



An Bord Pleanála

Inspector's Report

Development:	Compulsory Purchase of lands, Permanent Wayleaves, Permanent Rights of Way, Temporary Construction Rights and Temporary Working Areas for new pumping stations and pipelines as part of the Cork Lower harbor main drainage project. The lands are located in the Townlands of Ballynoe, Ringacollig, Monkstown (Castlefarm), Ringmeen, Kilgarvin, Parkgarriff and the foreshore of Cork County Council.
Planning Authority:	Cork County Council
Applicant:	Irish Water
Type of Application:	Notice of a Compulsory Purchase Order under the Water Services Act 2007 to 2013, the Planning and Development Act 2000 – 2015 and the Housing Act 1966.

Objectors: (i) Mr. Marcus Purcell, (ii) Monkstown Bay Sailing Club, (iii) Cork Dockyard Holdings Limited.

Date of Site Inspection: 9th/10th January, 2017.

Date of Hearing: 11th January, 2017.

Inspector: Paul Caprani.

1. INTRODUCTION

Reg. Ref. 04.CH3297 relates to three objections to the serving of a Compulsory Purchase by Irish Water as part of the Cork Lower Harbour Main Drainage Project. Irish Water are seeking, under the provisions of the Water Services Acts 2007 to 2013, the Planning and Development Acts 2000 to 2014 and the Housing Act 1966 to permanently acquire lands, wayleaves and rights of way and acquire on a temporary basis, the construction rights over lands in both Monkstown and Cobh for the purposes of implementing the Cork Lower Harbour Main Drainage Project. These objections have been received from Mr. Marcus Purcell, Monkstown Bay Sailing Club and Cork Docklands Holdings Limited. I have read the documentation on file relating to the CPO prepared by Irish Water and also visited the lands in question.

The existing sewer network around the Cork Lower Harbour Area is generally deemed to be obsolete and consists mainly of combined sewers serving the population centres around the perimeter of the harbour. Much of the wastewater enters the harbour untreated although there is an existing wastewater treatment plant to serve the north Cobh area, however this treatment plant provides primary treatment only.

2. BACKGROUND TO THE CORK LOWER HARBOUR MAIN DRAINAGE SCHEME

2.1 Reg. Ref. YA 0005

In March, 2008 Cork County Council applied to An Bord Pleanála for approval for the Cork Lower Harbour Main Drainage Scheme. The scheme included the construction of a new wastewater treatment plant in the townland of Shanbally to the west of Ringaskiddy. The proposed wastewater treatment plant seeks to cater for the urban areas of Cobh, Passage West, Monkstown, Ringaskiddy, Crosshaven and Carrigaline. The original proposal comprised of the provision of approximately 57 kilometres of new and upgraded sewers and

where possible replacing the combined sewerage system with a separate system for storm water and sewage. The upgraded network includes a number of new and upgraded pumping stations and associated rising mains. Collected sewage will be pumped to the proposed wastewater treatment system in Shanbally where it will be treated to secondary standard and discharged via an existing IDA outfall off the Dognose Bank.

This application was accompanied by an EIS which examined the potential environmental impact which could arise from the proposed wastewater treatment plant, the upgrading of existing wastewater collection system and the construction of a new marine pipeline crossing from Carrigaloe in Cobh to Glenbrook in Monkstown. The Board considered the entirety in the application involving the wastewater treatment plant and the collection system under Case Ref. No. 04. YA0005. In its decision dated June 2009, the Board concluded that the proposal would not have significant effects on the environment and approved the scheme subject to 6 conditions. The conditions related to the following:

- *All mitigation measures set out in the EIS accompanying the application shall be implemented in full.*
- *The establishment of a liaison committee to disseminate information on the planning and construction work would be established in conjunction with Cork County Council (the initiators of the scheme prior to the establishment of Irish Water).*
- *Standards in relation to treated effluent discharge.*
- *Standards in relation to odour levels.*
- *An archaeology condition.*

- *The requirement of consultation with the South Western Regional Fisheries Board in relation to the crossing of all watercourses including the marine pipeline crossing.*

2.2 Reg. Ref. YM 0001

Prior to the commencement of the scheme, consultants were appointed to review the detailed design processes as part of the implementation. A number of technical improvements were identified, which if implemented, would have a lesser adverse impact on the community.

On foot of this conclusion a request was made for alterations to the approved scheme and was submitted to An Bord Pleanála under the provisions of Section 146B (Reg. Ref. 04. YM 0001). Alterations sought under PL04.YM 0001 included:

- Changes to the number of pumping stations to be provided as part of the overall scheme at Passage West, Monkstown and Ringaskiddy.
- Various alterations to the route of pipelines associated with the scheme.
- The upgrading of existing pumping stations and the provision of a new attenuation tank at Carrigaline.

The Board determined that the physical changes sought would constitute material alterations to the terms of the permitted development and as such the public and prescribed bodies were notified accordingly. The alterations were considered to be not likely to have a significant impact on the environment and were approved by the Board in 2015.

2.3 Proposed Alterations under the current 146B Application (04 YM0003)

A further request for alterations (YM0003) has been made by Irish Water concurrently with this CPO. The alterations sought under the current application include:

- The relocation of the Carrigaloe Major Pumping Station to the Cork Dockyard at Rushbrooke. This will also involve the relocation of the marine pipeline route to a more southerly location traversing the and Lower Cork Harbour.
- The relocation of the West Beach Pumping Station in Cobh to an adjacent site at the Old Town Hall.
- The addition of one new pumping station at the Rushbrooke Hotel.
- The addition of one minor pumping station at Carrigaloe to replace the major pumping station which is to be relocated to Cork Dockyard.

The original proposal both under 04. YA0005 and 04. YN0001 for the Cobh Catchment Area was to place a gravity sewer along the R624 to the Carrigaloe Pumping Station to the north-west of the main urban area of Cobh. The effluent was then to be pumped via a rising main across the River Lee / Cork Harbour Estuary from the Carrigaloe Pumping Station to a point adjacent to the Royal Victoria Baths near Glenbrook, north of Monkstown. The effluent would then be pumped southwards along the R610 for approximately 500 metres where it would revert to a gravity sewer and onto the Monkstown Pumping Station before being transferred via a series of pumping stations southwards to the Shanbally Wastewater Treatment Plant. It was proposed to undertake the crossing of the River Lee using either dredging or tunnel technology.

More detailed investigations were undertaken as part of the preliminary report and a number of issues arose with the original proposal namely:

- (a) There was not sufficient land on either side of the proposed crossing points to accommodate the construction compounds required to enable the crossings to be constructed.
- (b) The works to be undertaken will require largescale closures of important regional roads the (R624) and the (R610) both of which are very important arterial routes and constitute the main routes to Cobh and Monkstown respectively. The site selection report submitted with the CPO application indicates that the R624 would be required to be closed for a period of 23 weeks and may also require the closure of the Cobh Railway Line on a number of occasions in order to facilitate works. A major reason for the longevity of the road closures was that Irish Rail changed their requirements for any under-track rail crossings from a minimum of 2 metre depth clearance to 4.5 metres depth clearance. The requirement for additional depth in the trenches of the gravity sewer presented renewed difficulties for the feasibility of this proposal. The R610 to Monkstown would also require closure for approximately 9 weeks.

The site selection report sets out the criteria on which the preferred options were arrived at. A number of alternative sites were considered. The alternative sites being considered were assessed and screened having regard to:

- Proximity to areas of residential sensitivity.
- Proximity to lands which are earmarked for future residential and commercial development.
- Proximity to ecologically sensitive areas.
- Proximity to architecturally sensitive areas.
- Proximity to public amenity areas.
- Proximity to areas of critical transport infrastructure.
- Proximity to areas that accommodate high voltage electricity lines.

The screening exercise also carried out a technical evaluation of alternative sites in terms of the feasibility of providing the requisite infrastructure. The study area where alternatives were considered centred on the Whitepoint and Cork Dockland area. These areas have the advantage of being able to collect wastewater from most of the Cobh catchment area by gravity connections. Using the above criteria, a total of seven sites in the Whitepoint / Cork Dockland Area were identified which might be considered suitable to accommodate a new major pumping station as an alternative to the Carrigaloe Pumping Station. The site selection report indicates that a minimum area of 700 square metres was deemed to be required for the accommodation of a pumping station.

Three sites:

- Cork Dockyard (Site No. 3).
- A site on the White Point Estate (Site No. 6).
- The existing White Point's Pumping Station (Site No. 7)

were identified as the preferred sites as part of the site selection process.

