

An Board Pleanála Oral Hearing Presentation / Submission

Objections to An Board Pleanála regarding DART+ West CIE Railway Order by property owners Colette Maguire & David Conroy:-

- a) To use the property located at 28 Bessborough Ave., North Strand, Dublin 3, D03 A312 as a "Right of Way" for the construction, operation and maintenance of a pole, ancillary fixtures and cables for reasons set out below.**
- b) The erection of a pole/mast, ancillary fixtures and cables to a height of between 6 and 8.5 meters to the railway wall directly over the private residential house/property located at the above address for reasons set out below.**
- c) To operate 24 trains per hour along the railway line/viaduct running adjacent to the above property, in addition to other trains operating it as well for reasons set out below.**

On 19th November, 2022 objections (including attached Supplementary Information) was lodged by email and by post to An Board Pleanála regarding the DART+ West CIE Railway Order and the effects it would have on our property located at 28 Bessborough Ave., North Strand, Dublin 3. Under this Oral Hearing taking place in the Gresham Hotel on 28th September 2023, and An Bord Pleanála Offices from 3rd – 6th October and 10th – 13th October 2023, we would like to submit the following objections to make amendments and help enhance/compliment/clarify further those previously submitted, to provide some additional supplementary information that has since come to light.

Background Information

I'd like to begin by giving some background information about Bessborough Avenue and my family association of living in it dating back almost 100 years and 5 generations, and the impact the railways has had on our lives throughout those years which, no doubt, puts us in the hugely advantages position of having a wealth of local knowledge and history about the Avenue and the railways, our dear neighbours and local businesses, and in being to lodge such objections to the DART+ West Railway Order as set out below.

For example, my Grandfather drove the old steam engine trains on the Dublin to Belfast line all his working life, my Uncle worked on the construction of the DART in the late 1970's/early 80's, plus the upkeep and maintenance of it for many years afterwards and, on a personal level, grew up surrounded by the sights and sounds of the trains and the railways with good, bad, and indifferent experiences. Furthermore, I've had countless direct dealings with CIE/Irish Rail over the years with about problems arising as a direct result of the railways which, to this very day, still remain unresolved.

In all, there are three railways which intersect with the lower end of Bessborough Avenue with at least two of them being subject to DART+ Railway Orders (please refer to attached Supplementary Information Number 2 for further details regarding same).

The first railway is located at the bottom of the Avenue which has served the current DART costal service since it's construction and introduction in the late 1970s/early 1980's, along with other commuter trains and routes (e.g. Dublin to Belfast). Under the DART+ Coastal North Project, CIE/Irish Rail propose to operate 36 trains per hour along this railway line (i.e. 1 train every 1.66 minutes).

The second railway runs behind the houses on the bottom left hand side of the Avenue – although these trains cannot be seen from street level due to them being walled in behind the houses, they can most certainly be heard by local residents as they frequently pass by.

The third railway runs directly alongside our property, and is the line to which CIE want operate the DART+ West railway system, and run 26 trains per hour (i.e. 1 train every 2.18 minutes). This railway line was built around the mid-late 1800's with 6 houses demolished to make way for it (please refer to attached Supplementary Information Number 2 for further details regarding the significance of this).

Overall, between the first and third railways above, that would be 62 trains per hour passing by the Avenue, or 1 train within every single minute, notwithstanding any other commuter trains they would also serve which would be absolutely extraordinary by any standards, and on a par with the most busiest railway stations throughout the world regardless of how they operate (i.e. electrical, diesel, steam, etc.), or what would be done to help mitigate against the knock-on effects to all concerned. Our objections are therefore based on the following:-

1. Objection to the construction, operation and maintenance of pole, ancillary fixtures and cables

Objection to the construction, operation and maintenance of pole/mast, ancillary fixtures and cables, rising to a height of between 6m and 8.5m (19 – 28 feet approx.) directly over our property located at 28 Bessborough Ave., North Strand, Dublin 3 for the following reasons:-

