

An Bord Pleanála

64 Marlborough Street,

Dublin 1,

D01V902

Online Submission

28.10.22

Re: "DART+ West Electrified Railway Order 2022"

Introduction

My name is Dr. Kevin Reid. I am Managing Director of Ashtown Stables, Ashtown, Dublin 15. My family and I have bred and trained horses at Ashtown Stables for approximately 40 years. These horses help us to teach children and adults how to ride and care for them. Ashtown Stables is the last remaining stables in the area. It was explained to Irish Rail on many occasions that we are operating on the bare minimum footprint. Irish Rail's current plans would forcibly take Ashtown Stables' land and turn an unnecessarily large area around the Stables into a construction site. This would render Ashtown Stables inoperable and force us to close. The horses at Ashtown Stables have been bred and trained specifically for this area for 40 years. These sensitive creatures are not transferable and the land at Ashtown Stables is not possible to replace. Ashtown Stables is my only source of income. It is simply not possible to move the Stables to another location.

Irish Rail should have sent a copy of Ashtown Stables' detailed objection to An Bord Pleanála as part of the Railway Order Application. If they have not done so, I can send one to you should you require one.

Below I will set out a number of moral, practical and legal reasons why An Bord Pleanála must not grant permission for Irish Rail to proceed with their proposals.

Oral Hearing

I would like to request an oral hearing with An Bord Pleanála. Evidence from our expert reports by engineers, historians, educators, architects and biologists amongst others needs to be explained in person to those making the decision on whether or not to close Ashtown Stables.

The Value of Ashtown Stables

The horses that are bred and trained in Ashtown Stables help us to teach children and adults to horse ride, care for horses and give them an opportunity to love horses in the real world rather than on a computer screen. The vast majority of our customers over the decades have been women and girls. As Irish Rail made little or no attempt to inform the public of their plans, it was up to us to let the public know of the major destruction that was planned for the Ashtown area. The support we received for the Stables was overwhelming. Irish Rail received over 6,000 objections that specifically asked that Ashtown Stables was not impacted and that a tunnel not be built in Ashtown. Irish Rail simply ignored these objections. During 'consultations' with Irish Rail, we were informed by them that objections lodged would be sent to An Bord Pleanála as part of the Railway Order Application. If these objections have not been sent to An Bord Pleanála, please let me know and I will arrange for a copy to be sent to you.

In addition, a petition in support of Ashtown Stables has received over 4,000 signatories. You can view the petition at:

<https://www.change.org/p/irish-rail-save-ashtown-stables>

Irish Rail's plans would wipe out a valuable local amenity to facilitate a cycle lane. Please study these plans in detail to see exactly what Irish Rail are proposing. Irish Rail plan to eliminate a valuable local amenity to widen Mill Lane to accommodate a cycle lane. This could in no way be described as being for the public good. Irish Rail have many other options that would not require the demolition of a valued local amenity. It is simply immoral to remove these horses from their home and to deprive the children of this area the opportunity to ride and love horses.

Environment

Irish Rail's own documentation ruled out certain options due to the presence of feeding sites for Brent Geese (a species protected by EU law). Irish Rail admitted that Ashtown Stables is one such feeding site in their own documentation yet their proposal would replace the feeding site with a roundabout and a road. Irish Rail use Brent Geese as an excuse not to proceed with one option while then going through another Brent Geese feeding site at Ashtown Stables. This blatant contradiction gives further credence to the idea that Irish Rail only ever wanted to go through the Stables' land and retro-fitted their Multi-Criteria Analysis to provide a pre-determined outcome. Irish Rail admit in their Environmental Impact Assessment to 'direct mortality' of certain species. This direct mortality of Brent Geese contravenes EU Law and must not be allowed to proceed.