The above three sites were subject to more detailed evaluation in order to determine the final ranking of the sites under consideration. Under the analysis carried out and set out in Tables 4-4 and 4-6 of the Site Selection Report, the Cork Dockyard site was deemed to be the most suitable for the accommodation of a major new pumping station.

Proposed Pumping Station at Cork Dockyard

The Cork Dockyard site is located to the west of Cobh Town Centre and on the western side of the R624 and Cork – Cobh Railway Line. The dockyard area comprises of lands totalling approximately 17.8 hectares and accommodates a variety of port related activities. The existing on-site infrastructure facilities within the dockyard site include workshops, engineering services, manufacturing sheds as well as two portside cranes and a deep-water quay

area, dry dock and roll-on and roll-off facilities. The area where the proposed pumping station is to be located within a hardstanding area to the south-east of the main dockyard facility. These lands are not currently put to any economic use. The CPO application seeks to acquire an area of 0.1298 hectares (1,298 square metres) within this hardstanding area in the form of a rectangular plot of land with dimensions of approximately 30 metres by 45 metres (Plot No. 37) on the CPO maps submitted (see sheet 5 of 11).

It is also proposed under the current CPO application to secure a large temporary working area around the plot of land to be compulsorily acquired. This temporary working area includes access onto the R624 within the dockyard area. It is also proposed to secure a permanent wayleave and permanent right of way along an existing roadway serving existing residential dwellings to the south-east of the dockyard area (Plot No. 36 and Plot No. 45). Finally, within this section of the CPO it is proposed to incorporate two wayleave areas across the river channel. The larger wayleave is to be secured in a westerly direction towards Monkstown to accommodate the marine pipeline crossing (Plot Nos. 32 and 35). It is also proposed to provide a smaller wayleave to the south-east of the compound to be compulsorily acquired beyond the shoreline (Plot No. 38 and Plot No. 42).

Proposed Marine Crossing and Sand Quay Site

The site selection investigations carried out a similar exercise for the selection of the proposed estuary crossing including an evaluation of the alternative construction technologies which could be employed to undertake the marine crossing. The suitability of the launch and reception sites to cater for the proposed estuary crossing, would according to the site selection report, be heavily influenced by the type of technology to be employed in the pipeline crossing. For this reason, the site selection report investigated the most appropriate and feasible construction technologies to be employed in the river crossing.

Three technologies were considered.

- Dredging.
- Horizontal Directional Drilling.
- Tunnel boring machine.

Each of the technologies involved are described in detail in the site selection report. Each of the technologies were then assessed under the following criteria.

- Planning criteria.
- Environmental criteria.
- Human criteria.
- Technical and cost criteria.

Details of the evaluation under the criteria are set out and summarised in Tables 5-2 – 5-3 and 5-4 of the Site Selection Report. The Horizontal Directional Drilling (HDD) technique was deemed to be the preferred option.

The site selection report went on to evaluate sites on either side of the crossing in terms of their suitability for launching sites and reception sites for the Horizontal Directional Drilling construction activities. The site selection report only considered reception sites on the Monkstown side of the River Lee. Only one site (Site 5W) between the Glen Road and Castle Terrace (see Figure 6-14) of the Site Selection Report was considered suitable for a reception area¹.

In terms of the launch area three areas were considered as being potentially suitable on the Cobh side of the river. These included the Cork Dockyard area and two smaller coastal areas to the rear of residential dwellings backing onto

¹ The Board should note that the landtake required for the reception site has to be greater than that associated with the launch site, as the proposed pipe insertion as part of the horizontal directional drilling will be initiated from the reception area. Therefore, additional land is required in the reception area is required for the storage, fitting and testing of pipes.

the shoreline in the white point area (see Figure 6.13 for the location of the preferred areas). The site selection report carried out a detailed assessment and ranking exercise and the Cork Dockyard area was deemed to be the most suitable.

The reception area for the marine crossing on the Monkstown side does not require the permanent acquisition of any lands. The main reception area comprises of a rectangular area public open space between the Glen Road, Castle Road and Hazeldene Court in Monkstown (Plot No. 22 – Sheet no. 3 of the CPO Maps submitted). This comprises of an area of approximately 0.3655 hectares. In order to facilitate the construction of the pipeline, temporary construction rights are also sought along a linear strip of land between the temporary working area and the R610 coastal road (Plots Nos. 021 and 023 – Sheet No.3). A wayleave area is then sought eastwards from the R610 across the estuary towards the Cork Dockyard area on the Cobh side of the crossing.

This permanent wayleave is to cross a linear strip of public open space on the western side of the road (Plot 024) and over the “Sand Quay” area (Plot No. 26). The Sand Quay Area is reclaimed area of land on the shoreline and to the east of the R610, measuring approximately 50 metres in length and 25 metres in width which is currently used by Monkstown Bay Sailing Club as a launch area for dingy sailing and an open area storage for boats. A small porta-cabin and sewage pumping station is located on the Sand Quay. The wayleave area will also incorporate a small slipway into the estuary. It is also proposed to provide temporary working areas on either side of the wayleave area on the Sand Quay (Plots Nos. 27 and 28).

Old Town Hall Site

In addition to the above works, it is proposed to compulsorily acquire lands, wayleaves, right of ways and temporary working areas at various other locations within the Monkstown and Cobh areas as part of the Section 146B alteration application. One of these areas which has also been the subject of

an objection includes a parcel of land further eastwards along the southern coast of Cobh between Kings Quay and Lynch's Quay (Plots Nos. 072, 073, 074, 075 and 076) (see Sheet No. 9 submitted with the application). These lands are located at the sea front and are currently vacant and used as a car park associated with an adjacent Chinese restaurant. A railing runs along the northern boundary of the site (See photographs of site attached to YM 0003 Report which accompanies this file). These lands are to be acquired to accommodate a new pumping station at the Old Town Hall. The current CPO seeks the permanent acquisition of a rectangular plot of land (Plot No. 73) for the proposed new pumping station. This plot of land is currently vacant and covers an area of 465 square metres. It is also proposed to secure lands as a temporary working area to the immediate east and south of Plot No. 73. A permanent right of way is sought along a linear strip of land adjacent to the western boundary of (Plot No. 73 and Plot No. 74) and permanent wayleaves are sought for an outfall along the shoreline to the south of the proposed pumping station (Plot No. 75 and Plot No. 76).

My report in respect of these alteration requests proposed under YM0003 is subject to a separate report attached.

3.0 CPO DETAILS

Irish Water lodged the application for the Compulsory Purchase on 4th October, 2016. It was accompanied by the following:

- (a) A copy of the Managing Director's Order.
- (b) A Compulsory Purchase Order executed under seal by the Managing Director and the Secretary of Irish Water.
- (c) CPO drawings.
- (d) Public notices published in the Irish Examiner and Cork Independent.
- (e) Copies of registered certificates of the service of CPO notices on the various parties affected.

- (f) Three reports including:
- A Routing Report for Cobh.
 - An Engineer's Report.
 - A Site Selection Report.

4.0 OBJECTIONS TO THE CPO

4.1 Submission on behalf of Mr. Marcus Purcell Received on behalf of Aidan Coffey and Jeremiah Murphy

This objection relates to the compulsory acquisition of the plot of land at the seafront near the Old Town Hall opposite King's Quay. Irish Water seek to compulsory purchase this land in order to accommodate a new pumping station at this location. The solicitor submitting the objection (Barry C. Galvin and Son) are doing so on behalf of a receiver, Mr. Marcus Purcell of Ernst and Young Ltd. who was appointed receiver by the owners of the lands in question. The solicitor had been instructed by the receiver to issue contracts for the sale of the property at Old Town Hall to Cork County Council. The agreed sale price was €551,600 and the receiver had been in receipt of the contracts for sale and these had been duly signed by Cork County Council prior to the issuing of the letter by Irish Water in respect of the compulsory acquisition of the lands in question.

If Cork County Council now elect not to proceed with the sale or, in the event they seek a reduction in the purchase price, the respondent will be looking to Irish Water for any attendant loss.

Irish Water have submitted a response to this objection. The response notes that if the CPO is confirmed, a "Notice to Treat" will be served on all parties

and Irish Water will enter negotiations with all parties concerned with regard to the issue of compensation.

4.2 Submission from Monkstown Bay Sailing Club

This objection specifically relates to Plots 26, 27, 28, 29 and 30, which relates to the area around the Sand Quay on the Monkstown side of the Harbour. The plots in question specifically relate to temporary construction areas and temporary wayleaves at the “Sand Quay” area and slipway opposite the Glen Road. While the sailing club acknowledge the importance of the upgrade of sewage infrastructure in the Lower Cork Harbour Area and fully supports it, the objection questions the amount of wayleave required and the implications in terms of the future disruption of sailing club activities in this area. Concerns are also expressed that no “above ground” structures be built on the Sand Quay recreational area which is used for boating activities. It is also requested that the wayleave area be restricted to 5 metres either side of the pipe works so as to avoid a major loss of amenity currently enjoyed by the users of the recreational area.