- a) Health and safety risks posed from having such highly charged electromagnetic EMF radiations being generated so dangerously close to a private residential property which, in normal circumstances, would be located, and cordoned off, well away from any type of property, especially residential (e.g. ESB overhead electrical power lines). These dangers include:-
 - Higher risks of developing cancer to anyone living in such close proximity, especially without any fully protective barriers around them to block out the radiation (please refer to attached Supplementary Information Number 3 for further details and verification of same).
 - Extreme weather events becoming more and more prevalent due to global warming causing major havoc and bring down powerlines as a result (e.g. Violent Storm Ophelia in 2017 & Snow Storm Emma in 2018 to name but a few), or from thunderstorms and lightning strikes to them causing fires and spreading rapidly to other buildings – should such an event occur, it would be highly dangerous and catastrophic to all properties and persons within close proximity with our property being in the immediate firing line.
- b) That the pole/mast be deviated by 10 meters to the disused waste-ground to the rear of the property, for generations, locally known as “Wordies” (hereafter referred to same) which is currently owned by CIE and to which they already have access (please see attached Supplementary Information Number for further details regarding same), or at least to the rear of the garden, and directly away from the house itself. This deviation is within the terms of the following:-
 - (i) The “Transport (Railway Infrastructure) Act, 2001” and CIE’s “DART+ West Draft Railway Order, Draft Order, July 2022” under “Article 6, Deviation” which states:-

“(1) In constructing, maintaining, improving or operating any of the railway works authorised by this Order, the Railway Undertaking may make modifications so far as the Railway Undertaking considers them necessary or expedient but such that the railway works and any such modifications are carried out within the limits of the lands referenced by this Order and the Schedules hereto and the Plan and that any such modifications are limited inter alia to:

(a) deviate horizontally by any distance not exceeding 10 metres from the situations shown on the Plan for overhead electrified line structure support poles;

DART+ WEST PROJECT: BOOK OF REFERENCE – SCHEDULE 5; PROPERTY PLAN: DW.002; PROPERTY NO: R.202**PROPERTY LOCATION: 28 BESSBOROUGH AVE., NORTH STRAND, DUBLIN 3, D03 A312**

(b) deviate in any direction not exceeding 5 metres from the situations shown on the Plan for any brackets, cables, wires, fixtures or other things to a structure;-“

- (ii) DART+ West Public Consultation No 2 Brochure (page 23) which states under the headings *“General Linear Works, Overhead Electrification Equipment”* (i.e. a deviation of 10m):-
“Masts will typically rise to between 6.8m and 8.5m above rail level. It’s anticipated they will be located at spacing of between 40m and 50m along the railway”.
- (iii) Letter received from IDOM/Iarnród Éireann, dated 23rd June 2022 (copy attached under Supplementary Information Number 1), notifying us of the DART+ West Project, and their proposal to use the property as a *“Right of Way”* to be established *“for the construction, operation and maintenance of the pole and ancillary fixtures and cables”* in which they state the following:-
“(Note that pole locations may deviate by up to 10 meters)”

[Please note that the deviation of the mast/pole, and ancillary fixtures and cables, plus the use of our property as a “Right of Way” to construct and maintain same (see Objection 2. Below) are our primary objections and, if agreed/approved from our perspective, it will also remove the requirement from CIE/Irish Rail’s perspective to use our property as a “Right of Way” for the above purposes – please refer to Supplementary Information Number 1 which provides a map and vitally important information as to how this can be achieved).

2. Objection to the use of the property as a “Right of Way”

Objections to the use of the property as a “Right of Way” for the construction, operation and maintenance of a pole/mast, and ancillary fixtures and cable for the following reasons:-

