

Submission No.			283	
Organisation Name or Name of Submitter			Smyths Toys Superstores (represented by RW Nowlan & Associates)	
Item No.	Section Ref.	Page No.	Observation Statement	TII Response
Submission on Proposed Railway (Metrolink - Estuary to Charlemont Via Dublin Airport) Order (2022)				
1	Executive summary	1	Under the proposed Railway Order the existing store would need to be demolished. The implications of the loss of this store to the area would be significant given the expected population growth in the area.	Where Smyths Toys Superstores occupational interest at Airside Retail Park is to be acquired by the use of compulsory purchase powers then they would be entitled make a claim for compensation in accordance with the compensation code. The Code provides that qualifying occupiers can recover the reasonable costs of relocation which have been properly and necessarily incurred as a direct consequence of the acquisition.
2	Executive summary	1	An alternative site for the existing store has not been identified in the planning report.	The Planning Report sets out the planning policy compliance of the Railway Order application and does not, nor is required to include the identification of alternative sites for relocation of people/businesses/organisations etc impacted by MetroLink land take.
3	Executive summary	1	While the proposed station also appears to materially contravene the zoning objective of the development plan, the report concludes that in the absence of identification of a suitable replacement site, the Railway Order should not be confirmed.	<p>TII do not agree that "the proposed station also appears to materially contravene the zoning objective of the development plan".</p> <p>The proposed Project will deliver high-quality public transport infrastructure that will increase accessibility to Airside Retail Park and further strengthen its connections in the county. This will maintain the vitality and viability of Airside Retail Park in line with objective ED51 of the FDP: ‘Maintain and strengthen the vitality, viability and regeneration of the County’s Major Town, Town, Local and Village Centres by providing for civic, leisure, cultural and tourism attractions while ensuring that retailing remains a core function of these centres’ and as such support the zoning objective in making the location more accessible, provide a more sustainable offering and contribute to improving the aesthetic quality of the setting.</p> <p>As noted in the Planning Report that accompanies the Railway Order, the Vision for the underlying Retail Warehousing zoning objective is to “Facilitate the sale of bulky goods/goods in bulk within high quality settings and highly accessible locations, with an emphasis on exemplar sustainable design and aesthetic quality”.</p> <p>The Planning Report sets out the planning policy compliance of the Railway Order application and does not, nor is required to include for the identification of alternative sites for relocation of people/businesses/organisations etc impacted by MetroLink land take. The proposed Project will deliver high-quality public transport infrastructure that will increase accessibility to Airside Retail Park and further strengthen its connections in the county. This will maintain the vitality and viability of Airside Retail Park. The proposed metro station will help to support retail warehousing and ancillary services through improved connectivity and accessibility in line with the current land use zoning.</p> <p><i>Note The 'report' that refers to a need for identification of an alternative site is in fact the observation itself not the Planning Report (which does not say that an alternative site needs to be identified).</i></p>
4	3.0 Fingal County Population	4	<p>3.4 It is therefore submitted that the population projections provided by the Fingal Development Plan specifically shows that the consumer growth within the region over the next approximate 10 years will be significant. It is therefore considered that the potential loss to Smyths Toys of the subject store would have major implications for servicing this strategic area. In addition, the loss and impact of the closing of the store today must also be mitigated into the future to take into account of the increasing youth population over the next 8 years.</p> <p>3.5 The potential loss of this store to the town would have particular impact given the significant population growth that is foreseen for the area especially of the young population.</p>	Please refer to response item (3) above.

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5	4.0 Development Plan Policy	4	4.3 Under the Fingal County Retail Hierarchy, Swords is the highest level settlement in the county, i.e. level 2 directly below Dublin City Centre which is level 1. It is an objective of the (draft) Fingal County Development Plan that ..."new significant retail development be primarily directed to the higher Levels in the Fingal Retail Hierarchy and specifically to the core retail areas identified for these centres. Only in exceptional circumstances (where the Planning Authority is satisfied that there are no sites or potential sites available either within the core retail area or on-the-edge of the core, and that the proposed retail development is necessary to serve the needs of the area) will proposed retail developments that are located outside of these centres and/or the core retail areas of these centres be positively considered ."⁴ This means that any alternative site for the store to be demolished, must be located on the edge of the core retail area within the town of Swords as the core retail areas is not suitable for a store like Smyths Toys Superstores.	The comments made in relation to the Fingal County Retail Hierarchy are noted. It is matter for Smyths Toys Superstore, to consider potential relocation options, should they so wish to pursue, at the relevant time, in other locations including options outside of the immediate area.
