

Sustainable Development Evaluation of Road Infrastructure Programmes and Projects

Section 1

The Treatment of Material Assets [Property] in Environmental Impact Statements in Ireland

Lorcan Sirr

February 2007



The Foundation for the Economics of Sustainability

Cad a dhéanfaimid feasta gan adhmaid? Tá deireadh na gcoillte ar lár
'What will we do in the future without wood? The end of the forests has come'

We would like to gratefully acknowledge the assistance of the following: Tadhg O'Mahony, Kevin Woods and Brian Donlon (EPA), John O'Neill, DoEHLG, Hugh Creegan, Michael Egan, Vincent O'Malley and Christian Nea (NRA), Rob Verheem, (Commissie voor de milieueffectrapportage), Mary Twomey, (Forfás), Emer Ó Siocrú, Enid O'Dowd and Clare Taylor (FEASTA)

ACKNOWLEDGEMENTS

This report has been prepared as part of the Environmental Research Technological Development and Innovation Programme under the Productive Sector Operational Programme 2000-2006. The programme is financed by the Irish Government under the National Development Plan 2000-2006. It is administered on behalf of the Department of the Environment and Local Government by the Environmental Protection Agency which has the statutory function of co-ordinating and promoting environmental research.

DISCLAIMER

Although every effort has been made to ensure the accuracy of the material contained in this publication, complete accuracy cannot be guaranteed. Neither the Environmental Protection Agency nor the author(s) accept any responsibility whatsoever for loss or damage occasioned or claimed to have been occasioned, in part or in full, as a consequence of any person acting, or refraining from acting, as a result of a matter contained in this publication. All or part of this publication may be reproduced without further permission, provided the source is acknowledged.

SOCIO ECONOMICS

The Socio Economics Section of the Environmental RTDI Programme addresses the need for research in Ireland to inform policymakers and other stakeholders on a range of questions in this area. The reports in this series are intended as contributions to the necessary debate on Socio Economics and the environment.

AUTHOR

Dr Lorcan Sirt MRICS, ASCS, MIAVI
Chartered Surveyor
Faculty of the Built Environment
Dublin Institute of Technology
Bolton Street
Dublin 1

CLIENT

FEASTA
The Foundation for the Economics of Sustainability
10^A Lower Camden Street
Dublin 2

ABSTRACT

This Report reviews the ‘Property’ section of the Kildare ByPass, the N6 Galway to East Ballinasloe, and the Lucan Outer Ring Road Phases I and II. The Report finds that property is grossly under-evaluated in these Environmental Impact Statements, and that part of the reason for this is the treatment of property in the Roads Act 1993, and also the lack of use of appropriately qualified personnel to conduct the assessment of property impacts for EISs. This Report makes 12 recommendations for the treatment of property in EISs, based on the findings from the material reviewed.

INTRODUCTION

An Environmental Impact Statement (EIS) is defined in S.I. No 349 of 89 (Art. 3 (1))¹ as follows:

“A statement of the effects, if any, which proposed development, if carried out, would have on the environment”.

This definition will form the basis for the focus of study for this section, being to examine the coverage of property impacts in EISs for major infrastructural projects in Ireland. In particular, three EISs will be examined: the Kildare By-Pass, N6 from Ballinasloe to Galway, and the Lucan Outer Ring Road.

THE CONTEXT: PROPERTY AND VALUE

All property has value. The value of an interest is the amount of money which can be obtained for an interest in that property at a particular time. According to the Royal Institution of Chartered Surveyors², the market value of a property is: *the estimated amount for which a property should exchange on the date of valuation, between a willing buyer and a willing seller in an arm’s-length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion.*

Land is a unique form of property as it is naturally limited in supply. Under normal economic circumstances, when the demand for a product increases (or the supply runs short) it can be met by increasing production. Not so with land, although this arguably is potentially feasible with processes such as land reclamation from the sea, but normally this is not a practical solution. As such, if the supply of land cannot be equated with the demand for it, then this will be reflected in an increase in price.

Other factors also impact on the supply of land, particularly land for either commercial or residential development. Natural factors such as topography, location and the capacity of the ground to bear weight are obviously influential. There are, however, also private and statutory factors. Private factors may include user clauses in any lease of land, for example restricting the use of land to agricultural and related uses only. Statutory factors are perhaps more influential, particularly in Ireland where most land is owned freehold rather than on a leasehold basis as would be more commonly encountered in the United Kingdom. The most obvious example of statutory control is that of planning permission. In the main, local authorities control the development of land by requiring the landowner to obtain planning permission for development. The local authority has several options open to it upon receipt of a request for permission to (re)development land including unconditional grant of permission, a grant of permission with conditions attached, or a refusal. A grant of permission (including in most cases a grant with conditions) has a considerable impact upon the value of the land, realising as it does the latent development value.

¹ S.I. No. 349/1989: European Communities (Environmental Impact Assessment) Regulations, 1989

² Royal Institution of Chartered Surveyors [2003] *Appraisal and Valuation Standards (5th edition)*, RICS: Coventry

Despite the fact that all land has a value, assessing and agreeing on this value is not so straightforward. The task of the valuer is to assess the market (or indeed rental) value of the land at a particular moment in time (the date of the valuation, or date of the serving of Notice to Treat in the case of compulsory purchase) taking into account particular factors, such as those previously discussed. It is uncommon, however, for any two valuers to produce exactly the same valuation figure for the same piece of land (or interest therein). In some situations they may have based their estimate of the value of the land on similar transactions in the area, but each may have used different transactions or indeed, there may have been few or no transactions upon which to make their estimation.

