



An
Bord
Pleanála

Inspector's Report ABP306387

Development	Compulsory Acquisition of Lands for the Liscannor Sewerage Scheme.
Location	Liscannor Co Clare.
Planning Authority	Clare 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	(1) Lazarus Investments Limited / John Flanagan
Date of Site Inspection	3rd February 2021.
Inspector	Paul Caprani.

Contents

1.0 Introduction.....	3
1.1. Overview.....	3
1.2. Purpose of the CPO.....	3
1.3. Accompanying Documents.....	3
1.4. Format of CPO Schedule.....	4
2.0 Site Location and Description.....	5
3.0 Planning History.....	6
4.0 Proposed Wastewater Infrastructure.....	7
5.0 Planning Policy Context.....	8
6.0 Objections.....	10
7.0 Response from Irish Water.....	10
8.0 Oral Hearing.....	11
9.0 Assessment.....	11
9.1. Overview.....	11
9.2. Community Need.....	12
9.3. Suitability of Lands to Serve Community Need.....	13
9.4. Compliance with Development Plan.....	14
9.9. Consideration of Alternatives.....	15
9.10. Proportionality and Necessity for the Level of Acquisition Proposed.....	18
9.11. Additional Issues Raised by the Objector.....	19
10.0 Conclusions and Recommendations.....	21

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 (Liscannor 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, permanent wayleaves and rights of way over land, temporary working areas along an existing roadway and on various parcels of land in the settlement of Liscannor West Clare. The confirmation of the CPO is made pursuant of the powers conferred on Irish Water, which is designated as the Water Services Authority under the provisions of Section 31, 32 and 93 of the Water Services Act 2007, as amended.
- 1.1.3. One objection was received in respect of the CPO. This objection was submitted on behalf of Lazarus Investments Ltd (John Flanagan) by Hallisey & Partners Solicitors. This report considers the issues raised in the objections submitted to the Board and more generally, the application to acquire lands.

1.2. Purpose of the CPO

- 1.2.1. According to the documentation submitted with the application, and specifically I refer to the Engineers Report, the purpose of the CPO is to:
 - Eliminate and cease the discharge of untreated wastewater from the agglomeration of Liscannor and the provision of appropriate treatment to meet the required discharge standards on a consistent basis.
 - The provision of adequate capacity to facilitate the planned development and forecasted growth of the Liscannor agglomeration.
 - Cessation of the current, unacceptable practice of discharging untreated wastewater to Liscannor Bay.

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 1st November 2019.
- A CPO map comprising of a single sheet indicating the lands to be acquired for:
 - Permanent acquisition.
 - Permanent wayleaves.
 - Permanent wayleaves and rights of ways.
 - Temporary working areas.
- An Engineer's Report detailing the proposal, highlighting the community need for the scheme, detailing the alternatives considered and stating that the acquisition of the lands is suitable and necessary for the purpose of the CPO.
- Public notices published in the Clare Champion December 13th 2019.
- A Site and Route Appraisal Report (Prepared by RPS). This report sets out and evaluates the various route options considered. It also sets out the site selection process for the preferred site.
- A Planning Report, this report sets out details of the site, the community need for the development, the alternatives considered, a description of the project, relevant planning history and the planning policy context relating to the CPO.
- Sample copy of the notices sent to various landowners¹.
- Certificate of Service of CPO notices.

1.4. **Format of CPO Schedule**

- 1.4.1. Part 1 of the Schedule specifically sets out the lands to be the subject of permanent acquisition. It involves a single plot (Plot 001) in the northern outskirts of the settlement of Liscannor (0.9138 Ha).

¹ This also includes a copy of a letter to Hallissey & Partners Solicitors, solicitors for Lazarus Investments Ltd, current objectors explaining an error relating to posting, which resulted in the deadline for objections being extended to 7th February 2020.

- 1.4.2. Part 2 of the Schedule sets out lands to be acquired for permanent wayleaves; It involves a total of 5 plots (Plots 2,3,12,13, &14).
- 1.4.3. Part 3 sets out the requirements for rights of way. A total of three plots are required for this purpose (Plots 2,3 &12²).
- 1.4.4. Part 4 sets out details of the proposed temporary working areas required to facilitate the works. A total of 7 separate plots are required (Plots 4,5,6,7,8,15,16).

