

DÁIL ÉIREANN

AN COISTE UM ACHAINÍOCHA ÓN BPOBAL

COMMITTEE ON PUBLIC PETITIONS

Dé Céadaoin, 8 Bealtaine 2019

Wednesday, 8 May 2019

The Joint Committee met at 2.30 p.m.

Comhaltaí a bhí i láthair / Members present:

Pat Buckley,	Jerry Buttimer,
Shane Cassells,	Lynn Ruane.
Eugene Murphy,	
Brendan Ryan.	

I láthair / In attendance: Deputy Kevin O’Keeffe.

Teachta / Deputy Pat Buckley sa Chathaoir / in the Chair.

Business of Joint Committee

Clerk to the Committee: The Chairman, Deputy Sherlock, has given notice that he will be unavoidably absent from this committee meeting. In that case, according to Standing Orders, the joint committee must proceed at once to elect one of its members as Acting Chairman. I invite nominations for the position.

Senator Jerry Buttimer: I propose that Deputy Buckley act as Chairman. I congratulate the Chairman and his good wife on the birth of their new baby, a boy. It is joyous news.

Deputy Shane Cassells: I second that proposal and also congratulate the Chairman.

Clerk to the Committee: As there are no other nominations, I ask Deputy Buckley to take the Chair.

Deputy Pat Buckley took the Chair.

Acting Chairman (Deputy Pat Buckley): First, there is some housekeeping to be done. I advise members to turn off their mobile phones as they interfere with the sound system and interfere with the broadcasting of the proceedings of the meeting, even when left in silent mode.

In accordance with standard procedures agreed to by the Committee on Procedure and Privileges for paperless committees, all documentation for the meeting has been circulated to members on the document database.

I propose that we go into private session to deal with some matters before resuming in public session. Is that agreed? Agreed.

The joint committee went into private session at 2.35 p.m. and resumed in public session at 2.50 p.m.

Fermoy Weir: Discussion

Acting Chairman (Deputy Pat Buckley): I remind members, delegates and those in the Visitors Gallery to turn off their mobile phones as they interfere with the sound and broadcasting systems, even when left in silent mode.

I welcome Mr. Paul Kavanagh and Mr. Tommy Lawton and thank them for appearing before the joint committee. They have been invited to discuss Petition No. P00036/18, Save Fermoy Weir.

By virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the committee. However, if they are directed by it to cease giving evidence on a particular matter and continue to do so, they are entitled thereafter only to qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable. I also advise the witnesses that their opening statement and any other documents they have submitted to the committee may be published on its website after this meeting. Mem-

bers are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the Houses or an official either by name or in such a way as to make him or her identifiable.

The witnesses' presentation has already been circulated to members. I remind them that their presentation should not exceed ten minutes in duration. I invite Mr. Kavanagh to make his opening statement.

Mr. Paul Kavanagh: I will start by thanking Deputy Sherlock for helping us make this petition. We wish his newborn son and wife the very best.

Senator Jerry Buttimer: Hear, hear.

Mr. Paul Kavanagh: I thank the Acting Chairman for receiving us. I will ask Mr. Lawton, our chairperson, to make our statement.

Mr. Tommy Lawton: There has been a weir on the River Blackwater in Fermoy for the past 800 years since the Cistercian monks built their abbey of Sancta Maria de Castro Dei, or Our Lady of the Camp of God, somewhere on what is now Ashe Quay. Before a bridge ever crossed the river, the monks ran a ferry. Thomas Cromwell mentioned the weir in 1540 in his inventory for Henry VIII prior to the dissolution of the monasteries. Centuries after the abbey was lost to history, the Scottish businessman John Anderson bought the old abbey lands in 1791, founded the modern town and built the weir that exists today.

The Minister for Transport, Tourism and Sport, Deputy Ross, has stated that the expressed ambition of his Department is "to increase participation and interest in sport, to improve standards of performance and to develop sports facilities at national, regional and local level, thereby contributing to healthier lifestyles and an improved overall quality of life, through a Departmental policy and resource framework in partnership with its Agencies, other Government Departments and the National Governing Bodies of Sport." The reality, however, is that several events planned for 2019 have been cancelled and the very existence of several clubs is seriously threatened. The Fermoy regatta will likely be cancelled for the first time in 80 years. Two international triathlons face cancellation and Ireland's only Mark III wheelchair accessible boat cannot safely launch or dock, preventing people of varied levels of ability from appreciating our magnificent River Blackwater and its environs. This is a clear breach of the UN Convention on the Rights of Persons with Disabilities.

