prevailing situation in terms of drop off and collection of children or that such vehicular and pedestrian movements would impact on traffic or give rise to congestion.

9.7.6. Payment for Costs

9.7.6.1. Mr.Vosloo on behalf of the Listowel Anti ByPass Community made a request for the payment of costs in accordance with section 135(5)(b) of the Planning and Development Act. I submit that the objector has been facilitated throughout the application process in the same manner as all other participants in the process. In my opinion there are no circumstances arising that would warrant the payment of costs to this party in particular.

9.7.7. Mr. Michael McKenna & Others

9.7.7.1. As noted above and clarified at the oral hearing Mr. McKenna, whilst making reference to CPO ref. 340 in his written objection to the Board, is not named in the CPO schedule.

9.7.7.2. Mr. McKenna resides in a dwelling accessed from a private road off the R553 Ballybunion Road in the vicinity of Teampaillin Ban graveyard. He is concerned that the removal and setback of the roadside hedgerow to facilitate roundabout no. 3 will have a negative impact on the privacy of his dwelling which will be visible from the roundabout. His dwelling is currently screened from the Ballybunion Road by reason of the said hedge. He noted that his suggestion of the creation of an alternative access and the existing arrangement closed up was not acceded to by the applicant.

9.7.7.3. As noted, the junction of the private road onto the roundabout will be widened but will tie back into the existing road. Figure 11.1.8 of the EIS delineates the proposed landscaping scheme in the vicinity entailing low scrub canopy screening which would grow to a height of between 3 and 5 metres. Mr. Bosnonnet on behalf of the applicant informed the hearing that specific landscape measures are set out for

properties close to be junction including Mr. McKenna's property (reference SLM04 in Table 11-6) providing for a higher percentage of evergreen. Notwithstanding he acknowledged that in the short term the impact will be at it's highest.

- 9.7.7.4. Following from Mr. McKenna's concerns an insertion to the Updated Schedule of Environmental Commitments presented to the oral hearing will seek to retain and protect, where feasible, the existing bank and hedgerows on both sides of the access road and where any vegetation is removed, a low earth mound with low canopy screen/hedgerow where feasible will be provided.
- 9.7.7.5. I consider that the mitigation measures proposed will provide for a level of screening whereby the amenities of Mr. McKenna's property would be adequately protected
- 9.7.7.6. Mr. McKenna also raised issues with regard to flooding as a result of the closure/modification of drains in Cliveragh to the rear of his property. The PRD would not have any impact on the existing flooding issues identified. As noted in Mr. Ginty's submission to the hearing a separate capital project has been earmarked to resolve this matter.
- 9.7.7.7. In terms of noise Mr. McKenna's property equates to noise model receiver location R048. As per Appendix 10.2a – Predicted Noise Levels (pre-mitigation) the design goal of 60dB L_{den} is not breached. Mitigation is therefore not required.
- 9.7.8. **Edmund Healy CPO Ref. 215** - Represented at the oral hearing by Mr. Louis O'Connell Solicitor, Mr. R. Collins, Agronomist and Mr. Brendan Nolan, Engineer.
- 9.7.8.1. I have dealt with the issues of route alternatives, traffic, ecology, noise, air and amenity.
- 9.7.8.2. Mr. O'Connell on his behalf clarified that Mr. Healy's agricultural enterprise impacted by the PRD entails a holding of 24.3 hectares currently accessed from Greenville Road with frontage also onto Forge Road. 3.16 hectares is proposed to be acquired. The PRD will result in 1.9 hectares located to the east of the road which will be isolated from the farmyard and buildings. The holding is in dairy. A livestock underpass is considered necessary and reasonable to allow for the dairying enterprise to continue and that it could be incorporated into the works. The alternative is the movement of cattle along the road to access the milking facilities within the farmyard to the west.

