



Lucan to City Centre Core Bus Corridor Scheme

NTA Observations on the Proposed Scheme CPO Objections

April 2023

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1. Introduction

1.1 Introduction

This report provides a response to the objections made to An Bord Pleanála (“the Board”) in response to the Lucan to City Centre Core Bus Corridor Scheme Compulsory Purchase Order 2022 (“the CPO”), which relates to the Lucan to City Centre Core Bus Corridor Scheme (“the Proposed Scheme”).

An overview of the objections is provided in Section 1.2 below. The issues raised in the objections to the CPO, together with the relevant responses, are provided in Section 2.

1.2 Overview of Objections Received

Three objections to the CPO were received by the Board.

Each objection was individually numbered by the Board and this numbering system has been retained for ease of reference in this report. All three parties who submitted the objections also made a submission in response to the Proposed Scheme.

Table 1.2.1 below sets out the locations referred by the objections and the key issues raised.

Table 1.2.1: Summary of Issues Raised in the Objections to the CPO

Location		Key Issues Raised
1	The Trustees of Hermitage Golf Club	<ul style="list-style-type: none"> i) The submission questions the NTA’s power in respect of the CPO and alleges that various mitigation measures are outside the land ii) The submission expresses the view that the basis for the justification of the extent of lands in the CPO has not been provided iii) The submission questions the appropriateness of the NTA making (i) an Application for Confirmation of the CPO and (ii) an Application for Approval of the Proposed Scheme under Section 51 of the Roads Act 1993 (as amended) and the Board making its decisions at the same time iv) The submission questions The Board’s powers in relation to a decision on the application under Section 51 of the Roads Act v) The submission has claims that the Proposed Scheme contravenes the South Dublin County Council Development Plan 2022-2028 vi) No consideration provided that the least possible impact on the Hermitage Golf Club created in order to achieve the Proposed Scheme’s objectives
2	Torcross Unlimited Company (Hermitage Clinic)	<ul style="list-style-type: none"> i) The extents of the lands are excessive, and unnecessary, for the implementation of the Proposed Scheme ii) The Proposed Scheme may be a Material Contravention of SDCC Development Plan in respect of the “High Amenity” zoning iii) The CPO would significantly impact the ability of the clinic to accommodate further expansion iv) Concerns relating to compliance with the National Guidelines for the Prevention of Nosocomial Aspergillosis v) No consultation with Torcross in respect of planting works to replace the lost trees vi) Refusal to consider revised bus services and bus stops in the vicinity of the clinic vii) No confirmation about how the Proposed Scheme will interface with the proposed Metro West
3	Knockmaree Management Company	<ul style="list-style-type: none"> i) Length of the proposed ramps, steep slope up Chapelizod Hill Road, alternative solutions to the ramps requested, ii) Categorisation of trees to be lost inadequately considered iii) Querying the findings of the landscape and visual impact assessment iv) Construction impact – noise, vibration and working hours concerns v) Town Planning issues relating to Z9 zoning and proximity to the Architectural Conservation Area vi) Reduced privacy for residents of Knockmaree now overlooked from bus stops vii) Concerns about the noise impact during operation viii) Air quality will be reduced ix) Material and significant reduction in property value

2. Response to Objections to the Compulsory Purchase Order (CPO)

2.1 The Trustees of Hermitage Golf Club

2.1.1 Description of the Proposed Scheme at this location

In order to achieve the Proposed Scheme objectives along this section of the corridor, as described in paragraph 4.5.1.1 of Chapter 4 of Volume 2 of the EIAR, Proposed Scheme Description, on the northern side of the N4 between the entrance to the Hermitage Golf Club and Junction 2 of the N4 a segregated two-way cycle track is included in the Proposed Scheme.

Land acquisition will be required from the Hermitage Golf Club to provide this cycle track which will connect with the existing foot / cycle bridge over the N4 adjacent to the Mount Andrew estate / St Loman's Hospital access.

A piled retaining wall is proposed for the new boundary and 15m high sports netting is proposed adjacent to the relocated boundary for a 130m length opposite Ballyowen Lane, as well as infill planting to the roadside boundary and southern edge of the fairway.

The relevant extract from the General Arrangement Drawings in the EIAR, Volume 3, Part 1 of 3, Chapter 4 Proposed Scheme Description is shown in Figure 2.1.1.

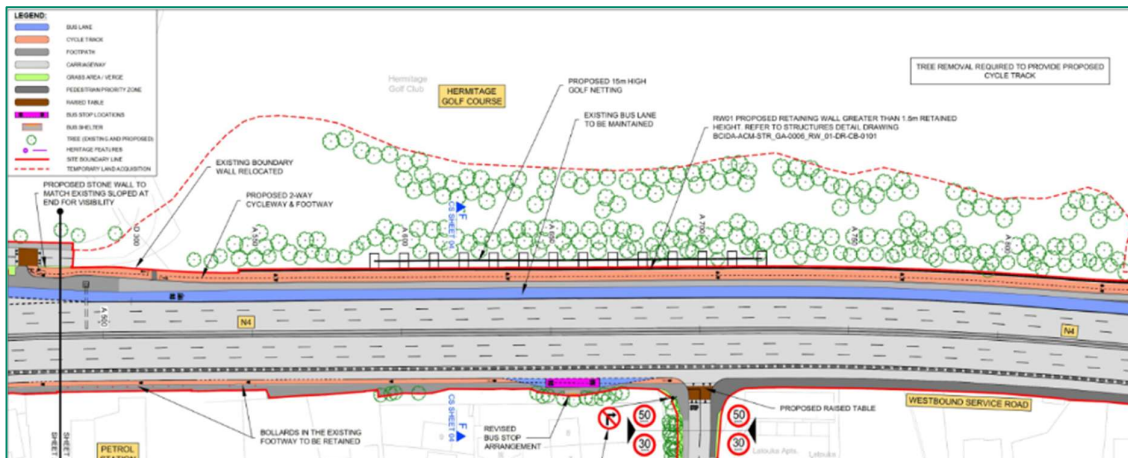


Figure 2.1.1: General Arrangement of Proposed Scheme adjacent to Hermitage Golf Club

The relevant extract from the typical cross-section in the EIAR, Volume 3, Part 1 of 3, Chapter 4 Proposed Scheme Description is shown in Figure 2.1.2.

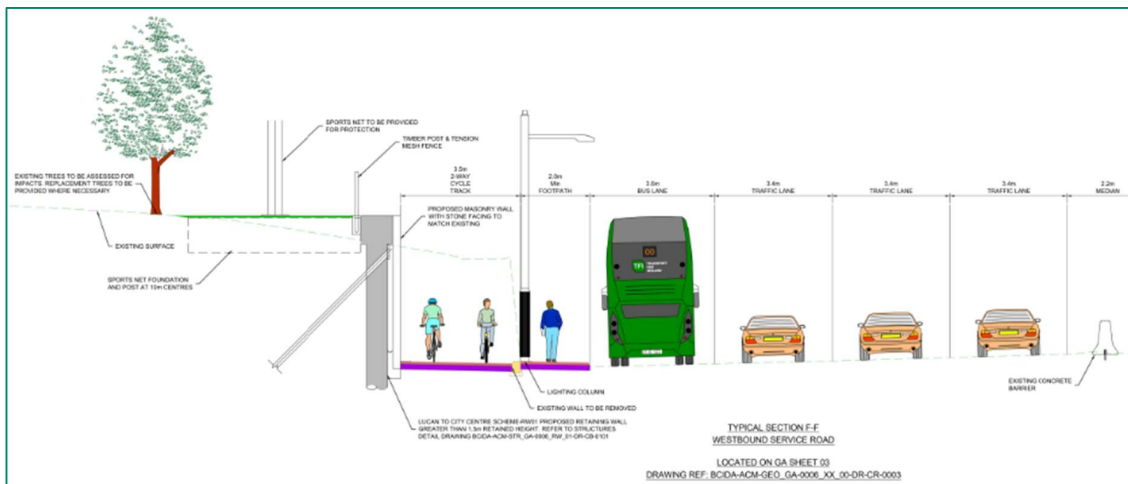


Figure 2.1.2: Typical Cross-section Adjacent to the Hermitage Golf Club

The relevant extract from the CPO Deposit Maps showing the proposed permanent and temporary land acquisition areas at the Hermitage Golf Club is shown in Figure 2.1.3.

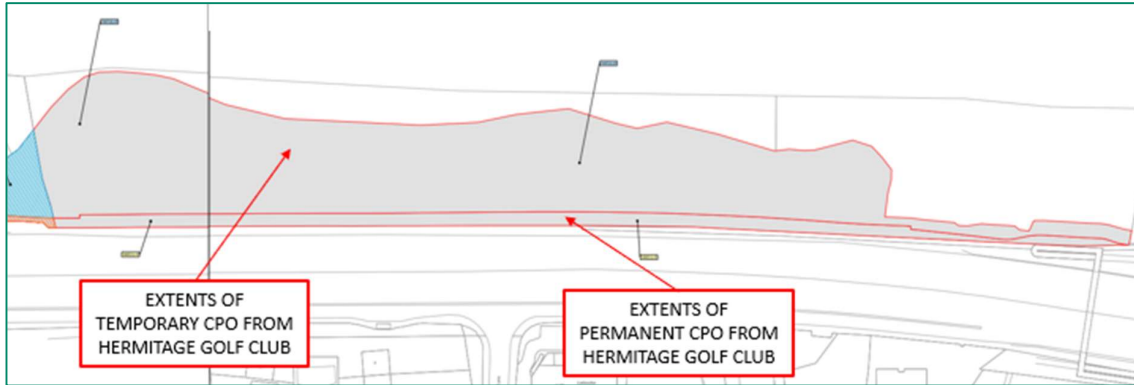


Figure 2.1.3: Extract from CPO Deposit Maps at Hermitage Golf Club

The proposed permanent and temporary land acquisition lines overlain on aerial photography are shown in Figure 2.1.4.



Figure 2.1.4: Proposed Land Acquisition lines adjacent to Hermitage Golf Club

The following figures from the EIAR, Volume 3, Part 3 of 3, Chapter 17 Landscape and Visual, Figure 17.2 Photomontages are shown in Figures 2.1.5 to 2.1.9 below;

- Figure 17.2.0.2 View locations (aerial photograph of the location)
- Figure 17.2.2.1 View 2 from the east – as existing
- Figure 17.2.2.2 View 2 from the east – as proposed
- Figure 17.2.3.1 View 3 from the west – as existing
- Figure 17.2.3.2 View 3 from the west – as proposed



Figure 2.1.5: View Locations



Figure 2.1.6: View 2 from the east – as existing



Figure 2.1.7: View 2 from the east – as proposed



Figure 2.1.8: View 3 from the west – as existing



Figure 2.1.9: View 3 from the west – as proposed

2.1.2 Summary of the Points of Objection to the Confirmation of the CPO by Mason Hayes & Curran (Solicitors for the Trustees of the Hermitage Golf Club)

This submission objected to CPO for the reasons summarised in the following section.

- i) The submission questions the NTA's power in respect of the CPO and alleges that various mitigation measures are outside the land
- ii) The submission expresses the view that the basis for the justification of the extent of lands in the CPO has not been provided
- iii) The submission questions the appropriateness of the NTA making (i) an Application for Confirmation of the CPO and (ii) an Application for Approval of the Proposed Scheme under Section 51 of the Roads Act 1993 (as amended) and the Board making its decisions at the same time
- iv) The submission questions The Board's powers in relation to a decision on the application under Section 51 of the Roads Act
- v) The submission has claims that the Proposed Scheme contravenes the South Dublin County Council Development Plan 2022-2028
- vi) No consideration provided that the least possible impact on the Hermitage Golf Club created in order to achieve the Proposed Scheme's objectives

2.1.3 Responses to the Points of Objection

- i. **The NTA's power to CPO and Allegations by Hermitage Golf Club that various mitigation measures are outside the lands which are proposed to be acquired under the CPO**

As set out in Section 1.4 of Chapter 1 Introduction of the EIAR, the NTA made a decision under section 44(2)(b) of the Dublin Transport Authority Act 2008 (as amended) (the "**2008 Act**") on 18 October 2019 that it considered it to be more convenient, more expeditious, more effective or more economical that the functions in relation to the provision of the public transport infrastructure be performed by it in relation to this Proposed Scheme among others.

Section 44(6) of the 2008 Act provides:

"(6) Where –

(a) a decision is made by the Authority under subsection (2)(b) or (5)(a) for the performance of a particular function otherwise than through a public transport authority or statutory body, or

(b) the Authority is performing its function of securing the provision of public transport infrastructure in accordance with subsection (2)(e),

the following provisions have effect –

(i) the Authority shall be empowered (notwithstanding any other enactment) to perform the function, including the acquisition of land for that purpose, and to do any other thing which arises out of or is consequential on or is necessary for the purposes of or would facilitate the performance of the function,

(ii) for the purpose of paragraph (a) or (b), land may be acquired by agreement or by means of a compulsory purchase order made by the Authority in accordance with Part XIV of the Act of 2000,

(iii) the provisions of any enactment concerned apply in relation to the performance of the function subject to such modifications as may be necessary and as if the Authority was named in such enactment in each place where a public transport authority or other statutory body entitled to exercise the function is named"

A "*public transport authority*" is defined under section 2 of the 2008 Act as including a "*road authority*" and the NTA effectively "*steps into the shoes*" of the road authority in the context of its functions in relation to the provision of public transport infrastructure in relation to this Proposed Scheme.

In particular, the NTA will be stepping into the shoes of the road authority in the context of section 13(7) and 13(8) of the Roads Act 1993 (as amended) (the "**1993 Act**") which provide as follows:

“(7) A road authority may do all such things as arise out of or are consequential on or are necessary or expedient for the performance of its functions under this Act or otherwise in relation to public roads or are ancillary thereto.

(8) Without prejudice to the generality of subsection (7) and save as otherwise provided by law, a road authority may –

(a) provide any amenity, structure or thing for the safety or convenience of road users,

(b) undertake landscaping, planting or any similar activity in the interests of amenity and the environment,

(c) provide artistic features.”

Lands which are required for the Proposed Scheme are either included in the CPO or are “*public road*” as defined by section 2 of the 1993 Act being “*a road over which a public right of way exists and the responsibility for the maintenance of which lies on a road authority*” and the provisions of section 13(7) and section 13(8) as above apply.

Therefore, the NTA is satisfied that it has the necessary lands to do all of the works including the implementation of all mitigation measures which are proposed in the EIAR which are either contained within the lands it is proposed to acquire in the CPO or are on the “*public road*”. In this regard, there is no substance to the allegation made by the Hermitage Golf Club that the NTA does not have the necessary lands for the proposed mitigation measures.

ii. Justification for the CPO

The NTA are equally satisfied that the proposed compulsory acquisition of some of the Hermitage Golf Club’s lands is justified for the purposes of the Proposed Scheme and that the acquisition is proportionate, necessary and required for the Proposed Scheme.

The CPO made by the NTA on 25 October 2022 and submitted to An Bord Pleanála (the “**Board**”) for confirmation clearly sets out what the lands are proposed to be acquired for and clearly this is to facilitate public transport infrastructure. The CPO itself sets out that the proposed compulsory acquisition of lands is:

“for the purpose of the construction of the Lucan to City Centre Core Bus Corridor Scheme which has an overall length of approximately 9.7km, and commences at Junction 3 of the N4 Lucan Road/Lucan Bypass and is directed east towards the City Centre. From the R136 Ballyowen junction with the R835 Lucan Road the route runs east along the R835 Lucan Road to the roundabout serving the Lucan Retail Park and also the N4 (passing the Liffey Valley Shopping Centre) as far as Junction 7 (M50) and via the R148 along Palmerstown bypass, Chapelizod bypass, Con Colbert Road, St John’s Road West, ending at Frank Sherwin Bridge, where it will join the prevailing traffic management regime on the South Quays, all in the County of Dublin and within the Dublin City Council (DCC) and South Dublin County Council (SDCC) administrative areas, for the purposes of facilitating public transport, and together with all ancillary and consequential works associated therewith”.

Section 44(6) of the Dublin Transport Authority Act 2008 (as amended) (the “**2008 Act**”) provides that the NTA shall be empowered to perform the “*function of securing the provision of public transport infrastructure*” including the acquisition of land for that purpose either by agreement or by means of a compulsory purchase order. “*Public transport infrastructure*” is defined in the 2008 Act as “*infrastructure constructed or provided, or proposed to be constructed or provided, in connection with the provision of public passenger transport services, which includes but is not limited to railway infrastructure, metro railway infrastructure, light railway infrastructure, bus infrastructure, rolling stock, buses, busways, bus lanes, bus garages, cycleways, cycle and pedestrian facilities, interchange facilities or such other class of infrastructure, facility, building or vehicle, whether of the same kind as the aforementioned or not, which the Authority has prescribed to be public transport infrastructure under section 44(13)*”. Therefore, the NTA is empowered to CPO lands for these purposes and it is exercising this power for the Proposed Scheme.

The objection on behalf of the Hermitage Golf Club refers to the case of *Clinton v An Bord Pleanála* [2007] IESC 19 (the “**Clinton Case**”) and appears to rely on this case as a basis for a contention that a detailed consideration of the impacts on landowners whose constitutional rights are to be infringed and a determination as to whether these impacts can be justified is required and it states that the Clinton

Case establishes the test to be employed when considering any compulsory acquisition. The Supreme Court said in the Clinton Case that the “*acquiring authority must be satisfied that the acquisition of the property is clearly justified by the exigencies of the common good*”. The Proposed Scheme clearly meets this test and the acquisition of parts of the Hermitage Golf Club’s lands is justified by the exigencies of the common good to provide for the public transport infrastructure as defined in the 2008 Act.

The Clinton Case was primarily a challenge to a CPO on the basis that the stated purpose in that CPO namely to facilitate development was not a sufficiently specific purpose and that there was no material before An Bord Pleanála to justify the confirmation of the CPO. The Supreme Court found that “*the precise nature of the development was not required to be proved*”¹ because the property was required for the legitimate purpose of regeneration of the O’Connell Street area.

The situation here is that the NTA has clearly set out in the CPO and all of the other application documentation that is before the Board that the lands as identified in that CPO including some lands from the Hermitage Golf Club are required for the purpose of the construction and operation of the Proposed Scheme and this is a specific purpose for which the NTA has the power to compulsorily acquire lands being to facilitate public transport infrastructure and all ancillary and consequential works associated therewith.

Further, the potential impacts on the Hermitage Golf Club of the Proposed Scheme and the acquisition of certain lands from the Hermitage Golf Club were carefully considered and assessed in the Environmental Impact Assessment Report (“**EIAR**”) for the Proposed Scheme and the other application documentation. In particular, Section 10.4.3.1.2 of Chapter 10 Population of the EIAR identifies these impacts as “*Negative, Moderate and Short-Term*” during the construction phase and in Section 10.4.4.1.2.1 identifies these impacts as “*Negative, Slight and Long-Term*” during the operational phase. It may be noted that the proposed acquisition of part of the Hermitage Golf Club amounts to a total of 1,775m² in proposed permanent landtake and this is from a total landholding by the Hermitage Golf Club of approximately 506,000m², or 0.35%.

As described in section 4.5.1.1 of Chapter 4 of Volume 2 of the EIAR, Proposed Scheme Description, at this location the Proposed Scheme design includes a two-way cycletrack on the northern side of the N4. These design proposals are required to achieve the Proposed Scheme objectives and land acquisition is necessary to accommodate the design proposals. The need for these design proposals is set out below.

Section 2.2.1.3 of Chapter 2 of Volume 2 of the EIAR, Need for the Scheme, sets out how there is a need to provide segregated cycle facilities in accordance with the proposed GDA Cycle Network Plan, which was adopted by the NTA in 2014. Specifically, it is noted that Primary Route 6 follows the route of the Proposed Scheme at this location.