Two issues arise at Fermoy weir, which is a listed protected structure and the property and responsibility of Cork County Council. The first issue is the breach and collapse of the mill race weir wall in the past two years. We believe that it resulted from and was directly caused by the flood works carried out by Lagan Construction - agent and servant of the Office of Public Works, OPW - and the OPW. This work included an in-river road that was built abutting the weir and intensive pile-driving into the riverbed. The second issue is the damaged fish passes. No maintenance has been carried out on the weir or its fish passes since the 1960s. Due to this neglect, the passes have deteriorated and fallen into such significant disrepair that they do not work adequately for fish migration.

Two years ago, a tree became lodged on this section of weir. When it finally came loose, it took some of the weir cappings away with it. Thousands of trees have come down the river in the past 200 years, but this particular tree is being blamed solely for the recent unprecedented damage. During the flood works, the mill race weir wall was badly compromised as a result of

intensive pile-driving and the building of an in-river road abutting the weir. The purpose of the in-river road was to facilitate the building of the new flood walls along O'Neill Crowley Quay. Thousands of tonnes of stone and rock were dumped into the river to create the road. Combined with the pile-driving, this would have had a major effect on the foundations and structure of the weir. On 22 or 23 of January 2019, 30 m of the mill race weir wall collapsed. That collapse occurred at the precise point where the in-river road was built and the pile-driving was carried out. We predicted this collapse when the fallen tree carried away some of the wall cappings. Last summer, our clubs offered to effect a temporary repair on the breach. We were told by Cork County Council, acting on the advice of Inland Fisheries Ireland, IFI, that if we did so, we would face arrest and court proceedings.

The problem of Fermoy weir's damaged fish passes was highlighted in October 2003. Since that year's summer was dry, the first rise in water levels only came in October, and when thousands of migrating salmon arrived at the weir, they could not migrate through the damaged fish passes. In a futile effort to aid salmon passage, officials from the then Southern Regional Fisheries Board breached the north-western corner of the weir. Local anglers and board officials netted salmon with landing nets and ferried some of these upriver. The Central Fisheries Board and South West Regional Fisheries Board were lobbied to fix the fish passes. An outlay of approximately €60,000 would have repaired them at the time.

In 2004, an anonymous complaint was made to the EU that fish migration was hampered at Fermoy weir because of the damaged fish passes. In 2008, what is now IFI proposed the building of a rock ramp pass structure to replace the weir, but the weir is a protected structure and locals protested that its removal could not be allowed. River users noted that the lower rock ramp pass structure would cause upstream water levels to drop to a point that would threaten the existence of some of our clubs. A fish bypass channel was then proposed, but we have never been given sight of any plan in that regard. A major concern with any proposed new structure would be to ensure that historic water levels upriver were maintained. During the flood works, Lagan Construction, under the instruction of IFI, drove piles into the side of the fish pass as a temporary repair measure to allow fish to get up the fish pass.

The Central Fisheries Board and IFI have failed to come up with a viable repair plan for the Fermoy weir over the past 20 years because the only real plan they had was to install a rock ramp pass. This would have necessitated the removal of a protected structure, which the people of Fermoy opposed outright.

Mr. Paul Kavanagh: Bearing in mind the Acting Chairman's comments, I will provide some quotes from various IFI and departmental officials. The most recent reads, "The best thing that could happen is that the Weir be swept away ... We want to take away every weir in the country ... The bulldozers are ready to move in". A quote from last week reads, "We were never asked, nor did we ever stop a repair". IFI is creating a smoke-screen for the Minister. Fish stocks have been depleted by overfishing at sea against scientific advice. This is further supported by a recent article in *The Independent* in the UK, which stated that wild salmon figures were way down in Scotland, blaming fish farming, drift netting and overfishing at sea as the main causes for river depletion. On 30 April, *The Irish Times* reported IFI's CEO, Dr. Ciaran Byrne, as saying that the same factors were affecting populations in Ireland – mortality at sea, climate change including rising water temperatures, and sea lice arising from fish farming. Dr. Byrne acknowledges that marine mortalities have reached 96%. For every 100 salmon smolts leaving Irish rivers, up to 30 used to return to spawn. In recent years that figure was "just three or four" and "this is at crisis point". Official figures in Ireland for the River

Blackwater put draft net fishing on average at 1,500 per annum, whereas unofficial figures are estimated at being significantly higher than this. The claim that the weir should be removed because it has prevented salmon from migrating upriver can be totally discredited by the fact that the “official surplus for the Blackwater in 2018-19 is in excess of 7,200 fish, which is back up at 2008 levels”.

