



An
Bord
Pleanála

Inspector's Report ABP-305740-19

Development

North West Greenway Project – Route 1:
Development extending transboundary
from Derry/Londonderry, Northern Ireland,
to Bunrana, Co. Donegal, with spur to
Newtowncunningham

Location

Bunrana to border with Northern Ireland,
with spur to Newtowncunningham,
incorporating Bridgend, Burnfoot, Fahan
and Lisfannon, Co. Donegal

Planning/Road Authority

Donegal County Council

Developer

Donegal County Council

Type of Application

EIAR Direction

Date of Site Inspection

30th December 2019

Inspector

Niall Haverty

1.0 Introduction

- 1.1. Under the provisions of Section 50(1)(c) of the Roads Act 1993, as amended, ('the Roads Act'), Donegal County Council ('the road authority') is seeking a direction from An Bord Pleanála ('the Board') as to whether or not its proposal to carry out a road development project would be likely to give rise to significant effects on the environment and thereby require an Environmental Impact Assessment Report (EIAR) to be prepared and an Environmental Impact Assessment (EIA) to be undertaken.
- 1.2. The request is accompanied by a document titled 'Proposed North West Greenway Project: Route 1 Preliminary Examination Report', dated October 2019, and an associated series of maps.

2.0 Site Location and Description

2.1. Overview

- 2.1.1. The proposed road development is referred to as the North West Greenway Project – Route 1 and comprises a cross-border linear Greenway extending from Derry/Londonderry in Northern Ireland to Buncrana, Co. Donegal, with a spur to Newtowncunningham, Co. Donegal. The proposed Greenway route would also link the settlements of Bridgend, Burnfoot, Fahan and Lisfannon, all of which are in Co. Donegal.
- 2.1.2. The proposed Greenway route would commence at the north western edge of Derry/Londonderry, and run in a north west direction, generally parallel to the A2 Buncrana Road, before crossing the border with the Republic of Ireland after c. 3.1km. The proposed Greenway would then run through the settlement of Bridgend, continuing in a general north west direction, passing to the south of the settlement of Burnfoot, and continuing westward to Inch Lough (also referred to as Inch Lake).
- 2.1.3. At Inch Lough (a man-made lake within Lough Swilly, which was formed in the 1800s by the construction of two railway embankments linking Inch Island to the mainland), the proposed Greenway would split, with one spur leading northwards along the Lough Swilly coast, through the settlements of Fahan and Lisfannon, terminating in

Buncrana. The second spur would lead in a south west direction, including both coastal and inland sections, terminating at Newtowncunningham.

- 2.1.4. Significant portions of the proposed Greenway would be located on the alignment of the dismantled Londonderry and Lough Swilly Railway line, which ceased operation in the 1950s. Where the Greenway route diverges from the disused railway alignment, it will pass through primarily agricultural lands or run adjacent to public roads.
- 2.1.5. Outside of the urban area of Buncrana, and the smaller settlements of Lisfannon, Fahan, Burnfoot, Bridgend and Newtowncunningham, the Greenway would generally pass through sparsely populated agricultural areas, albeit areas which have experienced significant levels of ribbon development along some local roads. The area in the vicinity of Inch Lough is a Wildfowl Reserve, and I noted large numbers of geese, Whooper Swans and other water birds on the lake and/or feeding on the adjacent Inch levels (reclaimed polder land in agricultural use).

2.2. Natural Heritage Designations

- 2.2.1. Portions of the proposed Greenway development are located within or adjacent to Lough Swilly SPA and SAC (Site Codes 004075 and 002287, respectively). Portions of the proposed Greenway are also located within or adjacent to Lough Swilly including Big Isle, Blanket Nook & Inch Lake pNHA. The North Inishowen Coast SAC (Site Code 002012) is located c. 9km north west of Buncrana.
- 2.2.2. As noted above, the proposed development passes through the Inch Levels Wildfowl Reserve which is located within the Lough Swilly SPA.
- 2.2.3. Due to the location and transboundary nature of the proposed development, it will also be in relatively close proximity to the 2 No. designated Lough Foyle SPAs, within the Republic of Ireland and Northern Ireland, respectively (Site codes 004087 and UK9020031). Portions of Lough Foyle, within the Northern Ireland jurisdiction, are also designed as an Area of Special Scientific Interest and a Ramsar site.

3.0 Proposed Development

3.1. Derry/Londonderry to Buncrana and Newtowncunningham Greenway

- 3.1.1. As noted above, the proposed development comprises a cross-border Greenway development, which is stated as being progressed collaboratively by Donegal County Council and Derry City and Strabane District Council. The proposed Greenway would have a total length of c. 32.5km. Of this, c. 3.1km is within Northern Ireland, with the remainder located within the Republic of Ireland (i.e. c. 90% of the total length). Consent for the relevant sections of the proposed development will be progressed under separate applications in the two jurisdictions.
- 3.1.2. The stated purpose of the proposed Greenway is to promote cross-border investment and infrastructure, link people and places by providing a safe recreational facility for use by tourists, recreational users and local residents to walk or cycle, to encourage a modal shift in transport away from the car as a primary method of transport and to feed into the local and national tourism strategy both north and south of the border.
- 3.1.3. Donegal County Council has provided indicative maps of the route and a 'Preliminary Examination Report' which describes the proposed development, however no cross-sections or detailed drawings have been provided.
- 3.1.4. The report states that the following elements will be included, but that a detailed design is not yet available:
- Combined walking and cycling Greenway linear recreational route.
 - Single span bridge crossing of a managed watercourse in agricultural lands at Tooban, constructed in concrete and timber.
 - Installation of a boardwalk structure at the base of the public road embankment in the vicinity of Lisfannon.
 - Ancillary works, including drainage works, provision of fencing, boundary treatments, agricultural accesses, public lighting, landscaping, road resurfacing and marking, boundary hedge trimming, vegetation removal, signage, boundary walls, fencing, screening, route lighting, parking provision

and construction phase elements (temporary contractors compounds and works accesses) and other minor works.