- a) That it’s private residential property for private residential use, and that any use of the property or its overhead airspace by CIE (or anybody acting on their behalf) would be in breach of the occupants constitutional rights to exclusive privacy (i.e. it would be violating those rights).
- b) Lack of precise detailed information from CIE/Irish Rail on what the “Right of Way”, if granted, would exactly entail regarding the *“construction, operation and maintenance of the pole and ancillary fixtures and cables”* above the property, example:-
 - During construction, if scaffolding would be erected on or around the property, the structural impacts that would have on the property, and how they would minimise and rectify this. Also, the estimated time it would take to do this work, whom/what persons would be on site during this time, and how it would all directly affect the persons living in the property during that time. For example, noise levels during working hours, dangers from scaffolding and falling objects, plant and machinery being present, and if they had to vacate the property during this time? If so, where would they be accommodated and how would they be compensated for this?
 - Following construction, what direct effects would the ongoing *“operation and maintenance of the pole and ancillary fixtures and cables”* entail. For example, structural effects such as the construction of a permanent access structure on and/or over the property, or there would be any removal/demolition, in full and/or part-of the property (e.g. the garage between the house and railway wall). Also, the “freedom” that CIE/Irish Rail (or anybody acting on their behalf), would have in accessing the

property at any time, with or without prior notice, and in breach of the occupants constitutional rights to privacy in their own private property.

- a) Genuine fears that if the “Right of Way” is granted, that at any point in the future, CIE/Irish Rail may take full or partial possession and ownership of the property, and/or demolish it in part or in full without us having any recourse or manner of means upon which to object to it as set out under “PART III – ACQUISITION AND POSSESSION OF LANDS AND RIGHTS, ARTICLES 18 – 24” of the documentation provided by CIE/Irish Rail (copy attached under Supplementary Information Number 1), plus the “Transport (Railway Infrastructure) Act, 2001”. If this were to happen, then our family home for almost 60 years and 4 generations would be taken away from us, and everyone would be absolutely devastated with no amount of money compensating for it.

3. Objections on noise and vibration grounds

As things currently stand, every train that passes on the overhead railway running alongside the property (especially goods trains or during peak travelling times), is very noisy and causes the house to vibrate quite substantially. With the proposal of 24 trains per hour under the DART+ West Project (i.e. 1 train every 2.18 minutes) travelling along the railway line, not to mention other commuter trains using it as well, will increase these noise levels and vibrations very substantially. To date, CIE have not provided us with any information whatsoever on what they propose to help alleviate these implications, example:-

- a) During construction, if measures will be undertaken on the railway itself to help eliminate noise levels and vibrations to properties directly affected along the route (e.g. new tracks and protective noise barriers).
- b) If the Railway Order (should it be granted) include provisions whereby:-
- A speed limit will be imposed on the trains as they pass over directly affected residential properties, and that if/where this is consistently broken, that CIE/Irish Rail be held accountable for it, and the affected property owners compensated accordingly.
 - That the proposed 24 trains per hour will be limited to peak hours only (i.e. maximum 1-2 hours in the morning and evenings only), and be significantly reduced or restricted outside these hours, especially during night-time/early morning hours (e.g. 8.00pm – 8.00am) when residents need to sleep soundly and peacefully in their beds.
 - If the amount of trains per hour be capped at 24 (i.e. that at no point in the future can this be increased without at least going through a public consultation and legislative process).
- c) If they will comply with Section 48. – (1)(a)(v) of the Transport (Railway Infrastructure) Act 2001, it states the following:-
- “(v) enter on any land and underpin or otherwise strengthen any house or building affected or likely to be affected by the works or the railway aforesaid.”*

Will they therefore, example:-

- Help alleviate/reduce noise levels by replacing all current exterior doors and windows with a much more sound-proof design than those currently present.
- Help alleviate/reduce vibration levels and structural secure the house by underpinning or otherwise strengthening it as stated under the above Act.

Should CIE/Irish Rail be granted the DART+ Railway Order, we request that a provision be put into the Order whereby the must meet with everything outlined above.

4. Objections due to flood risk

Bessborough Avenue is a high risk flood area, especially the lower end of the Avenue where our property is located – they've been flooded on many occasions over the years, and following major floods 2008 & 2009 to several properties (including ours) either side of the railway line running alongside our property where the proposed DART+ West trains propose to operate, Dublin City Council (DCC) carried out a serious of investigations as to its cause and discovered:-

- a) That when the houses were demolished to make way for the building of that railway, they found numerous underground pipes that were either old clay pipes that had collapsed, that they had not been properly capped off at the time and/or, redirected towards a main manhole therefore, significantly contributing towards the surrounding houses being flooded.
- b) In the case of our own property at number 28, they found that the two downpipes coming down the railway wall depositing rainwater and debris/silt from the overhead line into our drainage system was causing major blockages in the drainpipes and ultimately, a major contributory factor to our own particular flooding. Furthermore, during heavy rain spells, rain water floods out from the top of the downpipes directly into the garden due to them being blocked and poorly maintained.