We understand the proposal of a new fish bypass channel is being discussed and planned by the IFI and Cork County Council. We, the stakeholders, have yet to see plans of this channel despite several requests and as a result, we have no idea of what is planned or what its effects will be on future water levels upriver. We feel this new channel is unnecessary and is a waste of taxpayers’ money. After all of the above evidence, why is a weir that has functioned efficiently for over 200 years, all of a sudden, causing concern? We say “Just repair it”.

What is required as of now is that a repair of the weir needs to be carried out immediately without any further delay. Stone cages or a water-filled boom, which is a water-balloon sausage, should be installed upriver from the bridge to restrict water flow through to the breach. This could cost in the region of €40,000 and will allow our clubs operate with some bit of normality next month. It will also allow free passage of salmon, shad, eel and lamprey. The disappearance of, and damage done to, the weir at O’Neill Crowley Quay was, we believe, caused by Lagan Construction on behalf of the OPW. Both of these bodies need to be compelled to repair and rebuild the weir. Surely, they would have had an insurance bond for damage caused to the 200-year old protected weir after their works. We suggest this be investigated immediately.

IFI is responsible for the free unhampered passage of migrating fish and it is their responsibility to ensure Cork County Council address the fish pass problems. The damage to the Mill Race Weir wall and the damage to the fish passes, while two separate issues, need to be resolved simultaneously as part of a holistic repair of a 200 year old listed protected structure. Nobody is confirming anything to us - it is all hearsay and rumour. We are not politicians or civil servants but volunteers who are worn down from all the runaround we are getting from the various authorities. The committee must petition Cork County Council and IFI to come before it.

Acting Chairman (Deputy Pat Buckley): Do members agree that we should publish the submission on our website?

Senator Jerry Buttimer: Notwithstanding the excellent presentation, I am a small bit concerned that quotes are attributed to people when we do not know who they are from.

Mr. Paul Kavanagh: I was deliberately asked not to say who they were from.

Senator Jerry Buttimer: Okay.

Mr. Paul Kavanagh: I can put names beside them if the members want.

Senator Jerry Buttimer: I just want to protect Mr. Kavanagh.

Mr. Paul Kavanagh: Two of the quotes were in the Irish Examiner.

Acting Chairman (Deputy Pat Buckley): Is it agreed that it be published? Agreed.

Senator Jerry Buttimer: This is a very important petition and I hope we will keep it open. This is a serious issue which has bedevilled the community. Has Cork County Council been in contact with the relevant Minister of State, Deputy English, about the proposal? How is it progressing? Is there a cost at design stage? We need to see that happen. I have spoken to the

Minister and I know that the Minister of State at the Department of Public Expenditure and Reform, Deputy Moran, has been there, as has the Minister of State at the Department of Culture, Heritage and the Gaeltacht, Deputy Kyne. Pa O'Driscoll has informed me that both Ministers of State have been in contact with many members. A tender process must be engaged in for the awarding of the design stage and I hope we take it seriously, especially since it seems from the presentation that the regatta will not take place, which is a damning indictment of the situation. The fish supply and the fish pass are also serious matters. Are our guests in favour of temporary works being done? I would be distressed and disappointed if IFI wanted to close every weir in the country, which is what the quotes attributed to that organisation suggest. We do not agree that the weir should be swept away. I hope that the funding can be provided through Cork County Council and we are here today because we are tired of obfuscation. We want answers and we will support the witnesses who are here this afternoon.

Mr. Paul Kavanagh: A simple boom, which is a large sausage half-filled with water, across the two sides of the bridge would solve the immediate problem. It could be installed professionally for €50,000 and could be used by Cork County Council's appointed contractors for the next number of years while they are carrying out repairs. It was, however, ruled out of order when we proposed it last year and we were not afforded any meeting with the engineers of Cork County Council until as late as last Wednesday evening, when we were offered one. I would suggest that was on foot of this petition. We were told to be in Cork at 2.30 p.m. if we wanted a hearing but we could not attend because a number of people were out of the country and I was in Dublin. After two years, the offer was too late. The boom is the immediate answer for the people of Fermoy. It will save the regatta and the fish will be able to migrate under it perfectly.

We are in favour of repairing the weir. I have all the reports from O'Connor and Sons, who are the experts Cork County Council appointed in 2002, 2007, 2009, 2015, 2017 and 2018. The last repair job was going to cost €715,000 but, 12 months later, the figure is €1.5 million. The architect and design stages have gone out to tender but only one response came back, which was from O'Connor and was rejected because there was only one. Maybe the price was too high, or even too low, but we were not told. It has gone out for re-tendering and that is due back in two weeks' time, when we will have a better picture of the figures. According to our councillors, the CEO of Cork County Council, Mr. Lucey, has said that when we have the figures, the council will pay half the amount.