- 3.1.5. The proposed Greenway includes both 'online' (within or adjacent to an existing road corridor) and 'offline' (off road) sections, and as noted above significant portions of the route would be located on the alignment of the dismantled Londonderry and Lough Swilly Railway line.
- 3.1.6. In urban areas, the Greenway will be primarily online, with a 1m buffer strip where possible, to provide a Greenway corridor of 4m. Where the buffer is reduced due to physical constraints, screening planting will be utilised.
- 3.1.7. In rural areas, the Greenway will be either online or offline, or a combination of both. Where offline, the report states that the route will seek to follow field boundaries and landholding boundaries, or existing laneways, rivers and other corridors to minimise severance and avoid disturbance to farming activity.
- 3.1.8. I note that at Blanket Nook, to the north of Newtowncunningham, the proposed greenway would run along an existing stone embankment associated with the dismantled railway line which cuts across an inlet of Lough Swilly, forming a coastal lagoon.

3.2. North West Greenway Network

- 3.2.1. The proposed Derry to Bunrana and Newtowncunningham Greenway is stated to be part of the North West Greenway Network (NWGN) project, which seeks to develop sections of Greenway at 3 No. cross-border locations. The three elements of the NWGN and their current status are described by the road authority as follows:
 - **Route 1:** Derry to Bunrana (c. 32.5km): Under design.
 - **Route 2:** Derry to Muff (c. 11km): Current NI planning application Ref. LA11/2018/1199/F; Donegal County Council Part VIII Development approved.
 - **Route 3:** Strabane to Lifford (c. 5.2km): Current NI planning application Ref. LA11/2018/1109/F; Donegal County Council Part VIII Development approved.
- 3.2.2. Donegal County Council contend that no one of the Greenway projects is 'integral' to the other, that no one route is an 'off-site' or 'secondary/ancillary' element of another

and that each route will be subject to separate environmental consideration, planning application and consent process.

4.0 Legislation and Guidelines

4.1. Roads Act 1993, as Amended

- 4.1.1. This request for an EIAR direction is being sought under the Roads Act 1993, as amended ('the Roads Act').
- 4.1.2. Section 68(1) of the Roads Act states that a 'cycleway' means "a public road or proposed public road reserved for the exclusive use of pedal cyclists or pedal cyclists and pedestrians". I am satisfied that the proposed Greenway development would constitute a 'cycleway', as defined in the Roads Act.
- 4.1.3. Section 50(1)(a) of the Roads Act, lists the following forms of road development in respect of which there is a mandatory requirement to carry out EIA:
- (i) the construction of a motorway;
 - (ii) the construction of a busway;
 - (iii) the construction of a service area, or;
 - (iv) any prescribed type of proposed road development consisting of the construction of a proposed public road or the improvement of any existing public road.
- 4.1.4. With regard to category (iv), I note that article 8 of the Roads Regulations 1994 (S.I. 119 of 1994) states that:
- "The prescribed types of proposed road development for the purpose of subsection (1)(a)(iv) of Section 50 of the Act shall be -
- (a) the construction of a new road of four or more lanes, or the realignment or widening of an existing road so as to provide four or more lanes, where such new, realigned or widened road would be eight kilometres or more in length in a rural area, or 500m or more in length in an urban area;
 - (b) the construction of a new bridge or tunnel which would be 100m or more in length."

- 4.1.5. With regard to a requirement for sub-threshold EIA, I note the provisions of sections 50(1)(b) and 50(1)(c) of the Roads Act, respectively.
- 4.1.6. Under section 50(1)(b), if An Bord Pleanála considers that any road development proposed (other than development to which section 50(1)(a) applies) would be likely to have significant effects on the environment it shall direct that the development be subject to an environmental impact assessment.
- 4.1.7. Under section 50(1)(c), where a road authority considers that a road development that it proposes (other than development to which section 50(1)(a) applies) would be likely to have significant effects on the environment, it shall inform the Board in writing prior to making any application for approval under section 51.
- 4.1.8. Under section 50(1)(d), a road authority is required, in particular, to decide whether or not a proposed road development (again, other than development to which section 50(1)(a) applies) would be likely to have significant effects on the environment, where it would be located on a European Site, a nature reserve, land designated as a refuge for fauna or land designated a natural heritage area.
- 4.1.9. Under section 50(1)(e), in deciding whether a proposed road development would or would not be likely to have significant effects on the environment, the Board or the road authority shall take into account the relevant selection criteria specified in Annex III of the EIA Directive.
- 4.1.10. Section 50(1A)(a) states that unless the Board is satisfied that a proposed road development (other than development to which section 50(1)(a) applies):
- (i) would not be likely to have significant effects on the environment, or
 - (ii) would be likely to have significant effects on the environment,
- the Board shall require the road authority to provide it with information on the characteristics of the road development proposed and its likely effects on the environment.
- 4.1.11. The remainder of section 50(1A) sets out requirements for such information, and procedures to be followed subsequently. The Board should note that this includes a requirement that their determination be made within 90 days from the date on which the road authority has submitted all information required by the Board (except in exceptional cases).