A separate submission was also received from the members of Monkstown Bay Sailing Club. It outlines the history of the Sand Quay and the sailing club at Monkstown. It is stated that at peak season, there are up to 80 sailing dingys at the Sand Quay. There are also races on a weekly or bi-weekly basis from April till October in any given year. The club has trained up to 6,000 junior sailors since its formation.

The wayleave as proposed will take over 50% of the Sand Quay and these works may take up to two years. There is no suitable alternative accommodation for the sailors and Irish Water has not provided any suitable solution to address this issue. In the long term, it is suggested that structures may be required on the Sand Quay as part of the wayleave and this could effectively sterilise in whole or in part, the dingy part at the Sand Quay. What is proposed to acquire for wayleave purposes is considered far in excess of

actual requirements. The proposal will have a profound impact on this important recreational amenity. There is no alternative suitable accommodation for the sailing of dingys along this section of shoreline. The only alternative may be the carrying out of the reclamation of lands nearby. The Board should consider a restrictive timeframe for works to be carried out on the proposed wayleave area, should the CPO be permitted. The Board should also insert a condition referring to the future protection of the sailing club to store craft on the Sand Quay without any reduction in the allocated area. The Board should also consider a condition requiring the temporary foreshore reclamation to the immediate south of the Sand Quay which would be used after works are complete. Alternatively, provision could be made for the utilisation of a grass area to the north of the Sand Quay.

4.3 Objection from Cork Dockyard Holdings Limited

This objection was submitted on behalf of the landowners by McCutcheon Halley Planning Consultants. It specifically relates to the acquisition of lands at the Cork Dockyard site at Rushbrooke for (a) the provision of a new major pumping station and (b) the launch site for the proposed pipeline crossing the estuary between Cobh and Monkstown. It therefore relates to Plots 32, 33, 34, 35, 36, 37, 38, 39, 40 and 42.

These plots relate to:

- the permanent acquisition of lands (Plot No. 37).
- The permanent right of way across lands (Plot No. 36).
- Permanent wayleave for access to the pumping station and pipeline (Plot No. 32, Plot No. 35, Plot No. 36, Plot No. 38, Plot No. 42, Plot No. 43) and
- Temporary working areas (Plot Nos. 34, Plot No. 39, Plot No. 40, Plot No. 43 and Plot No. 44).

It is argued that the proposal will have a significant impact on lands at Cork Dockyard in Rushbrooke which covers an area of approximately 17.8 hectares and is a major strategic industrial site within Cork Harbour.

Furthermore, it is stated that the Dockyard Site is the only zoned industrial

site in Cobh. The objectors will be seriously affected on a permanent and temporary basis. The existing dockyard has an array of port related facilities and is a key piece of strategic infrastructure within the city. There is scope for further development to include for off-shore/marine energy port related activities at this location. The Cork Dockyard site was identified as one of only three “Category A” ports in the county for this type of off-shore energy. The objector is currently piloting a project involving the assembly and shipment of fully erected cranes earmarked for this location. The only suitable site for these cranes are where the proposed pumping station is to be located. The proposal will have a very significant permanent and irreversible impact on the objector’s business.

5.0 PLANNING POLICY CONTEXT

5.1 Regional Planning Guidelines for the South West Region

Chapter 5 of the Guidelines relate to Transport and Infrastructure Strategy. Section 5.6.7 of these Guidelines state that “*Cork Lower Harbour Scheme has been identified as a key requirement in terms of the growth of the gateway in areas of the harbour. In particular, the metropolitan towns of Carrigaline, Ringaskiddy, Cobh, Passage West and Monkstown will benefit from this treatment works.*”

5.2 Cork County Development Plan 2014-2020

Section 11.2.7 of the Development Plan notes the requirements to upgrade wastewater treatment plants in order to facilitate population targets and protect the environmental amenity of Cork Harbour.

Chapter 11 (page 172) of the Cork County Development Plan outlines water infrastructure Objectives.

- *Objective WS2-1* prioritises the provision of water services infrastructure in the gateway, hubs and main towns in all settlements where services are not meeting current needs or are interfering with the Council's ability to meet requirements under the Water Framework Directive or where lack of infrastructure is having negative impacts on Natura 2000 sites. The County Development Plan recognises that due to these shortfalls in infrastructure provision, development in the county, may only proceed where appropriate wastewater treatment is available which meets the requirements of environmental legislation including the Water Framework Directive and the requirements of the Habitats Directive. The Council is required to ensure that any additional development permitted does not result in an increase in untreated discharges.

Table 15.2 of the Development Plan sets out Critical Infrastructure Priorities for the county. "The Cork Lower Harbour Sewage Scheme" is listed as a short-term priority in terms of critical infrastructure.

5.3 Cobh Development Plan 2013-2019

Section 2.3.29 of the plan sets out core policies in respect of WWT. It notes that at present effluent from the Cobh Town Council area discharges untreated to Cork Harbour via 12 outfall points around the town, as the town does not have any waste water treatment facility. The discharge of untreated effluent into Cork Harbour is of significant concern as the Harbour is a Protected Area under the South West River Basin District Plan (SWRBDP) and it contains Natura 2000 sites and a Nutrient Sensitive Area. There are also designated Shellfish Waters at Rostellan North, Rostellan South and Cork Great Island North Channel. The South West River Basin District Plan 2010 identifies Cork Harbour as having 'moderate' water quality status and includes an objective to restore it to good status by 2021. The necessary improvement in water quality required to meet the objectives of the SWRBD Plan is dependent on the delivery of adequate wastewater facilities to meet the needs of existing and planned development.

Section 3.3.4 specifically relates to employment. It notes *“that the only industrial lands available are at the dockyard at Rushbrooke. This is a unique and specialised facility with deep water access, graving dock and dry docks used for repair and maintenance of local, national and international vessels. The dockyard also includes large scale manufacturing halls, workshops and marine facilities.”*

Section 3.3.6 notes that *“As part of the wider strategy of promoting Cork Harbour as an international energy hub, the site may have the potential in relation to off-shore /marine energy developments e.g. in the manufacture / repair of plant associated with such development.”* The plan further states that it recognises the specialised and strategic nature of the facilities available at the Cork Dockyard and seeks to retain these facilities on site and promote the continued development of the sites as a Dockyard and for complementary marine related activity and industrial development which relies on the unique facilities available on site.

Objective EDT-03 states that it is an objective to recognise the specialised and strategic nature of the facilities available at the Rushbrooke Dockyard and to seek to retain these facilities on site and promote the continued development of the site as a Dockyard and for marine related industrial development.

The Cobh Town Development Plan identifies the project as a specific development plan objective (Objective INF-01) (page 73). This objective states that *“it is an objective of the plan to prioritise the provision of water services infrastructure to complement the overall strategy for economic and population growth in the town. In particular, it is an objective to encourage and facilitate the early implementation of the Cork Lower Harbour Sewage Scheme”*.

Pending the delivery of the Lower Harbour Scheme, the Town Council may also consider allowing development on the basis of a temporary on-site treatment facility where it is feasible and otherwise appropriate.

In terms of zoning the Board will note that the Cork Dockyard site is zoned “industrial”.

To retain and develop the site as a dockyard in view of the strategic and specialised nature of its infrastructure and to facilitate the development of complementary marine related industrial uses. Part of the site is also considered suitable for the provisions of a park and ride facility to serve Rushbrooke Train Station. Development of the site shall be contingent on the availability of appropriate and sustainable wastewater treatment facilities.

6.0 ASSESSMENT

An Oral Hearing to consider the objections made to the CPO was held in the Commodore Hotel, Cobh on January 11th 2017 (See appendix 1 of this Report). This assessment have regard to all the submissions made including those raised at the Oral Hearing.

6.1 The Community Need and Public Interest met by acquiring the said lands compulsorily

I consider that there is significant public interest served in undertaking the acquisition of lands, wayleaves and rights of way in question.

- Firstly, the project will assist in providing new pumping stations and pipework in order to provide treatment to secondary level for all wastewater in the Cork Lower Harbour Catchment. The Board will be aware from the information contained on file currently there are c. 12

separate outlets in the Cobh Catchment alone where all untreated wastewater is being discharged into the Lower Cork Harbour area.

