

Thomas Hogan

From: Michael Duffy [REDACTED]
Sent: Thursday 11 May 2023 11:44
To: Development Plan
Subject: Submission to the Draft Direction on the Clare County Development Plan 2023-2029
Attachments: Ministerial Submission.pdf

A Chara,

Please find attached my submission on the above direction.

Regards,

Michael Duffy BE CEng MIEI

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10th May 2023

Secretary
Planning Department
Clare County Council
New Road,
Ennis,
Co. Clare.

Submitted by email.

Submission to the Draft Direction on the Clare County Development Plan 2023-2029

I wish to make the following submission on the draft direction of the Minister of State.

Directions on zoning:

I would like to commend the Minister of State on part of his draft zoning directives. Reason No. 1 quite rightly refers;

These zoning objectives and amendments are located in peripheral and/or nonsequential locations and would encourage a pattern of development in particular locations which is inconsistent with national and regional policy objectives promoting compact forms of development (NPO 3 and RPO 35, which include lands that are not serviced or serviceable within the plan period inconsistent with the requirement to implement a tiered approach to zoning (NPO 72a-c), and inconsistent with national policy to promoting proportionate growth of settlements (NPO 18a), and fails to have regard to the policy and objective for a sequential approach to development under section 6.2.3 of the Development Plans, Guidelines for Planning Authorities (2022) issued under section 28 of the Act.

The NPF mentions the word wastewater **five** times in the entire document. **One** mention is an aspiration to increase capacity at some **Dublin** wwtp's and another is to increase capacity in **Galway City**. The document is 178 pages in total.

National Development Plan (NPF) National Strategic Outcome 9

Sustainable Management of Water and other Environmental Resources

Investment in water services infrastructure is critical to the implementation of the National Development Plan. The current Water Services Strategic Plan by Irish Water will be updated in the light of the policies in the National Planning Framework addressing the requirements of future development, while also addressing environmental requirements such as **obligations under EU Water Framework Directive**-mandated River Basin Management Plans. **Many smaller towns** and villages do not benefit from public water service networks, either in terms of water supply **or wastewater treatment**. While the Water Services Strategic Plan is beginning a new plan-led and collaborative investment approach, to support sustainable growth in rural towns and villages, **the Rural Regeneration and Development Fund will bring together the combined potential of all relevant stakeholders in putting in place sustainable water services solutions to enable smaller towns and villages to progress and develop sustainably.**

The Regional Spatial & Economic Strategy (RSES) for the Southern Region mentions the word wastewater 43 times in the entire document.

PRO 11 (k) : To plan increasing population growth in all Key Towns on a phased basis in collaboration with Irish Water, the local authority and other stakeholders **to ensure that the assimilative capacity of the receiving environment is not exceeded and that increased wastewater discharges from population growth does not contribute to degradation of water quality and avoids adverse impacts on the integrity of water dependent habitats and species within the Natura 2000 network;**

Ennis –

Key Infrastructure Requirements –

viii. Water and wastewater infrastructure for phased growth;

Section 3.6

A sustainable place framework will enable further renewal of our towns and villages through:

- **Coordination** between local authorities, Irish Water and other stakeholders to deliver investment in the sustainable development of water and wastewater treatment services **for rural towns and villages.**

Development plans should include **appropriate guidance** for new homes in **small towns and villages** and renewal initiatives to assist **an evidence-based approach to identifying appropriate sites for housing, social and physical infrastructure, including water and wastewater infrastructure.** Tipperary County Council's Design and Best Practice Guidelines for Cluster Housing Schemes in Rural Villages is an example of good practice. **The RSES recognises the important roles that towns and villages perform along** the Region's three tourism corridors – **the Wild Atlantic Way**, Ireland's Ancient East and Hidden Heartlands – and aims to **develop the infrastructure that sustainably services growth** from tourism which also protects the distinct natural, cultural and historic heritage of these towns and villages.

PRO 26 Towns and Villages It is an objective:

f. To support **co-ordination between local authorities, Irish Water** and other stakeholders to deliver investment in the sustainable development of water and wastewater and other infrastructure for towns and villages, prioritising retrofitting and improvement in the quality of existing services;

PRO 46 Digital and Physical Infrastructure in Rural Areas

It is an objective **to expedite the completion of infrastructure servicing diverse settlements to support innovation, enterprise start-ups and competitiveness.** This includes high quality broadband and mobile communication services to all rural locations, **water and wastewater facilities for the growth of settlements,** sustainable energy supply, enhanced transport connectivity including rural public transport services and greenway walking and pedestrian corridors between settlements.

