



An
Bord
Pleanála

Inspector's Report 06S.CH3317

Local Authority Project

Irish Water Compulsory Purchase (Strategic Watermain Link between Leixlip and Saggart Project) Order 2017

Location

Loughtown Upper, Peamount, Keeloges, Westmantown, Blundelstown, Kilmactalway, Jordanstown, Collegetown, Rathcoole, Coolmine, Saggart Co. Dublin.

Applicant

Irish Water

Local Authority

South Dublin County Council

Objectors

1. Charles Greene.
2. Commercials Hurling and Camogie Club.
3. Avoca Handweavers Limited / Aramark.

Observers

None.

Date of Site Inspection

1st June 2017

Inspector

Derek Daly

1.0 Introduction

1.1. This report refers to the objections received to a Compulsory Purchase Order made by Irish Water in respect of the Strategic Watermain Link between Leixlip and Saggart Project. The purpose of the CPO is to facilitate the construction of the watermain link. The overall CPO as advertised refers to 41 individual plots of land and seeks to acquire:

- the acquisition of one plot of land plot no 001;
- a permanent wayleave over the land eighteen plots of land;
- a permanent right of way over four plots of land; and
- the temporary use of eighteen plot of lands, as a working area.

Objections were initially made by nine parties in respect of individual plots of land. Six of these objections were subsequently withdrawn.

2.0 Statutory Basis

2.1. The application is made under Section 76 and the Third Schedule to the Housing Act, 1966, as extended by Section 10 of the Local Government Act (No 2) Act, 1960 (as substituted by section 86 of the Housing Act 1966 and as amended by Section 6 and the Second Schedule to the Road Act 1993) and the Planning and Development Acts 2000 to 2015 and as applied by Section 93 of the Water Services Act, 2007, as amended.

2.2. Irish Water, pursuant to Section 7 of the Water Services (No. 2) Act, 2013 is carrying out the functions of a Water Services Authority for the purposes of the Water Services Act, 2007.

3.0 Site Location and Description

3.1. The development consists of the laying of a pipeline running roughly north to south in the west of County Dublin from lands adjoining the grounds of Peamount Healthcare facility located to the north of the R120 in the north to the Saggart storage reservoir in the south. In general, the major proportion of the pipeline traverses over lands

located to the east of the R120 and west of Casement Aerodrome and north of the N7. The pipeline runs adjoining the R120 for a length of approximately 200 metres and will at the southern section of the line cross the N7. Otherwise the lands which the pipeline will traverse are relatively free of development. In the overall context of the area the terrain is relatively flat.

- 3.2. The CPO refers to 41 plots of land in 11 different townlands. These are illustrated on the submitted drawing nos. IW/10001093/CPO/001, IW/10001093/CPO/002 and IW/10001093/CPO/003.
- 3.3. The plots cover a diverse range of uses consisting primarily agricultural lands but also playing fields associated with two sports clubs Peamount United and Commercial Hurling and Camogie Club, car parking areas and a health facility. The line of the proposed pipeline approximately 7 kilometres in length will connect the Peamount and Saggart reservoirs and will be laid largely on open lands but will also be in close proximity to developed lands in particular at Greenoge and Saggart.
- 3.4. The plots which are the subject of the CPO comprise the following:
 - Plot nos. 001 is immediately to the west of the existing Peamount reservoir.
 - Plot nos 002 and 003 run close to a field boundary with agricultural lands to the west and Peamount Healthcare facility to the east and ends southwards to the R120. The pipeline will then for a small section of approximately 200 metres adjoin the R120.
 - Moving in from the road and following a south-easterly course the pipeline crosses agricultural lands in plot nos 004, 005, 006, 007 and 008.
 - The line then crosses plot nos 010 and 011 which are playing pitches associated with Peamount FC and continues in a more easterly direction across agricultural lands of plots 014, 015, 016, 017, 018, 019 and 020 and to the north of a commercial/industrial park.
 - The pipeline then follows a more southerly course from plot 021 to plot 034 over agricultural land and to the east of commercial/industrial development with provision for a permanent right of way from the R120, plot 027, and an additional right of way through plots 034 and 034A which are the grounds and

playing pitches of Commercials Hurling and Camogie CLG. The Commercials lands are immediately to the north of the N7.