- The treatment of this wastewater will have consequential benefits for the water quality within the Lower Cork Harbour Area and will also ensure compliance with the Urban Wastewater Treatment Directive (91/271/EEC), the Water Framework Directive (2000/60/EC) and a host of other European Directives as well as national legislation as it relates to water quality.
- The discharge of untreated effluent into Cork Harbour is of significant concern as the Harbour is a Protected Area under the South West River Basin District Plan (SWRBDP) and it contains Natura 2000 sites and a Nutrient Sensitive Area. There are also designated Shellfish Waters at Rostellan North, Rostellan South and Cork Great Island North Channel. The South West River Basin District Plan 2010 identifies Cork Harbour as having 'moderate' water quality status and includes an objective to restore it to good status by 2021. The incorporation of new infrastructure to improve the quality of the wastewater being discharged in the lower Cork Harbour will assist in achieving targets aimed at protecting the designations of within the lower harbour referred to above.
- The Lower Cork Harbour also provides a very important amenity for sailing, swimming and water sports. There are numerous sports and recreational clubs which utilise the whole Lower Harbour Area for amenity purposes. Improvements in water quality within the harbour will assist in making the water an area for a safer and cleaner environment in order to further undertake these recreational pursuits.
- The upgrade of the pipes and pumping stations will reduce the high levels of infiltration currently experienced within the Lower Cork Harbour Catchment. High levels of infiltration through the pipe network pose a threat to both surface and groundwater. What is not proposed in the

current application is to fully replace the combined sewer system (the information contained on file indicates that total replacement of the combined sewerage system is unfeasible as it requires, in the majority of cases, works to be carried out on private lands in terms of the connections to the individual houses). Notwithstanding the fact that a large proportion of the pipe network will retain combined sewers, there can be little doubt that the replacement of pipework will significantly reduce infiltration of sewage-laden waste from the pipe network to the underlying water table.

- The provision of an increased proportion of a separate sewage network will reduce the volume of storm-water entering the combined collection networks. This in turn will reduce the amount of stormwater overflow being discharged into the Cork Lower Harbour.
- Perhaps most importantly it is clear from the information submitted at the oral hearing, and in particular the brief of evidence by Mr. Déaglán Healy, which includes a letter from the European Commission which gives formal notice of an infringement of the Urban Wastewater Treatment Directive and the risk posed in terms of pollution to rivers, soil, coastal and groundwater. In this formal letter of infringement reference is specifically made to the agglomerations of Cobh, Passage West/Monkstown and Ringaskiddy. It is apparent therefore that Ireland is at immediate risk of being fined by the EU for infringements in respect of the Urban Wastewater Treatment Directive.

There can be no doubt in my mind therefore that a community need and public interest is met by acquiring the lands for the purposes of implementing the scheme in question.

With specific regard to the proposed alterations and acquisition of land sought under Reg. Ref. 04.CH3297, it is clear from the information contained on file and in particular the route selection report and the briefs of evidence given at the oral hearing, that the proposed relocation of the pumping stations will

have a lesser impact in terms of traffic and transport disruption for the public residing in both Cobh and Monkstown. The original proposals required significant construction and enabling works at Skew Bridge (the overbridge carrying traffic on the R264 from Cobh to Cork which traverses the Cork/Cobh Railway line). The brief of evidence provided by Mr. Tim O'Herlihy and Mr. Shane Cosgrove at the oral hearing indicated that since the granting of the original scheme, Irish Rail changed the requirements for undertrack rail crossing - increasing the minimum depth clearance from 2.0 metres to 4.5 metres. In order to provide a gravity drain along the R624, it was, as a result of the changes imposed by Irish Rail, a requirement to excavate deeper trenches to accommodate the piping for the original crossing at Carragaloe. This would have given rise to road closures for significant periods of time. In the case of the R264 the overall road closure would have been for a period of up to 23 weeks. Likewise, the transfer of effluent from Passage West on the west side of the harbour to Monkstown would also involve significant construction works along the R610 which would have resulted in the closure of this regional route for a period of 9 weeks. The enabling of construction works on the Cobh side of the harbour would also have necessitated the closing down of the rail line for a period of time.

Furthermore, have inspected the sites around the harbour area, including the sites where it was originally proposed to incorporate the river crossing, I would agree with Irish Water's conclusion that there is insufficient land on either side of the Carrigaloe/Passage West area for a launch and reception areas for the proposed pipeline at the original location, particularly as HDD is to be incorporated as a tunnelling technique. I refer the Board to photo's attached to report YM 0003 for the area of Carrigaloe, it is clear that there is limited land available on the shore-side of the R624 to accommodate large construction areas for a pumping station and launch/construction sites for the HDD pipeline.

I would also refer the Board to the evidence of Mr. Tim Herlihy, (specifically I refer the Bord to the copy of the recording of the hearing accompanying this

file). His evidence indicates that the HDD technique incorporates a relatively shallow radius, in that it is not possible to incorporate a very pronounced concave profile in the tunnelling. As a result, if HDD was to be employed at the narrower channel crossing at Carrigaloe, it would be necessary to step back the entrance points of the tunnel on either side of the of the estuary in order to get the appropriate shallow profile to accommodate the HDD. This in itself would involve sinking deep shafts into the higher ground further back from the shoreline. This would prove to be very expensive and is likely to greater amenity problems during the construction phase for the surrounding area. The incorporation of HDD technique as the preferred option makes the original crossing point at Carrigaloe less attractive in construction terms.

As the original proposals would have involved very complex construction and enabling works in order to progress this scheme which would have resulted in extended closure of two regional roads and the Cobh Railway line, and the requirement to sink deep shafts for the purpose of accommodating the HDD tunnel, it can be reasonable concluded in my view the public interest is met by acquiring lands and wayleaves etc. compulsorily in order to implement the variations sought.

6.2 Compliance with Planning Policy

The Cork County Development Plan is not prescriptive in terms of setting out specific objectives in terms of lands, wayleaves and rights of way sought under the current CPO application.

Nevertheless, Section 11.2.7 of the Development Plan notes the requirements to upgrade wastewater treatment plants in order to facilitate population targets and protect the environmental amenity of Cork Harbour.

Furthermore, Chapter 11 (page 172) of the Cork County Development Plan outlines water infrastructure Objectives. Objective WS2-1 prioritises the provision of water services infrastructure in the gateway, hubs and main

towns in all settlements where services are not meeting current needs or are interfering with the Council's ability to meet requirements under the Water Framework Directive or where lack of infrastructure is having negative impacts on Natura 2000 sites. The County Development Plan recognises that due to these shortfalls in infrastructure provision, development in the county, may only proceed where appropriate wastewater treatment is available which meets the requirements of environmental legislation including the Water Framework Directive and the requirements of the Habitats Directive. The Council is required to ensure that any additional development permitted does not result in an increase in untreated discharges.

Table 15.2 of the Development Plan sets out Critical Infrastructure Priorities for the county. The Cork Lower Harbour Sewage Scheme is listed as a short-term priority in terms of critical infrastructure.

The Regional Planning Guidelines for the South-West Region state that *“Cork Lower Harbour Scheme has been identified as a key requirement in terms of the growth of the gateway in areas of the harbour. In particular, the metropolitan towns of Carrigaline, Ringaskiddy, Cobh, Passage West and Monkstown will benefit from this treatment works”* (see Section 5.6.7).

The Cobh Town Development Plan identifies the project as a specific development plan objective (Objective INF-01) (page 73). This objective states that *“it is an objective of the plan to prioritise the provision of water services infrastructure to complement the overall strategy for economic and population growth in the town. In particular, it is an objective to encourage and facilitate the early implementation of the Cork Lower Harbour Sewage Scheme”*.

Pending the delivery of the Lower Harbour Scheme, the Town Council may also consider allowing development on the basis of a temporary on-site treatment facility where it is feasible and otherwise appropriate.

In terms of zoning the Board will note that the Cork Dockyard site is zoned “industrial”. Public type utilities such as pumping stations could be considered an appropriate land use on such zoned lands.

It is acknowledged that the Cobh Development Plan has a major policy objective to retain and develop the site as a dockyard in view of the strategic and specialised nature of its infrastructure and to facilitate the development of complementary marine related industrial uses. However, the plan also notes that the development of the site shall be contingent on the availability of appropriate and sustainable wastewater treatment facilities. Furthermore, I have argued below (see section 6.4.3) that the provision of a pumping station at Cork Dockyard would be compatible with the expansion of marine related and industrial activities at the Dockyard in that there will be sufficient residual lands left at the Dockyard facility to facilitate the co-location of both the Dockyard activities and the pumping station. I therefore consider that the lands are suitable for the purposes of the acquisition sought.