Deputy Kevin O'Keeffe: What is that for?

Mr. Paul Kavanagh: It is just for the design. We are not talking about repair or any other type of work. We met the Minister for Finance, Deputy Donohoe, with Pa O'Driscoll in Fermoy a few weeks ago and he said he would look seriously at it with the relevant Minister of State, Deputy English, and the other Ministers to see if they could come up with the other half. This is only for the design, however. The river will be gone, the weir will be gone, our livelihoods will be gone and the clubs will be gone. I spoke to a man who came from Fermoy 30 or 40 years ago and he said he could not believe it had been allowed to get to this point. It is very unfair that we, who are doing all this as volunteers, are being given the runaround.

Senator Jerry Buttimer: What has the response been from Cork County Council?

Mr. Paul Kavanagh: We are getting the runaround from Cork County Council and IFI. We met representatives of IFI with the Minister of State, Deputy Seán Kyne, in Fermoy last November and the repair was not even on the agenda. IFI wants the repair job done and a brand new fish pass constructed inside what it calls the triangle field. I am wondering why Cork

County Council was asked to pay for a new fish pass when that is surely the job of IFI. The council should only be paying for the repair and refurbishment of the existing weir, and I am sure it would be happy to do so.

Mr. Tommy Lawton: At the design stage, the council is stating that it has half the money and that the Government might come up with the rest. We are hearing from councillors locally, however, that there is no money for the full development.

Mr. Paul Kavanagh: We are saying strongly that the committee must bring Cork County Council in here.

Mr. Tommy Lawton: We are talking about €3.5 million for the full development, including the fish pass and weir repair. The councillors are telling us there is no money to fund that.

Senator Jerry Buttimer: I am afraid I have to leave shortly to take the Order of Business in the Seanad, but I have a final question. I am not sure whether our guests saw the letter from Mr. Fogarty to the committee in which he states that the estimates are provisional and that the council cannot commit to the expenditure in the absence of a commitment in respect of the €3.04 million. My understanding is that the Ministers of State, Deputies Kyne, Canney and English, are committed to the project and to resolving the issues. Do our guests agree?

Mr. Tommy Lawton: Yes, but they are not committed to the funding.

Senator Jerry Buttimer: The funding will have to come from both central government and local government. In the light of Mr. Lawton's comments, we need further information from the council. I thank our guests for their work on this issue. It is important that the committee keep the petition open.

Deputy Eugene Murphy: I am not from our guests' part of the country but I am Fianna Fáil spokesperson on the OPW and flood relief. It is obvious our guests are passionate about this issue, which is of great importance to people in their area. According to the authorities, the overall cost of the project is €4.5 million. Do they accept that figure?

Mr. Paul Kavanagh: We question that figure.

Deputy Eugene Murphy: Are our guests stating that there is no need to put in the fish pass?

Mr. Paul Kavanagh: That is correct. If the fish pass is not going in, we are looking at a cost of between €1 million and €1.5 million. We cannot say what it might cost if the fish pass is included because we have not seen the design of it, even though it is our understanding that the council has had the documents in its possession for at least two years.

Deputy Eugene Murphy: Am I right in saying that consultancy fees are some €300,000?

Mr. Paul Kavanagh: That is another contentious issue. The estimate was €400,000. We understand that the first tender - there was, as I stated, only one - came in higher. As we understand it, that figure is now closer to €525,000 plus VAT. If I am calculating correctly, that gives a total of approximately €650,000. We do not know what is happening and how much of the cost relates to the new fish pass and how much to the repair. We are asking Cork County Council that we be allowed to meet the architects and engineers in advance of any decision being made on how to proceed. My understanding is that the council is being forced by IFI to put in a new fish pass which, in our view, is not required.

Deputy Eugene Murphy: Why does Mr. Kavanagh believe the new fish pass is not needed?

Mr. Paul Kavanagh: It is not needed because there will be duplication if we repair and renovate the existing pass. There is no need for what is proposed, which is like constructing a brand new building next door because the existing one might get overcrowded at some stage. It does not make any sense. Record numbers of salmon are going up the river, as we have proved. The whole thing is a smoke-screen. If only three out of 100 salmon are coming back in and all of them can get through, what is the problem? If I said to the Deputy, a west of Ireland man, that all the clubs in Galway have to shut down because we are taking out Galway weir, there would be major upheaval in Galway city.

Deputy Eugene Murphy: The delegates indicated that an IFI or departmental official said to a newspaper that the intention is to take out every weir in the country. What does Mr. Kavanagh think is the reasoning behind that?

