

Juliana and Joe Boland & Family , Nevinstown, Swords, Co Dublin RE: ABP-314724-22

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7th March 2024

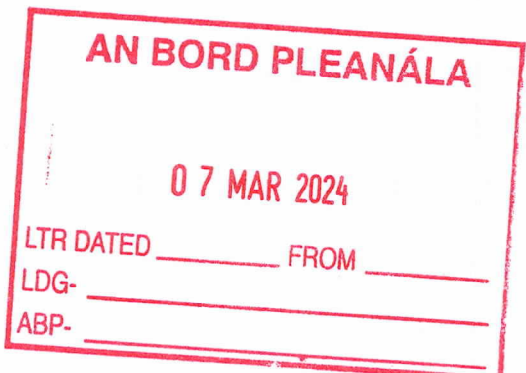
The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 1
D01 V902

RE: Case Ref. ABP – 314724-22
Railway (Metrolink - Estuary to Charlemont Via Dublin Airport) Order (2022):
Oral Hearing Submission on 7 March 2024
Module 2: All Other Matters

AZ1 Northern Section (Estuary Station, Car Park, Alignment as far as Dublin Airport North Portal

Observations/Arguments re proposed Metrolink route in Swords area submitted by:
Juliana and Joe Boland and family
Nevinstown Lodge
Nevinstown
Swords
Co Dublin
K67 K6H6

Joe Boland Motor Salvage
Nevinstown
Pinock Hill
Swords
Co Dublin
K67 P788



Map references:

Plan Drawing No. ML-RO301 V-W

House Adjoining Business premises of Joe Boland Motor Salvage owned by Boland Family (Patrick Joseph Boland) : proposed to be demolished – Advised by TII that permanent CPO will be necessary due to direct alignment and pumping station.

Joe Boland Motor Salvage: K67 P788 (Business premises) – Advised by TII that permanent CPO will be necessary re open cut section of alignment at back of yard and underground gradient alignment required through the middle of the property with service road through property

Family Home: at K67 K6H6: proposed to be demolished – Advised by TII that permanent CPO will be necessary due to gradient alignment required.

Further Ref Details of Properties owned by Boland family to which CPO is applicable are referenced on submission by TII as Area 301 Land Tag number:

ML 1 U-A11 family home K67 K6H6

ML 1 V-A2 family home K67 K6H6

ML 1V-A5 family home K67 K6H6

ML 1V-A6 family home K67 K6H6

ML 1V-A7 family home K67 K6H6

ML 1V-A16 Cottage owned by Boland family

ML 1V-A18 Cottage owned by Boland family

ML 1V-A19 Joe Boland Motor Salvage business premises K67 P788

ML 1V-A20 Joe Boland Motor Salvage business premises K67 P788

ML 1W-A1 Joe Boland Motor Salvage business premises K67 P788

Dear Sirs

I would like to thank An Bord Pleanála for holding an Oral Hearing and giving those who will be adversely affected by the proposed Metro Railway Order the opportunity to have their concerns heard by the Inspector and Bord.

ALIGNMENT REASONING:

Feasibility of running metro on the centre alignment of the R132.

I note that in the Module 1 Oral Hearing it was mentioned that the feasibility of running the Metro along the R132 had been looked at but found not to be suitable.

Question: When was the above investigation carried out and are there detailed feasibility reports/results etc available for both ABP and public inspection. As opposed to it just been reiterated that this alignment was looked at and found not to be suitable ?

Current 2022 preferred Alignment:

The Metro RO application 2022 we find ourselves in the position that the alignment has been changed from that of the RO application of 2008, which was granted, to such an extent that our three properties will be subject to a permanent CPO, with buildings thereon to be demolished, if an RO is granted and the project goes ahead.

The RO 2008 (granted) had an alignment, which would only require part and temporary CPO of our business premises K67 P788 and temporary CPO of part of the corner of our home K67K6H6

Question: What change ie new tests, investigations etc were carried since the application and granting of RO 2008, to give rise to the belief that the previous gradient on which an RO was granted is now not possible ? Was a feasibility study carried out or was the change simply down to non technical/engineering requirements ?

