



An
Bord
Pleanála

Inspector's Report ABP305631-19

Development

Compulsory Acquisition of Lands

Location

Ahascragh West, Ballinasloe, County Galway.

Planning Authority

Galway County Council

Applicant

Irish Water

Type of Application

Notice of Compulsory Purchase Order under Water Service Acts 2007-2013. Planning and Development Act 2000 (as amended) and the Housing Act 1966

Objector

Declan Bannerton

Date of Site Inspection

29th November 2019

Inspector

Hugh Mannion

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1.0 Introduction.

1.1. Overview

- 1.1.1. Irish Water is seeking confirmation by the Board of a CPO entitled Irish Water Compulsory Purchase (Ahascragh Sewerage Scheme) Order 2019.
- 1.1.2. The Compulsory Purchase Order relates to the compulsory acquisition of rights over land including permanent right of way, permanent wayleave, temporary working area, in various parcels of land in the townland of Ahascragh, Ballinsloe, County Galway. The confirmation of the CPO is made pursuant of the powers conferred on Irish Water, which is designated as the Water Services Authority under the provisions of Section 31, 32 and 93 of the Water Services Act 2007, as amended.
- 1.1.3. One objection was received in respect of the CPO from Declan Bannerton. This report considers the issues raised in the objections submitted to the Board and more generally, the application to acquire rights over lands.

1.2. Purpose of the CPO

- 1.2.1. According to the documentation submitted with the application, the purpose of the CPO is to:
 - Currently sewage is collected in the public sewer network in Ahascragh and pumped to an above ground Imhoff tank as part of the WWTP. The Imhoff tank provides a low level of treatment. The public sewer system has a combined sewer overflow (CSO) in the village which allows the escape of untreated effluent into the Mill Stream which in turn enters the Bunowen river at a point upstream of the drinking water treatment plant. Irish Water's objective is to remedy this situation and provide water quality to national and European standards.
 - The CPO will facilitate the Ahascragh Sewerage Scheme in that it will provide a new pipeline upgraded from 150mm to 225mm diameter from the CSO in the public street in the village centre to a manhole beside Katie Daly's public house on Chapel Street (length 29m) and a new 225mm pipeline (length 49m) from that manhole through the objector's lands to the pumping station located

east of the objector's property in the backlands of the buildings which front onto Chapel Street.

1.3. **Accompanying Documents**

1.4. The application was accompanied by the following documentation;

- The Compulsory Purchase Order signed and sealed by the managing director and secretary of Irish Water dates 5th September 2019.
- The CPO map comprises one sheet indicating lands to be acquired for;
 - 1) Permanent right of way
 - 2) Permanent wayleave
 - 3) Temporary working area.
- A planning report setting out the community needs and alternatives underpinning the CPO, project description, planning history, the national, regional and local planning policy context of the CPO.
- An engineer's report setting out the need for the scheme, a description of the scheme and public interest, the needs for the lands to be acquired, resources and alternatives considered, regulatory compliance and an index of documents.
- An Alternatives Report setting out the background to the scheme, the need for the project the alternatives considered and recommendations.
- Public notices published in the Connaught Tribune Friday October 4, 2019.
- Sample copy of the notices sent to various landowners.
- Certificate of Service of CPO notices.

2.0 Site Location and Description

- 2.1. The site is located in the centre of Ahascragh, County Galway. Ahascragh is a small rural settlement with a mix of housing and commercial uses. The R358 passes through the town as Chapel Street and links it to Ballinasloe to the southeast and Mountbellew to the north west. Development is clustered around a village centre triangle. Of significance to the CPO is the area of Chapel Street which forms part of the R356 as it approaches the town from Ballinsloe. In the town centre there is a disused mill building and flowing through this mill, under bridge on the public road and continuing south east out of the village is a mill stream. This mill stream has a confluence with a natural river, the Bunowen River, about 100m downstream of the bridge.
- 2.2. The street frontage of Chapel Street is largely commercial. An access lane leads through a break in this street frontage between Katie Daly's public house and the objector's garage/car repair premises where sewer/pipeline which drains from combined sewer overflow in the central triangle in the village to a pumping station on lands to the rear of the buildings facing onto Chapel Street. The first part (about 29m) of the new pipeline is in the public road or in the lands of Katie Daly's public house and is not subject to objection but the backlands of the garage/car repair premises is affected by the proposed new pipeline and is subject to the CPO and illustrated on the submitted drawings.

