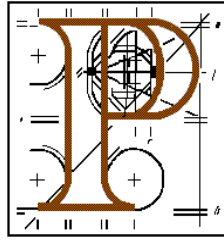


An Bord Pleanála



Inspector's Report

APPLICANT: KILDARE COUNTY COUNCIL

PROPOSED SCHEME: ATHY DISTRIBUTOR ROAD SCHEME.

DATES OF SITE INSPECTION: 27th / 28th JUNE, 2017

3rd JULY, 2017

INSPECTOR: KEVIN MOORE

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1.0 BACKGROUND

1.1 An Bord Pleanála received an application from Kildare County Council requesting it to exercise its powers under section 50(1)(b) of the Roads Act, 1993, as amended, to direct the road authority to prepare an environmental impact statement in respect of the proposed Athy Distributor Road Scheme in County Kildare. By Order dated 26th January, 2017, the Board decided to direct the road authority to prepare an environmental impact statement in respect of the road development as it was considered that the proposed road would be likely to have significant effects on the environment and that the preparation of an environmental impact statement is required.

2.0 DESCRIPTION OF THE PROPOSED DEVELOPMENT

2.1 The Scheme

The proposed Athy Distributor Road Scheme would consist of an arterial link street with two 3.5m lanes, incorporating a 3.0m wide shared footway and cycleway along the northern verge of approximately 3.4km in length, a new crossing of the River Barrow, the refurbishment of an existing railway bridge over the River Barrow and the provision of a new crossing of the Dublin-Waterford railway. It would comprise the following main elements:

- 3.4km of urban arterial road (Type 3 single carriageway), incorporating pedestrian and cycle facilities;
- Two new roundabouts – one on the N78 Kilkenny Road south-west of Athy town centre and one on the R418 Castledermot Road south-east of the town;

- One connection to an existing roundabout – N78/M9 link road / R418 Kilcullen Road east of Athy town centre;
- Two signalised cross-roads junctions, at Fortbarrington Road and at the R417 Carlow Road, both incorporating right turning lanes and pedestrian/cycle crossings;
- One river bridge with an 80m single span over the River Barrow;
- One railway bridge over the Dublin-Waterford railway line;
- Refurbishment of the existing disused railway bridge over the River Barrow to carry pedestrians and cyclists;
- Associated earthworks including excavation and disposal of unacceptable material and import of acceptable fill material;
- Drainage works;
- Landscaping works and public light;
- Construction of pedestrian and cycle facilities, including a segregated access to Athy railway station, approximately 500m in length;
- Accommodation works including the construction of private vehicular accesses and ancillary accommodation works;
- Diversion of services/utilities, including the diversion of a high voltage electricity line adjacent to the N78, including the provision of associated support poles;
- Diversion of the distribution gas main which supplies the western half of Athy;

- Provision of a new railway siding to facilitate ballast operations for the Dublin-Waterford railway line; and
- Environmental measures and other ancillary works.

The proposal would also include the demolition of Aughaboura Road railway bridge.

The permanent land acquisition would total 19.5 hectares. 0.1 hectare of land is proposed to be temporarily acquired and relates to works on and in the vicinity of the existing railway line.

The proposed scheme is likely to be progressed as a single construction contract, with the construction phase lasting 18-24 months.

2.2 The Routing of the Scheme

The proposed alignment would commence with a proposed roundabout at the N78 on the western side of Athy town centre in the townland of Bennetsbridge. The route would run in an easterly direction passing through the Corrán Ard housing estate, before crossing the Fortbarrington Road with a proposed signalised junction. The route would then continue along a disused section of the old Athy-Wolfhill railway line, crossing the River Barrow via a new bridge and intersecting the R417 (Carlow Road) with a second signalised junction. The route would then climb to a second bridge to cross the Dublin-Waterford railway line, passing to the south of the Mansfield Grove housing estate and the Athy Rugby Club pitches where it would then turn in a northern direction to intersect the R418 Castledermot Road with a proposed roundabout. It would then continue northwards and terminate east of the town at the existing N78/M9 link road roundabout.

2.3 The Need for the Development

The applicant's application to the Board includes the following details:

Existing Traffic Conditions and Journey Times

From traffic surveys in May 2015, traffic volumes were observed that reach 15,400 vehicles per day at the River Barrow crossing and 15,300 vehicles per day at the crossing of the Dublin-Waterford railway line, with a considerable reduction in traffic volumes once outside of Athy town centre. The high levels of traffic volumes through the town centre lead to considerable congestion. This congestion has led to road users bypassing the town centre on a substandard local road network and to the development of a number of "rat-runs" within the town centre. All journey time routes are subject to considerable delay in the AM, Inter and PM peak periods. Average journey times are between 50%-80% longer than would be experienced in free flow conditions within a 50km/hr zone.

Road Safety Issues

Transport Infrastructure Ireland (TII) road safety assessments identify that the N78 through Athy has a collision rate above the national average between the R418/N78 roundabout east of Athy town centre and the bridge over the railway. The collision rate increases to twice above the national average on the N78 from the railway bridge to the end of the speed restricted area west of the town.

Analysis of the Road Safety Authority accident dataset shows that a significant amount of accidents in the Athy area are pedestrian related (33%) followed by single vehicle accidents (26%).

A Road Safety Inspection undertaken in August 2014 highlighted a number of deficiencies on the N78 that would negatively impact on the safety of the national secondary road.

Policy Context

The applicant submits that the proposed road has been identified in, and/or is consistent with the following national, regional and local planning policy documents:

National Policy

- The National Spatial Strategy 2002-2020
- National Development Plan 2007-2013
- Smarter Travel: A Sustainable Transport Future 2009-2020
- National Cycle Policy Framework 2009-2020
- Building on Recovery – Infrastructure and Capital Investment 2016-2021
- Investing in Our Transport Future: A Strategic Investment Framework For Land Transport
- Road Safety Authority Road Safety Strategy 2013-2020

Regional Policy

- Transport Strategy for the Greater Dublin Area 2016-2035
- The Regional Planning Guidelines for the Greater Dublin Area 2010-2020

Local Policy

- Athy Integrated Frameworks Plan for Land Use and Transportation (IFPLUT) (2004)
- The Athy Town Development Plan 2012-2018 (including Variation No. 1)
- Kildare County Development Plan 2017-2023

Project Objectives and Needs

Economic Objectives

The N78 through Athy suffers from congestion issues throughout the day due to the highly constrained cross section, the prevalence of narrow junctions and its combined use as both a National Road and an urban street. The road is also constrained due to the single crossing points of the River Barrow at Crom-a-boo bridge, the Grand Canal at Augustus Bridge and the Dublin-Waterford railway bridge. The level of congestion also impacts on the amenity of the town.

It is an objective to reduce journey times and improve journey time reliability, which will generate positive economic benefits within Athy and the surrounding area.

Safety Objectives

The assessment of collisions in Athy highlighted significant numbers of collisions along the N78.

It is an objective to reduce the frequency and severity of collisions in Athy and to improve safety for pedestrians and cyclists.

Environmental Objectives

The N78 through Athy carries significant volumes of traffic which impacts on the amenity values of the historic town centre, air quality, noise, visual amenity and community severance.

It is an objective to reduce traffic volumes, thereby reducing noise and visual intrusion and improving the air quality in the town centre, as well as to minimize impacts on the River Nore and River Barrow Special Area of Conservation and the Grand Canal Natural Heritage Area.

Accessibility and Social Inclusion Objectives

It is an objective to support national and regional objectives which are currently severely hampered by congestion that affects all modes of transport in Athy. The proposed road scheme will reduce reliance on the single vehicular crossing of the River Barrow, considerably reducing congestion through Athy and will improve linkages to Athy railway station for both motorised and non-motorised users.

Integration Objectives

It is an objective to integrate the surrounding National Secondary Road network and Regional Road network to minimize delays and journey times on these routes. The scheme aims to improve access to both the railway station and to the M9.

Physical Activity Objectives

It is anticipated that any scheme to remove traffic from Athy town centre and to reduce congestion will reduce CO² and particulate emissions along the main street in Athy, improving the visual amenity and reducing the community severance in the historic town centre thereby encouraging physical activity. The

proposed scheme, in addition, will deliver a high quality walking and cycling route along its entirety, with links and connections to the Barrow Way, Athy railway station and adjacent housing development, improving access to the town centre and public transport, thereby encouraging physical activity in the form of walking and cycling.

2.4 Route Selection

The applicant submits the following:

'Do Minimum'

The existing traffic flows of 15,400 Average Annual Daily Traffic (AADT) on Crom-a-boo Bridge are expected to increase to 21,600 AADT by 2035. The increased congestion, in conjunction with corresponding increase in accidents, would result and, thus, no further consideration was given to the 'Do-minimum' scenario.

'Alternatives Modes'

The need for the scheme identified that the existing issues along the N78 corridor within Athy are as a result of the sub-standard road cross section and junction configurations within the town centre. It is also not possible to improve facilities for other road users.

'Management Options'

The potential to upgrade rather than replace existing road infrastructure was considered. The limitation of the existing bridges means that the management scenario for Athy would not alleviate the long-term pressures of increased traffic volumes, would still lead to increased journey times, and would not improve accident rates.

'Emerging Preferred Route'

The principal constraints within a defined study area were identified. A Stage 1 route selection assessment process followed and feasible route options were developed, considering routes acting as a bypass and routes closer to the town centre acting as a distributor road. Three options (A, C, and C1) were chosen to be taken to a more detailed Stage 2 assessment. Prior to the Stage 2 assessment, public consultation was held, leading to the inclusion of a variant route option (C2).

The Stage 2 assessment led to the recommendation that Route Option C2 be taken forward as the Emerging Preferred Route. Further public consultation led to attention being given to a connecting link to the train station and also connecting proposed pedestrian/cycle facilities to existing infrastructure on the River Barrow. Further developments were thus incorporated into the design.

2.5 Predicted Outcome

The average journey time through the town of Athy is estimated at 10 minutes in AM and PM peaks. With the scheme in place, it is estimated that an approximate journey time of just over 5 minutes would result in a saving of 5 minutes on average, a reduction of 50% against the average peak period journey time through the town centre on the N78. The time saving is estimated to lead to the transfer of approximately 50% of traffic from the existing N78 to the new road, removing over 8,000 vehicles daily from the town centre. This would also result in journey time saving of approximately 2.5 minutes for traffic that continues to use the existing N78 through the town centre, creating a more attractive, safer town centre.

3.0 SUBMISSIONS ON EIS FROM PRESCRIBED BODIES

3.1 Road Safety Authority

The RSA submitted that it would be helpful if the Board could consider the provisions of the Government's Road Safety Strategy in the proposed works.

3.2 Transport Infrastructure Ireland

TII noted the scheme is a non-national road scheme but noted the tie-in points to the existing road network occur to the east and south west on to the N78 national secondary road. The Board is asked, in the event of approval, that a provision is included in the consent that any works to the N78 comply with TII Publications standards.

3.3 Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs

The Department recommends that all of the mitigation measures detailed in Section 14.5 of the EIS are carried out in full in advance of construction. It is also recommended that the archaeological component of the scheme is overseen by a Project Archaeologist.

3.4 National Transport Authority

The NTA considers the proposed scheme does not meet with the requirements in full of Section 5.8.3 of *The Transport Strategy for the Greater Dublin Area, 2016-2035*. It is submitted that the route should be designed to reflect its likely use by a variety of road users, in particular pedestrians and cyclists and that the design should be compliant with the National Cycle Manual. A schedule of recommended amendments is set out in the submission.

3.5 Irish Water

Irish Water has no objection to the proposed development in principle. Concerns are raised that the Townparks Abstraction Point Borehole 0.8km from the site may be impacted at the construction stage but it is suggested that this could be addressed by permanent monitoring at the borehole. The Board is asked to attach a condition requiring this in the event of a grant of permission. Noting the proximity of the development to Irish Water assets, it is requested that a site investigation be carried out prior to any development to locate underground infrastructure. It is also requested that any proposals to divert water services and any temporary connections during the construction phase be agreed with Irish Water.

3.6 An Garda Síochána

An Garda Síochána acknowledged notification of the submission of the application to An Bord Pleanála.

3.7 Health and Safety Authority

Health and Safety Authority acknowledged receipt of the Board's correspondence relating to the application.

4.0 OBJECTIONS / SUBMISSIONS

4.1 Objections / Submissions relating to EIS

4.1.1 Cllr Mark Wall

Cllr Wall supports the need for the road but asks that consideration is given to minimising noise and privacy impacts on residents. It is also requested that consideration be given to allowing essential services locate along the route and to maintaining the existing sports fields at Tegral.

4.1.2 Francis Corr

The observer, residing at “Cill Daingin Cottage”, Kildangan, considers the application does not set out a convincing case for the proposed route, queries the opaque nature of vital information, and contends the road is on the wrong side of the town for maximum functionality.

4.1.3 Dun Brinn Residents Association

The residents raise concerns about:

- The planned opening of two permanent pedestrian access points from Dun Brinn estate to the new road;
- The lack of provision for dealing adequately with noise pollution; and
- Health implications from hazardous materials lying within the proposed work area.

A number of recommended changes to the development to address the concerns raised are set out in the conclusion of the submission.

4.1.4 Brendan and Wendy McGrath

The observers, residents of 14 Shanrath Rise, Castledermot Road, Athy, while supporting the principle of the road scheme for Athy, raise concerns as follows:

- The proposal will result in an increased security risk and will have adverse impacts on air quality, health and visually, as well as causing noise and light pollution.
- Shanrath estate was designed in consultation with the Local Authority to front the new road. Locating it to the rear of properties, adjacent to and fronting more sensitive parts of homes, results in benefits accrued from the design of the scheme being lost.
- Additional measures should be incorporated to minimise amenity impacts and to facilitate integration of the scheme. Proposed mitigation measures do not adequately protect the residential amenity of No. 14 Shanrath Rise.
- There are concerns with respect to both the public consultation process and environmental assessment undertaken.

