



An
Bord
Pleanála

Inspector's Report

ABP306355-20

Development	Compulsory Acquisition of Lands for Roundstone Sewage Scheme
Location	Roundstone, Co Galway.
Planning Authority	Galway County Council.
Applicant	Irish Water.
Type of Application	Notice of Compulsory Purchase Order under Water Services Act 2007-2013, Planning and Development Act 2000 (as amended) and the Housing Act 1966.
Objectors	Anne King Noel Coyne
Date of Site Inspection	12 th March 2020 and 16 th February 2021 .
Inspector	Paul Caprani.

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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 (Roundstone Sewerage Scheme) Order, 2019”.
- 1.1.2. The Compulsory Purchase Order relates to the compulsory acquisition of rights over land including permanent acquisition of lands, wayleaves over land, temporary working rights and rights of way in various parcels of land, to provide a new wastewater treatment plant and associated infrastructure. The Wastewater Treatment Plant is to be located on elevated lands approximately 500m north of the village of Roundstone in west 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. Two objections were received in respect of the CPO from landowners, namely Anne King and Noel Coyne. This report therefore considers the issues raised in the objections submitted to the Board and more generally, the application to acquire lands for the stated purpose.

1.2. Purpose of the CPO

- 1.2.1. According to the documentation submitted with the application, the purpose of the CPO is to provide new wastewater infrastructure so as to:
 - Eliminate untreated wastewater discharging into Roundstone Bay.
 - To provide a level of treatment that complies with general environmental regulations pertaining to wastewater and in particular to comply with the requirements of the Certificate of Authorisation issued by the EPA in 2011.
 - To comply with all the requirements of the Urban Wastewater Treatment Directive and national legislation.

- To provide sufficient capacity to allow for sustainable development within Roundstone.

1.3. **Accompanying Documents**

1.3.1. The application was accompanied by the following documentation:

- The Compulsory Purchase Order signed and sealed by the Managing Director and the Company Secretary of Irish Water dated December 5th, 2019.
- A CPO Map indicating the lands to be acquired for:
 - Permanent acquisition.
 - Permanent wayleaves.
 - Permanent Wayleave and Right of Way
 - Temporary working areas.
 - Temporary working areas and Right of Way
- An Engineer's Report detailing and outlining the existing wastewater infrastructure in the village and the need for the scheme. It also provides details of the scheme and argues that the proposal is very much in the public interest. It is argued in the report that there is a need to compulsorily acquire the lands and that the lands in question are deemed to be the most suitable and the preferred lands facilitate the provision of this much needed infrastructure. The Report also sets out in detail the landowner engagement that was undertaken in an attempt to acquire the lands. The alternatives that were considered are briefly outlined in the report. The report concludes that the proposal will comply with all statutory and regulatory requirements, and that the acquisition of the lands is suitable and necessary for the purpose of the CPO.
- A Planning Report prepared by Irish Water which sets out;
 - Details of the purpose of the CPO,
 - Details of the site location and description,
 - Details of the Relevant planning history,

- Legislative and Planning Policy Context
- The report concludes that the proposal is fully compliant with local, national and EU planning policy and serves a pressing community need.
- Two separate reports prepared by Mott Mc Donald were submitted.
 - One report related to the Roundstone Pumping Station Site Selection Report which evaluated suitable sites for three pumping stations to serve the proposed WWTP including the terminal Pumping Station.
 - A separate report was submitted which evaluated suitable sites within the agglomeration for a wastewater treatment plant.
- Public notices published in the Connacht Tribune dated 20th of December, 2019.
- Certificate of Service of CPO notices.

1.4 Format of CPO Schedule

Part 1 of the Schedule specifically sets out the lands to be the subject of permanent acquisition. It involves 4 plots (Plot no.'s 1 to 4).

Part 2 of the Schedule sets out lands to be acquired for permanent wayleaves; It involves a total of 4 plots (Plots 6, 9, 13 and 16).

Part 3 sets out the requirements for permanent rights of way. Three plots are required for this purpose (Plots 9,12 and 15).

Part 4 sets out details of the proposed temporary works areas required to facilitate the works. A total of 8 separate plots are required (Plots 5, 7, 8, 10, 11, 12, 14 & 15).

2.0 Site Location and Description

The village of Roundstone is located in west Galway, approximately 75 km west of Galway City and 20 km southeast of Clifden. It is a coastal village, comprising of a north-south linear settlement along the R341, facing eastwards onto Roundstone Bay. The lands rise gradually to the west (rear of the village) towards Errisbeg Mountain c2 km to the west. The settlement pattern is characterised in the main by

eastward facing buildings onto the Main Street over a distance of approximately half a kilometre. Sporadic backland infill development is located to the rear (west) of the Main Street, and this is more concentrated in the southern part of the village. Two quay piers project into the Roundstone Bay in the centre of the village.

Roundstone Village has a population of 214 according to the census of 2016.

The proposed preferred site for the WWTP is to be located on elevated lands to the west of the R341, in the northern periphery of the town. The WWTP is to be located on undulating, wooded scrubland to the immediate north-west of a cluster of 4 residential units which appear to be used as holiday homes. The treatment plant is to be located approximately 180m west of the R341 at an elevation of c.25 m above sea level. There is no development contiguous to the subject site. The nearest building to the proposed site for the WWTP is the residential / holiday home which is approximately 85 m away. There are two residential dwellings located on lands to the north-east of the subject site, one of which is approximately 140m from the proposed WWTP (Plot 1), while the other dwelling is further away again at approximately 210m.

2.1 Existing Wastewater Treatment Arrangements

In terms of the existing wastewater infrastructure arrangements, effluent generated in the Roundstone agglomeration is collected through three combined collection networks with three separate outfalls which discharge untreated sewage into Roundstone Bay. Network no 1 which comprises of the main sewer network, runs along the Main Street. It is a gravity-feed combined sewer of approximately 550 m in length and discharges via an outfall into the Bay to the north of the agglomeration. This outfall is located approximately 110 m north of the Pier at the northern end of the settlement. Figures presented in the documentation submitted indicate that the discharge point is approximately 60-70m from the shoreline.

A separate small length of gravity fed combined sewer, network no. 2, serves a small agglomeration of buildings in the central area of the village and discharges into an outfall to the immediate east of the southern quay pier. This sewer is estimated to be in the region of 70 metres in length and the outfall does not extend far beyond the pier.

Network no. 3 comprises of a separate combined network serves a southern portion of the agglomeration. It is also a gravity fed sewer. It runs southwards along Fairgreen Cottages, a road which runs parallel to and to the west of Main Street. The sewer runs in a southerly direction before turning east along the southern leg of the Main Street (Monastery Road). It continues east to the immediate north of two large stone shoreside marine buildings and discharging into an outfall to the south of the village. This combined sewer is similar in length to the network serving the main street at 550m.

The existing network therefore comprises of three gravity feed sewers which discharge via three separate outfalls into Roundstone Bay. There are no forms of preliminary treatment or pumping stations on the existing sewer network. A report into the condition of the existing sewerage network carried by RPS in 2015 found the overall network to be in generally poor condition.

The existing discharges have a Wastewater Certificate of Authorisation (CoA) (Reg No. A0115-01) which was issued by the EPA in May 2011. Condition 3.3 requires the authorisation holder to operate the wastewater works in accordance with best practice to ensure that discharges from the works do not cause environmental pollution and deterioration in the status of the receiving surface water body or groundwater body on either a temporary basis or spatial basis. Condition 3.4 of the CoA requires amongst other things, the construction of a WWTP to serve the village.

3.0 Proposal

The proposed scheme involves the following:

1.4. In general, the proposed works for which the CPO is sought seeks to intercept the untreated wastewater which is being discharged via three separate outfalls. The intercepted and collected effluent will be conveyed via the existing gravity sewer along Main Street to a terminal pumping station. The pumping station will in turn pump the wastewater to a new WWTP to the north of the village, where the effluent will be treated before being discharged via a newly constructed outfall pipe along the R341 and discharged into Roundstone Bay via the existing outfall serving network

No.1. The key aim is to combine the three existing sewer networks into one system to pump effluent to a new WWTP to the north of the village.

1.5. Specifically, the following infrastructure is proposed to be put into place.

- Wastewater will be intercepted on at the end network 3 (the most southerly network) and will be pumped back to the southern end of network no. 1 which flows by way of gravity northwards along Main Street. The proposed site for pumping station (PS) no.3 is located on a greenfield site to the immediate south of the houses on Marine Terrace (lands owned by Noel Coyne, one of the objectors).
- It is likewise proposed to intercept and pump flows from a small sewer in the centre of the village, which currently discharges untreated effluent into the Bay in the vicinity of the lower pier (network no.2) into network 1 along Main Street. This will involve the construction of a new pumping station at the eastern end of the pier, adjacent to the existing outfall.
- All flows along network's 2 & 3 will then have been diverted into the gravity sewer on network no.1. The flows will continue northwards via an existing gravity sewer to a new terminal pumping station located on the sea side of the coastal wall near the northern outfall. The terminal pumping station is located within an area of weathered granite along the shoreline.
- The terminal PS will be sized such that Flow to Full Treatment (FFT) of 6.5 l/s flows will be forwarded to the WWTP. Stormwater storage will be provided at the Terminal PS with a capacity to store 96m³ which is equivalent to 2 hours storage of Formula A flows. The wastewater will then be pumped, a distance of c.430m to the WWTP proposed to be located at the northern end of the village (Plot no.1). The treated effluent will then be discharged, via back via a newly constructed gravity sewer along the R341 to the existing northern marine outfall to be discharged into the Bay.

1.6. The proposed WWTP will be design for a capacity of 1000 PE, designed to cater for a population over a design horizon of 30 years. Information on file indicates that the WWTP will comprise of an inlet screening and grit removal chamber, two

circular settlement tanks to provide primary treatment and a sludge storage facility. The documentation submitted indicates that the sludge holding tank will be, at its closest point, in excess of 80m from the nearest residential building

4.0 Planning Policy Context

Regional Policy

The Draft Northern and Western Regional Spatial and Economic Strategy will replace the Regional Planning Guidelines for the West Region. In terms of some of the key planning and development issues identified in the strategy, these include the provision of infrastructure required to attract investment into the region. In terms of future investment priorities, a key priority includes the provision of adequate water and wastewater facilities for all areas. The strategy also places emphasis on conserving on enhancing environmental qualities of the region. In this regard the strategy seeks to protect and enhance water quality in line with the Water Framework Directive and the River Basin Management Plan.