4.2. EIA Directive 2014/52/EU

- 4.2.1. EU Directive 2014/52/EU of 16th April 2014, amending Directive 2011/92/EU (the EIA Directive) on the Assessment of the Effects of Certain Public and Private Projects on the Environment, entered into force on 15th May 2014. The EIA Directive 2014/52/EU reaffirms that ‘Annex I projects’ shall be subject to EIA and that for ‘Annex II projects’, Member States shall determine whether the project should be subject to EIA on a case-by-case basis or subject to thresholds or other criteria set by the Member State. The screening determination must be based on the information provided by the developer and if mitigation measures are influential to a screening determination, these must be stated by An Bord Pleanála, as the competent authority, in a screening determination.
- 4.2.2. Annex III of the EIA Directive sets out the revised criteria for determining whether projects should be subject to an EIA, under three headings as follows:

1. Characteristics of projects:

- (a) the size and design of the whole project;
- (b) cumulation with other existing and/or approved projects;
- (c) the use of natural resources, in particular land, soil, water and biodiversity;
- (d) the production of waste;
- (e) pollution and nuisances;
- (f) the risk of major accidents and/or disasters which are relevant to the project concerned, including those caused by climate change, in accordance with scientific knowledge;
- (g) the risks to human health (for example due to water contamination or air pollution).

2. Location of projects:

- (a) the existing and approved land use;
- (b) the relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and its underground;

- (c) the absorption capacity of the natural environment, paying particular attention to the following areas:
- (i) wetlands, riparian areas, river mouths;
 - (ii) coastal zones and the marine environment;
 - (iii) mountain and forest areas;
 - (iv) nature reserves and parks;
 - (v) areas classified or protected under national legislation; Natura 2000 areas designated by Member States pursuant to Directive 92/43/EEC and Directive 2009/147/EC;
 - (vi) areas in which there has already been a failure to meet the environmental quality standards, laid down in Union legislation and relevant to the project, or in which it is considered that there is such a failure;
 - (vii) densely populated areas;
 - (viii) landscapes and sites of historical, cultural or archaeological significance.

3. Type and characteristics of the potential impact:

- (a) the magnitude and spatial extent of the impact (for example geographical area and size of the population likely to be affected);
- (b) the nature of the impact;
- (c) the transboundary nature of the impact;
- (d) the intensity and complexity of the impact;
- (e) the probability of the impact;
- (f) the expected onset, duration, frequency and reversibility of the impact;
- (g) the cumulation of the impact with the impact of other existing and/or approved projects;
- (h) the possibility of effectively reducing the impact.

4.3. Relevant Guidance

- 4.3.1. Following transposition by the EU of Directive 2014/52/EU, guidance document ‘EIA of Projects - Guidance on Screening’ (2017) and other documents were prepared on behalf of the European Commission to assist competent authorities, developers and EIA practitioners in the EU Member States. The ‘Guidance on Screening’ document outlines a stepped approach to the screening process for competent authorities, as well as two checklists to assist in case-by-case screening.
- 4.3.2. The ‘Environmental Impact Assessment Guidance for Consent Authorities regarding Sub-threshold Development’ published in 2003 by the Department of the Environment, Heritage and Local Government, provides guidance on the criteria to be assessed when deciding whether or not a proposed development is likely to have significant effects on the environment. More recent guidance is also provided in the ‘Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment’ published in 2018 by the Department of Housing, Planning and Local Government.

5.0 Donegal County Development Plan 2018-2024

- 5.1. Section 2B.2.9 states that “the improvement of connectivity, including cross-border greenways is important in supporting visitor access to the region”.
- 5.2. Chapter 9 relates to tourism, and states that “the Council acknowledges the immense potential of the Donegal’s old railways lines and other potential linkages to act as Greenways for walking and cycling tourism. The Council will therefore continue to protect the routes of such potential greenways through the policies of this plan and will actively work with all stakeholders to facilitate the development of Greenways and walking and cycling routes throughout the County”. A list of potential Greenway development is set out in Table 9.1 of the Plan and includes ‘Buncrana – Derry’.
- 5.3. The following Objectives and Policies are noted:
 - **T-O-12:** To strengthen cross border transportation links (including the A5 Western Transport Corridor) and support the development of new links to and within the North West City Region.

- **T-O-13:** To support the development of new walkways, walking routes, trails greenways and cycleways that maximise the potential for local, regional and all-island walking and cycling networks.
- **T-P-24:** It is a policy of the Council to protect established/historic railway corridors throughout the County primarily for strategic infrastructure provision (such as rail/road/greenway projects) and secondly for recreational development. Along these corridors other uses shall not be considered. Where these corridors have already been compromised by development, adjacent lands which could provide opportunities to bypass such an impediment and reconnect these routes for amenity purposes (walking/cycling) shall be protected for this purpose. However, in all instances, the over-riding objective shall be the provision of strategic infrastructure.
- **T-P-31:** It is a policy of the Council to ensure that development proposals protect the route of potential linkages (such as linear parks, roads, footpaths, trails, greenways and cycleways) through the subject site where the planning authority considers that a strategic opportunity exists to provide a linkage to or between adjoining areas.
- **T-P-35:** It is a policy of the Council to encourage and facilitate joined up long distance walking and cycling routes and greenways for recreation and as alternatives to the car, particularly in rural areas, between settlements. Adequate car parking facilities shall be provided, where required, in association with any such developments.
- **TOU-O-9:** To support the development of new, and protect the functionality of existing, Greenways, walking and cycling routes as keys components of an overall green tourism infrastructure and as standalone tourism products in their own right.

5.4. In terms of scenic area designations, I note that the proposed greenway route is entirely located within areas that are either designated as 'areas of high scenic amenity' (HSA) or 'areas of especially high scenic amenity' (EHSA). The EHSA areas generally comprise a strip of land along the coastline of Lough Swilly, as well as Inch Lough and surrounds.

