

An  
Bord  
Pleanála

**Board Direction**  
**BD-017168-24**  
**ABP-314988-22**

At meetings held on 25/07/2024 and 01/08/2024, the Board considered:

- (a) the objections made to the Compulsory Purchase Order,
- (b) the documents and submissions on file generally, and
- (c) the report of the Inspector.

The Board decided to confirm the Order with the following modifications, based on the reasons and considerations set out below.

Confirm the Compulsory Purchase Order based on the reasons and considerations set out below, with the following modification:

- (1) Plot references 1006(1).1f, 1006(2).2f, 1007(1).1f and 1007(2).2f as set out in the deposit maps and relevant schedules submitted with the Compulsory Purchase Order shall be omitted from the final Order.

**Reason:** The extent of land acquisition (temporary and permanent), and private rights of way (to be acquired and to be temporarily restricted or otherwise interfered with) set out in the above listed plot references on the submitted deposit maps would have a disproportionate and excessive effect on the landowner and cannot be justified in the context of the extent/scale of works proposed at this location and the evidence of justification for those works.

## **Reasons and Considerations**

Having considered the objections made to the compulsory purchase order, the report of the Inspector, the purpose of the compulsory purchase order to facilitate the delivery of Bus Connects; sustainable public transport and active travel infrastructure, and also having regard to:

- (i) the constitutional and Convention protection afforded to property rights,
- (ii) the substandard infrastructure provided for along the existing route,
- (iii) the strategic nature of the scheme in the context of reducing carbon emission and climate change,
- (iv) the community need, and public interest served and overall benefits, including benefits to a range of road users to be achieved from use of the acquired lands,
- (v) the proportionate design response to the identified need,
- (vi) the suitability of the lands and the necessity of their acquisition to facilitate the provision of the Bus
- (vii) Connects Sustainable Public Transport and Active travel Scheme,
- (viii) the policies and objectives of the Dublin City Development Plan 2022-2028 and the South Dublin County Development Plan 2022-2028,
- (ix) the submissions made to the Board, and
- (x) the report and recommendation of the Inspector,

the Board considered that, subject to the modifications set out above, the acquisition of these lands on a permanent and temporary basis, restriction, acquisition and interference of rights of way, by the National Transport Authority, as set out in the compulsory purchase order and on the deposited maps, is necessary for the purpose

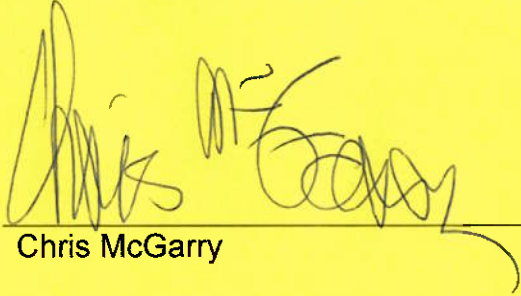
stated, which is a legitimate objective being pursued in the public interest, and that the CPO and its effects on the property rights of affected landowners are proportionate to that objective and justified by the exigencies of the common good.

In reaching this conclusion, the Board agrees with and adopts the analysis contained in the report of the Inspector who conducted the assessment of the objections.

**Note:** The Board noted the recommendation of the inspector to alter/reduce the extent of the land identified for temporary acquisition related to plot reference 1007(2).2f, and the recommendation not to make any other modifications at this location. However, the Board was not satisfied, on foot of a full consideration of the totality of the documentation on file, that the proposed changes and interventions proposed by the applicant to insert an element of two way cycle lane on the northside of the N4 from the entrance gate of the Hermitage Golf Club (west), to the existing foot and cycle bridge over the N4 9 (east), could be justified on the basis of the evidence submitted. Specifically, the Board considered that the nature and extent of works proposed at and within the Hermitage Golf Course was not sufficiently analysed and described, such that it could be determined as reasonable that the golf course could continue in full operation during construction works, due to issues such as ground works, change to/loss of tree belt, without clarity as to the final form of tree planting in this area. In addition, the Board could not be satisfied on the basis of the information submitted with the application, that the large-scale safety netting proposed at this location was necessary, by reference to clear and indisputable evidence of such a requirement. On this point the Board considered that the proposed netting would constitute a significant visual impact at this location, and in the absence of definitive evidence confirming necessity, this visual impact would not be justified.

The Board did not consider that a two-way cycle lane at this location might never be appropriate at this location. Rather, it was considered that, as currently proposed in the application, the information was not sufficient to enable a fair and appropriate determination as to the consistency of this element of the proposed scheme with the protection of established uses. In addition, the visual impact of the proposed netting was considered significant. Furthermore, the Board did not consider that these concerns could be resolved by the attachment of a condition and considered instead that any future development here should be subject to a separate consent exercise. In this regard it was determined that the element of two-way cycle lane, described at condition no. 2 above, should be omitted from the overall permitted development.

**Board Member:**



Chris McGarry

**Date:** 15/08/2024