Regional policies and objectives include:

- No. 196 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.
- No. 199 to support investment for water and wastewater services in the first instance where existing facilities are insufficient to meet current demands.
- No. 201 provide quality water and wastewater services necessary for urban and rural economic development purposes.
- No. 202 ensure the protection and improvement of all waters, including rivers, lakes, groundwater, estuaries, coastal waters and their associated habitats and species throughout the Region and implement measures to achieve at least 'Good Status' in all surface water bodies.
- No. 204 participate in the implementation and promotion of compliance with the objectives of the Water Framework Directive through the River Basin Management Plans throughout the region.

Galway County Council Development Plan

The policies and provisions of the Galway County Council development plan 2015 - 2021 apply. There are no land use zoning provisions associated with the lands proposed to be acquired.

Chapter 6 of the county plan relates to water, wastewater, waste management and the extractive industry. Section 6.11 state that *'the provision and maintenance of quality wastewater treatment infrastructure is essential for sustainable development and the protection of the environment and public health. Irish water is currently responsible for the treatment and disposal of wastewater in towns and villages where public wastewater treatment facilities are in place. The Environmental Protection Agency is the statutory body tasked with ensuring that appropriate standards are put in place in the provision for wastewater infrastructure'*.

There are a number of water service policies and objectives which are relevant to the current CPO application before the Board. These include:

Policy WW 1 - Collaborative Provision of Wastewater Collection and Treatment Systems. This policy seeks 'to cooperate with Irish Water in the delivery of the proposed capital investment plan 2014 to 2016 (or updated plan) and to increase the capacity to service settlements, to jointly investigate proposals for future upgrades of treatment plants and to participate in the provision of a long-term solution for wastewater treatment in the West Region'.

Objective WW 1 seeks to ensure that all wastewater generated is collected, treated and discharged after treatment in a safe and sustainable manner, having regard to the standards and requirements set out in EU and national legislation and guidance and subject to compliance with the provisions and the objectives of the EU Water Framework Directive, relevant River Basin Management Plans, Urban Wastewater Directive and the Habitats Directive.

Objective WW 2 seeks to support, in conjunction with Irish Water, during the lifetime of the plan the provision, extension and upgrading of wastewater collection and

treatment systems in all towns and villages of the County to serve the existing and planned future populations including Clarinbridge, Corofin and Lackagh.

Objective WW6 seeks to 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.

Objective WW8 relates to substandard wastewater treatment plants. The policy seeks to support and facilitate as appropriate, the upgrading of substandard public wastewater treatment plants in order to comply with the provisions of the Wastewater Treatment Regulations 2001 and 2004 and the Wastewater Discharge (Authorisation) Regulations 2007 and to implement the relevant recommendations set out in the EPA document Focus on Wastewater Discharges in Ireland (and any subsequent updates).

5.0 Objections to the Compulsory Acquisition of Lands

5.1 Objection on behalf of Mr. Noel Coyne

This objection was submitted on behalf of Mr Coyne by Joseph T. Joyce and Co. Auctioneers¹. It comprises of a number of letters from the Auctioneers to GVA, Donal O Buachalla RICS Registered Valuers on behalf of Irish Water. The objection is set out below:

- Mr Coyne's property is located in the heart of the village Roundstone with extensive road frontage on the north and west boundaries. It is stated that the site in question could easily accommodate up to twenty housing units. If such a permission were to be granted, it is argued that the value of the lands would be in the region of €1.4 million. Currently the value of the property is estimated at €400,000 taking into accounts the land's 'hope value'.
- In separate correspondence attached to the submission, it is argued that the proposed treatment plant would have a serious negative effect on the

¹ Mr. Noel Mc Carthy SC represented Mr Coyne at the Oral Hearing.

marketability of any development of the lands. Concerns are expressed that the proposed treatment plant would have an adverse visual impact on any housing development and could also give rise to excessive odour and noise particularly in the event of malfunction. This is likely to influence any potential purchaser. The objector would be willing to consider any reasonable financial offer for the plots involved.

5.2 Objection of Anne King

This objection relates to the compulsory acquisition of lands for the proposed scheme and in particular plots no.'s 1 (the permanent acquisition of lands for the WWTP and access to same) and plot no.16 (permanent wayleave adjacent to the access to the WWTP). The grounds of objection are set out below.

- It is argued that the description of lands to be acquired 'is so vague and so imprecise and so inaccurate that it is not possible to properly construe precisely what is in fact being acquired or what is required in respect of the scheme'. There is a complete absence of detail and/or justification or basis for the said compulsory acquisition.
- No appropriate drawings have been submitted detailing the scheme and this results in a confused and ambiguous proposal.
- No facilities have been made available for the purchase or acquisition of the drawings etc. pertaining to the scheme. All information in relation to minutes of meetings correspondence etc. should have been furnished to the owners of the lands in question. The absence of such essential material makes it extremely difficult to understand the rationale which underpins the proposal and renders the participation of the objector in any meaningful way almost impossible. It is simply not possible to formulate an objection based in these inadequate documents within the time limit that has been allocated. There is an onus on the Irish Water to act more openly and transparently in acquiring the lands.
- The lands to be acquired are described as being 'agricultural lands' to the north of the village. It is argued that lands are within the development envelope of Roundstone and contiguous to in-depth urban development.

Thus, the lands are eminently suitable for development. This is not apparent from Irish Water's description of the lands.

- Irish Water made the application at an extremely sensitive time for the family of the former owner. Irish Water, it is argued, lodged the application before Christmas in the knowledge that the estate of the objector's family was in the process of transition. Irish Water identified the legal representative of Bartley King (since deceased) as the person upon whom to serve the notice. This created great difficulties for the family. The family had to formulate objections over the Christmas period and traverse sensitive family issues in public.
- The delineation of the lands in question is crude and does not give due consideration to the development potential or otherwise of the residual lands. The land to be acquired disrespects natural boundaries and shows a disrespect and contempt for the natural rights of landowners.
- In relation to the wayleave, it is argued that the Board cannot permit the acquisition of these lands given the undefined nature of what is being sought. The Board should not permit a wayleave without the legal consequences and effect. The extent and consequence of the wayleave has not been clarified or defined and this should render the entire application to be null and void.
- No details have been provided as to what is to be located within the lands to be acquired. No details have been provided in relation to the number of size of pipes to be laid and to the depth of the pipes. It is very difficult for the landowner to engage in a meaningful way, in the absence of this information.
- No justification has been put forward as to why contiguous, yet separate plots are required, one to be permanently acquired and the other acquired for a wayleave? The partial and complete acquisition of these two plots side by side has not been explained or rationalised. This constitutes another example of an ill-conceived and ill-defined project.
- The Engineers Report does not meet any of the obligations that must be satisfied if Irish Water are to proceed with the scheme. The report in no way attempts to justify the need to specifically acquire the lands in question. The entire report is speculative in nature and grounded in supposition rather than fact.

- The report appears to contradict the fundamental recommendations made in 2015 prepared by RPS Consulting Engineers which recommended the provision of an integrated constructed wetland to provide water treatment for the Roundstone agglomeration. This treatment plant was to be located on IDA lands to the south of the village. The RPS report should be made available to the Board, as it is appropriate that the Board has all the information before it, prior to determining the need to compulsorily acquire third-party lands.
- Subsequent to the RPS Report, a decision had been made to acquire the objector's lands. Only after this decision was a site selection study undertaken. It is suggested therefore that this evaluation undertaken in the site selection report was carried out post facto to the preferred site being identified. The report, it is argued, constitutes 'window dressing'.
- As to why the original preferred site identified in the RPS site selection process was abandoned in favour of the site currently before the Board needs to be clarified. Specifically, no dates are provided as to when crucial decisions were made. Again, it is suggested that that it was decided to purchase the appellants lands before any proper and objective evaluation of alternative sites had been undertaken by Irish Water.
- It is inappropriate to try and persuade the objector's family to sell the lands in question in the absence of wider consultation with the local community.
- It is stated that undue pressure was placed on the objector's family to sell the lands in question during a family members time of illness.
- None of the Irish Waters obligations under 92/43/EC (Habitats Directive) have been complied with particularly in relation to screening. Works have been carried out which have been in breach of Irish Water's obligations under both the Habitats Directive and the EIA Directive.
- It is argued that there are numerous landowners that are affected by the scheme and have not been identified or consulted. Specific reference is made to the lands to the immediate south of the objector's lands. Numerous other persons have been listed who have interests in the land and should have been served Notice, but Irish Water failed to do so. All information which grounded the preparation of the schedule should be made available to the

Board in relation to land ownership, legal interest. In such a situation the Board are precluded from confirming the CPO.

- The proposal is premature in the absence of a full appropriate assessment, which clearly shows beyond reasonable scientific doubt that the development will not affect conservation objectives pertaining to any designated lands in the vicinity. The whole project is therefore fundamentally misconceived in terms of the chronological order in which the application is made to the Board.
- The development is furthermore required to be the subject of Council Directive 2014/52 and will require an EIAR. It is inappropriate to confirm the right of Irish Water to acquire a citizens land in respect of a development which requires numerous consents (planning, consent under the Habitats and EIA Directives, foreshore licences, discharge licence etc) for a development that may never be authorised.
- In conclusion the objector opposes each and every element of the compulsory acquisition and each and every basis on which the application is grounded. The lands to be acquired are neither necessary nor are they deemed suitable for the scheme. It is inconsistent with the provisions of the Galway County Development Plan.

6.0 Oral Hearing

An Oral Hearing was conducted on Monday March 15th. Both objectors and Irish Water attended the hearing. Oral submissions were made by representatives on behalf of all parties. The proceedings of the oral hearing are summarised in Appendix 1. The entire proceedings were also recorded and are available to the Board.

