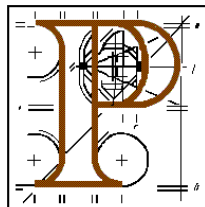


An Bord Pleanála



Inspector's Report

Development:	Depot for Metro North and spoil strategy for that authorised scheme
Site Address:	Dardistown, Co. Dublin
Planning Authority:	Fingal County Council
Applicant:	Railway Procurement Agency
Type of Application:	Application for railway order under section 37 of the Transport (Railway Infrastructure) Act 2001 as amended by section 49 of the Planning and Development (Strategic Infrastructure) Act 2006
Submissions:	<ol style="list-style-type: none">1. Fingal County Council2. Dublin City Council3. Kildare County Council4. Environmental Protection Agency5. Health Services Executive6. Inland Fisheries Ireland7. Hugo Byrne8. Gatland Property Ltd.9. Hainvale Ltd. & AIBP Ltd.10. Dublin Airport Authority11. Ballymun Regeneration Ltd.12. Lorna Kelly13. Roadstone Wood Ltd.
Date of Site Inspection:	30 th June 2011
Inspector:	Stephen J. O'Sullivan

1.0 INTRODUCTION

- 1.1 This report deals with an application by the Railway Procurement Agency to build and operate a depot to serve the Metro North railway whose construction and operation were previously authorised by the railway order made by the board under 29N. NA0003. The application also includes a strategy to deal with the spoil arising from the construction of the authorised railway, amended to take account of this revised proposal for the depot.

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3.0 LEGISLATION

- 3.1 The current application was made under section 37 of the Transport (Railway Infrastructure) Act, 2001. Sections 37 to 47 of the act deal with railway orders and were inserted by section 49 of the Planning and Development (Strategic Infrastructure) Act 2006. Section 43 of the 2001 act requires the board, when considering an application for a railway order, to consider the likely consequences of the proposed railway works for the environment and the proper planning and sustainable development of the area, as well as the matters set out in section 143 of the Planning and Development Act 2000-2010 which are: the policies and objectives of the government, state authorities, the Minister for the Environment or a public authority which the Minister has designated; the national interest and issues of strategic economic or social importance to the state; and the National Spatial Strategy and the applicable regional planning guidelines.
- 3.2 Part 3 of Schedule 1 of the Public Transport Regulation Act 2009 amended section 44 of the 2001 act so that a railway order made by the board may designate a railway as a metro or a light railway without the consent of the Minister for Transport.
- 3.3 Section 42 of the 2001 act states that the board may, at its absolute discretion, decide to hold an oral hearing into an application for a railway order. The board decided not to convene an oral hearing on this application on 15th July 2011.

4.0 PLANNING HISTORY

- 4.1 The board made a railway order on 27th October 2010 in respect of Metro North under reference no. NA0003. The conditions attached by the board were set out in the fourteenth schedule to that order. Condition no. 1 was as follows –

Modifications to the Railway Order

1. *The Railway Order is granted from the Estuary Stop in Swords to St Stephen's Green. The following components of the proposed development shall not be carried out in accordance with the submitted Railway Order application drawings and documentation:*

- (a) The depot, stop and strategic park and ride facility at Belinstown;*
- (b) The disposal of waste material at Belinstown;*
- (c) The stop at Lissenhall;*
- (d) The rail line or ancillary works north of chainage 2300.*

Consequent on this modification the following requirements are set out:

An application for a Railway Order shall be made to An Bord Pleanála for the following:

(i) A re-located depot (and associated infrastructure) which shall be situated in the general vicinity of Dardistown, that is between the M50 motorway and Dublin Airport. The revised proposal shall consider possible synergies with the proposed Metro West light rail order, which it is proposed would tie-in with Metro North at this location.

(ii) A revised scheme for the management of spoil from the construction phase, which scheme shall take into account the policies of the regional waste management plan in relation to beneficial use of spoil. Consideration may be given to a temporary storage location for spoil, or a solution in co-operation with the aggregates industry. (Alternative authorisation for this aspect could be sought by means of an application submitted to An Bord Pleanála in accordance with the provisions of section 37E of the Planning and Development Act 2000, as amended).

With the exception of enabling works (such as heritage protection and utility diversions) work shall not commence on the scheme until approval of such application has been granted.

Reason: *In the interest of sustainable long term transport development and environmental protection, and as per the reasons and considerations set out in the Preamble of this Railway Order.*

- 4.2 The current application was made explicitly on foot of the above condition of the Metro North railway order.