All bat species in Ireland are protected under both national legislation (Wildlife Act, 1976, as amended) and European legislation (Habitats Directive 92/43/EEC). The Habitats Directive is transposed into Irish law by the European Communities (Natural Habitats) Regulations (S.I. 94 of 1997). The Irish Government is also a signatory to the Bonn Convention (Convention on the Conservation of Migratory Species of Wild Animals (Bonn, 1979)) and the Bern Convention, 1982 (The Convention on the Conservation of European Wildlife and Natural Habitats) and has a commitment to the "Eurobats" Agreement (Agreement on the Conservation of Bats in Europe, 1991). The Habitats Directive provides protection for the habitats and roosts of all bat species as well

as the bats themselves. Bat roosts are protected, irrespective of whether or not they fall within the boundaries of a Special Area of Conservation. For all bats, it is an offence to disturb, injure or kill bats or disturb or destroy their roosts.

Many species of bat have been recorded along the Royal Canal including the soprano pipistrelle (*Pipistrellus pygmaeus*), common pipistrelle (*Pipistrellus pipistrellus*), Leisler's bat (*Nyctalus leisleri*), Daubenton's bat (*Myotis daubentonii*), brown long-eared bat (*Plecotus auritus*), whiskered/ Brandt's bat (*Myotis mystacinus/ brandti*) (Keeley, 2004). Surveys were carried out under the Daubenton's Bat Waterway Survey and identified Daubenton's bats on the canal at Ashtown Station in 2009 (Ecoserve, 2011).

Many bats live and feed at Ashtown Stables. Studies of bats on the Royal Canal carried out for Waterways Ireland & Fingal County Council Parks Division have shown that "*Ashtown was the area where the greatest number of bats was noted. This is probably attributable to the presence of suitable roost sites such as the old mill building, stables, lock house and mature beech trees*" (Keeley, 2004). The large quantity of arthropods supported by the stables also provides a valuable feeding site for bats in the area.

A bat survey was carried out at the rear of Pelletstown House in September 2021 (Brian Keeley, Wildlife Surveys Ireland). In just one week (out of peak bat-detecting season), a total of five bat species were detected over just approximately 25 metres. These were the soprano pipistrelle (*Pipistrellus pygmaeus*), common pipistrelle (*Pipistrellus pipistrellus*), Leisler's bat (*Nyctalus leisleri*), brown long-eared bat (*Plecotus auritus*) and Nathusius' pipistrelle (*Pipistrellus nathusii*). Nathusius' pipistrelle has only relatively recently begun to establish maternity roosts on the island of Ireland and there are relatively few records for the species. Identified threats to this species include; removal of hedges, copses and shrubs; demolition of buildings and human structures; destruction of insect-rich foraging habitats such as wetlands, riparian woodland and unimproved grassland (Marnell et al., 2019). In addition, another preliminary survey was carried out from 30th September to the morning of 4th October (out of peak bat-detecting season; Brian Keeley, Wildlife Surveys Ireland). In addition to previously identified bats, Daubenton's bat (*Myotis daubentonii*) was identified several times. Remarkably, in a very short period outside peak bat detecting season, six of Ireland's nine species were identified over Ashtown Stables land.

Irish Rail's Environmental Impact Assessment (EIA) missed bat species. Irish Rail need to explain this. The EIA produced by Irish Rail is not independent, not impartial and therefore unreliable. Our bat survey found six species of bats at the Stables over just two weeks. Why did Irish Rail's survey not pick these six species?

The presence of otters and badgers in Ashtown is well known to local wildlife enthusiasts. The delicate ecosystem where the Phoenix Park, the Royal Canal and the Tolka River come within close proximity is a wildlife haven in Dublin city and must be protected. Irish Rail's own EIA highlights the presence of bats, otters and badgers in the area where they plan major, unnecessary construction. They also admit 'direct mortality' of species. Irish Rail's plans to kill protected species is not only immoral, it is also illegal under Irish and EU law. An Bord Pleanála cannot grant permission to such an ill-conceived project when less intrusive options exist.

Irish Rail plan a construction site that is approximately 400 metres away from the railway on two separate roads on the south side of the canal alone. This is simply overkill. Irish Rail have other options that would not have such a detrimental effect on the Environment. Government agencies need to lead by example when it comes to minimising the effect of construction on the Environment. Government agencies should be doing what they can to enhance the survival of protected species. An Bord Pleanála cannot grant permission for a project that leads to the deliberate and unnecessary mortality of rare, protected species in a city centre. My family and I will be forced to refer this case to Irish and EU courts in order to protect these species should An Bord Pleanála permit this direct mortality of protected species. Please let me know if you would like more information on this subject.