3.0 Planning History

- 3.1. There is an existing wastewater treatment and sewer system serving Ahascragh. Foul water drains to an existing WWTP to the southeast of the village that is visible and accessed from the R358 Ahascragh/Ballinasloe Road. The material submitted with this CPO states that this system functions so poorly that the quality of the final effluent discharging to the nearby Bunowen River is equivalent to untreated effluent.
- 3.2. Irish Water, as part of its general upgrade of the sewerage system in Ahascragh, received planning permission under Galway County Council planning reference number 18/834 for the upgrading of the existing wastewater treatment plant (WWTP) to provide preliminary and secondary treatment. The works will include the replacement of the existing imhoff tank with 1 no. primary settlement tank, the

construction of new inlet works and the installation of 2no. RBC units, and 1 no. final settlement tank, along with all ancillary works, interconnecting pipework, and development works. All works will be undertaken within the existing WWTP site at Ahrascragh, County Galway.

4.0 **Planning Policy Context**

4.1. **National Planning Framework** national policy objective 63 seeks to;

4.2. Ensure the efficient and sustainable use and development of water resources and water services infrastructure in order to manage and conserve water resources in a manner that supports a healthy society, economic development requirements and a cleaner environment.

4.3. Northern and Western Regional Assembly published a draft Regional Spatial and Economic Strategy in 2019 but pending their adoption the relevant regional planning guidelines are the **Regional Planning Guidelines** for the West Region 2010-2022. Relevant objectives are;

4.4. **IP25:**

To ensure that adequate infrastructure is in place to meet demands from continuing growth and development of the economy and to cater for existing and increased population levels.

4.5. **IP30:**

Support investment for the water and wastewater services of many small towns and villages in the region where there is an urgent need for these services.

4.6. **IP33:**

To ensure the protection and improvement of all waters; rivers, lakes, groundwater, estuaries (transitional waters), coastal waters and their associated habitats and species throughout the Region.

4.7. **IO38:**

Provide quality water and wastewater services necessary for environmental purposes and for urban and rural economic development purposes.

- 4.8. **Galway County Development Plan 2015-2021** is the relevant County Development Plan for the area.
- 4.9. Ahascragh is a Smaller Settlement within the settlement hierarchy set out in the Plan.
- 4.10. **Objective SS6** in relation to Smaller Settlements states:
- 4.11. In the case of smaller settlements for which no specific plans are available, development shall be considered on the basis of its connectivity, capacity (including social, cultural, and economic, infrastructural and environmental capacity) and compliance with the Core Strategy and Settlement Strategy, good design, community gain and proper planning and sustainable development.
- 4.12. **Policy WS 2 – Irish Water and Rural Towns and Villages**
Galway County Council will work with Irish Water to provide appropriate water and wastewater facilities in rural towns and villages.
- 4.13. **Policy WW 1 – Collaborative Provision of Wastewater Collection and Treatment Systems**
- 4.14. Galway County Council Co-operate with Irish Water in the delivery of the *Proposed Capital Investment Plan 2014-2016* (or updated plan) and to increase capacity to service settlements, to jointly investigate proposals for future upgrades of treatment plants; and participate in the provision of a long term solution for waste water treatment in the West Region.
- 4.15. **Objective WW 6 – Adherence to Environmental Standards**
- 4.16. Promote the provision of safe and secure wastewater infrastructure to ensure that the public is protected and that permitted development is within the environmental carrying capacity and does not negatively impact on habitat quality or species diversity.
- 4.17. **Objective WW 8 – Substandard Wastewater Treatment Plants**
- 4.18. Support and facilitate as appropriate the upgrading of substandard public waste water treatment plants in order to comply with the provisions of the Urban Waste Water Treatment Regulations 2001 and 2004, the Waste Water Discharge

(Authorisation) Regulations 2007 and implement the relevant recommendations set out in the EPA document Focus on Urban Wastewater Discharges in Ireland (and any subsequent updates).