It is also apparent having regard to the fact that the overall proposal seeks to improve the treatment of effluent being discharged into the Lower Cork Harbour that the overall scheme incorporating the CPO application, before the Board fully complies with the various European Directives referred to above in the opening section of my assessment.

The proposal in my view also fully complies with the Irish Water Strategic Services Plan in that it supports the three key aims of:

- Providing effective management of wastewater,
- Protecting and enhancing the environment, and
- Supporting social and economic growth.

Having regard to the policy statements contained in the above documentation, I am satisfied that the proposed acquisition of lands is supported by the various planning policy documents and European Directives all of which in

general terms seek to provide for a more effective management of wastewater and specifically at local level, seek to implement the Cork Lower Harbour Main Drainage Project.

6.3 Examination of Alternatives

In assessing applications for compulsory purchase the Board should satisfy itself that:

- (a) the site is suitable to accommodate / facilitate the proposed development for which the compulsory acquisition of lands and wayleaves etc. is being sought and
- (b) That the applicant has explored and examined feasible alternatives that may be better suited to accommodate the development.

In relation to the first issue, I am satisfied that the lands in question are suitable and are of sufficient size and scale to accommodate the proposed pumping station and reception area for the tunnel. The site incorporates sufficient buffer zones so as to ensure that no specific or significant issues arise in respect of amenity concerns. I am also satisfied that the lands are appropriately zoned to accommodate a development of this nature. The brief of evidence from Tim O' Herlihy and Shane Cosgrove indicated that the natural topography of Cobh slopes down in a southerly direction towards White Point. Therefore, in order to facilitate the routing of the gravity sewer, the Cobh pumping station would have to be located to the south of the R624. This again make the subject site an appropriate location for the proposed pumping station.

With regard to the examination of alternative the Site Selection Report for the Transfer of Infrastructure from Cobh to Monkstown sets out a clear methodology as to how the site in question and the proposed marine crossing route were deemed to be the preferred site/route for the purposes of the CPO.

The evaluation of alternative sites incorporation of an Analytical Hierarchy Process (AHP) which is a recognised multi-criteria analysis tool, and is used in various decision making models including business, government and strategic planning decisions. The study area was naturally defined by the natural topography of Cobh which slopes in a southerly direction towards Whitepoint. Therefore, in order to facilitate the routing of a gravity sewer, Cobh pumping station would have to be located to the south of the R624. The limits of the defined study area were based on a rational evaluation in my view.

The various potential sites being considered for a pumping station within the defined study area were assessed and screened having regard to:

- Proximity to areas of residential sensitivity.
- Proximity to lands which are earmarked for future residential and commercial development (50m buffer zone).
- Proximity to ecologically sensitive areas.
- Proximity to architecturally sensitive areas.
- Proximity to public amenity areas (20m buffer zone).
- Proximity to areas of critical transport infrastructure (5 m buffer zone).
- Proximity to areas that accommodate high voltage electricity lines, (10 m buffer zone)

The residual areas that remained as a result of this screening exercise were identified and are indicated on Figure 4.10. Using the above criteria, a total of seven sites in the Whitepoint / Cork Dockland Area were identified which might be considered suitable to accommodate a new major pumping station as an alternative to the Carrigaloe Pumping Station. The site selection report indicates that a minimum area of 700 square metres was deemed to be required for the accommodation of a pumping station.

The screening exercise also carried out a technical evaluation of alternative sites in terms of the feasibility of providing the requisite infrastructure.

As a result of this technical evaluation, three sites:

- Cork Dockyard (Site No. 3).
- A site on the Whitepoint Estate (Site No. 6).
- The existing White Point's Pumping Station (Site No. 7)

were identified as the preferred sites as part of the site selection process.

The above three sites were subject to more detailed evaluation in order to determine the final ranking of the sites under consideration. Under the analysis carried out and set out in Tables 4-4 and 4-6 of the Site Selection Report (involving a further analysis of Planning Issues, Environmental Issues, Human Issues Technical and Cost Issues) the Cork Dockyard site was deemed to be the most suitable for the accommodation of a major new pumping station.

A similar type exercise was carried out in respect of the Marine Crossing both in relation to the technologies to be used in the channel crossing and the most appropriate launch and reception sites on either side of the channel (see Section 5 of the Site Selection Report).

In terms of evaluating alternative sites, I am satisfied that Irish Water have satisfactorily explored reasonable and realistic options with regard to alternative sites in the Cobh and Monkstown area and have employed that robust and objective methodology in assessing alternative sites for the purposes of acquiring lands for the proposed pumping station.

6.4 Issues Raised in the Grounds of Objection:

6.4.1 Objection on behalf of Marcus Purcell

The sole issue raised on behalf of Marcus Purcell relates to monetary compensation issues in the case where Irish water acquire the land and any consequential financial attendant loss occurs as a result of the acquisition. I agree with Irish Water's contention that if the CPO is confirmed, in due course

a Notice to Treat will be served on all parties affected by the CPO. It appears therefore that the only issue raised in this objection relates to matters which will be subject to financial arbitration and as such, will be dealt with after the Board has made its decision. For this reason, I consider that this objection can be set aside by the Board in making its decision in respect of the CPO.

6.4.2 Objection by Monkstown Sailing Club

Monkstown Sailing Clubs objection concerned the impact that the proposed wayleave would have on the operations of the sailing club. The submission on behalf of Irish water in response to the concerns is as follows:

- As already stated above the proposed pipeline route will be undertaken by way of HDD and will take place at a depth approximately 15m below the sand quay. As a result, there will be no requirement for Irish Water to occupy any part of the Sand Quay during the works except for very short and limited durations.
- There will be a requirement to decommission the existing pumping station at Sand Quay, which will involve the removal of existing mechanical and electrical equipment. All this work would take a period of 2-3 weeks and would be undertaken outside the sailing season (November to April). This aspect of the proposed works will have no impact on the operations of the sailing club. The existing above ground kiosk at the existing pumping station will be replaced with a similar new kiosk which would be of a similar size and same footprint as the existing kiosk. Again this would take place outside the sailing season.
- The pipeline to be installed will be delivered to the launch area in Monkstown by sea. It will be brought ashore using the existing boat slip and will be done so at night, thereby minimising the impact on traffic. It is anticipated that the piping can be brought to shore in its entirety over a one to two-night period. There will be no impact on the sailing club as a result of bringing the pipeline ashore.

- Irish Water also assured the Board during the oral hearing (see evidence of Mr. Healy) that at least one of the boat slips on either side of Sand Quay will be kept open during the entire works.
- With regard to the provision of future structures on Sand Quay, the only new unit proposed will be the replacement of the existing kiosk with a structure of similar size as part of the works proposed. There will be no adverse impact on the operations of the sailing club due to new structures resulting from the pipeline. If any future structures are required at some later date, it would be the subject of a separate planning consent.
- Finally, in respect of the proposed wayleave, the Sailing Club expressed concerns that the wayleave required at the Sand Quay was too large, (between 10 and 20m in width). A wayleave of 5m either side of the pipeline would be more appropriate in the opinion of the sailing club. In response Irish Water have state that it would, in agreement with the owners of the land, be willing to reduce the wayleave to 5m either side of the pipeline once the pipeline has been laid and its exact position is known. Irish Water are therefore, happy to accede to the sailing clubs request once the exact position of the wayleave is known. They requested that the Board permit the wider wayleave requirements at present to allow some flexibility in constructing the pipeline to allow for any unforeseen circumstances. This request is reasonable in my view.

From the information contained on file, and particularly the information presented at the oral hearing, it appears that the provision of a pipeline under the Sand Quay area would not result in any significant disruption to Monkstown Sailing Club, either on a short term or long term basis. The construction work will take place outside the sailing season and will involve works of rather short duration. The provision of the pipeline will not result in any existing structures over and above the replacement of an existing kiosk associated with an existing pumping station. Finally, the width of the wayleaves, when the pipeline is put in place, will be restricted to 5m either side of the pipeline in accordance with the wishes of the sailing club. I am therefore satisfied that any inconvenience to the sailing club would be minimal and temporary, and not such so as to warrant an

annulment or amendment to the acquisition of wayleaves and temporary construction rights on the Sand Quay, particularly given the strategic importance of the Cork Lower Harbour Main Drainage Project.