The problem of value becomes more difficult when market conditions are uncertain, a prime example being a road proposal and its unknown short- and long-term impacts. Valuations are based upon the likely future income from the land and therefore the valuer must estimate or anticipate future economic trends for both the type of land and the location. These economic trends can range from the macro- (global, European, regional) to the micro- (local employment, access, development/infrastructure proposals). Trends which may have a significant impact on value and which must be understood and taken account of in any valuation are:

- changes in taste and demand – the change in preference for one type of living accommodation over another, for example;
- national, regional and local economic policies – the preference for government departments to rent or own their properties; decentralisation of state services; urban regeneration policies; support for local industries;
- changes in legislation – in particular that which may directly or indirectly have a bearing on property values;
- costs of transactions – the potential for the costs of transaction to exclude potential purchasers;
- effect of adjacent activities – this can have both a positive and negative effect on the value of land: examples include the building of an industrial estate near housing which may impact negatively on their value; a new shopping centre may impact on both nearby housing and neighbouring shop units and values; the construction of a new university may increase the demand for housing for purchase and rent and thus increase their value; and the provision of new infrastructure, particularly in the form of airports, railways routes and stations, trunk roads and motorways will affect the value of all property in that area, but especially those around junctions and stations.

Valuation therefore, is not an exact science. Different valuers will assess various factors which they feel impact upon the value of the property and will weight the potential positive or negative impact of these factors according to their own knowledge, experience and judgement. There will always be a margin of error or variance in a professional's estimation of value, and this is to be expected. The commonality is that it should be able to tell the direction in which any potential impact will alter the value of the property under scrutiny.

GUIDELINES FOR THE TREATMENT OF PROPERTY IN EISS

The Environmental Protection Agency (EPA) has published a document to assist in the preparation of EISs. A set of guidelines for EIS content were prepared by CAAS Environmental Services Limited and published by the EPA in March 2002³. They outline the contents of an EIS, and general advice on the preparation of such documents.

The 'Guidelines' note that '*the existing environment and the impacts of the development are explained by reference to its possible impact on a series of environmental topics.*' It advises

³ EPA [2002] '*Guidelines on the information to be contained in Environmental Impact Statements*', EPA: Ireland

that impacts should look at a range of potential effects from different perspectives such as time [short, medium, long-term, permanent], direction of impact [positive, negative], source [direct, indirect, secondary, cumulative], as well as examining how all these interact between themselves.

The term ‘property’ is not mentioned directly in the Guidelines as a specific factor to be assessed and included in an EIS. Instead, property comes under the heading of ‘Material Assets’, as in: *‘Material Assets, including the Architectural and Archaeological Heritage, and the Cultural Heritage’*. It can be seen that property as a physical or economic entity is not identified as an independent element, but instead is included in the broad definition of material assets. *‘Resources that are valued and that are intrinsic to specific places are called ‘material assets’. They may be of either human or natural origin and the value may arise for either economic or cultural reasons. Examples of natural resources of economic value include assimilative capacity of air and water, non-renewable resources e.g. minerals, soils, quarries and mines, renewable resources (hydraulic head, wind exposure)’* [EPA 2002: 22]. Under this term is included several sub-sections. The following are examples of these:

- Archaeological Heritage
- Folklore/Tradition/History
- Architecture/Settlements
- Monuments/Features
- Designed landscape
- Natural Resources of Economic Value

The Guidelines also mention buildings, structures, and infrastructures, but does not refer to property under either of these. It is also of interest that in the sample Impact Evaluation Checklist [EPA 2002: 27], there are no examples given under the heading of material assets, despite the presence of both descriptive and evaluative areas for examples to be given⁴. The Guidelines do, however, use the term ‘property’ when giving an example of a negative impact: *‘a change which reduces the quality of the environment (for example, lessening species diversity or diminishing the reproductive capacity of an ecosystem; or damaging health or property or by causing nuisance)’* [EPA 2002: 33]. Again, it should be noted that property is referred to in the context of being affected by nuisance, rather than by any economic or value impact.

EISS AND PROPERTY

EISs analyse the potential impact of the proposal in question under a large and wide number of headings. Section 50 of the Roads Act, 1993 as amended by the Environmental Assessment Directive 97/11/EC specifies the scope of the Environmental Impact Assessment, and lists the particular aspects of the environment likely to be significantly impacted by a proposed development. These are: human beings, fauna and flora, soils and geology, water, noise, air, climate, the landscape, material assets, archaeological and architectural heritage, and cultural heritage.

As has been noted, property, inasmuch as it is covered, comes under the heading of ‘material assets’ and thus gets a rather secondary look-in and/or analysis. The Guidelines for assessing material assets do not touch on property [land, buildings] in any meaningful way. Issues of economic gain or loss are not analysed in any depth. It is, therefore, unsurprising that property is under-assessed in EISs. This is ironic, as property is a factor which is impacted upon by most if not all of the other factors which get considerable analysis. It doesn’t take much imagination or alteration to see how property can be affected by - sometimes minor - variances in:

⁴ The ‘descriptive’ section provides for information under the headings of: character, magnitude and duration; the ‘evaluation’ heading has headings of: consequences, significance, and certainty.