Mr. Paul Kavanagh: The view is that all weirs are a hindrance to the passage of migrating fish; that is their theory. There is serious evidence to dispute that, however, including the statement from the CEO of IFI that only three to four out of every hundred salmon come back in. The real problems are in the estuaries and fish farms and with fishing at sea. To be blaming us and making us pay for the mistakes of others is totally wrong. Mr. Lawton and I have been on the river all our lives and know it backwards. We know the river is at its lowest level since the weir was built by John Anderson before 1800. I rest my case.

Deputy Eugene Murphy: I am asking these questions because the delegates are the people who know what is happening. It is people like them throughout the country who tell us about the practicalities of these types of projects. Is Mr. Kavanagh saying that €40,000 or €50,000 could resolve this matter, while the authority is saying it will cost €4.5 million?

Mr. Paul Kavanagh: I am saying that for €40,000 or €50,000, we can get professionals in from the United Kingdom to install a boom across the part of the river that is causing the trouble, which would slow down the water and give us back our water levels for the summer. The same boom will need to be used when the repair work is taking place, but the council will not even consider it. We are being pushed aside as though we are upstarts instead of the people who are on the river all the time.

Deputy Eugene Murphy: Is Mr. Kavanagh saying the boom would be temporary?

Mr. Paul Kavanagh: Absolutely. We are looking to undertake a proper repair and rejuvenation of what is already there. Leinster House is currently under repair, with new windows, lintels and other structures being installed. Nobody would opt instead to knock it down and build a new building.

Deputy Eugene Murphy: What is Mr. Kavanagh's estimation of what the repair should cost?

Mr. Paul Kavanagh: Our estimate of the cost is €1 million.

Mr. Tommy Lawton: The boom is a temporary measure that is required so that our clubs can continue to function, hold the regatta and the various swims and facilitate the wheelyboats. If the clubs go, the river community will die.

Deputy Kevin O'Keeffe: I welcome the delegates from Fermoy. Who owned the weir be-

fore Fermoy Town Council took it over?

Mr. Paul Kavanagh: It was owned by Anthony Carroll and Company, which went by the official name of Carlton House. In 1919, the town of Fermoy, including the weir and park, was sold by Sir Abercromby to Mr. Anthony Carroll. Every ground rent in the town was sold.

Mr. Tommy Lawton: In 1988, Fermoy Urban District Council bought the weir, Fermoy Bridge, the roads and the quays from Carlton House for, I understand, approximately £500.

Deputy Kevin O’Keeffe: Are there other rivers in the country where the local authority owns the weir?

Mr. Tommy Lawton: The State would own it.

Deputy Kevin O’Keeffe: Would the OPW own most of the weirs?

Mr. Tommy Lawton: Inland Fisheries Ireland, IFI, would own them in places like Galway and the Ridge Pool in Mayo. I do not know who the exact owners would be in all cases.

Deputy Kevin O’Keeffe: The issue here is responsibility. I served on Cork County Council and was there at the time of the abolition of the town councils. Cork County Council took over from the local town councils and municipal district councils but I do not think the council realised that when it took over the running of Fermoy Town Council, it assumed responsibility for the weir. For a number of years there was a debate between the Department and the council to try to determine who was responsible for the weir. It was deemed to be a unique responsibility, separate from the provision of water, housing and other services.

I recently met a retired fisheries official who spoke about the ongoing haggling over the Fermoy weir. I told him that we were trying to reach an agreement on it and he said that money was allocated for it over the years but that it was a big problem getting all of the interested parties in Fermoy to agree. It is a pity that the owner of the weir, Cork County Council, is not represented here today. I am an Opposition Deputy but in fairness to the Minister of State, Deputy Kyne, he visited Fermoy at my request and that of other Members of this House. He met Mr. Lawton and Mr. Kavanagh and other groups. He urged people to put a package together and said that the Government would be in a position to make money available. There are mechanisms available through which money can be drawn down, either by way of river basin funding or other initiatives. Money can be drawn down. The issue we have here is that this is being thrown around in Dáil Éireann but until the local authority meets the Department officials, we are going nowhere. Many of those here today know the history of this and know what is required but until Cork County Council sits down with departmental officials, even if they are officials from the Department of An Taoiseach, and finalises a plan, nothing will happen.

Mr. Kavanagh said that he is totally against the extension of the fish pass to the right. Is that correct?

Mr. Paul Kavanagh: I am against building a brand new one because I do not think there is any need but they can build away if they have €2 million to throw at it. I think that is clouding the whole issue. As the Deputy’s colleague said, is the figure €4 million or €4.5 million? What figure are we talking about?