6	6.0 Fosterstown Station Materially Contravenes the Development Plan	5	6.2 The zoning objective in the draft development plan (which will soon become the operative plan) is Retail Warehousing and the objective is: ... <i>"To Provide for Retail Warehousing."</i> The zoning objective for Retail Warehousing does not facilitate the proposed use of a metro railway station. The planning report states the following in this regard: ... <i>"Fosterstown Station lies within lands zoned as HT and RW in the Fingal FDP. Under these zoning objectives, 'public transport station' does not come within either 'Permitted in Principle' or 'Not Permitted' uses. The FDP notes that 'Uses which are neither 'Permitted in Principle' nor 'Not Permitted' will be assessed in terms of their contribution towards the achievement of the Zoning Objective and Vision and their compliance and consistency with the policies and objectives of the Development Plan."</i>  6.3 It is difficult to see how the proposed metro station would contribute towards the objective to provide for retail warehousing. In fact, it does exactly the opposite: it would remove a large retail warehouse building from the retail warehouse park without suggesting an alternative location for this building.  6.4 The proposed development therefore materially contravenes the development plan zoning objective.	As per the Planning Report, Fosterstown Station lies within lands zoned as HT and RW in the Fingal FCDP. Under these zoning objectives, 'public transport station' does not come within either 'Permitted in Principle' or 'Not Permitted' uses. However, the FDP notes that 'Uses which are neither 'Permitted in Principle' nor 'Not Permitted' will be assessed in terms of their contribution towards the achievement of the Zoning Objective and Vision and their compliance and consistency with the policies and objectives of the Development Plan.  Therefore, in consideration of the fact that the proposed project is of strategic importance to the long-term development of the Dublin region for land-use and transport and has been specifically identified as being of national importance in the National Planning Framework, National Development Plan, Fingal Development Plan and other key statutory documents, it is considered that the proposed station is consistent with the strategic policies and objectives of the development plan, and therefore TII do not agree with the observation statement that "The proposed development therefore materially contravenes the development plan zoning objective".

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7	7.0 Location of the Fosterstown Station Inconsistent with Development Plan	6	<p>7.1 Under the draft Development Plan 2023-2029 and the Fostertown (draft) Master Plan, the proposed Fosterstown Station is located immediately north of the subject site and outside the retail warehousing zoned area. While the development objectives in both plans are indicative in terms of the precise location, the need to locate the station slightly further south from the locations shown in both plans, is not explained in the planning report.</p> <p>7.2 The proposed development is in a different location to that shown in the development plan objective. The proposed change from the location as shown in the Development Plan, is not explained.</p>	<p>Within the Fingal Development Plan 2023-2029 an alignment for a Metro serving Swords and Dublin Airport is referenced in the written statement and in the zoning maps. This is identified as an indicative alignment in the written statement and as ‘Indicative Metro Route’ on the development plan maps.</p> <p>For details of the proposed Fosterstown Station please refer to EIAR Chapter 7, Description of the Alternatives, section 7.7.10.4 and Appendix A7.1 Fosterstown Station Options Report. This outlines the evolution of the proposed Project and how alternatives to the alignment, station locations/layout and construction methods have been considered and assessed. This process of assessment and refinement of the route and station layouts has determined the proposed requirements for permanent land take.</p> <p>Fosterstown Station was identified in the Emerging Preferred Route as being located just north of Airside Retail Park on the R132 Swords Bypass. However, following a multi-disciplinary analysis as described in the EIAR Chapter 7, Section 7.7.9.2, a decision was made to relocate the Station for the Preferred Route to the east of the R132 Swords Bypass in the vicinity of Airside Retail Park. The design developed for the Preferred Route had footbridges proposed across the R132 to allow access to the Station. However, the requirement for these footbridges was removed due to the Fingal County Council proposals to develop the R132 upgrade project which aims to turn the road into an urban road with direct pedestrian and cycling access across the roadway to Fosterstown Station.</p> <p>As part of the preliminary design development, other station location and alignment options at this location were considered to determine whether other feasible options (station location and alignment) could be adopted that would mitigate the impact on the Airside Retail Park and in particular identify design solutions that would avoid demolition of the end of terrace retail warehouse unit. In each case, the station location has been moved either north or south of the present proposed location that coincides with the end of terrace retail unit, with the associated track alignment moved west.</p> <p>The current proposed station location was compared to a number of alternative options. A two stage multi-criteria analysis (MCA) was undertaken to identify the preferred location for the Fosterstown Station taking into consideration the potential for direct impacts on commercial properties in the Airside Retail Park, and on traffic movements on the R132.</p> <p>All options were subjected to an initial MCA to provide an Initial appraisal of these options. From this assessment the two best performing options – the Preliminary Design option (current proposed RO application) and Option 2A (<i>The station is moved to the north. MetroLink alignment moved west to avoid Airside buildings and runs under the R132 over a length of approx. 