- Traffic;
- Cultural and heritage;
- Archaeology;
- Groundwater;
- Drainage;
- Air quality;
- Noise;
- Ecology;
- Socio-economic factors;
- Aesthetics;
- Construction; and
- Hazardous substances.

As such, property is a factor which in different ways is affected by, and in turn can affect, future development in a location.

Property is also inextricably entwined with town planning. Alterations in town planning codes or policies can have significant impacts [positive and/or negative] on property, and therefore are of considerable interest to both residential and commercial property owners and leaseholders. Bearing this in mind, it is of interest to examine the level of consideration given to property is a selection of EISs.

N7 KILDARE TOWN BYPASS MOTORWAY SCHEME

The environmental impact statement to accompany the development of Kildare ByPass was prepared by Kildare County Council and associated specialists. It was based on the Council's own work and that of the specialists and its purpose is to assist in determining the merits of the Council's proposal to construct the ByPass, but also to *'assist property owners affected by the by-pass and the general public to assess the impact of the proposal.'*

Property is considered in several places within the EIS.

In Chapter IV – Alternatives Considered, 4.2.2, property is referred to in reference to attempts to ascertain definitive property boundaries and landuse, with the intention of establishing alignments which would minimise severance and disruption to landowners for each alternative considered.

In Chapter V – Preferred Route – Selection and Description of Alignment, 5.2.4, refers to the proposed motorway being a *'valuable asset for the future development of Kildare Town'* and refers to experience elsewhere suggesting that *'the proximity of a high-quality transportation link is an important factor in residential and industrial location'*.

In the same Chapter and section, under part (iii) concerning access to development land, again *'Experience elsewhere suggests that such land located adjacent to an interchange proves very attractive to industry.'*

Section 5.3 Kildare ByPass – Town Planning Aspects, Land Use and Material Assets/Property Values are examined. Part (A) Land Use Impacts, refers once more to experience elsewhere, where *'it has been shown that the demand for industrial premises, either for manufacturing or warehouse/distribution type uses increases at such locations and this is an acceptable trend.'* Apparently, it is also *'likely that lands severed from the National Stud will be zoned mostly for residential development. This will lead to a shift of housing to the south of the town. Certain measures will be required to make the area amenable to residential development including adequate physical separation, extensive tree planting and mounding.'* There is also a reference to the removal of traffic from the town's streets, *'which will lead to a better urban environment conducive to the development of that potential.'*

Part (B) of the same section makes use of experience garnered elsewhere, which shows that property values *'in the vicinity, but not immediately beside motorways increase in value. Compensation is payable to landowners physically affected by the motorway.'*

Chapter VI deals with the preferred route selected. Property is mentioned in several sections. Section 6.10.C refers to specific land values, but it is unclear whether the EIS is making reference to a reduction in value or an end value per acre: *'Reduction in land value can occur with severance, effect on crops, increased difficulty of access and restriction of land use because of irregular fields and will be around £200 to £300 per acre on average.'*

6.12.2 refers to claims by the Irish National Stud [whose land will be severed] about the negative economic impacts of acquisition and severance, and its impact on the future economic viability of the Stud. Other issues of concern to the Irish National Stud are impacts on: the stud entrance; tranquil surroundings; noise, air pollution, lighting; employment; and security.

There are several subsections of note in the following section, 6.12.3, Mitigating Measures to Negate Adverse Impact on Irish National Stud.

SubSection 7 states that: *'the proposed interchange will be located in close proximity to the INS. This will provide quick access for visitors and business clients, thus avoiding the necessity for coming through Kildare Town.'*;

SubSection 8: *'The Council will agree alternative facilities or compensation for reduction in economic viability of Kildare Yard and Black Cherry Yard.'*;

SubSection 9: *'The proposed motorway will act as a permanent barrier preventing urban intrusion from an expanding Kildare Town.'*; and

SubSection 12: *'The Council's technical officers have considered the future zoning of the severed lands to the North of the proposed motorway. Based on a preliminary examination, they have concluded that it is desirable that those lands be zoned for development. If such a policy were to be adopted by the Council it would have the effect of significantly enhancing the value of those lands owned by the INS North of the proposed line.'*

GENERAL COMMENTS

The overall impression is that property, despite being referred to in the introduction as being part of the reason for the EIS, is not substantially treated in the body of work. No detail is given on a range of possible and probable property impacts of the proposal. Positive and negative impacts from such a proposal can impact upon property not immediately adjacent to the proposal, as is acknowledged in the EIS, yet no attempt is made to address the wider property implications for property. Issues such as yields, rental values, increased or decreased turnover of premises such as hotels and public houses are not addressed despite these being tangible impacts of such proposals.

The use of a qualified Chartered Surveyor [either General Practice or Planning and Development] would, it is felt, have made a significant contribution to the quality of analysis of property within the report. It is unclear quite who was making the property analyses in the report and upon what basis they formed their opinion. The use of a professional Chartered Surveyor would have provided more in the way of critical analysis and actual valuations, rather than what appears in the main to be speculation and opinion.