2.0 Site Location and Description

- 2.1. Liscannor is a small coastal town mid-way along the west Clare coast. It faces southwards onto Liscannor Bay. The R478 runs through the village, linking the settlement with the Lahinch and Ennistimon to the east and Doolin to the north. According to the documentation submitted, it has a permanent population of 113 in the 2016 census. This is likely to increase during the summer months as there are two hotels and a holiday home park situated within the village. The R478 runs in an east-west direction through the village and forms the Main Street. Much of the more recent development within the settlement is spread along residential roads along the western and southern periphery of the village. A relatively large infill development, Holland Court is located to the immediate south of Main Street.
- 2.2. The 0.9138 ha WWTP site to be permanently acquired is located in the townland of Corcomroe in the northern environs of the town. It comprises of a rectangular field c.7-12 m above sea level, it falls away with a pronounced downward slope to the north. There are number of residential properties along the roadway which leads to the site. These properties located on both sides of the road are approximately 100 m to the south of the proposed WWTP. The proposed WWTP plants is approximately 400m from Liscannor pier to the south.
- 2.3. The road leading to the site, beyond the houses is in private ownership (c. 80m) and degenerates into an agricultural track serving the fields further north. Therefore a permanent Right of Way and Wayleave is sought along this section of Roadway (plots 2, 3 &4).

² These plots also coincide with permanent wayleaves to be acquired.

- 2.4. Further south along the access road to the WWTP, temporary working areas are sought along the western side of the road which currently form part of agricultural lands adjacent to the roadway.
- 2.5. Lands further south in the vicinity of the harbour area are to accommodate a new pumping station. Irish Water are seeking rights of way, permanent wayleaves and temporary working areas within an area of open space, next to the harbour and to the south of the R478 from the eastern approach to the village.
- 2.6. A permanent wayleave is also sought presumably for the outfall along the coast to the immediate southwest of the harbour. This area currently comprises of coastal vegetation, sand and shingle.

3.0 Planning History

- 3.1. Reference is made in the documentation to Reg Ref 07/1135, where in 2007, Clare Co Council granted Planning Permission to Bespoke Developments for a WWTP, incorporating inlet works, stormwater holding tank, twin SBR's, sludge holding tank and discharge line to the existing foul sewer network in the village. This application was on the site which is the subject of the current CPO.
- 3.2. Under Reg Ref 12/529, planning permission was sought for the extension of this permission. Clare Co Council refused to extend the life of the permission for two reasons, on the basis that (a) there have been material changes since the original grant of permission and (b) the applicant failed to submit a flood risk assessment with the original application.
- 3.3. Under Reg Ref 08/1129 Planning permission was granted on lands to the west of the site in July 2008 So the construction of a park and ride facility to service the Cliffs of Moher visitor center. Work in this development has commenced but has not been completed.
- 3.4. Under Reg. Ref. 14 /681 a planning application was lodged by Lazarus Investments (current objectors to the CPO) to extend the appropriate period for the permission granted under P08-1129 for the park and ride facility. Planning permission was granted on the 18th of February 2015.

3.5. Reference is also made to two applications for housing development that were refused in 2008 for housing developments in the eastern environs of the village c. 400m for the proposed WWTP.

4.0 Proposed Wastewater Infrastructure.

4.1. Liscannor Is currently identified as a coastal agglomeration as having only preliminary treatment in terms of wastewater. Currently wastewater is collected and discharged via gravity to an underground septic tank which is located to the immediate west side of the Liscannor Harbour on the eastern side of the village. This septic tank is located adjacent to the outfall and is currently undersized, and within the tank, the wastewater receives preliminary treatment only before being discharged into the waters off the Liscannor Bay.

4.2. In December 2016 a Concept Design Report was prepared for the provision of wastewater treatment for the Liscannor agglomeration. The proposal consists of the construction of a new wastewater treatment plant to a site northwest of Liscannor village together with a new pumping station on a greenfield site to the east of the village which will involve an new rising man to connect the pumping station with the new wastewater treatment plant and a gravity pipeline to convey treated effluent to the outfall in the vicinity of the Harbour. The WWTP will have the capacity to treat effluent for a population equivalent of 1,150 PE. The new WWTP will provide for primary treatment only.