Deputy Kevin O’Keeffe: We do not know until-----

Mr. Paul Kavanagh: The figure for repair costs was €60,000 back in 2008. The figure was

€80,000 in 2010 but the figure is now rising. Last year's repair estimate from O'Connor and Sons was €700,000. The weir is getting worse but IFI does not want to repair it. It wants a brand new, super duper fish pass built but local fishermen disagree. I am not a fisherman. Mr. Lawton is a fisherman. The local fishermen tell me that the fish will not go up this new fish pass. One cannot force salmon up a new fish pass.

Deputy Kevin O'Keeffe: I know that.

Mr. Paul Kavanagh: They have eyes but they cannot see.

Deputy Kevin O'Keeffe: I do not disagree. However, when one raises the possibility of repairing the salmon pass and making it usable again, reference is made to other species of migrating fish.

Mr. Paul Kavanagh: Yes, I acknowledge them. They are called eels. I was asked a question by a scientist in Wales this morning and I told him that the eels were being eaten by otters. We have three otters on the weir. They are also being eaten by birds of prey, cormorants, which should be taken out. They are taken out in the UK. It is the otters and cormorants that are making sure that the eels do not get up river, not the weir. We have plenty of shad and lamprey upriver. We have an abundance of it and we have a surplus of 7,200 salmon upriver this year. This has been confirmed. Everything is rosy in the garden. We just need to repair the weir. Cork County Council needs to come before this committee. If we did not have this petition route, we would have no power. This would be done and dusted and the issue would be dead. We have been fobbed off at every single opportunity. We were delighted when the Minister of State, Deputy Kyne, came to Fermoy but the minute he left the room, we were left with an IFI official, a civil servant speaking to other civil servants, who said that he did not blame them because they had to go home at 5 o'clock every evening. I rest my case.

Mr. Tommy Lawton: Since the Minister of State came down to us everything has deteriorated further. The weir deteriorates every day, as we speak. Stones, rocks and other materials are disappearing off the weir because of the force of the water being funnelled down a narrow channel. In terms of the fish passes, the neglect of the weir and the passes over the past 40 years is the major cause of the problems we now face in terms of fish trying to get up through the fish passes. The passes are in such a state of disrepair that they are not viable for any fish migration anymore.

Acting Chairman (Deputy Pat Buckley): Deputy Brendan Ryan, who has been waiting patiently, is next.

Deputy Brendan Ryan: I welcome the witnesses and congratulate them on their comprehensive presentation to the committee. By my calculation, there are 12 different groups involved here.

Mr. Tommy Lawton: Yes there are around 12 groups but we are talking about countless members.

Deputy Brendan Ryan: Okay. In terms of their dealings with Cork County Council and IFI, do the witnesses believe they are getting the respect they deserve, as stakeholders-----

Mr. Paul Kavanagh: Absolutely not. Cork County Council will only speak through the councillors. Our proposal for a meeting was rejected two weeks ago. The council said that this was a local politics issue and that we should have a meeting with our local representatives.

Deputy Brendan Ryan: Are the councillors not in a position to get the witnesses into a room with officials?

Mr. Paul Kavanagh: No, they were not able to do that. As I said, we were offered a meeting last Wednesday. I was in Dublin but two other members of our group were out of the country and I did not want to attend such a meeting on my own.

Deputy Brendan Ryan: But before that, Mr. Kavanagh talked about a two year period-----

Mr. Paul Kavanagh: It was at least two years but to put it in perspective, I have records here going back to 2002. We had to go to Brussels to prove them wrong the last time and we did prove them wrong. We got the weir officially protected and listed as a historic structure. This is total negligence by Cork County Council and Fermoy Town Council over a number of years. This is pure negligence. If I owned a protected, listed and historic building here in Dublin and behaved in the same way, I would probably be in Mountjoy jail.

Deputy Brendan Ryan: How time-critical is the solution to this problem? What timelines are we talking about with regard to the design and the carrying out of the work?

Mr. Paul Kavanagh: If we get the boom within two weeks, we will save the summer. That will give the engineers and architects time to put their plans together. It will give us time to talk to the various groups. It will give the committee and the relevant Ministers time to talk to the various groups about the best solution. Is it repair and refurbishment or is it repair and refurbishment plus a new weir?

Deputy Brendan Ryan: The boom will save the summer and give everyone space to get a proper solution.

Mr. Paul Kavanagh: Yes. A sum of €50,000 will save the summer-----

Deputy Brendan Ryan: Did Mr. Kavanagh say €15,000?