Good Practice Example:

Upstream Thinking in the United Kingdom (UK)

The aim of Upstream Thinking is to prevent pesticides, nutrients and other pollutants from getting into rivers in the first place. Tackling the problem at source has reduced the need for expensive water treatment solutions and has supported the ecosystem services that peatlands provide such as carbon storage and biodiversity. It has improved water quality and helped wildlife to thrive. In the UK, successful implementation of this approach has provided a 'win win' solution for farmers, water quality, drinking water supply, local economy and the environment. There are strong benefits to cost ratios with modelling showing that a £10 million investment into catchment management could save £650 million in costs of treating nutrient and topsoil-laden water over a 30-year period (i.e. a benefit-cost ratio of 65:1).

Anticipated increases in **environmental pressures on waters due to human population growth** and agricultural output **will need to be carefully managed to ensure that deterioration is prevented** but that water quality improvements take place. Untreated urban wastewater discharges are an ongoing concern. Continued investment in infrastructure and a reversal in the recent decline in capital expenditure are essential.

8.1.2 Waste Water Collection and Treatment

There is **an urgent need to eliminate point sources of pollution caused by untreated effluent across the Region.**

The Irish Water Services Strategic Plan (2015), identified 44 settlements discharging untreated effluent, 24 of which were in the Region. A number of these settlements are now provided with wastewater treatment **and Irish Water is aiming to upgrade the remaining settlements by the end of 2021.** Achieving compliance with the EU Urban Waste Water Treatment (UWWT) Directive is currently the focus of Irish Water's investment in wastewater infrastructure and is likely to continue to be so in the medium-term. All such **interventions incorporate an appropriate provision for future growth.**

Irish Water is investing in some 113 wastewater projects in the Region in its current Capital Investment Plan as well as additional projects, included under its Capital Programmes portfolio. Future investment in the next investment plan will ensure Cork, Limerick-Shannon and Waterford Metropolitan Areas and Key Towns should have the capacity to accommodate future growth for the next 12 years. Upgrades of collection networks may be required to accommodate new development in specific localised areas.

The upgrading of 64% of relevant treatment plants in the Region to meet UWWT Directive requirements are included in the current Capital Investment Plan 2017- 21, although a number will run into the next investment cycle 2020-24.

RPO 211

Irish Water and Wastewater

It is an objective to support the implementation of Irish Water Investment Plans (prepared in five year cycles) and subsequent investment plans, to align the supply of wastewater treatment facilities with the settlement strategy and objectives of the RSES and Metropolitan Area Strategic Plans for Cork, Limerick-Shannon and Waterford. Support the role of Irish Water Investment Plans in taking into account seasonal pressures on critical service infrastructure, climate change implications, and leakage reduction in the design of all relevant projects.

RPO 212

Strategic Wastewater Treatment Facilities

- a. It is an objective to support investment and the sustainable development of strategic wastewater treatment facilities by Irish Water in the Region arising from initiatives including Investment Plans, Strategic Drainage Area Plans
- b. For the management of wastewater, increasing population growth should be planned on a phased basis in collaboration with Irish Water and the local authorities to ensure that the assimilative capacity of the receiving environment is not exceeded and that increased wastewater discharges from population growth does not contribute to degradation of water quality and to avoid adverse impacts on the integrity of the Natura 2000 network.

RPO 213

Rural Wastewater Treatment Programmes

It is an objective **to support** investment in the sustainable development of rural wastewater treatment programmes and support the initiatives of Irish Water, local authorities, communities and developers in **small rural settlements to identify sustainable solutions subject to available funding for such services including the Rural Regeneration and Development Fund of the NDP. Investment in Rural Wastewater and Treatment Programmes will be subject to settlement hierarchies and core strategies set out in development plans.**

RPO 214

Eliminating Untreated Discharges and Long-term Planning

It is an objective **to support** Irish Water and the relevant local authorities in the Region **to eliminate untreated discharges from settlements in the short-term, while planning strategically for the long-term in tandem with Project Ireland 2040 and the RSES and in increasing compliance with the requirements of the EU Urban Waste Water Treatment Directive.**

RPO 215

Separation of Foul and Surface Water Networks

Development Plans **shall support** strategic wastewater treatment infrastructure investment and facilitate the separation of foul and surface water networks to accommodate the future growth of the Region.