Section 3.3.3 of Chapter 3 of Volume 2 of the EIAR, Reasonable Alternatives, describes how the consideration of alternative cycling route options was fundamental in the process of defining the Emerging Preferred Route. It is noted in Section 3.3.3. that the proposal to locate a two-way cycle track on the northside of the N4 provides the following benefits:

It reduces the number of intersections with junctions and accesses to private properties;

It provides all the necessary components of the GDA Cycling Strategy in this area;

It introduces a new link between Ballyowen Lane and Ballyowen Road, providing a coherent network that links all main origin and destination zones / centres for cyclists, with minimal detours and interruptions minimised; and

the introduction of a segregated two-way cycle track will eliminate the need for cyclists to use the shared area at Junction 2 of the N4 in the westbound direction.

Section 3.3.3 also states that the proposal for a two-way cycle track on the northside of the N4 is a significant improvement on the Emerging Preferred Route (EPR) proposals which contained detours and gaps in the westbound direction.

Section 3.3.3 concludes the Proposed Scheme provides a more direct route for westbound cyclists than the EPR proposals and also provides for several links from areas south of the N4 and R148 facilitating

¹ *Clinton v An Bord Pleanála* [2007] IESC 19 on page 6

a more direct route for eastbound cyclists from those areas. It also concludes that the Proposed Scheme will reduce journey times for cyclists using the route by reducing the stop-start nature of the EPR proposals, which was raised as an issue at the first Non-Statutory Public Consultation.

In summary the two-way segregated cycle-track on the north side of the N4 at this location, and the associated permanent and temporary land take, is necessary for the Proposed Scheme to achieve the scheme's objectives. Please also see section vi. below in relation to the consideration of reasonable alternatives at this location.

iii. **Appropriateness of the NTA making (i) an Application for Confirmation of the CPO and (ii) an Application for Approval of the Proposed Scheme under Section 51 of the Roads Act 1993 (as amended) and the Board making its decisions at the same time**

It was entirely appropriate and proper for the NTA to make (i) an application to the Board for confirmation of the Lucan to City Centre Core Bus Corridor Scheme Compulsory Purchase Order 2022 (the "CPO") and (ii) an application to the Board for approval of the Lucan to City Centre Core Bus Corridor Scheme (the "Proposed Scheme") under section 51 of the Roads Act 1993 (as amended) (the "Roads Act").

The objection on behalf of the Hermitage Golf Club asks the Board to "*make a preliminary determination as to whether they will proceed with having both applications, that is the application for the compulsory acquisition and for the approval of the Scheme, conducted simultaneously or whether they will accede to Hermitage's submission and have the Scheme under Section 51 of the Roads Act determined first*".

As the Board will be aware, section 51(7)(b) of the Roads Act provides as follows:

"(7) (b) Where an application for approval under this section [being section 51 of the Roads Act 1993 (as amended) which is what has occurred here in relation to the Proposed Scheme] relates to a proposed road development, and

(i) a scheme submitted to the Minister [now An Bord Pleanála] for approval under section 49, or

(ii) an application submitted to the Minister [now An Bord Pleanála] for a bridge order under the Act of 1946, or

(iii) a compulsory purchase order submitted to the Minister [now An Bord Pleanála] for confirmation [which is what has occurred here with this CPO],

*relate wholly or partly to the same proposed road development, the Minister [now An Bord Pleanála] shall make a decision on such approval and on the approval of such scheme or the making of such bridge order or the confirmation of such compulsory purchase order **at the same time.**"* (emphasis added)

The NTA's application for approval of the Proposed Scheme under section 51 of the Roads Act and the CPO submitted to the Board for confirmation "*relate wholly or partly to the same proposed road development*", the Board is therefore statutorily required to make its decisions at the same time. Therefore, it is not open to the Board to accede to the request made on behalf of the Hermitage Golf Club to, "*reject the application for the compulsory acquisition of the land*".

Further, the NTA needs to be in a position to evidence to the Board that it has the wherewithal to construct the Proposed Scheme and that the NTA has sufficient interest in the lands concerned for the Proposed Scheme.

This position was confirmed in the case of *Arklow Holidays Limited v An Bord Pleanála*² where Clarke J. (as he was then) said the following:

*"For example on the facts of this case it might be arguable that a party such as the Urban District Council who has the benefit of a confirmed compulsory purchase order and who has served notice to treat (and who has thus put themselves in a position where they are entitled, as a matter of law, with certainty to acquire the lands concerned) might be regarded as having a sufficient interest for the purposes of *Frescati*³ but that the same Urban District Council might not be regarded as having such an interest in*

² [2006] IEHC 15

³ *Frescati Estates Limited v Walker* [1975] IR 77

respect of those other portions of the project where no compulsory purchase order process was in being and where the entitlements remained contingent on the successful conclusion of such a process.”⁴

While these comments were obiter, they are clearly consistent with the decision of the Supreme Court in the Frescati Case.

Further, there are very many practical reasons including in relation to the efficient use of the decision maker’s resources as to why it is entirely appropriate to deal with the section 51 application and the related application for confirmation of the CPO together. Indeed, this is also in ease of those who may wish to make an objection and/or submission both in writing and/or at any oral hearing that may be held in relation to the section 51 application and the application for confirmation of the CPO.

iv. **The Board’s powers in relation to a decision on the application under section 51 of the Roads Act**

The objection on behalf of the Hermitage Golf Club seems to suggest that it is not yet possible for the Board to consider the lands to be included in the CPO as it could be the case that the Proposed Scheme will be modified.

Section 51(6) of the Roads Act provides as follows:

“(6) An Bord Pleanála, having reached a reasoned conclusion under subsection (5)(c) and being satisfied that the reasoned conclusion remains up-to-date, may, by order, approve a proposed road development, with or without modifications and subject to whatever environmental conditions (including conditions regarding monitoring measures, parameters to be monitored and the duration of monitoring) it considers appropriate, or may refuse to approve such development.”

It is therefore open to the Board (i) to approve the proposed road development without modifications, (ii) to approve it with modifications and subject to whatever environmental conditions (including conditions regarding monitoring measures, parameters to be monitored and the duration of monitoring) it considers appropriate or (iii) to refuse to approve the proposed road development.

These are the options available to the Board and it is inappropriate and indeed premature to seek to second guess what decision may issue from the Board at this stage of the statutory process. The land included in the CPO is the land required for the Proposed Scheme (including as necessary any public road) as presented to the Board and there is no question of the NTA suggesting that further or additional land is required for the Proposed Scheme. The NTA has identified the land required for the Proposed Scheme and that is the application before the Board that it has to consider, and it is important not to second guess what it may or may not do when it has fully considered and assessed the section 51 application and the application for confirmation of the CPO.

v. **Alignment with the South Dublin County Council Development Plan 2022-2028**

Pages 53 to 56 of the Planning Report which was included at Appendix A2.1 in Volume 4 of the EIAR for the Proposed Scheme sets out in detail how the Proposed Scheme aligns with South Dublin County Council Development Plan 2022-2028 (“**SDCCDP 2022-2028**”).

The Planning Report states that:

“At a strategic level, the SDCCDP 2022-2028 supports an integrated transport network that offers enhanced access and mobility throughout the county. The Proposed Scheme will help to deliver the infrastructure required to facilitate the ‘integrated transport network’ sought by the SDCCDP 2022-2028. In addition to the above, the extensive number of policies and objectives relevant to the Proposed Scheme and its compliance with same has been set out in Table 1.3 in Appendix 1 (Local Policy) of this Report.”

South Dublin County Council (“**SDCC**”) set out in their submission to An Bord Pleanála (the “**Board**”) dated 11 January 2023 (which is on An Bord Pleanála’s website) that they “*are of the view that it [the Proposed Scheme] aligns with the policies of the County Development Plan (2022-2028)*”. SDCC set out the policies and objectives from their development plan which support the Proposed Scheme on pages 4 and 5 of their submission to the Board.

⁴ [2006] IEHC 15 at paragraph 7.6

In particular Section 3.7.2 of the Planning Report highlights the following Objectives in the Development Plan that show that the Proposed Scheme aligns with the Development Plan.

- SM3 Objective 1 in the Development Plan relates to the targets of modal shift to bus usage and includes “A network of continuous bus priority and safe cycling infrastructure along 16 corridors” and says: “It is anticipated that a planning application for the radial core bus corridor infrastructure will be submitted by the NTA to An Bord Pleanála with construction expected to take place within the lifetime of the plan”. This Proposed Scheme is one of the radial core bus corridor infrastructure projects which involves continuous bus priority and safe cycling infrastructure as anticipated under the Development Plan.
- SM2 Objective 2: “To create a comprehensive County-wide network supported by sustainable movement studies and other permeability measures, consisting of legible, sign-posted and well-maintained: (i) Safe cycling routes through the implementation of the Greater Dublin Cycle Network Plan, NTA (2011) and the Cycle South Dublin project; and (ii) Walking routes that link communities to key destinations, amenities and leisure activities”. The Proposed Scheme includes various elements of the Greater Dublin Cycle Network Plan, specifically Primary Route 6 which is proposed to be delivered via the cycle track on the northside of the N4 at this location.
- SM3 Objective 2: “To facilitate and secure the implementation of major public transport projects as identified within the NTA’s Transport Strategy for the Greater Dublin Area (2016-2035) as updated to 2042, or any superseding document, including BusConnects, the DART expansion programme along the Kildare route, the opening of the new rail station at Kishogue and the Luas to Lucan.”
- SM3 Objective 11: “To facilitate the delivery of the BusConnects Core Bus Corridors and seek additional bus corridor and orbital routes to serve the County by securing and maintaining any required route reservations and to ensure the BusConnects Corridors do not adversely affect the village life and livelihoods of any of our County Villages.”

In addition, the Lucan to City Centre Scheme Core Bus Corridor Scheme is specifically identified in Table 7.2 of the Development Plan.

The objection on behalf of the Hermitage Golf Club incorrectly seeks to suggest that all major development contemplated within the lifetime of a development plan must be provided for in the development plan and that the Proposed Scheme “has no such status” and would therefore amount to a material contravention of the development plan. In doing so, the objection refers to the case of *Roughan v Clare County Council*⁵ in support of their position that “in order for major development to proceed it must be specifically provided for in the statutory development plan”. This case related to a situation where the relevant proposed development (a traveller halting site) was omitted entirely from the relevant development plan such that the planning authority effectively failed to disclose in advance in its development plan its intention to carry out the impugned development and that is what gave rise to a material contravention. As set out in detail in the Planning Report, and indeed in the submission by SDCC, the Proposed Scheme is explicitly referenced in the SDCCDP 2022-2028 and so there can be no suggestion that there was a failure to disclose the intention to carry out the Proposed Scheme. Reliance on this case is therefore misplaced.

The lands at the Hermitage Golf Club are zoned “High Amenity – Liffey Valley” under the SDCCDP 2022-2028. It is noted on page 14 of Chapter 17: Landscape and Visual of the EIAR that the SDCCDP 2022-2028 states that “development within this designation should be designed and sited to minimise visual impacts and preserve the amenity value of the river valley including its landscape value and views and vistas of the river valley”. It is further explained on page 26 of Chapter 17 that “the works at the Hermitage Golf Course will have an impact on the High Amenity designation for the Liffey Valley (HA-LV), where there will be substantial removal of screening trees between the N4 and the amenity area” and the potential effects during the construction phase have been designated to be “Negative, Moderate and Temporary/Short-Term” and that as per page 33, this will move to being “Neutral, Slight/Moderate, Long-Term” when the proposed tree planting reinstates the screening over time. Careful consideration has therefore been given to the zoning of this area and the need for mitigation measures and it has been appropriately assessed in the EIAR.

In EIAR Volume 2 Chapter 17, Landscape and Visual, Section 17.3.3.1 identifies SDCC policy NCBH7 and states that “this relates to the protection of the Liffey River Valley and Special Amenity Area Order

⁵ (unreported, High Court, 18 December 1996, Barron J)

(SAAO). Zoning Objective 'High Amenity – Liffey Valley' (HA-LV) relates to designated land within the Liffey River Valley to the north of the N4, including parts of the study area, and states that development within this designation should be designed and sited to minimise visual impacts and preserve the amenity value of the river valley including its landscape value and views and vistas of the river valley.”

In Section 17.4.3.2.5 of Chapter 17 of the EIAR it is assessed that the works at the Hermitage Golf Club will have an impact on the High Amenity designation for the Liffey Valley (HA-LV) “where there will be the substantial removal of screening trees between the N4 and the amenity area.” Section 17.4.3.2.5 notes that the proposed works will result in notable local changes to the High Amenity designation at the golf course and states that: “These impacts will occur on the edge of the designation with limited influence beyond this. The sensitivity is high and the magnitude of change is medium. The potential townscape / streetscape and visual effect of the Construction Phase on the HA-LV designation is assessed to be Negative, Moderate and Temporary / Short-Term.”

The Significance and Quality of Townscape / Streetscape / Visual Effects / Impacts on the Liffey Valley (HA-LV) are summarised in Table 17.7 in relation to the Construction Phase, with the impact assessed as Negative Moderate Temporary / Short-Term, and in Table 17.8 in relation to the Operational Phase, with the impact is assessed as Negative Moderate Short-Term. In Table 17.11 in relation to the predicted operational phase (at 15 years post-construction) the impact is assessed as Neutral Slight / Moderate Long-Term.

- vi. No consideration provided that the least possible impact on the Hermitage Golf Club is created in order to achieve the Proposed Scheme’s objectives

The proposed land acquisition is required to achieve the Proposed Scheme objectives along this section of the corridor, as described in section 4.5.1.1 of Chapter 4 of Volume 2 of the EIAR, Proposed Scheme Description.

Section 2.2.1.3 of Chapter 2 of Volume 2 of the EIAR, Need for the Scheme, sets out how there is a need to provide segregated cycle facilities in accordance with the proposed GDA Cycle Network Plan, which was adopted by the NTA in 2014. Specifically, it is noted that Primary Route 6 follows the route of the Proposed Scheme at this location.

Section 3.3.3 of Chapter 3 of Volume 2 of the EIAR, Reasonable Alternatives, describes how the consideration of alternative cycling route options was fundamental in the process of defining the Emerging Preferred Route. It is noted that the proposal to locate a two-way cycle track on the northside of the N4 which is incorporated into the Proposed Scheme:

- reduces the number of intersections with junctions and accesses to private properties;
- provides all the necessary components of the GDA Cycling Strategy in this area;
- introduces a new link between Ballyowen Lane and Ballyowen Road, providing a coherent network that links all main origin and destination zones / centres for cyclists, with minimal detours and interruptions minimised; and.
- eliminates the need for cyclists to use the shared area at Junction 2 of the N4 in the westbound direction

Section 3.3.3 also states that the proposal for a two-way cycle track on the northside of the N4 is a significant improvement on the Emerging Preferred Route (EPR) proposals which contained detours and gaps in the westbound direction. The Proposed Scheme provides a more direct route for westbound cyclists than the EPR proposals and also provides for several links from areas south of the N4 and R148 facilitating a more direct route for eastbound cyclists from those areas. The Proposed Scheme will reduce journey times for cyclists using the route by reducing the stop-start nature of the EPR proposals, which was raised as an issue at the first Non-Statutory Public Consultation.

Section 3.4.4.2 of Chapter 3 relates to the two-way Cycle Track along N4 between Junction 3 and Junction 2 and explains that the draft Preferred Route Option presented at the second and third round of public consultations included proposals for a two-way cycle track located on the northern side of the N4 / R148 between the start of the Proposed Scheme at Junction 3 of the N4 and the start of the R148 Chapelizod Bypass. As described in the Preferred Route Options Report, this cycle track was developed in response to the submissions made in the first round of public consultation about the poor quality of

cyclist facilities on the route, and in order to provide an appropriate standard of cyclist provision for the Primary Cycle Route 06 included in the GDA Cycle Network.

In response to the third round of public consultation, concerns were raised by the Hermitage Golf Club in respect of the impact of the two-way cycle track on their existing boundary with the N4, relating to the number of trees that would be lost. In particular, a suggestion was made that the two-way cycle track should be located on the south side of the N4 between the R136 Ballyowen Road and the existing pedestrian / cyclist bridge crossing the N4 immediately east of the golf club lands and west of the access to St Loman's Hospital.

Consideration was given to this suggested alternative design option, with the two-way cycle track on the south side of the westbound off slip of the N4 at Junction 3 and connecting to the draft Preferred Route proposals on the north side of the N4 east of the golf club via the existing pedestrian / cyclist bridge. This alternative design option would require the existing westbound service road and off-slip to be widened on the southern side over its full length to accommodate the two-way cycle track. This would require the removal of a significant line of mature trees that will impact the rear gardens of 21 residential properties adjacent to the N4 westbound off-slip, including land acquisition from 16 of these properties. In addition, land acquisition and associated tree loss would be required from a further seven residential properties and two commercial properties adjacent to the westbound service road either side of Ballyowen Lane. It is also noted that the existing pedestrian / cyclist bridge over the N4 is not of sufficient width to provide segregated facilities and would require a new parallel cyclist bridge for the two-way cycle track.

When compared to the draft Preferred Route Option, the significant adverse impact on property and comparable length of tree loss associated with the alternative design resulted in this design alternative being rejected.

Therefore, the Proposed Scheme retains the two-way segregated cycle track on the north side of the N4, as included in the draft Preferred Route Option. Consideration was also given to a suggestion that the existing bus lane, or one of the general traffic lanes, be removed to accommodate the two-way cycle track within the existing road reservation. The removal of the bus lane was discounted as it would be directly contrary to the scheme objectives, and the possible removal of a general traffic lane was also discounted on the grounds of road traffic demand and associated road safety.

Sections 3.4.1 to 3.4.4 of Chapter 3 of the EIAR discuss various design alternatives considered following each of the three rounds of public consultation. During this period, a number of design alternatives were considered that sought to minimise the impact on the Hermitage Golf Club.

Specifically, following the second round of public consultation and a meeting with representatives of the golf club, the cycle track alignment was amended to minimise the land take at the eastern end of the golf club lands close to two tee boxes. This is evidenced by Figure 2.1.10 which shows an extract from the scheme brochure presented as part of the second round of public consultation, as included in the Appendix to the Public Consultation Report 2018-2022 provided as part of the Supplementary Information provided with the application for the Proposed Scheme.

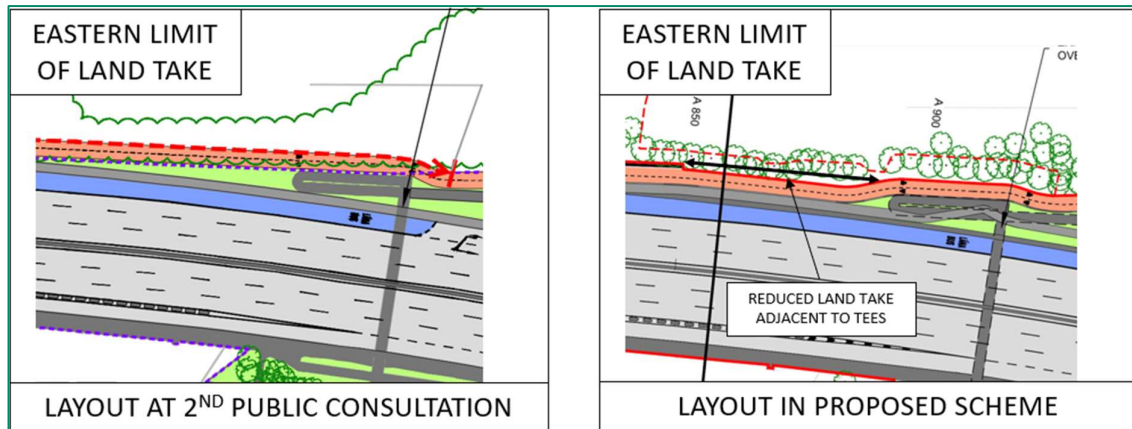


Figure 2.1.10: Reduction in land take at eastern limit of Hermitage Golf Club Lands

Following the third round of public consultation, at the western end of the new boundary wall the alignment of the proposed cycletrack was amended to avoid any impact on the existing entrance gate and barrier to the golf club. This is evidenced by Figure 2.1.11 which shows an extract from the scheme brochure presented as part of the third round of public consultation, as included in the Appendix to the Public Consultation Report 2018-2022..

