



To: Justin Fannon, Acting Director of Service
Re: Alterations to Approved Leitrim Village Flood Defence Scheme – Register Ref. 24-C-004
Date: 31st May 2024

Justin,

I refer to drawings which have been forwarded from the Capital Projects Office to the Planning Department in relation to alterations to the approved Leitrim Village Flood Defence Scheme arising from detailed design with a view to preparing tender documents to appoint a contractor.

Leitrim County Council, in conjunction with the Office of Public Works, obtained Part 8 approval earlier this month to construct temporary flood defences in the form of a berm and the construction of a new box culvert within an existing stream together with the provision of a non-return valve to protect properties along the R-284 - Keadue Road and the Cluain Óir housing estate.

The principal differences between the scheme which was subject to the Part 8 Public Consultation exercise and the detailed design of the scheme are as follows:

- The location of the proposed box culvert and non return valve is repositioned by approximately 31 metres to behind the rear boundary of dwelling no. 4 Glenville in order to avoid the possible undermining of the side boundary wall. It is outlined that in further consideration of the site investigations in the bed of the stream, and due to the close proximity of the adjacent boundary wall to No. 4 Glenville and possible concerns over the ground conditions on which it has been built, that there are health and safety issues in physically constructing the approved culvert arrangement. It is now considered necessary to mitigate any risk in terms of unstable boundary walls, etc. at the construction phase of this scheme for the appointed contractor.
- The proposed berm along the Keadue Road frontage is being extended along the western side of the watercourse for a distance of approximately 31 metres.
- A berm is also now proposed to the rear of the properties in Glenville (4 no. properties) and to the rear of 2 adjoining dwellings beyond. The proposed berm would appear to be approximately 85 metres in length necessitating the ramping of an existing agricultural access either side of same. It is stated that the need for this additional berm arises following a detailed topographical survey of the site. The survey shows that there is low ground (below the proposed embankment level of 43.0m) between houses in the Glenville estate. These properties as previously outlined in the Part 8 application have thresholds that are above the level of 43.0m and are not at flood risk (to the 2009 level). It has now been identified that there are flow paths for flood water between these properties mainly along fence lines/property boundaries. The detailed level survey shows flood water spilling out in these locations and would render the approved flood

relief embankment useless, and as a result flood the Keadue road, Cluainn Oir housing estate and indeed all the properties opposite the Glenville properties.

It is clear that the extent of the proposed development has altered from that which was approved by the Elected Members at the May Carrick-on-Shannon Municipal District meeting. The proposed development now extends beyond the site boundary as delineated in red on the Part 8 application drawings. The question which must be considered is whether or not the Planning Authority is satisfied that there has been no material change to the design arising which was approved by the Elected Members of the Carrick on Shannon Municipal District following the undertaking of the Part 8 Public Consultation exercise.

Unfortunately, there is no guidance provided in planning legislation on this subject, namely the latitude to a Local Authority to deviate from a Part 8 approval. The Local Authority is exempt from having to obtain planning permission from itself within its administrative area (Section 4 (1)(aa) of the Planning & Development Act 2000, as amended. For certain categories of specified development or where the estimated value of a project exceeds €126,000, the Local Authority must undertake a Part 8 Public Consultation exercise (Section 179 of the Development Act 2000, as amended. This development was subject to a Part 8 public consultation exercise arising from the cost of constructing the proposed culvert. It was not considered that the construction of berms, in and of themselves, was considered to require the undertaking of a Part 8 public consultation exercise.

I would not consider that the repositioning of the culvert is material in that there is no distinguishable or obvious issue which would be assessed differently by the Planning Authority between the position of the culvert as previously approved and now proposed. The function of the culvert remains unchanged. It is regrettable that the issue of construction of the culvert was not considered more carefully by the designers at Part 8 stage. I do not consider the introduction of the additional berm along the western side of the watercourse and within the field included in the Part 8 application site boundary to be represent a material deviation from the approved Part 8. I similarly do not consider that any issues arise for the Local Authority with regard to the determinations reached with regard to Environmental Impact Assessment and Appropriate Assessment arising from the alterations to the development within the red line boundary of the approved Part 8. I am satisfied that the Local Authority can continue to rely on both determinations reached which informed the Part 8 public consultation exercise within the red line boundary of the application site.

However, the introduction of the berm to the rear of Glenville and adjoining dwellings must be considered as a new project and separate from the approved Part 8. It is outside of the red line boundary and understood to be in a separate landownership. There is an obvious need for the Planning Authority to reach consent with the landowner in whose property the new proposed berm is located and to also notify the property owners / occupiers in the 6 no. dwellings which will benefit from the protection which will be afforded from the new berm. I would consider that a separate determination is required from the Local Authority with regard to the issue of Appropriate Assessment and Environmental Impact Assessment. The authors of both screening reports should prepare addendums to their assessments to assist the Local Authority in this regard.

Conclusion

I would not consider that the proposed repositioning of the culvert with non return valve or the creation of a new berm along the western side of the watercourse within the Part 8 application site boundary to be alterations which would, of themselves, constitute a material alteration to the approved scheme such

as would warrant a separate Part 8 consultation process to be required. No further consideration of Appropriate Assessment or Environmental Impact Assessment is considered necessary in this regard.

I am satisfied that the development of a new berm to the rear of the properties at Glenville and adjoining 2 no. residential properties of itself does not require the undertaking of a separate Part 8 public consultation exercise on the basis of the value of such works being a fraction of the stated threshold contained in the Planning and Development Regulations 2001, as amended. I would however consider it advisable and necessary for the Local Authority to make separate determinations that this new berm can be screened for the need to undertake Appropriate Assessment and Environmental Impact Assessment. The latter must also consider the cumulative effect in conjunction with the approved development. A cross section of the proposed berm should also be submitted to the Planning Authority.

As there is no guidance contained in the legislation which I can rely on in reaching these conclusions, there is an inherent risk should this opinion be challenged. Should the Local Authority be concerned of such a risk, it remains available to undertake a new Part 8 public consultation process for the overall development. The value of such an additional process is questionable. This must be balanced with the risk of a significant flooding event occurring this winter as a result of the works not being completed.

A handwritten signature in black ink, reading "Bernard Greene", written over a horizontal line.

Bernard Greene
Senior Planner