RPO 216

Servicing of Rural Villages

It is an **objective to support** the servicing of rural villages (serviced sites) to provide an alternative to one-off housing in the countryside.

The infrastructural requirements for Shannon include:

- Wastewater treatment infrastructure **requires investment** in terms of increased capacity to facilitate future development and expansion in Shannon Town, the SFZ and airport;

4.0 National Enablers

The following are identified for the Limerick-Shannon MASP.

- **Ensuring that water supply and wastewater needs are met by new national projects to enhance water supply and increase wastewater treatment capacity;**

8.4.1 Shannon Free Zone

The following are key priorities for SFZ:

- Investment in the **utilities infrastructure is necessary to ensure the continued regeneration** of the SFZ. Much of the utilities date back to the 1950's and requires upgrading. Upgrades to the electricity network, the water **and wastewater network is necessary to ensure that the economic potential** of the SFZ can be achieved;

Comments on wastewater in relation to adopted CDP:

The SEA, including AA, for the NDP, RSES and the adopted Clare Development Plan are flawed. The vast majority of settlements in Clare do not have appropriate wastewater treatment and some have none. This is in flagrant breach of National legislation and European Directives. Any proper assessment of the proposals in these plans would have recognised that most of the agglomerations in County Clare cannot be zoned for development at this time or within the timelines covered by this plan.

County Clare has thirty three agglomerations licensed in one fashion, or other, by the EPA. Seven of these have absolutely no treatment. A further fifteen are so dysfunctional that treatment is token and often non-existent. For seven of the remainder it can be genuinely stated that they have capacity for growth. That leaves four others. Two of these are the plants servicing Ennis. Both these plants are overloaded, non-compliant and do not have capacity for existing loadings never mind planned growth. The final two are already recognised by Planners to be overloaded with permissions being refused for any additional development. Why would one developer in Lahinch be penalised when another in Ennis is facilitated because it suits Irish Water or CCC executives to bury the true facts?

The SEA for this subject plan danced around all these issues with aspirational conversations but totally avoiding the reality on the ground. There was no proper basis or verification of the wastewater treatment capacities available to inform zoning decisions. These are legacy issues because the same lacunae were present in the previous plan. Clareabbey WWTP for example was recognised to be overloaded in 2005. At that time the aspiration or “objective” was that the two existing Ennis plants were to be replaced in 2012 by a new plant with a P.E. for 90,000. Land was purchased and zoned for this “objective”. In 2006 a private developer was granted permission for a temporary wwtp to be linked with the existing Clareabbey plant to relieve the then loadings on that plant. That temporary wwtp development never proceeded but that legacy plant has remained in use with additional residential planning permissions granted in the interim. Furthermore, it is now proposed to add the wastewater from Clarecastle to this plant. There are currently upgrade works being carried out at that plant with permission granted (without stage 2 appropriate assessment) for a new inlet works and a stormwater tank. It was specifically stated in that application (probably to avoid stage 2 AA) that there would be no increase in the P.E. of the plant. Without any scientific basis or verification, in the undisclosed consultations between Clare County Council executive and Irish Water in preparation for this plan, the P.E. for this plant increased from 6,000 to 10,200 overnight and without any consultations with the EPA around the extant discharge licence. Additionally, this plant discharges to the River Fergus SAC, and even worse, the permitted stormwater tank was constructed to function as a settlement tank, which is unauthorised development. An unauthorised development complaint was made to Clare County Council, the relevant Planning Authority, but to date no action has been taken to regularise this.

I question the stated population equivalent capacities for all wastewater treatment plants in the County save Corofin, Kilmurry Ibricken, Lisdoonvarna, Quin and both Liscannor & Kilrush under construction. Zoning infrastructure decisions cannot be based on the whim of a Quango with a significantly vested interest in over-egging its pudding.

Irrespective of that, every wastewater treatment plant in County Clare is in breach of the European Directive 91/271/EEC which seeks to protect the environment from the adverse effects of wastewater discharges. Specifically, there are no records of frequency of discharges, or volumes of discharges, from stormwater overflows in plants and/or from associated networks.

