

Item A

**Refurbishment of water intake,
Banagher Forest, Glenedra Road**

**B/2013/0276/F
Full Application**

23rd September 2015

<u>No:</u>	B/2013/0276/F	<u>Ward:</u>	Upper Glenshane
<u>App Type:</u>	Full Application		
<u>Address:</u>	Banagher Forest, Glenedra Road, Londonderry		
<u>Proposal:</u>	Refurbishment of existing intake structure and access road including construction of a replacement bridge structure.		
<u>Officer:</u>	Ruairi McGrath ext: 7187		
<u>Con Area:</u>	N/A	<u>Valid Date:</u>	9 th December 2013
<u>Agent:</u>	Doran Consulting, Norwood House, 96-102 Great Victoria Street, Belfast		
<u>Applicant:</u>	Northern Ireland Water		
<u>Objections:</u>	0	<u>Petitions of Objection:</u>	0
<u>Support:</u>	0	<u>Petitions of Support:</u>	0

Drawings and additional information are available to view on the Planning Portal- www.planningni.gov.uk

1 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 10 and the policies and guidance in sections 7, 8 & 9 and resolves to **GRANT** full planning permission subject to conditions and informatives set out in section 11.

2 SITE LOCATION & DESCRIPTION & CHARACTER OF AREA

- 2.1 The site is located in Banagher forest to the north of Glenedra Road. The red line of the application site incorporates the water intake infrastructure, the access laneway and the existing bridge.
- 2.2 The water intake consists of a weir wall which slows the flow of water, the water is then redirected into the intake storage tank. The tank consists of a square pool of water with low level concrete walls secured with a 2.0 metre palisade fence.
- 2.3 The bridge is located approximately 1.0km from the intake and is comprised of precast concrete slabs which span the river. On either bank there is a concrete base while a central concrete support is positioned in the middle of the river.
- 2.4 The site is located within the countryside as defined in the Limavady Area Plan 1984-1999 and in the draft Northern Area Plan 2016. The site is also

located within the Sperrin Area of Outstanding Natural Beauty as per draft Northern Area Plan 2016 and is upstream of the River Roe Area of Special Scientific Interest (ASSI) and Special Area of Conservation (SAC) and the Banagher Glen ASSI/SAC.

3 RELEVANT HISTORY

No planning history

4 THE APPLICATION

- 4.1 The application seeks to upgrade the existing water intake which was constructed in 1966 and to replace the existing bridge.

5 PUBLICITY & CONSULTATIONS

External:

- 5.1 Neighbours: No objections

Internal:

- 5.2 NIEA Water Management Unit – No objections

NIEA Natural Heritage – No objections

Loughs Agency – No objections

DCAL Inland Fisheries Group – No objections

6 MATERIAL CONSIDERATIONS

- 6.1 Article 45 of the Planning Act (Northern Ireland) 2011 states that, “where an application is made for planning permission, the council or, as the case may be, the Department, in dealing with the application, must have regard to the local development plan, so far as material to the application, and to any other material considerations.”

- 6.2 The development plan is:

- Limavady Area Plan 1984 - 1999
- Draft Northern Area Plan 2016

- 6.3 The Regional Development Strategy (RDS) is a material consideration.

- 6.4 Due weight should be given to the relevant policies in the development plan.

- 6.5 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7 RELEVANT POLICIES & GUIDANCE

PPS 1 General Principles

PPS 2 Natural Heritage

PPS21 – Sustainable Development in the Countryside

A Planning Strategy for Rural Northern Ireland

8 Environmental Impact Assessment

- 8.1 As the proposed development falls within Category 10 (1) of Schedule 2 of the Planning EIA Regulations (NI) 2015, the Planning Authority were required to make a determination as to whether the planning application should be accompanied by an Environmental Statement.
- 8.2 Following consultation with NIEA the Authority determined that the application must be accompanied by an Environmental Statement to fully assess the impact on the Banagher Glen Special Area of Conservation (SAC) and Area of Special Scientific Interest and the River Roe SAC/ASSI.

9 Consideration and Assessment

- 9.1 PPS 1 – General Principles is a general policy that the Planning Authority observes in carrying out its planning functions, including exercising control of development. PPS 1 operates a general presumption in favour of development unless there is demonstrable harm to interests of acknowledged importance.
- 9.2 PPS 2 provides a policy context for development within environmentally sensitive areas. Policy NH3 covers sites of Nature Conservation Importance – National, while NH6 applies to Areas of Outstanding Natural Beauty. The policies state that planning permission will only be granted for a development that is not likely to have an adverse effect on the integrity of the site and where development is of an appropriate design size and scale.
- 9.3 Policy CTY1 of PPS21 states that proposals for utilities development will continue to be considered in accordance with the existing published planning policies.
- 9.4 Policy PSU 8 – of the Planning Strategy for Rural Northern Ireland states, the need for new infrastructure including extensions to existing facilities will be balanced against the objective to conserve the environment and protect amenity.
- 9.5 When considered in the context of the policies outlined above the general principle of the development is acceptable in that the proposal is for the refurbishment and replacement of existing infrastructure.