6.4.3 Objection of Cork Dockyard Holdings Ltd.

The main concerns espoused by Cork Dockyard was commercial in nature. The Dockyard do not question the need for the overall drainage project, nor does it challenge the proposal from a technical view point. It argues that the Dockyard is strategically poised to provide key strategic port services including crane assembly, manufacturing, bulk product handling and a dry dock facility. It also has the potential to become a premier site for the off shore / marine energy development. Reference is made to the fact that Cork Dockyard was designated as one of only three 'Category A' ports in the recently published '*Review of Irish Ports Offshore Capability in Relation to Requirements for the Marine Renewable Energy Industry*'. It is argued that the position of the pumping station, while occupying less than 1% of the total site area, will result in the sterilisation of the surrounding land which will have a significant commercial impact on the future commercial viability of the entire Dockyard. The objection suggests that the pumping station could, at the very least be moved to a more peripheral location within the Dockyard site. The issues raised in the objection are evaluated in more detail below.

- The area of the Dockyard site where the proposed pumping station is to be located is currently unused vacant lands. It appears from the analysis presented by Irish Water that the subject site is ideally located for the provision of a pumping station both in terms of its location west of the R624 and Cobh Town and also its location for a reception area for the HDD tunnel. The existing land use is also conducive to locating a pumping station at this location. Currently the main commercial activity is located in the northern area of the Dockyard. This is the area where the Liebherr crane assembly is taking place and dry dock repairs are currently being undertaken. The proposed pumping station will have no impact on the dry dock repair facility. With regard to the issue of the further expansion of the Liebherr Crane assembly area, there is in my view ample scope to provide

a crane assembly area in the dock-side area adjacent to the pumping station. The pumping station is set back c.80 m from the dock-side area. The existing Liebherr cranes take up a similarly sized area at the existing dock-side. Furthermore, there is scope for additional storage /assembly to the north-west and rear of the pumping station once works have been completed. The geo-technical evidence provided at the hearing by Mr Cummins, clearly indicates that the wayleave area to the on the Dockyard site will in no way compromise the ability to assemble and store cranes on the wayleave. The HDD tunnel will be within the bedrock and will be c.45 m below the crane assembly area and its integrity would in no way be affected by the activities directly above ground.

There can be no doubt that the proposed pumping station will limit the scope to which assembly and storage activities can take place on these lands, it will not in my view however completely sterilise the lands for future commercial activity as suggested by the objectors. The vacant lands to the east and south of the storage sheds amount to c. 3 ha. The pumping station will occupy a footprint of approximately 0.13 ha. The pumping station is not centrally located within these vacant lands. More importantly it is set back a considerable distance from the dock-side area which is a key consideration in terms of crane assembly and export or any off-shore marine energy related activities.

- With regard to moving the pumping station to a more peripheral location within the Dockyard area, I am satisfied that Irish Water has appropriately evaluated this option. The station is located c.10m from the south-eastern quay area. According to the information on file, a relocation closer to the quayside would result in the pumping station potentially interfering with the ties of the retaining wall along the quayside. This in turn would result in significant geo-technical engineering works would have obvious implications for cost.

Moving the pumping station to the north-eastern portion of the site would result in the pumping station being in close proximity to the bulk storage sheds. Cork Dockyard Holdings have indicated to the Board at the Oral

Hearing, that it would be undesirable to locate the pumping station in such close proximity to the storage shed on the ground that these shed will be storing Dairygold foodstuff. Therefore, appropriate buffer zones should be incorporated.

With regard to locating the pumping station to the rear of the site, Irish Water had due and appropriate cognisance to the residential dwellings to the north of the site. It is appropriate in my view that a 50 m buffer zone be maintained between the pumping station and the residential dwelling. Such a buffer distances are recommended in the EPA Guidance document entitled '*Treatment Systems for Small Business Communities Leisure Centres and Hotels*'. Thus it is appropriate in my view that similar distances be employed in the case of pumping stations, in the absence of specific guidelines for such facilities, particularly to protect residents from potentially adverse impacts from odour or noise.

- With regard to the strategic importance of the dockyard to facilitate marine off-shore energy enterprises, Cork Dockyard rightly point out that it is only one of 3 designated Category A ports in the country. The Board will note that along with Dublin, Shannon-Foynes is also designated as a Category A port for marine off -shore energy enterprises. This port is also located within Munster. To some extent, the presence of Shannon-Foynes in such close proximity to Cork undermines the objector's arguments that the Cork Dockyard is critically important on a national and strategic level to accommodate marine off -shore energy enterprises.

Arising from the above assessment I consider that the provision of a pumping station within the confines of Cork Dockyard has many strategic advantages in terms of implementing the Cork Lower Harbour Main Drainage Scheme and would not result in the total sterilisation of lands within this part of the Dockyard area. While it may somewhat restrict the expansion of commercial activities on these vacant lands, I consider that the lands are sufficiently large to accommodate the expansion of Dockyard enterprises while accommodating a new pumping station. Furthermore, as in the case of Monkstown Sailing Club objection, any inconvenience commercial or otherwise caused by the

acquisition of lands and wayleaves must be balanced against the greater common good, in terms of provided properly treated effluent into the Lower Cork Harbour and the health, environmental and amenity benefits arising from same.

CONCLUSIONS AND RECOMMENDATION

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 lower Cork harbour 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 report of the person who conducted the oral hearing into 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 Regional Planning Guidelines for the South West Region, the current Cork Council Development Plan 2014-2020, and the current Cobh Town Development Plan 2013-2019, 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
January 30th 2017

Appendix 1

PROCEEDINGS OF ORAL HEARING

An Oral Hearing was held in respect of the compulsory acquisition of lands and wayleaves and rights of way, together with temporary construction rights on the lands concerned. The hearing was held on Wednesday 11th January, 2017 in the Commodore Hotel in Cobh, County Cork. The Oral Hearing was attended by:

- **Representatives on behalf of Irish Water.**
 - Mr David Holland, SC.
 - Mr Déaglán Healy, Project Manager.
 - Daire Cummins, Geotechnical Engineer.
 - Tim O' Herlihy, Project Liaison Engineer.
 - Shane Cosgrove, Project Manager, Nicholas O Dwyer Ltd.
 - Áine Balfe Town Planner AOS Planning Ltd. (Submitted a Précis of Evidence which was not read into the record).
- **Representatives on behalf of Cork Dockyard Limited.**
 - Mr. Tom Halley, Mc Cutcheon Halley, Chartered Planning Consultants.
 - Eoin O Sullivan, Director Doyle Shipping Group.

Monkstown Sailing Club despite being an objector to the acquisition of wayleaves did not attend the hearing.

The ESB notified the Board two days prior to the hearing that it was withdrawing its objection to the proposed acquisition of lands under its ownership.

Representations on behalf of Mr. Marcus Purcell who also objected to the proposed acquisition of lands did not attend the hearing.

OPENING OF THE HEARING

Inspector's Opening Remarks

The hearing commenced at 10.00 a.m. in the Commodore Hotel Cobh, Co. Cork. The Inspector's opened the hearing and set out an outline of the proposed development and a proposed agenda. The inspector stressed that the hearing related only to the subject matter concerning the compulsory acquisition of lands, wayleaves and rights of way etc. The purpose of the hearing was in no way intended to re-visit the project in its entirety, nor was it intended to assess the overall changes proposed as part of the S146B application. The purpose of the hearing was to solely focus on the objections received in respect of the compulsory acquisition of lands. The inspector then requested that Irish Water to commence its formal submission at the hearing.

SUBMISSION BY IRISH WATER

Open Statement by David Holland SC on behalf of Irish Water

Mr. David Holland, Senior Counsel on behalf of Irish Water made some opening remarks which outlined the context and need to acquire the said lands before calling upon four technical experts to present their statements of evidence at the hearing.

Statement of Evidence from Déaglán Healy, Project Manager.

Mr Healy outlined a brief overview of the project and stated that the proposed Cork Lower Harbour Main Drainage Project is required in order to comply with the Urban Wastewater Treatment Directive and subsequent Regulations transposed into Irish law emanating from the Directive. It notes that the objective of the Directive and Regulations is to protect the environment from the adverse effects of wastewater discharges. The submission goes on to note that the provision of a secondary wastewater treatment plant for Cork Lower Harbour is a requirement under European and National Law since 2005. The Cork Lower Harbour Agglomeration is currently non-compliant with the Urban Wastewater Treatment Directive and Ireland

faces potential prosecution by the European Commission in this regard. The existing sewer network serving the Cork Lower Harbour comprises mainly of combined sewer systems. The project will provide wastewater treatment to these catchments through the development of a new secondary wastewater treatment plant at Shanbally.

Details of the project history to date, including the parent approval from An Bord Pleanála under Reg. Ref. 04. YA0005 is detailed in the submission. The main objectives of the project are also set out in the submission. It states that in order to achieve the objective of the project, as far as it affects the Cobh area, Irish Water needs to acquire lands and rights of way for pumping stations and wayleaves/rights over land for the laying of the new and upgraded facilities. It notes that it has not been possible to secure agreement from all the landowners affected.

