



Development Applications Unit
The Manager
Development Applications Unit (DAU)
Government Offices
Newtown Road
Co. Wexford
Y35 AP90

Date: 22 November 2021

Re: Proposed Riverine Pedestrian and Cycle Bridge at Station Road, Lifford, Co. Donegal
115m in length between Lifford Co. Donegal and Strabane, Co. Tyrone

Dear Sir / Madam,

An Bord Pleanála has received your recent submission in relation to the above mentioned proposed road development and will take it into consideration in its determination of the matter.

Please note that the proposed development shall not be carried out unless the Board has approved it or approved it with modifications.

If you have any queries in relation to this matter please contact the undersigned officer of the Board.

Please quote the above mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

Yours faithfully,

Niamh Thornton
Executive Officer
Direct Line: 01-8737247

HA03

Niamh Thornton

From: SIDS
Sent: Friday 19 November 2021 15:57
To: Niamh Thornton
Subject: FW: ABP- 311468-21 (Roads) and ABP-311542-21 (177AE)
Attachments: 177AE Riverine DNGj.pdf

From: Housing Manager DAU <Manager.DAU@housing.gov.ie>
Sent: Tuesday 16 November 2021 14:45
To: Bord <bord@pleanala.ie>; SIDS <sids@pleanala.ie>
Subject: ABP- 311468-21 (Roads) and ABP-311542-21 (177AE)

The Department refers to the correspondence received on the 27st September, 2021 with respect to the above referenced and connected applications currently before the Board.

Attached are heritage-related observations/recommendations co-ordinated by the Development Applications Unit in respect of both applications (single response to both).

Regards

Michael Murphy
Aonad na nIarratas ar Fhorbairt
Development Applications Unit
Oifigí an Rialtais
Government Offices
Bóthar an Bhaile Nua, Loch Garman, Contae Loch Garman, Y35 AP90
Newtown Road, Wexford, County Wexford, Y35 AP90

An Roinn Tithíochta,
Rialtais Áitiúil agus Oidhreacht
Department of Housing,
Local Government and Heritage



Your Ref: ABP- 311468-21 (Roads) and ABP-311542-21 (177AE)

Our Ref: 177AE Riverine DNG

(Please quote in all related correspondence)

16 November, 2021

The Secretary,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1

Referral under Section 51(3)(b) of the Roads Act, 1993 and under Section 226 and Section 177AE of the Planning and Development Act, 2000, (As Amended):

Applications by Donegal County Council for

- 1. Construction of a pedestrian and cycle bridge 115m in length between Lifford and Strabane (the adjacent eastern section of the proposed community park at Strabane, County Tyrone);**
- 2. Construction of a community park including pavilion, multi-function outdoor space, play areas, walkways, cycleway, landscaping, access roads and parking, amenity lighting, maintenance compound, spectator stand, accommodations works and ancillary works Station Road, Lifford, County Donegal**

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The Department refers to the correspondence received on the 27st September, 2021 with respect to the above referenced and connected applications currently before the Board.

Outlined below are heritage-related observations/recommendations co-ordinated by the Development Applications Unit under the stated headings.

Nature Conservation

These observations are intended to assist you in meeting the obligations that may arise in relation to European sites and environmental protection in general in the context of the current application.

The Department welcomes the referral of the application and generally encourages nature based solutions for cross community cultural development. However, the Department is concerned that the NIS is deficient in scope and detail to allow an Appropriate Assessment to be completed.



Screening for Appropriate Assessment.

The Department notes that the wintering bird surveys recorded Whooper Swan utilising the river corridor as a refuge, commuting corridor and navigational route. Specifically, Whooper Swan routinely utilise the River Finn corridor as a commuting route to access feeding lands south of the N15/A38 and roosting lands north of the study site.

The Department recommends that Lough Swilly special Protection Area (SPA) (site code: 004075) is screened in for consideration in the Natura Impact Statement. This is because whooper swan are a key Special Conservation Interest (SCI) for this European site that is located in proximity to the proposed development. Specifically, Whooper swan and geese species supporting the Lough Swilly SPA populations are known to feed and commute on the Foyle River.

Natura Impact Statement.

The Department notes the results of the Otter (*Lutra Lutra*) surveys. Specifically, the search results indicated that Otter activity and presence was high throughout the proposed development site and along the banks of the River Foyle. Moreover, a pair of Otters were observed on several occasions along the banks of the River Foyle on both the Strabane and Lifford side, along with evidence of their presence in the form of tracks and food remains.