A number of recommendations are detailed to address some of the concerns raised.

4.1.5 Josephine Brennan and Francis Pearson

The observers made a submission to the Oral Hearing, raising particular concerns about the adverse impacts of the scheme on property values in Corraun Ard, nuisance and loss of amenity arising, and on household safety and security.

4.1.6 Honor McCullough

The observer made a submission at the Oral Hearing in support of the proposed road scheme, focusing particularly on the beneficial traffic impact the proposed

road would have on maintaining the structural integrity of the historic Crom-a-Boo Bridge in Athy town centre.

4.2 Objections to Compulsory Purchase Order

4.2.1 Corr Consultants on behalf of:

Michael Aldridge & Theresa McFadden (Plot 105), Marie Curtis (Plot 106), , Ita & Michael Curtis (Plot 107), Patrick McGinn (Plot 108), Richard Cross (Plot 111), Sheelagh O'Leary (Plot 115), Michael & Geraldine Lawlor (Plot 126), William Lawlor (Plot 128), Alan Charles Colton (Plot 133), Karl & Rhonda Colton (Plot 134), Mary Byrne & Sarah Kilbane (Plot 140), William & Desmond Telford (Plot 142), Emmanuel & Jane Kennedy (Plot 150), and Keith & Geraldine Pollard (Plot 153),

The above landowners object to the confirmation of the Compulsory Purchase Order and the EIS on the following grounds:

- Lands to be acquired appear to be surplus for the construction of the new road.
- Inadequate drainage details have been provided and there concerns about adverse drainage problems arising.
- Inadequate detailed information on noise mitigation measures has been provided.
- There is an objection to the lack of detail on access to retained property.
- Inadequate detail is provided on the type of boundary to be provided along the CPO line.

- There is concern about planning and environmental matters.
- The information supplied by the acquiring authority is incomplete and may change.

Legal Reprs of Margaret Watchorn Deceased, Dan, Michael and Sandra Watchorn (Plot 110) object to the confirmation of the Compulsory Purchase Order and the EIS on the following grounds:

- The access closest to the junction is being closed up but the other access is much too close to the junction for safety reasons. The design is creating a health and safety risk.
- It is unacceptable that there is no noise mitigation proposed along the road at this location. A 2.5m noise barrier would be required due to the level of the road.
- It is unacceptable that a wild flower meadow is proposed at this location. There is an opportunity to plant a woodland mix to screen the proposal.
- There are property security concerns due to proximity to the new junction.
- There is a surplus of land being acquired.
- Inadequate drainage details have been provided.
- Inadequate detail is provided on the type of boundary to be provided along the CPO line.
- There is concern about planning and environmental matters.
- The information supplied by the acquiring authority is incomplete and may change.

4.2.2 Gaynor Miller on behalf of:

Maura O'Keefe (Plot 125), Denis & Mary Donohoe (Plot 137), Patrick & Patricia Doyle (Plot 138), Leon & Marian Kenny (Plot 139), Pat Hyland (Plot 141), and Tom King & Moira Liddane (Plot 147)

The above landowners object to the confirmation of the Compulsory Purchase Order and the EIS on the following grounds:

- There is an objection to the permanent acquisition of their entrance as part of the scheme. It is requested that the plot is legally transferred back following completion of the scheme at no cost to them or that it be taken as temporary acquisition during the works.
- Insufficient information is provided on finishing of and connection of their driveway to the realigned R417 and R418.
- There is a lack of information and commitment on how it is intended to deal with sections of old road and land in front of their property.
- There is a lack of information and commitment on how it is intended to deal with sections of old road and land surrounding the proposed new roundabout.
- There is a lack of detail regarding mitigation measures at the planned roundabout junction, i.e. noise, landscaping, etc.
- There is no information on an intention to have public lighting at the roundabout, along the R417 and R418 and on the proposed Gallowshill link road.
- It is queried what are the proposed levels of the realigned R417, R418 and Gallowshill link road in relation to existing levels.
- Inadequate drainage details are provided, raising concerns about adverse drainage / flooding problems.

- Further details are requested on proposed outfall locations / soakaways / attenuation ponds in their area.
- Services interfered with during the works are to be maintained and reinstated fully after completion of the scheme.
- Access to property during works is to be maintained at all times.
- The landowners reserve the right to raise other relevant matters.

Maura O'Keefe objects to the confirmation of the Compulsory Purchase Order also on the following grounds:

- There is insufficient design detail in relation to the front boundary and entrance to her property.
- No commitment has been given on suitable and secure temporary fencing during removal of the existing boundary and the reinstatement of a new boundary.
- No information is provided on the amount of house curtilage required temporarily outside of the CPO during construction of the new boundary and entrance.
- Concern is raised about the planned design of the realigned R417 and the signalised junction outside her property and provisions outside of entrances to houses.

Pat Hyland objects to the confirmation of the Compulsory Purchase Order also on the following grounds:

- There is serious concern about unauthorized use of old sections of road / land and the negative impact on his property isolated at the end of a cul-de-sac.
- There is inadequate information on access to his retained house, farm yard and lands. He would like to maintain access to the R418 following completion of the scheme.

- Clarity is requested on pedestrian access from the new road/roundabout junction to his property.
- There is an objection to the location of the proposed turning head outside his house, which will increase noise and disturbance and unauthorized use.
- Clarity is requested on the proposed finished level of the roundabout in the field opposite his house.
- Clarity is sought on the proposed level of the Gallowshill link road as it bisects his field.

Tom King and Moira Liddane object to the confirmation of the Compulsory Purchase Order also on the following grounds:

- Incorrect details are included in the CPO schedule for their property and CPO Ref. 147. The record should be amended.
- It is requested that there is no change to their entrance.
- Clarity is requested on the new entrance to the school opposite.
- It is requested that a back entrance and driveway to their property be surfaced as part of the scheme.
- It is requested that the Council arrange for an existing unofficial outfall from the R417 into their lands to be piped to the River Barrow.
- It is requested that a structural survey be carried out on their boundary wall prior to commencement of works.

4.2.3 Kingcroft Developments Ltd.

The landowner (Plot 104) objects to the confirmation of the Compulsory Purchase Order and the EIS on the following grounds:

- The non-provision of access junctions of the new road to the landowner's lands have significant impacts on the development potential of its residentially zoned lands. The severance of the landholding causes restraints which reduce the area of land suitable for development. The land acquisition and development will impact on future residential development through increased proximity of the scheme to housing, drainage and safety impacts.

4.2.4 Córas Iompair Éireann

The landowner (Plot 114) objects to the confirmation of the Compulsory Purchase Order and the EIS on the following grounds:

Operational railway line east of the Carlow Road level crossing – Dublin to Waterford railway line

Refs. 114a.105-106, 114a.125-128 114c.104, 114c.107-114

- CIE objects to acquisition of lands east of the level crossing which includes sections of the operational railway line. If acquired, it could not operate trains on this line and services would have to cease.
- There are a number of errors on Drg. No. CPO-114-004 and on the schedule.
- Due to the close proximity of the railway to the proposed works in a constrained site, strict controls of construction works are paramount. It is envisaged there would be a Bridge Agreement to deal with the road crossing.

Operational railway line east of the Carlow Road level crossing – Sidings

Refs. 114a.118-124, 114c.101-103

- CIE objects to acquisition of lands east of the level crossing which includes lands occupied by railway sidings which are essential for the ongoing operation and maintenance of the railway line.
- It is envisaged that an agreement might be reached whereby, if a suitable alternative facility is provided, CIE would agree to the disposal of these lands or to appropriate rights on/over the land.

Disused railway line west of Carlow Road level crossing

- CIE is agreeable in principle to disposing of its non-operational land for the purposes of the scheme. An Abandonment Order may be required to facilitate the disposal.

As part of its submission, CIE attach a table identifying the relevant plots and provide comment as to how they may be addressed in the event of agreement between the parties.

4.2.5 Maeve Osborne

The landowner (Plot 123) objects to the confirmation of the Compulsory Purchase Order and the EIS on the following grounds:

- The northern boundary of her property with the public road will be exposed, affecting security. A 2.2m high stone wall replacement is requested.
- There will be a significant loss of trees and vegetation, resulting in a loss of privacy and significant loss of amenity. Planting abutting the proposed road will be necessary.

- Noise reduction measures will be necessary and impacts by lighting and on drainage are also of concern.
- Construction nuisance will result and structural damage may be caused to the property.
- Traffic concerns include increased congestion, reduced sightlines, and curtailment of access.
- Effects on wildlife and on the value of the property are of concern.

4.2.6 Thomas & Ann Quinn

The landowners (Plot 127) object to the confirmation of the Compulsory Purchase Order and the EIS on the following grounds:

- Lands to be acquired appear to be surplus for the construction of the new road.
- Inadequate drainage details have been provided and there concerns about adverse drainage problems arising.
- Inadequate detailed information on noise mitigation measures has been provided.
- There is an objection to the lack of detail on access to retained property.
- Inadequate detail is provided on the type of boundary to be provided along the CPO line.
- There is concern about planning and environmental matters.

- The information supplied by the acquiring authority is incomplete and may change.

4.2.7 Charles McHugh

The landowner (Plot 131) objects to the confirmation of the Compulsory Purchase Order and the EIS on the following grounds:

- Plot 131a.104 is surplus to road building requirements.
- Insufficient details on access to retained lands are provided for plots 131a.101 and 102.
- The lack of direct access from retained lands to the new road.
- Insufficient details on whether an existing access road from the R417 to his lands will remain open and on any works proposed.
- It is understood there is a preservation order on Aughaboura Bridge and there is no commitment that it will remain in place.
- Clarity on levels of the new road between chainage 2950 and 3100 are sought.
- Lack of noise and landscape mitigation measures between chainage 2950 and 3100.
- There are inadequate drainage details and concern about drainage / flooding problems.
- Services interfered with during the works are to be maintained and reinstated fully after completion of the scheme.
- Access to property during works is to be maintained at all times.

- The landowner reserves the right to raise other relevant matters.

The submission includes details of a previously proposed housing scheme refused permission and sets out details on the effects of the scheme on the land and on the needs for making adequate provisions for the development of the land.

4.2.8 Martin Byrne

The landowner (Plot 144) objects to the confirmation of the Compulsory Purchase Order and the EIS on the following grounds:

- Access to and from the landowner's zoned lands will be severely impeded and restricted by the scheme.
- Sewerage pipes benefiting the zoned lands will be interfered with and obstructed.

4.2.9 Iarla Flood

Iarla Flood (Plot 148), residing at "Corrib", Aughaboura Road, Athy, objects to the proposed development due to the lack of screening and noise protection on Aughaboura Road. Concerns are also raised about egress from Aughaboura Road onto the Carlow Road with regard to the proximity of the new junction to the junction at the end of the road.

4.2.10 Seamus and Shelley Hughes

The landowners (Plot 149), residing at “Annsbrook”, Aughaboura, Athy, request that the following be considered as part of the planning process:

- A boundary wall to the front of their home to maintain privacy and reduce noise.
- Appropriate screening to maintain privacy of their property.
- The proximity of the new junction onto the Carlow Road raises concerns and it is requested that maximum consideration is given to maintaining the safe and timely exit from the road.

5.0 ASSESSMENT

5.1 Introduction

5.1.1 I note the following objections were withdrawn over the course of the Oral Hearing:

Richard Cross (Plot 111), Maeve Osborne (Plot 123), Maura O’Keefe (Plot 125), Thomas and Ann Quinn (Plot 127), William Lawlor (Plot 128), Charles McHugh (Plot 131), Denis & Mary Donohoe (Plot 137), Patrick and Patricia Doyle (Plot 138), Leon & Marian Kenny (Plot 139), Mary Byrne and Sarah Kilbane (Plot 140), Pat Hyland (Plot 141), William and Desmond Telford (Plot 142), Emmanuel and Jane Kennedy (Plot 150), and Keith & Geraldine Pollard (Plot 153).

5.1.2 I further note from the Oral Hearing a schedule of CIE plots was agreed to be removed from the Athy Distributor Road Compulsory Purchase Order 2017, namely Plots 114a.125-128 and Plots 114c.104-114. CIE also withdrew its objection into the making of the CPO in respect of the remaining CIE plots, excluding the withdrawn plots identified.

- 5.1.3 A Corrigenda was submitted at the Oral Hearing in relation to the submitted Environmental Impact Statement which set out clarifications / corrections on the text on drawings and in the main document. A second Corrigenda for the Compulsory Purchase Order was submitted at the Hearing which clarified reputed ownership of two plots, namely Plot 147 (to include Tom King and Moira Liddane) and Plot 149 (to include Seamus and Shelley Hughes).
- 5.1.4 An extensive range of planning and environmental impacts and physical impacts on private properties require consideration following written submissions to the Board and further submissions made to the Board at the Oral Hearing. These will be addressed in the following sections of this assessment.

5.2 Compatibility with the Development Plan and Public Policy

I note the following provisions set out in the relevant Development Plans:

5.2.1 Athy Town Development Plan 2012-2018

The Plan was subject to a variation (Variation No. 1). One of the main reasons for the variation was to realign the route of the Southern Distributor Road to accord with the preferred route selected.

The Town Plan provisions include:

Distributor Roads

Policies include:

DR3: To continue the development of proposed Athy Distributor Road.

Roads Programme

The objectives include:

RP1: To construct the Athy distributor road including links to the town centre and the train station and to preserve these routes free from development. This is a priority objective of this plan.

The routing of the proposed distributor road follows the route now before the Board.

5.2.2 Kildare County Development Plan 2017-2023

The County Plan provisions include:

Road and Street Network

Objectives include:

RSO 2: Ensure the planning, design and completion of the Athy Distributor route along a new corridor to reduce congestion on the existing urban road network (N78 National Secondary Arterial route through Athy town centre).