5.0 **Objection.**

5.1. The grounds of objection may be summarised as follows;

- The objector is opposed to running the pipe diagonally across his land but is agreeable to a revised route.
- The objector has not been furnished with details of the diameter of the new pipe, the depth at which it will be laid or the potential impact on his buildings which may arise during construction works.
- No detail on the restrictions on the use of the area covered by the permanent wayleave have been given.
- A wayleave of 5m should be adequate for proposed new pipe.
- The soil in the area of the pumping station at the rear of the objector's property has been polluted by overflowing sewage and should be removed by Irish Water.
- In the absence of details, the objector has reasonable fears that the revised pipeline and associated pumping station will continue to give rise to foul effluent entering his property.
- It is not clear how the sewage will be managed during the construction of the new pipeline.

6.0 **Oral Hearing**

6.1. An Oral Hearing was held in respect of the application to confirm the CPO at the Shearwater Hotel, Ballinasloe, County Galway on the 21st January 2020. Copies of all the submissions read into the record of the hearing are contained on file. A summary of the proceedings of the oral hearing is included as Appendix 1 of this report.

7.0 Assessment

7.1. Overview

- 7.2. The proposed new foul sewer is part of a revised wastewater treatment scheme for Ahascragh. The scheme is necessitated by the poor quality of the final effluent discharging into the Bunowen river. The works to the treatment plant located to the southeast of the town and accessed from the Ahascragh/Ballinasloe road have been permitted previously by Galway County Council under planning register reference number 18/834.
- 7.3. At present there is a combined sewer overflow (CSO) in the village opposite Katie Daly's public house in Chapel Street. There are two outfalls from this CSO; an untreated overflow pipe which discharges into the mill stream at the bridge in the village centre and a sewer pipe which crosses Chapel Street, continues between the objector's property and Katie Daly's public house and through the backlands of the objector's property to a pumping station (PS) located immediately to the east of the objector's property. The lands of the pumping station are not affected by this CPO. From this pumping station foul water is pumped across the mill stream to the Bridge Court pumping station and from there flows by gravity to the town's WWTP.
- 7.4. This assessment will consider if the CPO serves the common good under the headings of community need, suitability of the site to meet that community need, basis in planning policy, alternatives to this proposed CPO which would achieve the same end, the proportionality of the land take to the purpose of the CPO, and other issues raised by the objector.

7.5. Community Need

- 7.6. Both the objector and applicant agree that the overall scheme for the improvement of foul drainage in Ahascragh meets a community need to improve the foul water treatment system in Ahascragh in order to improve the quality of effluent entering the Bunowen river.
- 7.7. The CPO is related to a single element of that overall scheme – the laying of a new pipeline between the CSO on Chapel Street and the PS to the rear of the objector's property. The specific need for the pipeline arises because the existing pipeline is

inadequate to accommodate the flow within it and the pipeline between the CSO and the PS has overflowed on the objector's lands and adjoining area when the pipeline and receiving pumping station becomes surcharged.

7.8. I conclude on this basis that the CPO meets a community need both in the general sense of facilitating the overall improvement works to the Ahascragh wastewater treatment system and specifically in facilitating the upgrade of the pipeline between the CSO in the village centre and the PS located to the rear of the objector's premises.

7.9. **Suitability of lands to Serve Community Need.**

7.10. A number of factors may be identified to confirm the suitability of the lands the subject of the CPO for the purpose of laying the pipeline;

- There is an existing pipeline generally within the area to be used by the new pipeline.
- The track of the new pipeline has been chosen to minimise the impact on buildings along Chapel Street by using an existing gateway within the building frontage along Chapel Street.
- The route chosen is the most direct route between the CSO on Chapel Street and the PS to the rear of properties on Chapel Street.
- The route allows for gravity flow from the CSO to the PS.

