

Our Case Number: ABP-314232-22



**An
Bord
Pleanála**

Kevin Reid
56 Ashington Avenue
Navan Road
Dublin 7

Date: 08 December 2023

Re: DART+ West Railway Order - Dublin City to Maynooth and M3 Parkway
County Dublin, County Meath, County Kildare

Dear Sir / Madam,

An Bord Pleanála has received your recent submission in relation to the above mentioned proposed railway order and will take it into consideration in its determination of the matter.

The Board will revert to you in due course with regard to the matter.

More detailed information in relation to strategic infrastructure development can be viewed on the Board's website: www.pleanala.ie.

If you have any queries in the meantime please contact the undersigned officer of the Board at laps@pleanala.ie. Please quote the above mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

Yours faithfully,

Niamh Thornton
Senior Executive Officer
Direct Line: 01-8737247

RA05

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64 Marlborough Street
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Lauren Griffin

From: Lauren Griffin
Sent: Friday 8 December 2023 14:01
To: [REDACTED]
Subject: RE: DartWest ABP 314232

A Chara,

We acknowledge receipt of your email; official acknowledgement will issue in due course.

Kind Regards,

Lauren Griffin

From: Kevin Reid [REDACTED]
Sent: Thursday, December 7, 2023 5:22 PM
To: LAPS <laps@pleanala.ie>
Subject: DartWest ABP 314232

Dear Sir/Madam,

Please find attached my observation for the latest DartWest Consultation.#

1. Word Doc
2. PDF

As I have already paid the fee, I understand the fee is not required again.

Could you please confirm receipt and that the observation is valid without fee.

Best Regards,

Dr. Kevin Reid.

Dr. Kevin Reid, BSc, PhD

56 Ashington Avenue,

Navan Road,

Dublin 7.

Response to Update to Natura Impact Statement October 2023 to

An Bord Pleanála

DartWest Project

Case Number 314232

December 2023

1. Brent Geese at Ashtown Stables

It remains an inconvenient truth for Irish Rail that Brent Geese (*Branta bernicla*) feed in the fields at Ashtown Stables. Irish Rail have accepted that Brent Geese feed at the Stables (Option Selection Report Ashtown Revised Preferred Option Report March 2022 Section 5.2.3 and Submission on Observations to the Draft Railway Order Application Section 2.4.1). Brent Geese disturbance seems of particular importance to Irish Rail's decision-making policy when it serves their own goals. For example, in Option Selection Report Ashtown Revised Preferred Option Report March 2022 Section 5.2.3 (with particular reference to Option 2 at Ashtown Stables) Irish Rail repeatedly downgrade other options on the basis that they will cause disturbance to Brent Geese. However, these concerns are not shared when it comes to Irish Rail's current proposal to demolish the trees, hedgerows and grass at the Stables on which the Brent Geese rely. This biased lack of consistency is typical of Irish Rail's approach to the DartWest project.

Irish Rail's position on Brent Geese at Ashtown Stables in Update to Natura Impact Statement October 2023 can be considered in three parts – none of which hold any scientific merit and as a result are wholly unconvincing.

A. Irish Rail try to use a desktop study that did not list Ashtown Stables as justification for destroying the habitat of the Brent Geese

Irish Rail reference a desktop study which in turn references the Dublin wide Brent Goose surveys provided by the Irish Brent Goose Research Group (IBGRG). This group is an informal group that, according to their website, meet once a year. This study does not claim to be comprehensive and relies on sightings from members of the public. As the fields at Ashtown Stables are private, sheltered and not visible from the public road, it is unsurprising that they were not reported as a feeding/resting site for Brent Geese in this IBGRG survey. Indeed, the private nature of these fields explains why they are frequented by Brent Geese.

B. Irish Rail claim that the fences, hedgerows and treelines at Ashtown Stables make it unsuitable for Brent Geese

Irish Rail portray themselves as an authority on suitable feeding/resting sites for Brent Geese in Dublin without providing a single reference. Irish Rail claim that the presence of fences and treelines make Ashtown Stables unsuitable for Brent Geese, again without providing any references. Irish Rail fail to mention the “Citizen Science Survey of Quiet Zone for Light Bellied Brent Geese” carried out in Maynetown Portmarnock which is particularly relevant to the situation at Ashtown Stables.