Priority Road and Bridge Projects

It is an objective of the Council in relation to National Roads to:

NRO 1: Provide an alternative road to the arterial (National Secondary) N78 road through Athy which connects the N78 south of the town with the improved N78 link road north of Athy, which connects to the M9 motorway. This is necessary to reduce congestion on the national road system and within the town, improve safety and reduce the vulnerability of the national road network at this river crossing.

It is an objective of the Council in relation to Regional Roads to:

RRO 1: Ensure the planning, design and completion of the Athy Distributor Road along a new corridor to reduce congestion on the existing urban road network (N78 National Secondary arterial route through Athy town centre).

5.2.3 It is evident from the above that the proposed Athy Distributor Road is compatible with the provisions of the current Athy Town Development Plan and the current Kildare County Development Plan.

5.2.4 With regard to national and regional policy that is applicable to the proposed scheme, I note the extensive range of policy documentation alluded to in Chapter 2 of the applicant's submitted EIS that is considered applicable to the proposed road scheme. I concur with the observations made on this review of public policy and am satisfied that the proposed development is compatible with relevant national and regional policies and strategies to which the proposed scheme would be tested against. In particular, I am satisfied that the nature and extent of the proposed development is compatible with the goals, policies and objectives set out in the National Development Plan, National Spatial Strategy, Smarter Travel - A Sustainable Transport Future, the National Cycle Policy Framework 2009-2020, the Road Safety Authority Road Safety Strategy 2013-2020, Transport Strategy for the Greater Dublin Area 2016 to 2035, and the Regional Planning Guidelines for the Greater Dublin Area 2010-2020, whereby it significantly addresses traffic congestion in an urban centre, improves journey times, increases public safety, and provides for a variety of road users.

5.3 The Community Need for the Proposed Road Scheme

5.3.1 I note that the principle of the proposed development is not in dispute. It is wholly accepted by the community, as represented by submissions to the Board, that there is a definitive community need for this distributor road. The proposed development would bring with it much needed relief of traffic congestion within Athy town centre. At no time has any party to the application countered that the scheme did not serve the needs of the community. I allude once again to Chapter 2 of the applicant's EIS and to the main conclusions as set out above in Section 2.3 of my report. The need for the scheme is wholly justified in terms of the unsatisfactory existing traffic conditions in the town centre that result in lengthy journey times when seeking to travel through the town via the N78, as well as the road safety and accident issues arising. The scheme is evidently supported in public policy terms. Furthermore, it would meet the project objectives by improving journey times and reliability, improving safety conditions for road users, creating and facilitating amenity improvements for the town centre, and by increasing services for pedestrians and cyclists.

5.4 The Suitability of the Lands to meet the Development's Needs

5.4.1 The corridor for the proposed road scheme is well defined and has been protected, with minor variations, to meet the needs of the development as the project has developed at the planning stage. There has been an accepted public understanding that much of the alignment has been set aside for this development for some time, while I accept that there have been some issues raised by landowners and residents about parts of the easternmost section of the routing. The alignment, having regard to suitable topographical characteristics of the routing, the proposed utilization of a former railway corridor, and its ability to provide appropriate linkage to the established road network within the town, is

suitable to accommodate the development. Therefore, I consider that it is reasonable to conclude that the lands are suitable to meet the development's needs.

5.5 The Scale and Location of the Proposed Development

5.5.1 It is my opinion that the corridor for the distributor road adequately accommodates the development proposed, seeking to minimize impacts on adjoining property owners and sensitive habitats and landscapes. I have alluded to the suitability of the location of the development above. In terms of the scale of the proposed development, I am firmly of the opinion that the development as proposed is appropriate in scale to provide the necessary level of service it seeks to achieve to meet the project's development objectives.

5.6 The Requirement for all Lands included in the CPO

5.6.1 The lands proposed to be acquired for the development of the scheme are set out in the Kildare County Council (Athy Distributor Road) Compulsory Purchase Order 2017. This details all lands to be permanently and temporarily acquired, public rights of way to be extinguished, and rights to be acquired. The permanent land acquisition would total 19.5 hectares and 0.1 hectare of land is proposed to be temporarily acquired. One house only is to be acquired, "Sunnyside" (Plot 118) but it is not proposed for demolition. It is intended for re-use in the future as a residential property. The land take otherwise comprises frontages and driveways of residential properties, agricultural lands, amenity lands and railway property in the main. With the development of the route as proposed, it is reasonable to conclude that the lands proposed to be acquired are necessary to facilitate the provision of the scheme. Therefore, it is accepted that there is a

requirement for all of the lands included in the CPO, excluding those agreed with CIE at the Oral Hearing to be removed, namely Plots 114a.125-128 and Plots 114c.104-114.

5.7 Environmental Impact Assessment

This application was submitted prior to 16 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.

I am satisfied that the information contained in the submitted EIS complies with article 94 of the Planning and Development Regulations 2000.

My considerations on the environmental impact of the proposed development are as follows:

5.7.1 Human Beings

Predicted Impacts

Construction

Construction works would be subject to a construction management plan. Daytime working hours would apply.

Slight journey amenity and severance impacts would apply at all junctions between the N78 or local roads and the line of the new road. Regular construction works would give rise to noise, and visual intrusion impacts in the vicinity of the residential estates of Corrán Ard, Dun Brinn, Marina Court, where the route crosses the Carlow Road, along Aughaboura and at Mansfield Grove.

Journey Characteristics

The new road is expected to transfer just over 50% of traffic from the town centre in the Opening Year and Design Year.

Journey times are expected to be shorter with the average projected speed of the traffic throughout the modelled network increasing to 51.6 km/hr during the peak period compared with 48.3 km/hr at present. Overall, an average 11% reduction in journey time is predicted for journeys within the whole road network by the Design Year of 2035. For through traffic using the proposed road, the predicted reduction in journey time is 50%. The transfer of traffic away from the town centre will, therefore, result in a clearly positive impact. For local traffic, there will be a significant positive impact in terms of journey times and journey reliability due to reduction in congestion and delay. For journeys using the existing N78 main street from the east to the west of the town this reduction will be 25%.

Journey Amenity

The proposed scheme will have a significant positive impact on journey amenity for through traffic due to the avoidance of congestion and the frustration of delay. For vehicle traffic in the town there will be a very significant positive impact, particularly in the vicinity of Crom-a-Boo bridge and signalized junctions where delays are currently experienced during peak hours. Access to and egress from commercial premises, residential estates and sporting venues will be easier and safer. Pedestrians will benefit from reduced volume of nearby traffic and road crossings will be easier. Journeys will be more pleasant and safer for cyclists. The 3 metre wide pedestrian and cycle path along the new road will encourage higher levels of walking and cycling.

General Amenity

There will be a social severance impact where the route crosses the middle of a green area in the Corrán Ard estate. There will be some loss of land at Bridge

United's soccer ground to the east of Fortbarrington Road and to other sports facilities at this location. Sufficient space will remain for the pitch and spectators. General amenity will be improved by the transfer of over 40% of traffic to the new road, resulting in reduced noise and a more pleasant environment. An increase of 8-12.4% in traffic is predicted on the R417 due to changes in traffic movements. The pedestrian footpath and cycle path on the new road will provide an amenity benefit. There will be improved connectivity with the footpath and cycle path extension to the Dublin Road, the railway station, and the Shanrath estate. Some loss of amenity is likely for users of the walkway beside the River Barrow in the vicinity of the railway and weir. Improved access will be provided between the Bridge View Gardens of the Dún Brinn estate and the river and to the canal towpath via a zebra crossing.

Severance

The transfer of traffic to the new road will reduce community severance between the north and south sides of the town. The severance of the north and south of Corrán Ard estate represents a slight negative impact. For pedestrians, mitigation will be provided by a zebra crossing. There will be slight residual severance for residents to the south and by those living in properties facing the green to be traversed. There is a visual impact for residents of Branswood Road. A proposed pedestrian path to the north of the new road will offer an opportunity to link the two estates. With signalized provisions between the new road and Fortbarrington Road and at the Carlow Road, there will be no significant community severance. A William Street access to a 19th century house near the river will be severed and an alternative access will be provided via Bridge View Gardens. Severance will result for a northern connection between Gallowshill Road and the R418 in the eastern section of the new road. New dedicated access will be provided to a farm and the industrial estate. Properties along the southern section of the local road will connect to the town and the R418 via Foxhill Road.

Economic Impact

The reduced journey time and improved journey time reliability will provide an economic stimulus to the town and will support efforts to develop the industrial base of the town. Reduced town centre traffic will improve traffic flow, parking and environmental amenity and will help stimulate business. Improved access will be provided to the Gateway Business Park on the east side of the town. The transfer of traffic will improve access to rugby and GAA grounds and will reduce congestion on major sporting days.

Mitigation

In addition to the new road, there are opportunities to provide new and improved pedestrian and cycle facilities in the town and to provide landscaping and suitable infill development to enhance connectivity between residential estates and the town centre.

Residual Impacts

The residual impact of the new scheme will be a net positive one in terms of reducing traffic volumes in the town centre, with improvements in general amenity, a reduction in severance and an enhanced operating environment. Greater pedestrian and cyclist movement will be encouraged.

Summary

I concur with the findings of the submitted EIS that the principal impacts of the new scheme from the perspective of human beings are predicted to be:

- Transfer of regional, and a proportion of local, traffic from the town centre to the Athy Distributor Road;
- Accordant positive impacts in terms of journey characteristics, i.e. journey time and time reliability;

- Accordant positive impacts in terms of journey amenity for regional and local vehicle drivers, but also for pedestrians and cyclists;
- Accordant positive impacts in terms of general amenity for people living and working in the town centre and for visitors to the town;
- A pedestrian and cyclist link between both sides of the town and the centre of the town and the Barrow Way included in the new road design;
- Potential to include physical connections between residential estates;
- Potential for health and social interaction benefits; and
- Positive economic impact linked to improved journey characteristics and connectivity to the national road infrastructure.

In conclusion, it is noted that other impacts of the Athy Distributor Road on human beings will be addressed in the following sections of this assessment.

5.7.2 Flora and Fauna

The proposed scheme crosses one European Site, the River Barrow and River Nore SAC (Site Code: 002162). As significant effects on this SAC could not be excluded at the screening stage, an NIS was prepared. The NIS prescribes mitigation to eliminate adverse effects on the integrity of the SAC.

The majority of the route has otherwise been identified as being of Local Importance from an ecological perspective.

The scheme will result in the complete loss of habitat within the majority of the 19.6 hectare landtake. The permanent loss of hedgerows and treelines is considered of ecological significance.

Potential impacts identified include:

- Permanent diversion of Bennetsbridge Stream from its existing course over a short length to allow for the off-line construction of a proposed culvert.
- The total loss of 2.4km of hedgerows and 48m of treelines.
- Water quality and hydrological impacts resulting from runoff of sediment and pollutants.
- Habitat loss, disturbance and displacement to fauna along the route.
- The risk of spread of Japanese Knotweed, particularly during the replacement of the bridge crossing of the railway line.

Mitigation includes the following:

General Measures

Avoidance – The scheme minimizes passage through ecologically sensitive areas. It is, however, not possible to avoid crossing the SAC. A clear-span bridge with abutments set back from the river banks is proposed to avoid direct impacts. The scheme does not impact on any habitats that correspond to those listed in Annex I of the EU Habitats Directive. A drainage-neutral situation will be maintained such that no indirect impacts on sensitive aquatic environments will arise.

Design Measures

- The land acquisition boundary will be fenced off at the outset to avoid potential habitat loss outside of the construction footprint.
- Landscaping mitigation will include planting of native hedgerow and re-use of topsoil.

- The river bridge will comprise steel beams and precast concrete deck to minimise use of in-situ concrete. The bridge will be a single span design.
- The lighting design will incorporate measures to minimize light spillage and disturbance to nocturnal species.
- The Bennetsbridge Stream culvert has been configured so that it can be constructed off-line.
- Road drainage is designed to provide a high level of attenuation and water quality controls.

Construction-phase Mitigation

These include:

- A draft Environmental Operating Plan (EOP), a draft Construction and Demolition Waste Management Plan (WMP), and a draft Construction Erosion and Sediment Control Plan (CESCP) have been prepared.
- Works in proximity to watercourses will follow specific protection and mitigation measures in the draft CESCP. Seasonal constraints will apply for in-stream works. Electrofishing and fish transfer will follow a defined sequence.
- Species-specific mitigation proposals for Qualifying Interests of the SAC will be applied.
- A vegetation removal methodology and provisions relating to Kingfisher and invasive alien plant species are to be employed.

Operational-phase Mitigation

These include:

- The “No Net Loss” principle will apply to watercourses.
- Species-specific mitigation proposals are provided for White-clawed Crayfish and Otter.
- De-vegetated section of the route will be fully compensated for by replanting.
- Seasonal constraints will apply for a range of sensitive species.

Overall, it is concluded that the scheme will not result in any likely significant effects on any of the identified Key Ecological Receptors. Provided construction and operation is in accordance with best practice guidelines and proposed mitigation measures, it is predicted there will be no likely significant effects on the ecology of the Zone of Influence for the scheme.

5.7.3 Soils & Geology

Three separate ground investigations were undertaken for the project – a preliminary ground investigation in 2007/2008, preliminary ground investigation in 2011/2012, and a detailed ground investigation in 2016.

The proposed route is predominantly characterized by Milford Formation and Ballysteen Formation limestone. There are no known karst features located within close proximity to the proposed route.

Fine and course grained glacial till is the predominant soil type present with layers of made ground from ground level to a maximum depth of 5.3m. The made ground is mainly associated with the disused railway line. One localized area of peat (between Ch 2+350 and 2+400 – at the western bridge abutment for the River Barrow Bridge) and one localized area of alluvial material (at the east abutment of the proposed River Barrow Bridge) were identified.

Asbestos material, in addition to rubbish, steel, concrete and plastic bags, was encountered between Ch 2+300 and 2+400m. The asbestos disposal site is to the north of the disused railway line and is not directly impacted by the proposed road. However, due to historic manufacturing within Athy and proximity to known asbestos disposal areas, as a precaution during earthwork activities asbestos screening is to be undertaken regularly to determine whether additional asbestos is encountered and appropriate measures are to be implemented to avoid contamination of the surrounding area.