5.0 THE SITE

- 5.1 The site lies on the northern fringes of Dublin city between the M50 and the airport. It is immediately to the north of part of the authorised line of the Metro North railway that runs at surface level, close to the portal for the tunnel beneath the airport and Collinstown Lane. The size of the site is given as 16 hectares. The surrounding area has not been subject to planned, urban development and is characterized by extensive uses, mostly for agriculture and football pitches with some industry and scattered housing. The site of the proposed depot currently comprises nearly all of the land occupied by Whitehall Rangers AFC, including two soccer pitches and a clubhouse, as well as part of a sports ground occupied by Na Fianna GAA and parts of several fields that were under tillage at the time of inspection. Most of the adjacent lands are also in use for agriculture or as sports pitches. There is some rural housing by Collinstown Lane c250m north and north-west of the proposed depot. A car park lies c250m to the east. There are industrial premises c150m to the south on the other side of the authorised Metro line. A waste water treatment plant associated with those premises lies closer to the proposed depot, just across the line of the Metro. The main access to those premises is from the R108 to the west along a road of modern standards. A narrow but tarred road called Ballystruan Lane runs through the site from the public road at Collinstown Lane to the north. This road forks, with one prong leading to the Whitehall Rangers grounds and terminating at the wastewater treatment plant. The other prong leads to the modern access road to the industrial premises. There are gates at both ends of the lane and it is not clear whether there is a public right of way along it. A small unnamed river runs across the site beside the former prong of Ballystruan Lane. There are ditches and hedgerows on the field boundaries in and around the site. A lay-by has been provided on Collinstown Lane to allow observation of aeroplanes landing and taking off from the airport.

6.0 THE PROJECT

- 6.1 The project is to provide a depot to support the operation of the authorised Metro North railway. Road access to the depot would be from a new junction on Collinstown Lane where the viewing lay-by currently lies. A new viewing area would be laid out along Collinstown Lane to the east of the proposed junction. Rail access to the depot would be via a new, grade-separated, delta junction off the Metro North line. This junction would also provide the link between the Metro North line and the proposed Metro West. The works proposed in this application therefore include a part of the railway works proposed under the concurrent application for the railway order for Metro West under NA.0006. The actual entrance to the depot would be from a spur on that part of the Metro West line at the western end the depot. There would also be an emergency escape track to the main Metro North line from the eastern end of the depot.
- 6.2 The railway lines within the depot would be aligned in an east-west direction. They would include 9 lanes of 450m for stabling; 6 lanes of 350m into the maintenance building; lanes serving the inspection/sanding building and the tram wash; and 350m of track for maintenance vehicles and deliveries.
- 6.3 The buildings on the site would include a headquarters building 15m high with a floor area of c1,300m² that would accommodate a central control room with a view over the depot; an infrastructure maintenance building 13m high with a floor area of 3,000m²; a vehicle maintenance building 13m high with an area of 10,000m² that could accommodate 2 trams on each of 6 tracks; and an inspection/sanding building 9m high with an area of 900m².
- 6.4 2 high voltage sub-stations would be installed, one to serve Metro West, along with 3 medium voltage sub-stations.
- 6.5 A mast for radio antennae at the western end of the depot c30m in height is described in the draft railway order and the sectional drawings of the site. It is not described in the EIS or shown on the submitted drawings of the proposed structures
- 6.6 180 parking spaces for staff would be provided. 300 car parking spaces would be provided in a park and ride facility that differs somewhat from that authorised under the Metro North Railway Order.
- 6.7 The level of the depot site will be c.62m above Ordnance Datum. That of the car park will be slightly lower. Achieving this level would require the importation of approximately 220,000m³ of fill material.
- 6.8 Foul effluent from the site will be drained to the mains sewer at Collinstown Lane. Surface water runoff will be managed in accordance with the principles of sustainable urban drainage systems, with the outflow attenuated to pre-development levels. The river crossing the site will be diverted along a new channel around the depot. The new channel will be unlined and will take the outflow from the existing drainage ditches.

- 6.9 The application also seeks approval for a **spoil management strategy** for the entire Metro North project. The submitted strategy can be summarised as follows–
- 6.10 It is estimated that the construction of Metro North will generate 2.3 million cubic metres of spoil. This will consist mostly of limestone and boulder clay. Other material would be generated where the excavations encounter lenses of sand and gravel or alluvial deposits. The locations where the spoil will arise are specified in Annex B of the strategy.
- 6.11 The strategy aims to re-use 0.55 million cubic metres in the Metro North project; 1.65 million cubic metres would be re-used in other projects or recovered off-site; while 0.12 million cubic metre of spoil would arise from made ground and would not be suitable for recovery or re-use and would have to be disposed of. Thus the strategy shall comply with the objective in the Dublin Regional Waste Management Plan 2005 that 85% of construction and demolition waste be recovered or recycled.
- 6.12 Several infrastructure projects are considered as possible locations for the re-use of spoil, including the Bremore port development, the Galway port development, Metro West, the Navan railway, or the construction of forest roads by Coillte throughout Leinster. The use of spoil from Metro North in such projects depends on their relative timing. Other receptors for the recovery of inert spoil include locations where quarries are to be filled or land improved by filling. The strategy refers to Tara Mines and the Roadstone facility at Hunstown, Co. Dublin. A list is provided of soil recovery facilities in Cos. Kildare, Wicklow, Meath and Dublin. It is stated that two of the facilities also recycle construction and demolition waste to produce aggregates that can be re-sold.
- 6.13 Disposal to landfill is the least preferred option for managing spoil from Metro North and so the vast majority will be re-used, recycled or recovered apart from the c118,000 cubic metres of made ground. The residual waste will be tested and classified as inert, non-hazardous or hazardous and will be disposed of at one of several specified landfill facilities in Cos. Dublin, Meath and Wicklow accordingly.
- 6.14 The haulage of spoil will be in accordance with the Strategic Traffic Management Plan that is required under the railway order for the Metro North project and the routes identified therein, except that the routes from worksites north of the M50 will be along the M1, R132 or R108 to the M50. The routes are mapped.