- 9.6 The water intake slows the flow of water along the weir wall where it is then redirected into the intake tank. To ensure the water is clean and free of debris the water passes through a mesh screen. Recent flooding events have resulted in the existing walls and screen being breached causing a build-up of debris within the intake tank. The application seeks to increase the height of the wall by 1.2 metres along two sides of the intake tank. This brings the walls to the same level as the remaining two sides. The mesh screen is also modified in line with the new walls. In addition it is proposed to replace the existing fencing from palisade to paladin and replace the walkway and install handrails as part of a general refurbishment of the site.
- 9.7 The proposal includes the replacement of the existing road bridge which serves the access lane to the site. The proposed bridge consists of a single span arch with 1.3 metre high parapet walls to either side. The bridge will then be clad with local stone and topped with coping stones. The bridge is similar in design and appearance to other bridges in the area and the choice of materials reflect the character of the AONB.
- 9.8 In general the works to the intake structure are relatively minor and the works to the bridge are in replacement of the existing structure. However all of the proposed works are adjacent to or span the Glenedra Water which is hydrologically connected to the River Roe and tributaries ASSI/SAC and Banagher ASSI/SAC which are of international and national importance and protected therefore an Environmental Statement was requested to fully assess the impact of the development.
- 9.9 In considering the impact of the proposed works on the ASSI and SAC which are located downstream from the site, the Planning Authority have consulted with NIEA, Loughs Agency and DCAL Inland Fisheries Group. Having considered the Environmental Statement and construction methodology the consultees are now satisfied that the proposed works are acceptable and have no objection.

10 CONCLUSION

- 10.1 The proposal is acceptable under current policy in that the size, scale and design of the proposed works are appropriate and would not detract from the special character and appearance of the AONB and would not have an adverse effect on the integrity of the ASSI and SAC. As such, approval is recommended subject to conditions controlling the construction method.

11 CONDITIONS/ INFORMATIVES

- 11.1 All works shall be carried out in accordance with submitted Construction Environmental Management Plan detailed within the Environmental Statement (Planning Portal 12/05/15)

Reason: To ensure effective avoidance and mitigation measures have been planned for the protection of the water environment.

- 11.2 A detailed Construction Method Statement (CMS) must be submitted by the appointed contractor(s) to the Planning Authority, for consultation and agreement with NIEA Water Management Unit, at least eight weeks prior to the commencement of construction. The CMS should include pollution prevention measures to protect groundwater and other waterways for the construction and operational phases of the application.
Reason: To ensure effective avoidance and mitigation measures have been planned for the protection of the water environment.
- 11.3 Works shall be carried out during daylight hours, starting no earlier than 1 hour after dawn and finishing no later than one hour before dusk.
Reason: to minimise disturbance to bats.
- 11.4 The applicant should also be aware that it is an offence under section 41 of the Foyle Fisheries Act (1952) to cause pollution which is detrimental to fisheries interests.
- 11.5 The applicant is reminded that a Section 46 Consent is required from the Loughs Agency for any works that necessitate the removal and/or disturbance of river substrate.
- 11.6 The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the badger (*Meles meles*). It is also an offence to intentionally or recklessly: damage or destroy, or obstruct access to, any structure or place which badgers use for shelter or protection; damage or destroy anything which conceals or protects any such structure; disturb a badger while it is occupying a structure or place which it uses for shelter or protection.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

If there is evidence of badger on the site, all works must cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 905 69605

When a licence is required:

Any works within 25 metres of a badger sett will require a wildlife licence to be obtained from NIEA. Licence applications should be made to the Wildlife Inspector, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 905 69605

- 11.7 The applicant's attention is drawn to The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), under which it is an offence:

- a) Deliberately to capture, injure or kill a wild animal of a European protected species, which includes the otter (*Lutra lutra*) and all species of bat;
- b) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
- c) Deliberately to disturb such an animal in such a way as to be likely to;
 - (i) affect the local distribution or abundance of the species to which it belongs;
 - (ii) Impair its ability to survive, breed or reproduce, or rear or care for its young; or
 - (iii) Impair its ability to hibernate or migrate;
- d) Deliberately to obstruct access to a breeding site or resting place of such an animal; or
- e) To damage or destroy a breeding site or resting place of such an animal.

If there is evidence of bat and/or otter activity on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT72JA. Tel. 028 905 69605

- 11.8 The applicant should refer and adhere to the precepts contained in DOE Standing advice Note 4. Pollution Prevention Guidance, 5. Sustainable Drainage Systems, 11. Discharges to the Water Environment Standing advice notes are available at:
http://www.planningni.gov.uk/index/advice/northern_ireland_environment_agency_guidance/standing_advice.htm

Water Management Unit recommends adhering to the guidance detailed in the DOE Standing Advice Note No.4 – Pollution Prevention Guidance (April 2015) and DOE Standing Advice Note No.11 – Discharges to the Water Environment (April 2015), available at:
http://www.planningni.gov.uk/index/advice/northern_ireland_environment_agency_guidance/standing_advice.htm

The applicant should adhere to the advice detailed in the DOE guidance document 'Surface Waters Alterations Handbook' which can be accessed via the following link:
http://www.doeni.gov.uk/surface_water_alteration_handbook_-_online_version.pdf

Water Management Unit use the following SNIFFER manual when considering the impact of man-made in-river structures that have the potential to impede the migration of fish populations, which the applicant may find useful:
http://www.sniffer.org.uk/files/7113/4183/8010/WFD111_Phase_2a_Fish_obstacles_manual.pdf

Effective mitigation measures must be in place to protect the water environment and surrounding water bodies from any discharge into them that may damage ecological status and to ensure that the Water Framework Directive (WFD) objectives for the water body are not compromised nor the WFD objectives in other downstream water bodies in the same and other catchments.

The applicant should be informed that it is an offence under the Water (Northern Ireland) Order 1999 to discharge or deposit, whether knowingly or otherwise, any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata. Conviction of such an offence may incur a fine of up to £20,000 and / or three months imprisonment.

The applicant should ensure that measures are in place to prevent pollution of surface or groundwater as a result of the activities on site, both during construction and thereafter.