

THOMAS & MARY KILGARRIFF

8 The Heath,

Circular Road,

Galway H91 KC8N | Telephone | Email

14th December 2018

Bord Pleanála,
64 Marlborough Street,
Dublin1

AN BORD PLEANÁLA	
LDG-	<u>LDG-010946-18</u>
ABP-	<u>pec</u>
17 NOV 2018	
Fee: €	<u>50</u> Type: <u>cheque</u>
Time:	<u>/</u> By: <u>Post</u>

Dear Bord Pleanála,:

Please find enclosed submissions/ observations/ objections with a cheque of €50 accompanying fee, concerning Galway County Council 'N6 Galway City Ring Road Motorway Scheme 2018 on behalf of Mary & Thomas Kilgarrieff

Sincerely,


Mary Kilgarrieff

Mary & Tom Kilgarrieff

SUBMISSION ON APPLICATION TO AN BORD PLEANÁLA UNDER SECTION 37 OF THE PLANNING AND DEVELOPMENT ACT "2000

APPLICANT REFERENCE 07.302848

APPLICANT:- GALWAY CITY & COUNTY COUNCILS

DEVELOPMENT: N6 GALWAY CITY RING ROAD (N6GCRR)

LOCATION: FRINGES OF GALWAY CITY

We Thomas and Mary Kilgarrieff of 8 The Heath, Circular Road Galway object to the proposed N6GCRR scheme and make the following submissions and observations in the context of same. The nature and extent of the said objections consist of the following:

1. THE HEATH ESTATE ROAD

- (a) The Heath estate, comprising, the estate roadway, the open spaces, the watermains, foul sewers, the surface water sewers were taken in charge by Galway County Borough Council in 1996;
- (b) The said Council and its successors in title have resurfaced the said estate road, placed statutory lines upon the said road and erected signs pursuant to the Road Traffic Act 1961 as amended;
- (c) The Heath estate in its conception and in the implementation was subject to the City Development Plans 1982 & 1992;
- (d) Inherent in both plans was a stipulation regarding Road Standards, which in compliance with the Objectives of the Development Plan & the 'Proper Planning & Development of the Area' required that a roadway not having footpaths and having widths of 6m were capable of having no more than 12 houses served by them;
- (e) In the words of Kenny J in the case of *Frascati Estates v Dublin Co Co*, "The Development Plan is a contract between the Council and the community, wherein the Council will not do anything not allowed in the Development Plan and will be bound by the requirements of the plan;
- (f) The Residents of the Heath have a legitimate expectation that the Heath roadway would at all times operate in a manner consistent the prevailing development Plans at the time of development and the permissions granted;
- (g) The promotor/developer of the N6GCRR is under the Doctrine of Promissory Estoppel estopped from permitting the Heath estate road from having its use intensified as proposed in the scheme subject to this application;
- (h) The use of the estate roadway proposed in the context of the N6GCOB proposal is inconsistent with the above described stipulation of the Development Plans to which was subject, the permissions granted, and the legitimate expectations of residents who have made the Heath their place of residence;
- (i) The emerging consequences of the designated use possibilities of access for; construction of the N6GCRR, /Agricultural access involving heavy Agricultural Machinery, /Housing development, /Other Development; is totally inconsistent with the prevailing development plans at the time of the development of the Heath, the permissions granted for the development of same, public safety, road safety,

