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## **SCHEDULE 12**

An Bord Pleanála Explanatory Notes

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## **Note 1: Modifications as set out at Condition Number 3**

Having regard to the totality of the documentation on file, including all plans and particulars submitted by the applicant, it is considered that,

- (a) insufficient information has been provided regarding flood risk as a central environmental issue relevant to consideration of alternatives (both in terms of the precise location of a depot facility and all associated flood management measures, within the overall area west of Maynooth and by reference to alternative depot location options across the overall railway network to which DART West+ would be connected), as a result of which the Board cannot be satisfied that the consideration of alternatives has been adequately described and assessed, insofar as it applies to the location and layout of all works west of Maynooth railway station,
- (b) insufficient affirmation has been provided within the Justification Test submitted with the application, taking account of a robust alternatives assessment, of a supportable case specifically derived from a statutory development plan policy designation within the current Kildare County Development Plan 2023-2029. As a result the Board cannot be satisfied that the requirements of the Justification Test asset out in The Planning System and Flood Risk Management Guidelines for Planning Authorities, 2009, as amended have been adequately met, insofar as they apply to the location and layout of all works as precisely configured, west of Maynooth railway station, notwithstanding Development Plan objective TM-054 (support and facilitate a second Maynooth railway station/depot sited to the west of Maynooth), which is considered reasonable in principle,
- (c) there remains uncertainty as to the precise technical details in terms of flood attenuation proposals at the Jackson's Bridge/depot area, including uncertainty as to the design and operational consequence of modified figures for flood compensatory storage areas, as presented by the applicant to the oral hearing and the overall consequence of the proposed

development in terms of flood management and impact outwards from the site of the proposed depot and railway diversion works. In the absence of sufficient design certainty, the Board cannot be satisfied that the proposed development of all works west of Maynooth railway station, which works are located in an area which is at risk of flooding, would not have an adverse impact on the environment by reason of flooding. On the basis of the above, the Board is not satisfied that the proposed works west of Maynooth (chainage 90+200) would be in accordance with the proper planning and sustainable development of the area.

In reaching this conclusion, the Board is mindful that the nature of a proposed depot evidently mandates a location alongside the railway network and that parts of the railway network itself fall within areas at risk of flooding. Nevertheless, on the basis of the information submitted with the application, the Board cannot be satisfied that the proposed development of the depot area and all associated flood, road and site development works, along with the interlinked flood and related works related to the diversion of the railway line at Jackson's Bridge and the interlinked requirement for Over Bridge 23A and associated new road layout, to enable road access in the wider area as a consequence of the railway diversion at Jackson's Bridge, has been sufficiently detailed to ensure that it would be in accordance with the proper planning and sustainable development of the area, including the protection and improvement of amenities thereof by reference specifically to the potential for flood risk.

In reaching its determination, the Board noted the content of the applicant's response submission at the oral hearing, which entailed suggested changes to the attenuation details which form part of the overall flood management at and in the vicinity of the proposed depot site and considered the subsequent commentary of other participants to the oral hearing, and the Inspector, regarding these changes. In this context, the Board shared the view of the Inspector that despite the provision of more information on the depot site at oral hearing stage, 'there remains a significant degree of confusion' (page 134 of the Inspector's report). The Board also noted the Inspector's concerns about the 'intended excavation of some 172,000 cubic metres – (errata – increased from the original

123,000 cubic metres) [...] containment of floodwaters must be of concern and the need for substantial embankments to enclose the flood areas is a feature which has not been considered throughout the depot site' (pages 132-133 of the Inspector's report).

However, the Board did not share the view of the Inspector that due to the application of relevant policy and Guidelines, specifically The Planning System and Flood Risk Management Guidelines for Planning Authorities, 2009, the railway diversion works at Jackson's Bridge and the proposed depot could never be considered at this location (page 129 of the Inspector's report refers, 'the proposed depot and its associated rail and road access provisions at this location should never have proceeded to the application stage').