Construction-phase Impacts

The impacts include excavation of soft materials, replacement, deposition and compaction of acceptable fill materials, and disposal of unacceptable materials. The scheme would have a gross earthworks deficit with an import volume of 75,000m³ needed to be brought onto the site. The EIS details the quarries in the area to be utilized for the sources of suitable import materials.

Operational-phase Impacts

Potential impacts could be due to flooding of lowlying areas leading to possible erosion of soil. However, this is avoided in the design of the drainage systems and the use of rock fill with a minimum 30% void ratio at the base of embankments adjacent to the River Barrow.

Mitigation and Monitoring

One area within the proposed development is identified for abstraction of borrow materials, with an approximate potential borrow of 12,000m³, reducing the import of material from external sources to 63,000m³. Once the acceptable materials are excavated, the unacceptable material arising from the on-site excavations will be used to fill this area back to existing ground level or slightly higher, where it is

estimated that there is the capacity to dispose of all but 2000m³ of the estimated 14,000m³ of material from cuts and soft ground. It is proposed that the remaining material would be processed so that it would be utilised in the forming of bunds.

Waste Acceptance Criteria (WAC) testing is to be carried out on all materials excavated within areas of made ground. Due to the presence of an historic asbestos dump on an adjoining site, regular screening will be carried out on all soils excavated. Mitigation measures are scheduled if asbestos is encountered during construction works.

Additional confirmatory ground investigation will be required to supplement information at the proposed Barrow Bridge crossing and to confirm the foundation requirements for the bridge. Bridge abutments and associated embankments are to be set back from the river bank by 9m on the western side and 16m on the eastern side to reduce disturbance impacts. Measures to prevent silts from entering the river are to be implemented as detailed in the CЕССР.

Overall, it is predicted that there will be no likely significant permanent geological impacts.

5.7.4 Hydrogeology

The proposed road is underlain by a Regionally Important Sand and Gravel Aquifer along its entire length. There are 3 separate hydrogeologically defined groundwater bodies (GWB) traversed by the scheme - Athy-Bagnalstown Gravels, Bagnalstown_2 and New Ross. Each are classified as having good status in terms of quality and quantity.

There are no active public groundwater supply schemes located in the vicinity of the proposed scheme.

There are no significant cut sections proposed along the route. The development is either at grade or in fill along its entire length. Minimal cuttings will be required to facilitate the construction of the road, such as topsoil stripping and removal of soft ground. Consequently, there are no likely significant effects on groundwater vulnerabilities or impacts on underlying aquifers.

All of the proposed embankments are relatively low with the exception of the embankments on the approach to the River Barrow bridge crossing and the proposed railway bridge crossing. Drainage of shallow groundwater and impedance of shallow groundwater flow are therefore not considered likely.

The River Barrow is considered to receive a portion of its baseflow from groundwater, both from the adjacent sand and gravel aquifer and the limestone bedrock below. There are no significant cuttings or embankments proposed and therefore there will be no significant change to the underlying hydrogeological flow regime.

East of Ch 3+060 it is proposed to collect road runoff and discharge it to ground via infiltration areas/tanks. Ground investigations at the locations of the proposed infiltration areas and the subsoil were found to be suitable.

A groundwater risk assessment was carried out in relation to potential impacts on groundwater from the proposed drainage system. The scheme had a response of R2(2), indicating that the use of permeable road drainage systems is Acceptable subject to a number of criteria being met. The proposal will incorporate a range of pollution control features to limit the water quality impact to groundwater. Gullies with silt traps will be used along the entire length of the route and will discharge to a combined filter drain which will convey drainage to an appropriate outfall. A petrol interceptor will be provided upstream of each of the proposed infiltration tanks. Each of the proposed infiltration tanks will be underlain by at least 3m of unsaturated subsoil.

There will be a very limited impact on the nature of the underlying aquifers as the road will normally only cover a very small fraction of a groundwater body. There are no specific hydrogeological features along the route. The scheme will not result in any loss of private groundwater supply.

Mitigation Measures

Best practice will prevail in relation to locating of compound areas / service yards, compliance with the EOP for fuel storage, refueling, etc., and appropriate selection of fill material.

Site-specific drainage mitigation measures are proposed for the construction and operational phases to protect the River Barrow and groundwater, with all road drainage routed away from the river.

5.7.5 Hydrology

The principal potential hydrological impacts to the character of the receiving waters are associated with the proposed watercourse crossing points and the potential for sediment loading and associated road drainage pollutants entering watercourses during construction and operational phases.

The proposed scheme crosses two watercourses along its length, namely Bennetsbridge Stream and the River Barrow. The Bennetsbridge Stream flows into the River Barrow 1.5km downstream of the proposed road.

There is a single culvert crossing proposed at the crossing of the Bennetsbridge Stream and is designed to meet OPW and Inland Fisheries Ireland (IFI) requirements. There is a minor diversion of the stream to allow construction of the culvert.

It is proposed to provide a clear span bridge at the crossing of the River Barrow. The bridge will be constructed to match the soffit levels and abutment locations of the existing railway bridge upstream. The bridge will span both of the existing river towpaths and the abutments will be set back a minimum of 9m from the western river bank and 16m on the eastern side.

The scheme will have 8 separate storm outfall discharges along its length. Five of the outfalls will discharge to surface watercourses with the remaining three discharging to ground. The estimated flood impact of the road storm discharge is Slight to Moderate for the Bennetstown Stream catchment and Slight to Negligible for the River Barrow catchment, with the reduced potential impact due to the smaller stormwater volume relative to the natural river flood volume.

A spillage risk assessment was undertaken for the scheme, showing a very low magnitude of risk. Outflows are to be fitted with a petrol interceptor at the outfall.

The design traffic volume, in conjunction with the relatively small contributing road areas, is estimated to not give rise to significant hydraulic or pollutant loads on the receiving waters. The loading of heavy metals, sediment and hydrocarbons on receiving waters is estimated to be significantly reduced through the provision of silt traps, combined filter drains and petrol interceptors upstream of outfalls.

The nature of the proposed scheme will result in only localised changes in surface water flow and the outflows will be extremely low compared with baseflow in the river.

The design for the proposed culvert and bridge structures will have capacity to pass the estimated 1% AEP Flood Flow (100 year flood flow) with appropriate allowances for statistical error and climate change, as per OPW requirements.

Overall, the flood risk posed by the scheme is considered to be low and the corresponding flood impact is assessed as slight to imperceptible.

Mitigation Measures

A draft EOP has been prepared and it will include a draft Incident Response Plan, all necessary permits and licenses for in-stream construction work, and a CЕСP. A range of specific mitigation measures are proposed for the construction phase to protect all catchment, watercourse and ecologically protected areas from direct and indirect impacts.

Operational mitigation measures include the designed road drainage system to address impacts on water quality, attenuated discharge, and specific watercourse crossing design. The River Barrow bridge will incorporate a 79m clear span structure.

No significant residual impacts are estimated.

5.7.6 Landscape and Visual Impact

The area in which the scheme is located is designated a Class 1 – Low sensitivity landscape in the current Kildare County Development Plan. The Plan considers such areas as:

“Areas with the capacity to generally accommodate a wide range of uses without significant adverse effects on the appearance or character of the area.”

The proposed road will change the landscape character of areas such as the Branswood and Corrán Ard estates, Dún Brinn, the crossing of the River Barrow, Marina Court, Mansfield Grove, Shanrath and other housing adjacent to the disused railway line. The requirement for noise mitigation will introduce structures associated with large scale road infrastructure. Where available, bunds are

proposed to soften the effects of noise mitigation measures. Vegetation is to be removed at various locations along the route.

Landscape and visual construction impacts will be short-term.

A schedule of mitigation measures is proposed which include a range of boundary treatments, proposed screen planting, use of bunding rather than barriers, minimizing disturbance of vegetation at the river crossing, the bridge design, etc.

Overall, this is a suburban landscape. Landscape effects will result from changes in landform and in circulation of traffic. The residual effect would not be seen to be significant.

The new river bridge, noise barriers, circulation of traffic and changes to landform will bring visual impacts. Accepting the scheme will be visible from a number of houses, such visual impacts will not result in the development posing a significant adverse landscape and visual impact in this suburban location. The refurbishment of the existing railway bridge will improve the visual character of the structure and the new bridge over the river will have limited visibility in close proximity to two existing bridges (the railway bridge and Horse Bridge).

5.7.7 Noise & Vibration

The methodology employed for the assessment of noise and vibration during the construction and operational phases of the development consisted of a review of the location for identifying sensitive receptors and topography, a baseline noise survey, computer-based modelling to predict traffic noise for the proposed route, preparation of mitigation measures, assessment of construction noise impacts, and an assessment of predicted noise levels and potential impact on sensitive receptors.

For the baseline survey, 12 attended measurement locations were selected along the length of the route corridor. Two unattended 24-hour surveys were carried out also for two of the locations.

Construction Phase

Predicted construction noise levels are shown to be generally in compliance with recommended noise levels for construction projects. Noise from construction-related traffic is also predicted not to be significant. It is acknowledged that construction works would primarily take place during normal working hours, with emergency works only occurring outside of this period. It is accepted that the construction phase would be short term and for this reason the construction noise and vibration impacts would in themselves be short term. It is further accepted that the impacts would be transient for sensitive receptors along the route corridor.

Blasting to remove overburden may be required as part of the construction phase, with potential to give rise to vibration. However, it is not estimated that there will be any requirement for blasting as there will be no significant cutting in rock. Piling may be required and it is noted that the contractor would be required to adhere to guideline values. Vibration monitoring would be undertaken to determine any likely effects on potentially affected properties.

Operational Phase

The relocation of the rail siding parallel to the Dublin-Waterford line will be further away from noise sensitive receptors than the existing siding and is not likely to result in any significant increase in noise.

The calculated traffic noise arising from modelling shows significantly improved predicted noise levels for the majority of locations selected for assessment. The other locations were subject to existing extraneous noise sources. The effect of

the new scheme is predicted to reduce traffic volumes along the existing N78 in the town, which will result in a decrease in traffic noise levels along existing roads where traffic is diverted onto the new road.

No significant road traffic derived vibration impact on sensitive receptors is predicted along the route corridor with the operation of a well maintained road.

Mitigation

A schedule of construction and operational phase mitigation measures are proposed. At the construction phase, BS Standard BS5228-1: 2009 “Code of practice for noise and vibration control on construction and open sites – Part 1 Noise” is to be implemented. In the event pile driving works are required compliance with NRA guidance is to be met. A method statement would be produced and associated monitoring would result in the unlikely event that blasting was required.

For the operational phase, a Low Noise Road Surface is proposed to be used along all stretches of new road. Noise attenuation berms are also proposed where offline space is available and noise barriers are proposed where mitigation is required in areas where less space is available.

Conclusion

Overall, it is accepted that the noise and vibration impact at the construction phase of the development would constitute a moderate impact. However, this phase would be temporary in nature and there would be no residual impact. At the operational phase, one dwelling is predicted to exceed the TII/NRA target criterion post mitigation. This dwelling is on the existing N78 to the south of the proposed development. The applicant notes that this receptor already exceeds the design criterion in the ‘Do Minimum’ scenario. The increase above the ‘Do

Minimum' is predicted to be 1.8dB in the worst case 'Do Something' year and is not considered a significant impact.

The proposed development will result in a significant reduction in road traffic noise along the N78 running through Athy town centre.

5.7.8 Air Quality & Climate

Operational Phase

Impacts from Base Year (2015) road traffic emissions were quantified at 15 receptors in the vicinity of the proposed scheme and the existing route. Baseline conditions for current year and future construction and operational years were predicted at each receptor to allow for comparison between the future Do-Minimum scenarios and the Do-Something scenarios. It is predicted that there would be an overall reduction in exposure to air pollution in the assumed year of opening (2020) as a result of implementing the proposed scheme, with a much higher number of properties experiencing a decrease in exposure to PM₁₀ and NO₂ than experiencing an increase. The predicted pollutant concentrations for the year of opening (2020) and for the Design Year (2035) Do-Something scenarios indicate there would be no exceedances of pollutant limit values at any receptor.

In terms of impact on sensitive ecosystems, it is noted that the proposed scheme would result in a new section of the River Barrow and River Nore SAC being exposed to airborne contaminants. However, it is accepted that the redistribution of traffic to the new road would notably decrease exposure within the SAC at the existing N78 crossing of the River Barrow.

Construction Phase

The effects from construction traffic are not predicted to be significant with controlled access to the site and limited direct impact on the local road network. Any contaminated material encountered would be dealt with in accordance with advice received by relevant authorities. This would include along the route of the disused Wolfhill/Ballylynan railway line and in the vicinity of an historic asbestos dump on an adjoining site. Regular screening is proposed to be carried out on excavated soils and a schedule of specific mitigation and control measures are proposed to be adopted if asbestos is encountered. Overall, it is predicted that the construction phase activities would result in negligible air quality impacts.

Mitigation

No specific measures are deemed necessary at the operational phase of the development as no predicted exceedances of the Air Quality Standard Limit Values are expected. A schedule of construction-related mitigation measures is proposed, of which most relate to standard good site management procedures.

Conclusion

It is accepted that the provision of a new distributor road in Athy would relieve congestion in the town centre, improving air quality within the centre, and would generally lower emissions and consequent pollutant levels by producing a steadier flow of traffic through the town.

5.7.9 Archaeology and Cultural Heritage

Archaeology

I note that there are no sites or monuments under preservation order and no National Monuments in state care or ownership within or in the vicinity of the

proposed road scheme. There is one recorded monument (a burial site) located within the landtake to the south of the road but outside the proposed route. The archaeological constraints area of this site extends to the road corridor boundary. These lands have previously been disturbed by the railway line and work associated with an adjoining housing estate. An access path is proposed within the constraint area. Preservation by design is proposed as a mitigation measure.

