

EIR Request (received 14 November 2023) - Reference: DFI/2023-0425

Thank you for your response to our letter of October 17th 2023.

We note your ongoing contentment in refusing to treat our correspondence as FOI or EIR requests.

We would like to register our discontentment and serious concern at this position.

We would also like to offer you a sixth opportunity to clarify your confusion in this case.

May we first draw your attention to the Planning Accounts Committee Report references to DfI and DfI Rivers, some of those corrupt conducts that are now enshrined in Hansard following evidence submitted by The Gathering to the Public Accounts Committee (link at end of email) on March 2022.

These are:

- *Deliberately withholding information;*
- *An unwillingness to clarify or explain an action or misstatement;*
- *A willingness to rationalise an obvious mistake, rather than acknowledge and put things right; or*
- *The use of false and misleading evidence. (NI Assembly, 2022: 3).*

Please find attached a photograph from 31st October, showing the badly flooded Greenbank Industrial Estate in the area where your destruction of more than 20 oak trees on the western bank, marked A (top left of photo, see section of green clearing above the letter A) took place on 26/10/22 as part of DfI's Flood Alleviation Scheme.



On the eastern bank (marked B) you can see part of the approx half mile stretch of trees remaining on that bank.

For reasons known only to yourselves, you have persistently referred to left and right banks of the Knox Peebles Stream.

May we respectfully remind you, once again, that in the AIA reference is made only to eastern and western banks.

(For your information, the Knox Peebles Stream is just visible between the letters A and B in the photo.)

As the approx compass markers added to the photo show, the camera is pointing south towards Warrenpoint.

It follows therefore that, regardless of your 'left bank - right bank' distraction, bank A, is the western bank. (Photo shows that it is adjacent to Greenbank Industrial Estate),

It also follows that bank B, is the eastern bank. (Photo shows that it is adjacent to the A2 carriageway, visible top left)

However, we accept the fact that you may have genuinely confused yourselves into believing (and persistently stating,) that the eastern bank, *"as referenced in the AIA) is adjacent to the Greenbank Estate carriageway"*.

May we therefore request the following information (under FOI or EIR as appropriate)

One. If it remains your belief that bank A (ie the actual western bank) is the eastern bank, can you please state to which bank the author of the AIA is referring when he writes of "the western bank" in the section of his AIA attached ("BS AIA eastern and western banks.jpeg").

"It has a wooded eastern bank and still retains a few scattered trees on its western bank."

Two. All copies of the correspondence between yourself and the AIA authors (Amey) in which you agreed/confirmed your mutual understanding of the terms "eastern" and "western", ie that in the AIA report, eastern means western and that *"The trees removed ...were in the locus where the Department intended they should be undertaken."*

Response (issued 12 December 2023)

Thank you for your email of 14 November 2023 requesting information in relation to the Newry Flood Alleviation Scheme.

In considering your request on behalf of the Department, I have determined that the information requested falls under the aegis of the Environmental Information Regulations 2004 (EIR), as opposed to Freedom of Information Act 2000. Your request is for information that relates to activities, policies or plans that affect the environment. Section 39 of the Freedom of Information Act specifically excludes from consideration under that Act requests for what is deemed to be environmental information.

A guide explaining the Environmental Information Regulations can be found at:

<https://ico.org.uk/for-organisations/foi-eir-and-access-to-information/guide-to-the-environmental-information-regulations/>.

The Environmental Information Regulations established general public rights of access to environmental information held by public authorities, similar to the general rights established under FOI. There is no provision for privileged access to information, it may either be released to the World at large, or it must be withheld. Any information provided in response to an information request (either FOI or EIR) is considered to have been placed in the public domain.

I have responded to the specific issues you have raised as follows:-

1. *If it remains your belief that bank A (i.e. the actual western bank) is the eastern bank, can you please state to which bank the author of the AIA is referring when he writes of "the western bank" in the section of his AIA attached ("BS AIA eastern and western banks.jpeg"). "It has a wooded eastern bank and still retains a few scattered trees on its western bank."*

Previous correspondence from the Department to The RARE Team advised that "In completing a river survey, it is the standard practice to define the left and right banks looking downstream. This approach was followed for the AIA. The right bank (or eastern as referenced in the AIA) is adjacent to the Greenbank Estate carriageway.

For the avoidance of doubt in this correspondence and the Department's understanding of the works which were necessary, the right (eastern) bank is adjacent to the Greenbank Estate. The trees removed and flood defences constructed were in the locus where the Department intended, they should be undertaken."

2. *All copies of the correspondence between yourself and the AIA authors (Amey) in which you agreed/confirmed your mutual understanding of the terms "eastern" and "western", ie that in the AIA report, eastern means western and that "The trees removed ...were in the locus where the Department intended they should be undertaken."*

The Department does not hold the correspondence requested.

Copyright notice

The supply of information under the Freedom of Information Act or the Environmental Information Regulations does not give the recipient or organisation that receives it the automatic right to reuse it in any way that would infringe copyright. Information supplied continues to be protected by copyright. You are free to use it for your own purposes, including for private study and non-commercial research, and for any other purpose authorised by an exception in current copyright law. Documents (except photographs) can also be used in the UK without requiring permission for the purposes of news reporting. Any other re-use, for example commercial publication, would require the permission of the copyright holder.

Most documents provided by a government department or agency will be protected by Crown Copyright. Most Crown Copyright information can be re-used under the [Open Government Licence](#). For information about the OGL and about re-using Crown Copyright information, please see [The National Archives website](#).

Copyright in other documents may rest with a third party. For information about obtaining permission from a third party please see the [Intellectual Property Office's website](#).