- The pipeline crosses the N7 and to the south of the carriageway crosses plot 035 a site currently in use as a retail development with the buildings in the eastern section and car parking to the west. The pipeline will run through an area of the car park.
- The route of the pipeline follows a southerly and then easterly direction from plot no 036 to plot 044 in parkland and agricultural land and crossing a watercourse, before finishing at the lands of Saggart Reservoir.

4.0 Purpose of the CPO

4.1. The development underlying the CPO is described in Irish Water's documents to the Board, which include:

- Managing Director's Report and Order authorising the making of the CPO (24th February 2017).
- The CPO maps, drawing nos. IW/10001093/CPO/001, IW/10001093/CPO/002 and IW/10001093/CPO/003 and schedule (24th February 2017).
- Engineers Report to Managing Direction Irish Water dated 17th February 2017. The engineers report includes information relating to the scheme including the existing situation and the need for the scheme, planning, the need for the lands and CPO, resources and alternatives considered and a conclusion. Documents included in the report include a Route Appraisal Report dated July 2016, a route selection report dated March 2015 and a planning report January 2017.
- Public notice dated 9th March 2017.
- Sample copy of CPO notice as issued to affected landowners.

4.2. The CPO is to provide for strategic connectivity by means of a water main link between two principle water treatment works (WTW) in the Dublin Region Water Supply Area namely Ballymore Eustace and Leixlip WTWs as part of an overall

necessity to provide strategic connectivity between the treatment plants and water storage sites in the region. The proposed link will allow treated water to be conveyed from the Leixlip WTW to Saggart reservoir via a proposed pumping station at Peamount reservoir and it is indicated the scheme will therefore provide for greater integration of the regional water network and improve security of supply.

- 4.3. As part of the design process an initial route selection was examined and a report published in March 2015 which made recommendations on the most economically and environmentally sustainable proposals together with suggestions for further investigation required to validate the preferred solution. The route selection report examined options and alternatives which are outlined in chapter 5 including the most direct route using existing roads (option C) and a direct route mostly through private lands (option D). Option D was identified as the most economically viable route.
- 4.4. Subsequently a route appraisal report was prepared and published in July 2016 which established the most technically feasible route using engineering best practice. An evaluation and assessment of a range of issues including operational requirements; hazards and obstacles; land use; ecology and archaeology along this route ensued. A further assessment in relation to alternative options along the preferred route was conducted examining sections between identified nodes centring on the area around Peamount; the section between the R120 to south of Baldonnel Aerodrome; the area south of the aerodrome to Rathcoole which include the Commercial CLG lands and the section from Rathcoole to Saggart reservoir.
- 4.5. A ranking system applying an analytical hierarchical process was used to evaluate the route options within the sub sections of the route to identify a preferred route, chapter 4, and then appraised the preferred route in greater detail in chapter 5 including appraisal of different landholdings.
- 4.6. The planning report dated January 2017 refers to current policy and objectives of the current operative county development and zonings in which the proposed pipeline is located; an assessment of flood risk; that stage 1 Appropriate Assessment screening was carried out and stage 2 to was ruled out and the impact on ecology was assessed. The report concludes that the proposed pipeline is in accordance with the proper planning and sustainable development of the area.
- 4.7. In total, the scheme consists of provision of;

- Approximately 7km of pipeline inclusive of control valves.
- A pumping station adjacent to Peamount reservoir.
- An arrival chamber within the Saggart reservoir complex.

Requirement for CPO

4.8. The reason for the CPO is to facilitate construction of elements of the scheme. Irish Water state that during the detailed design process numerous pipeline routes were examined with the current proposed network being the most feasible. It was determined that lands not in the ownership of Irish Water would be acquired and this would involve permanent land acquisition, permanent wayleaves, temporary working areas and rights of ways. It was determined that it would not be possible to acquire the land, wayleaves and rights of way by agreement or in a timely fashion and it was decided to seek a CPO.