7.0 THE DRAFT ORDER

7.1 The draft order submitted by the applicant contains 26 Articles and 12 Schedules. The following articles may be noted in particular -

Article 1 states that the order may be cited as the Railway (Metro North Dardistown Depot and Spoil Management Strategy) Order 2001.

Article 4 of the draft order would designate the railway as a metro.

Article 5 establishes the power of the agency to carry out the proposed works and operate and maintain the railway subject to the conditions set out by the board in a schedule to the order.

Article 13 specifies that the proposed works be substantially complete within 10 years of the coming into operation of the order so far as is reasonably practicable.

Articles 14, 15 and 16 allow the agency to acquire the land and extinguish the private and public rights of way specified in the 2nd, 10th and 9th schedules to the order respectively.

Article 18 allows the board to take temporary possession of the lands specified in the 4th schedule of the order for the purposes of carrying out the proposed works and that permanent works may be carried out on certain of those lands.

Article 19 states that the powers to compulsorily acquire land conferred upon the agency shall cease at the end of the period specified in article 13.

Article 25 would establish the power of the agency, or a railway undertaking with the agency's consent, to make bye-laws on various matters connected with the operation of the railway, the transgression of which shall be an offence. The making of the bye-laws would require the consent of the Minister for Transport.

Article 26 provides that the agency may manage spoil in accordance with the submitted Spoil Management Strategy and for these purposes the (draft) order and the 2010 Metro North Order shall be read together.

7.2 The 1st schedule describes the works that would be authorised under the order.

The 2nd schedule describes the land that may be acquired under the order. It specifies 15 plots that are shown on 3 maps, each to a scale of 1:500.

Part 1 of the 4th schedule describes the land of which temporary possession may be taken under the order. It specifies 8 plots that are shown on 3 maps, each to a scale of 1:500. Part 2 describes land of which temporary possession may be taken and permanent works carried out. It specifies 7 plots that are shown on 3 maps, each to a scale of 1:500.

The 9th and 10th schedules describe public and private rights of way that may be extinguished under the order. Both schedules specify the closure of Ballystruan Lane.

The 11th schedule describes new roads that may be constructed, being the road to link the depot and the car park to Collinstown Lane.

The 12th schedule describes existing roads which may be altered, being Collinstown Lane, Ballystruan Lane and the R108.

8.0 POLICY

National and Regional Policies

- 8.1 The national and regional policy documents that establish the context for the current proposal are the same as those cited in the railway order for Metro North under NA0003. They are summarised in the inspector's report for that case. They are *Transport 21, A Platform for Change, the National Spatial Strategy, the National Development Plan 2007-2013* and *the Regional Planning Guidelines for the Greater Dublin Area 2010-2022*.

Development Plan

- 8.2 The Fingal County Development Plan 2011-2017 was adopted by the planning authority on 23rd March 2011. Objectives 420 and 421 of the development plan are to prepare a local area plan for an area that includes the current site. The proposed plan area is bounded to the south by the M50, to the east by the R132, to the west by the R108 and to the north by Collinstown Lane. Two zoning objectives apply. The larger part of the area that is within the outer safety zone for the airport is zoned GE 'General Employment'. All but a small part of the site is in this zone. The land to the south-west is zoned HT 'High Technology'. The site is within the outer noise zone designated around the airport. There is an objective on the development plan map to provide a road parallel and to the south of the airport boundary. It is indicated as crossing the northern part of the proposed plan area. It reflects an objective in the 2006 Local Area Plan for the airport to provide a 'box' of roads around the airport to dual carriageway standard.

Airport Safety Zones

- 8.3 The site is in the outer safety zone around Dublin Airport. The draft policy on airport safety zones published by the Department of Transport in 2005 advised that there should be no development in the inner safety zones, but that low density development which did not give rise to a concentration of persons at work of more than 110 per 0.5ha could be permitted in outer safety zones.

Waste

- 8.4 The Dublin Regional Waste Management Plan 2005 sets a target for the recycling of 85% of construction and demolition waste by 2013.

9.0 SUBMISSIONS

9.1 The submission from **Fingal County Council** can be summarised as follows –

- The planning authority supports the project.

Zoning

- Most of the site is zoned GE ‘General Employment’ under the 2011 development plan. The GE zoning largely provides for logistics operations and is compatible with the proposed project. The site is also in the outer public safety zone designated around the airport.