9.7.8.3. In response Mr. Farrelly for the applicant stated that the individual leasing the land from Mr. Healy has a big dairy enterprise of in the region of 300 cows and that the severing of 2 hectares from a 300 cow enterprise was not comparable to the same amount being severed in a smaller enterprise. The impact of the severance on a 300 cow enterprise is considered to be marginal and that the provision of a 3 metre underpass would not be justified in terms of cost. In addition such a 3 metre wide pass would not be practical and it would take a significant period of time for the herd to pass through. Ms. Smith also detailed the constraints arising in terms of drainage both in terms of the pipe proposed to channel water from Forge Road back to the proposed attenuation pond proposed in proximity to this location and the level of the Mill Stream. The option to increase the level of the road to avoid the drainage issues arising would have knock on impacts in the tie back to the roundabout and at Forge Road which would also impact landtake requirements.

9.7.8.4. I consider that the applicant has provided sufficient detail to support its case against the provision of the underpass at this location and that the issue of how the dairy enterprise may be affected by the resultant severance is a matter for arbitration.

9.7.9. **Michael & Angela Moroney CPO 225– Represented by John Corridan, Corridan & Associates.**

9.7.9.1. I have dealt with the issues raised in terms of severance, alternatives for vehicular and pedestrian connection, ecology, amenity and drainage and flooding.

9.7.9.2. The area to be acquired from Mr. and Mrs. Moroney comprises of 0.004 ha. of land and 0.003 ha. of road. The acquisition is to allow for regrading of the local road and is considered reasonable. I note the request for a replacement front wall in place of the existing timber fence. In terms of devaluation of property the issue of compensation will be a matter for arbitration.

9.7.10. **Ms. Andrea Taylor CPO ref. 255**

9.7.10.1. I have addressed the issues raised pertaining to route choice, ecology, severance, noise, flooding and amenity.

9.7.10.2. Ms. Taylor also raised concerns with regard to the emissions from vehicles and potential impact on health and I refer the Board to my assessment in terms of air quality and the conclusions therein. As noted by Ms. Flynn mitigation measures to

reduce emissions generally are subject to higher level intervention in terms of international and national policy.

- 9.7.10.3. In terms of visual impact, including the impact of the noise barrier to be erected alongside the PRD at Forge Road, I have noted previously that the PRD will have a material and permanent impact on the landscape to the west of the town including Forge Road and the Sive Walk but I submit that the impact has to be balanced against the wider benefits that will accrue from the project.
- 9.7.10.4. The area to be acquired from Ms. Taylor comprises of 0.003 ha. of land and 0.004 ha. of road. The acquisition is to allow for regrading of the local road and is considered reasonable. In terms of devaluation of property the issue of compensation will be a matter for arbitration
- 9.7.11. **Mr. Denis Carroll CPO ref. 315** (submission made by Ms. A. Taylor on his behalf to the oral hearing)
- 9.7.11.1. I have addressed the issues pertaining to route choice, alternatives, ecology, impact on Sive Walk, noise and vibration, funeral and school traffic on Ballybunion Road and traffic on John B Keane Road
- 9.7.11.2. Mr. Carroll has a right of way across the private road known as Bothar Dubh that connected to the workhouse to the south to the Tempaillin Ban graveyard. There is a further property which has a right of way along this road.
- 9.7.11.3. By reason of the proposed junction arrangement and roundabout at the junction with the Ballybunion Road Mr. Carroll's vehicular access and that from the dwelling to the south of same cannot be accommodated and is to be extinguished with a new shared vehicular access to be provided along the section of the Sive Walk which will be severed with the exit in the vicinity of where the current Sive Walk intersects with the road. Whilst Mr. Carroll expressed concern regarding the proximity of the new access to the junction of Ballybunion Road and John B Keane Road which will be given priority, I note that the arrangement meets design standards and will be at a point where the 50km/hr speed limit will apply. The entire scheme has been subject to a Stage 1 Safety Audit. Further safety audits will be carried out as it progresses.
- 9.7.11.4. Ms. Smith informed the hearing that save for the alterations at its junction with the proposed roundabout at the junction of Ballybunion Road Bothar Dubh pedestrian

access will be maintained and the current ownership will prevail. There is no official right of way for the public along same.