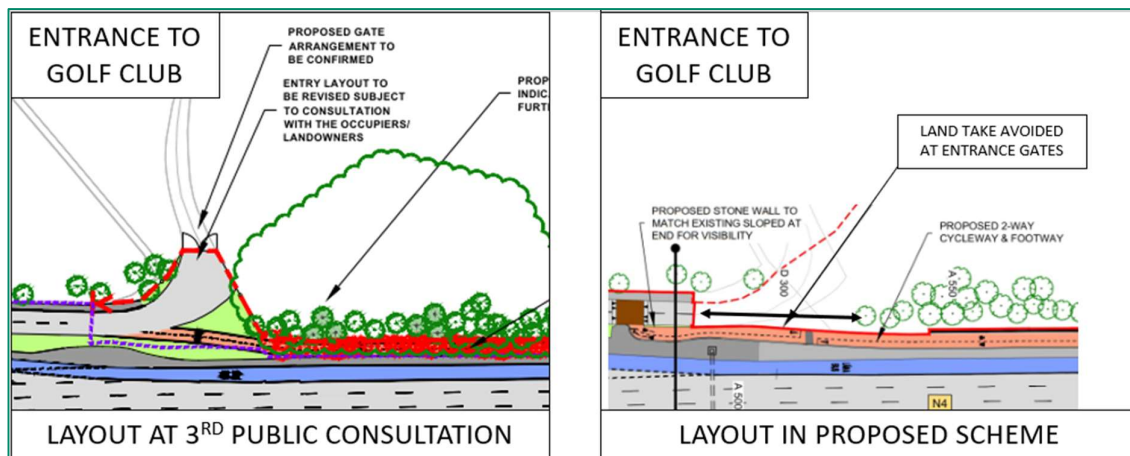


Figure 2.1.11: Avoidance of any impacts on the entrance to the Hermitage Golf Club

A number of design alternatives were also considered for the new boundary wall with a view to minimising the number of trees that would be lost. These design alternatives included different construction methods. As described in detail in Section 5.5.4.3 of EIAR Chapter 5 Construction, the final design included in the Proposed Scheme is the alternative that will result in the fewest number of trees lost and comprises a continuous piled retaining wall that will be able to be constructed entirely from the N4. In addition, the final design includes a substantial number of new trees replanted on the golf club's side of the new boundary wall to reinstate the visual boundary. As stated in Section 5.5.4.3, the works area for the new boundary wall for the Hermitage Golf Club will be accessed directly from the N4 such that *"Golf will continue to be playable on the holes adjacent to the temporary land acquisition during construction works."*

In summary, the various sections of Chapter 3 and Chapter 5 demonstrate comprehensively that due consideration was provided such that the least possible impact on the Hermitage Golf Club is created in order to achieve the Proposed Scheme's objectives.

2.2 Torcross Unlimited Company (Hermitage Medical Clinic)

2.2.1 Description of the Proposed Scheme at this location

In order to achieve the Proposed Scheme objectives along this section of the corridor, as described in section 4.5.1.1 of Chapter 4 of Volume 2 of the EIAR, Proposed Scheme Description, on the northern side of the N4 between the entrance to the Hermitage Golf Club and Junction 2 of the N4 a segregated two-way cycle track is proposed which will connect with the existing foot / cycle bridge over the N4 adjacent to the Mount Andrew estate / St Loman's Hospital access.

Eastwards of this location the two-way cycle track continues on the north side of the N4 and will require land acquisition from the Hermitage Medical Clinic. A retaining wall is proposed for the new boundary. The two-way cycle track will then run along the north side of the eastbound off-slip at Junction 2.

The relevant extract from the General Arrangement Drawings in the EIAR, Volume 3, Part 1 of 3, Chapter 4 Proposed Scheme Description is shown in Figure 2.2.1 and the proposed permanent and temporary land acquisition lines adjacent to the Hermitage Medical Clinic are shown in Figure 2.2.2.

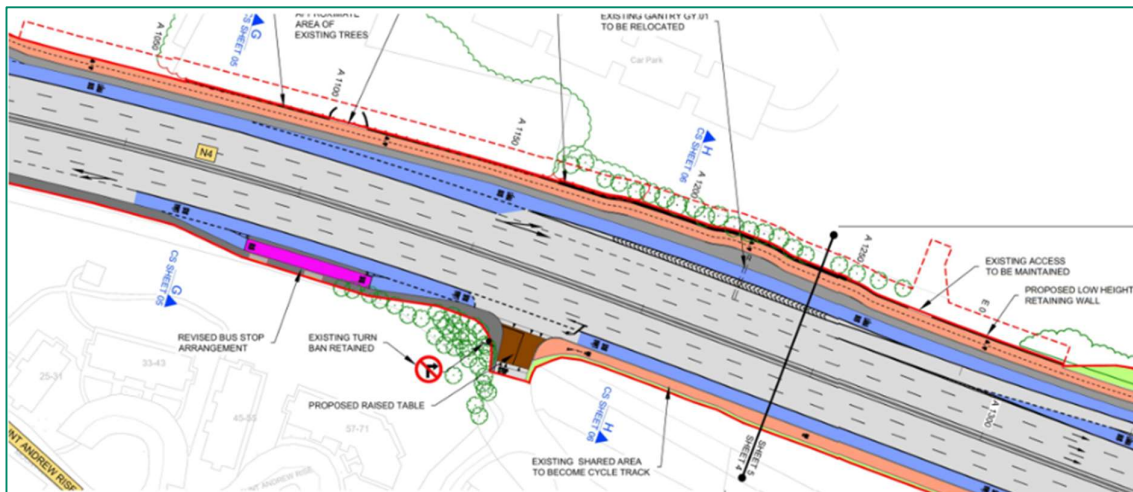


Figure 2.2.1: General Arrangement of Proposed Scheme adjacent to Hermitage Medical Clinic

The relevant extract from the CPO Deposit Maps showing the proposed permanent and temporary land acquisition areas at the Hermitage Medical Clinic are shown in Figure 2.2.2.

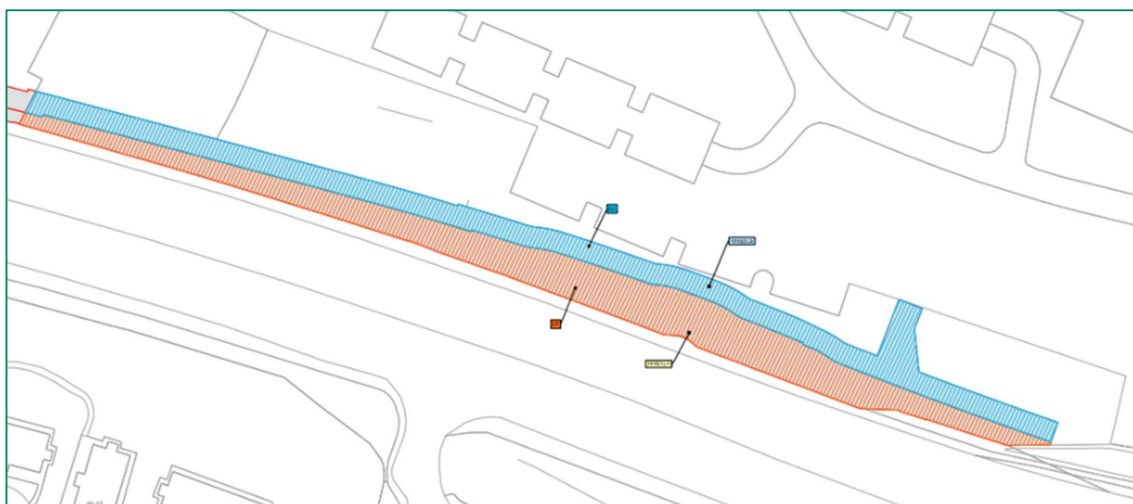


Figure 2.2.2: Extract from CPO Deposit Maps at Hermitage Medical Clinic

The proposed permanent and temporary land acquisition lines overlain on aerial photography are shown in Figure 2.2.3.

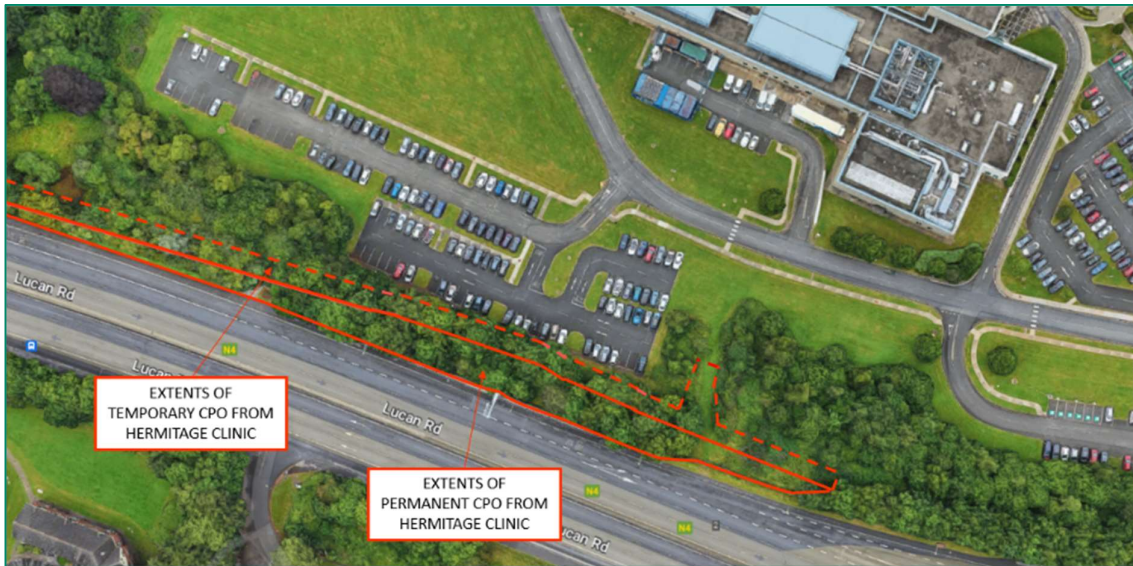


Figure 2.2.3: Proposed Land Acquisition lines adjacent to Hermitage Medical Clinic (Image Source: Google)

The relevant extract from the typical cross-sections in the EIAR, Volume 3, Part 1 of 3, Chapter 4 Proposed Scheme Description is shown in Figures 2.2.4 and 2.2.5.

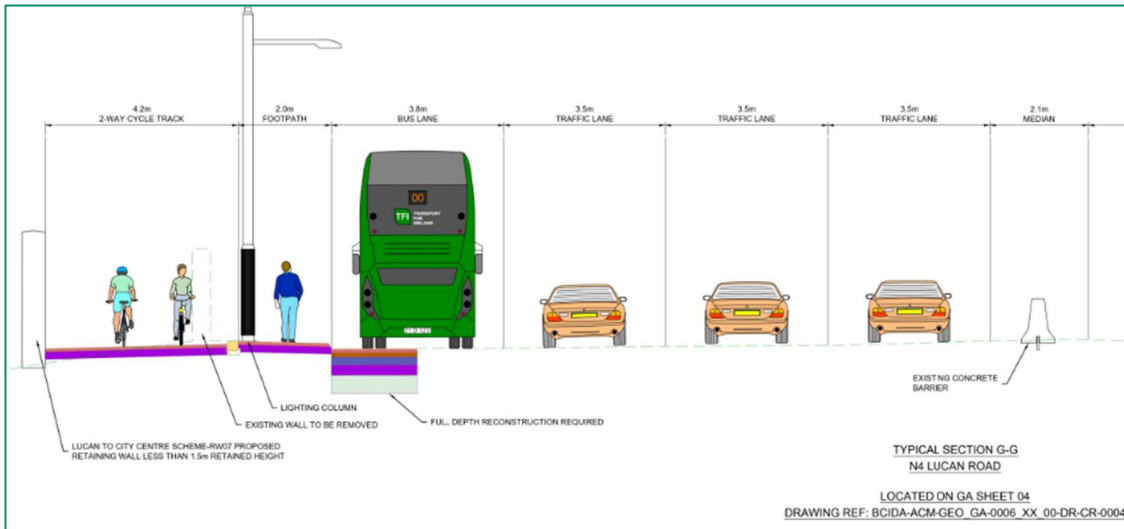


Figure 2.2.4: Typical Cross-section G-G Adjacent to the Hermitage Medical Clinic

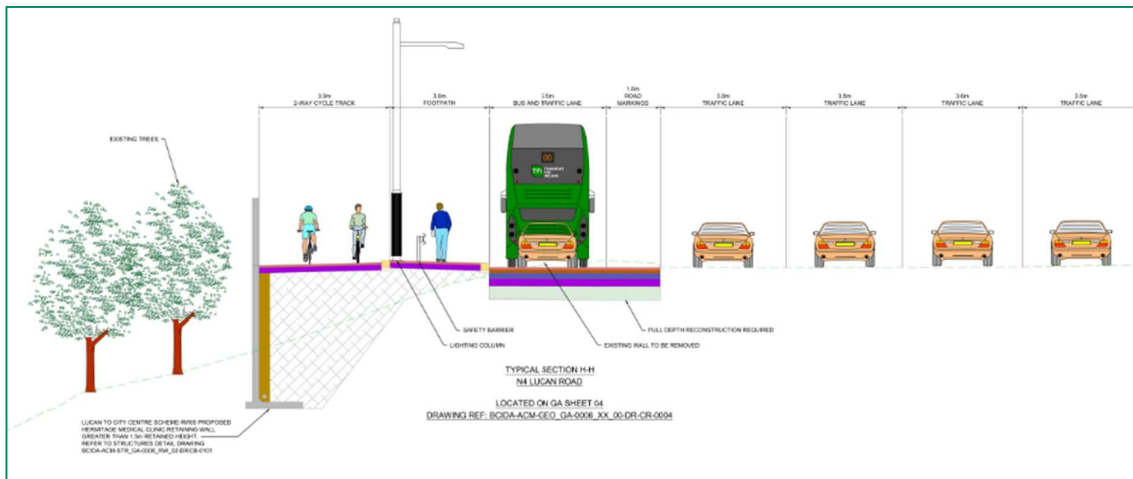


Figure 2.2.5: Typical Cross-section H-H Adjacent to the Hermitage Medical Clinic

2.2.2 Summary of the Points of Objection to the Confirmation of the CPO made by Matheson on behalf of Torcross Unlimited Company

This submission objected to CPO for the reasons summarised in the following section.

- i) The submission stated that the extents of the lands to be acquired are excessive, and unnecessary, for the implementation of the Proposed Scheme.
- ii) The submission stated that the Proposed Scheme (including the loss of mature trees) may be a Material Contravention of the SDCC Development Plan in respect of the “High Amenity” zoning of the land to be acquired and related policies. It also highlights that there is a significant view identified as to be protected in the Development Plan.
- iii) The submission states that the CPO would significantly impact the ability of the clinic to accommodate further planned expansion, highlighting that the lands between the existing clinic buildings and the N4 is the area where expansion is planned. Specifically, the submission asserts that the *“lands immediately adjacent to the proposed CPO land take are therefore essential to the future expansion of the Hermitage Clinic. If the proposed CPO land take proceeds, it would significantly impact the Hermitage Clinic and the ability to accommodate further expansion of the clinic’s facilities in the future.”*
- iv) The submission expressed the view that the concerns in relation to the National Guidelines for the Prevention of Nosocomial Aspergillosis have not been addressed by the NTA and, if the Scheme is approved, is seeking a robust planning condition requiring agreement between the Hermitage Medical Clinic and the NTA’s contractor in this regard.
- v) The submission highlighted concerns about the planting works to replace the lost trees and expressed concern in relation to the height of the retaining wall on the Hermitage Clinic side of the proposed boundary.
- vi) The submission states that the NTA has refused to consider provision of new bus stops / relocation of existing bus stops to facilitate improved access to the Hermitage Clinic.
- vii) The submission states that the NTA has not confirmed how the Proposed Scheme will interface with the proposed Metro West.

2.2.3 Responses to the Points of Objection

i. Extents of lands to be acquired

As described in section 4.5.1.1 of Chapter 4 of Volume 2 of the EIAR, Proposed Scheme Description, at this location the Proposed Scheme design includes a two-way cycletrack on the northern side of the N4, and a continuous bus lane at the eastbound diverge to Junction 2 of the N4. These design proposals are required to achieve the Proposed Scheme objectives and land acquisition is necessary to accommodate the design proposals. The need for these design proposals is set out below.

Two-way Cycletrack

Section 2.2.1.3 of Chapter 2 of Volume 2 of the EIAR, Need for the Scheme, sets out how there is a need to provide segregated cycle facilities in accordance with the proposed GDA Cycle Network Plan, which was adopted by the NTA in 2014. Specifically, it is noted that Primary Route 6 follows the route of the Proposed Scheme at this location.

Section 3.3.3 of Chapter 3 of Volume 2 of the EIAR, Reasonable Alternatives, describes how the consideration of alternative cycling route options was fundamental in the process of defining the Emerging Preferred Route. It is noted in Section 3.3.3. that the proposal to locate a two-way cycle track on the northside of the N4 provides the following benefits:

- It reduces the number of intersections with junctions and accesses to private properties;
- It provides all the necessary components of the GDA Cycling Strategy in this area;
- It introduces a new link between Ballyowen Lane and Ballyowen Road, providing a coherent network that links all main origin and destination zones / centres for cyclists, with minimal detours and interruptions minimised; and
- the introduction of a segregated two-way cycle track will eliminate the need for cyclists to use the shared area at Junction 2 of the N4 in the westbound direction.

Section 3.3.3 also states that the proposal for a two-way cycle track on the northside of the N4 is a significant improvement on the Emerging Preferred Route (EPR) proposals which contained detours and gaps in the westbound direction.

Section 3.3.3 concludes the Proposed Scheme provides a more direct route for westbound cyclists than the EPR proposals and also provides for several links from areas south of the N4 and R148 facilitating a more direct route for eastbound cyclists from those areas. It also concludes that the Proposed Scheme will reduce journey times for cyclists using the route by reducing the stop-start nature of the EPR proposals, which was raised as an issue at the first Non-Statutory Public Consultation.

In summary the two-way segregated cycle-track on the north side of the N4 at this location, and the associated permanent and temporary land take, is necessary for the Proposed Scheme to achieve the scheme's objectives.

Continuous Bus Lane

As shown in Figure 2.2.6 below the existing eastbound bus lane at the diverge for Junction 2 of the N4 is discontinuous, with a gap introduced by the parallel diverge lane for general traffic.