Roads

- The project would not compromise the objective in the development plan for a road parallel to the southern boundary of the airport lands. A traffic impact assessment is not required for the operation of the proposed project. Real time information on the P&R facility should be provided to the council. Staff parking should be provided in phases with 100 spaces initially, with further spaces when the frequency of Metro North services increases. Cycle stands should also be provided. It is not clear whether there is a public right of way along Ballystruan Lane. The haul route for spoil from the construction of the airport tunnel should be altered to run along main airport access road. A special contribution should be sought to address any damage to public roads arising from the haulage of spoil.

Water and drainage

- The project would not have a negative impact on water quality in general or the SAC at Baldoyle Bay. The water supply in the area is adequate to serve the project. The foul effluent would eventually discharge to the north fringe mains sewer. The planning authority accepts the conclusions of the flood risk assessment submitted with the application.

Waste

- The developer should report to the council and to the EPA on the classification of material uncovered on the site and the management of any waste. The proposals in the application regarding solid waste are generally acceptable.

The submission included a copy of an agreement between the council and the RPA and suggested conditions to be attached to the railway order.

- 9.2 The submission from **Dublin City Council** states that it supports the proposed project.
- 9.3 The submission from **Kildare County Council** refers to the spoil management strategy submitted with the application and can be summarised as follows –
- Spoil generated by the project should be deposited as close as possible to the location in which it was generated in accordance with the proximity principle.
 - Soil recovery activity is not exempted development by virtue of being ancillary to the construction of a railway authorised by a railway order, so spoil should only be deposited at locations where planning permission and licences for such activity have been granted.
 - There was no notice displayed of any spoil deposition in County Kildare. Of the locations in the county referred to in the spoil management strategy, that at Blackhall, Punchestown lacks a specific planning permission for such works. There is no planning permission for landfilling at Thornberry, Kill, nor has the application for a waste licence been granted. The impact on visual amenity and landscape of any proposed waste disposal at any site in the county should be properly assessed before consent for such is given.
- 9.4 The submission from the **Environmental Protection Agency** questions whether the material imported to the site should be classified as waste or not. If it is not waste then the railway order should specify this fact and establish verification mechanisms. If it is waste then it must be managed in accordance with waste management legislation. The removal of previously dumped material from the site must be carried out in accordance with waste management legislation. Its retention on the site is not encouraged. The EIS states that 65,000m³ of topsoil will be removed from the site. It is not clear whether this material is contaminated or if it is waste. It would be better to control this at source rather than subsequently.
- 9.5 The submission from the **Health Services Executive** states that the EIS is adequate in relation to the impact of the development in terms of noise, vibration, water and air.
- 9.6 The submission from **Inland Fisheries Ireland** notes that the project would be in the catchment of the Mayne River which is non-salmonid due to poor water quality and barriers along it. It is recommended that proper construction methods are used. Drainage should follow SUDS principles. Class I oil interceptors should be installed. Only clear water should drain from the site into the river system.

- 9.7 The submission from **Hugo Byrne** states that he is the main landowner affected by the proposed order, owning 12 of the 15 hectares on the site. He supports the scheme currently before the board.
- 9.8 **Gatland Property Ltd.** are the owners of the land occupied by Na Fianna GAA Club of which c0.63ha would be acquired under the proposed order. The submission from that company seeks details regarding the proposed land take, its impact on utilities and of the proposed boundary treatment, as well as confirmation as to whether that there would be any adverse impact on its land.
- 9.9 The submission from **Hainvale Ltd. & AIBP Ltd.** states that the company has a private right of way over Ballystruan Lane that would be affected by the draft order. It has an existing agreement with the Railway Protection Agency in respect of the Metro North project and that it would not consent to any alteration to that agreement. The project could have an adverse impact on the meat factory to the south of the site. The submission states that the private right of way along Ballystruan would be extinguished without proper consideration of alternative access points to the company's premises. The project would also contravene the objective in the county development plan to provide a new road parallel to the southern boundary of the airport. The EIS fails to recognize the sensitivity of the meat factory which has high requirements for hygiene and environmental control. Proper analysis has not been carried out of the impact of the project on the factory in terms of light and noise, which can have a significant impact on animal welfare. The increase in parking and the transport of spoil and fill material will also have a significant impact on traffic of the surrounding road network.
- 9.10 The submission from the **Dublin Airport Authority** states that the project will need to observe requirements regarding tall structures, bird hazards, dust and smoke, lighting and electro-magnetic radiation in the vicinity of the airport. Traffic disruption during construction will have to be properly managed, as will the possible attraction of birds to the proposed compensatory floodplains. The foul sewer on Collinstown Lane is under the control of the authority, which is a private company. Consideration is required of the impact of the works on the underground 110kv line under that road which serves the airport. The DAA is confident any outstanding issues can be agreed with the applicant.
- 9.11 The submission from **Ballymun Regeneration Ltd.** generally supports the current proposal and the opportunity to co-locate the depots from Metros North and West. Consideration should be given to providing cycle lanes along Collinstown Lane to provide access to Dardistown Station. Proposals are not made for a bus interchange required under section 14 of the EIS.
- 9.12 The submission from **Lorna Kelly** states that sensible proposals have been made regarding spoil management, but expresses concern that material could be used or deposited elsewhere without prior public engagement. In particular no material should be sent to Sandymount or Poolbeg.
- 9.13 The submission from **Roadstone Wood Ltd.** states that the company is owned by CRH plc. It owns a quarry at Huntstown Co. Dublin that needs fill and