Nature of CPO.

- 4.9. The CPO as initially advertised refers to 41 plots of land.
- 4.9.1. In relation to land purchase it is proposed to purchase one plot 001.
- 4.9.2. In relation to permanent wayleave, it is proposed to acquire a permanent wayleave on the following plot nos 002, 005, 007, 010, 014, 016, 018, 020, 023, 028, 030, 033, 035, 036, 038, 040, 042 and 044 a total of 18 plot numbers.
- 4.9.3. In relation to permanent right of way, it is proposed to acquire a permanent right of way on the following plots nos 004, 027, 034, and 034A a total of 4 plot numbers.
- 4.9.4. In relation to temporary working area for the purpose to enter with all necessary vehicles, plant and machinery to do anything ancillary or incidental to construction activities, it is proposed to acquire a temporary working area on the following plot nos 003, 004, 006, 008, 011, 015, 017, 019, 021, 024, 027, 029, 031, 032, 034, 039, 041 and 043 a total of 18 plots.

5.0 Policy Context

5.1. Irish Water

5.1.1. The Water Services Strategic Plan (WSSP) 2015 provides the context for detailed implementation plans that will address key water service areas such as water resource management, wastewater compliance and sludge management and sets out strategic objectives for the delivery of water services up to 2040 including;

- The delivery of a sustainable and reliable clean water supply and safe disposal of wastewater.
- Provision for additional capacity to support housing development, together with offices, factories and commercial buildings supporting jobs.
- That there are areas zoned for development which are currently constrained by limitations in system capacity for water and wastewater.
- That water services infrastructure deficit is among the constraints to be overcome if housing needs are to be met in the Greater Dublin Area.
- That substantial improvements to water supply capacity, quality and reliability are required in addition to at the environment and that this will require significant capital investment over many years.
- To meet future demand and to invest in interconnection of networks and additional capacity to maintain appropriate headroom (spare capacity above demand) to cater for production risk and provide flexibility in capacity to meet new demands.

5.2. Development Plan

5.2.1. South Dublin County Development Plan 2016-2022 sets out policies and objectives in respect of water and wastewater.

5.2.2. Policies in relation to Infrastructure and Environmental Quality (IE) include;

Policy 1 Water & Wastewater

It is the policy of the Council to work in conjunction with Irish Water to protect existing water and drainage infrastructure and to promote investment in the water and drainage network to support environmental protection and facilitate the sustainable growth of the County.

5.2.3. Objectives include;

IE1 Objective 1:

To work in conjunction with Irish Water to protect, manage and optimise water supply and foul drainage networks in the County.

IE1 Objective 2:

To work in conjunction with Irish Water to facilitate the timely delivery of ongoing upgrades and the expansion of water supply and wastewater services to meet the future needs of the County and the Region.

IE1 Objective 3:

To support Irish Water in delivering key water service projects. Key Projects to be progressed in South Dublin County include:

- Completion of the Saggart to Leixlip Watermain Scheme to provide resilience and flexibility of water supply in the County

IE1 Objective 5:

To promote and support the implementation of the Irish Water, Water Supply Project to increase water supply capacity throughout the Dublin Region.

5.2.4. Actions include;

- South Dublin County Council will liaise with Irish Water to promote the sustainable development of water supply and drainage infrastructure in the County and the Region, in accordance with the objectives and recommendations set out in the Greater Dublin Drainage Study, Water Services Strategic Plan and Water Supply Project.
- South Dublin County Council will present business cases to Irish Water to secure capital investment for required infrastructural projects in the County based on the growth strategy outlined in the Core Strategy.

5.3. Natural Heritage Designations

5.3.1. There are no Natura 2000 sites in proximity to the site where works in relation to the proposed development are to be carried out.

5.4. The nearest sites are the Glenasmole SAC site code 001209, the Rye Water Valley/ Carton SAC site code 001398 and the Wicklow Mountains SAC site code 002122, which are in excess of 6 kilometres from the proposed works.