It must be remembered that Government agencies are bound by the Climate Action Plan, the National Biodiversity Action Plan and the Wildlife Amendment Bill (2016). Irish Rail's current plans contravene these conventions. Therefore, An Bord Pleanála cannot grant permission for this project.

Irish Rail's Conduct

It must be pointed out that Irish Rail's conduct in relation to this project has been a disgrace. CIE (the parent company of Irish Rail) simply put a letter in the post with a poorly laid out map hinting that they intend to annex our property. Irish Rail threatened my family with a compulsory purchase order at the very first public 'consultation' webinar. This webinar was supposed to be a way for Irish Rail to gauge public opinion on their various options to find a solution that would have the support of the local community. This was clearly not the case however as Irish Rail already had their mind made up and were simply going through the motions with a box ticking exercise. This is evidenced by many facts including; no meaningful attempt to fully inform the local community of the huge changes Irish Rail plan for our area, muting the microphones on the webinars, an Irish Rail staff member rudely and abruptly leaving the webinar, senior Irish Rail staff not attending the webinars, carefully selecting which questions to answer at the webinars, CIE staff telling me lies over the phone, extremely poor communication from the Community Liaison Officer, putting out misleading information to the public, telling lies about Irish Rail's position, the list is endless. Please let me know if you would like more information on the egregious behaviour of Irish Rail and their operatives. I have video evidence that even up to the last day of consultation for this round of objections, Irish Rail do not have a sign up informing the public of the massive, ugly, dangerous and disruptive plans they have for this area.

Irish Rail try to pretend that they listened to the community. This is not true. Irish Rail planned to take my family's property in an obvious land grab from day one regardless of the effect on the community. Irish Rail's Multi-Criteria Analysis was a work of fiction, deliberately skewed to return a pre-determined result. The option of dropping the railway was discarded at an early stage following clearly false conclusions. Irish Rail hoped that no-one would go through their documents in the rigorous manner that we did. When we went through their documents, we found hundreds of errors. Have an Bord Pleanála found these errors? If not, why not? Reports produced by Irish Rail were shown to be utter nonsense. This is further proof that their 'expert advice' was biased and deliberately misleading. Please let me know if you would like me to expand on this as I have many examples.

I would ask you to please familiarise yourself with the piece of land in question. This small piece of land is highly sought after by developers. Many developers have tried to purchase this piece of land over decades of property booms as it opens up developer land behind us. My family have refused to sell as we value keeping the Stables as a community amenity over a big cheque. Irish Rail are trying to use the powers of the State to force a compulsory purchase of land that is 300 metres away from the railway. In doing so, Irish Rail are acting *ultra vires*. Irish Rail are attempting convince people that they want to remove a unique community amenity to widen a cycle lane. This will simply not stand the test of what is in the public's best interests. Should An Bord Pleanála grant this permission, we will be forced to defend our rights and the rights of our customers (mainly women and girls) through domestic and European courts.

Irish Rail have refused to provide basic information to the public in an obvious attempt to avoid scrutiny. Irish Rail frequently refer to the 'DartWest Team' yet they refuse to reveal the identities of this team. As a result of this opaque decision-making process there is a complete lack of transparency. Irish Rail have no anti-corruption guidelines in place. This is simply unacceptable for a project that requires €1 billion of tax payers' money. Irish Rail also refused to provide information to the public on projected costs. Certain options were ruled out on the basis of costs, however Irish Rail refused to share this information with the public. Here we were expected to simply trust the DartWest Team who are unidentified and unaccountable. This information needs to be published and scrutinised by the public. In addition, these costs have changed dramatically following COVID-19 and global inflationary pressures. These costs must be updated before any decisions can be made. Please let me know if you would like more information on this topic as false/misleading information was sent to us by Irish Rail following a Freedom of Information inquiry.

