

Ref: 15/0039/PER

20th

October 2015

Minister of State Simon Harris  
OPW  
Stephen's Green  
Dublin 2



**Clare River (Claregalway) Flood Relief Scheme**

Dear Simon

I refer to the above scheme which has been submitted by your Office to my Department.

My Department has examined the environmental impact statement (EIS) of the scheme in accordance with the provisions of the European Union (Environmental Impact Assessment) (Arterial Drainage) Regulations 2012<sup>1</sup>. The evaluation consisted of an independent assessment of the EIS conducted by consultants on behalf of my Department, having regard to the EIA regulations. Taking account of this independent report, I consider that the EIS identifies, describes and assesses the direct and indirect effects of the proposed scheme.

Therefore, I now propose to confirm the scheme subject to the conditions that I consider necessary, in addition to the mitigation measures in the EIS, to avoid, reduce and, if possible, offset the major adverse effects (if any) of the proposed scheme. These conditions are set out in the appendix to this letter.

In accordance with the regulations, I am now advising the Commissioners of Public Works that a decision to confirm the proposed scheme has been taken and accordingly am now making the following information available to the Commissioners, in the first instance:

- i. the content of the confirmation and the conditions attached thereto,

<sup>1</sup> SI No. 469 of 2012

- ii. the assessment which concludes that the EIS satisfactorily identifies, describes and assesses the direct and indirect effects of the proposed scheme on the following:
  - a. human beings, flora and fauna;
  - b. soil, water, air, climate and the landscape;
  - c. material assets and the cultural heritage, and
  - d. the interaction among the factors,
- iii. the independent report prepared by the consultants; and
- iv. information for the public on the procedures available to seek a review of the substantive and procedural legality of the decision.

I would ask that the Commissioners confirm that they will comply with the conditions set out in the appendix. Subject to this confirmation, the next step will be to inform the public of the decision in the local media and on my Department's website.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Brendan Howlin', with a large, stylized initial 'B'.

Brendan Howlin, TD

Minister for Public Expenditure and Reform

## **Annex – Conditions for Clare River (Claregalway) Flood Relief Scheme**

The Department of Public Expenditure and Reform has examined the Environmental Impact Statement (EIS) of proposed scheme in accordance with the provisions of the European Union (Environmental Impact Assessment) (Arterial Drainage) Regulations 2012<sup>2</sup>.

### **Background**

An EIS has been carried out on behalf of the Commissioners of Public Works for the Scheme in accordance with the Arterial Drainage Acts, 1945 and 1995 as amended by European Communities (Environmental Impact Assessment) Regulations, 1989 to 1999, European Communities (Arterial Drainage) Regulations 2009, European Communities (Public Participation) Regulations 2010 and European Union (Environmental Impact Assessment) (Arterial Drainage) Regulations 2012.

RPS Group provided the environmental consultancy services for the Scheme, including preparation of the EIS. The Environmental Impact Assessment (EIA) process included consultations with statutory authorities, public consultation evenings on 8<sup>th</sup> June and 30<sup>th</sup> November 2011 and public exhibition between 16<sup>th</sup> November 2012 and 13<sup>th</sup> December 2012.

### **Independent Assessment**

This evaluation consisted on an impartial assessment conducted by independent consultants (JBA Consulting) who have appropriate expertise in this area.

The consultants were tasked with undertaking an evaluation of the EIS that was produced for the Clare River (Claregalway) Flood Relief Scheme. The purpose of the EIS Evaluation Report is to inform the Minister for Public Expenditure and Reform in carrying out the Environmental Impact Assessment of the Clare River (Claregalway) Flood Relief Scheme in accordance with S.I. 469 of 2012, European Union (Environmental Impact Assessment) (Arterial Drainage) Regulations 2012. The consultants had regard for the regulations governing EIS and natural assessments. Before finalising their report, the consultants took account of the additional information provided by the RPS Group on behalf of the OPW.

### **Assessment**

The Department, having taken account of the independent assessment, considers that the EIS submitted complies with the requirements of regulations in that it contains all the information specified and is presented in a comprehensive and adequate manner. The document identifies and describes the likely significant direct and indirect effects of the proposed scheme on the existing environment and comments on the interaction of these. The proposal adequately

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<sup>2</sup> SI No. 469 of 2012

assesses the impact of the proposed development on human beings, flora and fauna, soil, water, air, climate and the landscape, material assets and the interaction between these factors.