There is also a phrase which is used consistently throughout the report citing *'experience elsewhere'*, yet the sources and references for this prior experience are vague or nonexistent. To base important elements of the EIS up *'experience elsewhere'*, such as that which refers to property values increasing in the vicinity of new roads [bypasses or motorways] but not immediately adjacent to them, without giving any evidence casts doubt on the credibility of

the assertion, whether or not anecdotal or personal experience would suggest it to be the case. Any claims about the likely or potential positive or negative impacts of any proposal which are based on experience elsewhere are therefore given a dubious overtone through the use of unsubstantiated evidence.

It is difficult to ascertain how the figure of a reduction in land value per acre [if indeed it is a reduction and not the final estimated value] was arrived at. The valuation *per se* was conducted by Teagasc, and whilst not doubting their expertise in matters agricultural, it is normal valuation practice to use comparable evidence to demonstrate how the figures presented were arrived at. Again, this points to the need for consideration to be given to employing professional Chartered Surveyors for such elements of the EIS.

There are several mentions of the benefits to be accrued from various elements of the road proposal [*. . . the motorway could affect the value in monetary investment terms of a material asset such as land, this could be to increase its value because of greater accessibility.*⁵], and there is reference to measures that will be needed in order to reap the full reward of these [mounding, planting of trees, etc.], but there is no mention of who will provide these mitigating measures, and it is therefore assumed it is the County Council. The gains, however, will most likely be garnered by those whose lands benefit directly. So, the question arises whether or not the local authority are facilitating a rise in property values for the private sector at the expense of the public purse.

A similar issue arises in relation to the lands owner by the Irish National Stud [INS] north of the ‘proposed line’ where, should the lands in questions be rezoned residential [and it is ‘desirable’ that they should], it will significantly increase the value of these lands. No tentative valuations are given for this increase, but any increase is a benefit, and therefore a gain. The INS are also due compensation for negative impacts of the proposal [for example, severance and injurious affection]. This means that despite the theory of compensation leaving them no worse off financially after the development is completed, the increase in land value leaves them in a positive financial position. The question is whether any person entitled to compensation should be left in a significantly improved financial position in this manner.

N6 EAST BALLINASLOE TO GALWAY

Note: The EIS was prepared by consultants⁶ acting on behalf of Galway County Council. The EIS is divided into two separate documents. This format is retained for this analysis of the EISs. It is appropriate to do this as it is noted that separate consultants have been employed to examine the Material Assets sections of the two EIS volumes. As such, where appropriate, the analysis shall be divided into: N6 Doughiska to Glennascaul, and N6 Glennascaul to East Ballinasloe. The compulsory purchase order for this road project is dated 9th August 2004⁷.

Both volumes of the EIS divide Materials Assets into several sections: agricultural and non-agricultural. The consultants employed for the agricultural properties were: Phillip Farrelly and Company [N6 Doughiska to Glennascaul], and Curtin Agricultural Consultants [N6 Glennascaul to East Ballinasloe]. The consultants employed for the non-agricultural properties were: Patrick J Newell Consulting Engineers Ltd. [N6 Doughiska to Glennascaul], and RPS Planning and Environmental [N6 Glennascaul to East Ballinasloe].

N6 DOUGHISKA TO GLENNASCAUL – AGRICULTURAL PROPERTIES

⁵ Mr Christopher Jones at the Oral Hearing into the proposal.

⁶ RPS-MCOS, Ryan Hanley WSP, RPS Planning and Environmental and their specialist sub-consultants.

⁷ An Bord Pleanála reference 07.CH2150

There are several mentions of property in this section, most notably when assessing the potentially severe impact of the road proposal on one farm and the overall major impact on another six farms. It mentions that the overall viability of the farms could be compromised unless appropriate mitigation measures are put in place. This section quantifies the overall land take [37ha, being 6.5% of the total farmed area] as not being significant, but does not translate this land loss into property values for agricultural land.

N6 DOUGHISKA TO GLENNASCAUL – NON-AGRICULTURAL PROPERTIES

This section divides property into three sections: residential; commercial; and non-agricultural land [recreational pitches, greenfield sites, private roadways, etc.]. However, it mentions property in very few places.

It continues to identify the residential units which will be most affected by the proposal, although none are to be demolished, and the overall impact on residential property along this section of the route is considered to be **not significant**.

In relation to commercial property, the section notes that *'the realignment of a rural road can also potentially affect the retail sector, either positively through the enhanced shopping experience in small towns and villages afforded by the improved traffic management, or negatively by the decline in passing trade that might ensue'*, but the overall impact on commercial properties is considered to be **not significant**. It is a positive factor that this identification of further impacts on property [and businesses] is identified, but it would have greatly assisted the EIS to have more in-depth analysis of these potential impacts.

N6 GLENNASCAUL TO EAST BALLINASLOE – AGRICULTURAL PROPERTIES

This section makes some interesting overall analyses of the impact of infrastructure proposals, such as: *'A reduction in the farm area of 25% does not necessarily translate into a reduction in production of 25%. Increasing production levels elsewhere can compensate for the loss of the land'*. It also mentions that the size of the farm affected is also of interest in estimating the potential impact of proposals.

The report states that there will be a **severe overall impact** on four of the affected farms, with another 48 experiencing a **major overall impact**. The impact is such that the viability of these enterprises could be compromised.

The report then produces a table of almost 300 farms outlining the potential level of impact on their properties. It describes the impact and necessary mitigating measures.