6.1 Modifications Sought.

No modifications were sought to the CPO during the course of the oral hearing.

7.0 Assessment

7.1 Overview

For the Board to confirm the subject CPO, it must be satisfied that Irish Water has demonstrated that the CPO is clearly justified by the “common good”. Case law² has determined that, in order to satisfy the common good, the following minimum criteria are required to be satisfied.

- There is a community need that is to be met by the acquisition of the site in question.
- The particular site is suitable to meet the community need.
- Any alternative method of meeting the community need have been considered but are not demonstrably preferable.
- The works to be carried out should accord or at least not be in material contravention of the policy and objectives contained in the statutory development plan relating to the area.
- The extent of land-take should have due regard to the issue of proportionality.

The proposed development is assessed in the context of the tests set out above prior to addressing the specific issues raised in the objections lodged.

7.2 Community Need

The community need for the project was set out by Irish Water in the documentation submitted with the CPO and also with the witness statements at the oral hearing and can be summarised as follows.

Currently the Roundstone agglomeration does not have the benefit of adequate wastewater treatment prior to discharge of effluent into the Roundstone Bay. In fact no treatment is undertaken prior to discharge via three separate gravity outfalls.

² See also Mc Dermott and Woulfe ‘Compulsory Purchase and Compensation in Ireland: Law and Practice’ (1992).

There is a requirement under the Water Framework Directive and the Urban Wastewater Treatment Directive that any wastewater being discharged into receiving waters be the subject of 'appropriate' treatment. In the case of agglomerations of less than 10,000 persons, primary treatment of effluent, as a minimum requirement, must be provided (as per Article 7(a) of S.I. 254 of 2001). In this instance Irish Water have considered it appropriate to treat the effluent to primary standard in the first instance prior to discharge. It is stated that the lands sought can facilitate secondary treatment should the need arise at some future date. There is a legal requirement therefore, that any municipal wastewater generated within a designated agglomeration is required to be treated at least to primary level, in order to comply with legal requirements, set out in the said Regulations. The specific level of treatment required for any discharge of effluent into receiving waters will be further determined by way of a planning application to ensure that any wastewater treatment facility complies with other relevant legislation including the Surface Water Regulations (S.I. 272 of 2009) and the Waste Discharge Authorisation Regulations (S.I. No 684 of 2007).

Any such compliance will be the subject of subsequent assessment and is not a matter for this CPO application. For the purposes of confirming the CPO or otherwise, the Board however should be cognisant of the legal requirements set out under the Urban Wastewater Treatment Regulations which necessitates some form of treatment prior to discharge. The provision of a wastewater treatment plant and associated infrastructure therefore constitutes a legal requirement which must be adhered to. Roundstone is also a designated EPA 'priority urban area' in terms of providing wastewater treatment. Therefore the implementation of appropriate treatment is a priority.

There are no designated Shellfish Waters, Bathing Waters or designated 'sensitive' waters as specified under the 3rd Schedule of the Urban Wastewater Treatment Regulations located in proximity to the existing outfalls. No such designations relate to Galway Bay. The Nearest Natura 2000 sites to the Roundstone Agglomeration are (a) The Cregduff Lough SAC (Site Code 00125) the boundary of which is adjacent to the southwestern environs of the periphery of the town. The Connemara Bog Complex SAC (site code 002034) which is located c.1 km to the north and west

of the village. The Slyne Head to Ardmore Point Island SPA (Site Code 004159) is located c2km to the south of the village.

There can be little doubt however that the provision of an appropriate wastewater treatment plant and associated infrastructure will improve water quality within the Bay and can also facilitate the planned residential expansion within the development boundary of Roundstone by way of encouraging and facilitating additional development within the confines of the village in accordance with national and local policy without discharging additional untreated sewage into the Bay. The provision of appropriate wastewater treatment will facilitate future potential development of the area and attract new residential and employment opportunities in accordance with land use policy.

Finally, in relation to the community need test, I note that the objectors did not challenge the confirmation of the CPO on the basis of community need. The objections primarily related to the suitability of the lands and the scheme as conceived as a whole to cater to the requirements of the village.

Having reviewed the information submitted and having conducted an oral hearing, I am satisfied that there is a need for a wastewater treatment plant to meet existing and future demand in the Roundstone agglomeration in order to improve water quality and satisfy legal requirements in respect of wastewater treatment. I am therefore satisfied that Irish Water have demonstrated a clear and pressing community need that would be met by the project within the village.

7.3 Suitability of Lands to Serve Community Need

The suitability of the lands in question to serve the community need is a critical issue in determining whether the subject lands are suitable to be acquired for the purposes of providing a pumping station and WWTP to serve the village of Roundstone. This section of my assessment should be read in conjunction with the section on alternative sites.

Two site selection reports were submitted with the application, one in relation to the suitable location pumping stations and a separate report in relation to a suitable site for a WWTP site. Both of these reports are briefly assessed below:

Pumping Station Sites

A Total of 9 pumping station sites were considered for the purposes of alternative sites for pumping stations. I would agree with Irish Water that in the case on network 2 there was only water location that presented a realistic option to intercept affluent near the outfall pipe.

In the case of the terminal pumping station (pumping station No.1) to the north of the agglomeration, 3 separate sites for pumping stations were considered with the pumping station at the foreshore being the preferred option.

In the case of pumping station No. 3 which is to intercept effluent in the lower part of the village, a total of five pumping stations were considered. The preferred site for pumping station 3 (site D) related to undeveloped lands at a greenfield site to the immediate southeast of the Main St. These lands are in the ownership of one of the objectors, Noel Coyne. In assessing the suitability of these lands, the technical assessment criteria for land use were predicated on considerations relating to the construction, maintenance, and operation of the proposed pumping station. It is noted in relation to Site D that, due to the topography of the field in which the site is to be located, and the presence of existing vegetation and hedgerows there was a high level of screening provided. The site is removed from archaeological sites in the area and there is no obvious potential for archaeological findings. It is also noted that the site is greater than 15 meters from the nearest residential house. The site is within private lands and is a greenfield site. It is not considered that the site will result in any habitat loss and the site is located outside flood extents. It was on the above basis that Site D for pumping station No.3 was considered the preferred site. It is my considered opinion however that the Site Selection Report failed to consider other planning criteria and the implementation of wider more strategic land use considerations. The greenfield provides a prime development site within the village on Roundstone. The site is surrounded by public roads, and on two sides by existing housing. Lands the immediate south of the site accommodate the National School and the IDA Park. The site forms are continuation of the Main St and is adjacent to the local church, recycling centre and Garda Station, and is in proximity to the various commercial and recreational uses further north along the Main St. The site therefore in my opinion represents a significant opportunity to create appropriately scaled infill development which would be fully in accordance with various policy

statements contained in the development plan including section 3.2 of the plan which seeks to promote residential densities to ensure efficient use of lands and appropriate locations. Section 3.4.1 of the plan generally seeks to encourage sustainable patterns of development in town centre and brownfield sites whereas Section 3.4.4 specifically seeks to encourage development to centrally located sites within small towns and villages. Likewise, the National Planning Framework seeks to achieve more compact development within existing urban areas rather than expanding into greenfield sites in the periphery of towns and village.

The provision of a pumping station on such a prime centrally located site, will result in a considerable land take on this infill site which will be exacerbated with the incorporation of a cordon-sanitaire of at least 15m in every direction around the pumping station in order to protect surrounding residential amenity³. This in my view will significantly restrict development opportunities on such a key developable site. While it is not the purpose of the CPO determination to take land values into consideration, as this issue is a matter for arbitration, the sterilization of lands on an undeveloped site in the village centre is a relevant consideration in terms of implementing planning policy under both County Development Plan and the National Planning Framework. The location of a pumping station on the lands in question would not sit comfortably within this land use policy and could have significant implications for the village from an urban design perspective.

Irish Water during the proceedings of the oral hearing, made some very cogent arguments on engineering grounds as to why the pumping station should be located at this preferred location. One of the more important points made stated that a pumping station at this site would enable the existing outfall to be used as an overflow pipe during excessive loadings on the network. While this is an important consideration, it does not in my view outweigh the potential adverse land use implications which could arise should a pumping station be located on this centrally located greenfield site. Roundstone incorporates significant topographical constraints, and it is important that lands which are centrally located in proximity to existing services should be prioritized in terms of development potential. The lands

³ Irish Water technical specifications require a 15 meter buffer zone in the case of pumping stations that pump in excess of > 1l/s. as the pumping station in this instance will pump in excess of > 2l/s, there may in fact be a requirement in this instance to increase the buffer zone proportionately.

owned by Mr Coyne represent a significant opportunity in this regard and should not in my view be compromised or undermined by placing a pumping station within the confines of these lands.

Irish Water also stated that the lands in question are already compromised in terms of their development potential on the basis that there is an existing septic tank located within the site, serving houses in the vicinity and that the site is already traversed by water pipes. In relation to these matters, I would comment as follows; it is likely that the existing septic tank will be decommissioned and could therefore be removed with a new public sewage network being put in place. Furthermore, the fact that water pipelines may traverse the site does not in itself provide justification not to develop the lands. The presence of such infrastructure would support the view that the lands have development potential. While the presence of existing water pipes may constrain design options to some extent the presence of a pumping station together with the potential for noise and odour would in my view only further constrain development options on such a site.

It is my considered opinion therefore that the location of pumping station no.3 is not suited to the lands in question.

Suitability of Preferred Site for WWTP

I would likewise express reservations in respect of the suitability of the lands to be acquired for the WWTP to the north of Roundstone. The WWTP Site Selection Report identified a total of five sites for investigation. The methodology employed and the various criteria applied in assessing the various sites will be referred to later in this assessment. However, it is sufficient at this stage to identify a number of salient points which the Board should take into consideration in assessing the suitability of the subject site. These are summarized below:

- The subject site is located on elevated lands (25m AOD) on the main approach road into the village of Roundstone. The village undoubtedly possesses significant picturesque and scenic qualities and is located on the Wild Atlantic Way a premier tourist route within the State. Roundstone is also an important tourist destination in itself. It also attracts a high landscape value rating (2nd highest rating) in the County Development Plan. The development of a wastewater treatment plant on the approach to the village on elevated grounds could have a significant and material

impact on the visual amenities of the area and this is a relevant and germane consideration in assessing the suitability of the site. There are undoubtedly alternative sites, some of which were considered by Irish Water, which would be less sensitive in visual terms.