2. GENERAL ISSUES

- (a) In the various documentation lodged by the developer/applicant the proposal is variously described as a Motorway/Dual Carriageway/Ring Road etc;
- (b) The foregoing designations have legal implications;
- (c) If it is a motorway then it should be considered in the context of a Motorway scheme. The implications here is that all being impacted upon are compensable. However if not a Motorway then that is not the case;
- (d) As only those subject to CPO are scheduled for compensation therefore it is not a Motorway;
- (e) However in all of its facets, layout, horizontal and vertical alignments, junction configuration, implementation of the DMRB it is a motorway;
- (f) The point being the proposal for permission is imprecise in its description and designation and therefore the application cannot be therefore valid;
- (g) The constraint mapping strategy dealt with avoidance of conservation, natural amenity, heritage habitats, but the human environment was ignored resulting in the proposed demolition of 44 homes. Had the constraints map also taken into account the human habitat a different route selection scenario would have evolved;
- (h) The Galway Eastern Approach Scheme [GEAR] which was constructed between 1988-1996 to fulfil a similar function in earlier times, managed to provide a mixture of dual carriageway, undivided 4 lane carriageway without knocking a single house, property or business;
- (i) The proposed N6GCRR represents an overdesign. It provides a connection between a Dual Carriage on the N6 to a Regional Road to the West, yet it is itself designed to Motorway standard;
- (j) Gabor Molinar BE has prepared a route that avoids the destruction of 42 out of the 44 homes while at the same time taking cognisance of the constraints mapping, and providing a dual carriage system with at grade junctions;
- (k) In developing the alternative options at Route selection stage, it was evident to residents present at the initial public consultation meeting that there was one option [Blue Route] and 5 decoys. Indeed, when the route selection options were presented it was self evident that the other options were unrealistic.
- (l) There is a clear rationale for having the opinion that no reasonable assessor, tribunal or decision maker could consider them to be appropriate;
- (m) It is now considered appropriate to tunnel under the 'protected Limestone Pavement', the question arising now is "how come that tunnelling option was not deemed appropriate in the original GCOB?" of indeed why not covering the same limestone pavement thereby protecting it;
- (n) There is a clear lack of interaction between Transport Policy appraisal and evaluation;
- (o) From the most recent census of population there are 27,186 dwellings in Galway. The destruction of 44 houses represents the destruction of 0.162% of the total housing stock. The scale of this would equate to 280 houses in the Dublin City area [550,000 people] or 911 houses in the greater Dublin area. The destruction will be the greatest seen in County Galway, since the Gerard Landlord family evictions in Ballinlass, Mountbellew in 1846;
- (p) The further question arising is where are 44 similar properties to be had or be capable of development in the Galway City area;

3. TRAFFIC ISSUES

- (a) Assertion that N6GCRR/Motorway Scheme will solve recurring congestion is at variance with fact;
- (b) As new roads are built new traffic diverts on to it;

- (c) This well known and long – established fact is known as induced traffic;
- (d) The said induced traffic results in congestion so that the benefits of the new road erode quickly;
- (e) The phenomenon of induced traffic has been established by transport professionals since 1925;
- (f) Failing to properly forecast traffic levels and failing to properly include induced traffic results in an underestimate of the full Environmental impact particularly in terms of noise and carbon dioxide emissions;
- (g) In the case of the N6GCOB it is asserted that by predicting a longer period of relief from congestion, underestimating induced traffic, means the Cost Benefit Ratio has been distorted giving rise to false expectations of the economic return of the road;
- (h) The 1994 "Trunk Roads & Generation of Traffic" by the Standing Advisory Committee on Trunk Road Appraisal [SACTRA] concluded "As average improvement for which traffic growth due to all other factors is forecast correctly, will see an additional [induced]10% of base traffic in the short term and 20% in the long term." It is submitted the Developers promoters of N6GCOB have an issue with this thereby invalidating their traffic figures.

4. **ENVIRONMENTAL ISSUES**

- (a) The induced traffic aspect has not received due consideration, thus the traffic figures are greatly underestimated;
- (b) The recent climate change conference requires the reduction in carbon emissions and therefore climatic impacts;
- (c) The N6GCRR will add to Carbon Dioxide emissions. It is noteworthy that Ireland was seen to achieved least of all in CO2 emissions reductions among all our EU partners;
- (d) The EIA requirement to assess environmental impacts under inter alia, flora, fauna, geology,, air, climate, human beings, etc has not been fully dealt with as required and stipulated in the CR process;
- (e) There has been total reliance with impacts flora and fauna ,on SACs and ignoring of;
 - (1) Loss of homes;
 - (2) Impact on residential amenities;
 - (3) Noise;
 - (4) Severance of communities;
 - (5) Loss of amenity land;
 - (6) Damage to community;
- (f) Consideration of alternatives as required in EIA under 85/337/EEC has shown that the Applicant did not consider all of the alternatives to the same extent or depth but from the earliest times focused on the Blue Route, which became the emerging preferred route and eventually the route that is now promoted under this application.
- (g) The World Health Organisations recommended Noise Levels are;
 - (1) Average Exposure 53dBLDen;
 - (2) Night Time exposure 45dBLDen;
 - (3) REASON: "To reduce Health effects, the CDG strongly recommends that policy makers implement suitable measures to reduce noise exposure from road traffic"
 - (4) The N6GCRR does not propose to operate in accordance with these criteria.