This project is being driven by unidentified persons with unknown agendas. This leaves the whole project open to accusations of greenwashing. While the overall aim of having a transport system powered by green energy might sound alluring to the public, there is no guarantee that energy used will indeed come from renewable sources and that the overall cost to the environment of this project will be outweighed by future benefits. Some vague PR spin by Irish Rail will not suffice here and An Bord Pleanála need to investigate this further before permission is granted. Following a Freedom of Information request it was uncovered that the electricity source required to run this project has not been guaranteed and there was no specific guarantee on renewables. Therefore, using the excuse that this is a 'green' project which can ride roughshod over the biodiversity of Dublin city will simply not stand up to scrutiny. Please let me know if you would like more information on this subject.

Irish Rail also refused to provide information to the public on the Environment. Irish Rail would not share the Environmental Impact Assessment (EIA) with the public until such time as they could bury it in a big data drop mere weeks before this consultation closed. The fact that this EIA clearly states that many protected species are in the Ashtown area and this project will lead to direct mortality of species explains why Irish Rail would not release the data to the public as they knew that this is indefensible. This needs to be investigated by An Bord Pleanála before any permission can be granted as this could be in breach of EU law. It also shows the duplicitous nature of Irish Rail and their complete lack of concern for the community. Please let me know if you would like more information on this subject.

We have documented evidence that Irish Rail told lies about my family during this process. While Irish Rail and their operatives were in public insisting that they were trying to engage with us, we uncovered (following a Freedom of Information request) emails between members of the DartWest team explicitly directing an employee not to engage with the Reid family. Again, this shows the duplicitous nature of Irish Rail throughout this process. Please let me know if you would like more information on this subject.

As a result of Irish Rail's actions, due process has been denied to us. Should An Bord Pleanála grant this permission, we will be forced to take legal action to ensure that our constitutional and EU rights are upheld.

Conflicts of Interest

We have identified many conflicts of interest that Irish Rail have failed to declare. Have An Bord Pleanála identified these conflicts? If not, why not? Have An Bord Pleanála verified that all contractors and subcontractors have the necessary tax clearance certificates? We have reason to believe that Irish Rail does not have its affairs in order in this regard. An Bord Pleanála needs to investigate this matter fully if the public is to have any confidence in this decision-making process.

Horse welfare

Should An Bord Pleanála grant this permission, Irish Rail will turn the area on all four sides of the Stables into a construction site for the best part of a decade. Horses are extremely sensitive creatures and are very aware of their surroundings. No mitigation measures will suffice here. Mares and foals have grown up together in Ashtown Stables for generations. These animals need the fields to walk and play in and this is simply incompatible with a building site. Horses recuperating and exercising need the field as we are operating on the bare minimum footprint at present. This was explained to Irish Rail on numerous occasions but they refused to listen. Irish Rail are applying for permission to carry out some sort of construction activity round the clock. Construction activity 24/7 is simply incompatible with keeping horses. As Irish Rail are seeking permission to completely surround the Stables, granting of this permission by An Bord Pleanála would lead to the closure of the Stables and the irreversible loss of a valued community amenity. This would be in direct opposition to the over 6,000 objections Irish Rail received to support Ashtown Stables.

Safety of children and others

The construction activity planned by Irish Rail around the horses would endanger me, my family, my staff and anyone else interacting with the horses. Should An Bord Pleanála grant this permission, those making this decision must take responsibility for the closure of the Stables and the irreversible loss of a valued community amenity.

Tunnel

Irish Rail plan to dig a tunnel under the railway and canal at Ashtown. This plan was conceived without the relevant flood map information being available. Water on the south side of the canal that currently gathers will flow to the tunnel and flood water from the Tolka River (which means 'flood' by the way) will flow into this tunnel. This will need to be explained further at an oral hearing. Biased engineers in the employ of Irish Rail cannot be trusted here. Failure to adequately plan for rising sea levels will be catastrophic. Irish Rail engineers admitted on the webinars that train tracks could flood if the level was one metre lower than they are now. Irish Rail plan to go down over five metres below this. Please let me know if you would like more information here.