N6 GLENNASCAUL TO EAST BALLINASLOE – NON-AGRICULTURAL PROPERTIES

This section of the EIS commences by outlining the extent of the work undertaken: *'This study is limited to the assessment of the direct impact [i.e. where landtake is proposed] of the scheme of [sic] the property'*. This is interesting in that it only appears to cover half of what is required by the Roads Act 1993, where both direct *and* indirect significant affects are required to be covered.

It goes on to list the properties affected, both commercial and residential, and a piece of community land [a soccer pitch], and the anticipated impact on each. The coverage of each of these is minimal and at no stage is there any reference to property values.

GENERAL COMMENTS

The General Comments will cover this EIS in its entirety.

This EIS is quite limited in its assessment of property, both agricultural and non-agricultural. The methodology is more impressive than the findings, which are vague, perfunctory and

descriptive. It tended towards resorting to reiterating the National Roads Authority practice notes on land acquisition, rather than providing findings of substance⁸.

It was particularly surprising to see an admission that only half of the statutory requirement was being covered in relation to non-agricultural properties from Glennascaul to East Ballinasloe.

At no stage are any valuation issues addressed in the EIS. This could be a reflection of the consultants used to conduct the EIS, and the fact that none would appear to have any expertise in property valuations, particularly non-agricultural valuations. The EIS goes to the trouble of quantifying the amount of land taken and the impact upon these properties but stops short of quantifying these impacts in an economic and valuation sense.

LUCAN OUTER RING ROAD – N4 [PHASE 1]

As with the earlier EISs, above, the EPA ‘Advice Notes on Current Practice [in preparation of Environmental Impact Statements]’ and ‘Draft Guidelines on the Information to be contained in Environmental Impact Statements’ were followed in the preparation of the EIS. Accordingly, the following categories, based on the headings of Article 14 of SI 93 of 1999 EIA (Amendment) Regulations, were used to examine the impact the road scheme would have on the environment:

- Traffic
- Noise and Vibration
- Flora and Fauna
- Water Quality and Fisheries
- Geology, Hydrology and Hydrogeology
- Air Quality
- Landscape and Visual Aspects
- Archaeology and Cultural Heritage
- Human Environment
- Material Assets
- Land Use and Development

The compulsory purchase order for this road project was served on March 21st 2005⁹ to which there were 6 written objections¹⁰. Property is considered in several places in the EIS.

Section 6.0, Appraisal of Environmental Effects examines the potential effects of the proposed road scheme, and SubSection 6.2.1 comments more specifically on Land Use. According to the report, ‘*The N7 Interchange would result in the loss of some commercial properties on both sides of the Naas Road. This would result in a **moderate negative impact** on commercial interests in the area*’.

The Roadstone Sports and Social Club is located at Kingswood and the road proposal would involve the compulsory acquisition of part of a ‘pitch and putt’ course, and an archery range. Accordingly, ‘*the loss of the sports ground is considered to be a **moderate negative impact***’. Agricultural land will also be affected, mainly through severance of lands, but this is deemed to be a ‘*minor negative*’ in the greater scheme.

⁸ At the oral hearing, it was interesting to note that the NRA – presumably through Galway County Council - had engaged the services of a professional valuer [Rooney Auctioneers], whereas those compiling the EIS had not. An Bord Pleasnala reference PL07.CH.2150

⁹ An Bord Pleanala reference O6S.CH.2195

¹⁰ An Bord Pleanala reference CH.2195

Commercial properties located to the west of the proposed road will have their access to the N7 severed, will experience '*minor negative impact*' as there will be increased travel times to these properties.

The report also looks at 'Development', and determines that Grange International Business Park, and indeed the residential areas in the region, would see a '*major positive impact*' from the development of the proposed scheme. Again, lands at Clonburris would see their future development potential improved significantly, which is another '*major positive impact*'. In overall terms, the impact of the proposal on the development of the area is a positive one, where '*development potential would be realised and enhanced by the provision of the road*'.

GENERAL COMMENTS

Again, despite the fact that the terms 'moderate', 'minor' and 'positive' etc. are defined, it is difficult to make any considered evaluation of the impacts of the proposal on property given the level of detail, or lack thereof, in the report. It is not beyond the bounds of possibility that EISs make a quantum evaluation of increases or decreases in property values [see the Kildare ByPass example, above], and such estimations, particularly if carried out by a qualified Chartered Surveyor, would be of considerable assistance to property owners and others directly or indirectly affected by the proposal.

It is not stated in the report exactly who is to be the beneficiary of these '*major positive impact[s]*'. If development potential is to be '*significantly*' improved then it should be clarified exactly who is to be the recipient of these benefits. As stated in the opening paragraphs of this report, property values tend to increase upon the provision of services such as motorways and bypasses, and in order to give the process a greater degree of transparency, it should be possible to identify and estimate the degree to which these owners will benefit.

LUCAN OUTER RING ROAD – N4 [PHASE 2]

South Dublin County Council engaged Arup Consulting Engineers and associated experts to prepare an Environmental Impact Statement for the Outer Ring Road, Adamstown Roundabout to N4 road proposal. According to the report produced, '*the EIS team drew primarily on in-house resources in traffic and highway engineering, environmental planning and management*'. Details are also given of other specialists engaged in the preparation of the report. These are:

- Air Quality and Climate Assessment - Awn Consulting Limited;
- Noise and Vibration Assessment - Awn Consulting Limited;
- Terrestrial and Aquatic Ecology - Natura Environmental Consultants (Natura) Limited;
- Landscape and Visual Assessment - Brady Shipman Martin;
- Community Assessment - Optimise Consultants; and
- Archaeological, Architectural and Cultural Heritage Assessment - Margaret Gowen & Co Limited.