Mr. Paul Kavanagh: No, €50,000. The estimate we have for the boom is £35,000 sterling but there could be one in another part of the country that could be used for nothing. There is a cloak of silence over all of this and the engineers and officials from Cork County Council are hiding behind the fact that the IFI will not accept a repair on its own. We must break that deadlock. If they want to build a fish pass afterwards and if the Oireachtas wants to pay for it, well and good. I have no problem with that. I will live with a new fish pass; it will be beautiful.

Deputy Brendan Ryan: I have two final linked questions. Are IFI and Cork County Council on the same page? Just before Mr. Lawton comes back to me on that, I will refer to (c) in the summary section of the documentation provided. "Inland Fisheries Ireland are responsible for the free unhampered passage of migrating fish, it is their responsibility to ensure Cork County Council address the Fish Pass problems." Does Inland Fisheries Ireland, IFI, have the authority to direct the county council, based on our guests' information?

Mr. Tommy Lawton: I believe it has the authority. Its responsibility is to the fish and the responsibility should lie with them to push Cork County Council on. We have had meetings with IFI and we got bye-laws in at the bridge the past couple of years. IFI has been helpful in that regard but we do not know what is happening when we are trying to get anything done. That is where it lies. We do now know what the plans are and the estimates are through the roof.

Deputy Brendan Ryan: It is important that this process continues if our guests' objectives

are to be achieved.

Mr. Paul Kavanagh: Absolutely. We need this petition to remain open. The Chairman can tell me I am right or wrong in doing the following. I am reading from the *Irish Examiner* dated 19 April 2019. May I quote from it?

Acting Chairman (Deputy Pat Buckley): Of course Mr. Kavanagh may.

Mr. Paul Kavanagh: Mr. Sean Long, director of south western fisheries basin district of Inland Fisheries Ireland, states: “IFI has not received any requests from Cork County Council to undertake any works, as of this date.”

Mr. Tommy Lawton: I will finish on the point about saving this and that. We are trying to save our dozen clubs which, as I said, have about 2,000 members between them. Their families are also indirectly involved so a considerable number of people will be affected if the clubs go.

Mr. Paul Kavanagh: I have used the following analogy in the past. If the Deputy’s car breaks down tomorrow morning and he cannot get to Dáil Éireann, will he buy a new one? That might be his ultimate goal, eventually, but he could keep going if he gets the old one repaired for now. Inland Fisheries Ireland wants a new car. It wants a new fish pass and nothing else will do. I am sorry but they will have to hold back for a small bit.

Deputy Brendan Ryan: On Mr. Kavanagh’s analogy, the wife might see it as an opportunity to get a new car.

Mr. Paul Kavanagh: That is true.

Deputy Kevin O’Keeffe: Two questions. I agree that the OPW and its contractors must feel responsible for the structural damage to the Mill Race wall. Was other structural damage done within the town during those works?

Mr. Paul Kavanagh: We understand that there was and compensation was paid. We also understand that all those recipients signed non-disclosure agreements. When we asked them they said they cannot talk about it.

Deputy Kevin O’Keeffe: I asked that question to the Minister who said there were no claims.

Mr. Paul Kavanagh: It must be in an account somewhere because someone had to pay.

Deputy Kevin O’Keeffe: Is it possible to incorporate IFI’s fish pass and still maintain or upgrade the existing structure? Can it be done together? Can everybody be kept happy?

Mr. Tommy Lawton: The point I made is that the weir is a protected structure as it is. My thinking is that it will have to go back the same way-----

Deputy Kevin O’Keeffe: Yes.

Mr. Tommy Lawton: -----as it has already been built. The fish passes, groyne passes, pool passes and several other types of fish passes, including eel passes, will still be there on that weir. They will all be newly replaced. There will then be another, new fish pass. It will work against it because water will have to be controlled going down the new fish pass and stopped coming down the old ones.

Mr. Paul Kavanagh: Does the Deputy get the point? One would almost want traffic lights telling salmon to go one way, eels to go another and the lamprey not to go another way because there is not enough water, nor up the new salmon pass.

Deputy Kevin O’Keeffe: It means manual supervision as well, of course.

Mr. Tommy Lawton: If they rebuild the weir, all the old fish passes and the new one will be there. How is the water to be directed to manage all of these places? It cannot be done.

Acting Chairman (Deputy Pat Buckley): It is very frustrating. I want, on my own behalf, to welcome our guests and thank them for their extremely comprehensive report. I know the work they have done on it. We have had many arguments, even at Cork County Council level, that local knowledge means local experts. Our guests are the local experts. I have listened to the questions and debates here today and it sometimes feels as if the left hand does not know what the right hand is doing. The front of somebody’s head is talking to the back of someone else’s.