This survey describes a man-made quiet zone for Brent Geese that is surrounded by fences, hedges and trees with short, sweet grass that is grazed by large herbivores (Highland cattle) for most of the year. This is very similar to the quiet area favoured by the Brent Geese at Ashtown Stables where a sheltered tree lined area is provided that contains sweet grass that is grazed by horses throughout the year. This study claims that by providing a quiet zone the Brent Geese would waste less energy and would be in a better condition to fly back to their breeding grounds in the Arctic.

This survey highlights that Brent Geese feeding can be severely impacted by disturbance such as dog walkers, children, runners and walkers. All of these disturbances can be found at Martin Savage Park which is also a feeding area for Brent Geese and is in close proximity to the Stables. In the quiet zone in Maynetown the Brent Geese flocks can feed with virtually no interruption – just like at Ashtown Stables.

The study shows that the quiet zone represents a foraging area where Brent Geese can safely feed without having to expend precious energy taking flight to avoid sources of disturbance. The quiet zone means the Brent Geese can move to the surrounding lands for additional feeding or roosting needs in times of hard weather, storms, and low human disturbance. The survey shows that Brent Geese do in fact frequently use the quiet zone and Figures 10 to 14

show the Brent Geese in close proximity to trees/hedges which directly contradicts Irish Rail's assertions that the Geese would not utilize such habitat at the Stables.

It is also interesting to note that according to this survey Fingal County Council (FCC) had frequently stated that they had no evidence of use of the Designated Quiet Zone lands by overwintering birds since its creation in 2016. This position was contrary to local knowledge, as members of the Portmarnock and Baldoyle community who use the land for exercise, had noticed Light Bellied Brent Geese present within the quiet zone in Maynetown. This survey showed that FCC were mistaken and the local community were correct and that Citizen Science has an important role to play in bridging gaps in biodiversity information – highlighting the importance of local knowledge in protecting wildlife.

Irish Rail either missed this report or chose to ignore it as it completely contradicts their unreferenced assertions and does not suit their aims. Either way, this is a significant omission. It is abundantly clear to all who have closely followed this project and attended the oral hearing that the quality of Irish Rail's consultants has been sub-standard.

C. Irish Rail claim that their plans will affect just 3% of the Stables

Irish Rail have consistently tried to downplay the impact of the land take that they propose at Ashtown Stables. Using Irish Rail's own figures, the sum of permanent plus temporary land take that they propose is 0.1685ha out of a total of 1.2ha. This is approximately 14%. Therefore, our assertion that Irish Rail proposes to turn 14% of Stables' land into a building site still stands. It has been repeatedly explained to Irish Rail that Ashtown Stables is operating on a relatively small area which is the bare minimum footprint required to provide such an amenity for the community. The 3% figure is a blatant misrepresentation of Irish Rail's proposal. The construction of the proposed development would result in irreparable damage to the trees, hedgerows and grassland at the Stables. The destruction of the hedgerows on Ashtown Road and Mill Lane would completely alter the tranquil, private feeding area for Brent Geese described above. Irish Rail fail to mention the effects of the construction itself on

the remarkable wildlife of the area. Irish Rail's Mitigation and Enhancement Mapping Sheet 3 shows no mitigation for the disturbance of bats in Ashtown despite the huge amount of unnecessary construction proposed for the area. The only mitigation proposed at all in Ashtown is some bird deflectors at Martin Savage Park. This paltry mitigation shows a complete lack of understanding and respect for the wildlife in Ashtown. In addition, Irish Rail's method of recording birds "incidentally" is clearly insufficient for such a huge project given the complex life cycle and protected status of many of Ireland's bird species.