- The site is also located in closer proximity to sensitive receptors than other sites which form part of the site selection process. Irish water in evaluating this issue gave the same weighting to any site which was located in excess of 50m from sensitive receptors. The preferred site is located within 80 meters of the nearest holiday home and this is considerably less than other sites which were considered. Separation distance from sensitive receptors is in my view a very important consideration in determining the suitability of a site. It is my considered opinion that any evaluation methodology should take into consideration and give a more preferential score to any WWTP site which is located further/furthest from sensitive receptors.
- In terms of construction costs, I again consider that the preferred site may be more challenging in terms of construction than other sites which were evaluated in the site selection process. Any definitive conclusion on this cannot be made as Irish Water were not permitted access to the site by the owner for the purposes of carrying out site investigations. However, it is apparent that the wastewater treatment plant in question would require the construction of an access road 180 meters in length across challenging terrain. It is also very possible, if not probable, that significant site excavation works, which may include the removal of significant amounts of rock outcrop, will be necessary in order to accommodate the WWTP at this location. I refer the Board, to the photographs carried out during my site inspection which gives an indication of the undulating challenging terrain of the site. There are other sites which were considered that don't involve the construction of access roads at all, or the construction of such long access roads and may not require the same level of excavation in constructing access roads as the preferred site. It should also be pointed out that there is a requirement under the preferred option to construct a new 430 m outfall gravity pipe to connect with the

existing outfall for network no.3. This also constitutes a significant construction cost.

- Also, in relation to construction costs, Irish Water both in the written documentation and at the oral hearing, indicated that the preferred option would have the advantage of utilising an existing outfall (outfall serving network No.1) and therefore no new outfall would be required to be built as part of the preferred option. However, I would refer the Board to the RPS Report (Roundstone Sewerage Network – Condition Report- Sept 2015) in which it is stated in S.2.3.1 *“the caretaker indicated that the outfalls are constructed in clayware and uPVC pipe surrounded in concrete and laid along the seashore. None of the sea outfalls have flap valves. The caretaker also indicated that the concrete encased clayware sea outfall at network 1 (the oldest network), had disintegrated and the pipe is broken in places, effectively reducing the length of the outfall”*. Reference to disintegration of the outfall would suggest that this outfall, which appears to be the longest of all the outfalls (c. 60 to 70m in length), will have to be replaced in its entirety. This cost does not appear to have been factored in in the cost estimates (see appendix C of site selection report).
- Network one is also the oldest network built in the 1920's. A major benefit referenced in in the Irish water submission in the fact that the preferred option utilises the existing gravity sewer network running along Main Street. I fully acknowledge that utilising an existing gravity sewer, which all other networks can feed into, would be of significant benefit in terms of cost and limiting the disruption along Main Street during construction phase. Again, I would however refer the Board to the RPS Report (Roundstone Sewerage Network – Condition Report- Sept 2015- Appendix 4 of Book 1 of Irish Water's submission at the oral hearing). It indicates that a CCTV survey of the network was undertaken in 1997. It indicated (p.5 of report) that there were multiple issues with clayware, uPVC and concrete pipe network. These issues included (a) where clayware is in poor structural condition and in danger of imminent collapse with multiple fractures deformities and breaks (b) intruding pipe

connections (c) deformation of uPVC pipe work (d) Infiltration (e) root ingress at joints. The report goes on to note that while this CCTV report is 18 years old (at the time of writing the report 24 year old at the time of this report) and that while “*some repairs have been carried out since then, it is likely that the condition of the pipework has deteriorated further since the survey was completed*”. Is therefore apparent that's while parts of the network may be suitable to use, there would be requirement for significant upgrading, and in some parts, a requirement for the entire replacement of the network. It would not be unreasonable to conclude not much of the refurbishment and replacement would relate to the oldest network, (network No. 1), the gravity sewer along Main Street. Therefore, Irish water may be required to carry out extensive works along Main Street to ensure that the gravity sewer is fit for purpose. This in my view would undermine the benefits that could accrue from utilising the gravity sewer, in terms of minimizing disruption to premises along Main Street. The minimization of disruption along Main Street was seen as a major benefit of the preferred option over other options, particularly those involving placing the WWTP on a site to the south of the village. While it is acknowledged that placing a WWTP to the south of the village would involve the construction of a rising main along Main Street, and this would inevitably involve significant disruption during the construction phase, it is not altogether apparent that such significant disruption can be avoided completely under the preferred option.

- In relation to the matter of site suitability, I would make reference to operational costs. While I have not carried out any detailed engineering evaluation and would defer to the expertise of the Irish Water's Engineers who have carried out a more detailed evaluation on operating costs, I would nevertheless have some doubts that the preferred WWTP represents the most optimum option in terms of operation and energy costs to the extent indicated in the site selection report. Irish Water's arguments are essentially predicted on the benefits derived of intercepting and collecting effluent from Networks 1 & 2 and allowing this wastewater to be conveyed by gravity to a terminal pumping station at the north end of

the town to a terminal pumping station. The entire load will then be pumped c430m up a static head differential of 19m to the WWTP (c.6m AOD to 25m AOD). Irish water maintain that pumping the entire load over such a distance, is preferable than pumping the load along Main Street in the opposite direction south over a distance of c1km which would incorporate a static head differential of c.15m (c. 6m AOD to 21 AOD). Irish water maintains that its preferred option represents greater value for money in terms of operational costs. This may well be the case and will be the subject of more detailed evaluation should a planning application be lodged at some future date. However, the Board should not restrict any deliberations in terms of the acquisition of lands to the matter of operational and construction costs only, wider concerns in relation to the proper planning and sustainable development are equally relevant in determining the CPO.

Furthermore, I would request that the Board take the following into consideration on deliberating on this issue of operational and energy costs:

- Firstly, documentation submitted with the planning application indicates that the static had differential between the terminal pumping station and the highest point on Main Street is only 10 meters and not 15m as suggested by Irish Water at the oral hearing. The cost of pumping the effluent southwards along Main Street therefore may not give rise to such significant operational costs. Pumping effluent along a static head differential of 10m or 15m is still likely less than pumping effluent along a static head differential of 19m.
- Secondly, I am not convinced that a new rising main of 1 kilometer in length is required to convey affluent from the north of the village to an alternative site to the south of the built-up area. The natural topography of the land suggests but there is a general fall in the topography along Main St from the Roundstone House Hotel southwards⁴. I therefore

⁴ The Roundstone Hotel is approximately 70 m to the south of the lower pier on the west side of the Main Street.

suggest that a gravity main (as opposed to rising main) could convey effluent to any wastewater treatment plant to the south of the village thereby reducing operational costs. There is a general fall in topography from about 17m AOD from the highest point on Main Street to about 6m AOD on lands to the south of the IDA Park.

- Finally, in relation to this matter any pumping of effluent southwards via arising main along Main Street would only be required to convey the effluent along the houses and commercial premises served by network No.1 within the village and therefore only a portion of the effluent generated within the village would be required to be pumped via rising main. In the case of the preferred option before the Board, the entire effluent of the village (all three networks) would be required to be pumped uphill to the wastewater treatment plant which in my view is more likely to expend greater levels of energy in pumping the larger volumes of effluent and therefore likely to give rise to higher operational costs.
- The final matter I would raise in relation to the suitability of the site relates to previous reports undertaken by Galway County Council and RPS Consultants on behalf of the council. The RPS Report (see appendix 4 of book 1 of Irish Waters brief of evidence submit the oral hearing) considered a wastewater treatment plants to the south of the village specifically on the IDA lands to be the only viable site to accommodate a wastewater treatment plant for the village of Roundstone. It is also noted that Galway Co Council have recently under Reg. Ref 19/1902 granted planning permission for a smaller packaged treatment plant on lands to the south of the IDA lands to serve the development within the IDA lands.

The suitability of the preferred site can only be assessed in the context of the network that it is proposed to serve. I have above outlined my significant concerns in respect of the preferred option in terms of the overall design of the network. Based on these concerns, I am not satisfied that there are not demonstrably better sites suited to serve the community need. The suitability of the subject site will be revisited under a separate heading of 'Alternatives' below.

7.4 Compliance with Development Plan/ Planning Policy

As outlined in the section above entitled 'Planning Policy Context', both regional and local plans contain numerous policy statements which support the provision of improved infrastructure, including water services infrastructure, in order to facilitate the development in the county and in the local area. The various policies and objectives which support the generality of the proposal are referred to in the original documentation submitted with the CPO application as well as the statement of evidence of Ms. Grainne Reid at the oral hearing. Regional and local policy seeks 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. The regional strategy also seeks to support investment for water and wastewater services in the first instance where existing facilities are insufficient to meet current demands. Both regional and local policy emphasize the need to ensure the protection and improvement of all waters, including rivers, lakes, groundwater, estuaries, coastal waters and their associated habitats and species throughout the region and implement measures to achieve at least 'Good Status' in all surface water bodies in accordance with the requirements of the WFD.