6.0 **Objections**

6.1. Nine objections were initially lodged in respect of the CPO. Prior to the oral hearing 5 objections to the scheme were withdrawn and another objection from Mr William Harris in was withdrawn the course of the oral hearing. There are, therefore, three objections to the proposed CPO.

6.1.1. **Charles Greene.** (permanent wayleave plot number 028 temporary working area plot number 029)

Corr Property Consultants and Agronomists on behalf of Charles Greene in a submission dated the 19th of April 2017 refers to;

- The pipeline could have been better located and in its current location has a severe impact on the client's property.
- Reference is made to negative impact on drainage on the lands affected.
- Insufficient details are submitted in relation to how the construction will be carried out and the size of the pipeline.
- It is not clarified how access to lands by the applicant is to managed along the route of the pipeline.
- No duration of time in relation to time of commencement and completion is provided.
- Other matters may arise as the level of information is incomplete.

6.1.2. **Commercials Hurling and Camogie Club.** (permanent wayleave plot number 033 permanent right of way plot numbers 034 and 034A temporary working area plot numbers 032 and 034)

Commercials Hurling and Camogie Club in a submission received by the Board on the 19th of April 2017 refers to;

- The club grounds could have been avoided completely.
- The impact on the club is extreme.
- If the Board accept that it is appropriate that the scheme is imposed on the club it is respectfully requested that conditions be imposed on the development which will protect the continued operations and long term sustainability/amenity of the club.
- There is a lack of information in relation construction, timing reinstatement and disruption, drainage or detail in relation to alternative routes.
- The acquisition appears surplus to construction.
- The issue of severed pitches arise which could be avoided by a better pipeline route.
- Issues in relation to construction lights, noise, security and health and safety are raised.
- Issues are raised in relation to the access road and traffic management during the construction process.
- There is a lack of alternative playing pitches available to offset the loss of 1 of 2 pitches available to the club raising the issue of looking at alternative routes for the pipeline.
- The club reserves the right to raise other matters at the oral hearing.

6.1.3. **Avoca Handweavers Limited / Aramark.** (permanent wayleave plot number 035)

Ciaran Sudway and Associates Charter Surveyors on behalf of Avoca Handweavers Limited / Aramark in a submission dated the 18th April 2017 refer to;

- The issues of serving the notice, the time available to respond and the lodging of the CPO are raised.
- The submission refers to a wayleave over the client's lands but it is the objector considers that is an easement which is being sought.
- The lands are referred to as a car park but are in fact development lands and zoned commercial in the current development plan for the area.

- Part 2(ii) of the Schedule of the CPO which refers to entering lands at all times is in conflict with part 3 which indicates no permanent right of way is to be acquired. It is noted that access to easement lands is only possible by acquiring a right of way over the objectors' lands which are outside the easement shown on the CPO drawings.
- The extent of the easement being acquired and the implications for the retained lands are not clearly defined in the CPO and it is imperative a Draft Deed of Easement should be attached to the CPO and considered as part of the process.
- The need for the scheme and the CPO has not been identified and demonstrated that the lands to be acquired are suitable for the scheme envisaged. This is not demonstrated.
- The scheme is premature as no application has been made to the local authority or approved by the planning authority for the area.
- The objector reserves the right to raise other matters at the oral hearing.

7.0 The Oral Hearing

7.1. An oral hearing into the objections lodged to the Compulsory Purchase Order was commenced at 10.00am on Tuesday the 13th of June 2017 in the offices of An Bord Pleanála and concluded the same day. A recording of the hearing is available on the Board's file. It comprises the formal record of the hearing. Parties in attendance at the hearing are listed in the attachments.