Irish Rail's photomontages provide a clear example of their attempts to downplay the impact of this proposal on Ashtown Stables' land. Like other contributors to the oral hearing, I have found the photomontages produced by Irish Rail to be blatant misrepresentations. For example, the photomontage of the proposed new roundabout at the southern end of Ashtown Stables is misleading (EIAR Vol 3B Photomontages View 18 View North Along Ashtown Road As Proposed, June 2022). Cross-referencing this photomontage with the works plan (Book 2 Property and Rights Plan, Property Plan No: DW.009, July 2022) shows that the level of tree and hedgerow loss is significantly greater than that displayed by the photomontage. The photomontage gives the illusion that there will be very little impact on the mature trees on Ashtown Road and Mill Lane. This is another clear example of Irish Rail misrepresenting information in order to mislead. Looking at the photomontage at the southern end of the Stables shows that this photomontage does not accurately reflect the property plan. It must also be noted that exact dimensions are not provided by Irish Rail.

Fig. 1 below shows the existing view along Ashtown Road, with modifications (modifications mine). Please note no dimensions provided by Irish Rail. Modifications: A, B and C refer to large trees on Stables' land moving west to east, Apex of land also highlighted.

Fig. 2. below shows Irish Rail's Photomontage view along Ashtown Road, with modifications (modifications mine). Please note no dimensions provided by Irish Rail. Modifications: A, B and C refer to large trees on Stables' land moving west to east (note B absent).

In Fig. 2 (showing Irish Rail's proposals), Trees A and C are retained while only Tree B has been removed. Please note that Tree A is less than 25 metres from the Apex of Ashtown Stables' land and Tree C is less than 20 metres from the Apex of Ashtown Stables' land.

Irish Rail's photomontage shows Ashtown Stables' large trees on Ashtown Road and Mill Lane being retained. This directly contradicts the information in Fig. 3 (Extract of Property Plan No: DW.009 focused on Ashtown Stables) as it is impossible to retain these trees while adhering to the plans in Fig. 3. At the oral hearing, Irish Rail's consultant insisted on many occasions that his photomontages were accurate representations of Irish Rail's plans (despite protestations from those that live and work in these areas). The present information demonstrates that the impression created by this photomontage is misleading. This provides yet another clear example of the contradictory information provided by Irish Rail. Irish Rail's failure to provide accurate information is grossly incompetent and, in my opinion, deliberately misleading.

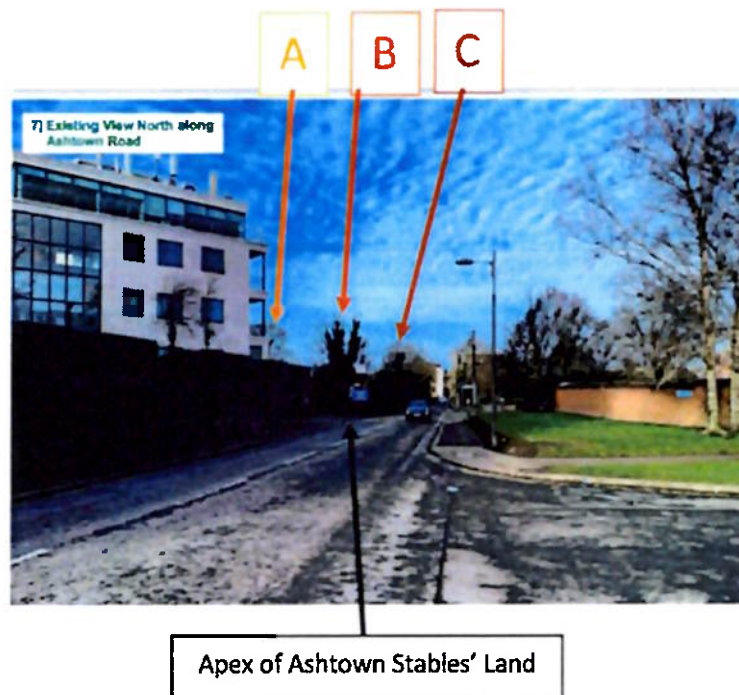


Fig. 1. Modified Irish Rail's View along Ashtown Road. Please note no dimensions provided by Irish Rail. Modifications: A, B and C refer to trees on Stables' land moving west to east, Apex of land also highlighted.