7.11. I conclude on this basis that the lands are suitable to serve the community need of upgrading the sewer as facilitated by the CPO.

7.12. **Compliance with Planning Policy/Development Plan.**

7.13. The hierarchy of plans relevant to this case are the National Planning Framework NPF, the Regional Planning Guidelines (RPGs) and the Galway County Development Plan 2015-2021.

7.14. The NPF sets out national policy objectives to guide development within the state up to 2040. In relation to water services the NPF establishes the objective to ensure the efficient and sustainable use and development of water resources and water

services infrastructure in order to manage and conserve water resources in a manner that supports a healthy society, economic development requirements and a cleaner environment.

- 7.15. Ahascragh is within the West Region for the purpose of regional planning. The RPGs for the West Region seek to ensure that adequate infrastructure is in place to meet demands from continuing growth and development of the economy and to cater for existing and increased population levels and support investment in water and wastewater services of many small towns and villages where these services are needed. The upgraded wastewater treatment system for Ahascragh, of which the pipeline to be facilitated by this CPO is a part, will provide treatment for a population of 450 which will allow for limited growth in the village.
- 7.16. The RPGs furthermore seek to protect and improve water quality in rivers and to provide quality wastewater services necessary for environmental purposes and for urban and rural economic development purposes. The proposed pipeline is part of an overall project to improve the quality of wastewater entering the Bunowen river in a manner consistent with the objectives in the RPGs.
- 7.17. The Galway County Development Plan commits the planning authority to work with Irish Water to provide appropriate water and wastewater facilities in rural towns and villages and to co-operate in future upgrades of treatment plants and in the provision of a long-term solution for wastewater treatment in the West Region. Specifically, the County Council will support the upgrading of substandard public wastewater treatment plants in order to comply with the provisions of the Urban Waste Water Treatment Regulations 2001 and 2004, the Waste Water Discharge (Authorisation) Regulations 2007 and implement the relevant recommendations set out in the EPA document Focus on Urban Waste Water Discharges in Ireland (and any subsequent updates).
- 7.18. The EPA is the environmental regulator of Irish Water and requires Irish Water to comply with the standards set out in the EU's Urban Wastewater Treatment Directive. The most recent EPA Urban Wastewater Treatment Report is that of November 2019. Figure 5 in the report and Appendix C lists Ahascragh as a source of untreated wastewater being discharged into the environment. Appendix A lists Ahascragh as one of 120 priority urban areas where the EPA requires Irish Water to

improve wastewater treatment. The report makes the point that untreated or poorly treated wastewater can be contaminated with harmful bacteria and viruses and can pose a health risk to people who come into contact with infected water. Untreated or poorly treated wastewater can damage aquatic ecosystems by decreasing the level of oxygen in the water and releasing nutrients that can lead to excessive and unwanted growth of algae and aquatic plants.

7.19. Upgrade works for the Ahascragh to improve the quality of wastewater being discharged into the environment have been granted permission by Galway County Council. This CPO seeks to facilitate the provision of a replacement pipeline which will facilitate the overall aim set by the EPA for Irish Water with the co-operation of Galway County Council to improve the quality of wastewater discharging from the town's WWTP. I conclude on this basis that the CPO complies generally with national and regional policy set out in the NPF and RPGs and specifically with the Galway County Development Plan's objectives to facilitate and cooperate with Irish Water in the provision of wastewater facilities in rural towns and prevent water pollution.

7.20. **Consideration of Alternatives.**

7.21. The applicant states in relation to the existing PS and WWTP that no alternatives were considered but that a site selection process for the route for the upgraded pipeline from the CSO to the PS was undertaken. Option 1 follows the existing pipeline from the CSO to the PS. The objector wanted a variation of this route and this was subsequently agreed and is now the proposed route (route 2). Option 3 was to run the upgraded pipeline east along Chapel Street from CSO to a vehicular access to the east and then turn it south to the PS to the rear of the objector's property.