which has planning permission and a waste permit for such activity. It has applied for a waste licence to operate a soil recovery facility. This facility could support the spoil management strategy submitted with the current application and the company therefore supports the current proposals.

Applicant's response

9.14 The applicant was afforded an opportunity to respond to the submissions and did so on 9th August 2011.

9.15 The response to **Fingal County Council** can be summarised as follows –

- There is an agreement between the applicant and the council as submitted to the board.
- The Metro North railway order already requires the provision of real time information on the approaches to the car parks. It will be provided in accordance with the council's parking guidance system.
- The applicant will submit a report to the council on the clean-up of the site and the removal of previously dumped material.
- The council's difficulties with the proposed haul route north from the airport are noted, but the DAA required construction traffic to be segregated from that used by passengers. The applicant will abide by any condition the board sees fit to impose on the matter.
- There is no statutory basis for the imposition of a special contribution on a railway order.

9.16 The applicant looks forward to on-going engagement with **Dublin City Council**.

9.17 In response to **Kildare County Council** the applicant confirms that it is not seeking authorization for a soil disposal facility in Co. Kildare or elsewhere.

9.18 The applicant looks forward to ongoing liaison with the **HSE**.

9.19 In response to **Inland Fisheries Ireland**, the applicant states that the design of the depot was amended to reflect that its concerns. The applicant is aware of and supports proposals to assess the viability of re-introducing salmonid fish into the River Mayne System. All works that could effect that river system will be carried out according to best practice and relevant guidelines. Only clean uncontaminated water will be discharged to surface water during construction or operation.

- 9.20 In response to the **EPA's** submission the it is confirmed that no illegally deposited material will be retained on the site. It will be dealt with according to relevant waste management legislation. The spoil material to be imported to the site will mainly be sourced from the tunnel under the airport and will be treated and handled as a 'by-product' in accordance with Article 5 of the Waste Framework Directive. Topsoil will be tested to determine whether it can be regarded as non-waste material before it is exported from the site.
- 9.21 It is noted that the submission from **Hugo Byrne** supports the project.
- 9.22 In response to **Gatland Property Ltd.** the applicant states that it is not in a position to provide access to roads or utilities for unknown future developments and that no planning permission has been granted for development on that party's land. Complete details of boundary treatments and environmental impacts were provided in the drawings and EIS submitted with the application.
- 9.23 In response to **Hainvale Ltd.** and **AIBP Ltd.** the applicant stated that it entered into agreements with these parties on 22nd December 2009 and 13th January 2010. The order now sought would not alter the impact of the Metro North railway order on these parties. There will be no significant impacts in relation to dust, lighting or traffic on the currently disused meat factory. The Metro North railway order already allows the extinguishment of the private right of way to the factory or the disused wastewater treatment plan along Ballystruan Lane. The roads objectives of the development plan would not be prejudiced by the order now sought, as has been confirmed by the planning authority.
- 9.24 The response to the **Dublin Airport Authority** can be summarised as follows –
- The use of tall cranes during construction will be governed by a process such as that previously agreed by the parties for the portal site.
 - As described in section 15.5.2 of the EIS, a process to monitor and mitigate bird hazard will be put in place.
 - The design of the lighting scheme has taken account of the proximity of the site to the airport.
 - There will be no impact on the airport from electro-magnetic interference.
 - The construction and operation of the depot will not interfere with surface access to or from the airport.
 - No surface water runoff from the site would discharge to the ditch along Collinstown Lane.
 - The applicant has entered discussions with the DAA regarding access to the 300mm sewer, and will consult with it regarding any works to the 110kv line along Collinstown Lane.

9.25 The response to **Ballymun Regeneration Ltd.** can be summarised as follows –

- The applicant is not seeking permission for a depot for Metro West.
- Neither Collinstown Lane nor the R108 are suitable for cycle lanes. It would be disproportionate to require the applicant to acquire land to provide them.
- The proposal provides for buses to stop beside the platform at Dardistown.

9.26 In response to **Lorna Kelly** it is confirmed that no spoil would be deposited at the within the SPA at Sandymount Strand or the Poolbeg Peninsula.

9.27 In response to **Roadstone Wood Ltd.** it is stated that the applicant is open to the possibility of depositing spoil at the Huntstown facility but this is subject to separate regulations and commercial considerations.

