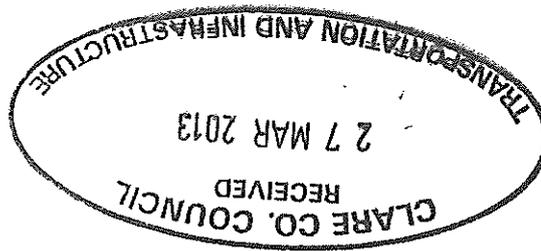
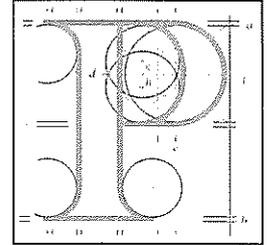


Our Ref: 03.KA0025

An Bord Pleanála

Your Ref:



Barry Keating
Clare County Council
Planning, Land Use & Transportation
Áras an Contae
New Road, Ennis
Co. Clare

Date: 26 MAR 2013

Re: Clare County Council (Killaloe Bypass, Shannon Bridge
Crossing and R494 Improvement Scheme) Compulsory
Purchase (Roads No. 1) Order 2012.

Dear Sir,

An order has been made by An Bord Pleanála determining the above mentioned case. A copy of the order is enclosed.

Please be advised that under section 217(5) of the Planning and Development Act, 2000, as amended, a notice of the making of a confirmation order should be published or served as the case may be in accordance with section 78(1) of the Housing Act, 1966 within 12 weeks of the making of the order.

In accordance with section 146(5) of the Planning and Development Act, 2000, as amended, the Board will make available for inspection and purchase at its offices the documents relating to the decision within 3 working days following its decision. In addition, the Board will also make available the Inspector's Report and the Board Direction on the decision on its website (www.pleanala.ie). This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

The attachment contains information in relation to challenges to the validity of a decision of An Bord Pleanála under the provisions of the Planning and Development Act, 2000, as amended.

If you have any queries in relation to the matter please contact the undersigned officer of the Board.

Please quote the above mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

Yours faithfully,

Kieran Doherty
Executive Officer
Direct Line: 01-8737248

CH20.LTR

Judicial review of An Bord Pleanála decisions under the provisions of the Planning and Development Act, 2000, as amended

A person wishing to challenge the validity of a Board decision may do so by way of judicial review only. Sections 50, 50A and 50B of the Planning and Development Act 2000 (as substituted by section 13 of the Planning and Development (Strategic Infrastructure) Act 2006, as amended/substituted by sections 32 and 33 of the Planning and Development (Amendment) Act 2010 and as amended by sections 20 and 21 of the Environment (Miscellaneous Provisions) Act 2011) contain provisions in relation to challenges to the validity of a decision of the Board.

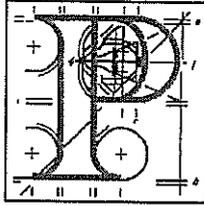
The validity of a decision taken by the Board may only be questioned by making an application for judicial review under Order 84 of The Rules of the Superior Courts (S.I. No. 15 of 1986). Sub-section 50(6) of the Planning and Development Act 2000 requires that subject to any extension to the time period which may be allowed by the High Court in accordance with subsection 50(8), any application for judicial review must be made within 8 weeks of the decision of the Board. It should be noted that any challenge taken under section 50 may question only the validity of the decision and the Courts do not adjudicate on the merits of the development from the perspectives of the proper planning and sustainable development of the area and/or effects on the environment. Section 50A states that leave for judicial review shall not be granted unless the Court is satisfied that there are substantial grounds for contending that the decision is invalid or ought to be quashed and that the applicant has a sufficient interest in the matter which is the subject of the application or in cases involving environmental impact assessment is a body complying with specified criteria.

Section 50B contains provisions in relation to the cost of judicial review proceedings in the High Court relating to specified types of development (including proceedings relating to decisions or actions pursuant to a law of the state that gives effect to the public participation and access to justice provisions of Council Directive 85/337/EEC i.e. the EIA Directive and to the provisions of Directive 2001/12/EC i.e. Directive on the assessment of the effects on the environment of certain plans and programmes). The general provision contained in section 50B is that in such cases each party shall bear its own costs. The Court however may award costs against any party in specified circumstances. There is also provision for the Court to award the costs of proceedings or a portion of such costs to an applicant against a respondent or notice party where relief is obtained to the extent that the action or omission of the respondent or notice party contributed to the relief being obtained.

General information on judicial review procedures is contained on the following website, www.citizensinformation.ie.

Disclaimer: The above is intended for information purposes. It does not purport to be a legally binding interpretation of the relevant provisions and it would be advisable for persons contemplating legal action to seek legal advice.

An Bord Pleanála



LOCAL GOVERNMENT (NO. 2) ACT, 1960

HOUSING ACT, 1966

PLANNING AND DEVELOPMENT ACTS, 2000 to 2011

Clare County Council

APPLICATION received by An Bord Pleanála on the 10th day of February, 2012, from Clare County Council pursuant to section 76 of, and the Third Schedule to, the Housing Act, 1966 as extended by section 10 of the Local Government (No. 2) Act, 1960 (as substituted by section 86 of the Housing Act, 1966) and the Planning and Development Acts, 2000 to 2011, for confirmation of a compulsory purchase order authorising compulsory acquisition of lands and entitled the **(KILLALOE BYPASS SHANNON BRIDGE CROSSING AND R494 IMPROVEMENT SCHEME) COMPULSORY PURCHASE [Roads No. 1] ORDER, 2012.**

DECISION

CONFIRM the above compulsory purchase order subject to the modifications set out in the Schedule hereto and for the reasons and considerations set out below.

REASONS AND CONSIDERATIONS

Having considered the purpose of the compulsory acquisition as set out in the form of the compulsory purchase order, the provisions of the Clare County Development Plan 2011-2017, the East Clare Local Area Plan 2011-2017 and the North Tipperary County Development Plan 2010-2016, the objections made to the compulsory purchase order and not withdrawn, and the report and recommendation of the person appointed by the Board to report on the case, it is considered that, subject to the modifications set out below, the acquisition by the local authority of the lands in question is necessary for the

purpose stated and that the objections cannot be sustained having regard to the said necessity.

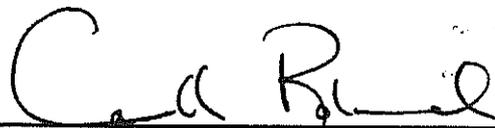
SCHEDULE

1. The compulsory purchase order shall be modified as described in the errata and proposed changes to the schedule and deposit maps submitted to An Bord Pleanála at the oral hearing on the 18th day of October, 2012, and those subsequently received by An Bord Pleanála on the 19th day of December, 2012 and the 8th day of January, 2013.

Reason: To take account of updated information in respect of land ownership and other matters.

2. (1) Plot reference number 101a.102 (an open section of a culvert within the curtilage of the Ballyvally gate lodge) shall be acquired on a temporary basis rather than on the proposed permanent basis and shall be returned to the landowner when the works are completed. This plot shall be transferred from Part 1 to Part III of the schedule attached to the compulsory purchase order.
- (2) Plot reference numbers 189a.102, 189a.104, and 189a.105, and plot reference numbers 190a.103 and 190a.104 (located within the site known as Shannonside Business Park) shall be acquired on a temporary basis rather than the proposed permanent basis and shall be returned to the landowner on completion of the proposed works. These plots shall be transferred from Part 1 to Part III of the schedule attached to the compulsory purchase order.

Reason: It is considered that the permanent acquisition by the local authority of the lands referred to above is not necessary for the purposes of the order.



Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this 25th day of March 2013.