7.22. I consider that the applicant reasonably considered the route options between the CSO and the PS and reasonably accommodated the objector by positioning the route as close to the western boundary of the objector's yard as possible.

7.23. **Proportionality and Necessity for the Level of Acquisition Proposed**

- 7.24. The objector questions the necessity and proportionality of the land take for the permanent wayleave of 10m on both sides of the line of the new sewer from the manhole beside Katie Daly's pub to the pumping station and marked in yellow on the drawing IW/10018194/CPO/001. The extent of this wayleave includes most of the land in the objector's ownership behind the premises which face onto Chapel Lane. The objector made the point that this area of land is used as an ancillary working area to the car repair and service business which he carries on in the premises that opens out onto Chapel Street, that the wayleave will prevent construction on the land, prevent the storage of vehicles, require the removal of an existing shipping container and otherwise hamper activities which are a normal part of the objector's business. The objector's engineering evidence (John M Gallagher report and submission at the oral hearing) states that 5m wayleave is sufficient to accommodate this sewer and for maintenance purposes. The applicant's engineer in reply to a query during the oral hearing to justify the 10m wayleave on both sides of the sewer on the basis of proportionality confirmed that this width of the wayleave is a standard requirement imposed by Irish Water and that this is reduced only where there are existing buildings as in this case at the entrance to Chapel Street and did not elaborate further. The applicant states that the shipping container may need to be removed for works but could be reinstated thereafter.
- 7.25. It follows from the foregoing that there is a conflict of evidence in relation to the proportionality of the wayleave being sought by the applicant. On the one hand the objector enumerates the restrictions which will be imposed on the landholding (including a prohibition on construction, a limitation on storage of vehicles) and provides engineering expertise which states that a 5m wayleave on both sides of the sewer line would be sufficient. On the other hand, the applicant states that a 10m wayleave on both sides is the Irish Water standard and should be granted in this case.
- 7.26. I have read the Irish Water Code of Practice for Wastewater Infrastructure (December 2017) and have been unable to identify a standard wayleave requirement for sewer connections. In the case of the Ballycoolen to Kingstown/Forrest Little

Trunk Main Scheme¹ the laying of a trunk water supply pipeline of 1,200mm Irish Water sought a 30m wide corridor, which comprised a 16m wide permanent wayleave and a 14m wide temporary working area. In the case of the Greater Dublin Area Drainage Scheme² Irish Water sought, at least in part, a 20m permanent wayleave for the orbital sewer with diameters between 1,400mm and 1,800mm connecting to a WWTP with a pe of 500,000.

- 7.27. The pipeline in the present case is 225mm and about 49m in length from the manhole beside Katie Daly's public house and the pumping station which will eventually lead to a WWTP with a pe of 450.
- 7.28. I conclude on the balance of evidence submitted in relation to the CPO that the proposed width of the permanent wayleave at 20m (10m on both sides) is in excess of the land take justified by the requirements to lay the pipeline and ensure its maintenance when balanced against the impediments that would be imposed on the use of a major part of the backlands of the objector's premises. I consider that a 5m permanent wayleave on either side of the sewer for a total of 10m is sufficient to meet the needs of the proposed works with further areas for temporary working wayleaves.
- 7.29. Access to the pumping station would generally be from the east through a break in the building line along Chapel Street.
- 7.30. **Additional Issues Raised by Objector.**
- 7.31. The objector raised additional issues in relation to the removal of contaminated soil from the rear of property Chapel Street, the capacity of the pumping station, the finish of the area of the temporary and permanent way leave, the capacity of pipes exiting the pumping station, standby pumps and associated sensors at the pumping station. In response to these issues the applicant responded that the Board's remit was limited only to the matter of the confirmation or refusal to confirm the CPO.
- 7.32. I conclude in relation to these points that the Board's consideration of the matters raised in the written objection and oral hearing submissions is limited to the matter only of the appropriateness or otherwise of confirming the CPO and I have no further comments on these points.