The NIS concludes that Otter use the proposed development site for foraging, lay-ups and general refuge.

Notwithstanding the bridge and jetty elements the Department welcomes the commitment to retain/ instigate a 10m buffer in the wider riparian zone for Otter and recommends that this is considered a minimum buffer size to avoid long term disturbance and displacement of the Qualifying Interest (QI) species supporting the European site (River Finn SAC site code : 002301). In addition, the Department recommends that further Otter friendly measures are incorporated into the design of the park that seek to create Otter friendly features and increase the buffer breadth beyond 10m where possible.

The Department is concerned that the level of Otter activity suggests the development site forms part of the core territory for an Otter pair. The Department recommends that the nearest Otter Holt is identified and the proximity to the wider development site, slipway/jetty and bridge site are clearly determined. This knowledge will provide more definitive scientific data on likely effects arising to the Otter population from the proposed development and also provide the wider context for any assessment of impact and associated mitigation.

Furthermore, the Department is concerned that

1. Disturbance to Otter during the construction phase is not sufficiently mitigated (e.g. timing of year and day are not considered).
2. Direct loss of riverbank foraging habitat associated with the Bridge, slipway and jetty is insufficiently addressed in the NIS (i.e. what type and proportion of habitat will be lost temporarily and permanently? how will this be mitigated?)



3. The riparian corridor supports a thin fringe of reed and large sedge swamp, establishing on accumulated alluvial material. This habitat provides key foraging for Otter and efforts should be made to ensure full reinstatement or enhanced coverage of this habitat post construction.

More broadly, many of the finer design details remain unconfirmed in the NIS and the NIS conclusions are based on possible not absolute designs (e.g. Completed invasive species management plan must be included in the CEMP before the AA can be completed; the NIS does not include sufficient mitigation for storm discharge from the three rivers complex to ensure no residual impacts on the river Finn SAC). This ambiguity is reflected in the wording used in the NIS (e.g. words such as 'may', 'possible' etc.). Appropriate Assessment is a scientific process that requires robust assessment based on scientific evidence and objective judgement supported by a clear scientific rationale. The Department recommends that the NIS includes more definitive detail and it follows, assessment of impacts arising to European sites.

The Department reiterates the need for the applicant and consent authority to be clear that the project is not going to constitute an adverse impact on a European site within which the proposed development lies. This is because, an appropriate assessment must examine the implications of the plan or project for the QIs, or the SCIs, of the European site concerned (River Finn SAC, site code: 002301), in view of the site's conservation objectives and in light of the best scientific knowledge in the field¹. The assessment cannot have lacunae or gaps, and must contain complete, precise and definitive findings and conclusions². Competent authorities can authorise a plan or project only if they have made certain that it will not adversely affect the integrity of a European site. This is so when there is no reasonable scientific doubt as to the absence of such effects³.

Underwater Archaeology

It is noted that the proposed development area is located 350m north-east of the Zone of Archaeological Potential for the Recorded Monument DG071-008---*Historic Town*, which is subject to statutory protection in the Record of Monuments and Places established under section 12 (Recorded Monuments) of the National Monuments (Amendment) Act 1930-2014. In addition, the River Finn and River Foyle contain significant underwater cultural heritage including around fifteen log-boats which have been recovered from the waterway. It is noted that the submitted EIAR refers to the Northern Ireland Sites and Monuments Record (NISMR) record of the findspot of a dugout canoe (TYR004:010) located c. 600m upstream from the proposed new bridge location, c. 160m downstream from Lifford Bridge, close to the eastern bank of the River Foyle on a sandy/shingly bar. It is further noted that the first edition Ordnance Survey six-inches to a mile map indicates that the river was wider at this time than

¹ Case 127/02 *Landelijke Vereniging tot Behoud van de Waddenzee and Nederlandse Vereniging tot Bescherming van Vogels v. Staatssecretaris van Landbouw, Natuurbeheer en Visserij* EU:C:2004:482

² Case 521/12 *T.C. Briels v. Minister van Infrastructuur en Milieu* EU:C:2014:330

³ Case 243/15 *Lesoochranárske zoskupenie VLK v. Obvodný úrad Trenčín* EU:C:2016:838



its present extent and the current western bank has been extended into the former river channel and its floodplain.