- 5.5. EHSA areas are defined in the Development Plan as “sublime natural landscapes of the highest quality that are synonymous with the identity of County Donegal. These areas have extremely limited capacity to assimilate additional development”. HSA areas are defined as “landscapes of significant aesthetic, cultural, heritage and environmental quality that are unique to their locality and are a fundamental element of the landscape and identity of County Donegal. These areas have the capacity to absorb sensitively located development of scale, design and use that will enable assimilation into the receiving landscape and which does not detract from the quality of the landscape, subject to compliance with all other objectives and policies of the plan”.
- 5.6. In terms of rural area types, the rural areas that the proposed development would pass through are designated as ‘areas under strong urban influence’.

6.0 Donegal County Council Preliminary Examination Report

- 6.1. The request submitted by Donegal County Council states that they are of the opinion that the proposed development is sub-threshold and that there is no mandatory requirement for an EIAR. However, the request also states that, following a preliminary examination, and considering the location of the proposed development within the boundaries of Natura 2000 designated sites, they consider that the potential of the proposed development to result in significant effects on the environment cannot be ruled out.
- 6.2. In support of their position, Donegal County Council submitted a report entitled ‘Proposed North West Greenway Project: Route 1 – Preliminary Examination Report’, prepared by Canavan Associates, Consultant Chartered Town Planners, Architects and Environmental Consultants.
- 6.3. Section 1 of the report sets out the relevant legislative provisions relating to mandatory and sub-threshold EIA for roads projects, and contends that a mandatory EIA is not required, with reference to the thresholds set out in section 50(1)(a) of the Roads Act.
- 6.4. With regard to a requirement for sub-threshold EIA, Sections 2 – 4 of the report address the various criteria for determining whether projects should be subject to EIA, generally in accordance with the criteria set out in Annex III of the EIA Directive

2014/52/EU. The Board will note in this regard that section 50(1)(e) of the Roads Act requires that, in deciding whether a proposed road development would or would not be likely to have significant effects on the environment, the Board shall take into account the criteria specified in Annex III. My assessment of the proposed development against these criteria is set out in Section 7 below.

- 6.5. Section 5 of the report provides a conclusion, stating that the proposed development will bring social, economic, health and amenity benefits to the local area, but that potential for adverse impacts on environmental aspects such as biodiversity, water, lands and soils, landscape and cultural heritage cannot be ruled out. It also states that the potential for impacts on Lough Swilly SPA/SAC and other Natura 2000 sites cannot be excluded and that the proposed development must therefore be subject to AA and the preparation of an NIS. It concludes that the potential of the proposed development to result in significant effects on the environment cannot be ruled out and that formal direction from the Board as to the requirement for an EIAR to accompany the application for approval is requested.
- 6.6. Section 6 of the report provides a brief outline of work completed on the project to date in relation to matters such as project team selection, route options and preferred route selection, public and stakeholder consultation and ecological surveys.

7.0 Assessment

7.1 Requirement for Mandatory EIA

- 7.1.1. As noted in Section 4.1 above, section 50(1)(a) of the Roads Act lists the following forms of road development in respect of which there is a mandatory requirement to carry out EIA:
- (i) the construction of a motorway;
 - (ii) the construction of a busway;
 - (iii) the construction of a service area, or;

(iv) any prescribed type of proposed road development consisting of the construction of a proposed public road or the improvement of any existing public road.

7.1.2. The proposed Greenway development does not fall into the mandatory EIA categories (i), (ii) or (iii), as listed above, as it does not include the construction of a motorway, busway or service area. With regard to category (iv), I note that article 8 of the Roads Regulations 1994 (S.I. 119 of 1994) outlines the following:

“The prescribed types of proposed road development for the purpose of subsection (1)(a)(iv) of Section 50 of the Act shall be -

(a) the construction of a new road of four or more lanes, or the realignment or widening of an existing road so as to provide four or more lanes, where such new, realigned or widened road would be eight kilometres or more in length in a rural area, or 500m or more in length in an urban area;

(b) the construction of a new bridge or tunnel which would be 100m or more in length.”

7.1.3. The proposed Greenway development does not comprise a road with four or more lanes or include the construction of a new bridge or tunnel of 100m or more in length and does not, therefore, fall within category (iv).

7.1.4. It can be concluded, therefore, that the proposed development does not require mandatory EIA.

7.2. Requirement for Sub-Threshold EIA

7.2.1. Section 50(1)(e) of the Roads Act requires that, in deciding whether a proposed road development would or would not be likely to have significant effects on the environment, the Board shall take into account the criteria specified in Annex III of the EIA Directive. Annex III groups criteria for determining whether projects listed in Annex II of the Directive should be subject to an EIA under three headings, which I have addressed separately in Sections 7.3 – 7.5 below.

7.3. Characteristics of the Project

7.3.1. Size and Design of the Whole Project

- 7.3.2. A description of the proposed development is set out in Section 3 above, based on information provided by Donegal County Council.
- 7.3.3. The total length of the proposed Greenway is 32.5km, and the typical width is 3 – 5m. The total land take required to facilitate the construction of the proposed development is not stated, and the report instead states that the exact area of land take will be determined once final design has been reached. It also states that the development is likely to require the acquisition of agricultural lands in rural area and may result in the acquisition of some residential lands.
- 7.3.4. Consequently, whilst a number of maps were submitted by the road authority, the scale of the maps is not sufficient to allow a thorough understanding of the amount of land required for the Greenway. Notwithstanding this, I note that the majority of the proposed Greenway route will utilise the alignment of the dismantled Londonderry and Lough Swilly Railway line and/or run along existing public roads.
- 7.3.5. Similarly, the design of the Greenway has not yet been finalised, but the road authority states that it will be designed in accordance with relevant design standards and guidance, including the ‘Strategy for the Future Development of National and Regional Greenways’ published by the Department of Transport, Tourism and Sport in 2018. I note that no significant demolition or cut and fill works are associated with the proposed development, although some excavation and vegetation clearance will be required.
- 7.3.6. The proposed development also includes ancillary elements, such as hard and soft landscaping, lighting, accommodation works and safety features.
- 7.3.7. **Cumulation with Other Existing and/or Approved Projects**
- 7.3.8. The proposed Greenway has the potential to result in cumulative impacts due to its length and its traversal of a number of settlements. It will also require works to parts of the existing Inch Wildfowl Reserve looped walks to widen pavements.
- 7.3.9. The report states that within Northern Ireland the development will be integrated with plans that are currently in preparation to redevelop Templemore Sports Complex on the A2 Bunrana Road, and with plans to improve the A2 between the Pennyburn Roundabout and the border with the Republic of Ireland. It also states that in advance of an application for planning consent, the road authority will review plans and projects that may have the potential to result in cumulative impacts.