¹ Board's reference ABP302903-18

² Board's reference number ABP301908-18 and ABP302039-18

8.0 Conclusions and Recommendation

8.1. I recommend confirming the CPO subject to a modification as set out below.

9.0 Decision

Having considered the objection made to the compulsory purchase order, and not withdrawn, to the report and recommendation of the person who conducted the oral hearing into the objection, the purpose for which the wayleaves on the lands in question are to be acquired and also having regard to the following;

- a. the provisions of the Water Framework Directive (2000/60/EC) and the Urban Wastewater Treatment Directive (91/271/EEC),
- b. the policies and objectives set out in the Galway County Development Plan 2015-2021,
- c. the deficiencies in the existing water services infrastructure in Ahascragh and the need improve the quality of wastewater from the town's wastewater treatment plant,
- d. the purpose for which the lands are to be acquired as set out in the compulsory purchase order,
- e. the community need, public interest served and overall benefits to be achieved from the proposed development,
- f. the submissions and observations made at the oral hearing, and
- g. the report and recommendation of the Inspector,

it is considered that, subject to the modification set out below, the permanent rights of way, the permanent wayleaves, and temporary working areas to be acquired by Irish Water on the lands in question, as set out in the order, schedules and on the deposit maps, are necessary for the purposes stated in the order and that the objection cannot be sustained having regard to this necessity.

Schedule

The permanent right of way extending over plots numbers 2,3 and 9 shall be reduced from 20m to a total 10m wide wayleave and the remaining area shall be incorporated into the temporary working areas marked as Plots 1,4,5, 6, 7,8, 10 and 11.

Reason: To take account of submissions made by the objector and Irish Water in relation to the required width of the proposed permanent wayleave.

Hugh Mannion
Senior Planning Inspector

31st January 2020

Appendix 1

Proceedings of Oral Hearing

An oral hearing was held into the Irish Water Compulsory Purchase Application on Tuesday 21st January 2020. The hearing was held at the Shearwater Hotel Ballinasloe, Ballinasloe, County Galway.

The following attended the hearing.

On behalf of Irish Water

Damien Keanery BL

Martina Connaghton

Jacques Barnard

Mathew Collins

Paul Fallon

Bernard Dee

On behalf of the Objector

Michael O'Connor BL

Malachy Gallagher

Declan Bannerton

- 9.2. The Inspector opened the hearing at 10am and invited Irish water to make its submissions.
- 9.3. Damien Keanery BL gave a brief description of the legal provisions relating to the compulsory purchase order process and introduced the expert witnesses who would give oral submissions as summarised below.
- 9.4. Paul Fallon Engineer Irish Water set out the background and description of the proposed works to be facilitated by the CPO. The Environmental Protection Agency (EPA) published a report entitled Focus on Wastewater Treatment in Ireland and this identified several settlements where untreated sewage was being discharged directly

to receiving waters and Ahascragh was one such settlement. There is a sewerage system in Ahascragh which discharges unscreened sewage from a combined sewer in the village into the mill tream via a pipe at the bridge over the stream. Additional effluent is piped from the village to an above ground Imhoff tank and subsequently to the Bunowen River, but the quality of the final effluent is so poor as to be considered “untreated”. This situation is unacceptable and breaches the EU Urban Wastewater Treatment Directive and domestic guidance.