Mr. Healy stated that he is satisfied that all reasonable alternatives as outlined in the routing report submitted with the application have been fully considered. If consent is received for the purchase of the necessary lands requested in this order, procurement of the construction works will be progressed later this year and construction will commence in Cobh in 2018.

Finally, the submission goes on to address concerns raised in the submission from Monkstown Bay Sailing Club. It states that it is planned that there will be no surface works on the Sand Quay during drilling operations. Consequently, there will be no requirement for Irish Water to occupy any part of the Sand Quay during the works with the exception of minor short-term disruptions which will include:

- The decommissioning of the existing pumping station at Sand Quay.
- The existing and above ground control kiosk at the existing pumping station in Sand Quay will be replaced with a similar new unit.
- The pipeline to be installed below the estuary by way of horizontal directional drilling is to be delivered by sea. This will be an overnight operation. It is stated that the contractor will be required to maintain pedestrian and vehicular access to the Sand Quay and to at least one of the boat slips throughout the proposed works.

- With regard to the extent of the wayleave it is stated that Irish Water would by way of agreement with the owners of the land be willing to reduce the width of the wayleave to 5 metres either side of the twin pipelines once the pipeline has been laid and its exact position is known.

There are a number of attachments, including a letter of formal notice of infringement from the European Commission regarding the implementation of the UWWTD and a European Commission factsheet regarding same.

Details of various correspondence with representatives on behalf of Monkstown Sailing Club are also attached to the submission.

Brief of Evidence by Áine Balfe (This brief was submitted to the Inspector in written form only and was not read into the record).

The submission from Áine Balfe of AOS Planning specifically relates to the planning context of the scheme. Mr. Holland stated that Irish Water do not intend to read this submission into the record as it merely outlines the planning policy context as it relates to the proposal. A copy of the submission was handed to the Board and to Cork Dockyard Limited. The submission makes reference to the planning history associated with the scheme and sets out the various planning policy objectives that are relevant to the scheme in the Cork County Development Plan. It notes that future development in the lower Cork harbour area, in order to comply with the Water Framework Directive and the Habitats Directive, may not be able to proceed until the Council ensures that any additional development permitted does not result in an increase in untreated discharges. This places an enormous financial burden on the Council and the State in terms of funding investment in new facilities.

It notes that the project has been identified as a key infrastructural need in the South-West Regional Planning Guidelines.

Furthermore, the Cobh Town Development Plan identifies the project as a specific development plan objective – Objective INF-01. In order to facilitate the construction and operation of the Cork Lower Harbour Main Drainage Project Irish Water must acquire the lands for the pumping stations. It is stated that the dockyard pumping

station is required due to the change in location of the estuary crossing. A detailed site selection process was undertaken and this process included an evaluation of planning issues. The evaluation undertaken concluded that the dockyard area to be preferred site. It is stated that Irish Water met with the dockyard company on a number of occasions to discuss the proposed works. Cork dockyard requested Irish Water to examine three alternative locations within their site. Two sites were screened out of the site selection process and as such could not be advanced. It is considered that the pumping station at its current location with the dockyard will reduce any potential adverse impact on the dockyard.

In terms of zoning requirements, it was considered appropriate that a buffer zone be implemented to ensure that amenity in the vicinity of the pumping site is not compromised. A 50 metre buffer zone was placed around the perimeter of all commercial and residential buildings. It is noted that the Cork Dockyard is currently zoned industry in the Cobh Development Plan 2013. It is noted that there is a long established industrial use on the site which gives rise to an established level of noise and activity.

In conclusion it is stated that the proposed pumping station located at the dockyard is compliant with all relevant national, local and county level planning policy. The planning policy context notes the importance of the development on this project to support further growth of the town as well as the strategic area of the dockland.

Brief of Evidence by Darren Cummins on behalf of Irish Water

This statement of evidence related to geotechnical engineering issues. The submission states that it is proposed to install two 500 millimetre diameter pipelines across the Cork estuary which would pass beneath a portion of Cork dockyard to connect with the proposed pumping station within the dockyard. The pipelines would be installed using horizontal directional drilling. It states that Cork Dockyard Holdings are concerned that the proposed works would compromise the on-going crane assembly pilot project currently underway at the dockyards. Ground investigations carried out in 2015 within the dockyard have found that the area where it is proposed to install the pipeline has between 6 and 17 metres of soil cover before the bedrock

is reached. A plan showing the location of the groundwork investigations and the relevant borehole/core hole logs are included in Appendix A. The actual depth at which the pipelines will be installed has not yet been finalised. However, it is likely that the deepest points will be about 45 metres below ground level. At its closest point to the current crane assembly works, the pipelines will be likely to be at a depth of 45 metres below ground level. The magnitude of stress and pressure caused by the load which is applied at the ground surface reduces with the depth from the point of application. The construction of cranes on ground surface 45 metres above the pipelines would not cause sufficient loading to affect the pipelines which are located within the bedrock. The dockland soils are weaker in strength (and load bearing capacity) than the bedrock within which the pipelines would be installed. Furthermore, the strain and compressibility of the soils above the bedrock will not be affected by the installation of the pipelines. The pipelines will be isolated within the stronger and relatively incompressible bedrock below the soil and their presence would not affect the mechanisms of failure.

Brief of Evidence by Tim O' Herlihy, and Shane Cosgrove on behalf of Irish Water.

The final brief of evidence submitted on behalf of Irish Water as a joint presentation from Tim O' Herlihy Project Liaison Engineer for Cork County Council and Shane Cosgrove Civil Engineer with Nicholas O' Dwyer's. These briefs of evidence again set out in the background to the proposed development and sets out the revisions to the original proposal. This submission primarily relates to the location of the new marine crossing. It notes that the original EIS submitted with the parent application notes that the Glenbrook/Monkstown area has steep approaches on the banks of the estuary and this may cause problems during construction. It is noted that due to topography and the profile of the shipping channel at the originally proposed location, directional drilling was not considered feasible and had not been considered as an appropriate crossing technique. The width and depth of the channel at this point would require the drill entry and exit points to be setback a considerable distance from the shoreline. Tunnelling at these locations would require vertical shafts in excess of 35 metres deep and this would involve major civil engineering

works. The improvement in directional drilling technology in the period from 2002 to 2013 allows for much longer crossings by directional drilling than at the time of the original proposals. The improvement in horizontal directional drilling technology meant that it was feasible to mitigate the construction issues that had been the reason for rejecting the dockyard site initially.

Irish Water argue that they cannot move the pumping station to a more peripheral location adjacent to the south-eastern quay wall because of the presence of metal stays on the landside which are supporting the quay wall.

Another important consideration in choosing the Dockyard Site was due to the fact that Irish Rail changed their requirements for any under-track rail crossings from a minimum of 2 metre depth clearance to 4.5 metres depth clearance. The requirement for additional depth in the trenches of the gravity sewer presented renewed difficulties for the feasibility of this proposal. It would have resulted in the closure of the R624 Regional Route (the main road in and out of Cobh) for a period of approximately 23 weeks.

The submission goes on to outline the methodology overview for the site selection process.

It involved:

- A Stage 1 Preliminary Screening.
- A Stage 2 Technical Evaluation.
- A Stage 3 Detailed Assessment.
- And a Stage 3 Analytical Hierarchy Process (AHP).

(The Board will note that further details of this methodological process are contained in the site selection report submitted with the application and have been summarised in the main body of the Inspector's report).

The natural topography of Cobh slopes down in a southerly direction towards White Point. Therefore, in order to facilitate the routing of the gravity sewer, the Cobh pumping station would have to be located to the south of the R624. This restriction

was considered when defining the study area for the site selection process. It notes that seven areas were identified following the Stage 1 screening (see Site Selection Report). This was further refined to three sites and then finally the preferred site at Cork Dockyard.

The brief of evidence goes on to outline the methodology used in the estuary crossing construction technology and to outline the methodology used in evaluating the most appropriate launch and reception sites for the compounds associated with the horizontal directional drilling. It notes that 8 areas on the eastern side and 7 areas on the western side of the lower harbour were identified as possible locations of a launch/reception area following a Stage 1 screening. A Stage 2 technical evaluation determined that none of the areas on the east side of the study area were suitable for the location of a reception site and only one area on the western side was suitable for a reception site. This resulted in the Glen Road being selected as the reception site at Stage 2 of the Assessment. A total of three sites on the eastern side were assessed as potential launch sites. Again Cork Dockyard was determined to be the preferred option as a reception site. It is noted that the revised river crossing location gave the following advantages:

- It eliminated the construction impacts identified in the EIS associated with an open cut crossing.
- It removed the requirement to lay large sewers from central Cobh to the ferry crossing along the R624 (a distance of approximately 1.7 kilometres).
- It removed the requirement to lay large sewers from the Glenbrook to Monkstown area along the R610 a distance of approximately 1.3 kilometres.
- It removed the necessity to cross the railway adjacent to the entrance of the dockyard.
- It reduced the construction impacts associated with the size of the original sewers.