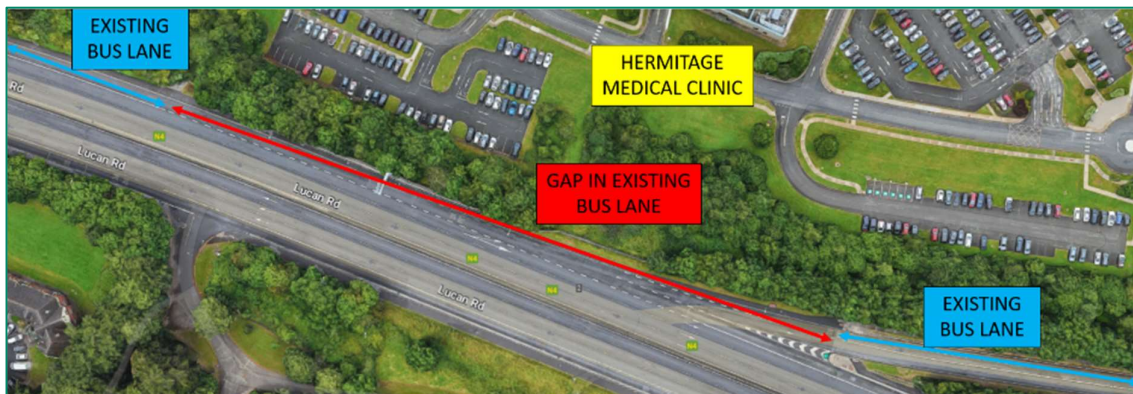


Figure 2.2.6: Existing discontinuous bus lane adjacent to Hermitage Medical Clinic (Image Source: Google)

As set out in Section 3.4.2 of EIAR Chapter 3, the draft Preferred Route Option was published in March 2020 as part of the second round of public consultation; and Section 3.4.3 sets out how this was followed by a third round of non-statutory public consultation on the updated draft Preferred Route Option took place from the 04 November to 16 December 2020, In both these draft versions of the Preferred Route Option a gap was retained in the bus lane at this location, see Figure 2.2.7. While this arrangement included land acquisition for the proposed two-way cycletrack, it did not require any further land acquisition for the bus lane.

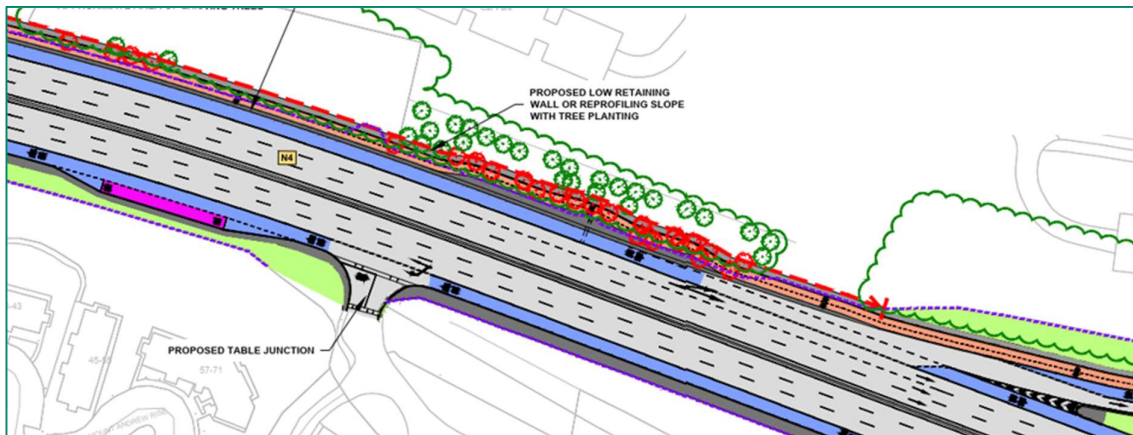


Figure 2.2.7: Draft Preferred Route Option for bus lane adjacent to Hermitage Medical Clinic

In July 2022 Transport Infrastructure Ireland (TII) published a new design standard DN-GEO-03087 entitled “Hard Shoulder Bus Priority Measures on Dual Carriageways and Motorways (July 2022)”. This standard is directly applicable for the N4 national primary road at this location where there already is a bus lane in lieu of a hard shoulder. In accordance with this design standard a continuous bus lane is required in situations where the bus lane follows the diverge lane, as is the case with the Proposed Scheme.

Therefore, the design alternative that formed the draft Preferred Route Option was no longer in accordance with the relevant design standard and the design was amended to include a continuous bus lane in the eastbound direction at the diverge to Junction 2 of the N4, as described in section 4.5.1.1 of Chapter 4 of Volume 2 of the EIAR, Proposed Scheme Description.

This layout is shown on General Arrangement Drawings in the EIAR, Volume 3, Part 1 of 3, Chapter 4 Proposed Scheme Description, see extract in Figure 2.2.8.

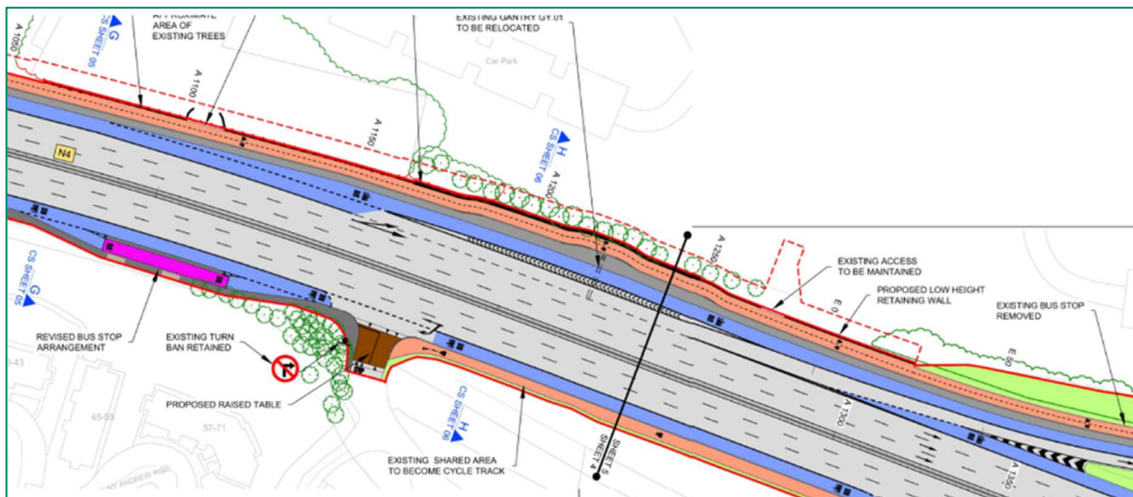


Figure 2.2.8: Proposed Continuous Bus Lane adjacent to Hermitage Medical Clinic

In summary the continuous bus lane on the eastbound carriageway of the N4 at this location, and the associated permanent and temporary land take, is necessary for the Proposed Scheme to comply with the appropriate design standard.

It is also noted that the design of the proposed retaining wall that will form the new boundary to the Hermitage Medical Clinic minimises the land acquisition; details of the retaining wall are shown in the Bridges and Major Retaining Structures Drawings in the EIAR, Volume 3, Part 2 of 3, Chapter 4 Proposed Scheme Description.

ii. Compliance with South Dublin County Development Plan

The submission stated that the Proposed Scheme (including the loss of mature trees) may be a Material Contravention of the SDCC Development Plan in respect of the “High Amenity” zoning of the land to be

acquired and related policies. It also states that there is a “*significant view*” identified to be protected in the Development Plan.

The potential effects of the Proposed Scheme on the High Amenity zoning and the significant view of the Liffey Valley in the vicinity of the Hermitage Medical Clinic have been fully assessed in the EIAR.

In addition, it is noted that South Dublin County Council (“**SDCC**”) set out in their submission to An Bord Pleanála (the “**Board**”) dated 11 January 2023 (which is on An Bord Pleanála’s website) that they “are of the view that it [the Proposed Scheme] aligns with the policies of the County Development Plan (2022-2028)”. SDCC set out the policies and objectives from their development plan which support the Proposed Scheme on pages 4 and 5 of their submission to the Board.

High Amenity Zoning

The Proposed Scheme is along the edges of the HA-LV zoning objective and will increase the width of an existing transport corridor that already forms part of the character of the area. The zoning objective does not place a moratorium upon the enhancement of roads infrastructure (such as in this case to provide bus and cycle facilities) within the area. Indeed, in regard to the zoning objective, the South Dublin County Council Development Plan 2022-2028 sets out a list of potential uses that are “*not permitted*” and within this substantial list road and cycle infrastructure is not included.

It is noted that the land acquisition required for the Proposed Scheme is a very small proportion of the lands within the wider zoning objective and therefore will not detract from the zoning objectives stated aims. Furthermore, with regard to the submission point raised regarding ‘Future Interface with the Proposed Metro West’ (refer to item vii below for the response), it is noted that the South Dublin County Development Plan 2022-2028 includes a ‘Long Term High Capacity Public Transport Route’ through the HA-LV zoning objective so the principle of such works within the zoning is considered acceptable.

In response to the assertion relating to the High Amenity zoning, EIAR Volume 2 Chapter 17, Landscape and Visual, Section 17.3.3.1 identifies SDCC policy NCBH7 and states that “*this relates to the protection of the Liffey River Valley and Special Amenity Area Order (SAAO). Zoning Objective ‘High Amenity – Liffey Valley’ (HA-LV) relates to designated land within the Liffey River Valley to the north of the N4, including parts of the study area, and states that development within this designation should be designed and sited to minimise visual impacts and preserve the amenity value of the river valley including its landscape value and views and vistas of the river valley.*”

In Section 17.4.3.2.5 of Chapter 17 of the EIAR it is assessed that the works at the Hermitage Medical Clinic will have an impact on the High Amenity designation for the Liffey Valley (HA-LV) “*with the removal of screening trees to the boundary with the N4, including a complete removal of a 40m section. However, landscape character at the clinic grounds has been significantly eroded by the presence of the car parking and road infrastructure within the grounds and the changes there will have a minimal effect on the character or amenity value of the HA-LV designation.*”

The Significance and Quality of Townscape / Streetscape / Visual Effects / Impacts on the Liffey Valley (HA-LV) are summarised in Table 17.7 in relation to the Construction Phase, with the impact assessed as Negative Moderate Temporary / Short-Term, and in Table 17.8 in relation to the Operational Phase, with the impact is assessed as Negative Moderate Short-Term. In Table 17.11 (page 49 of Chapter 17) in relation to the predicted operational phase (at 15 years post-construction) the impact is assessed as Neutral Slight / Moderate Short-Term.

Careful consideration has therefore been given to the zoning of this area and it has been appropriately assessed in the EIAR.

Significant View

In EIAR Volume 2 Chapter 17, Landscape and Visual, Section 17.3.3.1 identifies that the “*Development Plan indicates an objective to Protect and Preserve Significant Views from the eastbound lane of the N4 at the N4 / Fonthill Road Junction looking north towards the Liffey Valley, although this is now almost completely screened by roadside tree planting.*”

In relation to the Construction Phase, Section 17.4.3.2.7 states: “*Views towards the Liffey Valley are identified for protection north from Junction 2 of the N4, Fonthill. Although the designation exists, in reality the views from the N4 towards the valley are almost entirely screened by roadside tree planting therefore sensitivity is low. Works to the Hermitage Medical Clinic will occur in the foreground of the view with the removal of trees potentially opening up views slightly to the north.*” The section concludes that “*The sensitivity is low and the magnitude of change is low. The potential townscape / streetscape*

and visual effect of the Construction Phase on Preserved Views / Scenic Views is assessed to be Neutral, Slight and Temporary / Short-Term.”

In relation to the operational Phase, Section 17.4.4.2.7 states: “A view is identified for protection north from N4 at Junction 2, Fonthill, however, the existing view is almost completely screened by roadside tree planting and therefore sensitivity is low.” The section goes on to state that. “There is potential for a slight opening up of the view with removal of tree planting at the Hermitage Medical Clinic, although the boundary wall will be raised and proposed planting will reinstate this screening over the medium to long-term. The sensitivity is low and the magnitude of change is low. The potential townscape / streetscape and visual effect of the Operational Phase on preserved views / scenic views is assessed to be Neutral, Slight and Short-Term becoming Neutral, Imperceptible, Long-Term.”

Careful consideration has therefore been given to the significant view at this location and it has been appropriately assessed in the EIAR.

In summary, in relation to the two points raised in relation to the SDCC Development Plan the NTA are fully satisfied that the Proposed Scheme in no way materially contravenes the SDCC Development Plan.

Furthermore, as referred to above, South Dublin County Council are of the view that the Proposed Scheme aligns with the policies of the County Development Plan (2022-2028).

iii. Impact of the Proposed Scheme on future expansion

The submission asserts that the “lands immediately adjacent to the proposed CPO are therefore essential to the future expansion of the Hermitage Clinic. If the proposed CPO land take proceeds, it would significantly impact the Hermitage Clinic and the ability to accommodate further expansion of the clinic’s facilities in the future.”

In support of the above statement the submission refers to a planning permission for a multi-storey car park (MSCP), planning reference SD17A/0251. Figure 2.2.9 provides an extract from this permission and shows the location of the proposed MSCP. Figure 2.2.10 shows the location of the MSCP relative to the Proposed CPO.

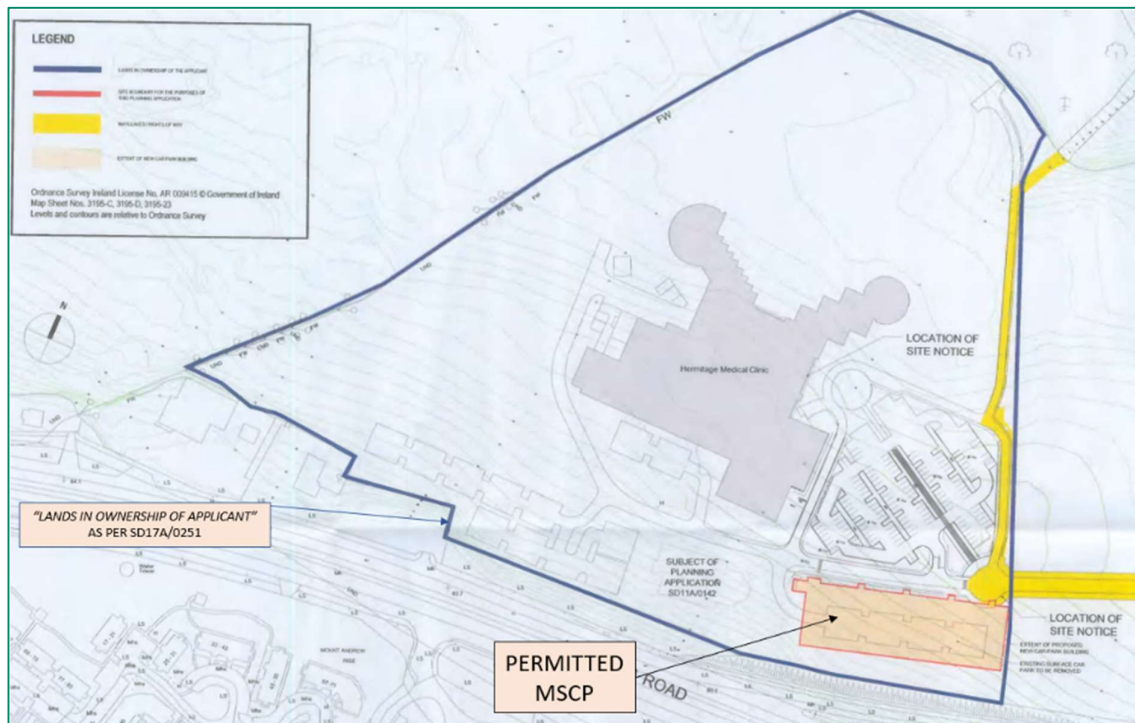


Figure 2.2.9: MSCP - Planning Permission SD17A/0251 (Image Source: SDCC Planning Portal)

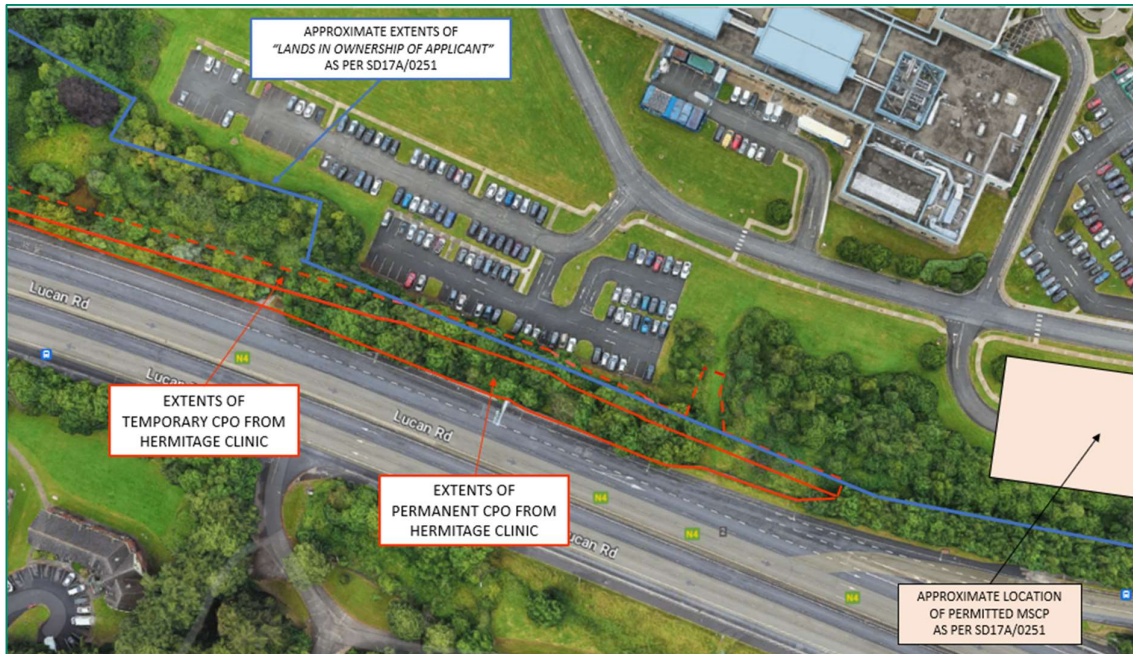


Figure 2.2.10: Location of Permitted MSCP Relative to Proposed CPO (Image Source: Google)

The above Figures show that the permitted MSCP is not adjacent to the proposed land acquisition included in the CPO.

In addition, the Proposed Scheme adjacent to the Hermitage Medical Clinic as described in Section 2.2.1 earlier; and as shown in Figure 2.2.10 the proposed permanent and temporary land acquisition is limited to the planted side slope supporting the N4 and does not impact the existing car park.

The existing car park and side slope supporting the N4 as viewed from the Hermitage Medical Clinic are shown in Figure 2.2.11.



Figure 2.2.11: Existing Hermitage Medical Clinic Car Park and Side Slope to N4 (Image Source: Google)

In Section 10.4.4.1.2.1 of Chapter 10 Population of the EIAR the landtake impacts on the Hermitage Medical Clinic are described as “Negative, Slight and Long-Term”.

In summary the submission does not provide any evidence to substantiate the statement “*If the proposed CPO land take proceeds, it would significantly impact the Hermitage Clinic and the ability to accommodate further expansion of the clinic’s facilities in the future.*” The submission makes the case that the MSCP under planning reference SD17A/0251 was to be located ‘**proximate**’ to the area of the CPO. The proposed development of the CPO lands is limited to the edges of the wider subject lands and in no way precludes the MSCP being constructed. Also, whilst the works for the Proposed Scheme

have a locational requirement to be situated adjacent to the existing road it is not understood why the future development of the wider subject lands is entirely dependent upon on development / extension being accommodated solely adjoining the N4, given the substantial overall size of these lands.

iv. Operation Concerns - Nosocomial Aspergillosis

The submission expressed the view that concerns in relation to the National Guidelines for the Prevention of Nosocomial Aspergillosis have not been addressed by the NTA and, if the Proposed Scheme is approved, is seeking a robust planning condition requiring agreement between the Hermitage Medical Clinic and the NTA's contractor in this regard.