- 7.3.10. As noted in Section 3.2 above, the proposed Greenway is stated by the road authority to be part of the North West Greenway Network (NWGN) project, which seeks to develop sections of Greenway at 3 No. cross-border locations. The road authority contends that no one of the Greenway projects is an 'integral' or 'secondary/ancillary' element of another and that each route will be subject to separate environmental consideration, planning application and consent process.
- 7.3.11. While the 3 No. sections of Greenway are referred to as a network, I note that they are also geographically separate developments, with no direct connection. Nevertheless, the provision of a 'North West Greenway Network' may have the potential to result in cumulative socio-economic and human health impacts that may be positive. These impacts may also be transboundary in nature, albeit that they are unlikely to be significant.
- 7.3.12. In conclusion, while the proposed Greenway has the potential to result in cumulative impacts, I do not consider that this would justify the need for an EIA.
- 7.3.13. **The use of Natural Resources, in particular Land, Soil, Water and Biodiversity**
- 7.3.14. Significant portions of the proposed Greenway will use land formerly associated with the Londonderry and Lough Swilly Railway corridor, parts of which have been incorporated into private gardens and agricultural fields. In areas where the route diverges from the old railway, it will use agricultural and possibly residential lands, as well as road verges and footpaths, and the road authority states that land acquisition is likely to be required. The Greenway will also use an existing stone railway embankment/causeway across Blanket Nook, and will require the widening of existing pathways within Inch Wildfowl Reserve. As a result of the use of the old railway alignment and the linear nature of the development, the impact on land and soil is not likely to be significant, although the linear nature of the development has the potential to impact on adjacent agricultural lands through severance and disturbance.
- 7.3.15. Natural resources and construction materials will be utilised during the construction phase, and while the road authority states that excavated materials will be reused for construction or landscaping where possible, there will be some removal of soil and vegetation. Materials including geotextile, stone fill, kerbing, steel, concrete and

bitumen will also be imported to the site, although the volumes of such materials remain uncertain at this stage.

7.3.16. With regard to water and biodiversity, the proposed development is not likely to use significant quantities of water, but it has the potential to impact on the sensitive water, biodiversity and landscape environments of Lough Swilly (including the associated SAC and SPA), Inch Lough (including the associated Wildfowl Reserve and pNHA), Fahan Creek and the Lisfannon coastal environment, as well as the Burnfoot and Skeoge rivers and the Mill/Owenkillew River. The road authority states that the Burnfoot and Skeoge rivers are indicated as the principal watercourses of fisheries interest by IFI.

7.3.17. The issue of pollution and impacts on protected sites is dealt with elsewhere in this assessment, and as such I would not consider that the use of natural resources would result in significant adverse effects that would require the preparation of an EIAR.

7.3.18. **Production of Waste**

7.3.19. Having regard to the nature of the proposed development, the key phase for the potential production of waste is the construction phase. However, due to the generally off-line nature of the proposed development, the superficial nature of the development which will only accommodate pedestrian and cycle traffic (rather than heavy vehicles) and the re-use of an existing disused rail alignment for significant portions of the route, no significant cut and fill is likely to be required, and construction is therefore not expected to result in significant production of waste. Waste that does arise is likely to be in the form of soil and surface materials. Subject to the appropriate management of waste arisings in compliance with a suitable Construction Environmental Management Plan, I do not consider that the production of construction phase waste would cause significant adverse effects of a type that would require EIA.

7.3.20. With regard to the operational phase, while the Authority states that the operation of the Greenway development will not result in the production of waste, I do not concur. The significant numbers of people that are likely to utilise the Greenway will generate waste, albeit in small quantities, with the potential for littering of sensitive sites to occur. However, I do not consider that the operational phase will result in the

generation of significant volumes of waste, and issues of waste management and littering prevention can be readily addressed through good management and provision of suitable facilities.

7.3.21. **Pollution and Nuisances**

7.3.22. Construction of the proposed Greenway would occur within a sensitive environment, with significant portions of the Greenway located in coastal areas within or adjacent to Lough Swilly SPA and SAC and Inch Lough Wildfowl Reserve and pNHA. There is clear potential for works associated with the proposed development to result in pollution of waterbodies, dust and noise emissions, construction traffic-related impacts, or nuisance/disturbance to protected species.

7.3.23. The road authority states that this potential for pollution will be avoided through responsible development and by full compliance with all the necessary standard guidance, legal requirements and best practice.

7.3.24. Given the scale of the proposed development, there is also potential for pollution and nuisance to impact on nearby residents during the construction phase, although given the linear nature of the development, the duration of such impacts may be short-term and not significant, subject to compliance with best practice construction methods.

7.3.25. **The Risk of Major Accidents and/or Disasters which are Relevant to the Project concerned, including those caused by Climate Change**

7.3.26. Having regard to the nature of the proposed development and the receiving environment, it is not anticipated that the project is a type which would cause an increased risk of major accidents / disasters including those caused by climate change.