5. **ABSENCE OF INTEGRATED TRANSPORT STRATEGY**

- (a) Despite the guarantees broadcast by the Technical Representatives of the Applicant at the Primary Consultation held in the Westwood Hotel that the process was to be an integrated Transportation Strategy there has been no evidence of this and the evidence now presenting is that the only credible intention was the Development of the N6GCRR primarily and in

isolation and without regard for the other requirement that would constitute an integrated Transportation Plan;

- (b) There are no Travel Plans, Transport Assessments, and Statements presented;
- (c) There are no sustainable transport initiatives proposed;
- (d) There are no proposals for lessening traffic generation and its detrimental effects;
- (e) There are no proposals for reducing carbon emissions and climate impacts;
- (f) There are no proposals for creating connected inclusive communities;
- (g) There are no proposals for improving health outcomes and quality of life;
- (h) There are no proposals for improving road safety, other than any implied in the N6GCRR;
- (i) N6GCRR, that is the impact on Development remains unassessed;
- (j) The use of the Development Plan to incorporate the N6GCRR without considering knock on Development effects leaves the development Plan compromised and the future development of the City uncertain.

6. **ASSESSMENT OF ALTERNATIVES**

- (a) Directive 2014/52/EU specifies the requirements in respect of alternatives studied by the developer;
- (b) According to Article 5(3)(d) as interpreted by ECJ the developer must supply information at EIA stage in respect of the chosen option as well as the main alternatives together with the reasons for the choice. This did not happen in the way required by ECJ in N6GCRR;
- (c) Furthermore in the context of Article 51 of the Lisbon Treaty the state and its institutions would appear to have a case to answer if the N6GCRR proposal finds favour the alternatives having been dealt with by the Developer/Applicant in the manner in which they did.

7. **APPENDIX A & B & C ATTACHED**

These form part of the submission

8. **CONCLUSIONS**

- (a) The developer in his application to the Board has nor proven the case for the Road;
- (b) Alternatives have not been fully investigated;
- (c) Critical procedures have not been addressed;
- (d) The human habitat has been ignored, disregarded, treated with contempt;
- (e) Realistic alternatives not resulting in the unprecedented destruction of the human habitat have not been promoted;
- (f) The N6GCCRR represents an over engineered solution in the wrong place;
- (g) The proposal has been carried out in the absence of an overall integrated sustainable transport scheme, it is the technological equivalent of the horse before the cart!
- (h) The proposal to tunnel under the limestone pavement at Galway Race Course and justification for same, emphasises the lack of priority and empathy for home owners along the route, when the same consideration to provide a tunnelling option was not given the latter;
- (i) Noise levels do not conform with WHO standards;
- (j) Health issues have not been adequately addressed in the application;
- (k) The right to adduce further objections, observations, submissions is reserved to the Oral Hearing

SIGNED:

Mary Kilgarriff *T W Kilgarriff*

11th DECEMBER 2018

MARY C KILGARRIFF BA HDE T W KILGARRIFF BL, LLB, BE, MEngSC, CEng, FIEI,

APPENDIX A

N6 GALWAY CITY OUTER BYPASS (N6GCOB) [NOW DESIGNATED N6GCRR] PREFERRED ROUTE SELECTION REPORT (RSR).

BACKGROUND

1. The 'Report' is part of the process that is a step in the process;
2. The project according to the report is a collaborative venture between Galway City Council (GCC), Galway County Council (GCoC), Transport Infrastructure Ireland (TII), National Transport Authority (NTA);
3. The solution is: (a) 'SMART MOBILITY' + (b) 'PUBLIC TRANSPORT' + (c) 'ROAD COMPONENT' ;
4. NTA +GCC responsible for 3(a) & (b) AKA GALWAY INTEGRATED MANAGEMENT PLAN [GITMP];
5. Report states RSR IS A STAND ALONE PROCESS!!!!!!!!!!!!!!!!!!!!!!!!!!!!;
6. Route Selection Process FN[study area, constraints; feasible options],
7. RSR follows NRA Project Management Guidelines: PHASE 1 Concept & Feasibility Study: Phase 2 Route Selection PHASE 3 Design: Phase 4 EIA & STATUTORY Process: Phase 5 Advance Works Contract Documents & tender Phase 6 Construction: Phase 7 Handover.