As the Roundstone agglomeration accommodates a population of less than 1500, no local area plan has been put in place and no land use zoning provisions have been set out in the plan for the village. One of the objectors to the CPO argued that, as no lands have specifically zoned for the area, the acquisition of any lands for the purposes of the CPO would in fact be premature. I would reject this argument on the basis that the fact that the Roundstone agglomeration is on the EPA priority list for the provision of wastewater treatment necessitates that an application be progressed in the absence of any specific zoning designations relating to Roundstone. It is appropriate therefore that the Board determine the application before it on its merits. While I note that the proposal is fully in accordance with general objectives and policies in relation to providing appropriate wastewater treatment infrastructure to facilitate future development within existing towns and villages and that such infrastructure will also assist in protecting the environment which is likewise in accordance with various policy statement and objectives in the plan, as already mentioned previously, it can be reasonably argued but the current application before the Board does not sit comfortably with all policies contained in the plan. Specifically,

in relation to pumping station No. 3, the development of a pumping station at this location could result in the sterilisation of part of an important land bank which could if developed appropriately, achieve many of the objectives set out in the National Planning Framework and the development plan which seeks to consolidate development within the confines of existing urban areas. The benefits of compact development include:

- reducing land take and preserving agricultural land and habitats.
- Revitalising and rejuvenating village centres.
- Protect and strengthen the economic and social diversity of small towns.
- Provide opportunities to strengthen and enhance civic design.
- Utilising existing infrastructure and reducing the need to travel distances to essential services which in turn would reduce energy consumption and carbon emissions.
- Facilitating a more walkable and cycling friendly village environment.

Therefore, while the provision of a wastewater treatment plant for the village meets many of the policy statements and objectives contained in the Galway County development plan, the acquisition of lands as proposed could likewise undermine a number of important land use objectives in relation to promoting infill development which would assist in consolidating and rejuvenating smaller rural villages such as Roundstone.

7.5 Consideration of Alternatives

Irish Water has submitted with the CPO application a Route and Site Selection Report for both the WWTP and the Pumping Stations. A total of 5 Sites for the WWTP were considered and a total of 9 sites for the pumping stations were also considered. Each of the sites were assessed against a series of criteria which are set out below:

Site Identification Criteria:

- Minimum site area (0.4 ha)
- A minimum distance of 50 meters from sensitive receptors.
- Access requirements

- Environmental constraints
- Technical requirements
- Abnormal or excessive costs
- Flood risk

On the basis of the above criteria a total of 5 Sites were considered to be potentially suitable. The five potential sites are:

- Site 1: A site owned by the IDA to the south of the village which is the site of an existing package treatment plant serving the IDA commercial park.
- Site 2: A site in private ownership to the west of the IDA commercial park
- Site 3: A site in private ownership to the northwest of the existing northern outfall.
- Site 4: A site in private ownership to the north of the village but further west than site no.3.
- Site 5: A site in private ownership to the rear of the pony showgrounds to the southwest aside No 4.

Each of these potential sites are indicated on p29 of the Site Selection Report and were further evaluated in accordance with various criteria which are set out below:

1. Planning and Environmental Considerations

- Planning policy
- landscape and visual impact
- archaeology
- potential for disturbance

2. Technical considerations

- energy use
- availability of electricity supply
- access to the proposed site

3. Financial considerations

- construction / capital costs and operational costs.

Each of the five sites were assigned a score under the various criteria above. The various criteria under which the sites were assessed were then assigned a weighting in terms of their perceived importance and this weighting was then multiplied by the score attributed to each of the sites under the criteria listed. The overall score that is attributed to each of the sites is set out on Table 16 (p29) of the site selection report. The site with the lowest score was deemed to be the most preferable.

It is summarized in the Table Below:

Criterion	Weighting	Site 1	Site 2	Site 3	Site 4	Site 5
Landscape/Visual	15	45	45	75	75	45
Archaeology	10	50	30	10	10	10
Potential disturbance on Main St	5	25	25	15	15	15
Total for Planning and Environmental		120	100	100	100	70
Energy Use	10	30	30	30	50	50
Availability of ESB	5	15	15	5	15	15
Access to the Site	5	15	25	25	5	15
Total for Technical		60	70	60	70	80
Construction and Capital Costs	15	45	30	15	30	75
Operational Costs	20	80	40	20	40	100
Total for Financial Considerations		125	70	35	70	175
Overall Combined Scores for Each Site (Weighted)						
Lowest score most preferable.		Site 1 (IDA Site)	Site 2	Site 3 (Preferred)	Site 4	Site 5
		305	240	195	240	325

The same methodology was used for the site selection and respect of the pumping stations. It is not proposed to carry out a detailed analysis for each of the pumping station sites in this assessment. The main concerns in respect of the pumping stations relates to public station no.3 and its consequential impact the development potential on the surrounding undeveloped lands. These concerns have already been outlined in my report and do not need to be further commented upon here.

In respect of the methodology employed for determining the most suitable site for the wastewater treatment plant, I do not propose to systematically analyse each of the sites under each of the criteria set out in the Table above. However, I would request that the Board take into account the following, which I consider to be inconsistencies in the methodology adopted and applied.

For the purposes of highlighting the perceived flaws in the Site Selection Report, I have compared the evaluation and scoring system awarded for the preferred site (Site No.3) with the site and evaluation scoring system associated with Site No.1 (The IDA site). This is not to imply that I am assessing one site in comparison to another in an attempt to persuade the Board that IDA site is a better site per se. The purpose of the evaluation below is merely to highlight, what I consider to be inconsistencies in the criteria applied and scores awarded to the various sites. Similar perceived inconsistencies or flaws could be equally applicable to any of the chosen sites (Sites 2,4 and 5) identified in the Site Selection Report. The purpose of the analysis below is to allow the Board to speculate that the consideration of alternatives undertaken in the Site Selection Report may not have resulted in the identification of a site deemed suitable to accommodate a WWTP to serve the village. On this basis the Board are requested to have regard to the information in the bullet points below:

- Galway Co Council have in 2020 granted for a WWTP to serve 10 dwelling houses and 4 commercial units under Reg Ref 19/1902, on the IDA lands. While this application may have superseded the Irish Water application and this is a relatively small treatment facility, it nevertheless demonstrates that the IDA lands are suitable to accommodate a WWTP and there is scope for synergizing both applications and utilising common infrastructure. Documentation submitted with

the application indicates that the existing pumping station, underground pipework and outfall to the estuary associated with the previous IDA WWTP on site (to be decommissioned) are to be retained. This in my view is a material consideration in any site selection exercise.

- In terms of the site-specific criteria adopted, the technical requirements make reference to the following “*where possible, sites located at a low point in proximity to the existing network should be identified in order to minimize pumping requirements and in order to minimize requirements for additional infrastructure. Sites below the 40 meter control are considered to be more favorable*”. The IDA site is located on low ground c. 6m AOD, and therefore should be considered more preferable than the preferred site which is located at ground levels c 25 AOD. It is my considered opinion that this factor should have been specifically evaluated under the various criteria adopted. There is no doubt that a site on lower ground closer to the coast and therefore closer to any eventual outfall location has inherent advantages.
- In terms of archaeology, it is noted that the preferred site is located in closer proximity to a RMP, than most, if not all of the other sites. Yet the preferred site under archaeology scored the most preferable score (10) whereas the IDA site, received the least preferable score (50). Irish water in the oral hearing in addressing this issue, suggested that the IDA site is generally located closer to the village and is therefore more susceptible to being in closer proximity to historical or archaeological features. Yet pumping station No. 3 on Site D, (the preferred site) notwithstanding the fact that it is in much closer proximity to these archaeological and historical features in the centre of the village, was awarded a very favourable score in terms of its impact on archaeology. I consider that there is a glaring inconsistency on this matter. I further consider the IDA site to be sufficiently far removed from the village and there is no apparent justification to attribute such a poor score in respect of this criterion.
- In relation to proximity to dwellings, it appears that this issue was given scant consideration in the methodology employed. The preferred site at its closest point is located c.80m from the nearest residential dwelling, whereas the IDA site is located over 130 meters from the nearest residential unit. This in my opinion should be an important consideration in the deliberation of suitable sites and it

has significant implications for surrounding residential amenity. Certainly, the IDA site should be ranked higher under this criterion, however there appears to be little or no consideration given to this fact. This criterion awards the same marks for all sites located in excess of 50m from the WWTP. No differentiation in the scores are applied for greater separation distances beyond 50m.

- The compatibility of adjacent land uses should also in my considered opinion be an important consideration in the determination of potentially suitable sites. Again Site No. 1 should be seen in this regard as being more advantageous as the IDA lands are the only developed lands in the vicinity of the site. Furthermore, planning permission has been granted for a WWTP to the south of the IDA lands, the provision of an additional treatment plant or indeed the expansion of the plant which has the benefit of planning permission would result in a concentration all the wastewater treatment facilities at one location within the village and would result in compatible land uses at this location. The preferred site on the other hand is located in proximity residential dwellings to the northeast and southeast of the site, the closest of which is a mere 80 meters from the boundary of the wastewater treatment plant. Site No.1 would in my opinion proved to be more appropriate under this criterion. The provision of two separate WWTP's at two separate locations to serve one small village is questionable in my view.
- With regard to potential for disturbance, site no 1 attracts a score of 25 whereas site No. 3 attracts a lower score of 15. It is my considered opinion having regard to the poor condition of the existing network, particularly on network No. 1, that sites 1, 2 and 3 are likely to give rise to similar amounts of disturbance and disruption along Main Street and therefore should be awarded a similar is not the same score.
- With regard to the availability of electricity supply, the site selection report notes that the IDA site "*is assumed to have a 3 phase power supply*" as is the case for the preferred site. Yet the preferred site received the highest score of 5 (weighted) whereas the IDA site received a less advantageous score of 15. This is not explained.