140m</i>) were subject to more detailed comparison.</p> <p>This more detailed MCA comparison indicated that Option 2A – avoiding the Airside building – although considered cost neutral compared to the current proposed station location, had significant disadvantages compared to the proposed Preliminary Design option (current proposed RO application). It would have more extensive construction impacts, including additional utility diversion requirements; significant impact on the R132 traffic and other road users over an extended length of the R132 with an approximate 5-year construction period; a poor urban integration of the station adjacent to the R132; and the introduction of a poor horizontal track alignment which would constrain the operational speed of trains in this area. On this basis it was concluded that the best available option for the MetroLink alignment and the Fosterstown Station location past Airside is that proposed by the submitted Railway Order application.</p>

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8	8.0 Lack of Alternative Location for the Retail Store	8	8.2 The planning report further suggests that ..." there is capacity to construct a new unit, either on its own or as part of a more significant development to replace the demolished unit. "9 However, no suggestion is made for such an alternative location. Our clients are very concerned that it will not be feasible to find an alternative location for the existing store which is as convenient to the customer based in terms of accessibility. In addition to providing retail floorspace, the current premises also provide office accommodation for approx., eight head office staff.	<p>Please refer to our comments made in response (1) above.</p> <p>TII introduced the MetroLink Land Acquisition Strategy (the ‘Strategy’) with a view to setting out the arrangements proposed for the provision of information and assistance to the commercial occupiers of land and property subject to compulsory purchase for the delivery of MetroLink. TII will use reasonable endeavours to make arrangements to provide businesses with a longer period in which to relocate than the statutory process allows for. In such cases, the overall aim will be to provide as long a period as possible, commensurate with the co-ordinated progress of the Project works. TII has committed to providing as a minimum the best estimate available of the date upon which the Smyths Toys Superstore occupied unit is likely to be required for the Project.</p> <p>With a view to assisting Smyths Toys Superstore it may be beneficial for an estate agency service to be instructed to provide impartial advice in support of any business relocation. TII will continue to engage with Smyths Toys Superstores to understand their property requirements and consider possible future options for relocation where suitable alternatives may be available.</p>
9	8.0 Lack of Alternative Location for the Retail Store	8	8.6 It is considered that the proposed Railway Order and the accompanying planning report are deficient in failing to provide for customer demand of the Fingal population in that no suitable alternative locations is put forward to replace the store which is intended to be demolished under the proposed plans. The identification of a suitable alternative location should form part of the planning analysis of the proposed Railway Order and in the absence of such analysis the Order should not be granted, or further information should be sought from the applicant re this matter.	<p>TII do not consider that the submitted Railway Order application or accompanying Planning report is deficient. Response (7) above explains the documented decision making process that has led to the selection of the proposed Fosterstown Station, and response (2) explains why TII do not consider the Planning Report to be deficient.</p> <p>The identification of a suitable alternative location is not within the scope of the Railway Order application, howsoever, please refer to response (8) above.</p>
10	9.0 Conclusions bullet 1	8	The proposed demolition of the existing retail store to facilitate the development of a railway station would materially contravene a zoning objective in the current and draft county development plans.	Please refer to response (3) above.
11	9.0 Conclusions bullet 2	9	The proposed railway station is in a different location to that shown in the development plan for the area. The justification for this change in location is not provided in the application for the Railway Order.	Please refer to response (7) above.
12	9.0 Conclusions bullet 3	9	No provision is made in the proposed Railway Order for a replacement or relocation of the existing retail store even though the demolition of the existing store is stated to be necessary	Please refer to response (8) above.
13	9.0 Conclusions bullet 4	9	While the planning report refers to 'capacity" to construct a new unit to replace the demolished unit nothing has been proposed and it is unclear where the capacity exists.	Please refer to response (8) above.
14	9.0 Conclusions bullet 5	9	Under the Retail Hierarchy of the Fingal County Development Plan, a replacement store needs to be located in Swords. Given the anticipated population growth in the area and the lack of other Smyths Toys Superstores within the Fingal East area, where our current site be closed it is essential for Smyths Toys Superstores business that a replacement site be found in the vicinity of the current site. This is not adequately considered in the Railway Order.	Please refer to response (5) above.
15	9.0 Conclusions bullet 6	9	In the absence of the identification of an alternative site for the proposed demolition of the Smyths Toys Superstores, the proposed Railway Order is deficient and should not be confirmed.	<p>TII do not consider that the submitted Railway Order is deficient. Response (7) above explains the documented decision making process that has led to the selection of the proposed Fosterstown Station, and regrettably the proposed demolition and therefore significant impact on the Smyths retail unit to deliver the benefits of MetroLink.</p> <p>Please refer to response (8) above.</p>