Nevertheless, the Board determined that in the absence of:

- a consolidated, coherent and determinative description and evaluation of the overall development proposed at the depot/Jackson's Bridge area, with clear, precise and fully documented flood management proposals,
- an updated alternatives assessment of depot locations that provides a detailed analysis of flood risk and/or management for each location, and
- an affirmed statement of support for a depot and associated works at this location as precisely configured, taking account of a robust consideration of alternatives, specifically derived from a statutory development plan policy designation,

there is not sufficient technical and policy support in the current application documentation to enable the Board to determine the appropriateness of the proposed location for a depot and associated works, consistent with the Planning System and Flood Risk Management Guidelines for Planning Authorities, 2009.

The Board also noted the recommendation of Kildare County Council, that the Site Specific Flood Risk Assessment should include a peer review by an independent, impartial, suitably qualified, competent and experienced flood risk management consulting

engineer. ('Railway Order Water Services Observation Report, 22 September 2022, Kildare County Council Water Services'). The Board concurred that such an independent review, would be warranted having regard, to the flood sensitivity of the area, to the Ministerial Guidelines which would not support development of this type at such a location absent of a clear articulated technical and policy support and to the need in the opinion of the Board for a more comprehensive consideration of alternatives regarding the depot location, with flood risk a central component of the assessment for all alternative locations and/or layouts.

The Board also considered that the associated requirement in the opinion of the Board to provide an update overview of the alternatives for depot provision within and across the overall railway network, with a specific detailed assessment of flood risk realities and mitigation as appropriate, along with a reviewed Justification Test, specifically addressing the current statutory development plan for the area, and an independent peer review of the final proposed flood management measures which would be proposed at and in the vicinity of the proposed depot site west of Maynooth, should properly be subject to a separate consent exercise. Any such update of the detail of the proposed development would be beyond the scope of a condition or conditions attached to the current application.

**Note 2:** The Board also noted the expressed concern of the Inspector regarding direct archaeological impact at the depot site. (page 139 of Inspector's report, 'the direct impact on Recorded Monuments by the delivery of the depot at this location constitutes a significant adverse environmental impact.'). The Board considered the totality of relevant documentation on file related to this issue and determined that, while it would ordinarily warrant further consideration and possible further information, it would not of itself constitute grounds for refusal of permission. Noting the decision to omit the depot site and associated works by reason of flood risk, it is nevertheless considered by the Board that should any further consent application be made for a depot development at this location, the issue of archaeology should be subject to more detailed analysis at that time.

**Note 3:** The Board noted the Inspector's recommended condition number 4 which states as follows:

*'The proposed development shall not include the demolition and reconstruction of those parts of Broome Bridge, Castleknock Bridge, and Cope Bridge over the railway line. The proposed development shall be altered to provide for reduced height OHLE and/or track lowering at Cope Bridge and a combination of reduced height OHLE and track lowering at Broome Bridge and Castleknock Bridge. These alternative proposals shall be subject to further approval(s). Reason: To adequately protect these important features of architectural and heritage merit.'*

The Board did not share the opinion of the Inspector in relation to this recommendation for the following reasons:

**Broome Bridge** (protected structure). The proposed development would involve demolition of part of this protected structure (confined to the section of the bridge between the stone piers). These works are acknowledged as constituting an irreversible loss of historic fabric, permanently altering the structure and the surrounding setting.

However, having considered the totality of the documentation on file, the Board determined that the alteration to this protected structure, including part demolition, is acceptable in this instance. The alteration to Broome Bridge is considered necessary for the effective working of the overall project and its full preservation by lowering track and associated works, as recommended by the Inspector, would lead to significant, financial, programme and technical reasons relating to such option (and which reasons are considered reasonable by The Board).

The context within which Broome Bridge sits is already significantly altered in comparison to its original construction, by reason of existing elements in the immediately adjoining area. Furthermore, the proposed development will require the installation of protective expanded metal mesh on the parapets of the bridge structure, even if preserved in its current form. Finally, the reconfigured bridge, with a newly provided central element with an arch reflective of the original form and continuing to serve the clear function of spanning the railway corridor at this location, (comparable to the original intent of the bridge and matched to the

then applicable train technology) means that, in the opinion of the Board, the rationale, historic understanding and purposeful functionality of the bridge is retained.