- In terms of access arrangement access to the IDA site requires an extension of an existing road a distance of 130m over flat terrain whereas the preferred site requires the construction of a new 180m access road over considerably more challenging terrain.
- On terms of construction costs the preferred option requires a new outfall gravity sewer to be constructed (270m of which is along the public road) from the WWTP to the outfall and is very likely to require the reconstruction of outfall No.1. The IDA site on the other hand being located so close to the coastline would not require such an extensive discharge sewer to the outfall, this sewer is likely to be in the order of 60-70 meters (as opposed to 430m). Furthermore, as stated previously, the IDA lands already incorporate a pumping station and outfall that could be used or adapted to cater for any new WWTP facility. A outfall closer to the mouth of the bay in a less sheltered area may prove to be more efficient in term of dilution and dispersion. While this would have to be subject to more detailed hydro-dynamic modelling, it stands to reason that greater levels of dispersions and dilution will occur at the mouth of the bay than further north in the sheltered inlet.
- Developing the preferred site may also be more challenging in terms of construction and excavation. The IDA site is level and will be the subject of construction and excavation works associated with the construction of a new WWTP under 19/1902. A synergizing of both projects could prove beneficial in terms of construction costs.
- Notwithstanding the above points in relation to construction aspects, Irish Water's preferred site was awarded the more preferable score a 15 where is the IDA site was awarded a score of 45. I do not consider that any justification has been made in the site selection document which would indicate that the preferred site is more advantageous in terms of construction costs than the IDA site. In fact, I consider the opposite to be most likely the case.
- In relation to operational costs, I would refer the Board back to my arguments set out under section 7.4 of my assessment. I would qualify that I have not carried out any detailed studies our investigations with regard to the cost associated with the operation of the network. However, the Site Selection Report suggests that

the operational costs associated with Site no.1 is in excess of three times the costs associated the preferred site. On the basis of the arguments set out in the previous section of my assessment⁵ and in particular the requirement of the terminal pumping station to pump the entire effluent load associated with the agglomeration a distance of 430 m with the static differential head height of 19 meters in the case of the preferred option; when compared with the construction of an new rising man along Main Street which would be required to pump a portion of the overall effluent generated within that agglomeration, a slightly longer distance possibly slightly in excess of half a kilometer⁶, I cannot explain such a huge discrepancy in operation costs. No details are provided in the financial scores attributed to Site 1 (IDA) or Site 3 (preferred) in terms of financial costs. The report merely states in relation to Site no 1 that *“this site is ranked fourth out of five in relation to construction / capital costs”*. And *“This site is ranked fourth out of five in relation to operational costs over a 30 year period”* in relation to Site No. 3 the report likewise merely states *“the This site is ranked first out of five in relation to construction / capital costs”* and *“this site is ranked first out of five in relation to operational costs over a 30 year period”*. While costs are provided in a spreadsheet and the end of the report, no detailed explanations are provided as to how these costs were arrived at. Operational costs for the preferred site are awarded a preferential score of 20. Whereas the operational score for the IDA site was four times this - at 80.

In conclusion therefore, I accept that the applicant in this instance has explored various alternatives relating to site suitability. However, I am not convinced on the basis of the analysis undertaken by Irish Water that they have demonstrated that site No. 3 (the preferred option) is the most suitable, or indeed a more suitable site for a wastewater treatment plant than other sites in the village to serve the agglomeration of Roundstone. I consider that Irish Water have not satisfied the Board that the preferred site is the most appropriate site, or indeed an appropriate site in the first

⁵ Last bullet point on p.24 of this report.

⁶ I stress that Irish Water dispute this, it argues that the effluent would have to be pumped 1 km to the IDA lands. However, I would maintain that the natural topographic fall from the Main Street to the IDA lands would allow, certainly for the most part, a gravity sewer to convey flows.

instance and that there are other sites that may be demonstrably more preferable for accommodating a WWTP to serve the agglomeration.

7.6 Proportionality and Necessity for the Level of Acquisition Proposed

One of the tests as set out in '*Planning and Development Law*' (Garrett Simons – Second Edition) requires consideration of whether the measures proposed under a Compulsory Purchase Order will have an excessive or disproportionate effect on the interests of the affected persons. Irish Water have indicated that the plot area required to be acquired for the WWTP and associated infrastructure amounts to more than 0.2831 ha. This includes the incorporation of the access road. The land take in this instance, is both modest and proportionate in my view, as it is proposed to provide an inlet screening and grit removal primary treatment settlement tanks based on the use of radial flow (with internal diameters of 5m) and a sludge holding tank. Buffer zones and site parking will also be required. In this respect I consider the acquisition to be proportionate and not excessive in the context of the infrastructure to be provided.

In relation to the land-take for the roadway leading to the WWTP, this was specifically raised as an issue during the oral hearing. The access road is approximately 10m in width, it will accommodate two separate pipes (rising main to the WWTP and gravity outfall pipes most probably side-by-side), this in my view cannot be considered excessive. The provision of an associated wayleave parallel to the access road is also 10m in width is also appropriate to allow for maintenance purposes.

The land take for the proposed pumping stations is modest cannot be considered excessive. The lands to be permanently acquired for the pumping station of plot no 2 is very modest at 0.0020 ha (20m²) a small pumping station is required at this location due to the modest hydraulic loads and the modest storage requirements. Notwithstanding my concerns in relation to the location of pumping station No.3, I nevertheless consider the lands to be acquired to be proportionate in terms of the infrastructure to be provided. A larger pumping station would be required, capable of pumping over 2l/s and a larger storage tank to accommodate storm overflows from network No.3 (at 22 m³) will also be required to be constructed at this location. This

in my view cannot be considered excessive and can be considered proportional to the requirements of Irish Water for such infrastructure.

With regard to the terminal pumping station again this is a relatively large piece of infrastructure with a capability of pumping up to 7l/s up to the WWTP. The land to be compulsorily required at 153 m² cannot in my view be considered excessive.

Similarly lands required in the form of wayleaves and temporary working areas along the proposed route of the rising mains and the gravity mains cannot be considered excessive having regard to the need for the laying of pipes, suitable space for construction activities including the accommodation of equipment and plant. Space is also required for construction vehicles and the stockpiling of excavated material on site. For full details of the land requirements for each of the plots I would refer the Board to the evidence of Jacques Barnard submitted at the Oral Hearing (p.7-9 of brief of evidence) it details the land requirements for each of the plots as part of carrying out the works proposed. The requests for the land take for rights of way, wayleaves and temporary working areas are in my view appropriate and not excessive.

Having reviewed the information submitted, I am satisfied that the overall size and scale of the proposed lands to be acquired permanently, for wayleaves, for rights of way and for temporary working areas are necessary and proportionate in the context of meeting the identified community need.

7.7 Additional Issues Raised by the Objectors

The submission by Joanne King (on behalf he mother at the oral hearing – please refer to written submission on file) raised an array of issues regarding Appropriate Assessment, EIA, compliance with the WFD, the requirement for a Foreshore Licence and the requirement for a consent under the Wastewater Discharge Authorisation Regulations. The application before the Board is not a plan or project as defined under the provisions of the either the Habitats Directive or EIA Directive therefore neither of these Directives would apply in the case of the CPO application before the Board. Should the Board confirm the acquisition of lands, it will be the subject of a future planning application and the project would be scrutinised under these various consent requirements.

Another issue raised in the oral hearing concerned the powers and rights of Irish Water under the provisions of S41 of the Water Services Act, 2007 (as amended). Whether the acquiring authority have the right or power to acquire land along or beneath the public road under the provisions of the said Act is a matter for a court of law and not a matter to be determined as part of this CPO application

8.0 Conclusions and Recommendations

Arising from my assessment above I consider that An Bord Pleanála should not confirm and annul the CPO before it. I base this recommendation on the grounds that I am satisfied that demonstrably more suitable sites exist within the agglomeration which would not compromise the future development of the village and there are sites which would have a lesser impact on sensitive receptors in the vicinity. It is my considered opinion that the chosen preferred site was primarily predicated on engineering considerations and that the decision failed to adequately give weight to wider planning, land use and amenity considerations regarding the future development of the village of Roundstone.

DECISION

Annul the above Compulsory Purchase Order based on the reasons and considerations set out below.

REASONS AND CONSIDERATIONS

The Board is satisfied based on the documentation submitted with the application, the objections submitted, and the submissions made at the oral hearing, that there are other sites within the village of Roundstone, that are demonstrably more suitable to accommodate a wastewater treatment plant and associated infrastructure including the location of pumping stations. The Board also consider that the lands to be acquired for the purposes of providing wastewater treatment and associated infrastructure for the village of Roundstone are less preferable than other sites within the village in terms of the potential adverse impact that might arise on future land use and amenity and that the lands sought to be acquired under this application could constrain and militate against any future growth within the village which would be contrary to settlement policies contained in the Galway County Development Plan 2015-2021 and the Project Ireland 2040 National Planning Framework.

Paul Caprani

Senior Planning Inspector

April 06th 2021.

Appendix 1 – Proceedings of the Oral Hearing

An oral hearing was held in relation to the proposed compulsory acquisition of lands on Monday 15th March, 2021. It was held remotely at the offices of An Bord Pleanála using Microsoft Teams Software.

The following were in attendance and made submissions at the oral hearing.

- Representatives of Irish Water.
- Mr. Michael O Donnell SC on behalf of the King Family (Objectors).
- Mr. Noel Mc Carthy SC on behalf of Mr Noel Coyne (Objector).

After the formal opening of the hearing and some introductory remarks by the Planning Inspector he requested that each of the parties make its formal submission to the Board.

On behalf of the Applicant, Irish Water the following were in attendance and made submissions at the hearing:

Damien Keaney – Barrister at Law. Mr. Keaney set out in his introductory remarks an overview of the project and explained the need for the development for the village of Roundstone. Mr. Keaney indicated that briefs of evidence would be presented at the oral hearing by:

- Mr. Patrick Green – Chartered Civil Engineer.
- Mr. Jacques Barnard – Project Engineer.
- Ms. Grainne Reid – Planning Consultant for Irish Water.
- Mr. Matthew Collins – Land and Wayleaves Specialist with Asset Delivery in Irish Water.
- Mr. Chris Boyle in relation to consultation undertaken with the various landowners.

Brief of Evidence by Mr. Green

Mr. Green set out details of the existing situation in the village of Roundstone providing details of the existing public sewer network which comprise of three distinct separate networks. It is noted that the discharge of untreated wastewater is not in

compliance with the EU Urban Wastewater Treatment Directive or National Regulations pertaining to wastewater treatment. Reference is made to the Certificate for Authorisation issued by the EPA in 2011 and notes that the existing wastewater treatment arrangements for the agglomeration are not in accordance with this Certificate. The brief of evidence notes that the main objectives of the scheme are as follows:

- To eliminate the current discharge of untreated wastewater to Roundstone Bay.
- To comply with the requirements of the Certificate of Authorisation.
- To comply with the requirements of the Urban Wastewater Treatment Directive and National Legislation.
- To provide capacity to allow for sustainable development within Roundstone.