9.7.11.5. I consider the proposed arrangements to be acceptable.

9.7.11.6. In terms of devaluation of property the issue of compensation will be a matter for arbitration.

10.0 Recommendation

Having regard to the above assessment I recommend as follows:

10.1. Compulsory Purchase Order

I consider that the land take is reasonable and proportional to the stated purpose to provide the proposed distributor road. I am satisfied that the process and procedures undertaken by Kerry County Council have been fair and reasonable and it has 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 the lands would be in the public interest and the common good and would be consistent with the policies and objectives of the Kerry County Development Plan and the Listowel Town Development Plan.

DECISION

CONFIRM the compulsory purchase order for the reasons and considerations set out in Schedule 1 subject to the modifications set out in Schedule 2.

SCHEDULE 1

REASONS AND CONSIDERATIONS

Having considered the objections made to the compulsory purchase order, the report of the person who conducted the oral hearing into the objections, the purpose of the compulsory purchase order and also having regard to:

- (a) the community need, public interest served and overall benefits, including benefits to the town centre, the reduction in travel time for N69 through traffic through the town and increased provisions for a range of road users to be achieved from use of the acquired lands, and
- (b) the provisions of the Kerry County Development Plan and the Listowel Town development Plan and the policies and objectives stated therein, which specifically identify the proposed road development
- (c) the proportionate design response to the identified need,

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

SCHEDULE 2

The compulsory purchase order shall be modified in accordance with the modifications submitted to the Board at the Oral Hearing on the 5th day of September, 2017 as follows:

- (i) the inclusion of Patrick T. Lucy as reputed owner of Plots 315a, 315b, 315c and 315d and Right of Way in favour of James Beasley in Plot 290s and Right of Way in favour of Denis O'Carroll and James Beasley in Plots 315c and 315d.

Reason: To take account of updated information in respect of land ownership and other matters as agreed at the Oral Hearing.

10.2. Application for Approval of Proposed Road Development

DECISION

APPROVE the above proposed road development in accordance with the said documentation based on the following reasons and considerations and subject to the condition set out below.

REASONS AND CONSIDERATIONS

In coming to its decision, the Board had particular regard to:

- (a) The national, regional and local strategic road policies and objectives, inclusive of those set out in the National Development Plan, National Spatial Strategy, Smarter Travel - A Sustainable Transport Future, the South-West Regional Planning Guidelines 2010-2022, the Listowel Town Development Plan 2009-2015, and Kerry County Development Plan 2015-2021,
- (b) The scheme constituting a key transportation element for the town of Listowel,
- (c) The design, layout and alignment of the proposed development minimising the impact of the development on the Lower River Shannon candidate Special Area of Conservation, and
- (d) The range of proposed mitigation measures set out in the submitted Environmental Impact Statement, Natura Impact Statement, and Schedule of Commitments.

Appropriate Assessment

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Lower River Shannon SAC (site code 002165) is the only European Site in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed

development for the affected European Site, namely the Lower River Shannon SAC (site code 002165), in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the current proposal, and
- iii. the conservation objectives for the European Site.

In completing the appropriate assessment, the Board accepted and adopted the screening and the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Site, having regard to the site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Site, in view of the site's conservation objectives.

Environmental Impact Assessment

The Board considered that the environmental impact statement submitted with the application, the report, assessment and conclusions of the Inspector with regard to this file and other submissions on file, were adequate in identifying and describing the direct and indirect effects of the proposed road development. The Board completed an environmental impact assessment, and agreed with the Inspector's assessment of the likely significant effects of the proposed development, and generally agreed with the Inspector's conclusions on the acceptability of the mitigation measures proposed and residual effects and concluded that the proposed road development would not be likely to have significant adverse effects on the environment. The Board generally adopted the report of the Inspector.

It is considered that, subject to compliance with the conditions set out below, the proposed road development would not have significant negative effects on the community in the vicinity, would not give rise to a risk of pollution, would not give rise

to detrimental visual or landscape impacts, would not have a detrimental impact on archaeological and architectural heritage, would not seriously injure the amenities of the area and of property in the vicinity, and would be acceptable in terms of traffic safety and convenience. It is considered that the proposed road development would be in the interest of the common good and would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The proposals, mitigation measures and commitments set out in the Environmental Impact Statement, and as further stated and clarified in the Updated Schedule of Environmental Commitments submitted by the local authority to the Oral Hearing on the 7th day of September, 2017, shall be implemented as part of the proposed development.