In this EIS, 'property' is considered *alongside* material assets, under the scoping headings of 'Property and Material Assets'. The EIS was prepared in accordance with the aforementioned 'Guidelines on the Information to be contained in an Environmental Impact Statements 2002'.

Property is considered in several places in the EIS.

Section 4.3.16, Land and Property Requirements, gives a broad outline of the number of areas of land to be acquired, and indicates that out of the total of 23 areas, the local authority own, or have taken in charge, 19 of these. It is also noted that no land will be acquired from residential properties. There will, however, be land acquired from commercial property [the

Penny Hill Pub] and a community facility [the Carline training facility]. There will also be a requirement to acquire several parcels of privately owned undeveloped land.

In outlining the methodology adopted for reporting on the ‘Property and Material Assets’ section of the EIS, it is stated that *‘there are currently no standards available for the assessment of material assets. However, Part 6: Land Use of the DMRB provides guidance in this regard’*. The DMRB is the Design Manual for Roads and Bridges, published by the Highways Agency in the United Kingdom. The specific section referred to in the EIS is Part 6 [Land Use – Amendment No. 1] of Section 3 [Environmental Assessment Techniques] of Volume 11 [Environmental Assessment] and deals with land use and assessment of loss of land. It does not, however, give guidance on actual property values inherent in such land use changes. As such, its use, while positive in the main, is of minimal use unless applied in conjunction with valuation methodologies and techniques.

The methodology itself as outlined in 14.2.3, Impact Assessment Methodology, as follows: *‘The impact of the proposed scheme on material assets was determined based upon the following:*

- *Current land use (including grant of planning permission)*
- *Loss of Buildings/facilities (including grant of planning permissions)*
- *Proximity of the route to residence/business*
- *Loss/Gain of access*
- *Level of severance*

The properties included in the assessment are those touched by the route. The types of property considered in this section are as follows:

- *Residential property*
- *Commercial/Industrial property*
- *Community/Recreational property*
- *Agricultural property*
- *Undeveloped private land.’*

Section 14.4, Impacts of Development outlines some of the land acquisition.

A section of the Carline community facility is to be acquired, but the EIS reports that although land will be taken up to 1m of the existing building, the acquisition will not sever any land, and nor will there be a requirement for any demolition. *‘Therefore it is considered that there will be a **Moderate Adverse Impact** on the material assets of this land’*. A Moderate Impact is one where the acquisition [in this instance] is likely to cause inconvenience to the property.

Land is also to be acquired from the Penny Hill Pub, which will result in the loss of green space and reduce the amount of land available for the pub to use. In the opinion of the EIS, however *‘there will be no impact on access, severance of land or demolition of any structures. Therefore it is considered that there will be a **Minor Adverse Impact** on the material assets of this land’*.

GENERAL COMMENTS

With specific relation to the issue of property, the EIS is lacking on several fronts. The methodology presented in the EIS is comprehensive from a Material Assets perspective, but the application does not contribute much in the way of useful information on property as an asset, and the actual impacts of the proposal on the relevant properties, in particular the Carline community facility, and the Penny Hill Pub. The problem would appear to be that the EIS allows for the assessment of level of impact of the development, but in no way seeks to attach a quantum – either financial or economical - to this impact.

Such a quantum is of especial significance when trading, commercial, licensed premises are involved. Whereas the EIS states that there will be a '*Minor Adverse Impact*' on the material assets of this land, what is minor in environmental impact assessment terms, may be of considerable significance in trading, turnover and business potential terms. The value of a licensed premises is determined through its turnover, and, as such, any impact on turnover [from, for example, less parking area, less children's play areas, etc.] will have a direct and discernible impact on the capital value of the public house. Additionally, the issue of development value foregone was mentioned but not critically assessed, and increasingly it is the potential in property which is an important factor. The use of a Chartered Surveyor from the Planning and Development or General Practice Division of the Society of Chartered Surveyors would have assisted in a professional assessment of the likely '*adverse impact*' on the Penny Hill Pub.

OVERALL GENERAL COMMENTS

This section will commence with responses to standard questions, and then proceed to an evaluation of the role of property within EISs, and to recommendations based upon this analysis.

Does the EIS cover the appropriate geographical scope (i.e. all areas affected)?

The EISs examined cover areas *directly* affected by the proposals, but this is not considered sufficient. As property is an asset which is both impacted upon by many factors and can in turn impact upon other factors, it is important that it is considered in the broadest possible terms. This is not done.

Are all important issues identified in the EIS?

It is a fundamental issue of some importance that the issue of property is considered under the umbrella topic of Material Assets. As such, it cannot be said that all the important issues are identified in the EIS. This heading is misleading and property would be better dealt with under its own heading, either as a sub-heading under Material Assets, or under a new heading of 'Property'. This should be reflected and indicated in the EPA *Guidelines on the information to be contained in Environmental Impact Statements* [the 'Guidelines'].

Does the EIS include sufficient baseline data?

There is no baseline data given in the EISs examined for property values.