ISSUES FORMING OBJECTIONS SUBMISSIONS & OBSERVATIONS IN CONTEXT OF RSR

1. The Planning Authority & its agents & TII &NTA are not independent but are actually the developer;
2. EU requirements are that all project assessments must be on the basis of 'Sustainable Transport'. The designation in the RSR of the N6GCOB as stand alone in advance of GITMP outcome must represent a fatal flaw in that certainty is assigned to the former in the absence of the latter;
3. The Strategic Case is neither proven or presented;
4. ECJ rejected Eastern Section of GCOB on basis of A6(3) of Habitats Directive used, & ECJ said application under A6(4) was appropriate procedure. RSR incorrectly states that refusal was due to interference with Limestone Pavement.
5. Why the applicant did not resubmit under A6(4) is questionable;
6. Reason for ditching GCOB in RSR is tortuous & flawed. For example if RSR now proposes to go under Limestone Pavement under N6GTP why could they not have done the same under GCOB?
7. A6(4) is a three legged Test Process. Test 1 =NO FEASIBLE ALTERNATIVE SOLUTIONS WHICH ARE LESS DAMAGING: Test 2 = IMPERATIVE REASONS OF OVERRIDING PUBLIC INTEREST: Test 3 = COMPENSATORY MEASURES SECURED ENSURINGOVERALL COHERENCE OF NETWORK OF EUROPEAN SITES IS MAINTAINED.
8. (a) ; Purpose of Test1 is to determine if other feasible ways exist to deliver the overall project that are less damaging to the integrity of the European site effected; (b)Competent Authority responsible for assuring there are no feasible alternatives; (c) The competent authority must determine the range and type of possible alternatives to be considered; (d) where necessary CA may consult with others on potential alternative solutions; (f) In some

cases the competent authority (TII) may need to consider options not considered by the applicant (GCoC) (g) Alternatives must be considered objectively and broadly (h) Alternatives are limited to those that would deliver the same objective as the original proposal; GIVEN THAT GCoC changed from GCOB to N6GTP using internal meetings and not readvertising must mean that this aspect is flawed; (i) Having undertaken its assessment CA must decide whether they are feasible.

9. Test2 CA having decided there are no feasible alternatives solutions must be able to identify IROPI & type of IROPI depend on the nature of the effected site. If site hosts a priority habitat or species, then CA can only consider reasons relating to human health, public safety, or beneficial consequences of primary importance to the environment. The IMPACT ON HUMAN HEALTH OF THE DESTRUCTION OF 41 houses SHOWS THE OPPOSITE TO JUSTIFYING IROPI.
10. IMPERATIVE means that the reasons in 9 must be justified. OVERRIDING means the interest served by the project outweighs the integrity of the site. PUBLIC INTEREST means public good is delivered.
11. Competent Authority under Test 3 must if there are no alternatives must compensate within or adjacent to the site through (i) habitat recreation which can be designated (ii) recreation of habitat as an extension to existing site (iii) in exceptional cases classification of a new site. PARKS AND WILDLIFE SECTION OF OPW DEALS WITH THIS AND THEY MUST BE ENGAGED.
12. Forfas according to Report sought a By Pass
13. The fact that the report decides N6GTP & GCITMP are stand alone processes is contrary to concept of sustainable transport and at variance with NRA document for such proposals.
14. Considering all of the matrices, it appears that a subject outcome to objective inputs has resulted;
15. Given the low levels of by passable traffic on the Western end if the WDR was extended westwards to meet the green route & if the Green Route tangentially joined the Blue route Coolough to Corrib Crossing & if the Green route connected with bothar Stiofan Seoige to WDR & if at Castlegar Green option to red to blue, this might avoid the destruction.
16. An alternative route to the above may have possibilities


Mary Kilgarriff

14th December 2018

N6GCRR PROJECT APPENDIX B

OBJECTION/SUBMISSION/COMMENTS/OBSERVATIONS BY:

T W KILGARRIFF, 8 THE HEATH, CIRCULAR ROAD, GALWAY CONTACT NUMBER 0862543609

IN CONTEXT OF DECISION TO EMBARK ON SUBJECT N6GCOB v ORIGINAL GCOB

1. Objectively the project is grounded on the same reasons, issues, principles & requirements that necessitated the development of the original GCOB;
2. The important legal point is that ECJ in its judgement C258/1, did NOT (as is anecdotally believed) rule against the original GCOB Project on the issue of 'Limestone Pavement' but rather that the application of Article 6(3) of the Habitats Directive procedure was the incorrect procedure & application of A6(4) would be the correct procedure, in the project assessment;
3. In promoting the current project in the context of the route selected, the project team, have incorrectly propagated the thesis that the original GCOB could therefore be excluded from the 'IROP' process requirements in relation to assessing all alternatives;
4. Therefore, this route selection exercise has all of the indicia of a process; which it is believed an honourable tribunal or court will strike down; to create a distinction in relation to the same issue, which reasonableness, justice and equity must deem to be legally incorrect;
5. Consequently the elimination of the original N6GCOB route from the alternatives represents a flawed IROP procedure, legally.