The EIS sets out specific mitigation measures to offset and reduce potential environmental and natura impacts and reaches adequate and formulated conclusions with regard to residual impacts.

However, based on the expert recommendations, the Department considers that conditions should be attached to the decision to confirm the scheme conditions. The purpose of these conditions is to provide additional mitigation measures to those already included in the EIS avoid, to reduce and if possible offset any major adverse effects (if any) of the proposed Scheme.

## **Decision**

Therefore, the Minister for Public Expenditure and Reform has decided to confirm the scheme subject to the conditions set out below. It is important to note that these are conditions in addition to those mitigation measures outlined in the various documents submitted to my Department during the project application process.

## **Conditions applying to the decision to confirm the scheme**

1. The OPW shall make available to project staff and contractors a single document containing all proposed mitigation measures outlined in the various documents, submitted as part of the planning application, including the EIS, NIS, Construction Environmental Management Plan (CEMP), responses to consultations, further Information and all responses to the independent assessment technical review of the EIS.

**Reason:** To protect humans and the environment, including Natura 2000 sites.

2. The scheme shall be constructed and managed in accordance with an updated Construction and Environment Management Plan which shall be prepared by the OPW and agreed in writing prior to the commencement of development. This shall include all the proposed measures outlined in the Preliminary CEMP but with a greater level of detail to ensure that the environment will be protected during construction in consultation with a suitably qualified ecologist.

**Reason:** In order to protect humans and the environment including Natura 2000 sites during construction.

3. In areas where concern has been highlighted about the levels of fine sediment deposition, a programme of monitoring should be carried out before and after any in-channel works. Any recommendations as a result of the monitoring will be implemented.

**Reason:** To protect water quality and also aquatic habitats and species.

4. The OPW will ensure that the environmental river enhancement measures to be installed are morphologically stable and will continue to deliver their intended habitat improvement purpose

in the medium and long term. This may be achieved through a hydraulic analysis using the existing model outputs.

**Reason:** To demonstrate that the environmental river enhancement measures achieve their intended habitat improvement aims.

5. The cofferdam arrangement for Measure 4b will be designed to accommodate risk of increased fine sediment mobilisation from upstream maintenance works occurring simultaneously. Alternatively, it will be ensured that these works are scheduled to occur at a different date.

**Reason:** To protect water quality and also aquatic habitats and species of the river.

6. The OPW will ensure that all mitigation measures outlined in the environmental impact statement and the additional information submitted including the Environmental River Enhancement Programme (EREP)/ Fisheries Plan shall be complied with in full.

**Reason:** For clarity and to ensure that none of the mitigation measures are omitted.

7. There is a reliance on the contractor and the construction method statements, in order to protect the SAC, the river, its habitats and species during construction. The management of all these elements will be important in ensuring no adverse impacts on the SAC and important habitats and species. Therefore, the implementation of the measures of the CEMP during construction will be supervised by a suitably qualified ecologist. The ecologist will report to the OPW on a weekly basis. The OPW shall take into consideration the ecologist's recommendations and implement these, as appropriate.

**Reason:** In order to protect the Natura 2000 Site and important habitats and species.

8. Breeding sand martin and kingfisher are noted to occur within the proposed scheme. Their nests will be identified and marked for avoidance by a suitably qualified ornithologist prior to site clearance. If the nests cannot be avoided, then mitigation shall be provided by the creation of banks for nesting or provision of alternative suitable nesting areas to be provided in consultation with a suitably qualified ornithologist. The potential differences in bank composition requirements (e.g. soil particle size, vegetation cover etc.) between sand martin and kingfisher should also be considered along with other important biotic and abiotic factors. A detailed plan for such habitat creation will be prepared on behalf of the OPW by a suitably qualified ecologist in consultation with the National Parks and Wildlife Service (NPWS) prior to development of the scheme.

**Reason:** In order to protect important bird species including Annex I species.

9. There will be partial hedgerow loss associated with other flood relief measures, mostly in relation to land spreading. Where flood relief works result in hedgerow removal or fragmentation, these will be reinstated and enhanced. In addition, proximal relict and derelict hedgerows will be under-planted to re-establish hedgerow structure and functionality. A selection of hedgerow species that are native and local will be selected and will reflect the surrounding hedgerow habitats within the zone of influence. Where possible, salvaged plants, cuttings or seedlings from the existing hedgerows will be used, in order to minimise the introduction of plant genotypes not local to the area.