Many figures have been bandied around, between the €4.5 million and an estimated €200 million. Mental health is my other sphere where preventative and proactive measures are better than panic stations and reactive measures.

I am interested in the water boom our guests are talking about. I am well aware that there must be 12, 13 or 14 sub-aqua clubs. It is not only Fermoy, it is the River Blackwater down as far as the Youghal estuary and there are many different businesses including sports, tourism and fishing. I am well aware of the rowing clubs and so on and so forth.

A number of stakeholders have been mentioned and there is an amount of work that must be done. I am nervous because once something is gone, it is gone. This boom, if it can be put in, will bring the water level back up, will let everything continue as normal on one side of the river, at least temporarily, and will give the opportunity for everything to work the way it should. Cork County Council, Inland Fisheries Ireland, the Department of Housing, Planning and Local Government, the Office of Public Works and the construction companies will all have to be brought in. A solution is required. That is what our guests are giving, albeit a temporary one. Others are coming up with long-term solutions that will cost €4 million or €4.5 million. I will be making a proposal to the committee members-----

Deputy Kevin O’Keeffe: May I ask the Chairman a question?

Acting Chairman (Deputy Pat Buckley): Yes.

Deputy Kevin O’Keeffe: Is the Chairman in a position to invite Cork County Council before the committee?

Acting Chairman (Deputy Pat Buckley): I was coming to that. We will make a decision and I will be putting proposals to the committee shortly, or I can do so now while our guests are here because we are in public session. The petition concerns the Fermoy weir on the River Blackwater in County Cork. Members have contributed and the proposal is to request observations from the relevant stakeholders on the evidence provided at today’s meeting, to invite the relevant stakeholders to a public session of the committee to consider this matter further, including officials from Cork County Council, the Department of Communications, Climate Action and Environment, Inland Fisheries Ireland, the Department of Housing, Planning and Local Government, the Office of Public Works, Lagan Construction Group, the National Parks

and Wildlife Service, which is part of the heritage division of the Department of Culture, Heritage and the Gaeltacht. We also want to forward a copy of the response from Cork County Council to the petitioner and inform the petitioned that the petition will remain open.

I will call for a vote on that, if members will agree.

Deputy Kevin O’Keeffe: The Chairman might also invite the Duke of Devonshire.

Acting Chairman (Deputy Pat Buckley): Is Deputy O’Keeffe making a proposal?

Deputy Kevin O’Keeffe: No.

Acting Chairman (Deputy Pat Buckley): Is that agreed? Agreed.

Mr. Paul Kavanagh: I know the committee has another hat to wear and other work to do. We are the only town in Ireland with a mark 3, wheelchair accessible boat which cannot safely launch or dock at the moment, preventing people with varied levels of ability from appreciating our magnificent river, its habitats and environs. This is a clear breach of the EU Convention on Human Rights for disabled persons. What more pressure can we put on?

Acting Chairman (Deputy Pat Buckley): Absolutely. Is that agreed?

Deputy Brendan Ryan: I have a brief question I would like clarity on. Mr. Kavanagh said the boom would save the summer. What is the timeline on that? How soon would it need to be in place to save the summer?

Mr. Paul Kavanagh: We would need it within the next four weeks. There is a company in the United Kingdom which does that work exclusively and if one wants to have it done, it will have it done within a week. I have no doubt the company is available for hire in Ireland because jobs are finishing up in Skibbereen and Bandon where flood relief works have been taking place. I am sure the equipment is available which could be used without cost. That would at least get us going. I thank the committee.

Acting Chairman (Deputy Pat Buckley): Is that agreed? Agreed.

I am conscious of the time and the needs of other committees. I thank Mr. Kavanagh and Mr. Lawton for attending and making such a thorough presentation. I thank them for their engagement with the committee. They are very welcome to sit in the Visitors Gallery while the committee goes through the final petitions on which it will make a formal decision.

Decisions on Public Petitions Received

Acting Chairman (Deputy Pat Buckley): Petition No. P0007/19 is in the name of Professor Terence Duffy. It is proposed to forward a copy of the response received from the Department of Foreign Affairs and Trade to the petitioner and close the petition. Is that agreed? Agreed.

The second petition is in the name of Mr. Grant Jackson. It is proposed to forward a copy of the response received from the Department of Justice and Equality to the petitioner and close the petition. Is that agreed? Agreed.

I thank everyone for attending.

8 May 2019

The joint committee adjourned at 3.45 p.m. until 1.30 p.m. on Wednesday, 9 June 2019.