4.3. The new terminal pumping station will have a storage capacity of 58m³ and will intercept flows along the along the Main Street. The storm storage will have an equivalent storage of c.2 hours for 'Formula A Flows'. The new terminal pumping station will consist of an underground pump sump, valve chamber, emergency overflow tank, control kiosk and wet kiosk. A short length of rising main (120m) will be constructed to serve the seafront dwellings along 'New Houses Road', while a longer length (365m) of rising main will transfer flows from the terminal pumping station to the WWTP. Approximately 280m of gravity network extensions are required to connect the existing wastewater network to the new terminal pumping station. Treated effluent will be discharged via a new 480m long rising main

discharging to a header man hole on the public road. Effluent will then be discharged via an existing 150m long gravity connection to the existing outfall at Liscannor Bay.

5.0 Planning Policy Context

- 5.1. The lands to which the CPO relate are governed by the policies and provisions contained in the Clare County Development Plan 2017-2023³. The subject site is located within the settlement boundary for the settlement of Liscannor and is zoned 'N2.2 – Wastewater (Utilities)'. Where *"it is intended that the land zoned 'utilities / infrastructure safeguard' will be reserved for the existing and future provision of key infrastructural services and the upgrade of existing services and infrastructure relating to road, rail, air and electricity."*
- 5.2. Section 8.4 of the Development Plan relates to water and wastewater services. It notes that the provision of good quality water supply and effective wastewater disposal infrastructure are critical requirements for the future economic development, quality of life and the sustainable growth of the County. The provision of adequate infrastructure capacity in areas of population growth as identified in the settlement strategy, will allow for a plan-lead future development of County Clare. Irish Water is currently analysing water services infrastructure need at a national level and identifying priority projects for inclusion in the next capital investment plan.
- 5.3. Policy CDP8.24 relates to water services. It states that it is the objective of the development plan to:
- A) work closely with Irish water to identify and facilitate the timely delivery of water services required to realise the development objectives of this plan.
 - B) facilitate the provision of integrated and sustainable water services through effective consultation with Irish water on the layout and design of water services in relation to the selection and planning of development areas and the preparation of master plans.
 - C) to ensure that adequate water services will be available to service development prior to the granting of planning permission and require

³ Note the planning report submitted by Irish Water states that the Plan is operative 2015 – 2021.

developers to consult with Irish Water regarding available capacity prior to applying for planning permission

- D) to ensure that development proposals comply with the standards and requirements of Irish water in relation to water and wastewater infrastructure to facilitate the proposed development.

5.4. Policy CDP 8.27 relates to wastewater treatment and disposal. The relevant policies of this objective in relation to the current application are set out below:

- A) to advocate the provision, by Irish water, of adequate wastewater services and capacity to accommodate the target population and employment potential of County Clare in accordance with statutory obligations set out in EU and national policy.
- B) to support Irish water in the promotion of effective management of trade discharges to sewers in order to maximize the capacity of the existing sewer networks and minimise detrimental impacts our sewage treatment works.

5.5. Liscannor is designated as a ‘small village’ in the settlement hierarchy of the development plan. The target population of the village is envisaged to increase from 180 (2011) to 223 (2023). The Planning Report submitted with the application also provides additional policies contained in the development plan relating to surface water and flooding, architectural conservation, protected structures, archaeology, trees, hedgerows and open space and policies contained in the SEA Environmental Report.

The Planning Report submitted with the application also sets out policy statements and guidance as it relates to wastewater and wastewater infrastructure which are contained in:

- The Water Framework Directive.
- The Urban Wastewater Treatment Directive.
- Marine Strategy Framework.
- National Planning Framework.
- Infrastructure and Capital Investment Plan.

- Water Services Policy Statement 2018-2025
- Water Services Strategic Plan (WSSP)
- Irish Water's Business Plan – Transforming Water Services in Ireland to 2021.
- Regional Planning Guidelines for the West Region 2010-2022.
- Draft Regional and Spatial Economic Strategy (RSES).