Reason: In the interest of clarity, to mitigate the environmental effects of the development, and to protect the amenities of properties in the vicinity.

2. The before and after construction monitoring requirements of Irish Water at the Scartleigh Intake for the Listowel water supply shall be implemented as part of the proposed development.

Reason: In the interest of protecting the public water supply to the town of Listowel and in the interest of public health.

Pauline Fitzpatrick
Senior Planning Inspector

October, 2017

Appendix 1 – Summary of Oral Hearing

Listowel Arms Hotel

Tuesday 5th – Thursday 7th September 2017

Local Authority	
Mr. Dermot Flanagan	Senior Counsel
Ms. Tracy Smith, Kerry County Council NRDO	Project Manager
Mr. Alan McGinley, Jacobs Engineering	Traffic & Structure Designs
Mr. Stephen Smyth, AWN Consulting Ltd.	Noise & Vibration
Ms. Claire Flynn, AWN Consulting Ltd.	Air Quality & Climate
Mr. Bryn Coldrick, Archaeological Management Solution Ltd.	Archaeology, Cultural Heritage & Architectural Heritage
Mr. David Bosonnet, Brady, Shipman, Martin	Landscape & Visual Aspects
Mr. Philip Farrelly, Philip Farrelly & Company Ltd.	Agronomy
Ms. Aebhin Cawley & Mr. Andrew Speer, Scott Cawley	Ecology & Natura Impact Statement
Ms. Stefanie O’Gorman, Jacobs Engineering	Humans Beings & Socio Economics
Mr. Damien Ginty, Kerry County Council	Planning

Prescribed Bodies	
Mr. Jervis Good	Department of Culture, Heritage and the Gaeltacht
Ms. Catherine Hayes	Inland Fisheries Ireland
Ms. Catherine McMullen	An Taisce

Objectors to CPO	
Speaker(s)	Representing
Mr. John Corridan, Corridan & Assocs.	Michael & Angela Moroney CPO 225
Ms. Andrea Taylor	Self
Mr. Louis O’Connell, Mr. R Collings and Mr. Brendan Nolan	Edmund Healy CPO 215
Mr. Denis Carroll	Self (Andrea Taylor gave submission on his behalf)

Objectors/Observers Proposed Road Development	
Speaker(s)	Representing
Mr. Michael McKenna	Michael McKenna & Others
Ms. Kate Carmody	Self
Ms. Jacqueline Madigan	Concerned Residents of Ballygologue Park
Mr. Wessel Vosloo, Planning Partnership, Mr. John Healy & Mr. Michael O’Gorman, Mr. Stack	Listowel Anti-Bypass Community
John O’Sullivan	Self
Ms. Christina O’Connor & Mr. Billy Whelan	Residents of Forge Road
Ms. Michelle Whelan & Mr. Matt Mooney	Michelle Whelan & Others
Mr. Stephen Stack	Chairperson Listowel Business & Community Alliance

Note 1: All the proceedings of the Oral Hearing are recorded and the recording is on file. What follows below is a brief outline of the proceedings. This outline is proposed to function as an aid in following the recording.

Note 2: The assessment in my report makes reference to details submitted at the Oral Hearing.

Note 3: The list of prepared texts submitted to the hearing is detailed in Appendix 2 attached to the report.

Day 1

I outlined the details of the proposal, the objections received by the Board and the order of proceedings as set out in the Agenda that was circulated in advance. Furthermore I accepted the requests by An Taisce and Inland Fisheries Ireland in addition to the Listowel Community Alliance to be permitted the opportunity to make submissions to the hearing.

Mr. Dermot Flanagan gave an opening statement.

Ms. Tracy Smith in her submission (No.1) gave a brief overview of the existing road network and a description of the proposed development including design criteria, the need for the project, an outline of the alternatives considered, public consultation

carried out and the land acquisition requirements and extinguishment of public rights of way.

Mr. McGinley made a submission (No. 2) on traffic and structure designs, including details of the traffic modelling and additional traffic modelling sensitivity forecasting undertaken to assess the impact on updated national traffic forecasts set out in TII guidelines 2016. His submission also responded to relevant issues raised in the written submissions to the Board including rock armouring requirements on the River Feale and compliance with the Water Framework Directive.