AN BORD PLEANÁLA	
17 DEC 2018	
LTR DATED _____	FROM _____
LDG- _____	
ABP- _____	

(Signature)

Mary Kilgarriff.

14th December 2018.

Top Level Map

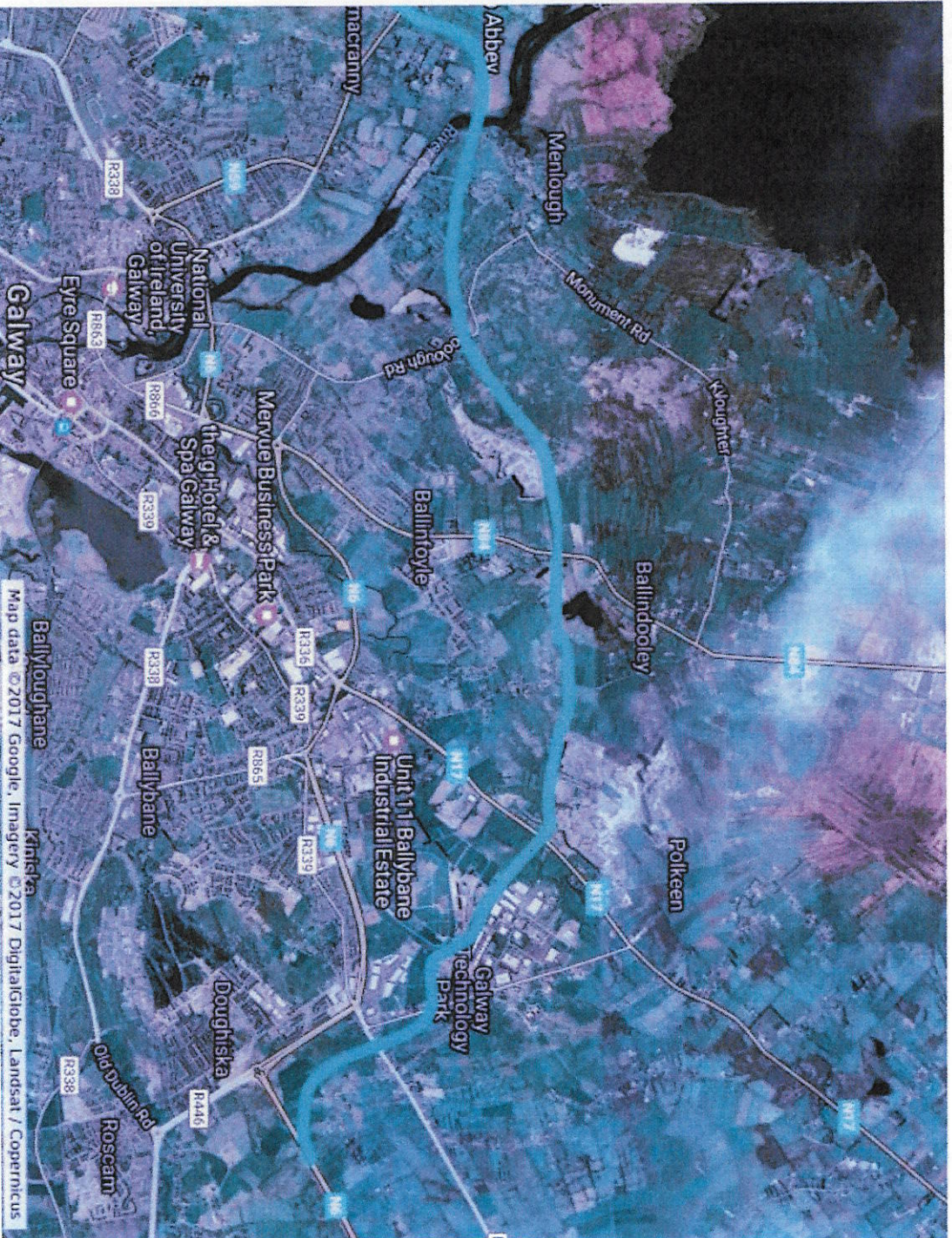
Appendix C



OP-01
Mary Kilgusiff.

