

MEMORANDUM TO BOARD

Ref.: ABP-314232-22

From: Kevin Moore SPI

To: Board

Date: 18th October, 2023

Re: Significant Additional Information

On Wednesday 11th October, 2023 at the end of the 7th day of the Oral Hearing into DART+ West the applicant submitted to the Board a document entitled "Update to the Natura Impact Statement". It placed copies of it on its own documents table at the Hearing. This update has screened in the North-West Irish Sea candidate Special Protection Area. It also refers to the use of Ashtown Stables' paddocks by Brent Goose and consideration of hydrological effects on the Rye Water Valley / Carton Special Area of Conservation from two bridges, as well as providing an in-combination assessment.

The requirements arising out of Article 6(3) of Council Directive 92/43/EEC in relation to appropriate assessment are transposed into Irish law by Part XAB, Appropriate Assessment (sections 177R to 177AE of the Planning and Development Act, 2000, as amended, and by the European Communities (Birds and Natural Habitats) Regulations 2011 as amended (S.I. No. 477 of 2011). The applicant submitted a Natura Impact Statement with the Railway Order application accordingly.

Under section 49 of the Planning and Development (Strategic Infrastructure) Act, 2006, the Transport (Railway Infrastructure) Act, 2001 was amended. Under section 37 of the Act, the making of an application for a railway order by CIÉ is to be made to the Board. I note that section 41 was amended accordingly:

"41.— (1) Where the Board is of the opinion that an environmental impact statement furnished under section 37 does not comply with the provisions of section 39 or where it otherwise considers it necessary so to do, it shall require the applicant to furnish to it a document containing such further information in relation to the proposed railway works as it may specify and the applicant shall comply with any such requirement within such period as the Board specifies.

2) (a) If the document furnished under subsection (1) contains significant data in relation to the likely effects on the environment of the proposed railway works, the Board shall require the applicant—

(i) to deposit and keep deposited at the place or each of the places appointed by the Board, a copy of the aforesaid document,

(ii) to publish in one or more newspapers circulating in the area to which the proposed railway order relates a notice stating that further information in relation to the likely effects on the environment of the proposed railway works has been furnished to the Board, that copies of the document containing the information will be available for inspection free of charge and for purchase by members of the public, at the place or each of the places appointed by the Board, at specified times during the period of not less than 3 weeks beginning on the day of publication of the notice and that submissions in relation to the further information may be made to the Board before the expiration of the said period, and

(iii) to serve notice of the furnishing of the further information to the Board, together with relevant extracts from the document aforesaid, on any person on whom notice was served pursuant to section 40(1) and to indicate to the person concerned that submissions in relation to the further information may be made to the Board during the period of not less than 3 weeks beginning on the day on which the notice is sent to the person concerned by the applicant.

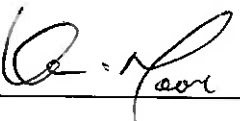
(b) Copies of further information in respect of which notice is published pursuant to a requirement under subsection (2)(a)(ii) shall be made available for purchase by members of the public during the period specified in the notice referred to in that provision for such fee as the applicant may fix not exceeding the reasonable cost of making such copies.

(3) Members of the public may inspect the further information deposited under this section free of charge at the times and during the period specified in the notice referred to in subsection (2)(a)(ii).

(4) A person may, during the period specified in the notice referred to in paragraph (a)(ii) or (iii), as appropriate, of subsection (2), make submissions in writing to the Board in relation to the further information deposited under this section."

I note that the document entitled "Update to the Natura Impact Statement" was not requested by the Board as further information but was submitted by the applicant as further information to the Board at the Oral Hearing.

I submit to the Board that this recently submitted document forms an addendum to the original Natura Impact Statement and constitutes significant further information. I consider that the Board should require the applicant to publish public notices meeting with the requirements of section 41 (2)(a)(ii) above and to invite submissions in writing to the Board within a specified period stated in the notice.



Kevin Moore