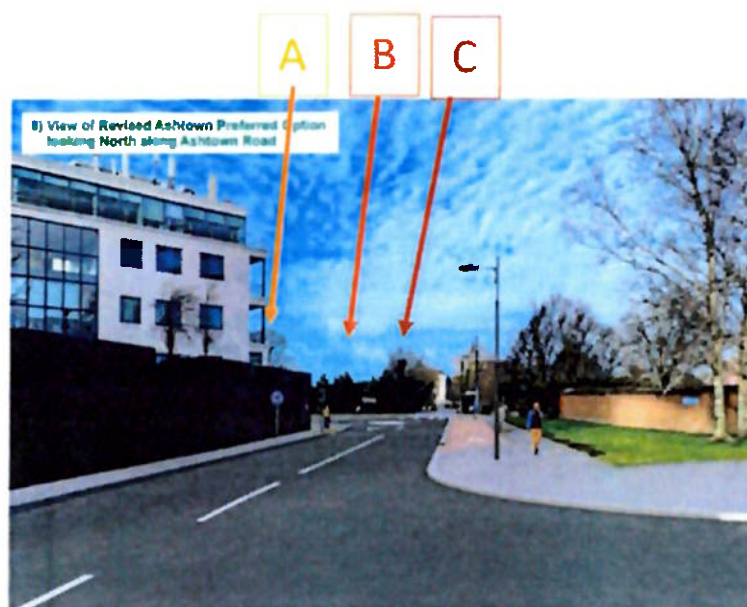


Fig. 2. Modified Irish Rail's Photomontage view along Ashtown Road. Please note no dimensions provided by Irish Rail. A, B and C refer to trees on Stables' land moving west to east. Modification: A, B and C refer to trees on Stables' land moving west to east (note B absent).

