

Application for Consent to An Bord Pleanála for a Railway Order for DART + West

Oral Hearing

Submission on Behalf of the Department of Housing, Local Government and Heritage in relation to nature conservation issues

My name is Terry Doherty and I am the Divisional Ecologist for Counties Dublin, Meath and Louth with the Ecological Guidance and Advisory Unit of the National Parks and Wildlife Service, Department of Housing, Local Government and Heritage. My primary function in this role is to assess and draft observations and recommendations on behalf of the Minister in relation to the potential effects of proposed scheme plans and projects on nature conservation in the previously mentioned counties. I hold an Honours Bachelor of Science Degree in Zoology with Botany as Minor subject from the National University of Ireland (UCD) and have been employed by the National Parks and Wildlife Service (NPWS) since 1991, most of that time as a Conservation Ranger in Dublin and neighbouring counties.

My submission to the Board addresses a number of points the applicant, Iarnród Éireann, made in May 2023: principally in Section 5.10.2 of its Submission on Observations to the Draft Order Application. This was made in response to various recommendations concerning nature conservation issues in the Department's submission of the 28th of October 2022 to the Board in relation to the application for the Railway Order. I will comment on these points in sequence following the numbering system used by the applicant in Section 5.10.2 of its response in May 2023 to the Department's submission.

Mitigation measures and CEMP to be included as condition of consent

7. The Department welcomes the applicant's undertaking that mitigation and monitoring measures developed in the Natura Impact Statement (NIS) will be included in the finalised Construction Environmental Management Plan (CEMP) to be prepared prior to commencement of site works in response to the Department's recommendations. We recommend that it be a condition of a consent given by the Board, should it be minded to do so, that the measures set out in the NIS supporting the present application shall be incorporated in a CEMP and submitted to relevant authorities before the commencement of any works on the proposed scheme.

8. The Department similarly welcomes that the applicant recommends that mitigation measures in the NIS to avoid injury or disturbance to light-bellied brent geese during the construction and operation of the proposed scheme should be included as a condition of any consent given for the proposed scheme.

Clearance of vegetation likely to be supporting breeding birds

9. The Department recommended that it should be a condition of any consent given for the proposed scheme that the clearance of woody vegetation shall only be carried out from September to February inclusive, outside the main bird breeding season. The applicant has stated that this recommendation has already been included as a mitigation measure in the Environmental Impact Assessment Report (EIAR) at Section 8.9.3.7. In fact, in the relevant section of the EIAR a provision is included that, if vegetation removal is required between March and August inclusive, the area shall be checked by an Ecological Clerk of Works, and if nesting birds are found, the works will be postponed until the chicks have fledged, or alternatively, advice will be sought from the NPWS.

The Department has considered the extent of trees and shrubs to be removed to facilitate the proposed scheme and the location of some of these areas of clearance within the Grand Canal proposed Natural Heritage Area (pNHA). We note the lack of any breeding bird surveys ~~that have~~ supporting the present application and the difficulty of locating nests in dense cover and trees during the pre-clearance checks which are suggested by the applicant. To ensure no destruction of eggs or chicks occurs, it is recommended that there should be an absolute restriction on any clearance of woody vegetation for the proposed scheme during the bird breeding season as was originally recommended by the Department.

Pre-felling surveys of trees for bats and bat roosts

10. The Department recommended that it should be a condition of any consent for the proposed scheme that a survey be completed of all trees to be felled to identify potential bat roosts, and that work would be undertaken by licensed bat workers using endoscopes and the results submitted to the NPWS at least three months prior to the trees' removal. The applicant has noted that emergence surveys of tree lines on the depot site were carried out, but that similar surveys of trees elsewhere on the project route were not undertaken because they were assessed as having negligible or low roosting potential. The applicant has also noted that pre-construction surveys of trees with Low, Moderate and High suitability as bat roosts will be carried out. The latter survey, if undertaken by licensed bat workers and submitted to the NPWS three months before tree felling, would meet the Department's requirement for a full survey of trees for potential bat roost features before their removal. This will facilitate the proper assessment, and where considered appropriate, the granting of any licences to derogate from the Habitats Directive, which may be applied for if actual bats or their roosts are identified during this survey work.