10.0 ASSESSMENT

Policy and the principle of development

Metro North Railway Order

- 10.1 The justification for the Metro North railway and its compliance with public policy were established by the making of the Railway (Metro North – Belinstown to St. Stephen’s Green) Order by the board on 27th October 2010. The proposed depot is required to allow the railway to operate and so is in keeping *ispo facto* with the national and regional policies which support Metro North. Nevertheless two questions arise with the current application: whether the proposal is in keeping with the Metro North Order; and whether it would be in keeping with the local planning policies that apply to the site.
- 10.2 Condition no. 1 (i) of the said order required an application for a depot and associated infrastructure in the general vicinity of Dardistown between the M50 and the airport. The current proposal complies with that requirement.
- 10.3 The condition also required the revised proposal to consider possible synergies with the proposed Metro West railway. The current project includes the construction of the rail junction between Metro West and Metro North, so that the proposed depot for Metro North would use a short stretch of the mainline of Metro West. The project does not provide for a combined depot for Metros North and West, nor does it propose the relocation to Dardistown of the depot for the latter railway from the location at Merryfields shown in the draft railway order submitted to the board under NA0006. However the current proposal explicitly facilitates such a relocation of the Metro West depot to a site immediately to the north of the proposed Metro North depot, sharing rail and road access. The issue is discussed at section 6.3.3.6 of the EIS as part of the applicant’s outline of the alternatives to the development that it considered and the main reasons for its choice. It states that government policy is that the two lines would be provided by public-private partnerships requiring separate contractors to provide and maintain their respective infrastructures, including depots. If a combined depot were required then access to those facilities by either of the operators could be hindered by the other. This possibility would prevent any operator from raising private capital to build the railway. Insistence upon a combined depot would therefore mean the effective cancellation of the railway projects. Locating two separate depots on adjoining sites could produce modest synergies by reducing landtake and, if access facilities can be shared, costs. Little or no operational benefits would arise from co-locating depots.
- 10.4 It is accepted that it is government policy that the construction of Metro North and Metro West would be funded by public-private partnerships. It is also considered that the proper planning of the Dublin region is better served by separate consideration of the two proposed railway projects, as is reflected in the fact that a railway order for Metro North has been made, while the application for one for Metro West is pending. Given these conclusions, the provision of depot facilities must allow for the possibility of different infrastructure contractors being appointed for each railway project. While the statement in the EIS that a requirement for a combined depot would effectively

cancel the Metro projects seems a little histrionic, it is accepted such a requirement would cause additional difficulties in the procurement process that are not justified by any demonstrable public benefit. The proposal before the board for a depot that would allow co-location with a Metro West depot on adjoining land is therefore considered reasonable, although whether such co-location actually occurs would depend on the board's decision on the concurrent application NA0006. Thus the revised proposal in this application has considered possible synergies with the proposed Metro West, as required by condition no. 1 of the Metro North order.

- 10.5 That condition also required a revised scheme for the management of spoil from the construction of the proposed railway that would take account of the regional waste management plan. The current application includes a spoil management strategy that illustrates how it could meet the target in the current Waste Management Plan for the Greater Dublin Region that 85% of construction and demolition be recycled or recovered. It is noted that the submitted scheme is strategic. It does not contain a specific set of proposals for the recovery or disposal of spoil arising. Rather, it provides a reasoned basis for the estimation of the type and quantity of excavated material that would arise in the project and what quantities could be re-used in the same project. It then sets out a series of options for the management of the rest of the spoil off-site, ordered in accordance with their desirability under the waste management hierarchy established in legislation and policy. The possible destinations of spoil for re-use are listed, as are those for the disposal of spoil, inert or otherwise. The submitted strategy is acceptable. It does not seek consent for any particular works and would not in itself authorise any activity away from the site of the Metro North railway. This is appropriate because any such works or activity would, in any event, require separate and specific permission under planning and waste management legislation. The concerns expressed in the submissions from Kildare County Council and Lorna Kelly would not, therefore, require a refusal or substantial modification of the present application. The presentation of a range of options for the re-use of spoil exported from the site of Metro North is prudent and takes proper account of the fact that the timescale of the project relative to the other projects where spoil could be re-used is not fixed. The submitted strategy takes proper account of the objectives of the applicable regional waste management plan. The current application therefore complies with the requirements of condition no. 1(ii) of the Metro North Railway Order.

Local Policy

- 10.6 Nearly all the site is zoned GE 'General Employment' in the county development plan. The type of infrastructural works with a low concentration of employment that is now proposed accords with this zoning. The objectives in the development plan to prepare a local area plan should not constrain the board from making a railway order on foot of this application because of the strategic importance to the region of the Metro North project and the specification in the Metro North railway order that a depot be provided between the airport and the M50. The extensive form of proposed development with relatively few persons congregating would also be compatible with the location of the site within the outer safety and noise zones around the airport. The line of the roads objective to the south of the airport on the development plan map is

indicative only. It does not depict a formal proposal for the alignment of the road sought. A substantial amount of land would remain between the proposed depot and the southern perimeter of the airport to allow road improvements there. The project would not, therefore, prejudice the said roads objective in the development plan or the similar objective in the 2006 local area plan for the airport. The arguments to the contrary in the submission from Hainvale Ltd. are not accepted. It is therefore concluded that the proposed project would be in keeping with the local planning policies that apply to the site and surrounding area.