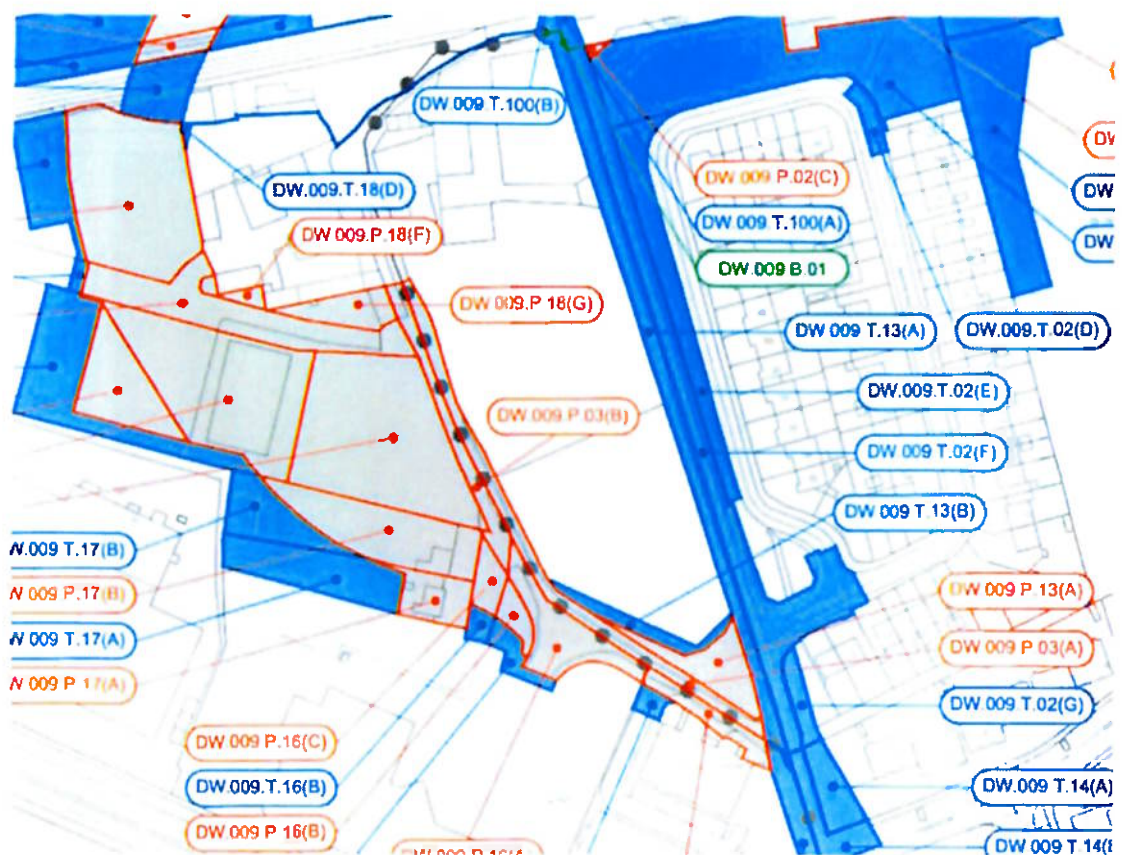


Fig. 3. Extract of Property Plan No: DW.009 focused on Ashtown Stables. Please note exact dimensions not provided by Irish Rail.

The photomontage was created to promote Irish Rail's assertion that just 3% of Stables' land would be affected with minimal impact. As shown above, this inaccurate photomontage completely downplays the destruction that Irish Rail's plans would cause to the habitat of the Brent Geese as this quiet corner of the field is their preferred resting place. Irish Rail are happy to state that their goals are "in line with EU ambition" in the Update to Natura Impact Statement October 2023 (Table 5.1) when it suits their agenda. However, they conveniently ignore EU ambitions such as the EU Habitats Directive which states that "The overall objective is to ensure that protected species and habitat types are maintained, or restored, to a favourable conservation status within the EU. In addition to halting the further decline or disappearance of these species and habitats, the Directive aims to allow them to recover and thrive over the long term". This ambition is of course backed up in EU law which states that member states must prohibit the deterioration of breeding sites or resting places of protected species. The Irish State must lead the way in this regard by protecting habitats, not destroying them.

2. Role of National Parks and Wildlife Service

It must be noted that our team repeatedly tried to contact the National Parks and Wildlife Service (NPWS) in relation to the DartWest project with specific reference to their input into the impact on wildlife in the Ashtown area. No response was received from the NPWS which helps explain why the State has repeatedly been shown to fail to uphold EU law ([Ireland found guilty by Europe of failing to protect 200 special areas of conservation \(irishexaminer.com\)](#)).

3. Pygmy Shrew

I would like to note that there is a population of Pygmy Shrew (*Sorex minutus*) living in the Ashtown area (Irish Rail's compound, Ashtown Stables, Mill Lane and the Ashtown Mill). Pygmy shrews are a protected species. According to Irish Rail, any natural and built features that could potentially support protected species were searched thoroughly and any physical evidence, such as live sightings, feeding signs, droppings/scats and incidental evidence was

recorded (EIAR 8.3.6.9). Irish Rail did not report any Pygmy Shrew in the Ashtown area as part of their reports. This would lead me to question how thorough Irish Rail's surveys were.

Irish Rail state that "Development projects will generally not involve significant impacts on populations of other highly mobile protected mammal species, nor are there particularly relevant or effective mitigation measures specific to any of these species. In most cases, further surveys of protected species such as Hedgehog (*Erinaceus europaeus*), Pygmy Shrew (*Sorex minutus*), Irish Hare (*Lepus timidus hibernicus*) and Irish Stoat (*Mustela erminea hibernica*) over and above the field evidence collected during the walkover survey, or incidental records collected on other surveys, are not warranted" (EIAR 8.5.4.1). To make no attempt to assess and preserve protected species for such a huge project is simply unacceptable. As Irish Rail have clearly missed the presence of a protected species in their Update to Natura Impact Statement October 2023, we cannot blindly accept their word on other species in other areas. Given the narrow range of Pygmy Shrew, their vulnerability and their impact on predators such as kestrels and owls, I believe that they should be protected, not destroyed, by the State.