11. The Department welcomes the applicant's undertaking that the finalised lighting design for the scheme to incorporate measures to minimise light pollution will be signed off by a bat specialist before submission to the relevant planning authorities ~~and to the NPWS~~ for their information prior to the commencement of any works, and that this design will be implemented in full.

Otters

12. The Department's recommended that as a condition of any consent for the proposed scheme, an otter survey should be carried out over the winter of 2022-2023 of the Royal Canal from Blanchardstown to Kilcock, to be repeated and submitted to NPWS three months ahead of the commencement of construction works. The applicant committed to engaging with NPWS in relation to the requested survey. The applicant, in addition, stated that Dublin City Council on behalf of the National Transport Agency was procuring a survey of the Royal Canal from the Liffey to Kilcock to include the collection of otter spraint and its subsequent DNA analysis, this survey to be repeated annually for four years from the winter of 2023-24.

The Department accepts that if this program of otter surveys is implemented it should provide accurate information as to the population and distribution of otters along the Royal Canal parallel to the proposed scheme, which will facilitate the co-ordination of works on this and other planned transport infrastructure projects along the Royal Canal corridor so as to minimise their impact on the otter population and particularly the holts and couches which provide breeding and resting places for this species.

On the 21 September 2023 the NPWS received an application on behalf of Iarnród Éireann for a licence to derogate from the Habitats Directive to disturb otter holts and couches along the Royal Canal in the course of the DART+ West project, should it be given planning consent. The results of an otter survey of the Royal Canal from the M50 to Kilcock carried out by an otter specialist in March of this year was submitted in support of the derogation licence application. This application for a derogation is currently being processed by the Wildlife Licencing Unit in the NPWS.

13. The Department of Housing, Local Government and Heritage welcomes Iarnród Éireann's statement that it will develop an Ashtown Dewatering Otter Bypass Plan to preserve a route for otters past the section of the Royal Canal at Ashtown to be temporally dewatered during course of the DART+ West project, a plan which the Department recommended should be drawn up and submitted to the planning authority ~~and NPWS~~ for their information as a condition of any consent for the proposed scheme.

Badgers

14. The Department likewise welcomes that the applicant has agreed to draw up Badger Site Conservation Plans where the removal or temporary closure of badger setts is required to facilitate the carrying out of the proposed scheme, in line with the recommendation by this

Department that the preparation of such plans should be a condition of the granting of permission for DART+ West.

Revegetation of bare soil

15. The Department welcomes that the applicant has clarified too that any bare soil areas resulting from the proposed scheme will be allowed to revegetate naturally, or by seeding with locally sourced green hay. This is consistent with the Department's recommendation that it should be a condition of any consent for the proposed scheme that no wildflower seeds should be introduced from outside the immediate vicinity of the proposed scheme as part of its landscaping, so as to conserve biodiversity and the genetic integrity of the locally occurring natural flora. A protocol should be included in the CEMP describing where the hay to be used for bare areas is sourced from, following advice from a suitably qualified ecologist and undertaken under supervision of the Ecological Clerk of Works for the proposed scheme.

Bird deflectors on overhead wires

16. With regards to the bird deflectors to be installed on overhead wires and overhead line equipment (OHLE) along the Dart+ West route, having considered the applicant's response to the Department's original submission on this subject, it is recommended that it should be a condition of permission for the proposed scheme that the models of deflector to be installed on lines on the various parts of project route proposed shall be agreed with the relevant authorities prior to the commencement of works following submissions from the applicant with regards to the effectiveness of the design of deflector selected for the particular location.

It should be noted also in this context, that while in the applicant's response reference is made to research by Barrientos et al (2011) cited in Section 8.9.3.7 of the EIAR in relation to the effectiveness of bird deflectors at preventing collisions, the details of this citation have not been provided in the reference list to Chapter 8 of the EIAR on biodiversity.

17. The Department welcomes Iarnród Éireann's commitment to undertake a review of data on collisions with wildlife and identify hotspots for such collisions along the DART+ West route and provide mitigation, if practicable, to avoid future collisions in these areas. It is recommended that the submission of this review to the authorities with relevant responsibilities over the project route should be a condition of any consent granted for the scheme.

Ends

AN BORD PLEANÁLA

28 SEP 2023

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