On countless occasions over the years, we tried to engage with CIE to have these downpipes capped off and removed, and redirected from the railway line overhead to their disused waste ground to the rear of the houses locally known as "Wordies" but all to no avail (please refer to Supplementary Information Number 2 for further details and verification of same).

Should CIE/Irish Rail be granted the DART+ Railway Orders, we request that, under those Orders, provisions be included whereby they be compelled to:-

- Fully investigating and resolving all outstanding problems such as the above.
- That every measure be undertaken during future maintenance and construction works to prevent problems arising again (including all DART+ Railway Projects), and thereafter be adequately maintained on a regular basis.
- That they make real, open and meaningful engagements with local residents and businesses on all railway associated matters that will directly or indirectly affect them.

5. Objections on the basis of CIE/Irish Rail's long-standing failure to adequately maintain the railway and its surrounding areas

CIE/Irish Rail have a long-standing history of not adequately maintaining the railways and surrounding areas with adverse effects on local residents and the environment, or engaging with them to help resolve these problems, example:-

- a) The knock-on/adverse effects of the railways to the flooding problems in as outlined under 4. above.
- b) All sorts of unsightly weeds, dampness stains, leaks (in addition to the above), etc. coming from the railway walls with knock on-effects for local residents.
- c) The eyesore of overgrown weeds and all sorts that's become almost a forestry to the railway embankment at the bottom of the Avenue, and to the disused waste ground locally known as "Wordies" ever since the DART was constructed and became operational in the late 1970s/early 80's which, ever since, has become a breathing ground for rodents, and continuous infestations of rats into local residents gardens and homes with no effort whatsoever by CIE/Irish Rail at

addressing these very serious health risks despite countless efforts by local residents to engage with them over the years in order to do so.

- d) Lack of engagement with local residents as to works being undertaken, and how it will directly affect them. For example, in recent weeks, several very vague notices were put in local residents letterboxes by Irish Rail Community Liaison Office advising of essential railway maintenance works to be undertaken in Bessborough Avenue and nearby Strandville Avenue between certain dates and times, and that these works could only be done at night time when the trains were not running – nothing further as to what all of this would exactly entail, etc. Then, on Monday, 24th September last, scaffolding was erected completely surrounding the railway arch on all sides, causing major disruption to local residents and businesses, access/obstructions to their properties.

Please refer to Supplementary Information Number 2 for further details, and verification of the above.

Should CIE/Irish Rail be granted the DART+ West Railway Order, and/or DART+ Coastal North Project we request that provisions be put into both Orders whereby:-

- All of the above problems are rectified with immediate effect, especially the rodent infestations due to the very serious health and safety risks these pose to local residents, and that all measures are undertaken to control and prevent such infestations in the future (e.g. regular baiting by pest control companies).
- That all the ghastly overgrown weeds, etc. on the railway embankment be removed, and replaced with flowers, shrubs, etc. that will be attractive to both local residents and train passengers as they pass by.
- That the disused waste ground “Wordies” be turned into a recreational space for local residents to enjoy (e.g. playground, seating, planting of shrubs, flowers, etc.) with positive knock-on effects for all concerned. For example, to help compensate residents for the adverse effects of the railways and trains would have on them, to help build local confidence and trust again in CIE for not properly addressing so many problems highlighted above, the dire lack of such recreational spaces in such a highly built up residential area (especially for children), and the environmental effects in helping the Government reach their targets in this regard.

6. Objection on the basis of devaluing our property

If CIE are granted the DART+ West Railway Order, and are permitted to use our property at 28 Bessborough Ave as “Right of Way”, to construct, operate and maintenance of pole/mast, ancillary fixtures and cables directly above our property then, in effect, it will be virtually worthless because who, in their right mind, would want to buy a property and live in it under such circumstances, or to have at least 24 trains per hour passing overhead not to mention the other 2 railway lines as well – even given the current housing crisis. A visual inspection/viewing, and basic land registry searches by a Solicitor would determine the situation and, no doubt, prevent any prospective buyer from buying it.