- 9.5. The CPO is necessary to facilitate works on lands not in the ownership of Irish Water and that are necessary to fulfil a community need.
- 9.6. Jacques Barnard for Irish Water made a submission on the existing situation and need for the scheme.
- 9.7. Ahascragh is a small village with a sewerage system which discharges to a wastewater treatment plant located to the south east of the of the settlement. The extent of the serviced area and the location of the WWTP is illustrated in figure 7-1 of the RPS report appended as appendix B to the witness statement booklet submitted at the oral hearing. The overall scheme will result in an upgraded WWTP, upgraded pumping station, a new combined sewer overflow and an ungraded pipeline from the overflow to the pumping station.
- 9.8. The route of the pipeline from the CSO to the pumping station was chosen to reflect the line of the existing pipe, to avoid disturbance to existing buildings close to the corridor of the existing pipeline that restrict route choice and to avoid a longer eastern route around Chapel Street. The lands affected by the CPO are illustrated on IW/100018194/CPO/0001 and fall into 12 plots. The plats owned by the objector are Plot 1, Plot 3, Plot 4, Plot 6, Plot 7, Plot 8, Plot 9, Plot 10, Plot 11, Plot 12.
- 9.9. The objections raised by the objector in correspondence referenced the route of the pipeline over his property. Irish Water accepted the route change, and this is illustrated on the drawing at appendix D of the book of witness statements. Details of the new pipe were previously given, and the pipe will be uniform 9-inch pipe. The new wayleave will not allow construction of buildings over it. The wayleave sought is the standard 10m which allows for construction and maintenance. The enlarged pipe from the CSO and the additional 35m³ of storage at the pumping station will mitigate the problem of sewage flooding the objector’s property. The contractor will sequence

the construction works to prevent sewerage escaping during the decommissioning of the old and construction of the new pipe.

- 9.10. Bernard Dee of Mott MacDonald Engineers reviewed the planning policy context for the proposed development. The purpose of the overall upgrade of the Ahascragh WWTP is to provide treatment for a pe of 450.
- 9.11. The West Regional Authority (now the Northern and Western Regional Assembly) have published Regional Planning Guidelines³. These guidelines seek to prioritise the provision of adequate infrastructure to facilitate population and economic growth, to support investment in water and wastewater services in smaller towns and villages in the region, to protect and improve the quality of natural waters and to provide quality water and wastewater for environmental and development purposes.
- 9.12. The Galway County Development Plan 2015-2021 seeks (policy WS2) to work with Irish Water to provide water and wastewater facilities to rural towns and villages, to co-operate (policy WW1) with Irish Water in their capital investment plan, to promote (objective WW6) waste water infrastructure that is environmentally safe and does not impact negatively on habitat quality or species diversity and (WW8) to support the upgrade of substandard waste water treatment plants to meet the Urban Wastewater Treatment Regulations 2001/2004 and the waste water Discharge (Authorisation) regulations 2007.
- 9.13. Permission has already been granted for works to the existing town WWTP.
- 9.14. Mathew Collins (Irish Water) gave a statement in relation to the CPO procedure so far. In July 2018 Irish Water informed the objector in writing of its proposal to upgrade the pipe through his lands as part of the Ahascragh WWTP upgrade works. In September 2018 Irish Water notified the objector of the route of the wayleaves which it intended to acquire. The objector had a 60-day window to agree the route of the wayleave.
- 9.15. The CPO was made by Irish Water and submitted to the Board on the 8th October 2019. The objector (Declan Bannerton) made his objection to the Board on the 25th October 2019 and has not withdrawn that objection.

³ These will be replaced by the Regional Spatial and Economic Strategy when it is finalised.

- 9.16. Martina Connaughton (Galway County Council and Irish Water) made a statement in relation to landowner engagement in the lead-up to the making of the CPO. At the request of Galway County Council/Irish Water the objector agreed a site investigation contract and confirmed his ownership of the lands long the route of the proposed new pipeline. The objector was informed that the route of the pipeline had been amended to the line suggested by the objector's engineer (John M Gallagher Consulting Engineer). The parties discussed the route of the pipe, the diameter of the pipe, the potential for overflow from the amended works (pipe and holding tank), flooding and the width of the wayleave. These discussions were inconclusive.
- 9.17. Damien Keaney BL made a statement in relation to the legal aspects of the CPO application. The CPO is related to an overall scheme for the upgrading of the Ahascragh wastewater treatment system. The proposed route for the pipeline between the combined surface outfall (CSO) and the pumping station (PS) is the preferable route of three original options. Irish water is the water services authority for the purposes of the Water Services Act 2007 since 1st January 2014. Powers of land acquisition are conferred on Irish Water section 93 of the Water Services Act. Furthermore Section 213(4) of the Planning and Development Act 2000 as amended authorises the making of a CPO by Irish Water. CPOs must be proportionate and respect property rights as required by the Constitution and the confirming authority must be satisfied that the acquisition of property is clearly justified by the exigencies of the common good. The lands subject to CPO must be proportionate to the needs of the maker (Irish Water) and the Board in confirming the CPO must ensure that that need advances the common good which is met by the acquisition of the lands in question, that the lands being acquired are suitable to the needs being met and that compensation should made to landowners.
- 9.18. This CPO facilitates the Ahascragh WWTP redevelopment to meet current and future wastewater treatment needs. There is a need for the scheme facilitated by this CPO. The interests being acquired, permanent and temporary, are suitable to meet the identified need and the alternative routes are unsuitable. While the interests being acquired will interfere with the landowner's property that interference is proportionate to the legitimate aim being pursued in the interests of the common good.