Cultural Heritage

It is acknowledged that the proposed scheme will impact on railway infrastructure and will include the removal of Aughaboura road bridge, as well as stone walls. The River Barrow railway bridge will be brought back into use as a pedestrian / cycle bridge.

Overview

I note that the proposed route is primarily located on land which has been disturbed or developed previously by works associated with the railway line and more modern development such as housing and industrial uses. The locating of the new road to the south of the town centre will have a positive impact as it will draw through-traffic away from the medieval core of the town.

I acknowledge that the banks of the River Barrow are of archaeological potential and I note the proximity of the recorded monument to the south of the road at Bleach townland. All archaeological and cultural heritage issues are proposed to be resolved at the pre-construction stage of the development through surveys, monitoring, and test excavation at areas of archaeological potential. Arising from this, it is anticipated that there will be no significant cultural heritage impacts.

5.7.10 Architectural Heritage

With the exception of the railway bridge over the River Barrow, all protected structures in the study area lie outside the route of the proposed road. Four structures have been identified by the applicant that require mitigation to protect or record the structure:

- a kilometre of railway track would be removed and would be recorded;
- a section of the route would pass through part of the gardens of 'Sunnyside', a mid-nineteenth century house, where a new embankment would be planted to lessen the impact on the setting of the house.;
- Railway crossing gates would be removed and would be recorded; and
- The railway bridge at Aughaboura would be replaced and would be recorded.

It is acknowledged that the proposed scheme will draw traffic away from the historic core of Athy. It is also noted that the reuse of the railway bridge over the River Barrow will function as a pedestrian/cycle route and this reuse can be viewed as a positive impact.

Overall, while the scheme would be viewed as having a significant impact on the existing Aughaboura Bridge, this is minor bridge of no significant architectural interest, with the impact reasonably viewed as a local impact. No other significant residual impacts will result.

5.7.11 Material Assets

In the EIS the applicant focused on the impact of the proposed development on agricultural and non-agricultural property when considering the issue of 'material

assets'. There are 14 agricultural and 38 non-agricultural properties directly impacted by the proposed road, with the landtake of 19.627 hectares, of which 8.411 hectares comprises agricultural holdings. The development will also have an impact by way of severance as division of land occurs. Mitigation is proposed to address access to severed lands. It is noted that the scheme will not affect farm buildings and associated structures. The proposed development will have no long term impact on services and drainage within the route corridor.

Of the 38 non-agricultural properties affected, this would include 22 residential properties, 3 commercial properties, 6 community properties and 7 development sites, comprising a landtake of 11.116 hectares. On one property, access to a house will be impacted.

Proposed mitigation for agricultural properties includes restoration of access to lands, appropriate permanent fencing, and alternative drainage measures. For non-agricultural properties, access will be maintained to affected properties, boundaries will be replaced, property condition surveys will be undertaken to assess potential construction impacts, and affected services will be repaired or replaced. One dwelling will be acquired (CPO Ref. 118) due to impacts particularly during the construction phase. It will be retained for future residential use with an alternative access provided. Appropriate site management practices and accommodation measures are to be employed at the construction phase to minimize impacts on residents, livestock and other sensitive receptors.

Overall, the impacts on property directly affected by the scheme could reasonably be determined as significant arising from direct loss through landtake, severance, access issues, etc. However, there are clear mitigation measures proposed which will address the continued use and functioning of these properties. The significant direct impacts would be short-term in nature, primarily associated with the construction phase. It is acknowledged that compensation will be applicable where land acquisition and disturbance arises.

Finally, I note potential impacts of the proposed development on existing utilities. The impacts would include requiring some underground diversions of the local electricity distribution network. I consider these impacts to be minor in nature. I also acknowledge that one 110kV overhead line in proximity to the N78 at the western tie-in point would be affected by the works. However, it is again noted that these works would not be significant as the effects would culminate in the provision of a new pole set adjacent to the works.

5.7.12 Interrelationships & Cumulative Impacts

By the nature of the proposed scheme, there would be a substantial number of interrelationships between environmental factors addressed above at the constructional and operational phases. The applicant's EIS also considered relevant plans and projects that could have cumulative impacts, including the development of and expansion of business campuses in the town, retail and amenity developments, and the provisions in the Athy Town Development Plan. It is considered that these were the appropriate and relevant plans and projects to assess cumulative impacts at the time of the preparation of the application. Having regard to the assessment set out above and with proposed mitigation measures employed, it is considered reasonable to determine that significant adverse impacts through interrelationships between environmental factors and significant cumulative impacts will not result from the construction and operation of the new road scheme.

5.7.13 Conclusions on EIA

Having considered the Environmental Impact Statement submitted with the application, it is considered that the application was adequate in identifying and

describing the direct and indirect effects of the proposed development on the environment. Having completed an environmental impact assessment above, it is concluded that, subject to compliance with the mitigation measures proposed and with the conditions set out below, the effects of the proposed development on the environment would be acceptable.

5.8 Appropriate Assessment

5.8.1 Screening for Appropriate Assessment

I note the applicant's submitted Screening for Appropriate Assessment report and the conclusions drawn therein. If effects on a European site are considered likely to be significant or potentially significant then the process is required to move to Stage 2: Appropriate Assessment and the applicant would be required to submit a Natura Impact Assessment to the Board.

It is noted that the proposed crossing of the River Barrow would be over an area within the River Barrow and River Nore SAC (Site Code: 002162). It is accepted that the proposed scheme is not directly connected with or necessary for the management of this European site.

The crossing would comprise a bridge that would span the river and its banks clearly to a distance of c. 8m on the western bank and c. 15m on the eastern bank. Encroachment of up to 4m into the setback distances would be required at the construction stage to allow for the installation of the bridge abutments and for the build-up of the embankments. The proposed span between the centerline of the bearings would be 79.55m and the total length of the bridge would be 106.6m. Temporary silt traps would be in place at the construction phase to prevent run-off of sediment into the river. Permanent treatment systems would be provided at each drainage outfall to treat road run-off. The proposed scheme would also include re-use of the existing railway bridge to accommodate

pedestrians and cyclists and this bridge would undergo refurbishment as a result. A combined pedestrian/cyclist ramp from the canal towpath to the proposed footpath/cycleway on the eastern approach to the existing railway bridge would be developed also.

The applicant determined that the River Barrow and River Nore SAC was the only Natura 2000 site within the likely zone of impact of the proposed scheme. I concur with this conclusion, having regard to the significant separation distances between the proposed route corridor and other European sites in the wider environs and to the lack of pathways available to potentially effect the Qualifying Interests of these other distant European sites.

The Qualifying Interests of the River Barrow and River Nore SAC are:

Estuaries

Mudflats and sandflats not covered by seawater at low tide

Reefs

Salicornia and other annuals colonising mud and sand

Atlantic salt meadows (*Glauco-Puccinellietalia maritima*)

Mediterranean salt meadows (*Juncetalia maritimi*)

Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation

European dry heaths

Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels

Petrifying springs with tufa formation (*Cratoneurion*)

Old sessile oak woods with Ilex and Blechnum in the British Isles

Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae)

Vertigo moulinsiana (Desmoulin's Whorl Snail)

Margaritifera margaritifera (Freshwater Pearl Mussel)

Austropotamobius pallipes (White-clawed Crayfish)

Petromyzon marinus (Sea Lamprey)

Lampetra planeri (Brook Lamprey)

Lampetra fluviatilis (River Lamprey)

Alosa fallax fallax (Twaite Shad)

Salmo salar (Salmon)

Lutra lutra (Otter)

Trichomanes speciosum (Killarney Fern)

Margaritifera durrovensis (Nore Pearl Mussel)

Site-specific conservation objectives have been published by the NPWS for this SAC.

The potential effects of the proposed development on the Qualifying Interests of the SAC would derive from the loss and fragmentation of habitats, noise, lighting, vibration, pollution and mobilisation of sediment on and in the immediate vicinity of this SAC. I acknowledge also the potential introduction of invasive species by the development of the scheme and note the Invasive Alien Species Management Plan (Appendix 7.1 of the EIS) submitted as part of the procedures to be put in place to address potential adverse impact.

It is accepted that the proposed development would not be likely to have any significant effect on a wide range of the listed Qualifying Interests not prevalent in the vicinity of the proposed development, including estuaries, mudflats, saltmarsh and salt meadow habitats. The sole habitat where there is potential to have significant effects is “Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitricho-Batrachion* vegetation”. The proposed scheme also has the potential to effect a range of Annex II species, namely white-clawed crayfish, lamprey, salmon, and otter. It is accepted that the proposed development has the potential to significantly affect habitat suitable for larval life stages of lamprey, while accidental pollution could reduce water quality, thus impacting on salmon and otter.

Having regard to the above, it is considered reasonable that the applicant determined individually the scheme has the potential to give rise to likely significant effects in view of best scientific knowledge and the conservation objectives applicable to the European site and that, as a result, a Natura Impact Statement (NIS) should be prepared. It is reasonable also that this NIS would consider the proposed development in combination with other plans and projects that may give rise to cumulative impacts.

5.8.2 Natura Impact Assessment

Applicant's Conclusion

It is the applicant's submission that, following the implementation of the mitigation measures set out in its NIS, the proposed scheme would not, individually or in combination with other plans and projects, have an adverse impact on the integrity of any European site in view of their Conservation Objectives.

The European Site

I acknowledge and accept, as set out above, that the River Barrow and River Nore SAC is the only European site considered to have the potential to be impacted by the proposed road scheme. The total land take from the SAC, including the approach embankments, would be 678m² on the western bank and 3,481m² on the eastern bank.

Qualifying Interests

The applicant recorded 14 habitat types within the CPO footprint that intersected with the SAC, none of which correspond to Annex I habitats for which the SAC is designated. However, owing to the broad interpretation of Annex I Floating River Vegetation, the zone of impact was assumed to represent this habitat type. Thus, it has been concluded that Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation would potentially be impacted by the scheme. With regard to Annex II species, it is considered highly likely, owing to the presence of suitable habitat, that White-clawed Crayfish occur within watercourses with the scheme's study area. Suitable habitat features for Sea, Brook and River Lamprey and Atlantic Salmon were noted within the River Barrow and Bennetsbridge Stream in the study area. It is considered that territorial, commuting and foraging Otter are present within the section of the River Barrow in the study area.

Potential Impacts

The potential impacts of the scheme on the aforementioned one Annex I habitat and six Annex II species would result from the culverting of a section of the Bennettstown Stream, the river crossing, the refurbishment of the railway bridge over the river, and the construction of the headwalls of the drainage outfalls. The potential impacts, without mitigation, could culminate in loss of habitat, habitat degradation, and disturbance. The sources of risk would include loss and

fragmentation of habitats, noise, lighting, vibration, pollution and mobilisation of sediment on and in the immediate vicinity of this SAC. The pathways conveying such risks would include air, water and ecological interactions. The receptors would be the Qualifying Interests of the SAC itself.

Having regard to the nature and extent of the proposed road scheme, it is reasonable to determine that the scheme has the potential to:

- interfere with predicted or expected natural changes to the SAC, such as water dynamic or chemical composition, and
- result in disturbance that could affect population size or density or the balance between key species.

Mitigation

I note the applicant's range of mitigation measures proposed to avoid, eliminate and/or prevent potential adverse impacts on the River Barrow and River Nore SAC. Some of the principal measures may be synopsized as follows:

Design-Level

- Selection of the route and crossing point of the River Barrow,
- Clear-span format of the new bridge and setting back of bridge abutments,
- Design of the proposed culvert on Bennetsbridge Stream, and
- Treatment and spillage containment facilities as part of the road drainage system and attenuation of surface water run-off.

Construction Phase

- The provision of a Construction Erosion and Sediment Control Plan (CESCP) to ensure water quality protection, with an emphasis on:

- earthworks controls,
 - embankment design,
 - orderly and efficient transportation,
 - correct siting of the material borrow area,
 - controlled stockpiling,
 - timing and limiting excavation at watercourses,
 - avoidance and control of diversions,
 - design of drainage outfalls, to include sedimentation ponds, permanent attenuation systems, minimizing in-stream works, and disposal of silt.
- The provision of an Environmental Operating Plan, of which the CЕСP will be a part, to achieve environmental protection.
 - The preparation of an Incident Response Plan, describing the procedures, lines of authority and processes to be followed for appropriate incident response.

Specific Mitigation for Qualifying Interests

- Best practice is to be employed in the diversion of Bennetsbridge Stream to avoid disturbance of Atlantic Salmon.
- Translocation of White-clawed Crayfish will take place from the affected section of Bennetsbridge Stream to other parts of the stream to avoid disturbance risk.
- Measures proposed for Atlantic Salmon are predicted to eliminate potential impacts for Sea, Brook and River Lamprey.

- Pre-construction surveys will be undertaken to identify new holts or couches to address potential impacts for habitat loss or disturbance of Otter and specific measures will be employed to minimize impacts of works by way of noise and light disturbance.

Operational Phase

- The above mitigation measures are considered sufficient to address all impacts likely to arise during the operational phase of the scheme.

Monitoring and Enforcement

- Monitoring to be employed would include pre-construction water quality monitoring and monthly surface water quality sampling during the construction phase.
- A Site Environmental Manager will be appointed who will have specific investigation requirements and additional monitoring responsibilities.

It is reasonable to determine, based upon the application of the extensive mitigation measures proposed, that risk of adverse impacts on the water environment in the vicinity of the proposed road scheme would not be significant as potential significant direct and indirect effects will not result from the development.