Environmental Impact Assessment

Spoil Management Strategy

- 10.7 The strategy submitted as part of the application for a railway order provides a reasoned estimate of the amount and nature of spoil material generated by the overall Metro North project that would have to be exported from the site of that project. It sets out options for the re-use, recovery, recycling or disposal of this material in other places. If the board were to make the railway order sought, this would not permit any of that activity in those other places. The putative railway order would not, therefore, constitute a consent for any such activity or project under the legislation governing environmental impact assessment. Such activity would be separately subject to the need for environmental impact assessment and would remain subject to plans made under planning and waste management legislation. Therefore the submitted spoil management strategy is not a plan or project requiring its own environmental impact assessment in the consideration of this application for a railway order. Nevertheless the strategy is part of the environmental impact assessment for the overall Metro North project in that it describes an indirect environmental impact of that project arising from the spoil material that it would generate, and the railway order now sought would allow works described the Metro North railway order to commence. The submitted spoil management strategy adequately describes the nature of that impact and the capacity of the environment where the spoil may be received. Therefore it adequately describe one of the indirect impacts of the Metro North project, and the measures to address it, to an extent that is sufficient for that impact to be properly assessed and to support the conclusion that the spoil generated by its construction would not be likely to cause a significant negative effect on the environment in the absence of illegality in the management of that spoil.

The Environmental Impact Statement

- 10.8 Apart from one particular omission, the submitted statement complies with the requirements of the legislation governing environmental impact assessment in that it adequately describes the project including the site and the proposed works; it adequately describes the proposed mitigation measures; it provides sufficient information to allow the impact of the project on the environment to be considered; it outlines the main alternatives considered by the applicant the main reasons for its proposal; and it provides a non-technical summary of the above.
- 10.9 Nevertheless the statement has certain unfortunate characteristics to the board's attention should be drawn. The statement appears to be based on a misunderstanding of the distinction between the environmental impact assessment, which is carried out by the board as the consent authority, and the environmental impact statement, which is compiled by the developer. It would hinder the overall process to insist on a rigid distinction between the presentation of environmental information and its expert interpretation in an EIS, or to expect a developer to refrain from expressing its own reasoning and conclusions with regard to the environmental impact of a project. Nevertheless the actual assessment of the project is the responsibility of the consent authority. The essential role of the EIS is to present information to the public and to the authority. The EIS in this case explicitly presents itself as the statement of the conclusions of the environmental impact assessment. It is not. There is an undue and unhelpful uniformity in the format for individual chapters of the main body of the EIS, whereby the baseline environment, the potential impact and the residual impact are assigned generic ratings. In most cases the imposed categories are qualitative, if not arbitrary. Their invariable imposition obscures rather than illuminates the environmental impact the statement is trying to describe. The result of these deficiencies is that the submitted EIS is an unnecessarily lengthy and convoluted document. It contains all the required information, but does not present it as clearly as it should. Much of the material in the main chapters of the EIS omits useful information, while highly significant data on such matters as flood risk and the appropriate assessment of the impact on Natura 2000 sites are stated more succinctly in the appendices. The proposed depot is a relatively small-scale project without highly complex effects on the environment. Therefore the above deficiencies did not prevent the submitted statement from fulfilling its role in the EIA process. However this might not be the case for a statement prepared in a similar manner for a larger or more complex project.
- 10.10 The exception referred to in section 10.7 above is the radio mast described in schedule 1 of the draft order and shown on the 1:500 scale site layout and sectional drawings. Properly scaled drawings of this structure have not been submitted and it is not properly described in the EIS. Neither is adequate information given as to its potential effects on the environment or the measures proposed to address them. As a tall structure in the vicinity of a major airport it cannot be assumed that the mast would not be likely to have a significant effect on the material assets comprising that airport. So the mast cannot be excluded from the EIA of the proposed project, but adequate information has not been

presented to the board or to the public to allow such assessment. Remedying this omission in the course of the current application would require the submission of a revised EIS, its advertisement and the seeking of new submissions from the public and prescribed bodies. This would entail a significant delay to the consideration of this application and so to the commencement of works on the authorised Metro North railway. Such a delay would not be warranted because it is entirely possible that a separate screening process based on adequate information could conclude that the mast would not be likely to have a significant impact on the environment, or that a revised communications infrastructure for the railway that did not involve a tall mast near the airport could be devised and implemented within a short period. The mast should therefore be omitted from any railway order made on foot of this application.