12/12/18

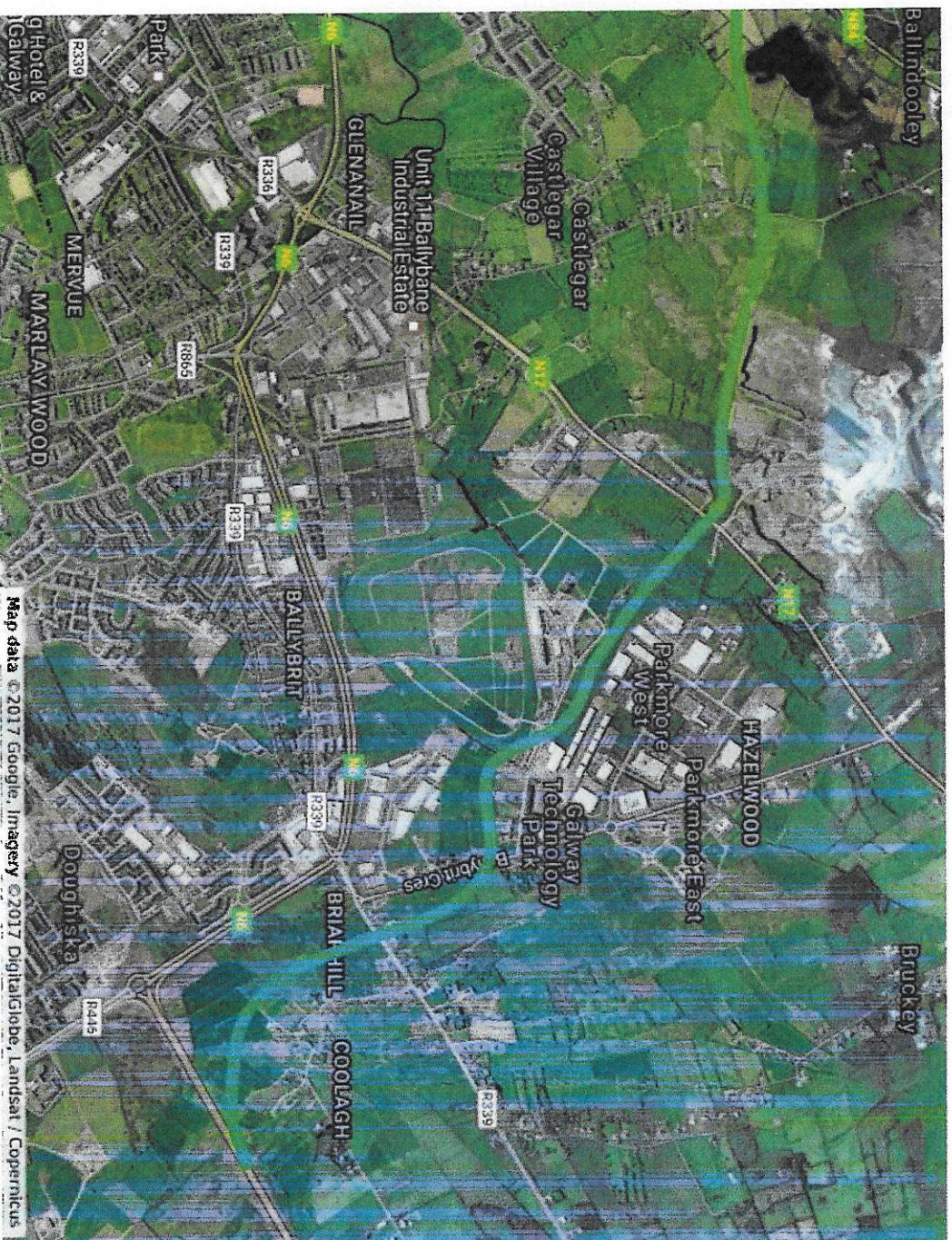
Additional Detailed Level Maps (x2 sections)





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Additional Detailed Level Maps (x5 sections)









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Additional Detailed Level Maps (x8 sections)





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Detailed Views of Lower Dangan