Conclusion

I note that the proposed development, including the crossing of the River Barrow and the culverting of a section of Bennetsbridge Stream, will occur within the urban envelope of the town of Athy. The river crossing has been chosen within the urban environs of the town a short distance south of its centre. The selection of this location for the river crossing is an important attribute of the design of the

scheme which will help to minimize effects on Qualifying Interests of the SAC. Evidently, the design of the bridge, the measures proposed to mitigate the upgrading of the existing railway bridge of the river, and the construction methodology for the culvert on Bennetsbridge Stream will significantly address potential direct and indirect effects on the Qualifying Interests at risk and, thus, on the integrity of the SAC. There is a comprehensive schedule of mitigation measures proposed to be employed to minimize any potential significant risk of adverse environmental effects on the integrity of the SAC. Many of these are considered best practice measures and have been relied on as methodologies in an array of national road schemes. I am of the opinion that they would constitute an effective response to the risk posed to the water environment and, thus, to the Qualifying Interests of the SAC.

Having regard to these findings, I am of the opinion that the proposed road scheme would not adversely affect the integrity of the River Barrow and River Nore SAC.

As the scheme itself is seen as one which would not adversely affect the integrity of the SAC, it is concluded that potential cumulative impacts with other plans and projects in the area would not arise. Notwithstanding this conclusion, I note the applicant considered two plans and 13 projects with potential for cumulative impacts on the SAC. I concur with the conclusions drawn for each that no cumulative impact would arise.

I conclude by recommending that the Board determine that the proposed road scheme individually and/or in combination with other plans and projects in the area will not adversely affect the integrity of the River Barrow and River Nore SAC in view of the site's Conservation Objectives.

5.9 Outstanding Planning and Environmental Issues

5.9.1 Routing Alternatives

A number of submissions have been made to the Board by objectors which question the routing alternatives assessed by the applicant and the ultimate selection of a preferred route. These include submissions from Brendan and Wendy McGrath and Francis Corr.

In considering the issues raised, I first note the route selection process undertaken, as set out in Chapter 3 of the EIS. The various stages of the process are acknowledged, which led to the selection of an emerging preferred route. This process was subject to extensive public consultation, leading to revisions which responded to this consultation. Further to this, I note that the route selected has been subject to the development plan process, with provisions being made in both the current Athy Town Development Plan 2012-2018 and the Kildare County Development Plan 2017-2023 which fully support the scheme now the subject of this application.

The benefits of the route option selected over the option of a northern bypass for the town have been clearly explained in Chapter 3 of the EIS, as have the changes through the consultation process at the eastern end of the scheme to avoid established playing pitches associated with the complex of sports facilities at this location. I acknowledge that the development of Shanrath estate required the construction of a short section of the proposed road as part of that housing scheme and that the route has subsequently been altered. However, if that alternative had been pursued the routing would have affected several rugby pitches, a GAA pitch and a soccer pitch, resulting in a significant impact on community facilities which are grouped in an extensive complex of sporting facilities at this location in the town. The proposed route at this location, traversing open lands, avoids such an impact and the routing does not encroach

on the estate. I consider that the final selected corridor alignment has been appropriately refined to attune the proposal to address concerns raised through the consultation process.

In reference to one other submission made to the Oral Hearing relating to the impact of the routing of the scheme, I acknowledge the submission by Honor McCullough in support of the proposed scheme which addressed particular concerns about the ongoing impacts on Crom-a-Boo Bridge over the River Barrow in the town centre and the studies undertaken highlighting the traffic impacts on the integrity of this structure of architectural heritage value. I acknowledge and accept the concerns raised and further submit that the proposed routing of the Athy Distributor Road would result in significant relief of congestion for the town centre, with consequent reduction in adverse structural implications for this bridge structure.

Overall, I am satisfied to conclude that the route selection process was robust, responsive to public engagement, and that the selection of the preferred route is clearly comprehensible.

5.9.2 Data Collection, Modelling and Forecasting

Submissions have been made to the Board by Francis Corr relating to the applicant's data collection, traffic modelling undertaken and traffic forecasting arising from analysis. These raised concerns relating to deficiencies in information provision and lack of clarity to allow for adequate assessment.

In response to the concerns raised, the applicant addressed the issues at the Oral Hearing. This response addressed the data collection undertaken, clarifying how information was collected and the manner in which information was used to inform the analysis and to input the modelling process. The purpose and function

of information collected were clarified, as was the manner in which the data was used. Further details were provided on the modelling process, the use of national and local area models and compliance with relevant guidelines. It was further clarified that the applicant's traffic studies were subject to independent review. The applicant also sought to explain how the process could not be compared with the findings that fed into the previous application for a new road in Athy the subject of an Oral Hearing in 2005.

In looking to this issue, it is first noted that the applicant has comprehensively addressed the need for the scheme. This need has been informed by the relevant information collected, the increased traffic forecast, and the subsequent detailed analysis undertaken. Indeed, it is notable to acknowledge that all parties to the application accept a need for a distributor road for the town of Athy to address the ongoing congestion that results in the town centre. I am satisfied to conclude that the applicant has ably demonstrated its methodology that informs the traffic need for the scheme and do not accept that there is a deficiency or lack of clarity in the information provided to adequately assess this need.

5.9.3 The Adequacy of Noise Provisions

I first note that a substantial number of landowners who had initially raised noise impact concerns withdrew their objections at the Oral Hearing. Objections on noise, however, remain from landowners Kingscroft Developments Ltd. (Plot 104), Michael Aldridge and Theresa Mc Fadden (Plot 105), Marie Curtis (Plot 106), Ita and Michael Curtis Plot 107), Patrick McGinn (Plot 108), The Watchorn family (Plot 110), Sheelagh O'Leary (Plot 115), Michael and Geraldine Lawlor (Plot 126), Alan Charles Colton (Plot 133), Karl and Rhonda Colton (Plot 134), Iarla Flood (Plot 148), Seamus and Shelley Hughes (Plot 149). There are further objections from Dun Brinn residents and Brendan and Wendy McGrath. These

submissions primarily focus on the impacts arising for residential properties, for the protection of agricultural lands, and the adequacy of noise mitigation measures.

I note the extent of analysis that was undertaken by the applicant that forms part of the application and that is set out in Chapter 12 of the EIS. Noise monitoring locations and specific noise mitigation measures are illustrated in Figures 12.1 – 12.9 of Volume 3 of the EIS. Chapter 12 of the EIS details an extensive range of mitigation measures. The Board will also note that the applicant submitted a “Schedule of Commitments” to the Oral Hearing which includes further commitments made at the Hearing by the applicant in response to landowner and objector submissions. These include the erection of hoardings at the construction phase, additional planting, stone walls, and solid fencing in various locations.

I accept that the noise monitoring locations selected are representative of the range of locations potentially affected by the proposed scheme. Figure 12.2 of Volume 3 of the EIS shows a number of properties where NRA noise criteria would be affected by noise without mitigation in place. A number of these properties are occupied by landowners referenced above. Specific mitigation measures to be employed are illustrated in Figures 12.3 – 12.9 of Volume 3. The applicant’s analysis has shown that the intrusive construction phase impacts are likely to be short term and transient and there are construction methodologies to be employed to address this stage of the development. With the implementation of the permanent noise mitigation measures, in the form of bunds, noise barriers, walls, planting, etc. and by the use of low noise road surfaces in specific locations, the modelling predicts that no significant noise and vibration impacts would arise at the operational phase of the scheme.

Overall, I am satisfied to conclude that the proposed scheme, with the application of the extensive range of noise mitigation measures, should ensure that the development complies with NRA guidance for the treatment of noise and

vibration and that the proposed development is not likely to result in any significant adverse noise impacts on residents and property owners in the vicinity of the distributor road.

5.9.4 Air Quality Issues

While matters pertaining to air quality impacts arose generally through written submissions to the Board, a particular concern arose at the Oral Hearing in relation to the air quality impacts of the scheme on the property of Brendan and Wendy McGrath, No. 14 Shanrath Rise, sited at the eastern end of the scheme. The potential effects on the health of their young children, who are especially susceptible to air quality changes due to illness, arose. The objectors are concerned that the proposed mitigation measures do not adequately protect the residential amenity of their property. The applicant sought to address the health and air quality issues arising in its submissions to the Oral hearing, with particular reference to the submission by Dr Hogan and by Glenn McKay.

I first note the analysis undertaken by the applicant, as set out in Chapter 13 of the EIS, with locations of sensitive receptors illustrated in Figure 13.1 in Volume 3 of the EIS, which includes the objectors' property as a selected receptor location for analysis. The analysis undertaken has shown that there would be no significant impact on local and regional air quality, with pollutant concentrations well within accepted national standards. The specific findings for the objectors' property are that, under all scenarios, the airborne contaminants are predicted to fall well below air quality standard limit values. I acknowledge that the applicant accepts that there would be a marginal reduction in air quality in any area where it is proposed to introduce a new road that is not currently exposed to increased levels of transportation pollution. However, it is apparent that the proposed road

scheme will not result in significant adverse impacts on the occupiers of this property in the form of increased pollutant concentrations.

Finally, I note the submission by Dr. Hogan on behalf of the applicant at the Oral Hearing. He noted that if air quality standards are not exceeded one can be confident that there will be no adverse human effects and he concluded that there would be no adverse health impacts arising from air pollution on this property. I am satisfied to conclude that, with the provision of proposed mitigation measures which include landscaping in the vicinity of this property, the scheme would not likely result in any significant adverse impacts on air quality that would affect No. 14 Shanrath Rise.

5.9.5 Concerns about Asbestos

Several objectors to the scheme, Francis Corr and Dun Brinn residents in particular, have raised concerns in relation to the development of the scheme and the impacts arising from disturbance of asbestos that has been dumped in the vicinity of the proposed route alignment.

I note that there is an historic asbestos dump located behind the Tegral factory, which is sited between the canal, river and former railway line. Investigations undertaken have shown that broken asbestos cement products have been buried in this area. This area lies behind a fenced boundary. The applicant has reported that its geophysical surveys in 2016 has confirmed that the dump does not extend beyond the fencing and, thus, does not stray into the route for the proposed scheme.

I acknowledge that the proposed scheme is to be routed along the line of the disused railway and that a new bridge would be developed over the River Barrow

to the south of the existing railway bridge at this location. This routing of the scheme will result in no works associated with the construction of the road entering into the area beyond, and north of, the established fence line where asbestos dumping has occurred. Furthermore, I note that the proposed pedestrian / cycleway along this section of the scheme seeks to utilise the dis-used railway bridge and, once again, no excavation is proposed at this location which would affect the dump area. Further to this, I have no evidence to suggest that there is any definitive potential for stray asbestos finds in potential dumps elsewhere along the route.

Notwithstanding the above, I note the strategic response to the development of the route in the vicinity of the asbestos dump. The applicant's approach to be taken in the vicinity of the asbestos dump is set out in the EIS and includes regular asbestos screening during earthworks. Asbestos testing will take place parallel to archaeological testing. If asbestos is encountered, the applicant proposes a range of mitigation measures to address potential contamination of the wider area. I note that the applicant would be obligated to meet legal requirements and would follow established procedures for the control of potential contamination, collection, and disposal off site. The applicant would place a focus on limiting asbestos materials becoming airborne by keeping such contaminated materials wet while excavation is ongoing and materials are transported away.

Having regard to the routing of the proposed scheme, to the applicant's knowledge and findings arising from site investigations, and to the strategy proposed to be employed in the event of any potential asbestos finds, I am satisfied to conclude that the proposed development is not likely to result in adverse health impacts arising from disturbance of dumped asbestos along the route.

5.9.6 Access to Kingscroft Developments Ltd. Lands

Kingscroft Developments Ltd. has a substantial landholding at the western end of the proposed scheme, some of which is proposed for acquisition and part of which would be used to provide a borrow / disposal area. These lands have previously been subject to planning permissions. All of these permissions have withered. The landowner seeks commitments relating to access arrangements for future development of these lands. Concerns are raised about severance impacts and the impact on future residential development through increased proximity of the scheme to housing, drainage and safety impacts.

With regard to the latter issues firstly, I consider that the siting and functioning of the proposed scheme, in the same manner as it would apply to established housing in the vicinity, would not likely cause any significant adverse impacts on occupants of any future proposed houses. Furthermore, I consider that the scheme is unlikely to cause any particular safety concerns or raise any specific drainage issues for the development of the landowner's lands. The objector has not demonstrated how this may otherwise arise. On the issue of severance, the Board is in no position to adjudicate on any future potential residential scheme and the potential variety of access arrangements that may be available. I note that financial compensatory matters on severance and other issues are not the subject of this decision-making process.

5.9.7 Utilisation of the Open Space at Corraun Ard

The Board will note that the proposed scheme traverses an existing open space within the estate of Corraun Ard. Concerns relating to the impact of this section of the scheme for the landowner and residents were raised by Pat McGinn (CPO Plot Ref. 108) and by Josephine Brennan and Francis Pearson (No. 37 Corraun

Ard) at the Oral Hearing. Concerns include the effect of the land take, devaluation of property, nuisance and loss of amenity, and safety and security. I acknowledge that the proposed scheme would sever the northern half of this estate from the southern half. I further note the extent of the open space that was provided at this location, the long established intent to utilize this space as part of the route, and access provisions to the new road being made by the applicant for the residential development to the south in the form of a simple T-junction. I also note that there are specific proposals to control access from remaining open spaces to prohibit pedestrian access and to improve amenity. Measures include the southern boundary being kept as open space, with a bow top railing provided at the top of the earthworks slope at this location. While a stock proof fence and hedgerow is proposed to be incorporated on the northern side of the road, the applicant has also offered to replace this with a similar bow top railing at the top of the earthwork slope if the landowner is in agreement.

I am satisfied to conclude that adequate measures have been taken to address amenity, traffic and severance concerns at this location. I do not consider that significant additional security issues or nuisance will arise. I am of the opinion in this instance, where the routing has been proposed for a lengthy period at this stage in the form of a preserved corridor and has been part of the development plan process, that significant devaluation of property will not result.

5.9.8 Access and Open Space Provision at Dun Brinn

The residents of Dun Brinn have objected to the planned opening of two permanent pedestrian access points from Dun Brinn estate to the area south of the new road. I note that the scheme proposes to provide shared footway / cycleways from the road scheme to the estate and to develop the open space between the proposed accesses as a formal public open space.