6.0 Objections

A single objection was received on behalf of Lazarus Investments Ltd (John Flanagan). The relatively short objection is set out in full below:

1. It will result in the devaluation of our client's remaining lands which are adjacent to plot 001 and for illustrative purposes are identified in the map attached here too outlined in red⁴. As matters stand if the CPO proceeds these lands will be converted worthless and on that basis our client is not agreeable to the proposed purchase.
2. Our clients objects to the lands identified in plot 001 being zoned agricultural where in fact the lands are zoned utilities. The lands became zoned utilities after extensive resources were expended by our client and if the proposed CPO proceeds, Irish water will reap the benefit of sale. I enclose a screenshot from www.myplan.ie indicating that in fact the lands are zoned utility⁵.

7.0 Response from Irish Water

- 7.1. In relation to the first point, Irish water note that currently there is no treatment of wastewater prior to discharge from the Liscannor agglomeration. The proposed scheme will provide wastewater treatment for the agglomeration which in turn will allow for the future development within the settlement. It is stated that discussions

⁴ No such map appears to be appended to the objection.

⁵ This screen-shot does not appear to be appended to the objection submitted

have taken place for the purposes of land valuation between Irish Water and the representatives of Lazarus Investments, most recently in September 2020.

- 7.2. In relation to zoning issues, it is stated that plot is 001 has been described as 'agricultural' as that is the current use of the lands earmarked for the proposed development. This description is not a description of the potential uses on site and in no way pertains to the zoning objective relating to the site. The planning report in section 6.12 clearly and unambiguously indicates that the lands in question are zoned for utilities.

8.0 Oral Hearing

- 8.1. Due to the ongoing Covid-19 pandemic, the Board determined on foot of a recommendation from the inspector, that there was sufficient written evidence on file to enable an assessment of the issues raised in the absence of an oral hearing.

9.0 Assessment

9.1. 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 law has determined that, in order to satisfy the above phrase, 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 proposed development is assessed in the context of the tests set out above prior to addressing the specific issues raised in the objections lodged.

9.2. Community Need

- 9.2.1. The community need for the project was set out by Irish Water in the documentation submitted with the CPO.
- 9.2.2. Currently the Liscannor agglomeration is one of 44 primarily coastal agglomerations in the State that does not have the benefit of adequate wastewater treatment prior to discharge of effluent into Liscannor Bay.
- 9.2.3. 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). There is a legal requirement therefore that wastewater treatment is required at least to primary level in order to comply with legal requirements set out in the Urban Wastewater Treatment 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). Any such compliance will be the subject of subsequent assessment if and when a planning application is lodged 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.
- 9.2.4. There are no designated Shellfish Waters in proximity to Liscannor Bay. The coastal waters in the vicinity of the outfall at Liscannor Bay have been assigned 'high quality status' under the WFD.
- 9.2.5. It is noted that large tracks of land are zoned for development, in the Liscannor agglomeration, including lands for new residential, tourism and mixed use development. The provision of an appropriate wastewater treatment plant and associated infrastructure can facilitate the potential social, economic, residential and tourism growth of the area in accordance with the land-use zoning objectives of the

development plan. The provision of appropriate wastewater treatment will facilitate future potential development of the area and attract new, residential and employment opportunities.

- 9.2.6. Finally, in relation to the community need test, I note that the objector did not challenge the confirmation of the CPO on the basis of community need. The concerns raised were primarily in respect of zoning objective relating to the site and the impact on the development potential of adjoining lands.
- 9.2.7. Having reviewed the information submitted, I am satisfied that there is a need for a wastewater treatment plant to meet existing and future development needs in the Liscannor 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 and would be facilitated by the acquisition of rights over the lands in question, should the Board consider it appropriate to confirm the CPO.

9.3. Suitability of Lands to Serve Community Need

- 9.3.1. The Board will note that of the 13 plots of lands which are subject to the CPO only one plot is to be permanently acquired. This plot (Plot 01) is sought to facilitate the wastewater treatment plant and is the subject of the objection submitted. All other plots are for the purposes of permanent wayleaves, permanent rights of way and temporary working areas.
- 9.3.2. The land which is sought to be acquired in the form of permanent acquisition, wayleaves rights and rights of way etc. are undeveloped lands which are either in agricultural uses or public open space. In relation to the public open space located adjacent to the harbour area, temporary working areas, wayleaves and rights of way are to be acquired in this area in order to accommodate a pumping station (most of this infrastructure is likely to be located underground). The works to be undertaken at this location will not result in any permanent loss of amenity area as the lands will be restored post-construction.
- 9.3.3. Sewerage infrastructure associated with the rising mains and gravity pipes between the pumping station and the WWTP are to be located within the existing roadways

with only small linear tracts of agricultural land required along the roadway as a temporary working area while laying the mains.