The submission goes on to outline the history of the scheme and the statutory processes undertaken to date. It also sets out details of the attempts to agree to compulsorily acquire the lands for both the wastewater treatment plant and the pumping station no. 3 site from December 2017 to the present day. It is stated that if the CPO is approved, Irish Water will submit a planning application to Galway County Council to carry out the development. It is respectfully suggested that the common good is better served by the confirmation of the CPO and that the issues raised by the objectors are capable of being dealt with by compensation.

Brief of Evidence by Mr. Jacques Barnard

This brief of evidence also sets out details of the existing situation and the need for the scheme and sets out a more detailed description of the proposed scheme. It notes that the 30-year design horizon population equivalent (PE) for the proposed wastewater treatment plant was determined to be 1,000 PE. It notes that a key aim of the proposed scheme is to tie in and to integrate the three existing sewer networks into one system and to construct a new wastewater treatment plant to serve the integrated system. The integrated solution therefore requires the existing outfall sewers to be intercepted and redirected towards the proposed wastewater treatment plant to the north of the village through the provision of three pumping stations which

will pump effluent into Network No. 1. Two of these pumping stations will act as intermediate stations to connect network 2 and 3 to the main gravity network (network no. 1) Pumping station no. 1 at the end of the gravity network will act as terminal pumping station to connect the integrated network to the proposed wastewater treatment plant site. The terminal pumping station will be sized to cater for a flow of 6.5 litres per second. Storm water storage will be provided at the terminal pumping station with a capacity of 95.8 cubic metres (the equivalent to 2 hours storage of formula A flows). The proposed wastewater treatment plant will provide primary treatment for a 30-year summer design horizon. Details of the site and route selection for the wastewater treatment plant are set out.

A brief overview of the five potential sites for the WWTP are set out. Site No. 3 was identified as the demonstrably most suitable site on the basis that:

- It is remote from the village centre. It constitutes an uncultivated field.
- There is no obvious risk that the proposed development at this location would be unacceptable to the Planning Authority.
- There is a low potential for encountering archaeology.
- The proposed site allows for the reuse of the existing northern outfall.
- The proposed development is unlikely to cause public nuisance.
- And the proposal incorporates lower costs.
- The site was also assessed in terms of its suitability for construction and was found to be acceptable.

The brief of evidence goes on to evaluate the pumping station sites and notes that a total of five potential sites were identified for pumping station no. 3. A range of technical, planning, environmental and financial screening criteria were applied to each of the sites, and it is considered that there are not demonstrably more suitable sites for the proposal than Site D (preferred site) for the pumping station. The brief of evidence goes on to set out details of the proportionality of the landtake for both the wastewater treatment plant site and the pumping station sites. The rationale behind the size of each parcel of land to be acquired for the wastewater treatment plant,

wayleaves, temporary working areas and permanent acquisition of the various parcels of land is set out. It concludes that an objective justification of the site selection of the pumping station and wastewater treatment sites on the grounds of good engineering practice has been set out.

Evidence of Grainne Reid – Consultant Planner

This brief of evidence sets out the site location and description and the description of the proposed development before detailing the planning context. In terms of strategic planning policies, a number of policy documents are referred (see paragraph 12). The submission then goes on to set out details in relation to the Regional Spatial and Economic Strategy for the northern and western region assembly. Various policies which seek to ensure that adequate water and wastewater infrastructure as set out in the Regional Plan were referred to.

In terms of local policy context, the Galway County Development Plan 2015 – 2021 is also referred to. Key strategic aims set out in the plan are detailed, as are all the relevant wastewater policies and objectives.

In terms of land use zoning, it notes that Roundstone does not meet the population threshold which necessitates a Local Area Plan and thus no land use zoning objectives are prescribed within the village. It is noted that Roundstone is categorised in the last tier of a six-tier settlement hierarchy set out in the Plan.

In terms of planning history, it is noted that there is no previous planning applications submitted for the preferred site. In relation to pumping station no. 3, a previous planning application (Reg. Ref. 0063274) was granted to construct 9 residential units on the greenfield site in 1990.

Finally, the submission addresses some of the concerns raised in the objection in relation to the wastewater treatment plant. In relation to the Habitats/EIA Directives, it is noted that the CPO is not a plan or a project for the purposes of the Habitats Directive or the EIA Directive. In relation to Mr. Coyne's objection for the pumping station, it is stated that the issues raised are capable of being addressed by way of compensation in the event that the acquisition of lands are approved by the Board.

Submission by Mr. Matthew Collins – Land and Wayleave Specialist in Irish Water

This sets out a summary of Irish Water compulsory purchase order process. It provides a step by step process in relation to the compulsory purchase order process to date which culminated in the current application to An Bord Pleanála for the compulsory acquisition of lands.

Submission of Chris Boyle

This submission sets out in tabulated form the consultations undertaken and landowner engagement with the various objectors which comprised of a series of phone calls, emails and meetings with Mr. Noel Coyne and his representatives. Details of the consultation undertaken with the King family in respect of the lands required for the wastewater treatment plant are not contained in the submission.

Questions by the Inspector to Irish Water

The planning inspector then proceeded to put a number of questions in relation to the site selection process for both the pumping station and the wastewater treatment plant. Questions were put to Irish Water in relation to the criteria used in respect of:

- Landscape and visual assessment.
- Archaeology.
- The potential for disturbance along the main street.

The inspector then moved on to the technical considerations undertaken by Irish Water in relation to energy use, availability of electricity supply, construction/capital costs and the length of piping required in the network under the various options.

The inspector then requested that the objectors formally make their submissions to the oral hearing.

Submission On behalf of Mr. Noel Coyne by N. Mc Carthy SC

Mr. McCarthy raised a number of issues which are summarised below:

Mr. McCarthy argued that Irish Water did not seek any meaningful engagement with Mr. Coyne in respect of acquiring the site. It is argued that Mr. Coyne was presented with a fait accompli rather than seeking to actively and genuinely engage with the owner for the purposes of acquiring the land. It is suggested that the valuation put forward by Irish Water is utterly inappropriate. Mr. Coyne has big plans for the site in question including the development of the site for residential use . The incorporation of a pumping station on the subject site will result in the entire site being effectively sterilised. Mr. Coyne has a constitutional right to get the best value from the lands in question. It is argued that the site is totally appropriate for rejuvenation and infill development. Initially, Mr. Coyne was informed that the whole pumping station would be underground however this does not appear to be the case. It is suggested that a number of phone calls and only one meeting with Mr. Coyne and his agent took place. Mr. Coyne has never allowed an opportunity to properly liaise and view the evolving plans and the amount offered to Mr. Coyne was described in a submission as “paltry”. It is also stated that Mr. Coyne would be willing to permit a pipe to run through the lands in question but not a pumping station.

Submission by Michael O Donnell SC on behalf of the King Family

Mr O Donnell requested that he be permitted to put a number of questions to Irish Water prior to making a formal submission.

Mr. O'Donnell put a number of questions to Irish Water with regard to the acquisition of lands for the wastewater treatment plant. Questions were specifically asked in relation to Plot No. 1 and Plot No. 16 (WWTP Site). Questions related to the width of the strip of land to be acquired for the pipes in question. Details were requested with regard to the laying of the pipes, the depth of the pipes and the distance between the pipes and whether or not the pipes would be placed one on top of the other are parallel. Mr. O'Donnell also informed the hearing that Ms. King's lands also ran beneath the public road and it was suggested that Irish Water in placing the pipes within the public road would also need to seek approval from the objector for this purpose.

At that point the oral hearing was adjourned for lunch.

The oral hearing recommenced at 2.15 p.m.

Submission by the King Family

It recommenced with a short submission from Ms. Ann King. It stated that it was her perception that Irish Water were very intransigent in their dealing with the objectors and felt that it was “Irish Water’s way or no way”. It is argued that Irish Water put pressure on her husband when he was ill and this was very traumatising for the family.

She then asked her daughter Joanne King to make a submission to the hearing. Ms. King stated that Irish Water failed to consider what would happen should the CPO not be progressed. And that the objectors have no intention of selling the lands in question to Irish Water. It is also stated that Irish Water scheme is predicated on incorrect population figures. It is suggested that the pricing contained in the site selection analysis is also flawed. It is argued that CPO is premature and Irish Water have not considered whether to not more lands may be required further down the line. It is argued that much of the information put forward by Irish Water at the oral hearing is inaccurate with regard to drawings submitted and the size of the agglomeration etc. It is suggested that the distance between the subject site and Natura 2000 sites in the vicinity is a critical issue in determining whether or not the CPO should go ahead.

It is suggested that the parameter for compliance with the Wastewater Treatment Directive is 2,000 PE and the population of Roundstone is just over 200, as such there is presently no need to comply with this Directive. It is argued that the lands sought to be acquired for the wastewater treatment plant have significant archaeological potential and this was ignored in the site selection process. It is suggested that there was no proper assessment done of the construction costs associated with the wastewater treatment plant particularly in respect of excavating the rock outcrops. It is also suggested that the village is much smaller than that suggested by Irish Water. It is stated that there are only 22 children in the local primary school. There is no Bank and there are very limited number of people

working in the area. The size and scale of the wastewater treatment plant therefore has not been justified.

It is also suggested that a proper appropriate assessment under the provisions of the Habitats Directive is required. It is also suggested that an EIA is required, and no such document was submitted. No details of any liaison with the NPWS were submitted.

The proposal as designed will pollute water and give rise to odours. No details of the existing topography are indicated on the maps submitted. No details of any protected structures have been indicated on the map. It is also stated that the proposal would be required to be registered under the Wastewater Discharge Authorisation Regulations. Any potential flood risk associated with the overall network has been ignored. No public meeting was held in respect of the proposed foreshore application. Inadequate details of the CPO process are contained in the public notices. The subject site is in closer proximity to SACs and SPAs, than other sites considered and the Engineer's Report does not reference the European sites in question. It is argued that the northern outfall which is to be used will further pollute waters within the Bay. The submission goes on to assess the costings and argues that the costings are very inaccurate.