In relation to the concern expressed about dust arising from the construction of the Proposed Scheme, Section 5.3.1.4 the EIAR Chapter 5 Construction describes the construction works included in Section 1d of the Proposed Scheme (N4 Junction 3 to N4 Junction 2) and states: "*The appointed contractor will liaise with the Hermitage Clinic in advance of the commencement of construction works to inform them of the proposed construction management arrangements. Refer to Chapter 7 (Air Quality) for more information on the dust mitigation measures which will be implemented by the appointed contractor. The expected construction duration will be approximately 18 months.*" It is noted that the 18 month duration relates to the full length of Section 1d of the Proposed Scheme (N4 Junction 3 to N4 Junction 2) and that the duration of works adjacent to the Hermitage Clinic will be significantly shorter than the overall 18 month period.

Section 7.4.2.1 of EIAR Chapter 7 Air Quality describes how the assessment of necessary dust mitigation measures has been undertaken in accordance with the Institute of Air Quality Management (IAQM) guidelines (IAQM, 2014) which outline the assessment criteria for assessing the impact of dust emissions from construction activities based on both receptor sensitivity and the number of receptors affected.

In relation to construction dust Section 7.2.4.4 identifies hospitals as a high sensitivity receptor and Section 7.5.1.1 states that the dust mitigation measures during the construction will include:

- *Public roads outside the Proposed Scheme will be regularly inspected for cleanliness and cleaned as necessary;*
- *Material handling systems and site stockpiling of materials will be designed and laid out to minimise exposure to wind. Water misting or sprays (or similar dust suppression methods) will be used as required if particularly dusty activities associated with the construction contract are necessary during dry or windy periods;*
- *During movement of dust-generating materials both on and off-site, trucks will be covered with tarpaulin and before entrance onto public roads, trucks will be checked to ensure the tarpaulins are properly in place; and*
- *The appointed contractor will provide a site hoarding of 2.4m height along boundaries where sensitive receptors are located, at a minimum, and at the Construction Compounds, which will assist in minimising the potential for dust impacts off-site.*

Section 11.4.3.4 of EIAR Chapter 11 Human Health makes direct reference to the Hermitage Clinic and the perceived risk of Nosocomial Aspergillosis. In this section, the risk has been deemed as negative, not significant and short-term, based on the nature of the proposed construction works, the duration of the works and the proposed mitigation measures for dust suppression in this area during the construction stage.

Within Table 5.2 (Mitigation and Monitoring Measures (Construction Phase) of EIAR Volume 4 Appendices Chapter Appendix A5.1 Construction Environmental Management Plan (CEMP), on page 9 it states that the "*In advance of construction works in the vicinity of the Hermitage Medical Clinic, the appointed contractor will liaise with the Hospital to inform them of the proposed construction management arrangements.*"

v. Loss of Trees and Proposed Retaining Wall

In relation to the concerns raised about the planting works to replace the lost trees as a consequence of the Proposed Scheme, Section 4.6.12 of EIA Chapter 4 Proposed Scheme Description provides an overview of the landscape design principles and approach. Section 4.5.1.8.1 of Chapter 4 describes the approach taken in respect of the Hermitage Medical Clinic boundary and states that “Existing boundary walls will be set back and replaced to accommodate a 2m wide footway, 3.25m two-way cycle way and a 0.65m wide buffer strip adjacent to the proposed boundary wall. The existing boundary walls are to be demolished, relocated and reconstructed incorporating additional retaining structure elements where required.” It goes on to state that “Existing trees along the boundaries will be retained where possible and replacement planting will be proposed where appropriate”.

The Landscaping General Arrangement Drawings in the EIA, Volume 3, Part 1 of 3, Chapter 4 Proposed Scheme Description include 11 new heavy standard trees (defined as 12-14cm girth, 300-350cm height in accordance with BS3936-1) in the area of temporary land acquisition at the location where existing trees are lost, see extract in Figure 2.2.12.

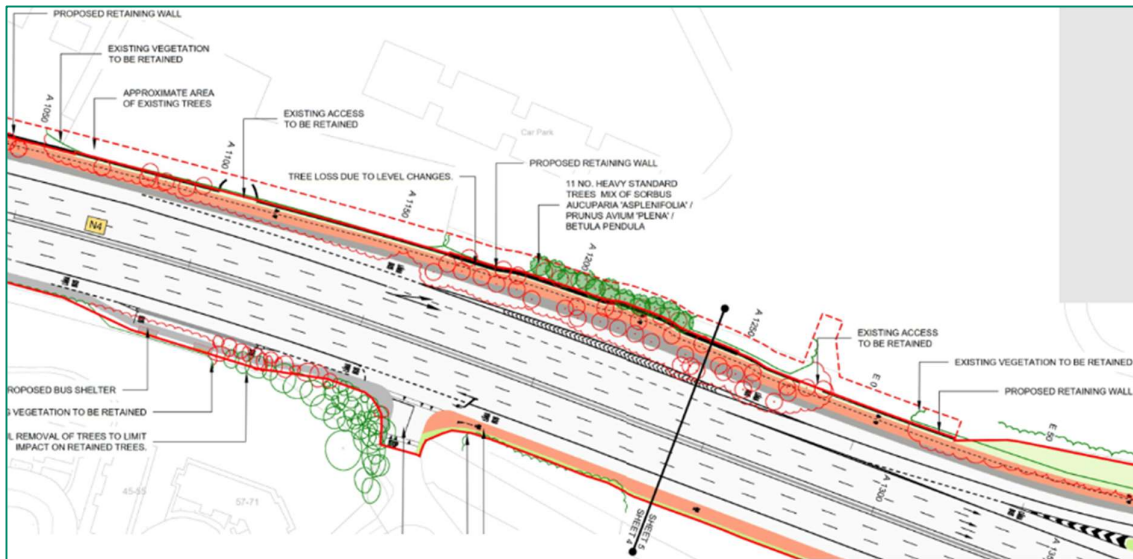


Figure 2.2.12: Extract from Landscape General Arrangement drawings at Hermitage Clinic

Section 17.4.4.2.7 of EIA Chapter 17 Landscape and Visual states that. “There is potential for a slight opening up of the view with removal of tree planting at the Hermitage Medical Clinic, although the boundary wall will be raised and proposed planting will reinstate this screening over the medium to long-term. The sensitivity is low and the magnitude of change is low. The potential townscape / streetscape and visual effect of the Operational Phase on preserved views / scenic views is assessed to be Neutral, Slight and Short-Term becoming Neutral, Imperceptible, Long-Term.”

In summary the NTA is satisfied that the landscaping included in the Proposed Scheme is appropriate and sufficient.

As regards the concern in relation to the height of the retaining wall on the Hermitage Clinic side of the proposed boundary, it is noted that the Bridges and Major Retaining Structures Drawings in the EIA, Volume 3, Part 2 of 3, Chapter 4 Proposed Scheme Description indicate that the maximum height of the front of the proposed retaining wall (ie facing the Hermitage Medical Clinic) is 4.5 to 5.0m. The reference in the submission to a height of over 8m appears to relate to the height to the underside of the foundation.

It is also noted that the height of the proposed wall on the roadside of the boundary is 2.0m, which is higher than the existing boundary wall, and was determined as the appropriate height to provide enhanced security to the site by preventing ease of access as highlighted and requested by the Hermitage Medical Clinic in the letter from their Chief Executive dated 1st December 2020.

In summary, the NTA is satisfied that the retaining wall included as part of the Proposed Scheme is of the appropriate height to minimise land acquisition and provide the necessary appropriate level of security for the Hermitage Medical Clinic.

vi. Servicing of Hermitage Clinic by Public Transport

The issue of the bus service routing within the Hermitage Medical Clinic property is outside the scope and objectives of the Proposed Scheme.

It is noted that the “Dublin Area Bus Network Redesign” was launched by the NTA in 2017 and looked at the existing bus network and the radial Core Bus Network identified in the GDA Transport Strategy. The output from the Bus Network Redesign was published in August 2018 and is currently being implemented. The C-Spine BusConnects services commenced in early 2022 and are routed along the route of the Proposed Scheme at this location, providing improved frequency and operating hours within walking distance of the Hermitage Medical Centre.

Further network improvements, including new orbital services (W2 & W4) which will provide improved connectivity to the South Dublin area are anticipated to commence next year, which will also assist in patients / staff accessing the Hermitage Medical Centre by public transport.

vii. Future Interface with Metro West

In response to the assertion that the NTA has not confirmed how the Proposed Scheme will interface with the proposed Metro West, it is necessary to indicate that Metro West is not included in the Transport Strategy for the Greater Dublin Area (2016-2035) that was current at the time that the application for approval of the Proposed Scheme was made to An Bord Pleanála. It is also necessary to indicate that Metro West is not proposed in the latest Transport Strategy for the Greater Dublin Area (2022-2042), which was published in January 2023.

South Dublin County Development Plan SM3 Objective 13 states: *“To support new Bus Rapid Transit (BRT) lines as a means of providing new public transport links, where rail options are demonstrated by the NTA not to be achievable over the period of the County Development Plan 2022-2028, including for the planned Metro (Metrowest) and along the Outer Ring Road and Adamstown-Citywest corridors”*

The reference to ‘Long Term High Capacity Public Transport Routes’ on the SDCC Development Plan zoning maps on the Road to the east of the main Hermitage facility also comments under ‘function’ ‘Future Provision’ which is understood to mean that there are no definitive plans but that the council seeks to maintain options generally along the corridor specified within the Plan for ‘Long Term High Capacity Public Transport’. This does not mean specifically MetroWest, it could form any number of public transport options and that has yet to be determined.

In regard to ‘Long Term High Capacity Public Transport’, SM3 Objective 7 is relevant and sets out the following: *“To support and encourage the NTA in investigating high-capacity public transport solutions for Dublin southwest, including examining the feasibility of Metro and/or Luas serving areas including Ballyboden, Ballycullen / Oldcourt, Firhouse, Kimmage, Knocklyon, Rathfarnham, South Tallaght, Templeogue and Terenure and the feasibility of linking the red and green Luas to maximise public transport links and permeability in Dublin southwest.”*

It is clear that the objective seeks to ‘investigate’ ‘Long Term High Capacity Public Transport Routes’ and supports the NTA in examining the feasibility of public transport options including Luas and Metro.

Thus, Metrowest is only cited in the context of SDCC supporting new Bus Rapid Transit where rail options (such as Metrowest) are demonstrated not to be achievable over the period 2022-2028. By not including Metrowest in the Transport Strategy for the Greater Dublin Area (2022-2042) the NTA has simply demonstrated that Metrowest is not achievable over the period 2022-2028, and indeed over the period 2022-2042.

In addition, it is noted that South Dublin County Council (“SDCC”) set out in their submission to An Bord Pleanála (the “Board”) dated 11 January 2023 (which is on An Bord Pleanála’s website) that they “are of the view that it [the Proposed Scheme] aligns with the policies of the County Development Plan (2022-2028)”.

2.3 Knockmaree Management Company

2.3.1 Description of the Proposed Scheme at this location

As described in section 4.5.2.1 of EIAR Chapter 4 Proposed Scheme Description, on the R148 Chapelizod Bypass between the junction with The Oval and the R833 Con Colbert Road junction, it is proposed to maintain a continuous bus lane and two general traffic lanes in each direction, as per the existing arrangement.

New bus stops with laybys are proposed where the R148 Chapelizod bypass crosses Chapelizod Hill Road. These will be connected to Chapelizod Hill Road via a combination of steps and ramps. The existing bridge carrying the R148 Chapelizod Bypass over Chapelizod Hill Road will be widened to accommodate the eastbound bus layby and retaining walls are proposed to support the road widening, steps and ramps. Additionally, the speed limit for the bus lanes along the full length of the R148 Chapelizod bypass will be reduced from 80km/hr to 60km/hr.

The relevant extract from the General Arrangement Drawings in the EIAR, Volume 3, Part 1 of 3, Chapter 4 Proposed Scheme Description is shown in Figure 2.3.1, with Knockmaree Apartments highlighted in yellow.

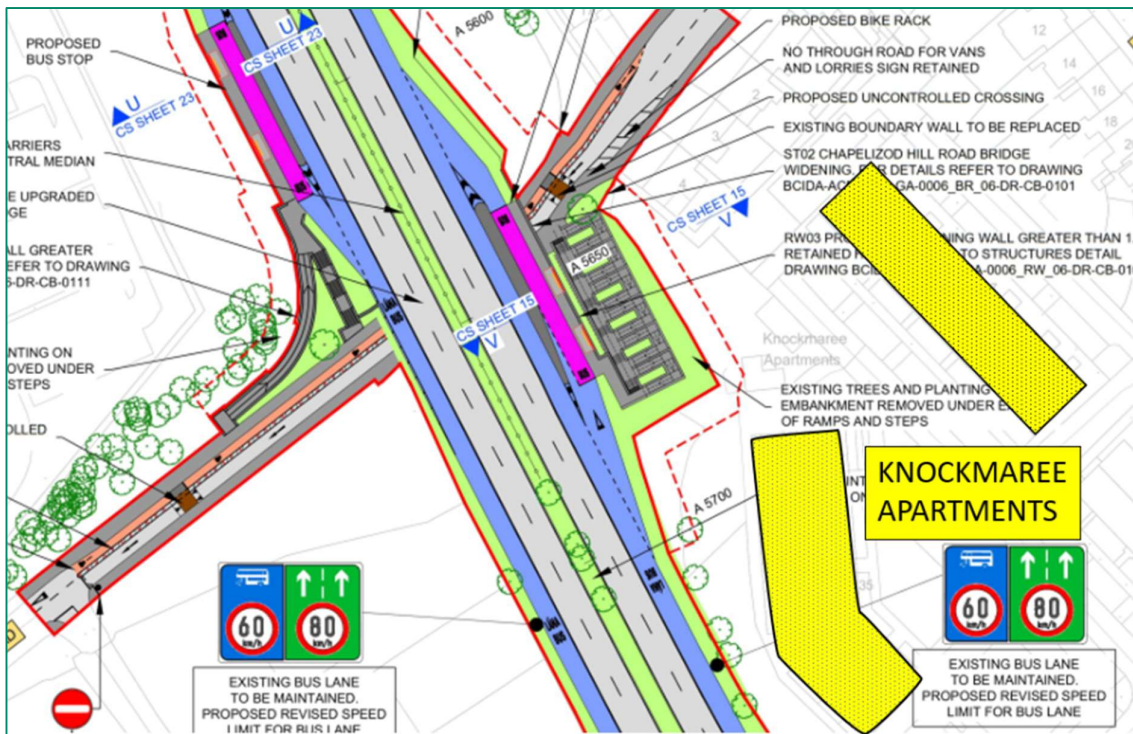


Figure 2.3.1: General Arrangement of Proposed Scheme at Knockmaree Apartments

The relevant extract from the CPO Deposit Maps showing the proposed permanent and temporary land acquisition areas at Knockmaree Apartments is shown in Figure 2.3.2, with Knockmaree Apartments highlighted in yellow.

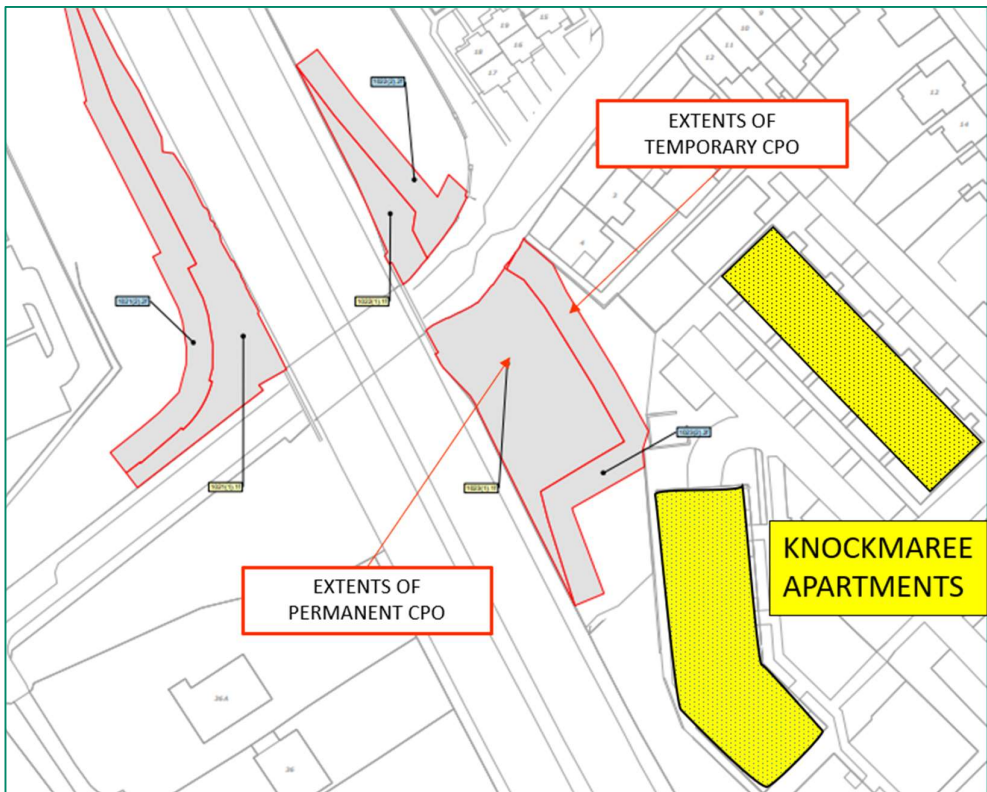


Figure 2.3.2: Extract from CPO Deposit Maps at Knockmaree Apartments

The proposed permanent and temporary land acquisition lines overlain on aerial photography are shown in Figure 2.3.3.



Figure 2.3.3: Proposed Land Acquisition lines adjacent to Knockmaree Apartments

As described in section 4.5.2.8 of EIAR Chapter 4 Proposed Scheme Description, relating to landscape and urban realm, ramps and steps are proposed to create connections from Chapelizod Hill Road to the new bus stops on the Chapelizod Bypass.

This has been achieved on the northern side of the bypass by utilising a switch back ramp arrangement with integrated steps. The ramp is integrated into the buffer planting edge using green wall systems to create a soft interface with the existing context while retaining existing tree planting. High quality paving will delineate the ramp access on Chapelizod Hill Road connecting the ramp access space and creating a newly defined area in the public realm. Ornamental planting within the ramp structure will create a pleasant walking area to the new bus stops on Chapelizod Bypass.

The walkway on the south side of the bypass will integrate into the existing landscape to create a gradual walking route and steps to the bus stop. Existing planting will be retained and supplemented to further enhance the walkway into the urban realm. Image 4.2 from section 4.5.2.8 of EIAR Chapter 4 is shown in Figure 2.3.4 and the relevant extract from the Landscaping General Arrangement drawings in the EIAR, Volume 3, Part 1 of 3, Chapter 4 is shown in Figure 2.3.5.