7.3.27. Construction activities will be undertaken in accordance with best practice and best practice will be followed in the design of the Greenway including road crossings, signage, gradients etc. I note the proximity of the proposed Greenway to waterbodies, including a crossing of Blanket Nook on an existing embankment, and to public roads, which will require public safety to be considered as part of the detailed design process. Parts of the Greenway will also be at risk from coastal/fluvial flooding and may have to be closed occasionally. These issues may result in a potential risk of accidents, however they can be readily addressed in the

design of the Greenway, and would not constitute a risk of major accidents or disaster in my opinion. The segregated nature of the proposed Greenway will also reduce the risk of accidents for pedestrians and cyclists.

7.3.28. With regard to climate change, I note that part of the rationale for the proposed development is to encourage a modal shift from the private car to more sustainable modes of transport and reduce reliance on private cars. From a climate change perspective, therefore, any impacts are likely to be positive, albeit not significant.

7.3.29. **The Risks to Human Health (for example due to Water Contamination or Air Pollution)**

7.3.30. During the construction phase there is potential for air/dust pollution or releases of contaminants to water bodies. Such impacts can be addressed through the Construction Environmental Management Plan and adherence to best practice and protocols. Having regard to the nature of the proposed development, such impacts are not likely to be of sufficient magnitude as to result in a significant risk to human health.

7.3.31. The proposed development, once operational, is likely to result in human health benefits as a result of increased cycling and pedestrian activity and less reliance on car travel. Similar positive benefits are likely to arise as a result of improved road safety resulting from separation of vehicular and bicycle/pedestrian traffic which would be to the benefit of all road users in the area.

7.4. **Location of the Project**

7.4.1. **Existing and Approved Land Use**

7.4.2. The majority of the proposed Greenway route is within rural areas, as well as urban and semi-urban residential and commercial/industrial areas in the various settlements that it would pass through. Significant portions of the route are also in coastal strips along the edge of Lough Swilly. Existing land uses in the area will not be significantly impacted, since the proposed route makes use of a dismantled railway alignment for much of its route, however there is the potential for some severance of landholdings and agricultural fields to occur. The road authority advises that no significant demolition works are proposed and it does not appear that the

acquisition of any dwellings is proposed at this stage, although some residential lands may be acquired.

7.4.3. The proposed development will therefore have direct impacts on private property, private accesses and agricultural lands and activities. Given the linear nature of the proposal and the intention to comply with best practice for Greenway design and to provide accommodation works, I do not consider that the impacts on existing and approved land use will be significant.

7.4.4. **The Relative Abundance, Availability, Quality and Regenerative Capacity of Natural Resources (including in particular Soil, Land, Water and Biodiversity) in the Area and its Underground**

7.4.5. The proposed development has the potential to impact significantly on the abundance, quality and regenerative capacity of natural resources, due to the sensitive landscape within which it will be located, and the proximity of environmental and ecologically sensitive sites of national and international importance. These issues are addressed in section 7.4.6 below.

7.4.6. **Absorption Capacity of the Natural Environment**

7.4.7. This part of Annex III requires the absorption capacity of the natural environment to be considered with particular attention paid to the following areas:

7.4.8. **Wetlands, Riparian Areas, River Mouths**

7.4.9. The proposed Greenway will pass in close proximity to coastal wetland areas at Lisfannon, Fahan Creek, Blanket Nook and Inch Lough, as well as riparian areas at Burnfoot and Skeoge Rivers and the Mill/Owenkilloe River. The construction and operation of the proposed Greenway has the potential to result in significant adverse impacts on these sensitive water, biodiversity and landscape environments which host habitats and species of national and international importance (see Section 7.4.16 below) and which have very limited absorption capacity.

7.4.10. **Coastal Zones and the Marine Environment**

7.4.11. The proposed Greenway will pass along the coast of Lough Swilly which, despite its name, is a sea inlet rather than a lake. The portion of the proposed development which is within a coastal zone runs northwards from Inch Lough to Bunrana, and southwards from Inch Lough to Newtowncunningham, including a traversal of a

coastal inlet known as Blanket Nook on an existing stone embankment. The report submitted by the road authority states that there is a risk of either coastal or fluvial flooding along sections of the proposed route, and that the proposed Greenway will be constructed on the landward side of existing shore side coastal defences.

7.4.12. Mountain and Forest Areas

7.4.13. The proposed development does not pass through or pass close to any mountain or forest areas. It does, however, pass through areas with mature tree planting, and it is likely that some tree removal will be required. The road authority states that replacement tree planting will take place as part of the landscaping provision, such that net biodiversity gain results.

7.4.14. Nature Reserves and Parks

7.4.15. Portions of the proposed Greenway are located within or adjacent to 'Lough Swilly including Big Isle, Blanket Nook & Inch Lake pNHA'. The proposed Greenway also passes through the Inch Levels Wildfowl Reserve, which is located within the Lough Swilly SPA.

7.4.16. Areas Classified or Protected under National Legislation; Natura 2000 areas designated by Member States pursuant to Directive 92/43/EEC and Directive 2009/147/EC

7.4.17. Portions of the proposed Greenway development are located within or adjacent to Lough Swilly SPA and SAC (Site Codes 004075 and 002287, respectively). Due to the location and transboundary nature of the proposed development, it will also be in relatively close proximity to the 2 No. designated Lough Foyle SPAs, within the Republic of Ireland and Northern Ireland, respectively (Site codes 004087 and UK9020031). Portions of Lough Foyle, within the Northern Ireland jurisdiction, are also designated as an Area of Special Scientific Interest and a Ramsar site.