4. Fingal County Council Development Plan

Irish Rail selectively quote a policy and two objectives from the Fingal County Development Plan 2023-2029 in the Update to Natura Impact Statement October 2023 (Pg 18). When choosing to quote this Development Plan, Irish Rail fail to quote the numerous policies and objectives that seek to protect and promote recreational and sporting amenities. For example, "It is imperative that as our communities grow, the expanding recreational and amenity needs of the community are also met. The provision of open spaces, recreational facilities and areas which encourage physical activity in general are key factors in contributing to improved physical and mental health. The Council supports national and regional objectives to ensure an active population thereby significantly enhancing public health and RPO 9.15 of the RSES which requires that 'Local Authorities shall support the vision and objectives of the National Sports Policy, including working with local sports partnerships, clubs, communities and partnerships within and beyond sport, to increase sport and physical activity participation

levels locally” (Section 4.5.1.2). Further, the Development Plan goes on to state that “The maintenance of sports grounds is of critical importance to clubs in Fingal” (Section 4.5.1.2).

Quoting further from this Development Plan “The Council supports the National Physical Activity Plan – Get Ireland Active: Strategic Plan 2017–2020 and its target to increase the proportion of the population across each life stage undertaking regular physical activity by 1% per annum across the lifetime of Healthy Ireland. The Fingal Sports Office Vision Statement 2019–2021 is based on a vision to build stronger, healthier and more sustainable sporting communities across Fingal” (Section 4.5.1.2).

In addition to the aforementioned sections of the Development Plan, Sections 2.4.2, 2.7.2, 3.1, 3.4, and 4.2 all promote delivery and accessibility of recreational and/or sporting facilities to the Fingal community. The following two policies are particularly relevant:

Policy CIOSP6 “Provide appropriate recreational, community, social and educational facilities for children, teens and young adults”

Policy CIOSP14 “Support sports, recreational and play amenities in the County for all ages and abilities; encourage sporting and recreational organisations to achieve their aims and goals and support platforms for new and alternative sports to develop”.

Irish Rail fail to acknowledge in their Update to Natura Impact Statement October 2023 that the preservation and promotion of recreational and sporting facilities such as Ashtown Stables forms a key part of the Fingal Development Plan. This selective sampling is yet another example of Irish Rail’s habit of omitting information that does not fit their agenda.

While Irish Rail’s goal of improving the infrastructure of the area is worthwhile, Irish Rail do not exist in a vacuum and must be cognisant of the communities which they serve. Irish Rail’s plans to reduce Ashtown Stables’ footprint and surround the Stables on all four sides with a building site is in direct contradiction to the goals of the Fingal County Council Development Plan which aims to increase sporting opportunities in line with community growth. As Irish Rail have options that could electrify the railway while staying within the boundaries of their own land, there is no need to jeopardise the future of a valued local amenity.

It should also be noted that the Fingal County Council Development Plan states that “The physical appearance of these facilities can also have a defining role in an area, strengthening

the sense of identity and character (Section 4.1). I would argue that building a huge, unsafe tunnel with an ugly pedestrian bridge in the beautiful setting of Ashtown is inconsistent with the Fingal County Council Development Plan. Here it should be noted that approximately 75% ($\approx 6,340$ out of 8,284) of feedback for the entire 40km stretch of railway objected to Irish Rail's plans to build a tunnel at Ashtown and to impact the Stables in any way. Again, Irish Rail ignored this feedback as it did not fit their agenda. Further, Objective CIO5049 of the Development Plan wishes to "Ensure permeability and connections between public open spaces including connections between new and existing spaces, in consultation with residents". The communities at Ashtown and Castleknock (Coolmine etc) have been informing Irish Rail that their plans would reduce permeability by closing level crossings and constructing barriers (bridges and a tunnel) for over three years now. Again, Irish Rail have ignored this feedback as it did not fit their agenda. It must also be noted that there was no mention of the proposed tunnel in the newspaper notice relating to this project despite the huge proportion of objections relating to this tunnel during public consultations with Irish Rail. This is indicative of Irish Rail's strategic omissions.