7. Objections on the basis of the property at 28 Bessborough Avenue being the family home for almost 60 years, and an overall family history and association with the Avenue for almost 100 years.

As eluded to previously, my family history in the Avenue and the railways dates back almost 100 years to when my grandparents moved into number 20 in the late 1920’s where my mother and all her siblings were born and reared, and the early 1960’s when my parents moved into number 28 where myself and all my siblings were reared followed by countless grand-children and great-grand-children (i.e. at least 5 generations and still counting) – not forgetting our life-long friendships built up with local neighbours and businesses, plus my Grandfather and Uncle working on the trains and railways, and the countless stories and priceless memories that we all hold so dear (incl. the sights, sounds, and smells of the railways and trains)

DART+ WEST PROJECT: BOOK OF REFERENCE – SCHEDULE 5; PROPERTY PLAN: DW.002; PROPERTY NO: R.202**PROPERTY LOCATION: 28 BESSBOROUGH AVE., NORTH STRAND, DUBLIN 3, D03 A312**

We all feel a sense of warmth, comfort, belonging, and so much more when we're in that house and Avenue, that it's impossible to put into words therefore, when we received the letters in the post from CIE about the Railway Order and what they proposed to do with the house and railway overhead, it deeply upset every single one of us – even down to the youngest great-grandchild, plus extended family, neighbours and friends. Nobody wants anything to happen to the house (including the garage sandwiched between the house and railway wall), or for CIE to be permitted to use the house as a "right of way", or to construct any poles/masts, etc. to the railway overhead, especially when there's an alternative to deviate it away to the disused waste ground to the rear of the property locally known as "Wordies" or, at any time in the future, take full or part possession of it, and/or demolish any part of it without recourse or being able to do anything – everyone would be absolutely distraught and devastated, and our family home as we know it, would never ever be the same again, all our wonderful memories stretching back almost 100 years would be gone forever, and our sense of belonging and going back to our roots would be completely destroyed.

Conclusion

To summarise, firstly, and most importantly, is that no mast/pole and ancillary figures and cables are directly placed over our property at 28 Bessborough Ave, nor it be used as a "Right of Way" to construct them and maintain them afterwards for reasons set out above, especially when there's an alternative option to deviate them by up to 10m to the disused waste ground to the rear of the houses locally known as "Wordies" which CIE already own and have access to, and which is covered under the terms of the DART+ Railway Order and the Transport (Railway Infrastructure) Act, 2001.

Also, that CIE/Irish Rail fully engage and be totally transparent in all respects with all local residents and businesses as to how they will be directly affected both during construction, and in the long term afterwards, and to undertake every measure conceivably possible to minimise the effects it will have on them such as those I've referred to above – to anyone travelling on the trains, it's simply a means of getting from A to B and a blurred flashing image as they look out the window of the train however, for those living in such close proximity to the railways, it hugely affects their everyday lives.

Secondly, based on personal experiences over many decades with CIE/Irish Rail, finally addressing and resolving so many long-term outstanding issues such as those set out above by direct and honest engagement and action with all those affected, and to ensure that they never happen again in the future. Not alone that, but to put them on a statutory footing by implementing them into the DART+ Railway Orders and the Transport (Railway Infrastructure) Act, 2001 thereby compelling them to fulfil all such obligations, and holding them fully accountable should they continuously fail to do so.

On behalf of both myself and my husband David Conroy who jointly own the property at 28 Bessborough Ave, I thereby submit our all our objections above, plus attached Supplementary Information for due consideration, and plead that they be accordingly taken on board when the final decision on the DART+ West Railway Order is made.

Signed,

Colette Maguire & David Conroy

Colette Maguire & David Conroy,
Property Owners.

AN BORD PLEANÁLA

03 OCT 2023

LTR DATED _____ FROM _____

LDG- _____

ABP- **314232-22**