Are all important baseline data quantified?

No. See above.

Are interpretations of data correct?

As no methodology of analysis is given in the rare situations in which data for property is presented, it is difficult to say whether the interpretations are indeed correct. It is a flaw in EISs that evidence of methodologies utilised, are provided for other elements within the statement, but none are given for property analyses. It is suggested that this is down to a lack of skill and/or resources on the EIS team.

Does the EIS predict all relevant likely impacts?

No. The EIS is limited in its scope of analysis, dealing in the main with direct impacts and not providing adequate quantification of these impacts.

Are important impacts properly quantified?

No. Little, or in many cases, no impacts are quantified for property.

Do predictions in one area of the EIS contradict predictions in other areas of the EIS? (e.g. in one section the road will lead to increased economic development or demand for building, but elsewhere the road will not lead to any increased traffic.)

No evidence seen of this.

Does the evidence to the hearing accurately reflect the EIS and/or technical reports?

Yes. Indeed the evidence to the oral hearing has served to reinforce recommendations made below.

Does the Inspector's report show that he had the necessary understanding of the subject to carry out an assessment?

It could be stated that there is little evidence to show that neither the EIS authors, witnesses at the oral hearings, or the Inspector were suitably qualified to have a necessary understanding of property within the context of an EIS and hence to carry out a meaningful assessment.

FINAL COMMENTS AND RECOMMENDATIONS

The position of property within the EIS is not clearly identifiable. It would appear that the treatment of property in terms of the depth and breadth of coverage is almost discretionary. Its place within the Material Assets section is questionable unless it is better defined or preferably given its own section. There is a currently considerable lack of direction in the Guidelines for the EIS compilers regarding which matters should be examined and to what level of detail they should be examined. As it currently stands, the treatment of property is not sufficient or appropriate in many cases, and its coverage is variable and arbitrary.

Recommendation °1: It is recommended that property is treated as a separate entity in its own right in EISs. This may involve rewording the current Guidelines or rewriting these to allocate property a separate section.

Recommendation °2: It is recommended that the Guidelines on the content of EISs are updated to provide guidance on the appropriate treatment of property in an EIS, including description and impact, both direct and indirect.

Recommendation °3: It is recommended that the notion of property in an EIS is treated in more depth than is currently the case.

It has been noted that there is variability in the issue of quantum being attached to potential impacts [positive or negative] in EISs. Some EISs will attach a figure to the level of impact and others will not. It would be best if a set requirement either to include or not to include a quantum was established for EISs, which could come under Recommendation °2 and °3, above. The preference is for a quantum to be given, and as such, it is preferable that a property professional, most likely a member of the Society of Chartered Surveyors, or the Royal Institution of Chartered Surveyors be engaged in order to provide advice and guidance on the likely financial result of any property impacts.

Recommendation °4: It is recommended that the Guidelines be adjusted to advise that a standard should be set whereby it is no longer discretionary to give a quantum indication of financial impacts on property in EISs, and that the inclusion of monetary values for financial impacts be included.

Recommendation °5: It is recommended that in all EISs where a quantum is to be given of the financial value of any likely property impacts, a Chartered Surveyor [General Practice or Planning and Development Divisions] is employed to arrive at that quantum.

Where figures are given on the likely impacts on property values of proposals, no evidence is given as to where these figures came from, or how they were arrived at. Other indicators and elements within the EIS frequently provide evidence as to how and why they came to a judgement on impact levels. This is not the case with property, and it should be possible with the implementation of Recommendation °5, above.

Recommendation °6: It is recommended that when figures for the impacts of proposals on property are given, that the evidence to reinforce these figures is presented within the EIS. Again this should be advised in the Guidelines.

The treatment of property within EISs is one of increasing significance, particularly at a time when there is considerable public and professional interest in both property as a medium of business and investment, and transparency and accountability as a societal value. As Mr Christopher Jones pointed out in his evidence to the oral hearing into the Kildare ByPass: ‘. . . *unfortunately, there is very little published research on this matter in Ireland*’. Whilst the use of a Chartered Surveyor would assist the process considerably, particularly one with local knowledge, more long-term and comprehensive research into the impacts on property values – residential, commercial, development – of large-scale infrastructural projects would be of

considerable assistance, and should take encompass issues such as yields, capital values, rental values and rating.

Recommendation °7: It is recommended that an appropriate body conduct or commission research into the micro- and macro- effects of the introduction of large-scale infrastructural proposals on property values, such research to be conducted by a university or academic department, an appropriate professional body or a suitably qualified researcher.

Section 50 (2)(c) of the Roads Act 1993 specifies the information to be covered in an EIS: ‘*a description of the likely significant effects, direct and indirect, on the environment of the proposed road development, explained by reference to its possible impact on—*

(i) human beings, fauna and flora,

(ii) soil, water, air, climate and the landscape,

(iii) the inter-action between any of the matters referred to in subparagraphs (i) and (ii),

*(iv) **material assets**, and*

(v) the cultural heritage.’

It is felt that the issue of property is not given due weight or significance in the Roads Act 1993, and, due to the wording of the Act, is not being assessed in sufficient detail. The Act does not specify that property is to be examined as part of the EIS process and as a result the degree to which it is included in various EISs is variable and inconsistent.

Recommendation °8: It is recommended that the wording of Section 50 (2)(c) of the Roads Act 1993 be amended to include a specific reference to property.