7.2. The following parties made oral submissions at the hearing:

Irish Water:

- Jarlath Fitzsimons SC
- Kevin O Neill
- William McKnight
- Olwyn James
- Elaine Shields

- Andrew O'Mullane

Objectors:

- Tom Corr on behalf of **Charles Greene**
- Tom Corr on behalf of **Commercials Hurling and Camogie Club.**
- John Morris on behalf of **Commercials Hurling and Camogie Club.**
- John Hughes on behalf of **Commercials Hurling and Camogie Club.**
- Esmond Keane SC on behalf of **William Harris.**

7.3. Documents submitted to the Board in the course of the hearing are attached to this report)

7.4. In the course of the oral hearing the objection in relation to the scheme from William Harris was withdrawn.

7.5. Key points raised at the oral hearing by the parties are summarised below:

7.5.1. Irish Water

- The strategic importance of the scheme was emphasised in providing security and alternatives in the supply of water in the Greater Dublin Region.
- The construction of the scheme is necessary to advance this.
- The appropriate statutory provisions are complied with in making this application for CPO.
- The scheme advances the common good.
- In designing the scheme alternative routes were examined and appraised not just applying best engineering practice but considering social factors.
- A route over open lands was considered the preferred route given the nature of the works. Laying the pipeline in or adjacent to the public road network would necessitate the closure of the road and or disruption to traffic, in particular the R120, which serves many industrial and business parks. The minimisation of disruption in Saggart village was also examined and appraised. Avoidance of acquiring residential properties was a consideration and also the overall life cycle costs for the pipeline.

- It is accepted that rights of landowners are interfered with but the greater need must be served.
- There is no requirement for EIA.
- The project was screened in relation to AA.
- There is no requirement for development consent prior to making / confirming CPO.
- Submissions made outlined in detail sections of the route in particular those relating to the objectors and why the preferred route was chosen.
- The method of construction was outlined and this formed the basis of the necessary width in particular of temporary wayleaves in the construction phase to accommodate the construction of the pipeline and also to provide the necessary width for plant and machinery to operate safely and satisfactorily.
- A major consideration was also crossing the N7 and the optimal construction solution in this regard.
- A proposed amendment to the CPO was included in the opening submission of Mr Jarlath Fitzsimons requesting deletion of the permanent right of way on plot nos 034 and 034A. Please note in this regard that the written submission of Mr Fitzsimons refers only to plot 034 but in his opening submission at the hearing it was indicated that plot 034A was also requested to be included in the modification.

7.5.2. Charles Greene

Mr Corr on behalf of Mr Greene raised the issue of excess soil arising from excavation and whether it would be retained on the lands or disposed of off-site.

7.5.3. Commercials Hurling and Camogie Club

- The club restated their view that an alternative route avoiding their lands was the preferred position.
- If going across their land were to remain as the preferred option, it should occur with minimum disruption and in this regard the question of tunnelling under their lands rather an excavation was raised.

- The club numbers in particular the camogie and underage sections were growing and demands on the grounds and pitches are growing. This was outlined in greater detail in the submissions made. In this regard the loss of the camogie pitch for any length of time would be a severe impact. In this context a design and construction solution which minimised disruption should be pursued.
- There were little alternatives in relation to playing facilities in the area.
- The club was a focus of community involvement not limited to active participation in sports and the loss of facilities would have a wider impact than purely the loss on the playing pitch.

7.6. In response to the inspector Irish water indicated;

- The timescale of the construction of the project was 2 years. There could or would be residual impacts for a longer period in relation to some of the lands affected as for example on the Commercial playing pitch where an impact for a period of up to 3 years was likely before the playing surface was fully useable was an active playing surface.
- The issue of planning consent was raised and it was indicated that the matter of whether the development was exempted development would be examined in the context of the prevailing statutory provisions both in relation to the acts and regulations. If it was determined that the works in question were not exempt planning consent would be sought at the appropriate time.

Reference in this regard was made to the published draft amendments to the planning regulations and whether they would be form the statutory regulations when the decision on whether planning consent would require to be made. In this context the process of planning consent would be considered and if it was considered that the works were not exempted development at the pertinent time, planning consent would be obtained. The absence of planning consent it was indicated did not affect the making of an application for CPO and the CPO, if confirmed, would the applicant indicated express interest in the lands if planning consent was applied for.

7.7. Irish Water in response to questions from the objectors.

Irish Water in relation to matters raised on behalf of Charles Greene indicated material excavated would be removed from the site and the lands levelled off so as not to impact on future agricultural operations.