In light of the above and due to its proximity to the Recorded Monument and the density of logboat discoveries in the Rivers Finn and Foyle, the reclamation zone can be considered to be of archaeological potential as such areas 'have been proven to preserve organic materials such as wood, including logboats within damp soils' (EIAR p. 489). The proposed western bridge abutments and attendant infrastructure, including enabling infrastructure for the proposed crane pad, will require excavation into the former river channel/floodplain beneath the reclamation infill and therefore may lead to impacts on underwater cultural heritage, including, potentially, previously undocumented submerged logboats. It is further noted that enabling works include construction of a temporary crane pad that will extend into the river channel from the west bank of the river. Construction of this structure may also lead to adverse impacts on underwater cultural heritage. These potential impacts have not been sufficiently addressed in the submitted EIAR and it should be noted that this Department previously requested (submission dated 26.5.2021) an archaeological dive survey to assess development impacts on the riverbanks and riverbed, but in the submitted EIAR it is stated that this survey was unnecessary because there are 'no works planned on riverbanks or within the riverbed' (EIAR p. 458). As set out above, there are works proposed on the riverbanks and within the river itself and accordingly this Department reiterates its recommendation that an Underwater Archaeological Impact Assessment (UAIA), including a dive survey, is required in order to assess the potential impact of the development on underwater archaeology.

Underwater Archaeological Impact Assessment (UAIA)

An Underwater Archaeological Impact Assessment (UAIA) shall be undertaken prior to the commencement of development works in order to address any potential impact to the Archaeological Heritage, including Underwater Cultural Heritage, from direct works or indirect works (access and egress to river, temporary crane pad, traffic within river etc.). The UAIA to be undertaken by a suitably qualified and suitably experienced underwater archaeologist, and such an assessment shall include a desktop study that focuses on the riverine heritage, mapping of previous logboat finds in the environs and an assessment of all proposed or potential riverine impacts as well as terrestrial impacts, if relevant (e.g. to river banks, riverine deposits sealed beneath areas of reclamation or riverside works), including those resulting from the installation of the bridge and its attendant infrastructure. Where in-water impacts are to take place the UAIA shall include a dive assessment accompanied by a hand-held metal detection survey, undertaken by a suitably licenced and experienced underwater archaeologist. A Dive Licence (section 3 1987 Act) and Detection Device consent (section 2 1987 Act) will be required for these works. The UAIA shall be licenced by the Department of Housing, Local Government and Heritage and a detailed method statement shall accompany the application. All archaeological diving should comply with the Health and Safety Authority's Safety, Health and Welfare at Work (Diving) Regulations 2018/2019.

As a component of the mitigation proposed in the submitted EIAR (p. 496) archaeological test excavations, undertaken by an archaeologist licenced under Section 26 of the National Monuments (Amendment) Act 1930-2104, shall be undertaken at the proposed locations of



the western bridge abutments and other areas on the riverbank where ground disturbance is proposed. Test excavations are to be undertaken in compliance with a method statement submitted with an archaeological excavation licence application and with the conditions of a licence and are to take place to the uppermost archaeological horizons only, where they survive. Where archaeological material is shown to be present, the archaeologist shall stop works in the affected area to facilitate evaluation and shall notify the NMS, who will advise further. Please note that all features/archaeological surfaces/objects within the test trenches are to be hand-cleaned and clearly visible for photographic purposes. Please allow 4-5 weeks for processing of archaeological excavation licence.

Having completed the work, the archaeologist shall submit a written report to the Department of Housing, Local Government and Heritage outlining the results of the Underwater Archaeological Impact Assessment and test-excavations. The report shall include a comprehensive Archaeological Impact Statement and shall comment on the degree to which the extent, location and levels of all proposed works required for the development will affect Archaeological Heritage. This should be illustrated with appropriate plans, sections, etc. The Archaeological Impact Statement shall also include proposals for further mitigatory measures, where thought necessary to protect the archaeological heritage.

Where archaeological material, including objects and underwater cultural heritage, is shown to be present, further mitigatory measures may be required; these may include refusal of planning permission, relocation and/or redesign (in whole or in part) of the development to allow for preservation in situ, excavation ('preservation by record') and/or monitoring. The Department of Housing, Local Government and Heritage will advise the applicant with regard to these matters.

No works should take place until the requested assessment has been received.

You are requested to send any further communications to the Development Applications Unit (DAU) at manager.dau@housing.gov.ie, or to the following address:

The Manager, Development Applications Unit (DAU)
Department of Housing, Local Government & Heritage
Government Offices, Newtown Road
Wexford Y35 AP90

Is mise le meas,

Michael Murphy,
Administration
Development Applications Unit