Mr. Stephen Smyth made a submission (No.3) on noise and vibration detailing the assessment methodology and impacts during construction and operational phases. He also responded to relevant issues arising in the written submissions to the Board.

Ms. Claire Flynn made a submission (No. 4) on air quality and climate and responded to issues arising in the written submissions received by the Board.

Mr. Bryn Coldrick made a submission (No. 5) on archaeology, cultural heritage and architectural heritage with reference made to Tempaillin Ban graveyard and Sive Walk. He also responded to issues arising in the written submissions received by the Board.

Mr. David Bosonnet made a submission (No. 6) on landscape and visual effects and detailed the proposed planting and landscaping measures to be implemented. He also responded to issues arising in the written submissions received by the Board.

Mr.Philip Farrelly's submission (no.7) was noted as it referred to specific matters raised in CPO objections that had been withdrawn at the outset of the hearing.

Ms. Aebhin Cawley made a submission (no. 8) on ecology and the natura impact statement, including operation stage impacts on Barn Owl and mitigation and treatment of invasive species. She also responded to relevant issues arising in the written submissions received by the Board.

Ms. Stefanie O'Gorman made a submission (no.9) on the socio-economic impact of the PRD, detailed the mitigation measures during the operational phase and responded to issues arising in the written submissions received by the Board.

Mr. Damien Ginty gave a submission (no. 10) on compliance of the PRD with national, regional and local planning policy and the benefits to Listowel town.

Mr. Jervis Good, Department of Culture, Heritage and the Gaeltacht noted the submissions made to the hearing. In view of the extent of modifications carried out to the watercourse to date the issue of modification with regard to the Water Framework Directive is not considered to be a material issue. He recommended an alteration to the NIS with reference to downstream habitat of fish species, alteration to the schedule of commitments relating to treatment of invasive species and condition pertaining to Barn Owl mortality monitoring. In terms of the derogation licence applications made by the applicant he was not aware of any ecological grounds on which they would not be granted.

Ms. Catherine Hayes Inland Fisheries Ireland in her submission (no. 11) outlined IFI's observations and recommendations including realignment of watercourses allowing for shorter culverts, culvert design, attenuation ponds, monitoring and method statement requirements.

Ms. Catherine McMullen, An Taisce queried the route of the proposed by-pass and the reasons why the route to the south of the town was not pursued. She also raised concerns regarding the natural environment of the area, Barn Owl mortality and treatment of invasive species.

Mr. Michael Mc Kenna in his submission considered that the amenities and privacy of his dwelling would be adversely impacted by reason of the proposed roundabout at the intersection with the Ballybunion Road and the required landtake and removal of ditches. Noise levels at his property would be very close to the limits whereby mitigation would be required.

Day 2

Mr. Corridan on behalf of Michael & Angela Moroney (no. 3) raised concerns regarding severance of Forge Road, increased risk of flooding from water runoff from the roadway and need for review of hydrology section of the EIS and community gain.

Ms. Andrea Taylor in her submission stated that the attitude to conservation in the scheme is poor with Owl, Bat, Sparrowhawk, Whooper Swan, Kingfisher, Heron, Otters and other species present in the area. The rural environment of her home on Forge Road would be materially altered and devalued. Community severance will arise. Flooding will be exacerbated. The noise barriers will be visually strident.

Emissions from vehicles will have health impacts. The PRD will channel traffic through a densely populated area of the town.

Mr. Louis O'Connell, Mr. Collins and Mr. Brendan Nolan in their submission (no. 4) on behalf of Mr. Edmund Healy state that an underpass should be provided to allow access to the farm holding that will be severed by the PRD.

Mr. Denis Carroll (submission made on his behalf by Ms. Andrea Taylor) considers that there has been a lack of consultation. Bothar Dubh to the Famine Graveyard has not been considered. The PRD would not take traffic from Kerry Ingredients with congestion an issue when there are funerals at the graveyard on the Ballybunion Road. Impact on protected species would occur whilst the amenity of Sive Walk would be compromised (no. 12)

Ms. Kate Carmody (no. 5) raised issues in terms of the preferred route, the impact of the proposed on air quality and climate and Kyoto targets, impact of building on a flood plain, control of invasive species, protected species, impact on SAC and adequacy of landscape character assessment relied on.