- 9.3.4. The proposed pumping station is located in close proximity to the outfall and as such is well located to intercept existing combined sewage flows within the settlement and pump it within the confines of public and private thoroughfares to the WWTP.
- 9.3.5. The lands in question are not sensitive in terms of development plan designations or ecological designations. The lands to accommodate the WWTP are governed by a specific zoning objective in the development plan to facilitate utilities. The nearest dwellings are located c.100m to the south of the site, which provides an adequate buffer zone. The nearest Natura 2000 site is located over 1 km away (Inagh Estuary SAC – Site Code 000036).
- 9.3.6. The proposal also seeks to where possible, place pipelines within the existing road network. It is likely that the existing alignments are already burdened with public infrastructure and cabling etc. and it is appropriate that any further pipework would be placed within the confines of the existing road alignment.
- 9.3.7. Thus, having regard to the nature of existing uses on the lands sought to be acquired, together with the zoning objectives relating to the lands and the proposal to lay pipelines where possible within the existing public road network, I am satisfied that the lands which are the subject of the CPO, are suitable to meet the aforementioned community need.

9.4. **Compliance with Development Plan**

- 9.5. The subject site for the WWTP is zoned N2.2 – Wastewater (Utilities) in the land use zoning objectives contained in the development plan. Where “*it is intended that the land zoned ‘utilities / infrastructure safeguard’ will be reserved for the existing and future provision of key infrastructural services and the upgrade of existing services and infrastructure relating to road, rail, air and electricity.*” The provision of a WWTP on Plot 01, therefore fully accords with this zoning objective.
- 9.6. There are numerous policy statements contained in the development plan which place emphasis on the need to support Irish Water in its objectives and statutory requirements to upgrade and improve water and wastewater infrastructure throughout the County.

9.7. The plan notes that the provision of adequate infrastructure capacity in areas of population growth as identified in the settlement strategy, will allow for a plan-lead future development of County Clare. It is noted that the settlement strategy seeks to facilitate an expansion of the settlement of Liscannor to accommodate a population of 223 (up from 180 in 2011). A number of parcels of land are zoned for residential development. Specifically, in relation to policy statements contained in the plan, I would refer the Board to policy CPD 8.24 and 8.27 referred to in Section 5 of my report above, both of which highlight the need to provide adequate wastewater services and capacity to accommodate the target population and employment potential of County Clare in accordance with statutory obligations set out in EU and national policy.

9.8. The objector did raise any concerns with regard to the issue of compliance with development plan policy. Based on the zoning objective and the policies referred to above, is my considered opinion that the proposed development fully accords with the policies and provisions contained in the Clare County Council development plan 2017 - 2023.

9.9. **Consideration of Alternatives**

9.9.1. Irish Water has submitted with the CPO application a Route and Site Selection Report. Alternatives were considered in relation to:

- The location of a wastewater treatment plant.
- The location of the terminal pumping station.
- The selection of the main rising main route.
- The selection of the gravity mains selection route.

The following criteria were used to assess viable route options to determine the preferred sites and routes.

- Ground Conditions
- Existing Services
- Land Use

- Community Impact
- Environmental Impact
- Archaeology
- Constructability and risk
- Financial Evaluation

Various constraints in relation to the above criteria were identified and mapped in the assessment undertaken in the report. Two options for the pumping station were identified both of which are located to the east of the Main Street in the vicinity of the harbour area. It is desirable that the pumping station be located at the lowest point of the network so as the majority of the network can be served by gravity sewer.

Three sites were considered for the WWTP. Site option 1 is located in an agricultural field in the western environs of the town, near the Liscannor Caravan Park c.1.1 km from the harbour area. Site option 2 is located in a privately owned agricultural field on the western side of the Caherycahill local road what runs northwards from the town; this site is c 0.5 km from the harbour area. Site option 3 is the preferred site and it described in section 2 of my report above.