On that basis I say that the Minister of State must direct that all zonings necessitating wastewater treatment in the adopted plan must be removed until these matters are properly addressed to facilitate sustainable compliant development.

For the avoidance of any doubt, it is not appropriate, or sustainable, to permit on-site wastewater treatment systems within designated settlements as a solution to a lack of municipal services. It would be in contravention of objectives requiring compact development given the separation distances required for on-site systems.

I refer the Minister of State to the following ECJ case law. C-301/10; C- 502/15; C-427/17

[Access to National Routes:](#)

The proposal to delete the reference to “exceptional circumstances” from section 11.2.9.3 is yet another attack on rural people. Given the geography and topography of the County the removal of this reference will have a huge impact on individual families. A recent application within 2km of the centre of Ennistymon for a nature based educational facility for small groups of pre-school children was refused permission due to inadequate local road infrastructure and traffic extensification. This site is sandwiched between a national road and local roads. The obvious question arises as to where rural people, or sporadic migrants from settlements, are supposed to develop? Safety is obviously a concern for everybody but there is more to life than the whims of the CEO of TII and the scope of planning decisions need to be proportional at the discretion of professional Planners. The State does not seem to be overly concerned with safety if the corridors of University Hospital Limerick.

Conclusions:

The man on the top deck of the Clapham omnibus, or the lady on the rear seat of the Kilkee TFI Link bus, might consider the Minister's intervention a bit of a Curate's egg. Unlike Curates, Ministers are elected and cannot cherry-pick at will. This Development Plan is fatally flawed and not just because of the subjective interventions of the OPR or the Minister of State. It is in breach of National legislation and European Directives. The Minister of State cannot ignore or condone the airbrushing of the facts. He must declare this plan to be invalid and instruct Clare County Council to revisit it in its entirety in relation to wastewater treatment, and land zoning, before the High Court or ECJ does so. If the State is displeased with the number of planning judicial reviews, then the Minister of State has a perfect opportunity to address that problem by acting now.

Michael Duffy.

By email.

Appendix 1 – extracts from EPA wastewater discharge Licensing

	Location	AER/SVR	SWO Volumes	SWO Frequency	Capacity	Compliance	Comments
1	Mountshannon	None	No	No		unknown	
2	Whitegate	None	No	No		unknown	
3	Kilfenora	None	No	No		unknown	
4	Ballycannon	None	No	No		unknown	
5	Kilmihil	2022	No	No	Overloaded	Polluting	
6	Feakle	None	No	No	unknown	unknown	Septic tank
7	Kildysart	2017	No	No	unknown	unknown	Septic tank
8	Ballynacally	None	No	No		unknown	
9	Killimer	None	No	No		unknown	
10	Ruan	None	No	No		unknown	
11	Shannon	2021	No	No		No sludge / lechate monitoring	
12	Ennis North	2022	No	No	overloaded	polluting	31,500 ELV non-compliant
13	Kilrush	2019	No	No		no current treatment	
14	Sixmilebridge	2019	No	No		non compliant	
15	Lisdoonvarna	2021	No	No	Yes	None	
16	Kilkee	none	No	No	none	no treatment	
17	Newmarket	2019	No	No	none	non compliant	discharge to GW
18	Lahinch	2019	No	No	none	non compliant	
19	Ennistymon	2021	No	No	none	non compliant	
20	Clareabbey	2021	No	No	none	non compliant	
21	Quin	2021	No	No	yes	non compliant	
22	Scariff	2019	No	No	Yes	non compliant	
23	Tulla	2019	No	No	yes	non compliant	
24	Miltown Malbay	2019	No	No	overloaded	non compliant	
25	Clarecastle	2021	No	No	none	no treatment	
26	Doonbeg	2022	No	No	none	non compliant	
27	Ballyvaughan	2021	No	No	none	non compliant	
28	Kilkishan	2021	No	No	unknown	unknown	
29	Inagh	none	No	No	unknown	unknown	
30	Crusheen	2022	No	No	yes	compliant	
31	Liscannor		No	No	under construction - no licence yet		
32	Corofin	2021	No	No	yes	non compliant	
33	Kilmurry Ibrickane	2019	No	No	yes	compliant	