The submission notes that Irish Water met with Cork Dockyard on a number of occasions and this engagement resulted in the pumping station being moved to a position further to the south-east on the site at the request of the dockyard.

Finally, the submission goes on to specifically address the concerns raised in the objections by both Monkstown Sailing Club and Cork Dockyard. It is stated that in relation to land and wayleave acquisition, Irish Water are satisfied that all reasonable alternatives have been fully considered. A number of appendices are attached to this submission including:

- Irish Water's letter to Niall Skehan and Associates of 20th December, 2016 (agent on behalf of Monkstown Sailing Club).
- Irish Water's letter to McCutcheon Halley Chartered Planning Consultants dated 9th January, 2017 (agents on behalf of Cork Dockyard Limited).
- EIS extracts.
- Preliminary report extracts.
- Preliminary report drawings.
- CPO drawings relating to objections.
- Scheme of works drawings.

This submission completed Irish Water's formal brief of evidence at the Oral Hearing.

SUBMISSION ON BEHALF OF CORK DOCKYARD LIMITED

Submission by Mr. Tom Halley of McCutcheon Halley Chartered Planning Consultants.

At 12.45 the Inspector invited the submission from Cork Dockyard. A short submission was made by Mr. Halley in which it was stated that Cork Dockyard is of major strategic importance not just within the Cork area but within the wider region. It is stated that the site is a finite resource and that no other land is available on which to expand the dockyard facilities. As such it is argued that the lands in question are a very valuable commodity. It is also noted that the subject site on which it is proposed to build the pumping station is the only designated industrial site in Cobh.

While Irish Water argues that the amount of land to be acquired constitutes less than 1% of the total site area, Mr. Halley suggests that Irish Water are missing the point in that it is not the area of the land which is the issue but its location and the impact it will have on the future operations of the dockland area. It is suggested that the pumping station will result in the sterilisation of a large portion of the lands which are earmarked for future extension. Mr. Halley likened it to “*putting a shed on the centre circle of a football pitch*”. He argued that while the shed may take up a modest amount of space in terms of the overall pitch, it results in the football pitch becoming unplayable. Mr. Halley stated that Cork Dockyard do not challenge any of the technical reasons behind the relocation of the pumping station to Cork Dockyard. However, the Board are required to be mindful of the commercial impact which the relocated pumping station could have on the dockyard. It is acknowledged that the overall strategic benefits accruing from the alterations sought under the current application are positive. However, this must be balanced against the negative commercial impacts which will arise on Cork Dockyard.

It is also argued that the compulsory acquisition of lands is premature as the decision for varying the scheme under the provisions of Section 146B of the Planning and Development Act 2000 has yet to be determined.

It is argued that compensation is not an appropriate remedy for Cork Dockyard Limited in this instance. While the objectors did permit Irish Water to carry out investigative works on the subject site, they did not believe that it would culminate in an application to compulsory acquire lands.

The lands on which the proposed pumping station is to be located are critically important for expanding commercial enterprises associated with the dockyard including crane assembly and wind farm assembly. Both these enterprises require space. While the proposed pumping station may only occupy a modest portion of land its located on site will have a much greater impact in sterilising lands for crane and wind farm assembly.

The objectors also have concerns that they will not be permitted to build on the wayleave. The fact that Irish Water have agreed to move the pumping station from a more central position within the vacant lands constitute a mere “tweak” to the

proposal and does not fundamentally address the Cork Dockyard's concerns in respect of locating a pumping station on these lands.

Finally, Irish Water have not ruled out the feasibility of constructing a major pumping station at Carrigaloe as originally planned and this remains the preferred option for Cork Dockyard Limited.

Submission by Eoin O'Sullivan – Director of Doyle Shipping Group.

Mr O' Sullivan also made a submission on behalf of Cork Dockyard Limited. It argued that the proposed pumping station would not just have an adverse impact on the Cobh / Cork area but would have an impact on Ireland as a whole as Cork Dockyard is the only dry dock facility in the south of Ireland. It is stated that Liebherr, a company involved in crane construction, are looking at the dockyard area for future crane manufacture and assembly and are interested in setting up large scale crane assembly at Cork Dockyard. It is stated that the dockyard is currently an underperforming asset and is a strategic asset for both county and country. Cork Docklands offers an opportunity for a marine hub with the construction of cranes and renewable energy.

Irish Water have argued that they cannot move the pumping station to a more peripheral location adjacent to the south-eastern quay wall because of the presence of metal stays on the landside which are supporting the quay wall. Mr. O'Sullivan suggests that the restructuring of the quay wall is not such a big issue and could be easily carried out in order to relocate the pumping station closer to the edge of the dockland area. It is also suggested that Irish Water could reclaim land adjacent to the dockland area in order to accommodate a pumping station.

When asked by the Inspector whether it would be a possibility to relocate the pumping station to the north-eastern area of the vacant lands at the dockyard site, Mr. O'Sullivan stated that this would not be appropriate as Cork Docklands have a contract with Dairygold to use these lands for the storage of Dairygold products. Therefore, there would need to be a buffer zone between the pumping station and the storage of Dairygold products.

CLOSING STATEMENTS

Irish Water's Concluding Statement

Mr. Holland SC on behalf of Irish Water made the following closing statement.

Mr. Holland does not accept the argument that the lands in question are the only site on which cranes can be assembled. It is suggested that the site in question is not by any means unique for such enterprises. Reference is made to the 'Marino Site' which is located to the north of the subject site and it is suggested that this site could be equally suitable for crane assembly. Mr. Holland notes that Cork Dockyard Limited have not produced any expert or detailed evidence as to why the proposed pumping station cannot go ahead at this location. It is suggested that the objectors have made plenty of assertions but have failed to indicate any quantifiable impacts. It is argued that the objectors have not quantified the impact of the proposed development in economic or planning terms. The Board are requested to acknowledge that the CPO process results in the loss of lands of owner/occupiers in every case which is of significance to them, but not unique. And this is also true in the case of Cork Docklands. Notwithstanding what is stated by the objector's, compensation is, an adequate remedy in terms of law.

While the objectors are correct in stating that Carrigaloe is the only currently approved option for the pumping station, it is argued that the Board are most likely to consider the CPO application in conjunction with the proposed alterations under the Section 146B application which proposes new pumping stations and a new marine crossing as part of the alterations. If the proposed amendments under Section 146B are not granted approval by the Board, it is likely that the CPO will fall by the wayside as it will not be necessary. If the CPO on the other hand is confirmed, and the proposed amendments under Section 146B are refused, Irish Water will not activate the purchase and therefore there will be no scheme. In terms of the investigation works undertaken on the Dockyard lands by Irish Water, it was obvious that the works carried out on these land were for the purpose of erecting a proposed pump house, despite the evidence submitted by Cork Docklands that they were surprised that the CPO would proceed.

Finally, it is argued that the objectors have not provided any evidence that the pumping station will interfere with proposed enterprises to be carried out at the docklands. No evidence has been provided that either Liebherr or Dairygold will pull out of any planned projects in the event that the pumping station proceeded. The objectors have not even provided a letter of comfort, never mind statements of evidence, that these companies would pull out of any future enterprises should the pumping station go ahead. It is stated that there is no concrete analysis or evidence that the proposal will impact on the future operations at the Cork Dockyard site.

Finally, in respect of reclaimed land, it is stated that Cork Dockyard have the ability to reclaim further land should they wish to expand such commercial enterprises. As in the case of compulsory purchase of lands, nobody wants to lose the land in question but that is the case in any submission and is not unique to the objector's case.

Closing Submission on behalf of Cork Dockyard Limited

The closing submission from Cork Dockyard reiterated the concerns that the proposed pumping station will have on future commercial enterprises and argues that the proposed pumping station is not justified in this instance. It was never the objector's intentions to rely on statements of evidences from other commercial companies to support their objection. Reference to the Marino site to the north as a suitable alternative location shows a fundamental lack of understanding by Irish Water as to the needs of the Cork Dockyard and the Clients it intends to serve as the Marino site is not a dockyard site. Therefore, An Bord Pleanála are requested to reject the application for the compulsory acquisition of the said lands.

CLOSING OF THE HEARING

The Inspector made a short closing statement thanking the parties for their participation before formally closing the hearing at 13.40 p.m.