I first submit to the Board that there are informal access arrangements from the estate to the former railway line. From my inspection of the proposed route, it is apparent that these informal access arrangements are well utilised as pedestrian links to the river and beyond. The proposed development of accesses and provision of open space will clearly formalise what are well-established access arrangements and the development of the open space will enhance the provision of public space in this area. The proposal will upgrade substantially the present arrangements and will include the lighting of the route. The applicant informed the Oral Hearing that the proposed open space would be a public space maintained by the local authority.

It is my opinion that this element of the proposed development would constitute a significant improvement over that which presently exists. I do not consider that these arrangements should cause any significant additional concerns for the residents of Dun Brinn in terms of impact on residential amenity, security concerns, etc.

5.9.9 Traffic Safety at the Watchorn Property

Mr. Watchorn has a dwelling (CPO Plot Ref. 110) immediately to the south-west of the proposed route junction with Fortbarrington Road. He has a particular traffic concern which relates to a right-turning movement into his property from Fortbarrington Road when vehicles could be turning left off the new road onto Fortbarrington Road in a southerly direction, with the potential for collision.

The applicant has submitted that this junction has been designed in compliance with DMURS, with the kerb radius restricting speed to 20 km/h, requiring a stopping sight distance of 14 metres. At the Oral Hearing, it was demonstrated that there would be a clear visibility of 25 metres ahead of a vehicle that would be waiting to turn into Mr. Watchorn's property. I am satisfied to conclude that the

provisions being made meet with the appropriate guidance and do not consider that the proposed development would result in a significant traffic hazard for the objector or for other road users.

5.9.10 Córas Iompair Éireann Lands

CIE originally submitted objections to the CPO of its lands stated to be associated with the operation of the Dublin to Waterford railway line and associated with established sidings. CIE was at all times agreeable to disposal of non-operational land associated with the disused railway line, which forms a significant component of the route corridor. At the Oral Hearing, an agreement was reached whereby the following plots were removed from the Athy Distributor Road Compulsory Purchase Order 2017, namely Plots 114a.125-128 and Plots 114c.104-114. It was also submitted that CIE would enter into a bridge agreement with the applicant. CIE also withdrew its objection into the making of the CPO in respect of the remaining CIE plots, excluding the withdrawn plots identified. CIE are now fully supportive of the proposed scheme.

5.9.11 Provisions for a Variety of Road Users

I note that the National Transport Authority has submitted that the route should be designed to reflect its likely use by a variety of road users, in particular pedestrians and cyclists and that the design should be compliant with the National Cycle Manual.

It is apparent that the proposed scheme has not been developed with pedestrian / cycle facilities along both sides of the route over its entire length. I accept, however, that at present there would be no demand along stretches of the route by the nature of the land uses abutting sections of the route. It is clear that the

scheme has made provision for the needs of the residential estates adjoining the route, thus adequately serving the needs of pedestrians and cyclists and providing alternative essential links to town centre, amenity and community uses along the length of the scheme. I am further satisfied to conclude that the impact of the proposed development is designed to comply with the provisions of the recently published *Transport Strategy for the Greater Dublin Area 2016-2035*.

5.9.12 Concerns about Security and Unauthorised Parking

A number of objectors, notably on the east side of the proposed scheme in the vicinity of the Castledermot Road roundabout, raised concerns in relation to unauthorised parking arising from left-over lands and potential security impacts resulting from potential access to residential properties in the vicinity of the proposed road.

I note the proposals to break up redundant sections of the regional road, to landscape and to fence landscaped areas in this location. I further note the range of commitments and mitigation measures given to provide secure boundary treatment along the perimeter of the route where it adjoins residential properties. I am satisfied that the routing of the scheme, the layout and functioning of the corridor edges adjoining the road carriageway, and the implementation of the specific mitigation measures would not result in any significant adverse impact on property owners in this area that would culminate in unauthorised parking and which would undermine the security of properties.

5.9.13 Water Monitoring

Irish Water raised concerns that the Townparks Abstraction Point Borehole 0.8km from the site may be impacted at the construction stage and suggested

that this could be addressed by permanent monitoring at the borehole. The Board was asked to attach a condition requiring this in the event of a grant of permission. I note that the applicant proposes to comply with the request by monitoring for six months in advance of the commencement of works, throughout the construction period and for six months after the completion of the project. This approach is considered acceptable and is included in the applicant's Schedule of Commitments submitted to the Oral Hearing.

5.9.14 Miscellaneous Issues

A number of landowners raised a range of other issues which are addressed as follows:

- With regard to landowners at the western end of the proposed scheme, namely Michael Aldridge and Theresa McFadden (Plot 105), Marie Curtis (Plot 106) and Ita and Michael Curtis (Plot 107), I accept the need for the land take at this location. The proposed scheme will provide for minor regrading of the driveways and a dropped kerb will facilitate access in each instance. I note that there will be no changes to property boundaries. All surface water will be collected and discharged to a piped drainage system. I consider that appropriate provisions are being made and the development will not likely cause any significant impacts on the amenity of these property owners.
- With regard to landowner Sheelagh O'Leary (Plot 115), I note that the existing boundary is to be retained and that a noise barrier is proposed as part of the scheme. Acquisition is required to regrade the driveway. I do not consider that the impact on this property on Fortbarrington Road would be significant in property acquisition or environmental terms.

- With regard to the landowners Alan Charles Colton (Plot 133) and Karl and Rhonda Colton (Plot 134), I note that the landholdings affected by the CPO are in agricultural use. Detailed access arrangements have been provided to serve these agricultural holdings. Furthermore, adequate stock proof fencing, to be agreed with the landowners, will be provided as part of the accommodation works and this is submitted as part of the additional commitments given in the applicant's submitted "Schedule of Commitments". I do not consider that the proposed scheme will adversely impact on the functioning of the farm lands.
- With regard to concerns raised by Michael and Geraldine Lawlor (Plot 126) and Thomas King and Moira Liddane (Plot 147), I note the acquisition needs of the development to provide minor regrading of driveways and that any replacement boundaries would be on a like-for-like basis. In addition, it is noted that surface water drainage will be provided, continuity of services will be provided, and structural surveys of potentially affected structures will be undertaken before and after the works. Furthermore, additional commitments were given at the Oral Hearing (and are included in the applicant's "Schedule of Commitments") to erecting protective hoardings whilst works to boundary walls are being undertaken at the construction phase of the development. I do not consider that the relocation of the Adult Education Centre access on the Carlow Road will have any adverse impact on the utilisation of the access into Tom King and Moira Liddane's property. I accept that the applicant is not in a position to resurface the access to the rear of this property and such works are outside the scope of the scheme. I note from the Oral Hearing that a correction to Part I of the CPO schedule was submitted, which forms an amendment to show Tom King and Moira Liddane as reputed owners of Plot 147. Overall, the provisions being made for these landowners are considered necessary and adequate.

- With regard to the objection by Martin Byrne (Plot 144), I note that adequate access to severed lands will be provided on a shared basis with an adjoining landowner. Furthermore, as the proposed road is to be provided at the existing ground level, there will be no adverse impact on existing sewers serving the zoned lands at that location.
- In relation to access issues raised by Iarla Flood (Plot 148) relating to Aughaboura Road, I note that the proposed development will ensure that this road remains a cul-de-sac. I do not consider that there would be any significant traffic impacts arising from access from this minor local road onto the Carlow Road in proximity to the new road junction with this regional road, having regard to the sightlines provided, distance from the new junction, and nature of the local road.
- With regard to the property of Seamus and Shelley Hughes (Plot 149) on the Aughaboura Road, I note that their boundary wall will remain. The applicant, following discussions with landowners, has also agreed to provide a continuous 1.5m barrier to act as a visual screen at the back of the southern verge of the distributor road at this location to extend from the Carlow Road to the railway bridge. This will provide substantial additional mitigation for these and other residents along the Aughaboura Road. Drainage and access arrangements will be unaffected by the scheme. In conclusion, I note from the Oral Hearing that a correction to Part I of the CPO schedule was submitted, which forms an amendment to show Seamus and Shelley Hughes as reputed owners of Plot 149.
- Finally, Mr. Vosloo made a request at the Oral Hearing on behalf of the objector Kingscroft Developments Limited for the payment of costs in accordance with section 135(5)(b) of the Planning and Development Act. It is my submission that the objector has been facilitated throughout the application process in the same manner as all other participants in the

process. I find that there are no circumstances arising that would warrant the payment of costs to this objector in particular.

6.0 CONCLUSIONS

Having regard to the assessment carried out above, I am satisfied to conclude that:

- the community need for this road development has been established,
- the particular lands that constitute the route corridor are suitable to meet the needs of the road scheme,
- the scale, layout and location of the proposed distributor road have been justified,
- all lands included in the CPO, excepting those CIE lands agreed to be excluded, are required, and
- the proposed road scheme is compatible with relevant development plan provisions.

Further to this, I am satisfied that the proposed development would not result in significant adverse environmental impacts, subject to the provision of mitigation measures as proposed and with adherence to the Schedule of Commitments given by the applicant at the Oral Hearing. Furthermore, I am satisfied to conclude that the proposed road scheme would not adversely affect the integrity of the River Barrow and River Nore SAC alone, or in combination with, other plans and projects in view of the site's Conservation Objectives. I, thereby, conclude that the proposed development is acceptable in environmental and planning terms and recommend that the CPO be confirmed and the application for the road scheme be approved.

7.0 RECOMMENDATION

I recommend as follows:

(i) The 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 Kildare 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 Kildare County Development Plan and the Athy 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 need to improve connectivity between the local, regional and national road network'

- (b) the reduced congestion on the local and regional road network,
- (c) the community need, public interest served and overall benefits, including benefits to the town centre and increased provisions for a range of road users to be achieved from use of the acquired lands, and
- (d) the provisions of the Kildare County Development Plan and the Athy Town development Plan and the policies and objectives stated therein, which specifically identify the proposed road development
- (e) 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 and private 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 4th and 5th days of July, 2017 as follows:

- (i) the omission of Plots 114a.125-128 and Plots 114c.104-114, and
- (ii) the inclusion of Tom King and Moira Liddane as reputed owners of Plot 147 and Seamus and Shelley Hughes as reputed owners of Plot 149.

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

(ii) Application for Approval of Proposed Road Development

DECISION

APPROVE the above proposed road development in accordance with the said documentation based on the reasons and considerations under 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 National Cycle Policy Framework 2009-2020, the Road Safety Authority Road Safety Strategy 2013-2020, Transport Strategy for the Greater Dublin Area 2016 to 2035, the Regional Planning Guidelines for the Greater Dublin Area 2010-2020, the Athy Town Development Plan 2012-2018, and Kildare County Development Plan 2017-2023,
- (b) The scheme constituting a key transportation element for the relief of congestion in the town of Athy,
- (c) The design, layout and alignment of the proposed development minimising the impact of the development on the River Barrow and River Nore 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 River Barrow and River Nore SAC (Site Code: 002162) 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 River Barrow and River Nore SAC (Site Code: 002162), 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 Sites, 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, supported by the further information, 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 condition 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 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 Schedule of Commitments submitted by the local authority to the Oral Hearing on the 5th day of July, 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.

Kevin Moore

Senior Planning Inspector

7th September, 2017

APPENDIX 1 - OUTLINE REPORT OF THE ORAL HEARING

An Bord Pleanála Refs.: 09.HA0050 / 09.KA0035

Development Proposal: (a) EIS & NIS Approval for Athy Distributor Road Scheme

(b) Application for Athy Distributor Road Scheme Compulsory Purchase Order 2017

Venue: Clonard Court Hotel, Athy, County Kildare

Dates: 4th - 5th July, 2017

In Attendance:

FIRST PARTY

Kildare County Council

Jarlath Fitzsimons	Barrister
Brendan McGrath	Barrister
Jim Thorpe	Engineer, Roughan & O'Donovan
Richard Spencer	Engineer, Roughan & O'Donovan
Simon Clear	Planning Consultant, Simon Clear & Associates
Shane Dunny	Engineer, AECOM
Jonathan Hennessy	Engineer, AECOM
Joerg Schulze	Landscape Architect, AECOM
Christine Murphy	EIS Co-Ordinator
Dr. Martin Hogan	Consultant Occupational & Environmental Physician
Glenn McKay	Environmental Consultant, AECOM
Barry Sheridan	Environmental Consultant, AECOM
Craig Bullock	Environmental Consultant

OBJECTORS

Tom Corr, Valuer, on behalf of:

Michael Aldridge & Theresa McFadden (Plot 105)

Marie Curtis (Plot 106)

Ita & Michael Curtis (Plot 107)

Patrick McGinn (Plot 108)

Watchorn Family (Plot 110)

Richard Cross (Plot 111)

Sheelagh O'Leary (Plot 115)

Maeve Osborne (Plot 123)

Michael & Geraldine Lawlor (Plot 126)

William Lawlor (Plot 128)

Alan Charles Colton (Plot 133/134)

Karl & Rhonda Colton (Plot 133/134)

Mary Byrne & Sarah Kilbane (Plot 140)

William & Desmond Telford (Plot 142)

Emmanuel & Jane Kennedy (Plot 150)

Keith & Geraldine Pollard (Plot 153)

Don Watchorn (Plot 110)

Jim Gaynor, Valuer, on behalf of:

Maura O'Keefe (Plot 125)

Thomas & Anne Quinn (Plot 127)

Denis & Mary Donohoe (Plot 137)

Patrick & Patricia Doyle (Plot 138)

Leon & Marian Kenny (Plot 139)

Pat Hyland (Plot 141),

Tom King & Moira Liddane (Plot 147)

Wessel Vosloo, Planner on behalf of Kingscroft Developments Limited

Stephen Dodd, Barrister on behalf of Córas Iompair Éireann

Cllr. Mark Wall

Brendan Goggin & Ruth Boland on behalf of Dun Brinn Residents Association

Wendy & Brendan McGrath

Francis Corr

Josephine Brennan & Francis Pearson

OBSERVER

Honor McCullough

NOTE 1: All of the proceedings of the Oral Hearing are recorded and the recording is available on the Board's network. 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 main report makes reference to details submitted in evidence at the Oral Hearing.