And if the RO 2008 alignment was so wrong what guarantee is there that in time either pre enabling works, during enabling works, during construction , after our properties have been demolished that this 2022 alignment will also be found to be inadequate and a different alignment, which would possibly not affect our properties at all, will be deemed to be the right one ?

Alternative Alignments:

Question: What if any alternative alignments were seriously investigated (ie engineering requirements) for the RO application 2022 ? Again are there reports available for ABP and public inspection with the engineering reasoning for these not been an option ?

Question: Given its status as a statutory consultee for Development Management as per Article 28 of Planning and Development Regulations, TII are informed of and have right to assess planning applications with regards to local authority developments. Did TII in fact assess the two specific planning applications in Fingal County Council area:

- a) Fosterstown Place: A Housing development on R132 between the Texaco garage and Boromhe estate. Which is currently still in construction. Refer Plan Drawing No. ML-RO 301 V-W.
- b) Development on the old 'Morans Dairy' site, north bound of the R132 opposite Airside Retail Park, where enabling, pre construction works only commenced in recent months. Refer Plan Drawing No. ML RO 301 U-V and ML RO 301 T-U.

Were either of the above two pieces of land, seriously investigated for a possible alignment (ie engineers studies carried out). Both the above pieces of land had been unused for many years. In the case of a) no properties, businesses in situ, it was flora and fauna and in the case of b) unused land for many years, the previous owners of the 4 properties, having sold and the houses left vacant, vandalized and some demolished.

Had it not been previously agreed that no new planning permission along the possible alignment would be granted until Metro finalized ? The metro appeared never to have gone away and was always considered as part of future development plans.

I find it strange that a milestone is to be protected in situ yet homes and businesses are to be demolished. Refer Plan Drawing No. ML RO 301 U-V

Alignment and land take decisions

Per the TII Metrolink Non-Technical Summary page 60, 10.13.2 states that with regards to Land take assessment methodology:

"Each land parcel potentially impacted was assessed to determine the sensitivity of the site having regard to its use....."

Question:

Who determines how sensitive each potential land take is ?

What were the specific criteria used to determine each prospective land takes sensitivity ?

My husbands business property is described as a 'plot of ground' on the Book of Reference – Second Schedule. There has been a continuing business in operation on this land pre 1963 as recognized by Dublin Rates office.

No-one during their desk or walkover surveys prior to the announcement of the new alignment in I think 2019 asked myself or my family the effect on us. Did they even consider the personal affect on us ? Or did that cross anyones mind as we were and still are seen to be 'the small guy' with no political or celebrity media connections to ensure alignments/land takes are changed.

Page 60 10.13.3 Predicted Impacts: it states:

"...Land required for the proposed project has been minimized wherever possible....." the 2022 RO application has ensured that in our case the reverse has happened. Everything we own is intended to be taken by Compulsory Purchase Order.

COMPULSORY PURCHASE ORDER

As mentioned above our properties home and business are to be subject to permanent Compulsory Purchase Order.

Whilst TII states in their non technical summary page 61 10.13.5 "....that it is recognized that the residual impact will remain significant for many owners....." unless they have been subjected to a permanent CPO or even temporary, they have absolutely no idea of the mental and emotional stress and subsequent ill affects it has had on our physical and mental well being.

We have had the possible threat of a CPO in the form of Temporary and Permanent 'hanging' over our heads for the best part of the last 20 years, stifling our own plans.

My worse fear is to have a CPO enforced under duress, our home and business bulldozed to the ground and for no Metro to ever be built on this specific alignment. I mention duress as when we purchased our properties it was our intention that we would remain there until old age and that our son would one day have my husbands business passed onto him.

Discretionary Scheme Proposal

I am aware of the DSP residential owners to give TII a better understanding of owners needs. We have had at least 3 face to face meetings with TII: Aidan Foley and Michael Horan at Parkgate premises

Michael Horan and his colleague, apologies I cannot remember her name and have no note of it, at Esquires, Airside

More recently March 2022 with Michael Horan, we met at the Coachmans.