7.4.18. The qualifying interests for the Lough Swilly SAC are: Estuaries; Coastal lagoons; Atlantic salt meadows (*Glauco-Puccinellietalia maritima*); Molinia meadows on calcareous, peaty or clayey-silt-laden soils (*Molinion caeruleae*); Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles; and *Lutra lutra* (Otter). The Board should note that Coastal lagoons (i.e. Inch Lough and Blanket Nook) are a priority habitat.

- 7.4.19. The qualifying interests for the Lough Swilly SPA are: Great Crested Grebe (*Podiceps cristatus*); Grey Heron (*Ardea cinerea*); Whooper Swan (*Cygnus cygnus*); Greylag Goose (*Anser anser*); Shelduck (*Tadorna tadorna*); Wigeon (*Anas penelope*); Teal (*Anas crecca*); Mallard (*Anas platyrhynchos*); Shoveler (*Anas clypeata*); Scaup (*Aythya marila*); Goldeneye (*Bucephala clangula*); Red-breasted Merganser (*Mergus serrator*); Coot (*Fulica atra*); Oystercatcher (*Haematopus ostralegus*); Knot (*Calidris canutus*); Dunlin (*Calidris alpina*); Curlew (*Numenius arquata*); Redshank (*Tringa totanus*); Greenshank (*Tringa nebularia*); Black-headed Gull (*Chroicocephalus ridibundus*); Common Gull (*Larus canus*); Sandwich Tern (*Sterna sandvicensis*); Common Tern (*Sterna hirundo*); Greenland White-fronted Goose (*Anser albifrons flavirostris*); and Wetland and Waterbirds.
- 7.4.20. The Site Synopsis for the Lough Swilly SPA states that it “is of major ornithological importance for wintering waterbirds, with three species occurring in numbers of international importance and 18 occurring regularly in numbers of national importance. The site is regularly used by more than 20,000 waterfowl and as such is of international importance. Additionally, it holds nationally important breeding populations of three species, i.e. Sandwich Tern, Common Tern and Black-headed Gull. The site is used by a good range of species that are listed on Annex I of the E.U. Birds Directive.”
- 7.4.21. Given that significant portions of the proposed development are located within or adjacent to Lough Swilly SPA/SAC and that the southern spur will run across an embankment bounding priority habitat at Blanket Nook coastal lagoon, there is the potential for significant adverse effects to arise during the construction phase as a result, for example, of disturbance, release of pollutants/contaminants to waterbodies, removal of breeding and feeding habitats, introduction of invasive species or changes to drainage patterns.
- 7.4.22. Areas in which there has already been a failure to meet the environmental quality standards, laid down in Union legislation and relevant to the project, or in which it is considered that there is such a failure
- 7.4.23. The report submitted by the road authority states that there are public references to an illegal historic dump at Bridgend, astride the border. The route of the Greenway will pass through this area.

7.4.24. Densely Populated Areas

7.4.25. As noted in Section 3.1, the proposed Greenway will link the settlements of Derry/Londonderry in Northern Ireland and Bridgend, Burnfoot, Fahan, Bunrana and Newtowncunningham in Co. Donegal. Only Derry and Bunrana would constitute densely populated areas, with populations of c. 83,000 and c. 6,800 respectively. Between the settlements listed above there is a more dispersed pattern of ribbon development along local roads.

7.4.26. I do not consider that the proposed development is likely to result in significant adverse impacts on densely populated areas, with positive impacts more likely to arise in terms of human health, public safety and sustainable transport.

7.4.27. Landscapes and Sites of Historical, Cultural or Archaeological Significance

7.4.28. The proposed Greenway will utilise significant portions of the historic alignment of the Londonderry and Lough Swilly Railway line. While the alignment does not have any formal designation, I consider that it is likely to be of local historical, cultural and social interest. The re-use of this alignment may therefore result in positive impacts.

7.4.29. Portions of the proposed Greenway diverge from the railway alignment, and in these areas the potential for unknown archaeological features cannot be ruled out. Archaeological monitoring and testing may therefore be required in advance of construction work and the potential for significant adverse impacts on sites of historical or archaeological significance cannot be ruled out, noting the considerable number of recorded monuments and protected structures close to the proposed Greenway route.

7.4.30. In terms of scenic area designations, the proposed greenway route is entirely located within areas that are either designated as ‘areas of high scenic amenity’ (HSA) or ‘areas of especially high scenic amenity’ (EHSA). The EHSA areas generally comprise a strip of land along the coastline of Lough Swilly, as well as Inch Lough and surrounds. EHSA areas are defined in the Development Plan as “sublime natural landscapes of the highest quality that are synonymous with the identity of County Donegal. These areas have extremely limited capacity to assimilate additional development”. HSA areas are defined as “landscapes of significant aesthetic, cultural, heritage and environmental quality that are unique to their locality and are a fundamental element of the landscape and identity of County Donegal.

These areas have the capacity to absorb sensitively located development of scale, design and use that will enable assimilation into the receiving landscape and which does not detract from the quality of the landscape, subject to compliance with all other objectives and policies of the plan”.

- 7.4.31. The proposed Greenway, due to its linear nature, narrow width and low gradient which will not require any significant cut or fill works, may not result in significant visual or landscape impacts. However, having regard to the high and especially high scenic amenity of the area, the sensitive coastal landscape with limited capacity to absorb development and the lack of detailed drawings provided, the potential for significant adverse impacts on landscape and visual amenity cannot be ruled out at this stage.

7.5. **Type and Characteristics of Potential Impact**

7.5.1. **Magnitude and Spatial Extent of the Impact**

- 7.5.2. The footprint of the proposed Greenway is relatively small and will entail the re-use of a former railway line. However, there is potential for impact on ecological sites arising from the necessity for construction works in and adjacent to the Lough Swilly SAC and SPA, and Inch Levels Wildfowl Reserve and the associated pNHA. These works would have the potential to adversely impact on habitats and species within these sites which have a significant spatial extent.