5. Irish Rail's Consultants

It has been obvious to those of us that have been closely following the DartWest project, and particularly those who attended the oral hearing, that the quality of Irish Rail's consultants has been sub-standard. An over-reliance on desktop studies is displayed. As a fellow biologist, I am sure that Irish Rail's biology consultant Mr. O Shea understands that one cannot count data points that are favourable to your case and discount those that are not. In addition, Irish Rail's heritage consultant's admission under cross-examination at the oral hearing that he did not in fact fully inspect the wall at Ashton House despite earlier claims to the contrary is indicative of the lack of attention to detail displayed by Irish Rail throughout this process. Further, in Irish Rail's "Submission on Observations to the Draft Railway Order Application" Section 4.11.2.7 it is stated that "Review of OPW records and consultations with Dublin City Council did not identify elevated flood risk at Mill Lane". Mill Lane is in Fingal, not Dublin City Council so maybe Irish Rail should check with Fingal County Council instead. The promotion of desktop analyses and modelling data over the real-world experience of the people who live and work in the areas to be affected is simply unacceptable. This lack of attention to detail

would endanger me, my family, my staff, the horses and my customers should permission be granted for this project. No independent professional could sign off on this body of work produced by Irish Rail.

6. Notes

I would like to place a number of items on the record.

Firstly, passenger number data: During the oral hearing Mr. Kilcullen tried to justify closing the level crossings by stating that in 6 years rush hour will extend to 6 hours per day. I requested these data approximately two months ago. Despite numerous requests, and promises by Irish Rail, these data were not forthcoming. These data, if they exist, should form a cornerstone of Irish Rail's case to close level crossings and should have been available to the public for inspection before the oral hearing and made available when requested. As recent Census data shows an increase of 173% of people working mainly from home since Irish Rail's plans were drawn up, I would like to know how Irish Rail have factored these figures into their plans [[173% increase in number of people working from home \(rte.ie\)](#)].

It should also be noted that Irish Rail have not presented a construction plan for Ashtown. As we have pointed out, any construction in the area would have major health and safety implications. Irish Rail's paltry mitigation measures and sub-standard work would place property and lives at risk.

Mr. Kilcullen admitted at the oral hearing that Irish Rail were unaware of Ashtown Stables during the first options selection report. Irish Rail were also unaware of the presence of protected species at the Stables. Therefore, Irish Rail's entire option selection process is deeply flawed and must be re-evaluated. Mr. Kilcullen also admitted in discussions with the representatives of Castlethorn Developments during the oral hearing that Irish Rail are only obliged to replace "like with like" as part of this process. Therefore, attempting to forcibly take and destroy land that is used by protected species to widen Mill Lane to construct a cycle lane cannot be justified.

It must also be noted that Irish Rail's plans are in clear breach of the Aarhus convention and the Update to Natura Impact Statement October 2023 does nothing to address this.

7. Summary

In summary, it is clear from Irish Rail's most recent document that they are continuing their pattern of ignoring inconvenient truths in their Update to Natura Impact Statement October 2023. As shown above, Irish Rail have persistently omitted information that did not fit their agenda such as the presence of Brent Geese at Ashtown and large sections of the Fingal County Development Plan. Such omissions are simply unacceptable. Their assertions that Brent Geese do not utilise sheltered habitats and that the level of destruction is negligible have been shown to be without merit. Irish Rail have other options at Ashtown that do not disregard constitutional rights, destroy protected species' habitats, detach the community and do not deprive the community of a valued local amenity. The lack of transparency and honesty in Irish Rail's work is staggering and I would urge An Bord Pleanála to uphold Irish and EU law and to protect the rights of Irish citizens by refusing permission for this project.

8. References

McMahon et al – Survey Light Bellied Brent Geese, Quiet Zone Maynetown Winter 2019/2020