



An
Bord
Pleanála

Inspector's Report ABP-317506-23 EIA Determination.

Development

EIA Determination request for proposed Deansgrange Stream Flood Relief Scheme.

Location

Dun Laoghaire Rathdown County Council

Local Authority

Dun Laoghaire Rathdown

Type of Application

Local Authority Project.

Type of Appeal

EIAR Determination

Observer(s)

John Phelan

Inspector

Philip Davis.

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1.0 Introduction

A request was submitted by a local resident for the Board to make an EIA determination into the proposed Deansgrange Stream Flood Relief Scheme in Dun Laoghaire Rathdown County Council area.

The local authority had determined that an EIA was not required in Screening Report dated June 2023 carried out by JPA Consulting. The referrer submits that this did not adequately address the environmental sensitivities of the area.

The Flood Relief Scheme was submitted in accordance with Part 8, Article 81 of the 2001 Regulations (as amended).

2.0 Site Location and Description of the Proposed Development

The proposed flood relief project involves work along the Deansgrange Stream, which arises in the Foxrock area and runs through Cornelscourt and Deansgrange to discharge into the sea at Killiney Beach, about 1.km south of the Killiney/Dart Station. For most of its route it runs through a semi-engineered channel through a series of bridges and culverts through the southern suburbs of DLRCC with short sections of natural watercourse.

The proposed works are for Flood Relief and include works at the Johnstown Road, Granville Road, Gelavon Park, Killiney Hill Road, Seafield-Bayview Estates, Shanganagh Road and Abberley.

Key elements of the proposed works include:

- The relocation of an existing pedestrian entrance to a walkway southwest of Clonkeen Park. This includes a new 4 metres wide footpath, and an extended public cyclepath to Clonkeen Park.
- The replacement of 2 existing 1050mm concrete pipes with a new 1.2 metres high and 3 metres wide concrete culverts at Granville Road.
- A new offline flood storage system with a capacity just under 10,000 cubic metres with associated works within Glenavon Park.
- 240 metres of new flood defence walls up to 1.5 metres in height along the boundaries of properties upstream of the bridge at Killiney Hill Road.

- The installation of 166 metres of new concrete overflow pipe to Deansgrange Stream.
- The demolition and removal of a debris screen and adjoining boundary walls at the culvert between Seafield Court and Bayview housing estates.
- A new coarse debris screen to be involved at the pedestrian bridge adjoining Abberley estate and upstream of Killiney Hill Road.
- Existing debris screens and fish pass at Shanganagh Road and the environs of St. Columbanus to be upgraded.

Full plans and particulars of the proposed works are on file.

3.0 The Submission

3.1. Observation – John Phelan

It is submitted that the conclusion of the EIA Determination by the planning authority is incorrect:

It is argued that the works will increase the flowrate of the reiver into a wetland area with potential impacts on the local ecosystem.

It is submitted that the Kilbogget Area is an SPA. The opening of the Kilbogget Park Flood Relief scheme will increase the flow rate of water into the park and increase the chances of flooding in the vicinity. It is argued that it could result in flooding in the Park.

It is requested that the Board direct the local authority to carry out a full EIA for the project.

3.2. Planning Authority Response

A response from Barry & Partners on behalf of the Council was submitted, outlining the proposed development and addressing the submission as follows:

- It is noted that works within Kilbogget Park are not included or described in the proposed development.

- It is stated that a detailed hydraulic model was developed by the project team in identifying the required measures to alleviate the risk of a 1% AEP flood.
- It is considered that flow changes within Killbogget Park are considered negligible.
- It is stated that riparian birds in the area, such as Moorhead and Mallard, have adopted nesting behaviour around the rise and fall in standard flood events and will not be affected by the small increase in water levels.
- It is submitted that the impacts of the works in the Park would be negligible – with regard to the other aspects of the scheme, the Board is referred to the Screening Documents submitted.

4.0 Assessment

Section 172 of the 2000 Act, as amended, sets out the types of projects that require an EIAR. These include projects that fall within Parts 1 and 2 of Schedule 5 of the 2001 Regulations, as amended, and subject to criteria set out under Section 7A.

4.1. Part 1 of Schedule 5:

Part 1 of Schedule 5 sets out large scale energy and infrastructure projects which are considered by their nature to have likely significant environmental effects. The proposed development consists of a series of relatively small-scale drainage works within an already engineered watercourse. I am satisfied that the proposed works do not fall within any of the categories set out in Part 1 of Schedule 5.

4.2. Part 2 of Schedule 5:

Part 2 of Schedule 5 sets out categories for which EIAR will be required if certain thresholds are met. I have examined these categories, and I am satisfied that only one may apply, **subsection 10(f)(ii) 'Infrastructure projects'**. These are defined as:

'Canalisation and flood relief works, where the immediate contributing sub-catchment of the proposed works (i.e., the difference between the contributing catchments at the upper and lower extent of the works) would exceed 100 hectares

or where more than 2 hectares of wetland would be affected or where the length of river channel on which works are proposed would be greater than 2 kilometres.'

The proposed works consist of flood relief and drainage, works, so come within the overall categorisation. The three sub-threshold measures were addressed in the EIA Screening submitted as follows (Section 3.2.2):

'Where the sub-catchment.... Would exceed 100 hectares.'

It is stated that the Glenavon Park sub-catchment is 20.14 hectares, the downstream Glenavon Park is 71.86 hectares, given a total area of 92 hectares, just under the 100-hectare threshold.

While with regard to the calculation of such contributing catchments, there is significant scope for interpretation as to how to calculate the total area, I am satisfied from the documents and drawings submitted, that this is a reasonable approach, and that the total catchment area is under the 100 hectare threshold.