Ms. Jacqueline Madigan on behalf of Concerned Residents of Ballygologue Park states that the PRD is not a by-pass and will direct vehicles through a densely populated area of the town. Vehicular and pedestrian safety and compliance with DMURS are raised. There are alternatives including traffic management solutions that could be pursued. The proposal would have a negative impact on quality of life and will result in devaluation of property.

Mr. Wessel Vosloo, Planning Partnership on behalf of the Listowel Anti-Bypass Community raised issues with respect to alternatives, adequacy of the EIS, EIA Directive 2014/52/EU, impact on economic vitality and viability of the town centre and severance. The cumulative impact with other road schemes such as the Foynes-Limerick scheme needs to be assessed (no. 6). Mr. Healy and Mr. O'Gorman also made submissions on behalf the Listowel Anti-By Pass Community and made reference to the Foynes-Limerick Scheme and the impact the proposed development would have on traffic volumes in Listowel. The extent of traffic passing through the town and traffic modelling is queried. (no.11)

Mr. John O'Sullivan queried the adequacy of the Landscape Character Assessment 2012, protection of birds along the PRD, the impact on the amenity value of the Sive Walk and cost benefit analysis (no. 7 & 8).

Mr. Christina O'Connor and Mr. Billy Whelan on behalf of Residents of Forge Road stated that the PRD would have an adverse impact on the amenities currently enjoyed, access and vehicular and pedestrian safety (no. 9).

Ms. Michelle Whelan in her submission (no.10) refers to traffic management solutions that could be introduced, problems with car parking, impact of the PRD on Whooper Swan and Barn Owl, adverse impact on the Sive Walk, routing of the PRD along John B Keane Road, impact on the businesses in the town, and impact on funeral traffic on the Ballybunion Road.

Mr. Stephen Stack, Listowel Business and Community Alliance sets out recommendations including removal of the word By-Pass from the proposal, development of a full traffic management plan for the town, marketing of the town and environmental improvements (no.13).

Day 3

A schedule of Environmental Commitments and Errata to the EIS was presented by the applicant.

Closing submissions were made by:

Ms. Andrea Taylor

Ms. Kate Carmody

Ms. Josephine Madden, Concerned Residents of Ballygolouge Park

Mr. Stack, Mr. Healy and Mr. O'Gorman, Listowel Anti-Bypass Community

Mr. John O'Sullivan

Ms. Christina O'Connor, Residents of Forge Road

Mr. Matt Mooney, on behalf of Michelle Whelan & Others,

Mr. Dermot Flanagan, Kerry County Council

The hearing was formally closed on Thursday morning 7th September

Appendix 2 - Submissions to Oral Hearing

Day 1

1	Ms. Tracy Smith	Project Background
2	Mr. Alan McGinley	Structure Design and Traffic Modelling
3	Mr. Stephen Smith	Noise and Vibration
4.	Ms. Claire Flynn	Air Quality & Climate
5.	Mr. Bryn Coldrick	Archaeology, Cultural & Architectural Heritage
6.	Mr. David Bosonnet	Landscape & Visual Aspects
7.	Mr. Philip Farrelly	Agronomy
8.	Ms. Aebhin Cawley & Mr. Andrew Speer	Ecology and NIS
9.	Ms. Stefanie O’Gorman	Human Beings & Socio Economics
10.	Mr. Damien Ginty	Planning
11.	Ms. Catherine Hayes	Inland Fisheries Ireland
12.	Kerry Co. Co.	Minutes of Council Meeting 19/12/16
13.	Kerry Co. Co.	Letter from TII to Chief Executive Kerry Co.Co.
14.	Kerry Co. Co.	Table 12-12 EIS amended
15.	Kerry Co.Co.	Listowel Heritage & Community Led Regeneration Strategy
16	Kerry Co.Co.	Revised CPO Schedule
17.	Kerry Co.Co.	Traffic Modelling Report August 2015
18.	Kerry Co.Co.	Junction Traffic Modelling Assessment, July 2015
19 & 19b.	Martin & Rea	CPO objection withdrawal
20.	FBA Consultants	CPO objection withdrawal
21.	Corridan & Associates	CPO objection withdrawal