NOTE 3: For a list of prepared texts and other submissions given to the Inspector at the Hearing see the end of this brief outline. These submissions have been numbered and references to same in the outline below directly relate.

Letters of Withdrawal of Objections

Letters of withdrawal of written objections were received by the Board during the Oral Hearing from:

Maura O'Keefe (Plot 125)

Thomas and Ann Quinn (Plot 127)

Charles McHugh (Plot 131)

Denis Donohoe (Plot 137)

Patrick Doyle (Plot 138)

Leon & Marian Kenny (Plot 139)

Pat Hyland (Plot 141)

Tom Corr, Corr Consultants, submitted a letter of withdrawal on behalf of Richard Cross (Plot 111), Maeve Osborne (Plot 123), William Lawlor (Plot 128), Mary Byrne & Sarah Kilbane (Plot 140), William & Desmond Telford (Plot 142), Emmanuel & Jane Kennedy (Plot 150), and Keith & Geraldine Pollard (Plot 153).

Opening of Hearing

At the outset of the Hearing I outlined details of the proposal, the objections received by the Board and set out the Order of Proceedings. Furthermore, I accepted the requests by two persons to be permitted the opportunity to make submissions to the Hearing, namely from Honor McCullough and Josephine Brennan.

The Proceedings

Applicant's Submissions

Project Description

Mr. Jim Thorpe presented a very brief overview of the proposed road scheme. He described congestion issues, gave an overview of the proposed routing of the road scheme, detailed the need for the proposed road, addressed planning policy and reviewed alternative route options and the route selection process.

Engineering Objections

Mr. Jim Thorpe provided responses to objectors' submissions by Francis Corr and Brendan and Wendy McGrath on the route selection process, the concerns raised by Dun Brinn residents and Francis Corr in relation to asbestos dumping in the vicinity of the proposed route, and referred to matters raised by Irish Water and the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs in their written submissions to the Board.

Mr. Richard Spencer addressed design standards, compliance with Transport Infrastructure Ireland (TII) publications. He addressed the National Transport Authority (NTA) written submission to the Board, as well as engineering issues

raised by Councillor Mark Wall, Corr Property Consultants and Gaynor Miller on a plot basis, Kingscroft Developments Limited, and impacts on residential amenity raised by Brendan and Wendy McGrath.

Planning Policy

Mr. Simon Clear addressed national, regional and local planning policy compliance, and referred to the planning history of Kingscroft Developments Limited lands when addressing that objection, as well as referring to route selection and established use issues raised by Brendan and Wendy McGrath.

Traffic Objections

Mr. Jonathan Hennessy addressed the submission by Francis Corr relating to concerns about the data collection process, traffic modelling and traffic forecasting.

Landscape and Visual Impact

Ms. Christine Murphy, on behalf of Mr. Joerg Schulz, referred to the residual landscape and visual effects of the proposed scheme and mitigation measures proposed. Responses to a range of individual landowners and residents who raised landscaping concerns were also given.

Human Health

Dr. Martin Hogan addressed the health concerns relating to potential asbestos discovery raised by Francis Corr and health impacts arising from air pollution and noise raised by Brendan and Wendy McGrath.

Dr. Hogan responded to a number of questions from Francis Corr, Brendan and Wendy McGrath, and Brendan Goggin of Dun Brinn Residents Association on matters arising.

Air Quality

Mr. Glenn McKay outlined the air quality analysis undertaken and identified mitigation measures proposed. He also addressed objections by Francis Corr and Brendan and Wendy McGrath on air quality monitoring and the impacts of air pollutants on the residents of Shanrath estate.

Noise

Ms. Christine Murphy, on behalf of Mr. Barry Sheridan, presented an overview of the key findings in relation to noise as it applies to the proposed scheme. Responses to a range of individual landowners and residents who raised noise pollution concerns were also given.

Human Being Issues

Mr. Craig Bullock addressed issues relating to severance and amenity and set out responses to matters of this nature raised by the Road Safety Authority, Dun Brinn Residents Association, the National Transport Authority, and Councillor Mark Wall.

Legal Issues

Mr. Jarlath Fitzsimons made a legal submission, giving a general overview of the provisions pertaining to the proposed development, addressing the general principles of compulsory acquisition, and referring to the requirement for Environmental Impact Assessment and Appropriate Assessment for the proposed scheme. In addition, Mr. Fitzsimons addressed the substance of the objections to the CPO by Córas Iompair Éireann (CIE).

Further Submissions

At an early stage of the Hearing the applicant presented “Environmental Impact Statement: Corrigenda No. 1” and “Compulsory Purchase Order: Corrigenda No.

1". These addressed minor clarifications and corrections of the submitted Environmental Impact Statement (EIS) and Compulsory Purchase Order (CPO).

Mr. Brendan McGrath presented a "Schedule of Commitments" provided in the EIS, the Natura Impact Statement (NIS), and those given in response to the objections received. The additional commitments set out in Sections 3.24, 3.25, 3.26, and 3.27 were highlighted.

Objectors' Submissions

Withdrawals of objections from landowners who made written submissions to the Board are noted above.

It is noted also that the following did not make submissions to the Oral Hearing:

Martin Byrne (Plot 144)

Iarla Flood (Plot 148)

Seamus and Shelley Hughes (Plot 149)

Those Objectors who made formal submissions to the Hearing were as follows:

Mr. Tom Corr, Corr Consultants

Mr. Don Watchorn

Mr. Jim Gaynor, Gaynor Miller

Mr. Wessel Vosloo on behalf of Kingscroft Developments Limited

Mr. Stephen Dodd on behalf of CIE

Cllr. Mark Wall

Dun Brinn Residents Association

Brendan and Wendy McGrath

Francis Corr

Josephine Brennan and Francis Pearson

Tom Corr, Corr Consultants

Mr. Corr made reference to those he represented who wished to withdraw their objections. He stated he had nothing further to submit on the other objectors he represented other than to make reference to the two main points of objection made by his client Mr. Watchorn, namely the potential traffic hazard arising from proximity of a junction of the proposed scheme on the Fortbarrington Road on access to his dwelling and the level of noise the house would be exposed to arising from the scheme.

Mr. Watchorn elaborated in detail on his health and safety concerns arising from the proximity of the new road junction to the access into his property and expressed his worries relating to potential accidents and the hazard arising.

Mr. Gaynor

Mr. Gaynor alluded to discussions he had with the Council and referenced those withdrawing their objections to the scheme. He noted that the written objection from Tom King and Moira Liddane (Plot 147) remained.

Mr. Wessel Vosloo

Mr. Vosloo, on behalf of Kingscroft Development Limited, provided details on the planning and development context of the landholding affected by the proposed scheme and reiterated the landowner's concerns in relation to severance, use of residentially zoned lands, impacts on future residential amenity and the deficiencies in relation to access from the lands onto the new road. He requested that the objector's expenses be paid by the applicant.

Mr. Stephen Dodd

Mr. Dodd, on behalf of CIE, sought more time for discussions with the applicant and this was given. The Board will note that agreement was subsequently reached.

Cllr Mark Wall

Cllr. Wall put on record his support for the project. He submitted that he was happy with the observations he had raised and was satisfied these have been addressed.

Dun Brinn Residents Association

Brendan Goggin, Chairperson of the Residents Association, welcomed the southern distributor road. He reiterated concerns, however, in relation to proposed pedestrian access into the estate from the scheme, stating the existing openings were created by vandalism. He stated that at a meeting of residents

75% were opposed to the opening of these access points, notably those living closest to the openings. He also referred to concerns about anti-social behaviour along the disused railway, displacement to the new open space proposed at this location, and safety concerns for children living closest to the new pedestrian accesses. Adverse noise impacts arising from the scheme, inclusive of effects from the new bridge to be constructed, and measures to deter parking of temporary dwellings along the road were also raised.

Ruth Boland addressed the residents' serious concerns about asbestos, the impacts arising from the scheme causing exposure to same, and the inability to contain the effects. While in favour of the scheme, it was considered that a different route to that going through an asbestos site could be chosen to avoid potential exposure issues.

Wendy and Brendan McGrath

Wendy McGrath of 14 Shanrath Rise, in questioning Dr Martin Hogan, initially provided context to her questioning by outlining the particular health matters affecting her children and the health concerns arising from the proposed road scheme. While not opposed to the scheme, it was submitted that the lack of mitigating measures was of concern.

Brendan McGrath, developer and resident of Shanrath estate, stated that he is in favour of the route for the benefit of the town. He referred to a section of the proposed route being constructed to the front of his house as part of the estate. The concerns raised related to pollutants affecting his children's health, traffic that will be generated by the scheme, use of leftover land by horses and caravans, and lack of involvement of property owners by the developer.

Francis Corr

Mr. Corr addressed specific concerns in relation to information provided in the Site Selection Report and referred to the lack of verifiable data in the application. He countered the responses by the applicant to his written submission and queried the routing of the scheme. He further queried the assessment of the potential impacts arising from asbestos with the development of the route.

Josephine Brennan and Francis Pearson

Francis Pearson, on behalf of Josephine Brennan and himself of 37 Corran Ard, expressed concerns relating to the impact of the proposed road scheme on the value of residential property, the nuisance and loss of amenity arising from the construction and operational phases of the scheme, and submitted the new road would introduce safety and security concerns for residents by providing access into the area.

Observer Submission

One submission by Honor McCullough was made in support of the proposed scheme. This submission focused on the positive impact of the proposed development for Crom-a-Boo Bridge in the town centre, a structure of architectural heritage value.

Further Submissions

Following Objectors' submissions to the Hearing there were rebuttal submissions received from the applicant. Mr. Jim Thorpe responded to Mr. Watchorn's access

concerns and Mr. Barry Sheridan responded to Mr. Watchorn's noise concerns. Mr. Fitzsimons and Mr. Thorpe addressed development plan and access option issues raised by Kingscroft Developments Limited, while Craig Bullock and Barry Sheridan addressed landscaping, amenity and noise issues raised by Dun Brinn Residents Association. Mr. Thorpe addressed the submissions on asbestos concerns by Dun Brinn Residents Association, traffic growth issues raised by Brendan and Wendy McGrath and left-over lands from the scheme in the vicinity of Shanrath estate, while Mr. McKay addressed matters raised pertaining to air quality. Mr. Jonathan Hennessy addressed Mr. Francis Corr's submission on traffic modelling and predictions and Mr. Thorpe addressed the principle of the routing of the development through Corraun Ard in response to Ms. Josephine Brennan and Mr. Francis Pearson's submission.

Concluding Remarks

The concluding remarks were as follows:

Mr. Francis Corr responded to the rebuttal remarks by the applicant and reiterated data deficiencies in the process.

Mr. Goggin, on behalf of Dun Brinn Residents Association, reiterated opposition to proposed pedestrian accesses to the scheme into Dun Brinn, noise concerns, and the adverse impacts from asbestos likely to arise. Lack of engagement of residents by the applicant was also raised.

Mr. Watchorn reiterated the safety concerns affecting his property.

Mr. Brendan McGrath, on behalf of the applicant, submitted that there is a universal agreement on a pressing need for a scheme to relieve the centre of Athy and there is almost universal agreement that the southern distributor road is the appropriate scheme to provide this relief. It was submitted that there is an

overwhelming support for the principle of the scheme and that the scheme complies with relevant policy. The Board was asked to confirm the CPO, with the exception of the CIE plots, and to approve the scheme.

Closure of Hearing

I concluded the Hearing by informing the parties of the procedures that will follow the Hearing and that the Board intends to make its decision on the proposed development on or before 12th October 2017.

SUBMISSIONS AT ORAL HEARING

The following is a complete schedule of copies of prepared submissions to the Oral Hearing and other references given to the Inspector:

Applicant's Submissions

1. Statement of Evidence of Jim Thorpe & Richard Spencer on responses to engineering objections/submissions and associated “Engineering Brief of Evidence to An Bord Pleanála”
2. Environmental Impact Statement: Corrigenda No. 1
3. Compulsory Purchase Order: Corrigenda No. 1
4. Statement of Evidence of Simon Clear on responses to planning objections/submissions
5. Statement of Evidence of Shane Dunny & Jonathan Hennessy on responses to traffic objections/submissions and associated “Brief of Evidence to An Bord Pleanála”
6. Statement of Evidence of Joerg Schulze on responses to landscape and visual impact objections/submissions
7. Statement of Evidence of Dr. Martin Hogan on responses to human health objections/submissions
8. Statement of Evidence of Glenn McKay on responses to air quality objections/submissions

9. Statement of Evidence of Barry Sheridan on responses to noise objections/submissions
10. Statement of Evidence of Craig Bullock on responses to human being issues objections/submissions
11. Outline legal submissions of Kildare County Council of Jarlath Fitzsimons

Additional Submissions:

- A. Schedule of CIE plots to be removed from Athy Distributor Road Compulsory Purchase Order 2017
- B. Jim Thorpe response to road safety issue raised by Mr. Watchorn CPO plot 110
- C. Shane Dunny & Jonathan Hennessy additional responses to traffic objections/submissions
- D. Schedule of Commitments
- E. Digital copy of route animation presented to Oral Hearing
- F. Digital copy of applicant's statements of evidence

Objectors' Submissions

1. Statement of Evidence of Wessel Vosloo on behalf of Kingscroft Developments Limited

2. "Notes on the Oral Evidence" and extract from "Athy Distributor Road Route Selection Report" from Francis Corr
3. "Submission to An Bord Pleanála" from Honor McCullough, attached letters and report entitled "A Second Stage Preliminary Inspection and Bridge Classification of the Crom A Boo Bridge, Athy, County Kildare, Ireland."
4. Statement of Evidence of Josephine Brennan & Francis Pearson

Additional Submissions:

- A. Letters of Withdrawal

Kevin Moore

Senior Planning Inspector

7th September, 2017.