The various rising main route options and gravity mains extension routes options based on the various locations for the WWTP and pumping stations are evaluated in the report. The site constraints map together with the various site and route options maps are set out in Figures 2.4 to 2.8.

The assessment of the various options was considered, analysed and evaluated in accordance with each of the criteria referred to above. Based on the detailed analysis undertaken the preferred sites and routes were as follows:

Proposed Development	Preferred Site
WWTP	Site Option 3
Terminal Pumping Station	Site Option 1
Rising Main	Route Option 1-3(A)
Network Extension	Route Option Outfall – 1(B)

The preferred WWTP site had the following advantages:

- Zoning
- Existing access to site without the need to construct a new access.
- While it was located outside the agglomeration it was proximate to the pumping station and outfall to reduce the length of rising main needed to connect the pumping station with the WWTP

The preferred terminal pumping station provides the following advantages:

- The site is contiguous the existing public road (R478) for ease of access.
- It is located within a green area owned by Clare Co Council.
- It can serve the existing combined sewerage infrastructure by gravity, thereby removing the need for an additional packaged pumping station.

Route option 1-3(A) for the rising main provides the following benefits:

- Cost associated with acquiring wayleaves and rights of way through third party lands are minimising as the route is almost entirely in public owned lands.
- The route reduces the length of rising main required to be constructed along the main road.

Route Option Outfall – 1(B) for the network extensions provides the following benefits:

- It is the most preferable option in terms reducing the amount of works to be carried out along the R478 regional route within the town.

On the basis of the Site and Route Appraisal Report submitted, I consider that a relatively robust and comprehensive route selection process was undertaken by Irish Water taking into consideration the numerous constraints in relation to environmental, technical and cost related matters. I am therefore satisfied that an appropriate consideration of alternative sites was undertaken in the process of site selection.

9.10. Proportionality and Necessity for the Level of Acquisition Proposed

- 9.10.1. 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.
- 9.10.2. It is noted that the preferred site for the WWTP is the largest three sites considered in the Site and Route Appraisal Report. It is possible that in the case of exercise undertaken, the sites considered for option 1 & 2 were indicative plots of land only for the purposes of evaluation, and were not the subject of detailed layout plans which may have necessitated larger areas plots of land to be acquired for the purposes of providing a WWTP on these alternative sites.
- 9.10.3. Notwithstanding the above observation, it appears to me that the acquisition of a plot of land less than 1 ha in size to accommodate a WWTP with a capacity in excess of 1000 PE cannot be considered disproportionate or excessive. I base this conclusion on the fact that 0.628 ha was required to facilitate a wastewater treatment plant in the case of a CPO at Whitegate Co Cork and an area of 0.58 Ha was required to facilitate a smaller agglomeration at Castletownshend Co. Cork.
- 9.10.4. As in the case of most WWTP's, the proposal to serve Liscannor may, at some further date, be required to be upgraded in order to accommodate a larger catchment area or to provide a higher level of treatment to the agglomeration. This may necessitate an expansion of infrastructure with the site. This in my view represents an expedient and appropriate precaution so as to ensure that further acquisition of lands is not necessary in the event that secondary treatment is required in the longer term or that more/bigger settlement tanks may be required to cater for any future population expansion.
- 9.10.5. If the Board have any concerns regarding the size of the plot to be acquired in order to cater for the wastewater treatment plant, it could prior to determining the CPO, request further information justifying the size of the plot to be acquired.
- 9.10.6. With regard to the wayleaves, temporary working areas and right of way associated with the terminal pumping station, having regard to the size of the plots to be acquired all of which are less than 0.1 hectares, it cannot be reasonably argued that the acquisition of these plots (none of which are to be acquired permanently) can be

considered excessive or disproportionate. Likewise, the plots of land to be acquired for temporary working areas along the access road leading to the wastewater treatment plant, all of which are likewise less than 0.1 hectares in size, are considered to be proportionate in the context of the works to be undertaken.

9.10.7. 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.

9.11. **Additional Issues Raised by the Objector**

9.12. Two specific issues were raised by the objector. The first issue argues that the proposed wastewater treatment plant will result in the devaluation of the objectors' remaining lands on the basis that the lands in question will become virtually worthless. The objection states that the lands in question are identified in a map attached the objection. I can find no such map appended to the objection submitted. However, I do note, and I refer to the Planning History section (section 3) above, that the objector, Lazarus investments limited, obtained planning permission under Reg. Ref. 14 /681 to extend the appropriate period for the permission granted under P08-1129 for the park and ride facility which is located on lands to the west of the site (see photographs attached). Planning permission was granted on the 18th of February 2015⁶.