Day 2

1.	AWN Consulting	Technical Note
2.	Jacobs	2017 Traffic Sensitivity Test
3.	John Corridan	Rep. Michael & Angela Moroney CPO ref.225
4.	Mr. O’Connell Solicitor	CPO – Mr. Healy
5.	Ms. Kate Carmody	Glyphosate Based Herbicides
6.	Mr. Wessel Vosloo	Listowel Anti By-Pass Community
7.	Mr. John O’Sullivan	Extracts Landscape Character Assessment
8.	Mr, John O’Sullivan	Extract Landscape Character Assessment
9.	Ms. Christina O’Connor	Submission Forge Road Residents
10.	Ms. Michelle Whelan	Submission Ms. Michelle Whelan & Others
11.	M. John Healy	Brochure N69 Listowel By-Pass, 2007

12.	Mr. Denis Carroll	2 Maps
13.	Mr. Stephen Stack	Listowel Business & Community Alliance

Day 3

1.	Kerry Co.Co.	Map, PRD and Sive Walk, Phase 4 Public Information
2.	Kerry Co.Co.	Updated Schedule of Environmental Commitments
3.	Kerry Co.Co.	Errata to EIS

Appendix 3 - Objections to the Compulsory Purchase Order

Rep. Corridan & Assocs.			
	CPO Ref(s).	Name	Status
1	105a & 105b	Aidan Quinlan	Withdrawn
2	130a-130c	Maureen Regan	Withdrawn
3	145a – 145c	Padraig Kelly	Withdrawn
4	150a & 150b	Kathleen McCarthy	Withdrawn
5	160a	Sean McCarthy & Sons Lixnaw Ltd.	Withdrawn
6	165a	Michael McCarthy	Withdrawn
7	180a, 180b, 185a, 235a, 235b, 241a, 241b	James & Nora Sheahan	Withdrawn
8	205a	Brendan (Bob) O'Sullivan	Withdrawn
9	225a & 225b	Michael & Angela Moroney	Obj. Stands
10	230a	Joseph Halpin	Withdrawn
11	245a	Teresa O'Connor	Withdrawn
12	255a & 255b	Andrea Taylor	Obj. Stands
13	299a	Michael O'Connell	Withdrawn
14	305a, 365a & 365b	Michael (Berkie) Browne	Withdrawn
15	310a & 301b	Eric Browne	Withdrawn
16	415a, 415b & 416a	Sluagh Hall Veterinary Products Ltd.	Withdrawn
17	425a	John McGowan	Withdrawn
18	435a-435c	Patrick Dominic Kindelan	Withdrawn
Rep. FBA Consultants			
	CPO Ref(s)	Name	Status
19	155a-155e	Timothy John Scannell	Withdrawn
20	170a-170d	Cyril O'Brien	Withdrawn
21	172a, 175a, 175b	Tony Carey	Withdrawn
22	190a	Damien & Joan Stack	Withdrawn
23	215a, 215c, 220a-d	Liam Healy	Withdrawn
24	260a-260c	Michael & Teresa Keane	Withdrawn
35	285a	Denis Cahill	Withdrawn
26	300a	John McCarthy	Withdrawn
27	315 ????	Patrick T.Lucey	Withdrawn
28	320a & 320b	Gerard McElligott	Withdrawn
Rep. Rea Agri Environmental Consultants			

	CPO Ref.	Name	Status
29	125a-c	Thomas McElligott	Withdrawn
	Rep. Own		
	CPO Ref(s)	Name	Status
30	215a – 215g	Edmond Healy	Obj. stands
31	240a & 240b	Edward F. O'Connor	Withdrawn (see letter from Corridan & Assocs. presented to OH)
32	315c	Denis Carroll	Obj. stands
33	340a	Michael McKenna & Others	⁴

⁴ Michael & McKenna & Others in their submission to the Board refer to CPO 340. As confirmed at the oral hearing Mr. McKenna is not named in the CPO Schedule due to the absence of proof of ownership.