Figure 2.3.4: Proposed Landscape and Urban Realm adjacent to Knockmaree Apartments

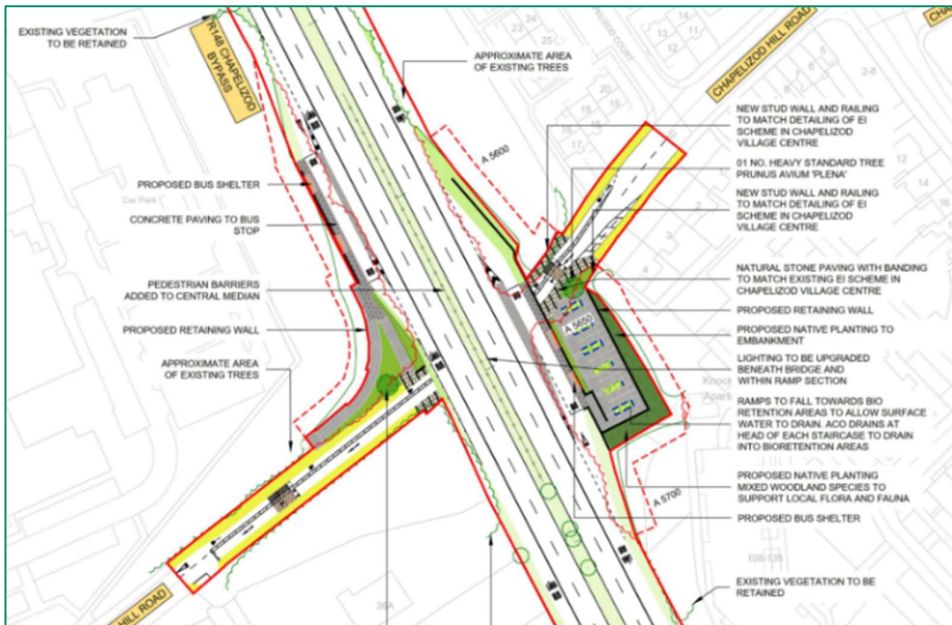


Figure 2.3.5: Extract from Landscaping General Arrangement Drawings

The relevant extract from the typical cross-section in the EIAR, Volume 3, Part 1 of 3, Chapter 4 Proposed Scheme Description is shown in Figure 2.3.6.

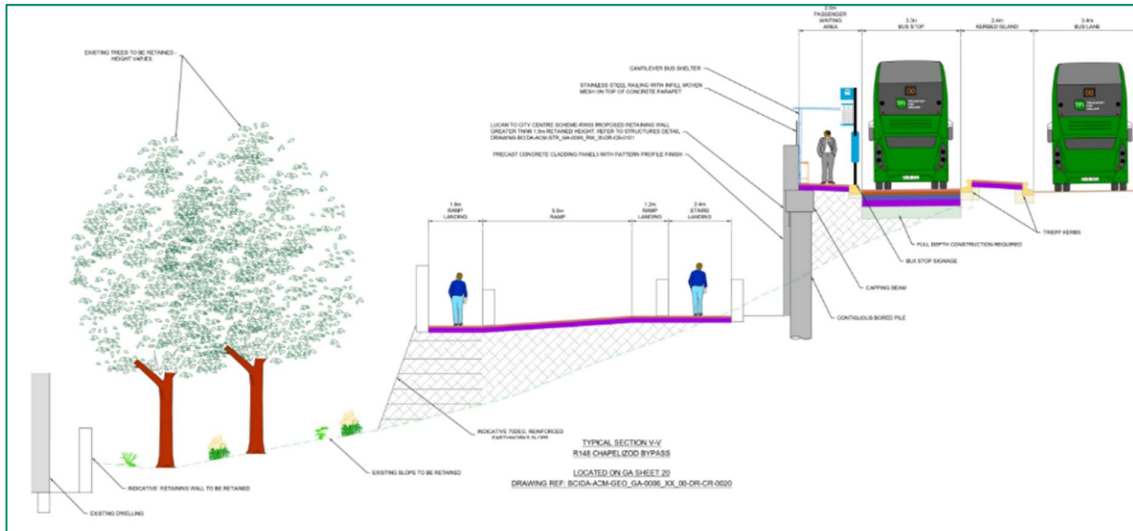


Figure 2.3.6: Typical Cross-section Adjacent to Knockmaree Apartments

The relevant figures from the EIAR, Volume 3, Part 3 of 3, Chapter 17 Landscape and Visual, Figure 17.2 Photo-montages are shown in Figures 2.3.7 and 2.3.9 below;

- Figure 17.2.0.4 View location (aerial photograph of the location)
- Figure 17.2.8.1 View 2 from the north – as existing
- Figure 17.2.8.2 View 2 from the north – as proposed



Figure 2.3.7: View Location



Figure 2.3.8: View from the north – as existing



Figure 2.3.9: View from the north – as proposed

2.3.2 Summary of the Points of Objection to the Confirmation of the CPO made by Marston Planning Consultancy on behalf of Knockmaree Management Company

This submission objected to CPO for the reasons summarised in the following section.

- i) The submission highlighted the scale and length of the proposed ramps and the existing steep slope to them from Chapelizod village. While recognising the benefits of providing access for all the submission questioned the demand from the village for the proposed bus services on the bypass and expressed the view that usage would be low. The submission suggested that a lift should be considered as an alternative solution and also questioned the consideration of alternatives in relation to the previous draft Preferred Route proposal for the ramps to be located on the north side of Chapelizod Hill Road, arguing that a greater number of residential properties are impacted by the Proposed Scheme than would have been impacted by the draft Preferred route proposals.
- ii) The submission expressed the view that the categorisation of the trees that will be lost has not been adequately considered within the EIAR and as a consequence *“the conclusions of the Arboricultural Impact Assessment within the EIAR are therefore deeply flawed.”*
- iii) The submission queries the findings of the landscape and visual impact assessment.
- iv) The submission raised concerns about the impacts during construction associated with the structural integrity of the Knockmaree apartments arising from the piling required for the bridge and embankment widening, construction noise, inadequate mitigation measures and working hours.
- v) The submission raised two areas for consideration in relation to Town Planning; the land use zoning being Z9 (to provide for Amenity / Open Space Lands / Green Network); and the Architectural Conservation Area on Chapelizod Hill Road which bounds the CPO lands.
- vi) The submission also raised concerns about reduced privacy for residents of Knockmaree Apartments as they believed they would be overlooked from proposed bus stop.
- vii) Concerns were also raised in relation to the noise impact on the apartments during operation.
- viii) The submission stated that the loss of trees and increase in traffic will cumulatively have the potential to reduce the air quality of the surrounding residential areas and requested that the bus stop be relocated away from the largest density of population.
- ix) Finally, the submission expressed the view that the Proposed Scheme would have a material and significant reduction in value of property adjoining and close to the application site.

2.3.3 Responses to the Points of Objection

i) Scale / Length of Ramps and Consideration of Alternatives

In relation to the scale and length of the proposed ramps, and the consideration of alternatives in relation to the previous draft Preferred Route proposal for the ramps to be located on the north side of Chapelizod Hill Road, Section 3.4.4.5 of EIAR Chapter 3 Reasonable Alternatives discusses the evolution of the design for the Chapelizod Hill Road Steps and Ramps as follows.

“The proposals for the Proposed Scheme has consistently included the provisions of new bus stops on the R148 Chapelizod Bypass from the Emerging Preferred Route through to the draft Preferred Route Option. Access to these bus stops from Chapelizod village was provided via ramps on the northern side of Chapelizod Hill Road. The design of these connections were developed as part of the normal design process and included preparation of a number of alternative layout arrangements for the ramps, as well as the addition of steps. The design alternatives sought to minimise the impact on the vegetation and trees on the existing R148 Chapelizod bypass embankment, while providing the shortest possible length of ramp without compromising the safety and security of the pedestrians and cyclists using the ramp. The solution adopted in the draft Preferred Route Option comprised a series of short ramps that interacted with the steps at each return to avoid any long isolated lengths of ramp while allowing for the inclusion of landscaping proposals.

A number of design alternatives were also considered for the widening of the existing R148 Chapelizod Bypass embankment with a view to minimising the number of trees that would be lost. These design alternatives included different construction methods. The final design included in the Proposed Scheme

comprises a reinforced earth embankment that will be able to be constructed entirely from the R148 Chapelizod bypass, thus minimising the impact on the existing trees and planting.

While the provisions of the new bus stops on the R148 Chapelizod Bypass was supported by some submissions made in the three rounds of public consultation, there were no submissions that specifically commented on the layout of the ramps and steps. However, following the third round of public consultation, the BusConnects Infrastructure team identified some concerns in respect of the visual impact of the proposed ramps on properties in Chapelizod Court. As a result, consideration was given to a further alternative design option that moved the ramps and steps to the southern side of Chapelizod Hill Road. The principles of this alternative maintained a series of short ramps that interacted with the steps at each return. This solution reduced the overall height, and hence length of the ramps as the height of the R148 Chapelizod Bypass reduces in a southerly direction. This had benefits for people using the ramps as well as requiring a reduced area and hence loss of trees and vegetation.

In addition to these end-use operational benefits, it was considered that the alternative design proposal would be better in terms of a reduced landscape and visual impact compared to the draft Preferred Route Option layout. It was also concluded that there would be no significant difference between the alternatives in terms of air quality, noise and biodiversity. Therefore this alternative design of the ramps and steps has been included in the Proposed Scheme.”

As described in Section 4.10.3 of the Preliminary Design report included as part of the Supplementary Information provided with the application for the scheme, the layout of the steps and ramps included in the Proposed Scheme are designed to have a maximum slope of 1 in 15 for sections of 5m, complying with Building Regulations Technical Guidance Documents K and M. The switch back design that interacts with the steps provides the most efficient layout and hence requires the minimum amount of landtake. In particular, as mentioned in Section 3.4.4.5 of Chapter 3, the overall length of the ramps is reduced in the Proposed Scheme from the layout on northern side of the road which was included in the draft Preferred Route Option. This reduced length arises from the height of the R148 Chapelizod Bypass being lower on the southern side of Chapelizod Hill Road, as shown on the Proposed Elevation of the Chapelizod Hill Road retaining wall shown on the Bridges and Major Structure drawings in EIAR Volume 3 Chapter 4 Part 2 of 2, see Figure 2.3.10. It is noted that the submissions states that the steps and ramps are “seeking to facilitate the c. 10m differential”. This is incorrect. The overall height of the ramps in the Proposed Scheme is approximately 5.0m, compared to approximately 7.0m for the previous alternative in the draft Preferred Route Option.

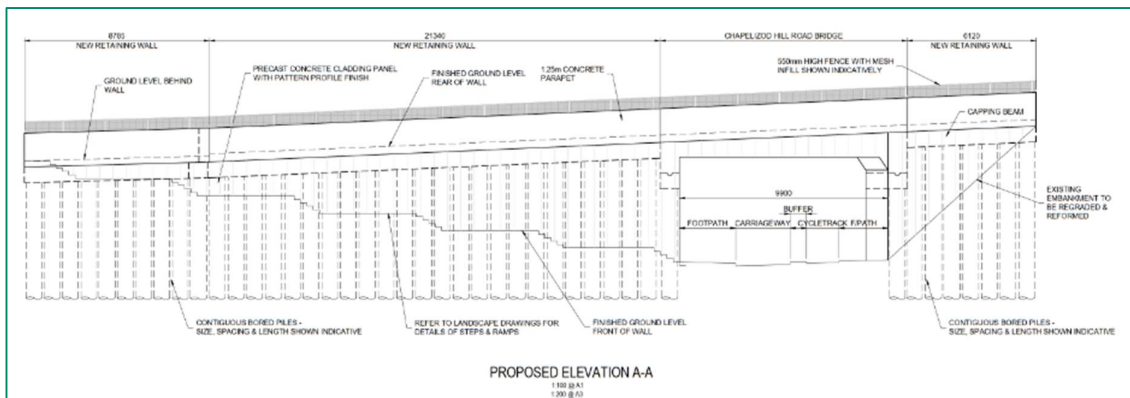


Figure 2.3.10: Elevation of Chapelizod Hill Road Retaining Wall

As identified in Section 3.4.2 of Chapter 3 Reasonable Alternatives, following the Draft Preferred Route Option Consultation (March 2020) one of the key changes included in the updated design of the Draft Preferred Route Option was that the new bus stops on Chapelizod bypass were lengthened, segregated and bus laybys introduced, with the existing bridge being widened on the north side.

Section 3.4.3 explains that further consideration following Updated Draft Preferred Route Option Consultation (November 2020) resulted in the new ramps and steps on Chapelizod Hill Road serving the proposed bus stops being moved to the southern side of the road, resulting in a reduction in height (reduced to 5.0m from 7.0m as described above) and a reduction in the overall length of the ramps from approximately 177m to approximately 138m, as well as reducing the overall area of the new facility, with environmental advantages associated with reduced earthworks, and reduced land-take.

As described in Section 3.4.4.5 this reduction in height and length had benefits for people using the ramps as well as requiring a reduced area and hence reduced loss of trees and vegetation. The Draft Preferred Route Layout and the Proposed Scheme layout are compared in Figure 2.3.11.

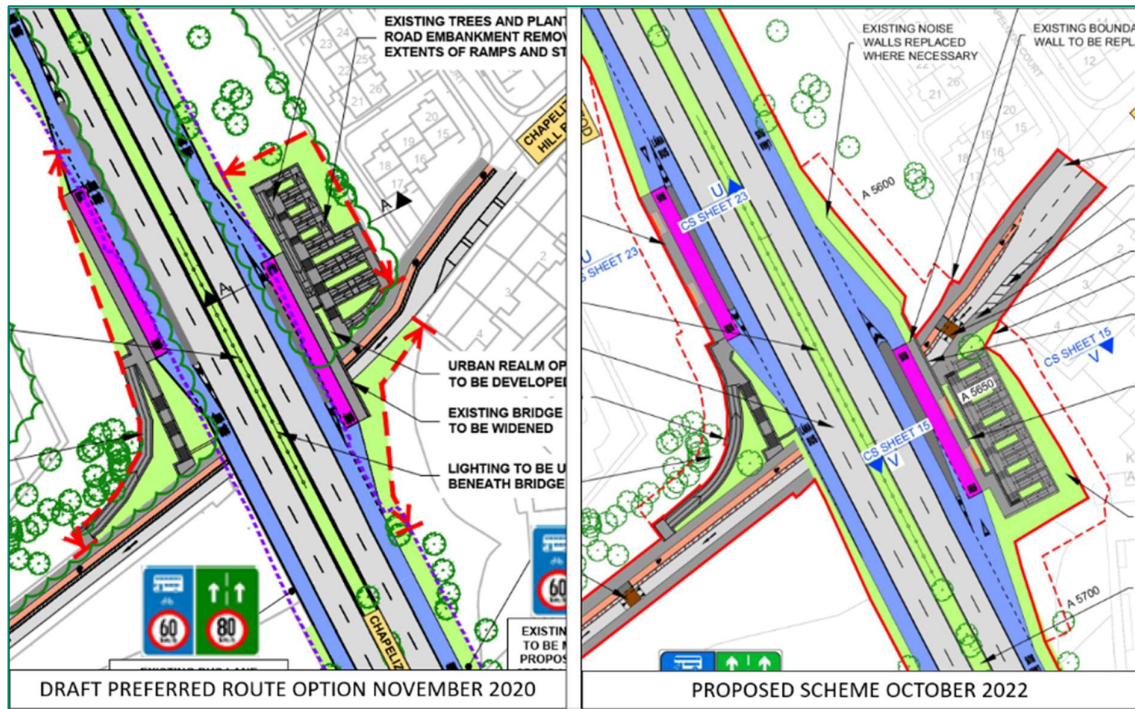


Figure 2.3.11: Draft Preferred Route Option compared to the Proposed Scheme

In respect of the existing gradient on Chapelizod Hill Road leading to the ramps and steps, it is accepted that the existing road has a steeper grade than the relevant design guidance recommends for new infrastructure. None the less, it is considered that the provision of steps alone would not be acceptable from the point of view of accessibility and that a pedestrian ramp is a necessary and appropriate alternative to steps, for example serving passengers with child buggies.

Provision of pedestrian ramps to each of the two bus stops is preferable to providing lifts as they allow for a free flow of movement of pedestrians that do not wish to avail of steps. There is also a far lower level of maintenance needed with a ramp as opposed to a lift, which avoids the circumstance of the steps being the only means of accessing the bus stops in the event of a mechanical failure.

In summary, the NTA is satisfied that of the various alternative layouts and arrangements considered, the layout of the ramps and steps included in the Proposed Scheme minimise the landtake and impact on the vegetation and trees on the existing R148 Chapelizod bypass embankment, while providing the shortest possible length of ramp for end user without compromising their safety and security.

ii) Arboricultural Impact Assessment

The submission asserts that “*the conclusions of the Arboricultural Impact Assessment Report, included as Appendix A17.1 of the EIAR are deeply flawed.*” The basis for this assertion is that there are no details on “*the species, quality, condition, spread or maturity*” of the trees that are to be removed in the vicinity of Knockmaree Apartments in the Arboricultural Impact Assessment Report.

The conclusions of the Arboricultural Impact Assessment Report Appendix A17.1, which relate to the entire route, are:

- i. One hundred and fifty four individual trees, 14 tree groups and one hedge are to be removed to facilitate the Proposed Development, this includes 57 individual trees and part of one tree group of moderate quality (Category B) and 97 individual trees, four full groups, one hedge and part of nine tree groups of low quality (Category C). No trees identified as high quality (Category A) are to be removed.

- ii. Twenty-five individual trees, two full groups and part of eight tree groups of uncategorised trees are also to be removed. Categorisation and further assessment of these trees will be completed as part of the detailed design tree surveys.
- iii. 17 trees of very low quality (Category U) are also recommended for removal to facilitate the Proposed Development and the future use of the scheme. These trees are arguably not suitable for long-term retention and their removal is justified regardless of the Proposed Development.
- iv. The design has been developed to minimise the impact on trees, and trees are proposed to be retained where careful construction methodologies will allow their retention. Trees are to be removed due to a direct conflict with the Proposed Development and where specialist methodologies or design tweaks are not considered practical to facilitate their retention.
- v. Tree loss will be mitigated with a robust and high-quality scheme of new tree planting as detailed in proposed Landscape General Arrangement Plans.
- vi. Soil structure for areas of new tree planting where the ground is currently unsurfaced will either be protected using ground protection or fenced exclusion zones; or the soil structure will be ameliorated or replaced following the completion of construction works on Site.

Figure 2.3.12 provides an extract of the Tree Protection Plan drawings included within Appendix A17.1 of the EIA Volume 4 Part 4 of Chapter 17 Landscape (Townscape) and Visual Appendices. While this indicates that the trees to be lost at this specific location were not categorised they were identified in the topographical survey and are hence accurately quantified. Categorisation of these trees will be completed as part of the detailed design tree surveys.



Figure 2.3.12: Extract of Appendix A17.1 Tree Clearance Plans at Chapelizod Hill Road

In addition, the area of land in question forms the embankment of R148 Chapelizod Bypass dual carriageway and in Section 12.4.3.4.1.2 of EIA Chapter 12 Biodiversity it is noted that *“A significant portion of mixed broadleaved woodland habitat (WD1) will be removed along Chapelizod Hill Road and the Chapelizod Bypass, to facilitate the provision of bus stop lay-bys and associated access ramps and stairs, and necessitating widening of the existing bridge deck. Considering the existing width of this habitat at this location, and the fact that a large portion of the habitat will be retained, thereby avoiding complete fragmentation, this impact will be significant at the local level only.”*

As such, while the category of each individual tree to be removed was not recorded, given that the location and number of trees / tree groups was identified by the topographical survey and that the area is identified as mixed broadleaved woodland habitat, the conclusions of the Arboricultural Impact Assessment Report are valid.

iii) Visual Impact Assessment

The submission queries the findings of the landscape and visual impact assessment; in particular the view is expressed that “*Table 17.8 that outlines the operational impact of the proposed development is in conflict with the main body of the assessment.*”

In EIAR Chapter 17 Landscape (Townscape) and Visual, Section 17.1 confirms that the assessment has been carried out according to best practice and guidelines relating to landscape (townscape) and visual assessment, and in the context of similar large-scale infrastructural projects. In relation to the Knockmaree apartments, the following sections of Chapter 17 are relevant and demonstrate that a detailed and comprehensive assessment has been undertaken of the impacts associated with the Construction and Operational Phase of the Proposed Scheme.