Irish Water in response to Commercials Hurling and Camogie Club

- There was acknowledgement of impacting on the club lands.
- A modification to the CPO was proposed removing the permanent right of way plot numbers 034 and 034A from the CPO to reduce the level of impact.
- After the route selection the preferred route was as submitted in the CPO. It was also considered that the selected route for crossing the N7 had to be taken into account and this largely determined the route crossing the Commercials lands.
- Tunnelling under the land as suggested was examined but ruled out on matters of health and safety; ongoing impacts on adjoining lands and cost. The issue of crossing the N7 also affected such a consideration.
- Safety fencing of a manner agreed would be erected.
- It was acknowledged that a period of disturbance of up to 3 years from initial works to the camogie pitch being fully and properly useable was likely.

8.0 **Assessment**

8.1. The proposed compulsory purchase relates to the acquisition of land, rights of way, wayleaves and the use of land for temporary working areas of land in private ownership. The following matters are considered in this assessment:

- The need to be met by the proposed land acquisition;
- Consideration of alternatives to the chosen route;
- Suitability of the lands to meet this need;
- Whether the level of acquisition proposed is necessary and is proportionate.

8.2. **Need**

8.2.1. The need for the project has been described by Irish Water in the application documentation.

8.2.2. Key arguments include:

- a. The need for connectivity between treatment plants and the strategic water storage sites in the Greater Dublin Region.
- b. The current lack of such connectivity and integration of the water network and thereby improvement of security of supply.

8.2.3. I consider that the need for the pipeline is established and necessary. The pipeline is of strategic importance in linking two storage reservoirs in the Greater Dublin Area water supply. Its construction will provide for increased security of supply and increased integration of the water services infrastructure in the region.

I would also note in this regard that Irish Water in their Water Services Strategic Plan (WSSP) 2015 set out strategic objectives for the delivery of water services up to 2040 including;

- the delivery of a sustainable and reliable clean water supply and safe disposal of wastewater;
- that substantial improvements to water supply capacity, quality and reliability are required in addition to at the environment and
- that this will require significant capital investment over many years and to meet future demand and to invest in interconnection of networks and additional capacity to maintain appropriate headroom (spare capacity above demand) to cater for production risk and provide flexibility in capacity to meet new demands.

The South Dublin County Development Plan 2016-2022 sets out policies and objectives in respect of water and wastewater which include;

IE Policy 1 Water & Wastewater

It is the policy of the Council to work in conjunction with Irish Water to protect existing water and drainage infrastructure and to promote investment in the water and drainage network to support environmental protection and facilitate the sustainable growth of the County.

IE1 Objective 1:

To work in conjunction with Irish Water to protect, manage and optimise water supply and foul drainage networks in the County.

IE1 Objective 2:

To work in conjunction with Irish Water to facilitate the timely delivery of ongoing upgrades and the expansion of water supply and wastewater services to meet the future needs of the County and the Region.

IE1 Objective 3:

To support Irish Water in delivering key water service projects. Key Projects to be progressed in South Dublin County include:

- Completion of the Saggart to Leixlip Watermain Scheme to provide resilience and flexibility of water supply in the County

The scheme proposed is, in compliance with the policies initiatives as outlined and these policy initiatives are I consider, reasonable.

8.3. **Consideration of alternatives to the chosen route.**

- 8.3.1. In the documentation submitted for CPO and also in submissions made by Irish Water at the oral hearing the methodology of the selection of the preferred route was outlined.

Ms Shields at the oral hearing outlined in detail the methodology applied and the basis of selecting the preferred route initially appraising 4 potential routes A, B, C and D and using a number of criteria and weightings of criteria the chosen preferred route was selected and the reasons for selecting the preferred route was indicated which crosses open lands rather than traversing along the road network.

Route corridor D was identified as the best engineering solution in terms of length of route, fewest adverse impacts, minimisation of traffic disruption, fewer bends on the route of the pipeline minimising pumping, lowest construction and ongoing maintenance costs and the route identified can accommodate a trunk watermain with capacity capable of meeting demand requirements.