With regards to the March 2022 meeting we specifically requested this meeting as after years of looking for suitable properties we eventually found one which we would have been prepared to move to. It did not satisfy 100 % our needs however it was the nearest we had seen in the years of looking since we discovered that the Metro would adversely and directly affect us. If it had not been for the potential CPO of the Metro we would not even be contemplating moving. The only reason we were looking was because of the permanent CPO on our home and business. If it had not been for this we would not have any desire to move.

We explained this to Michael Horan and that we did not want to find ourselves in the position of an RO been granted and permanent CPO been enacted with what would feel to us, like an eviction, with no home to go to. Properties similar to our own are few and far between.

Michael Horan noted that there would not be any agreements / payments made for sale of properties until a Business Plan was in place and a Railway Order granted.

This was disappointing to hear as we have found it very difficult to find anything else which would suit our needs. We have considered moving further afield, Naul, even Sligo however we have come to the conclusion that these are just not options for us. We asked Michael Horan what would happen in the event that we cannot find a home which we are happy to purchase, specifically asking would we just be 'evicted' out of our home ? Michael Horan stated that it wouldn't get to that stage, I still don't know exactly what that means.

We received notification of The Discretionary Scheme Proposal in a letter dated 15th June 2022, February 2023 and again more recently 16th February 2024.

This DSP supposedly '.....allows for you to plan your affairs with as much notice a possible....'

The DSP does nothing to allow a CPO property owner to set a concrete plan in place.

It is only a pre agreement with date of CPO enforcement and actual payment of the agreed sale price at some future point in time not specified. It can take possibly up to a year in normal circumstances for a house move to take place, from the decision to move, to finding the right home, the legal aspects etc. this is on the presumption that you are lucky enough to find a suitable property quickly and that it is still on the market when you are in a position to actually purchase it.

As the actual final agreement and drawdown wont take place until and if an RO is granted and actual funding for the Metro project received (as per Avison Young letter of 22/2/23) are the owners of a permanent CPO property expected to fund by acquiring a mortgage, the acquisition of a new property to avoid finding themselves in the position of not been able to find a suitable property once TII are in a position to finalise agreements ?

Average Market Value , Baseline price and indexing:

Fixing a baseline property price now even with a 'suitable' indexation and using average market values does not equate to a person under CPO conditions for selling, finding themselves in a future position where they will be able to afford an equivalent property.

As I am sure the inspectors are aware there are few properties within our immediate local which are similar to our own. Even within a specific geographic area there can be vastly

differing prices which do not reflect indices such as inflation, Property price index (based on the national average) issued by CSO.

Whilst the DSP endeavours to ensure that ‘..price will not be subject to any downward change in the market...’ not all properties find themselves affected by a general downward trend, (which is highly unlikely anyway) due to specifics relative to that property. I would be more concerned with the fact that the agreed price is not sufficient to purchase an equivalent property due to price increases exceeding any indexation and the possibility that a move to a different geographical area is required if a property locally cannot be sourced, this may mean that any agreed property price will not meet the equivalence required.

The CPO procedure is not one requested but enforced and only accepted under duress, why should owners find themselves disadvantaged or having to move against their wishes.

I note that the Appendix 1 Metrolink Information paper Residential Property is only proposed arrangements indicating that these can possibly change. Again leaving the owner a little up in the air as to what the actual outcome in the future will be.

This goes against an individuals Human Rights and Property rights as held in our Constitution.

TII in their Annual Report and Financial Statements for 2022, state that “TII.....acknowledge its public sector duty under Section 42 of the Irish Human Rights and Equality Commission Act 2014, by putting in place initiatives and practices to protect property rights, they may think and wish everyone else to believe this, however the reality is Human rights and property rights are not been protected.

Am I been given the choice to sell to TII ? No I am not.

To date no one from TII has contacted us with regards to the upheaval, and compensation relating to loss of business with regards to my husbands business property.

Appointment of Avison Young as real estate advisor and representative re Discretionary Scheme:

Question: Can TII confirm the basis for their appointment. Was it put out to tender ?

And Have/are Avison Young engaged by TII in other projects?