9.12.1. This carpark has been constructed but it appears that it is yet to become operational. At its closest point, the northeastern corner of this car park is located c. 140 meters from the southwestern boundary of the wastewater treatment plant. Agricultural outbuildings are located between the car park and the proposed wastewater treatment plant site. The car park in my view cannot be considered a sensitive receptor in the same way that perhaps a residential development, residential institution, school or other property which facilitates longer term accommodation could be considered sensitive. In this regard patrons using the park and ride facility

⁶ It would appear that this permission has now expired.

will not experience any significant or material adverse impact due to the short-term use of the car park as a park and ride facility.

- 9.12.2. Furthermore, I consider that there is an adequate buffer zone between the car park and the WWTP to ensure that the amenity of persons using the car park will not be adversely impacted upon. Any future application for a wastewater treatment plant on the subject lands will be required to comply with statutory regulations in respect of noise and odour⁷.
- 9.12.3. If it is the case that the objector owns other lands in the vicinity of the proposed wastewater treatment plant or contiguous to the proposed wastewater treatment plant⁸ the Board are requested to note that lands adjacent to and contiguous to the site are either zoned for agriculture or are located outside the development boundary for the settlement of Liscannor, and therefore are deemed to be lands which are currently unsuitable for development. In this regard it cannot be reasonably argued that the proposed development will impact on the development potential of any other lands in the vicinity of the wastewater treatment plant belonging to the objector.
- 9.12.4. If it is the case that lands belonging to the objector are zoned for development at some future date, there can be no doubt that the provision of a municipal wastewater treatment plant to serve the settlement of Liscannor will facilitate rather than inhibit future development which may ultimately be beneficial for newly zoned lands within the development boundary.
- 9.12.5. In relation to the second issue raised in the objection submitted, it is fully acknowledged by Irish Water, and also in this report, that the lands identified in plot 001 to be acquired are zoned for 'utilities' and are not zoned for agricultural use. As Irish Water point out in its response to the objection, reference to agricultural use relates to the description of the current use of site and not the zoning provisions pertaining to the site. The fact that the lands are zoned for utility use, and specifically

⁷ SI No. 787/2005 – European Communities (Waste Water Treatment) (Prevention of Odours and Noise) Regulations 2005.

⁸ This is not altogether clear, as it appears that no Maps indicating the objector's legal interest in other lands were not submitted with the grounds of objection.

for a wastewater treatment plant, supports the compulsory acquisition of the lands in question by Irish Water for a wastewater treatment plant.

10.0 **Conclusions and Recommendations**

Arising from my assessment above, I consider that An Bord Pleanála should confirm the CPO before it without modification based on the reasons and considerations set out below. I am satisfied that the process and procedures undertaken by Irish Water are reasonable and that Irish Water has demonstrated the need for the acquisition of lands, wayleaves, and rights of way and lands for temporary construction and that the lands, wayleaves, rights of way and lands for temporary construction being acquired are both necessary and suitable. I consider that the proposed acquisition of the said lands, wayleaves, rights of way and temporary construction rights would be in the public interest and the common good by improving water quality in the Liscannor Bay area and would be consistent with the policies and objectives of both strategic and statutory planning policy.

In summary, I am satisfied that the lands, wayleaves and rights of way in question are required by the Irish Water for the purposes of performing its statutory functions to improve water and wastewater infrastructure. I recommend that the Board confirm the CPO subject to no modifications.

DECISION

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

REASONS AND CONSIDERATIONS

Having considered the objections made to the compulsory purchase order and the Inspectors report assessing the objections, and having regard to the provisions of the Water Framework Directive (2000/60/EC), the Urban Wastewater Treatment Directive (91/271/EEC), the current Clare County Council Development Plan, it is considered that the acquisition of lands, wayleaves, rights of way and temporary working areas by Irish Water is necessary for the purposes stated in the order and the objections cannot be sustained having regard to the said necessity.

Paul Caprani

Senior Planning Inspector

18th February 2021