'where more than 2 hectares of wetland would be affected'.

The area is largely urbanised running through parkland. The Screening Report indicates that no wetlands have been identified, contrary to the assertion of the observer.

From the survey information submitted and other available sources I am satisfied that while there may be small sections of the stream that could potentially be considered 'wetland' – some common riparian birds are acknowledged as nesting along part of the banks - there are no substantive areas and certainly total significantly less than 2 hectares. As such I do not consider that it falls within this sub-threshold.

'where the length of river channel... greater than 2 kilometres'.

The total of the works are given as 1.37 km, and this is confirmed by the plans submitted. As such, the proposed works do not fall within this sub-threshold.

I am therefore satisfied that the proposed works fall significantly below the three thresholds set out and as such does not come within Schedule 5 Part 2(10) infrastructure works. As such it should be considered sub-threshold under the meaning of the Regulations and the definitions therein.

4.3. Section 7A:

Under Schedule 7A of the Regulations, and associated guidance (including the August 2003 'EIA Guidance for Consent Authorities regarding Sub-threshold Development', DHPLG 2018b (Guidelines for Planning Authorities and ABP on carrying out EIA; and the OPR Practice Note (PN02) on EIA Screening (July 2021)). These set out that an EIAR may still be required if the project is sub-threshold on the basis of the proposed developments characteristics, its location, and the potential for impacts.

Section 4 of the submitted EIAR Screening on file sets out an overview of the nature, location and potential impacts of the proposed drainage works.

The works are intended to alleviate flood risk within the catchment of the river, along a stretch that has been largely urbanized, with the stream canalized along most sections. There are no designated habitat sites along its route and the river does not discharge into Killiney Bay at a point where there are any EU designated sites or other designated habitats. The closest Natura 2000 site is the Rockabill to Dalkey Island SAC, with four other coastal/marine SAC/SPA's within 10 km. None of these are within the hydrological catchment of the stream or the immediate vicinity of where the stream meets the sea.

The observer has claimed that there is an SPA within the area, but there is no available record of this – I am satisfied that there is no designated habitat within the hydrological catchment.

The lands to be directly affected by works are within the parks and along existing engineered sections of the stream. I am therefore satisfied that there would be no long term or serious impacts on any species or habitats of significance, beyond the immediate disturbance to vegetation of the excavation and construction works. There are no significant areas of wetland along this stretch of watercourse. The applicant has submitted that the works could impact on wetlands, but as I have outlined above, I am satisfied that any wetlands in the park or along the banks are small in nature and not of high ecological value, although no doubt the wildlife there is valued locally. I am satisfied from the information submitted that any impact on existing wetlands, including possible nesting areas for Mallard Duck or similar species would be negligible to minor in nature and scale.

Most works are on made ground or on the glacial tills typical of the area. There are no hard rock areas to be excavated or areas of natural watercourses. The instream works will have impacts on hydrology and localised habitat impacts, but I am satisfied that with standard best practice management procedures these will be kept to a reasonable minimum and would not justify a full EIAR. Excavations are generally shallow and largely limited in extent and so will not have a significant effect on groundwater.

There are no national monuments or protected structures within the direct area of construction. There are four protected structures close by, but I consider that any impact on their settings would be short term (i.e. during the construction works) and minor in nature. None of the existing structures on the watercourse are of historical significance.

In other respects, noise and other nuisance/amenity impacts of the works will be short term in impact and can be appropriately mitigated through standard best practice.

The objector raises concerns on the potential flooding impact of the works. In overall terms, there would be a short term impact on local material assets by way of traffic and noise and impact on utilities, but the objective of the works is to improve flood protection in the area and on the basis of available information I am satisfied that the overall impact on material assets (including flood risk hazards) in the area will be positive in the long term.

The submission also referred to uncertainties over the operation of the flood gate system to regulate the water flow. While a failure or other problem with this system could potentially result in issues, the evidence available is that this would only impact upon

The development is consistent with development objectives in the area as set out in the Dun Laoghaire Rathdown County Development Plan 2022-2028 and specifically Policy Objective EI21 with regard to flood protection in the area. A number of significant planning permissions have been granted for developments close to the catchment area (summarised in 4.10.2 of the EIA Screening) – I am satisfied that there are no cumulative or indirect impacts associated with the works that would trigger the requirement for an EIAR.

4.4. Conclusion

I therefore concur with the conclusion of the submitted Screening Document that none of the criteria set out in Section 7 apply. The characteristics of the proposed development would not result in a significant impact on the environment by virtue of its size or scale, location, nature, or operational activities, including cumulative or indirect impacts.

The proposed development does not therefore fall under the category of sub-threshold development as set out in the regulations and thus an EIAR is not required.

5.0 Recommendation

Having regard to

- a) the nature and scale of the proposed development, which is significantly under the threshold in respect of Class 10(f)(ii); infrastructure: (Canalisation and flood relief works) of the Planning and Development Regulations 2001 (as amended)
- b) The location of the site on lands used for infrastructure and open space and within an existing urban area, and along a watercourse that has been substantially altered with minimal remaining natural habitat.
- c) The location of the lands in an area served by public infrastructure and the existing pattern of development in the vicinity,
- d) The location of the site outside of any sensitive location specified in article 109(4)(a) of the Planning and development Regulations 2001 (as amended) and the absence of any relevant connectivity to any sensitive location,
- e) The separation distance between the site and the any sites of cultural or habitat importance.
- f) The guidance set out in Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding sub-threshold Development, issued by the Department of the Environment, Heritage and Local Government (2003) and

g) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report is not therefore required.

Philip Davis
Planning Inspector

15th February 2023