7.5.3. **Nature of the Impact**

- 7.5.4. The impacts of the proposed road itself would range from potentially slight to significant, with both positive and negative impacts likely. The key aspects of the environment that have the potential to be significantly affected are biodiversity, water, landscape, cultural heritage and material assets/land (i.e. agricultural severance and acquisition of land).

7.5.5. **Transboundary Nature of the Impact**

- 7.5.6. The proposed Greenway is a cross-border project which extends into Northern Ireland. Of the total 32.5km of Greenway, I note that c. 3.1km will be within Northern Ireland.

7.5.7. Impacts arising from the construction and/or operation of the proposed development therefore have the potential to be of a transboundary nature. These may include positive impacts, arising from increased tourism and economic activity, as well as negative impacts particularly associated with construction stage. However, having regard to the characteristics of the project and the nature of the receiving environment in the border area, I do not consider that significant transboundary impacts are likely to occur as a result of the proposed development.

7.5.8. **Intensity and Complexity of the Impact**

7.5.9. The potential for complexity primarily arises from the proximity of the proposed development to numerous environmentally and ecologically sensitive sites, and the nature of the development which may impact on aspects of the environment including water quality and biodiversity. The intensity and complexity of the impacts will be better understood when the design is finalised, when suitable environmental and ecological assessments are undertaken and when mitigation measures are identified.

7.5.10. **Probability of the Impact**

7.5.11. It is difficult to quantify the probability of impacts at present, in the absence of detailed plans and drawings. Notwithstanding this, given the extremely sensitive nature of the receiving environment, I consider that the probability of significant adverse environmental impacts would be high, in the absence of suitable mitigation measures.

7.5.12. **Expected Onset, Duration, Frequency and Reversibility of the Impact**

7.5.13. Any significant adverse impacts arising from the proposed development are likely to be associated with the construction phase. The road authority has not set out the likely duration of this phase, however due to the sensitivity of the receiving environment, any impacts that occur have the potential to be of substantial or permanent duration and not to be readily reversible.

7.5.14. **Cumulation of the Impact with the Impact of other Existing and/or Approved Projects**

7.5.15. Refer to Section 7.3.7 above.

7.5.16. **Possibility of Effectively reducing the Impact**

7.5.17. It is clear from the information submitted by the road authority that the design and final routing of the proposed Greenway is not yet finalised. Further detailed design work, including ecological and environmental surveys and investigations will therefore be required. In my opinion, the development of a design approach that adheres to best practice guidance for Greenways and for construction in environmentally sensitive areas, and the identification of suitable mitigation measures (including, possibly, mitigation by avoidance) will result in a reasonable possibility of effectively reducing the impact of the development.

8.0 Conclusion and Recommendation

8.1. Having regard to the submitted information, including the 'Preliminary Examination Report' and associated maps, and having conducted a site inspection, I consider that, given the description of the development and the nature of the receiving environment, the proposal is likely to have significant effects on the environment. An Environmental Impact Assessment Report should be prepared, and an Environmental Impact Assessment should be carried out for the project.

8.2. Having regard to the above, I recommend that the Board direct the road authority, Donegal County Council, under Section 50(1)(b) of the Roads Act, 1993 (as amended), to prepare an Environmental Impact Assessment Report in respect of the proposed road development, for the reasons and considerations set out below.

9.0 Reasons and Considerations

9.1. Having regard to:

- The characteristics, nature, scale and location of the proposed Greenway development;
- The location of the proposed Greenway development within and abutting a number of European sites, which are nature conservation sites of international importance, where there is the potential to impact on protected species and habitats;
- The location of the proposed Greenway development entirely within scenic areas that are designated in the Donegal County Development Plan 2018-

2024 as being ‘areas of high scenic amenity’ or ‘areas of especially high scenic amenity’;

- The characteristics of potential impacts and the possibility of significant impacts on environmental attributes, including, in particular, biodiversity, water, landscape, cultural heritage and land/material assets;

It is considered that the proposed Greenway development may be likely to have a significant effect on the environment, and that an Environmental Impact Assessment Report should be prepared in respect of the proposal.

9.2. I recommend that the Board issue a Direction in the following form:

Having regard to:

- (i) the information provided by the road authority to An Bord Pleanála;
- (ii) the Roads Act, 1993 (as amended);
- (iii) Annex III of EU Directive 2014/52/EU of 16th April 2014, amending Directive 2011/92/EU (the EIA Directive) on the Assessment of the Effects of Certain Public and Private Projects on the Environment;
- (iv) the document ‘EIA of Projects - Guidance on Screening’ (2017) issued by the European Commission;
- (v) the document ‘Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-Threshold Development’ issued by the Department of Environment, Heritage and Local Government in August 2003,
- (vi) the ecological sensitivity of the receiving environment, including Lough Swilly SPA and SAC (Site Codes 004075 and 002287, respectively), Lough Swilly including Big Isle, Blanket Nook & Inch Lake pNHA and the Inch Levels Wildfowl Reserve;
- (vii) the nature, scale and characteristics of the proposed Greenway development, including significant construction works in ecologically, environmentally and visually sensitive coastal areas;

- (viii) the characteristics of the potential environmental impacts on biodiversity, water, landscape and visual amenities, cultural heritage, and land/material assets, including agricultural severance; and
- (ix) the report and recommendation of the Board's Inspector.

It is considered that the proposed Greenway development would be likely to have significant effects on the environment and that the preparation of an Environmental Impact Assessment Report is required.

Niall Haverty
Senior Planning Inspector

21st January 2020