- 8.3.2. The methodology applied, I consider, is robust and reasonable in identifying the preferred route. The avoidance of laying the pipeline on or adjoining public roads given the volume of traffic in the area and in particular on the R120 and also minimising future disruption in future maintenance is, I consider, reasonable. Avoidance of demolition of residential properties is also a reasonable consideration.

8.3.3. In selecting the preferred route through where possible open lands and taking a shorter route there are cost savings. The preferred route also has where possible minimised disruption by following in close proximity to field boundaries and avoiding the potential to impact or minimise future development of lands.

8.3.4. The approach adopted is therefore, I consider, reasonable. It is acknowledged that there is disruption to landowners affected but any route identified would have resulted in disruption direct and indirect on lands and activities in the area.

8.4. **Suitability of the Lands to meet the Need**

8.5. The promoter off the compulsory purchase order has set out in Drawing Nos. IW/10001093/CPO/001, IW/10001093/CPO/002 and IW/10001093/CPO/003 and schedule the extent of lands required for the proposed purchase, wayleaves, rights of way and temporary working areas.

The scheme provides for the permanent acquisition of one plot of land adjacent to the Peamount reservoir site. Remaining lands relate to rights of way and way leaves permanent and temporary.

Preliminary examination and testing of the lands was carried out and the acquired lands for the construction of the pipeline have taken into consideration, the lands required for the initial construction phase and also the longer term requirement for ongoing access to the new pipeline for maintenance of infrastructure.

I am satisfied that the lands as identified in the schedule accompanying the CPO are necessary and required to meet the need for the construction and maintenance of the pipeline.

8.6. **Whether the level of acquisition proposed is necessary and is proportionate.**

At the oral hearing and in the submitted documentation the method of construction of the pipeline was outlined and in this regard I would refer to section 3 and figure 4 of Ms Shield's submission at the oral hearing which outlines in cross section an indication of the proposed permanent wayleave and temporary working area necessary to safely construct the pipeline providing for the appropriate angle of repose for excavating the trench and the necessary working area for plant and machinery.

I am satisfied that the width of wayleave identified for the construction and maintenance of the pipeline has been demonstrated and the level of acquisition as proposed is necessary and proportionate in the context of bringing the infrastructure proposed to fruition in a safe and technically feasible manner.

The modification proposed to remove the permanent right of way in relation to plot nos 034 and 034A is reasonable in the context of the scheme but also in relation to the ongoing operations of the Commercials club and security matters.

9.0 Consideration of objections.

- 9.1.1. Mr Charles Greene (permanent wayleave plot number 028 temporary working area plot number 029).

Mr Corr raised one matter in relation to a concern by Mr Greene in relation to the disposal or otherwise of excess material excavated and concerns in relation to future agricultural operations of his lands. It was clarified at the hearing that excess matter would be exported off the site and lands would be restored to existing levels.

The matter as raised was I consider addressed by Irish Water.

- 9.1.2. Commercials Hurling and Camogie Club (permanent wayleave plot number 033 permanent right of way plot numbers 034 and 034A temporary working area plot numbers 032 and 034).

The main objection is the crossing of the club's playing area and the disruption this would give rise to as one of the two playing pitches, the camogie pitch would for a period of time identified in the course of the oral hearing as 3 years would not be useable for playing games.

This will it is contended be a significant impact on the resources of the club in a period when participation in games was ever increasing and the ability to meet the increased participation needs would as a result be diminished. The club questioned the need to cross their lands and if this was necessary to cross their lands could tunnelling employed to minimise disruption.

Irish water at the oral hearing outlined why it was necessary to cross the club's property referring to the chosen route as the route with fewest impacts, avoidance to acquisition of dwellings and disruption of traffic and the consideration of the location

of crossing the N7. The issue of tunnelling on the Commercials lands was considered but ruled out citing health and safety and knock on effects on adjoining lands and also cost. It was indicated to minimise impact a modification eliminating the acquisition of the permanent right of way on plots 034 and 034A relating to the club' grounds and that alternative lands would be used as a permanent right of way.