Section 17.4.3 reports the assessment of the Construction Phase and Section 17.4.3.1.2 provides the impact on Townscape and Streetscape Character. It states that: “*There will be substantial works at Chapelizod Hill Road with removal of existing woodland planting along the R148 Chapelizod Bypass, loss of portions of landscape areas and introduction of a new ramp structure and steps. The construction works will not alter the existing streetscape or townscape character along this section the Proposed Scheme but will result in a temporary increase in construction activity, presence of machinery and visual clutter, and a localised reduction of screening between the R148 and Knockmaree Apartments at Chapelizod Hill Road.*”

In summary Section 17.4.3.1.2 states that “*The magnitude of change in the overall baseline environment is low / medium and locally very high to areas around the R148 Chapelizod Bypass bridge at Chapelizod Hill Road.*”

The potential overall townscape / streetscape effect of the Construction Phase within this section is assessed to be Negative, Slight / Moderate and Temporary / Short-Term. The effect will be Locally Negative, Significant and Temporary / Short-Term around the R148 bridge at Chapelizod Hill Road.”

Section 17.4.3.2.8 assesses the townscape / streetscape and visual impact of the Construction Phase on residential properties will be Negative, Moderate / Significant and Temporary / Short-Term. It also notes that “*the construction of the Proposed Scheme will involve works to the wooded embankment of the R148 adjacent to Knockmaree Apartments. This will include construction of new built elements, and loss of woodland which has a screening function between the R148 and the properties, and this will result in visual impacts on Knockmaree Apartments. The sensitivity is high and the magnitude of change is high.*”

Section 17.4.3.2.9 considers the impact on trees and vegetation in the construction phase of the Proposed Scheme and notes that construction will require removal of existing trees and other plantings at specific locations along the road corridor. It identifies six notable locations along the route, one of which is Chapelizod Hill Road. Overall, the sensitivity is medium / high and the magnitude of change is high / very high. The potential townscape and visual effect of the Construction Phase on trees and plantings is assessed to be Negative, Significant / Very Significant and Temporary / Short-Term.

Section 17.4.4 reports the assessment of the operational phase and Section 17.4.4.1.2 considers the impact on Townscape and Streetscape Character, in which it states that “*The baseline townscape is of medium sensitivity and operation of the Proposed Scheme will involve some changes to townscape / streetscape characteristics, most notably at Chapelizod Hill Road where there will be continued effects from removal during construction of wooded areas to the edge of the R148 and the provision of a new access ramp and steps to the bus stops on the R148 Chapelizod Bypass. The negative impacts from tree loss at this location will be partially compensated by the proposed replacement planting scheme including some ornamental planting, as well as an improved paving scheme including natural stone.*”

Section 17.4.4.2.5 considers the impact on amenity designations. In respect of Knockmaree Apartments it states that “*The Operation Phase of the Proposed Scheme will include a substantial change to the small open space / wooded embankment adjacent to Knockmaree Apartments and to the western side of the R148 Chapelizod Bypass with continuing effects resulting from the substantial removal of trees and vegetation during the Construction Phase, and introduction of new ramps and steps to the bus stops on the R148. There will be an increase in pedestrian access and the provision of some replacement planting but there will be an overall increase in built form and a loss of vegetation, resulting in a negative effect. The effect will be neutralised with the growth of replacement planting over the long-term. The sensitivity is medium / high and the magnitude of change is medium / high. The potential townscape / streetscape and visual effect of the Operational Phase on this open space is assessed to be Negative, Significant and Short-Term reducing to Neutral, Moderate, Long-Term.*”

Section 17.4.4.2.8 considers the impact on properties and notes that the Proposed Scheme “*will involve changes to the wooded embankment of the R148 adjacent to Knockmaree Apartments. This will include*

introduction of new built elements, and loss of woodland which has a screening function between the R148 and the properties, and this will result in visual impacts on Knockmaree Apartments. The negative effect resulting from the loss of trees will be reduced over time with the growth of replacement planting over the long-term, but the screening effect will not be fully restored. The sensitivity is high and the magnitude of change is medium / high. The potential visual effect of the Operational Phase on these properties is assessed to be Negative, Moderate / Significant and Short-Term becoming Negative, Slight, Long-Term.”

Section 17.4.4.2.9 reports the impact on trees and vegetation: It notes that the magnitude of change is locally high at spaces adjacent to R148 Chapelizod Bypass/ Chapelizod Hill Road, although replacement tree planting will reduce effects over time. It states that *“The potential townscape / streetscape and visual effect of the Operational Phase on trees and plantings at spaces adjacent to R148 / Chapelizod Hill Road is assessed to be Negative, Significant, Short-Term becoming Negative, Moderate, Long-Term.”*

In relation to the query in the submission relating to Table 17.8, which provides a summary of the potential operational phase impacts (at 1 year post-Construction Phase), the following visual impacts are noted for this location:

- Amenity Designations: Open space adjacent to Knockmaree Apartments:
 - Baseline Sensitivity: Medium/High
 - Magnitude of Change: Medium / High
 - Significance and Quality of Impacts: Negative Significant Short-Term
- Properties: Permanent acquisition from Knockmaree Apartments
 - Baseline Sensitivity: High
 - Magnitude of Change: Medium / High
 - Significance and Quality of Impacts: Negative Moderate/Significant Short-Term
- Trees and Vegetation: Adjacent to R148 / Chapelizod Hill Road
 - Baseline Sensitivity: Medium / High
 - Magnitude of Change: High
 - Significance and Quality of Impacts: Negative Significant Short-Term

These statements made in Table 17.8 are identical to the statements made in the main body of the text of the EIAR and the submission is incorrect to assert that they are in conflict.

In terms of the predicted operational phase impacts, Table 17.10 (page 42 of Chapter 17) provides a summary (at 15 years post-construction) for this location:

- Amenity Designations: Open space adjacent to Knockmaree Apartments:
 - Significance and Quality of Impacts: Neutral Moderate and Long-Term
- Properties: Permanent acquisition from Knockmaree Apartments
 - Significance and Quality of Impacts: Negative Slight and Long-Term
- Trees and Vegetation: Adjacent to R148 / Chapelizod Hill Road
 - Significance and Quality of Impacts: Negative Moderate and Long-Term

The NTA is satisfied that the assessment has been carried out according to best practice and guidelines relating to landscape (townscape), that a detailed and comprehensive assessment has been undertaken of the impacts associated with the Construction and Operational Phase of the Proposed Scheme, and that the stated conclusions of the visual impact assessment are valid.

iv) Construction Impacts

Description of construction works

Section 5.3.2.3 of EIAR Chapter 5 Construction provides the following description of the construction works in Section 2c: Chapelizod Bypass, Chapelizod Hill Road Bridge. *“Section 2c is located on the Chapelizod Bypass, with works concentrated at the Chapelizod Hill Road Bridge, including a section of Chapelizod Hill Road. The existing Chapelizod Bypass and existing Chapelizod Hill Road Bridge will be*

widened to facilitate bus stop laybys on either side of Chapelizod Bypass at this location. As part of the structural works, a new pedestrian ramp and stair access will be constructed on each side of the Chapelizod Hill Road Bridge, incorporating two retaining walls (RW03 and RW04). Further information on the Chapelizod Hill Road Bridge Widening (Structure Reference: 02) construction methodology is provided in Section 5.5.4.1.2.

The construction activities at Section 2c along Chapelizod Hill Road will comprise reconstruction, resurfacing of the roads, footpaths, and cycle tracks, new kerbs, new road markings, new street furniture and landscaping works. Boundary walls (with railings) will be replaced along Chapelizod Hill Road either side of Chapelizod Hill Road Underbridge and finished to match the detailing of village improvement scheme in Chapelizod Village Centre. Noise walls along the northern side of Chapelizod Bypass at the Chapelizod Hill Road Underbridge will be replaced where necessary. Trees and vegetation on both sides of the Chapelizod Bypass, in the areas under the proposed ramps and steps will be removed. Utility (foul water infrastructure) diversions and / or protections will be required. The expected construction duration will be approximately six months.

The construction works on the rest of the Chapelizod Bypass will be limited to the installation of new road signage and road markings.”

Concern about structural integrity of Knockmaree arising from the construction vibration from piling

The submission expresses concern about the impact on the structural integrity of the apartments and requests that a full structural survey of the apartments is undertaken prior to the undertaking of the works.

Section 9.4.3.3 of EIAR Chapter 9 Noise and Vibration assess construction vibration states the following: “The potential for elevated levels of vibration at sensitive locations during construction activities associated with the Proposed Scheme is typically associated with surface breaking activities used for road widening and utility diversions. Depending on the method and equipment used, there is the potential for some vibration relating to piling operations. In terms of piling, low vibration methods involving bored or augured piles are proposed for the Proposed Scheme. This piling method significantly minimises the levels of both noise and vibration generated as it is a non-percussive piling technique. For the purposes of this assessment, the expected vibration levels during piling have been determined through reference to published empirical data. BS 5228-2 (BSI 2014b) includes measured magnitude of vibration associated with rotary bored piling using a 600mm pile diameter for bored piling into soft ground over rock (Table D.6, Ref. No. 106). Table 9.39 reproduces those associated with rotary bored piling using a 600mm pile diameter during varying aspects of the operation.”

Section 9.4.3.3 goes on to state that: “The vibration magnitudes outlined in Table 9.39 indicate that at distances of 5m, vibration magnitudes are orders of magnitude below those associated with any form of cosmetic damage to structurally sound and protected and historic buildings or structures (Refer to Table 9.11). [Note - Table 9.11 sets out the Recommended Construction Vibration Thresholds for Buildings]. The vibration magnitudes are also imperceptible to not significant in terms of human response to vibration at these distances. Referring to the vibration magnitudes above and Table 9.12, the impact is determined to be Negative, Imperceptible to Not Significant and Temporary.”

In Section 9.5.1.2, which addresses the vibration mitigation during the construction phase it states that: “On review of the likely vibration levels associated with construction activities, construction activities along the Proposed Scheme will not be expected to give rise to vibration that is either significantly intrusive or capable of giving rise to structural or cosmetic damage to buildings. Vibration from construction activities will be limited to the values set out in Table 9.11 to avoid any form of potential cosmetic damage to buildings and structures. Monitoring will be undertaken at identified sensitive buildings, where proposed works have the potential to be at or exceed the vibration limit values in Table 9.11.”

In the case of vibration levels giving rise to human discomfort it states in Section 9.5.1.2 that in order to minimise such impacts, the following measures shall be implemented during the Construction Phase:

- A clear communication programme will be established by the NTA to inform adjacent building occupants in advance of any potential intrusive works which may give rise to vibration levels likely to result in significant effects as per Table 9.12. The nature and duration of the works will be clearly set out in all communication circulars as necessary;
- Activities capable of generating significant vibration effects with respect to human response (as per Table 9.12) will be restricted to daytime hours only, as far as practicable; and
- Appropriate vibration isolation shall be applied to plant (such as resilient mounts to pumps and generators), where required and where feasible.

Table 9.44 provides a summary of the predicted construction phase impacts (post mitigation and monitoring). In relation to construction vibration, the predicted impact is no greater than negative, slight and temporary.

In summary the NTA is satisfied that vibration magnitudes at this location will be below those associated with any form of structural damage to structurally sound structures and will not be significant in terms of human response to vibration. The NTA is satisfied that appropriate mitigation is contained in the EIAR with regard to construction vibration and therefore do not consider that there is any justification for a structural survey of the apartments to be undertaken prior to the undertaking of the works.

Construction noise

The submission expresses the view that the predicted construction noise levels are extreme, that no modelling of the construction activities at the key works locations has been undertaken and that the EIAR claims that piling works in excess of 30m would not have a significant noise impact and “*underplays by a significant margin the impacts*” on Knockmaree.

Section 9.2.2 of Chapter 9 confirms that “*The assessment has been undertaken with reference to the most appropriate guidance documents relating to environmental noise and vibration*” and goes on to list these guidance documents.

Section 9.4.3.2 of Chapter 9 considers construction noise and Table 9.28 provides the predicted noise levels for Road Widening, Road Upgrade and Utility Diversion Construction Noise Calculations at Nearest NSLs. The total predicted cumulative CNL for these works at the closest NSL façades on Chapelizod Hill Road are between 73 to 83 dB LAeq,T in the absence of any noise mitigation. Making reference to the CNLs in Table 9.28 the potential noise impacts at the closest NSLs are assessed to range between Negative, Not Significant to Very Significant, and Temporary during the daytime evening and weekend periods in the absence of noise mitigation.

Section 9.4.3.2.5 of Chapter 9 considers piling and notes that in the M50 Junction 7 to R148 Con Colbert Road geographical section of the Proposed Scheme, the provision of the Chapelizod Hill Road bridge is proposed, which will require bored pile foundations. It also notes that the nearest NSLs are between 10m to 50m from the proposed bored piling works. It goes on to state: “*The indicative predicted cumulative noise levels for these works at the closest NSL façades are between 66 to 80 dB LAeq,T in the absence of any noise mitigation. Making reference to the CNLs in Table 9.34 the potential noise impacts at the closest NSLs range between Negative, Not Significant to Significant, and Temporary during the daytime period and Negative, Not Significant to Very Significant, And Temporary during the evening and weekend periods in the absence of noise mitigation.*”

Section 9.4.3.2.7 of Chapter 9 notes that the widening of the Chapelizod Hill Road bridge is proposed in the M50 Junction 7 to Con Colbert Road geographical section of the Proposed Scheme. It also notes that during the less intrusive works, the nearest NSLs are within 10m of the proposed works and states: “*The highest predicted cumulative noise level for these works is in the order of 80 dB LAeq,T in the absence of any noise mitigation. Making reference to the CNLs in Table 9.38 the potential noise impacts at the closest NSLs range between Negative, Moderate to Significant, and Temporary during the daytime period and Negative, Significant to Very Significant, and Temporary during the evening and weekend periods in the absence of noise mitigation*”.

The NTA is satisfied that the assessment of the impact of the construction noise has been assessed in accordance with the appropriate guidance documents and that appropriate modelling of the specific construction activities at the key works locations has been undertaken. The NTA is satisfied that the assessment of the construction noise impact on Knockmaree Apartments is valid and has been undertaken properly.

Mitigation Measures and Construction Working hours

The submission states that the EIAR appears to have failed to consider the changes in work practices in respect of residents now working from home and take issue with the effectiveness of the proposed mitigation measures. The submission requests that stricter construction hours are attached to any grant of permission.

The EIAR contains a comprehensive set of mitigation measures to minimise construction phase impacts, including noise impacts. Construction noise mitigation measures are set out in Chapter 9 in Volume 2 of the EIAR (and are also summarised in Appendix 5.1 (Construction Environmental Management Plan) in Volume 4 of the EIAR).

Section 9.5.1.1 of EIAR Chapter 9 states that: *“The appointed contractor will be required to take specific noise abatement measures to the extent required and comply with the recommendations of BS 5228–1 (BSI 2014a) and S.I. No. 241/2006 - European Communities (Noise Emissions by Equipment for Use Outdoors) (Amendment) Regulations 2006.”* It also states that *“During the Construction Phase, the appointed contractor will be required to manage the works to comply with the limits detailed in Section 9.2.4.1 using methods outlined in BS 5228–1 (BSI 2014a)”*

Section 9.5.1.1 also states that *“BS 5228–1 includes guidance on several aspects of construction site practices, which include, but are not limited to:*

- *Selection of quiet plant;*
- *Control of noise sources;*
- *Screening;*
- *Hours of work;*
- *Liaison with the public; and*
- *Monitoring.”*

Specifically, Section 9.5.1.1. states that *“The appointed contractor will put in place the most appropriate noise control measures depending on the level of noise reduction required at individual working areas (i.e. based on the construction threshold values for noise and vibration set out in Table 9.8: and Table 9.11).”* [Note - Table 9.8 of Section 9.2.4.1 of EIAR Chapter 9 sets out the Construction Noise Threshold (CNT) Levels for the Proposed Scheme].

Section 9.5.1.1.4 of Chapter 9 sets out the proposed working hours and states: *“It is envisaged that generally construction working hours will be between 07:00hrs and 23:00hrs on weekdays, and between 08:00hrs and 16.30hrs on Saturdays. Night-time and Sunday working will be required during certain periods to facilitate street works that cannot be undertaken under daytime / evening time conditions.”*

However, the contractor will also have to take account of sensitive receptors (in particular any nearby residential areas). Section 9.5.1.1.4 goes on to state: *“The planning of such works will take consideration of sensitive receptors, in particular any nearby residential areas. Construction activities will be scheduled in a manner that reflects the location of the site and the nature of neighbouring properties. Construction activities / plant items will be considered with respect to their potential to exceed construction noise thresholds at NSLs and will be scheduled according to their noise level, proximity to sensitive locations and possible options for noise control. In situations where an activity with potential for exceedance of construction noise thresholds is scheduled (e.g. road widening and utility diversions or activities with similar noise levels identified in Table 9.42), other construction activities will be scheduled to not result in significant cumulative noise levels”.*

In summary the NTA is satisfied that the noise abatement measures set out in the EIAR that the appointed contractor will be required to put in place to comply with the limits detailed in Section 9.2.4.1 using methods outlined in BS 5228–1 will result in appropriate and adequate mitigation measures in respect of construction noise impact at the Knockmaree Apartments.

v) Town Planning Considerations

The submission raised two areas for consideration in relation to town planning, namely the zoning of the land in question and proximity of the Chapelizod and Environs ACA.

Zoning Z9 Amenity / Open Space / Green Network

While Section 17.3.3.2 of EIAR Chapter 17 Landscape and Visual notes that land zoning beside the route of the Proposed Scheme at this location is *‘Objective Z9: To preserve, provide and improve recreational amenity and open space and green networks’*, the land to be acquired forms the planted embankments of the R148 dual carriageway, as stated in In Section 17.4.1.4.2 where it is noted that the Proposed Scheme includes *“Changes to woodland / planted slopes of N4 at Chapelizod Hill Road including provision of pedestrian access steps and ramps close to Knockmaree Apartments (Ch.A5550 to A5710)”*. In this context the land in question does not serve as an area of recreational amenity to the community.

In addition, the area of land in question forms the embankment of R148 Chapelizod Bypass dual carriageway and in Section 12.4.3.4.1.2 of EIAR Chapter 12 Biodiversity it is noted that *“A significant portion of mixed broadleaved woodland habitat (WD1) will be removed along Chapelizod Hill Road and the Chapelizod Bypass, to facilitate the provision of bus stop lay-bys and associated access ramps and*

stairs, and necessitating widening of the existing bridge deck. Considering the existing width of this habitat at this location, and the fact that a large portion of the habitat will be retained, thereby avoiding complete fragmentation, this impact will be significant at the local level only.”

Architectural Conservation Area (ACA)

Section 16.3.1.4.1 of EIAR Chapter 16 Architectural Heritage describes the Chapelizod and Environs ACA and states: *“The ACA comprises the historic core of Chapelizod Village with outlying housing developed through the eighteenth and nineteenth centuries. It is characterised by its varied building types of two, three and four storeys high on narrow fronted plots and clustered around an ancient church and a wedge-shaped market square. The ACA is of Regional importance and Medium sensitivity.”*

“The ACA is largely outside of the study area, with the Proposed Scheme following the Chapelizod Bypass to the south. There is an overlap where the ACA extends to include the gardens of 688-698 Old Lucan Road, and along Chapelizod Hill Road.”