- 9.19. The works to increase the diameter of the pipe to 9 inches will be largely carried out by trenchless drilling. Construction will not be allowed over the permanent wayleave in future. A 10m wide wayleave is required except where there are existing buildings. The works proposed are designed to overcome the problem of sewage overflow into the objector's property. Construction works will be carried out in a manner to ensure that sewage will not flow onto the objector's lands during pipeline construction works.
- 9.20. There was a 10-minute pause in the hearing.
- 9.21. Michael O'Connor BL for Declan Bannerton made a submission. The line of the pipe should be kept as close to the western boundary as possible to minimise impact on the objector's property. The preferred route has been agreed with Irish Water and the objector generally supports the plans to upgrade the town's wastewater treatment system. There has been flooding of the objector's property from the pipe and pumping station in the past and this should be avoided in the future by the provision of a stand-by pump, leak sensors and other mitigation measures.
- 9.22. The objector's engineer (John M Gallagher) made a submission. There is a pipe running from the public street between the objector's property and Katie Daly's pub that terminates at a pumping station. There is a history of raw sewage flooding the objector's and adjoining property. Irish Water proposes to lay a new pipe from the public road through the objector's property. The objector has not been given enough information as to the diameter of this pipe, the depth at which it will be laid, the potential for impact on the foundation of the objector's house. Irish Water should be required to remove all soil contaminated by sewage. The pipe from the pumping station to the millrace should be of sufficient diameter to ensure that there is no back up/overflow. The pumping station should be fitted with sensors/alarms/standby pump/standby generator to ensure against overflow of sewage.
- 9.23. The objector opposed an original route running diagonally across his rear yard. Mr Gallagher's written submission included a drawing showing the objector's preferred route. This route is from Chapel Street outside the objector's property at A on the drawing, down the side access to B in the objector's yard, turning east at C to D at the pumping station. There a further pipe from the pumping station to the mill race stream. The objector and Irish Water agreed at the hearing that this is the route adopted by Irish Water.

- 9.24. The objector's net point is that Irish Water reserves the right to lay the sewer anywhere within the 10m permanent wayleave. A 5m wayleave is sufficient in this case. No detail of restrictions which would be imposed on the use of the land have been provided to the objector.
- 9.25. The objector made a statement and outlined his experience of sewage flooding from the pumping station onto his land and that of his neighbours. He stated that he was not opposed to the overall scheme of improving the overall wastewater treatment system in the town. However, the proposed wayleave was too wide and would unreasonably impact on the rear of his business premises where he stored materials required by the business.
- 9.26. Irish Water in cross questioning confirmed that the wayleave of 10m is their standard requirement. Furthermore, Irish Water was stated that the Board is restricted to consider only the subject of the CPO and no other matters raised by the objector.
- 9.27. The hearing closed at about 12.45pm.

9.28. **List of Written Submissions made at Oral Hearing**

- 9.29. Oral Hearing Booklet – Written Statements (Irish Water).
- 9.30. Oral Hearing Booklet - Core Documents (Irish Water).
- 9.31. Legal Submission by Damien Keaney B.L. (Irish Water).
- 9.32. Report on Inspection (3 Copies) with attached extract map (2 Copies) by John M Gallagher Engineer (Declan Bannerton).