And Can TII confirm that there are no conflict of interest issues with regards to their appointment re any third party connections ? I am asking this as I note that one of the team at Avison Young who will be assisting with Discretionary Scheme is noted as ‘Tracy Horan’ is Ms Horan related/connected in any way to Michael Horan of TII Head of Land and Property Services or is it simply a coincidence that they bear the same surname?

Title of Compulsory Purchase Order properties/land:

Question: Whose name will the transfer of Title of CPO properties be in ?

And Will the above named Title remain in that entity's name during construction, expected operational life of the Metrolink regardless of who has the contract to operate the Metro ?

And Can TII confirm that at no point will the Title of any part of our 3 properties be in the name of any Developer, Construction Company or Operator of the Metro or user of the land above the completed Metrolink ?

Question: Fingal County Council in their new, still in draft and dependent on RO, (as noted by TII in Module 1) Development plan are looking to have a slip road, as mentioned by ABP inspector in Module 1, partly through one of the properties we currently own and is listed for Permanent CPO. I am presuming that Title for metrolink requirements is to be in name of TII, however for the above mentioned slip road, will Title have to be transferred to FCC and why is this necessary ? Land tag ref ML 1V-A16 and ML 1V-A18.

Question In the event that the Metro did proceed after having RO granted would the TII intend to dispose of any acquired properties obtained through CPO ?

CONSTRUCTION PHASE

Construction Compound:

Per Non – Technical summary there is a construction compound to be used near Pinnock Hill, east of the R132 Swords Bypass.

Question: Can TII specify exactly where this is ? I have viewed the maps but cannot find the above.

Construction Enabling Works:

I believe that only if a Railway Order is granted that as part of the Construction Enabling Works

Pre demolition surveys have to be carried out

And

Surveys if required re Further Biodiversity, Archaeological, noise, vibration, ground movement etc.

Question: Can TII confirm if these Surveys are to be done pre or post CPO completion and vacating of property ?

If it is a case that the above surveys can be carried out any time after RO been granted and presumably before completion of CPO and vacating of property:

Question: will TII confirm that formal prior written notice after liaising with affected property owners, will be given of the exact date, time and by whom these works will be carried out and the extent to which possible works will be carried out ie trenches dug etc.

Reasoning for asking the specific question above:

I am asking this specific question as a matter of personal security and safety. Since it was announced that an Oral hearing was to take place we have had on two separate occasions people approaching our property wanting to :

- a. Enter our residential land and dig a trench – the two people in question did not provide a letter from TII or from the company which they were acting for or in fact know who they were carrying out this work on behalf of nor did they produce a letter of Public Liability Insurance.
- b. Two ladies who wanted access to the cottage next to the yard to carry out biodiversity reports. Again no letter from TII or from their employer and no production of letter of Public Liability Insurance.

My husband Joe Boland phoned Linda Carroll our liaison contact at TII to confirm who the above were but she was not aware of the above surveys to be carried out. Linda Carroll had mentioned that she would look into it. To date Linda has not reverted.

Request to ABP: We would appreciate it if the Inspector could instruct TII to ensure that no approaches are made to us for entry onto our properties for any surveys whilst the Inspector and or Bord are holding the Oral Hearing and deliberating on the decision as to whether to grant or not a Railway Order. My husband had previously allowed trench work to be carried out at the front of the business premises however the experience was far from perfect. Entrance was blocked and my husband ended up having to close the business for the day, due to access issues and noise levels, even though he had been informed that he would not be affected.

This would also give us peace of mind as previously mentioned we have had people arriving on our property asking to carry out surveys/works etc. and TII themselves not knowing who these people were.







I thank you for giving us this opportunity to put our observations to the Bord and wish you well in your considerations.

Yours sincerely

Juliana Boland

For and on Behalf of Juliana and Joe Boland and family



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Joe boland

Linda Carroll

Wed 14 Jun 2023, 09:01

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Dear Linda

I was under the assumption and was previously told that my business would not be affected by the current work taking place, I currently can not let customers drive onto my property safely due to the risk of injured or death cause by them having no road visibility

I will have to close the property today, who will be in charge of compensating me for my lost revenue

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