It is also argued that there is already a wastewater treatment plant in the IDA lands which is eminently suitable to accommodate a wastewater treatment plant. Reference is made to correspondence between the objector and Galway County Council with regard to entrance into the said lands for survey purposes. It is suggested that Irish Water in developing the scheme harassed her father. The submission goes on to assess and highlight purported inaccuracies in the site selection report and in the engineering report. It is argued that a wastewater treatment plant on the IDA lands will be eminently more suitable to dilute any discharges to the south of the Bay. It is argued that the proposal is contrary to the Water Services Act and the population calculations of which the wastewater treatment plant is predicated on, are overestimated.

Irish Waters further Response to Questions by Inspector during the Morning Session

Mr. Damien Keaney, Barrister at Law on behalf of Irish Water requested that Irish Water be given an opportunity to respond to some of the issues raised by the inspector in the questions he put to Irish Water.

- In relation to outfall modelling Irish Water suggested that trying to reuse the southern outfall would be problematic as this outfall is too small and would require reconstruction. It is also stated that the southern outfall is not in the ownership of Irish Water but is in the ownership of the IDA.
- It is also stated that in respect of Mr. Coyne's lands the Board should be made aware that there is currently a septic tank on these lands adjoining a neighbouring housing development and this may impact on any future potential development of the lands. Details in relation to dispersion modelling will be carried out as part of the planning application.
- Mr. Barnard stated in relation to the operational costs, that the main difference in cost relates to the rising main which in the case of the preferred option would be approximately 430 metres where in the case of the IDA lands it would be a kilometre. It is also suggested that there is higher density of heritage sites in proximity to Sites Nos. 1 and 2 whereas there is only one site in proximity to the preferred site. It is also suggested in relation to pumping station no. 3 that there are a number of water pipes and a septic tank within these lands which would not make the lands viable to develop in terms of placing 20 residential units on the said lands.

Further Questioning of Irish Water By Objectors

The planning inspector then passed onto the objectors for further questioning of Irish Water.

Mr. O'Donnell on behalf of the objectors which to bring to the Board's attention that Galway County Council had granted planning permission for a wastewater treatment

plant on 6th July, 2020 on the IDA lands under Reg. Ref. 19/1902. It is noted that there was no appeal, or no objections to this application on the IDA lands.

Mr. McCarthy put a number of questions in relation to the pumping station at Site No. 3. to Mr. Boyle, Mr. Green. Mr. McCarthy asked a number of questions in respect of the existing pipe running through Mr. Coyne's land and whether or not it was feasible to connect this pipe to the wastewater treatment plant at the IDA lands. Mr. McCarthy also asked a number of questions in relation to the impact arising from noise and odour from the pumping station and the potential impact it could have on the development potential of Mr. Coyne's site. Questions were also put to Irish Water in respect of the amount of local community input and local 'buy-in' to the overall scheme. Irish Water stated that there were a number of consultations undertaken and the feedback was largely positive. Mr. McCarthy put a number of questions to Irish Water in relation to cost issues and flooding.

The inspector then asked Mr. O'Donnell to put questions to Irish Water on behalf of Ms. King (objector). Mr. O'Donnell put a number of questions to Irish Water regarding the site selection process which was undertaken and whether or not other lands and other landowners were approached for the purposes of acquiring of land throughout the site selection process.

Mr. O'Donnell also put a number of questions to Mr. Barnard in respect of the scheme design. Some discussion took place as to whether or not the scheme would require an EIAR and an Appropriate Assessment under the Habitats Directive. Mr. O'Donnell intimated that any confirmation of the lands in question could be problematic from the point of view of EIAR and AA. Questions were put to Ms. Reid in relation to the suitability of the land from a planning perspective. It was also suggested by Mr. O'Donnell that an application for a CPO without an accompanying planning application could be problematic in legal terms.

Some discussion took place in relation to the characteristics of the subject site and the suitability of it to construct a wastewater treatment plant on the subject site particularly in the absence of any detailed site investigations. A number of questions were put by Mr. O'Donnell in relation to the operation of the wastewater treatment plant and the potential impacts that could arise in terms of surrounding amenity. Irish

Water indicated that these issues will be dealt with by way of a subsequent planning application.

Closing Statements

Mr. Damien Keaney, BL made the following closing statements on behalf of Irish Water. He argued that there is a pressing need for the proposed wastewater treatment plant as the current situation is unacceptable and contrary to the Urban Wastewater Treatment Directive. It is stated that Site No. 3 on the Coyne lands is the most appropriate site for the pumping station. Mr. Keaney made reference to references made to the High Court case of Lord Ballyedmond and the Commission for Energy Regulation and Michael Ward IECH206 (2006) where it was held that the land that was sought to be acquired are considered suitable lands and that there are no other lands that are demonstrably more suitable. It is argued in this instance that the IDA site is not demonstrably better, and the Mott McDonnell site selection report fully supports this contention.

Whether or not there are fraught planning considerations in respect of acquiring the said lands is not a matter for An Bord Pleanála to take into consideration. An Bord Pleanála must confine its deliberations as to which site is demonstrably better than other sites. Because the objectors strenuously object to the acquisition of the lands in question is not a sufficient reason for Irish Water to pursue a different site.

Irish Water stated that An Bord Pleanála must make the best decision in relation to the proposed development but must bear in mind that the proposed development would not materially contravene development plan objectives and in the case of Clinton versus An Bord Pleanála IESC19 (2007), reference is made to the fact that any compulsory purchase order must be justified by the common good and must meet the community need. It is argued in this instance that the site meets both these criteria. Alternatives have been looked at and An Bord Pleanála can be assured that there are not demonstrably better sites on which to locate a wastewater treatment plant for the agglomeration of Roundstone.

With regard to the scope of the land take, it is argued that the lands in this instance are proportionate and necessary. With regard to the works to be carried out on the public road, where it is contended that the lands in question are not part of Irish

Water's CPO application, reference is made to Section 41 of the Water Services Act 2007 where it is argued that Irish Water do not need consent from the landowner to carry out such works on the public road. This concluded the submission on behalf of Irish Water. The Board will note that a hard copy of a legal submission by Irish Water was submitted separately and this is contained at the front of Book 1 of the evidence submitted by Irish Water at the hearing.

Submission by Noel McCarthy on behalf of Noel Coyne (Objector)

Mr. McCarthy stated that it is astonishing that Irish Water would seek to compulsorily acquire land at the location sought. It is argued that the decision in this instance has been taken in a vacuum without the full facts in relation to the planning application. Any decision to grant the compulsory acquisition of lands will be challenged. It is astonishing that the lands would be acquired in the absence of a planning application where the overall proposal could be properly scrutinised. It is argued that Irish Water have failed to properly engage with the IDA in seeking an alternative site for the WWTP on IDA lands. The fact that the IDA have obtained a grant of planning permission for a wastewater treatment plant shows that the IDA site is eminently suitable for the purposes of such a facility. It is also stated that any discharge from the wastewater treatment plant should be out in the bay and not in the sheltered inlet to the north of the village. It is suggested that Irish Water cannot let An Bord Pleanála restrict its views to the issues set out on Irish Water's agenda. It is stated that there would be challenges to any decision made to grant the compulsory acquisition of lands. It is stated that the locals undoubtedly see the IDA site as a better solution for solving wastewater treatment problems associated with the agglomeration of Roundstone.

Closing Submission by Michael O'Donnell on behalf of Ann King (Objector)

Mr. O'Donnell made reference to Section 41 of the Water Services Act 2007 and differentiated between "the right" and the "power" of the acquiring authority. He argued that Irish Water have the power to carry out works on the road but that does not infer that they have the right to carry out such works. Mr. O'Donnell also made reference to the Ballyedmond case and Clinton case in relation to the requirements to prove that one site is not demonstrably better than the other site and it is argued in this instance that the IDA site is demonstrably the better site and this is illustrated by

Galway County Council's grant of planning permission for a wastewater treatment plant on the IDA lands.

In terms of the common good, Mr. O'Donnell questioned whether the provision of two public wastewater treatment plants within a small agglomeration such as Roundstone can be considered to be in the common good. A conclusion can be definitively reached that such an arrangement cannot be considered to be in the common good.

Irish Water have no evidence with regard to the ground conditions on the preferred site for the wastewater treatment plant and therefore have no concrete evidence with regard to the suitability of the site to accommodate a wastewater treatment plant. It is stated that the onus of proof is on Irish Water to demonstrate that the preferred site is most suitable. This is in accordance with the Clinton judgement and Irish Water have not proved that the subject site is the most suitable site for a wastewater treatment plant. It was emphasised that there is a very "high bar" required from Irish Water to demonstrate that the preferred site is in fact the most suitable site. It is noted that there are wholesale objections to the site from the landowners and from the wider community.

The Board must come to a conclusion that there is an alternative method of treating waste on the IDA lands. The subject site is exposed, is too close to residents and is close to Natura 2000 sites. There are alternatives that adequately meet the needs of the agglomeration in terms of wastewater treatment. A development plan is a document to inform the public of where such projects such as wastewater treatment plants might be located within the agglomeration. No such lands have been earmarked for a wastewater treatment plant within the development plan. The fact that Irish Water have shown a need for the proposed development is not enough to justify the acquisition of the said lands. Irish Water need to work with the Planning Authority to identify a suitable site.

The planner's report submitted as part of the Irish Water submission merely makes vague references to statements in the development plan. There are no demonstrative policies in the development plan which would support the provision of a wastewater treatment plant at this location. On this basis it is argued that An Bord Pleanála should not confirm the CPO. Irish Water and the IDA should work together

in providing a wastewater treatment plant on a more suitable site on IDA lands to the south of the agglomeration. If the lands were to be confirmed the objectors would be deprived of their lands yet planning permission may not be forthcoming for a wastewater treatment plant on foot of a future planning application. On this basis An Bord Pleanála is requested not to confirm the CPO.

The planning inspector formally closed the oral hearing at 6.37 p.m. on Monday 15th March, 2021.