The impact of infrastructural proposals on property stretches in many directions. They are short- and long-term; direct and indirect; certain and uncertain; and noticeable and unnoticeable. Some of these parameters are covered by the EIS in its current format. There is, however, a lack of considered analysis of the *indirect* transfer of wealth or financial benefits from the direct to the indirect, and also of the relationship between compensation paid for disturbance and severance, and potential increases in property values for the same owner, thus allowing a double benefit.

Recommendation °9: It is recommended that analysis is undertaken in EISs of the broader and more indirect property value impacts of the proposals.

Recommendation °10: It is recommended that considerable attention be paid to situations in which compensation is payable to property owners, who will in addition benefit from the construction of the proposal, through, for example, their lands on another boundary increasing significantly in value upon completion of the project, and who in effect are left in a situation of significant financial gain through an increase in the overall value of their property, despite having received compensation.

Although arguably a significantly indirect impact, the issue of rating was not addressed in the EISs, and the need for a material change in the premises [extension, change of use, etc] being a statutory requirement for having a revaluation for ratings purposes of a premises. The introduction of a bypass, for example, can have both positive and negative impacts of rateable businesses [licensed houses, for example], and some comment should be made upon this issue. The opening of a new bypass can significantly decrease the turnover of local public houses who must continue to pay rates at the level set when their turnover was considerably higher, and who cannot apply for a revaluation of their business unless they have a material change in the premises.

Recommendation °11: It is recommended that research is conducted into the specific issue of the impact of road proposals on rating revaluations for commercial premises, given the

restricted nature of grounds for applying for a revaluation under the Valuation Act 2001 [‘material change of circumstances’, Part 1, S.3 – see Appendix 1, *subsequens*].

Finally, the extent to which consultants can assess property in EISs without covering the full remit of the required statutory functions under the Roads Act, 1993, needs some consideration. It was found that despite a statutory requirement to provide ‘*a description of the likely significant effects, direct and indirect, on the environment of the proposed road development*’, consultants only addressed the direct impacts, and thus omitted fully one half of the requirement.

Recommendation °12: It is recommended that consultants should be required to fulfil the requirements of assessment to the full, and that adequate estimation of the direct *and* indirect impacts of the proposal be carried out. This should be reflected in the Guidelines. It should additionally be strenuously reinforced in the wording, and if necessary payment should be withheld pending the *full requirements* of an examination of both direct and indirect impacts being fulfilled.

APPENDIX 1 - VALUATION ACT 2001

Part 1, Section 3 of the Valuation Act, 2001, defines ‘material change of circumstances’ as:

“material change of circumstances” means a change of circumstances which consists of–

- (a) the coming into being of a newly erected or newly constructed relevant property or of a relevant property, or [2001.] Valuation Act, 2001. [No. 13.]
- (b) a change in the value of a relevant property caused by the making of structural alterations or by the total or partial destruction of any building or other erection by fire or any other physical cause, or
- (c) the happening of any event whereby any property or part of any property begins, or ceases, to be treated as a relevant property, or
- (d) the happening of any event whereby any relevant property begins, or ceases, to be treated as property falling within Schedule 4, or
- (e) property previously valued as a single relevant property becoming liable to be valued as 2 or more relevant properties, or
- (f) property previously valued as 2 or more relevant properties becoming liable to be valued as a single relevant property.

APPENDIX 2 - DOCUMENTATION

Documents which were referred to in the preparation of this Report include:-
Council Directive 97/11/EC of 3 March 1997 amending Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment [Environmental Assessment Directive 97/11/EC]

Decision: Galway County Council (N6 Galway to East Ballinasloe Dual Carriageway) Compulsory Purchase Order No.4 2004 (Roads and Transportation)

Decision: “Galway County Council (N6 Ballinasloe to Athlone Dual Carriageway) Compulsory Purchase Order No.5 2005 (Roads and Transportation)

Decision: South Dublin County Council Compulsory Purchase N4 Lucan Bypass Upgrade Order 2005

Decision: Council of the County of Kildare N7 Naas Road Widening and Interchanges Scheme

Environmental Impact Statement N7 Kildare Town By-Pass

Environmental Impact Assessment N6 Doughiska to Glennascaul

Environmental Impact Assessment N6 Glennascaul to East Ballinasloe

Environmental Impact Assessment N4 Lucan Outer Ring Road
EPA [2002] ‘*Guidelines on the information to be contained in Environmental Impact Statements*’, EPA: Ireland

Highways Agency [1992-2006] Design Manual for Roads and Bridges

Inspector’s Report: N6 Galway to East Ballinasloe Dual Carriageway) Compulsory Purchase Order No. 4 2004 (Roads and Transportation)

Inspector’s Report: N4 Lucan Bypass Upgrade Order 2005 and the associated Road Development Approval Application for the N4 Lucan Bypass Upgrade Scheme 2005

Inspector’s Report: Galway County Council (N6 Ballinasloe to Athlone Dual Carriageway) Compulsory Purchase No.5 Order 2005 (Roads and Transportation).

Roads Act 1993

Royal Institution of Chartered Surveyors [2003] *Appraisal and Valuation Standards (5th edition)*, RICS: Coventry

S.I. No. 349/1989: European Communities (Environmental Impact Assessment) Regulations, 1989

Valuation Act 2001