Should An Bord Pleanála grant this permission, the tunnel will lead to severe anti-social behaviour problems and will endanger local residents, particularly women. Safety concerns expressed by women at the webinars were simply dismissed by the Irish Rail employees and operatives. An Bord Pleanála have a responsibility to ensure that they do not permit the needless construction of dangerous structures in this country. Please let me know if you would like more information here.

Level crossings

Closing the level crossing has not been justified by Irish Rail. They began by telling the public that they needed to close the crossings due to safety concerns. When this was utterly debunked following a Freedom of Information request, they said they need to close the crossings due to time restraints. This too is simply false. Following a Freedom of Information request, it was uncovered that Irish Rail have made no attempt to improve efficiency at level crossings in decades. Indeed, the crossing at Ashtown is still manually operated! Other crossings in Ireland and around the world are closed for 10 seconds after the train has passed. Irish Rail told us that this situation is too complex for them to figure out. This is simply unacceptable. Irish Rail cannot solve basic problems at the level crossings and want local communities to pay the price for that.

Passenger census data does not back up the projected passenger numbers that Irish Rail claim they will need to provide for. An Bord Pleanála need to investigate the difference between Irish Rail's **capacity** data and their **actual** passenger numbers. This will need to be discussed further at the oral hearing.

Level crossing closures will lead to traffic chaos in this area. It is simply unacceptable to deliberately cause such chaos. Irish Rail's traffic data is biased and does not stand up to scrutiny. This will need to be discussed further at the oral hearing.

Big ugly bridge

Irish Rail plan to construct what can only be described as a big ugly bridge. This monstrosity (please take a detailed look at the plans) is totally incompatible with the beautiful area. Mobility issues and safety concerns have been dismissed by Irish Rail and their operatives at the public 'consultations'.

Granting permission for such a structure would be a huge mistake. This will need to be discussed further at the oral hearing.

An Bord Pleanála

Ashtown Stables have identified hundreds of errors in Irish Rail's documentation. Have An Bord Pleanála found these errors? If so, can you please forward a copy on to me? If not, why not?

It has come to our attention that An Bord Pleanála employees have met with Irish Rail and their operatives on many occasions in relation to this project. Meeting those with a vested interest in this project proceeding but not meeting impacted community members leaves An Bord Pleanála open to accusations of bias. Can you meet me, my family and some of our customers? Please provide the names and job titles of every An Bord Pleanála employee that met with Irish Rail, CIE and/or their operatives. Please provide the dates that these meetings occurred and the minutes of each meeting.

For transparency and anti-corruption, please provide the names and titles of each An Bord Pleanála employee that will be involved in this process.

Please provide details of ALL anti-corruption measures that ABP has in place. When were these measures implemented and please confirm that these measures were in place at the time of meetings between IR and ABP.

I would like to place on record that insufficient time to respond to such a large project has been afforded by An Bord Pleanála. Such a huge, complex project requires more than just a few weeks to go through in the type of detail required.

I would also like to place on record my dissatisfaction that An Bord Pleanála demands a fee of €50 to have an opinion on this project. This huge project would affect people's lives in countless ways so to charge such a high fee is quite simply extortionate. Over 6,000 people supported Ashtown Stables during Irish Rail's 'consultations' (not to mention over 4,000 on the petition). In order to accurately reflect the strong opposition to this project, we would therefore have to pay €300,000 to An Bord Pleanála. This is outrageous.

Other options

Irish Rail's own documentation states that they will endeavour to stay within their own property wherever possible. This plan proposes forcibly taking land that is 300 metres from the railway. This is simply beyond their remit and cannot be construed as being for the common good. Using a Compulsory Purchase Order for a land grab of property that we refused to sell to countless developers over decades of property booms will not be tolerated.

Irish Rail has at least 14 other options. Other options available to Irish Rail do not involve the closure of the Stables, do not segregate our community, do not impact protected species and do not involve

the construction of a dangerous, costly tunnel and an ugly bridge. Irish Rail could stay entirely on their own land by dropping the railway line to give just one example.

Should An Bord Pleanála grant this permission, I will be forced to take legal action to defend my constitutional and EU rights.

Best Regards,

Dr. Kevin Reid

Address: Dr. Kevin Reid, 56 Ashington Avenue, Navan Road, Dublin 7.