**Reason:** To maintain hedgerow diversity and wildlife corridors in the vicinity.



10. The lands situated between the Clare River and the EU Annex I habitat '*Molinia* meadows on calcareous, peaty or clayey-silt-laden soils (*Molinion caeruleae*) (6410)' in Grange West are proposed for landspreading. There is a field drain separating this landspreading area and the *Molinia* meadow. Measures will be put in place to avoid sediment or pollution entering the field drain. Prior to any associated activities including ground investigations/site clearance, this area will be fenced off prior to commencement of the scheme with signs indicating no access and access shall be prohibited by machinery and/or persons.

**Reason:** To protect the EU Annex Habitat - 6410 *Molinia* meadows on calcareous, peaty or clayey-silt-laden soils (*Molinion caeruleae*).

11. The environment river enhancement measures (Fisheries Enhancement Plan) will be updated if necessary prior to commencement of works, implemented by the OPW and monitored by Inland Fisheries Ireland (IFI).

**Reason:** To protect EU Annex II species Atlantic Salmon.

12. Dust Deposition monitoring at nearby sensitive locations. Dust deposition monitoring will follow the VDI 2119 Standard for the Measurement of Dust Deposition using the Bergerhoff Gauge. The allowable limit is 350 mg/m<sup>2</sup>/d.

**Reason:** To avoid nuisance to nearby residents.

13. Particulate monitoring (PM10) will be carried out at sensitive locations during the works. The allowable levels should be consistent with the levels given in the Clean Air for Europe (CAFÉ) Directive.

**Reason:** To avoid nuisance to nearby residents.

14. The frequency and location of the dust and PM10 monitoring, including reporting arrangements will be agreed with the OPW prior to the commencement of the works.

**Reason:** To agree recording and reporting frequencies with the OPW.

15. Wheel wash facilities to be provided on all site roads leading on to a public road

**Reason:** To avoid nuisance to nearby residents.

16. Wind breakers and barriers should be available during extended periods of dry and windy weather.

**Reason:** To avoid nuisance to nearby residents.

17. A Communication Plan will be prepared and agreed with the OPW before commencement of the works.

**Reason:** To allow communication with the public regarding upcoming construction activities.

18. A Landscape Management Plan will be prepared and agreed with the OPW before commencement of the works.

**Reason:** To protect the landscape in the area.

19. Where possible the removal of hedgerows is to be avoided.

**Reason:** To protect the wildlife corridors for species using the hedgerows for nesting and foraging.

20. In the event that trees/hedgerows are removed they should be replaced with similar species

**Reason:** To protect the landscape in the area.

21. There is a large number of potential and established non-native species on the island of Ireland and some of these have damaging effects on native species and ecosystems. The most unwanted species in Ireland are listed on the following website <http://invasivespeciesireland.com/most-unwanted-species/> . Although no invasive plant species were identified in the EIS, all staff including contractors will be made aware of the typical invasive species that may occur in riverine and adjacent habitats. A process for dealing with the discovery of invasive species during the project will be put in place by the OPW.

**Reason:** To control the dispersion of invasive species in the area.

22. The Site Environmental Control Procedures are prepared by the Contractor and agreed with in advance of the commencement of the works with the OPW.

**Reason:** To avoid nuisance during the works.

23. The Site Environmental Manager will manage the Environmental Control Procedures and will maintain all records for examination by the OPW.

**Reason:** To ensure that all mitigation measures are carried out

24. Procedures will be put in place to ensure that the most up to date revision of the Control procedures is on file.

**Reason:** To ensure that the Control Procedures are current.

25. Reporting frequencies to be agreed with the OPW before the start of the works.

**Reason:** To ensure adequate frequent reporting to the OPW.

26. All the mitigation measures proposed in Section 14.5 (Mitigation measures) of the EIS are put in place with the agreement of the National Monument Section of the Heritage and Planning Division, Department of Arts, Heritage and the Gaeltacht.

**Reason:** To protect the archaeology and cultural heritage of the area.

Brendan Howlin, TD

Minister for Public Expenditure and Reform.

October 2015