Section 16.4.3.2 considers the construction phase impacts on the ACA and states the following. *“There are no construction works proposed within the ACA boundary, and no direct Construction Phase impacts are anticipated. The Chapelizod Bypass will be widened locally to accommodate new bus stop lay-bys, and new ramps and steps (and associated retaining walls), will be added to accommodate access between the bus stops and Chapelizod Hill Road. The new structures will be outside of the ACA boundary but removal of trees and the provision of the proposed bus shelters, the ramps and steps and the widening of the bridge on the north-east side of the Bypass will have a visual impact on the ACA and on 1-4 Chapelizod Hill (NIAH 50080360). There is also a potential for damage to these structures. The magnitude of impact on the ACA Medium. The potential Construction Phase impact on the Chapelizod and Environs ACA is Negative, Moderate and Long-Term.”*

Section 16.4.4.2.1 considers the operational phase and notes that *“The Chapelizod and Environs ACA is of Medium sensitivity. Two groups of houses (NIAH 50080353 and NIAH 50080360) are included in both the ACA and the study area, both of which are also included in the NIAH and are of Low sensitivity.*

Chapelizod Bypass will be widened locally to accommodate new bus stop lay-bys, and new ramps and steps (and associated retaining walls), will be added to accommodate access between the bus stops and Chapelizod Hill Road. The new structures will be outside of the ACA boundary but removal of trees and the provision of the proposed bus shelters, the ramps and steps and the widening of the bridge on the north-east side of the Bypass will have a visual impact on the ACA and on 1-4 Chapelizod Hill (NIAH 50080360).

Alternate options were explored for providing access between Chapelizod Hill Road and the Bypass. The proposed location allows for the retention of a band of the existing trees which will help to screen the ACA from the Proposed Scheme. The existing sloping ground will be utilised to mediate between the levels and to reduce the extent of excavation required. The magnitude of impact on the ACA is Low. The potential Operational Phase impact on the Chapelizod and Environs ACA is Negative, Slight and Long-Term.”

Section 16.4.4.3.1 considers the Liffey Valley Conservation Area: *“The Liffey Valley Conservation Area is of Medium sensitivity. There is an overlap between the Chapelizod and Environs ACA and the Liffey Valley Conservation Area. The potential impacts of the Proposed Scheme on the ACA are assessed above. There will be an Operational Phase impact on the Conservation Area as a result of the local widening of Chapelizod Bypass and the access infrastructure to the bus stops at the Chapelizod Hill Road. The magnitude of impact is Low. The potential Operational Phase Impact is Negative, Slight and Long-Term.”*

It is also important to note that following the implementation of mitigation measures, no significant architectural heritage impacts are predicted (including to the ACA or CA). Section 16.6 of Chapter 16 states that once the mitigation measures have been applied, there will be no significant residual impact on the architectural heritage resource as a result of the construction or operation of the Proposed Scheme.

In summary, the NTA is satisfied that the EIAR demonstrates that the two planning considerations highlighted by the submission have been appropriately considered and adequately assessed.

vi) Reduced privacy for residents of Knockmaree

The submission raises concern about a loss in privacy arising from passengers waiting at the bus stops overlooking the apartments.

As shown on the Bridges and Major Structure drawings in EIAR Volume 3 Chapter 4 Part 2 of 2, and as described in Section 8.3.2 of the Preliminary Design Report included as part of the Supplementary Information, a concrete parapet will be provided to prevent falls from height; a solid concrete parapet has been chosen to limit the environmental effects of glare from vehicles on the Chapelizod bypass on the surrounding residential area.

An additional 0.55m high steel fence with mesh infill will be provided to the top of the concrete parapet to minimise antisocial behaviour and people sitting on the parapet while waiting for an oncoming bus. This combination will allow passive surveillance of the bus stops from the road and steps / ramps to further minimise antisocial behaviour.

During a consultation meeting with the Knockmaree Management Company and the Knockmaree Residents Association in April 2021 concerns were raised about security and loss of privacy arising from passengers waiting at the bus stop over-looking the apartments. In response to these concerns the design was developed to include a 2.0m high wall to the outer edge of the ramps and steps, as shown in the typical cross-section in the EIAR, Volume 3, Part 1 of 3, Chapter 4 Proposed Scheme Description see Figure 2.3.13.

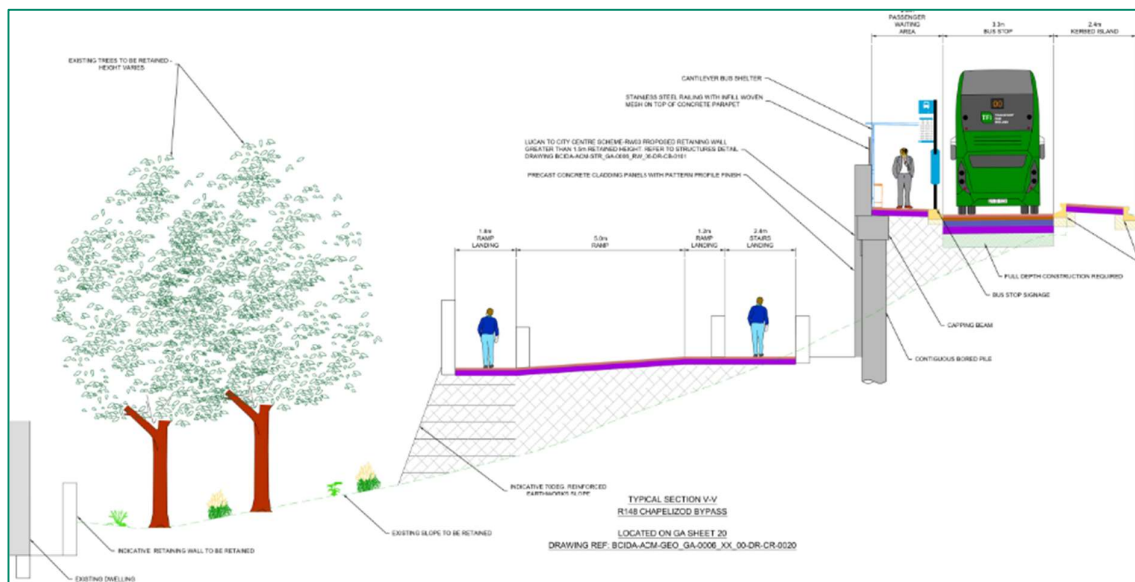


Figure 2.3.13: Typical Cross-section Adjacent to Knockmaree Apartments

Figure 2.3.14 shows the extents of the both the 1.25m parapet wall and 2.0m high solid wall relative to the Knockmaree Apartments which will maintain privacy and provide security.

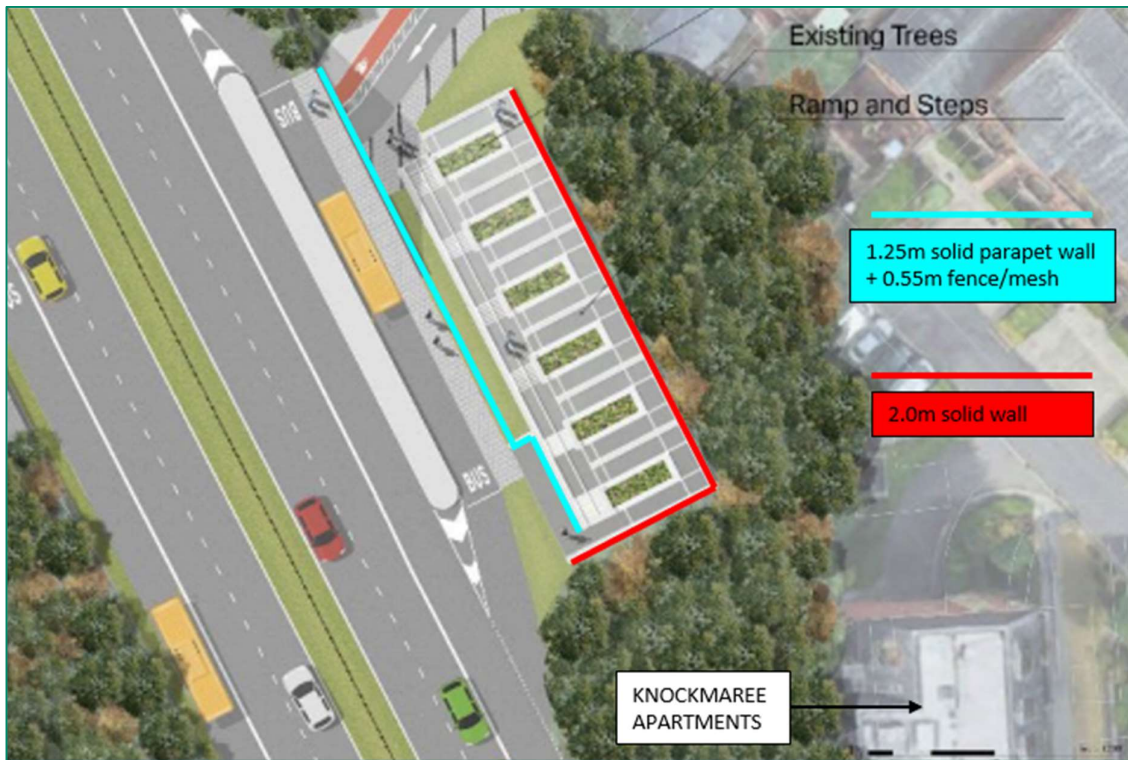


Figure 2.3.14: Proposed Walls Adjacent to Knockmaree Apartments

In summary, the NTA is satisfied that as a result of the proposed 2.0m high wall to the outer edge of the ramps and steps, the proposed native planting and the retained trees / planting outside of the lands to be acquired there will be no significant loss of privacy as a result of the Proposed Scheme.

vii) Noise impact on Knockmaree during operation

The submission asserts that impact of traffic noise following completion in 2028 has not been undertaken in relation to Knockmaree. It also asserts that the existing noise barriers on the R148, were erected prior to the construction of Knockmaree Apartments, are sub-standard as they are only 1.2m high.

Noise Impact during Operation

Within Section 9.2.1 of Chapter 9 Noise & Vibration of the EIAR, Table 9.1 identifies the noise sensitive locations (NSLs) along the Proposed Scheme.

Within the M50 Junction 7 to Con Colbert Road section of the Proposed Scheme the key noise sensitive receptors are predominately residential dwellings which bound the north and south of the R148 Palmerstown and Chapelizod Bypass and along the Old Lucan Road. Specifically, Table 1 lists the sensitive residential housing estates within 50 to 100m of the road edge and this list Knockmaree Apartments at Chapelizod Hill Road.

Section 9.4.4.3 of Chapter 9 relates to noise from bus stops and notes that new bus stops are proposed at Chainage A5+560, Chapelizod Bypass east, which have noise sensitive locations in proximity. It also notes that the closest noise sensitive locations to the new bus stop along the Chapelizod Bypass at Chainage A5+560 are residential properties along Chapelizod Hill Road. It goes on to state that: *“The new bus stop at this location have been designed to reduce noise impacts through the incorporation of a solid wall along the top of the ramp will be a minimum height of 1.2m. In addition, the existing noise barriers along the Chapelizod Bypass will be retained or replaced in proximity to the new bus stop.”* The Fencing and Boundary Treatment Drawings in EIAR Volume 3 Chapter 4 Part 1 of 3, see Figure 2.3.15 and the typical cross section in Figure 2.3.13 above confirm this.

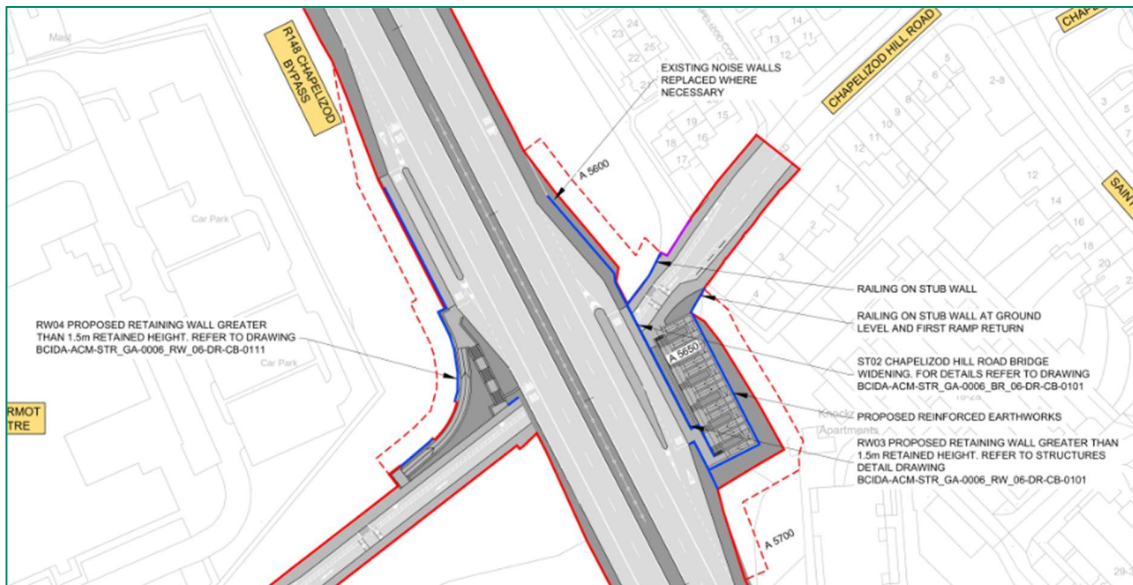


Figure 2.3.15: Extract from Fencing and Boundary Treatment Drawings

As discussed in Section 9.4.4.1.1.4, Of Chapter 9, during the proposed Opening Year (2028), the NTA forecast is for 94% of the city bus fleet to be EVs or HEVs. For the Design Year (2043), the city bus fleet is forecast to be 100% electric. The operation of electric and hybrid buses will eliminate ICE noise from buses accelerating, decelerating and idling at bus stops which is the dominant noise source. In addition, the characteristic of noise from EVs is subjectively less intrusive compared to those with ICE's and is masked to a much greater extent by surrounding road traffic. It is noted the bus stops along the Proposed Scheme will be used by other bus operators which may not transition to EV and HEVs over the same period as the city bus fleet. The volume of these buses along the Proposed Scheme will, however, be significantly less than the city bus fleet and hence, noise levels associated with these areas will not generate significant noise levels over the prevailing noise environment.

Taking into consideration the screening between the nearest NSL and the proposed bus stops in addition to the lower noise emissions from the proposed future bus fleet, the overall impact is determined to be negative, not significant and long term.

The NTA is satisfied that the operational noise impact of the Proposed Scheme on Knockmaree Apartments has been assessed appropriately and given the predicted impacts, no further noise mitigation measures are required at this location.

Existing Noise Barriers on R148

As mentioned above, no further noise mitigation is required at this location. Further, it is noted in Section 9.4.4.3 of Chapter 9 that *“the existing noise barriers along the Chapelizod Bypass will be retained or replaced in proximity to the new bus stop.”*

viii) Air Quality

The submission expresses the view that the loss of trees and increase in traffic will cumulatively have the potential to reduce air quality of surrounding residential areas.

Chapter 7 Air Quality of the EIAR sets out the methodology adopted to assess the impact on air quality of the Proposed Scheme. Table 7.1 identifies the air quality receptors within the study area between the M50 Junction 7 and Kennelsfort Road Junction, the key air quality sensitive receptors being predominately residential dwellings which bound the north and south of the R148 Chapelizod Bypass, which includes Knockmaree Apartments.

Section 7.4.3.3 of Chapter 7 identifies the significance of the changes in the concentration (between the Do Minimum and Do Something in 2028) of each of the ambient receptors in the context of the TII significance criteria (TII 2011). As shown in Table 7.33 and Figure 7.3 in Volume 3 of the EIAR the majority of modelled receptors, including receptor location AQ250 at Knockmaree, are estimated to experience a negligible impact due to the Proposed Scheme in terms of the annual mean NO2 concentration.

As shown in Table 7.33 and Figure 7.4 in Volume 3 of the EIAR the Proposed Scheme will be overall neutral in terms of annual mean PM10 concentrations, with all receptors experiencing a negligible impact.

As shown in Table 7.33 and Figure 7.5 in Volume 3 of the EIAR the Proposed Scheme will be overall neutral in terms of the annual mean PM2.5 concentration with all receptors experiencing a negligible impact.

In accordance with the EPA Guidelines (EPA 2022) the impacts associated with the Operational Phase traffic emissions pre-mitigation are overall neutral and long-term.

Section 7.4.3.3 goes on to note that the predictions reported are based on conservative assumptions regarding background pollutant concentrations and the improvement in vehicle emission rates. 2019 background pollutant concentrations have been used to represent 2028 and are likely to be lower by the opening year than in 2019. In addition, older fleet projections were used in the assessment and it is noted that a larger proportion of electric vehicles is planned by the opening year than has been modelled. In reality, total concentrations (and magnitude of change) are likely to be lower than those reported in the EIAR.

In terms of the residual air quality impacts in the operational phase due to the Proposed Scheme, Section 7.6.2 states the following:

“The air dispersion modelling assessment has found that the majority of all modelled receptors are predicted to experience negligible impacts due to the Proposed Scheme, and beneficial impacts are also estimated along the length of the Proposed Scheme. The number of receptors where an exceedance of the NO2 limit value is predicted decreases as a result of the Proposed Scheme. In 2043 all receptors are expected to have ambient air quality in compliance with the ambient air quality standards for the DM and the DS scenarios. Environmental Impact Assessment Report (EIAR) Volume 2 of 4 Main Report Lucan to City Centre Core Bus Corridor Scheme Chapter 07 Page 45 Overall it is considered that the residual effects as a result of the Proposed Scheme’s operation will be neutral and long-term.”

In summary, the EIAR demonstrates that there will be no adverse impact on air quality at this location as a result of the operation of the Proposed Scheme.

ix) Property value.

The submission submits that the Proposed Scheme will have a material and significant reduction in property value.

The aim of the Proposed Scheme is to provide enhanced walking, cycling and bus infrastructure on this key access corridor in the Dublin region, which will enable and deliver efficient, safe, and integrated sustainable transport movement along the corridor. The Proposed Scheme will greatly improve transport services for all that live along the route of the Proposed Scheme, including Knockmaree Apartments, by providing significantly improved sustainable transport options.

Furthermore, it is an objective of the Proposed Scheme to ensure that the public realm is carefully considered in the design and development of the transport infrastructure and seek to enhance key urban focal points where appropriate and feasible. The Proposed Scheme includes a public realm improvement on Chapelizod Hill Road as part of the proposals.

EIAR Chapter 10 ‘Population’ includes Appendix A10.2 ‘Economic Impact of the Core Bus Corridors’. Section 3 on page 14 of the appendix discusses the envisaged impact of the Proposed Scheme on property prices along the route. The conclusion reached is that in overall terms the public realm improvements planned by the NTA may in fact lead to an increase in value of both residential and retail property prices, especially in the community centres along the corridors.

The report notes: *“Evidence shows that investing in public realm creates nicer places that are more desirable for people and business to locate in, thereby increasing the value of properties in the area. The evidence suggests that all public realm improvements generate value, regardless of the size of the investment or the neighbourhood. Residents along the corridors will also see a measurable increase in their quality of life, with evidence showing that residents are willing to pay more for an improved public realm.”*

Based on the above text, it is believed that a combination of improved connectivity as a result of the dedicated public transport infrastructure being rolled out by the Proposed Scheme as well as public realm improvements, will not have a negative impact on values of the residential properties within the Knockmaree Apartments.