The Inspector commented that the applicant's own findings show that the retention of the existing bridge is a functional option, then offers the opinion that there are no technical reasons for not retaining this structure. On the basis of the totality of the information on file, the Board considered that the consequences for retaining the bridge (effectively lowering railway track for a distance either side of the bridge) would lead to significant complications and potential adverse implications, including the need to reconfigure proximate railway platforms, potential flood implications, along with significant disruption to the implementation of the project and the effect on operations along this vital railway corridor, during construction, such that the development as proposed would constitute an exceptional circumstance in support of removing a portion of the original historic fabric of this protected structure. This, in association with the significantly altered context in the environs of the existing bridge (since originally constructed) and also in the context of the necessary elements of change which would arise as a consequence of the proposed development, along with the capability of the replacement elements to the bridge to secure an aesthetic which evokes the memories of the original, including the form of arching, materials (subject to condition) and in terms of continuing the original intended purpose of the bridge, supports the allowance under this permission to alter the bridge fabric including elements of demolition.

The evidence presented within the overall application documentation including all expert submissions on conservation from the applicant team, the planning authority and other observers was engaged with fully assessed by the Board. Specifically, the Board acknowledged and agreed with the commentary of Dublin City Council dated the 22<sup>nd</sup> day of October 2022, that 'we recommend that the design and detail of any proposed alteration to the bridge be agreed upon with the Conservation Section of Dublin City Council in advance'.

As a result of this balanced assessment and judgement, the Board determined that while the alteration of Broome Bridge would have a significant adverse impact on its architectural and cultural character, a simple requirement that all other relevant elements of the proposed development should yield to an objective to retain the existing bridge structure in its current form, is not necessary by reference to applicable development plan policy and Ministerial Guidance, and on the full facts of the case, including the clear benefits of the proposed development and the changes to the bridge context in any case at this location. The imposition of condition number 4 as recommended by the Inspector is not therefore warranted.

**Castleknock Bridge, Cope Bridge.** Neither of these bridges is a protected structure.

The Board determined that the proposed removal of substantial sections of each bridge over the railway line would result in an irreversible loss of historic fabric, permanently altering the structures and their surrounding settings. Consideration of the option for vertical track lowering, combined with reduced height overhead line equipment (OHLE) (accepted by the applicant as being technically feasible) in each instance is noted. However, on the basis of the information submitted with the application in relation to significant, financial, programme and technical reasons relating to such option (and which reasons are considered reasonable by The Board), and to the contextual change which would arise at each bridge in any case, including the necessary addition of expanded metal mesh on the parapets, the design mitigation as proposed and as additionally imposed by condition, and noting that each altered bridge will continue to display the aesthetic fundamentals and evoke the memories of the original structure as originally purpose for spanning the railway corridor, it is determined that the full preservation of the original bridge structures is not warranted in the current case.

In conclusion, for reasons comparable to those set out above in relation to Broome Bridge, the Board determined that, subject to condition that the developer shall submit to and agree in writing with, the respective planning authorities of Fingal County Council and Kildare County Council, the design and details, including finishes and reuse where feasible of existing bridge material, of the



alterations consequent to the proposed demolition and reconstruction of those parts of Castleknock Bridge, and Cope Bridge over the railway line, that the proposed development would be acceptable in terms of the proper planning and sustainable development of the area.

**Note 4:** The Board noted recommended condition numbers 9,10 and 11 as set out in the Inspector's report. The Board shared the intent underpinning these conditions but determined that the replacement of these with condition number 9 as set out in this Order, would secure the purpose of these conditions in a clear, usable and measurable manner, consistent with the attachment of such a condition on other railway corridor projects.

### **Compulsory Purchase Order**

The Board determined the following:

- The need and justification for the proposed development has been adequately established in this application.
- The lands identified in the Railway Order Schedules as far the existing Maynooth Station are required in connection with the proposed development and are suitable for such use.
- The process considering alternatives in the Railway Order application formed a robust assessment of alternative options by reference to those elements of the proposed development for which consent has been granted, having regard to planning and environmental considerations, safety, economic and social factors, and the stated project need and objectives.

- The proposed development is supported by, and is in accordance with, policies and objectives of Dublin City Development Plan 2022-2028, Fingal Development Plan 2023-2029, Meath County Development Plan 2021-2027, and Kildare County Development Plan 2023-2029.