In relation to the objection submitted, the activities of the club will, I consider, be impacted upon and there will be a loss of a playing pitch for the playing of games, namely the camogie pitch, for a period of 3 years.

The loss will be significant in terms of the activities of the club but the acquisition of a permanent wayleave in relation to plot number 033 and the temporary working area in relation to plot numbers 032 and 034 must be considered in the context of the overall need of the common good served by the construction of the pipeline. It also must be considered in designing and considering a route, a wide range of impacts were evaluated before the preferred route was decided upon and the evaluation was I consider robust.

In this context the provision of infrastructure cannot avoid in every circumstance impacting on affected landholdings if the works are to be carried out and this is the case in relation to the Commercials lands. In the context of the greater need and common good and the route selection resulting in the preferred route, the acquisition as proposed in relation to wayleaves and temporary working areas is reasonable.

9.2. **Avoca Handweavers Limited / Aramark.** (permanent wayleave plot number 035).

The objector was represented at the oral hearing and indicated that no submission would be made to the hearing.

The pipeline will cross lands currently used as a car park associated with the Avoca shop and details relating to the works on the car park were outlined by Ms Shields at the hearing. The proposed acquisition does not propose a permanent right of way or to acquire lands outside of the permanent wayleave as indicated.

I would note that that the lands in question are referred to as a car park and are zoned as commercial in the current development plan for the area but car parking provision is an ancillary requirement of commercial developments and given the nature of the business on the site and its location car parking is necessary. The

works do not impact on the buildings on the site and the proposal to cross the car parking area of the site is therefore reasonable.

The need for the scheme and the CPO has, I consider, been identified and demonstrated and I also consider that the lands to be acquired are suitable for the scheme envisaged.

10.0 Legal Matters

10.1. In submissions made in objecting to the scheme and during the oral hearing matters relating to the procedures followed were outlined by Irish Water and these are outlined in the submissions of Mr Fitzsimons, Mr O'Neill and Mr Mc Knight.

I am satisfied that having reviewed the documentation submitted with the application and submissions made during the course of the oral hearing that the procedures as applied are in compliance with statutory provisions.

11.0 Recommendation

11.1. Having regard to the above, I am satisfied that the process and procedures undertaken by Irish Water have been fair and reasonable and that Irish Water have demonstrated the needs for the lands and that the acquisition of lands for the purpose of land purchase, right of way and permanent and temporary wayleave are necessary, suitable and proportionate.

I consider that the proposed acquisition of these lands would be in the public interest and the common good and would be consistent with the policies of the South Dublin County Development Plan 2016 to 2022.

I recommend, therefore, that the Board CONFIRM the above Compulsory Purchase Order with modification, based on the reasons and considerations set out below.

12.0 Reasons and Considerations

Having considered the objections made to the compulsory purchase order and also having regard to the following;

- (a) The report and recommendation of the inspector;

- (b) The strategic nature of the scheme in the context of providing water services in the Greater Dublin Region and area;
- (c) The policies and objectives of the Water Services Strategic Plan 2015;
- (d) The policies and objectives of the South Dublin County Development Plan 2016-2022;
- (e) The deficiencies in the existing water services infrastructure in the Greater Dublin Region and the need for increasing strategic connectivity and integration of the regional water network;
- (f) The purpose for which the lands are to be acquired as set out in the compulsory purchase order;
- (g) The community need, public interest served and overall benefits to be achieved from the proposed development; and
- (h) The submissions and observations made at the Oral Hearing held on 13th June 2017

It is considered that, the permanent acquisition, permanent wayleaves, permanent right of ways and temporary working areas by Irish Water of the lands in question as set out in the order, schedules and on the deposited maps, are, subject to the modification set out below, necessary for the purposes stated and the objections cannot be sustained having regard to the said necessity.

13.0 Modification

1. The permanent right of way extending over Plot nos. 034 and 034A referred to in Schedule Part 2 sub parts A and B be omitted.

Derek Daly
Planning Inspector
13th July 2017