Human Beings

10.11 The vicinity of the site is not densely populated. The environmental impact of the proposed project on the users of the surrounding roads and the occupiers and visitors of the commercial and industrial premises to the south of the site would be negligible. The impact on the occupants of the houses to the north along Collinstown Lane requires greater consideration, as does that on the uses of adjoining sports facilities. There are two houses approximately 250m north of the boundary of the proposed depot, and another five c300m north-west of that boundary. Land between the site and Collinstown Lane would remain in use for sports. The operation of the project would not cause noise, vibration, radiation or stray current that would have a significant negative impact on human beings there. Neither would any road traffic that it might generate. The noise generated by construction would have the potential to have a significant effect on human beings. Implementation of standard measures that represent good construction practice should ensure compliance with the limits on noise emissions specified in condition no. 15 of the Metro North Railway Order, which would be considered acceptable. There would be a particular negative impact on the houses along Collinstown Lane during the utility diversion works required on that road. However the effect would be temporary, affecting any one property for a period of days only. So this negative impact would be relatively minor. The environmental impact assessment of the project can therefore conclude that any negative impact of the project on human beings would be minor and temporary, and would not justify refusing consent for the project or substantial alterations to it.

Flora and Fauna

10.12 The proposed depot will occupy land that is currently farmland and sports pitches interspersed with hedgerows. In ecological terms it can be characterised as mainly amenity grassland and arable cropland with some dry meadow. These habitats are intensively managed and shaped by anthropic activity and are not particularly valuable to natural heritage. The project would result in the loss of these habitats. This would not result in a significant negative impact on the

environment. The site is crossed by a tributary of the Mayne River. The project would involve diverting the course of this river across the site to a new channel that would be similar to the existing one in that it would not be lined, although it would have a greater capacity. The river is part of a system that is non-salmonid and has poor water quality. Its diversion in the manner proposed would not damage the ecology of the system and so would not have a significant impact on the environment. The system drains to Baldoyle Bay which is protected under European legislation and so the potential for a downstream impact there is considered in the appropriate assessment below. Section 15 of the EIS describes various measures to ameliorate the impact of the project on flora and fauna. These include management of the removal of hedgerows during construction to avoid damage to nesting birds and bats under licence from the NPWS if necessary, the regulation of light levels at the depot during operation to avoid disturbing bats, and the planting of the proposed compensatory floodplain area with appropriate trees and grasses. The measures outlined in section 19 of the EIS to protect surface water quality are also relevant in this regard. The proposed measures are not required to mitigate a potential for a serious negative impacts on flora and fauna in or around the site, but they do reflect good practice for construction on greenfield land. Having regard to the foregoing, and to the appropriate assessment below, the EIA of the project can conclude that the project would not have a significant negative impact on flora or fauna.

Appropriate Assessment

10.13 The site of the works that would be authorised by the proposed railway order is not within or in the vicinity of any Natura 2000 sites. Nevertheless the project would involve significant physical alterations to a river that drains into Baldoyle Bay 7km to the east, as well as profound changes to the landuse around that same stretch of the river. Thus the possibility arises that it might have a significant downstream effect on the SAC and SPA at Baldoyle Bay (sitecodes 000199 & 004016 respectively). It is therefore necessary for the project to be subject to an appropriate assessment of its implications for those sites in accordance with article 6 of the Habitats Directive. Annex C of the EIS submitted by the applicant includes a Natura Impact Statement was prepared by a person with relevant expertise in ecology. The EIS includes adequate information on the project, the mitigation measures and on the Natura 2000 sites for the board to carry out the appropriate assessment.

10.14 The conservation objectives for the SAC at Baldoyle are to maintain or restore at a favourable conservation status of the following Annex I habitats: 1140, mudflats or sandflats not covered by seawater at low tide; 1310, *salicornia* and other annuals colonizing mud and sand; 1330, Atlantic salt meadows; and 1410, Mediterranean salt meadows. None of these are priority habitats. The conservation objectives for the SPA are to maintain or restore at a favourable conservation status the following bird species that winter there: *branta bernicla hrota*; *tadorna tadorna*; *charadrius hiaticula*; *pluvialis apricaria*; *pluvialis squatarola*; and *limosa lapponica*, as well as the habitats that support them.

Pluvialis apricaria and *limosa lapponica* are listed in Annex I of the Birds Directive.

10.15 It is theoretically conceivable that the project could affect the above conservation objectives by altering the hydraulic flow in the river that crosses the site which may have downstream effects on designated sites at Baldoyle Bay. However given the distance of the proposed works from the bay, the small area of the catchment that would be affected and the SUDS measures proposed to avoid local flooding, there is no realistic prospect this impact would be significant. A failure in the construction techniques proposed in the application could lead to an increase in the level of suspended solids in the river that drains into the bay. However the protected habitats of the bay are ones created by the deposition of material and so such a release would not have a negative impact on them. The mechanical and physical processes associated with the proposed development could not, therefore, have a significant negative impact on the designated sites at Baldoyle Bay.

10.16 There is a greater concern regarding the chemical impact of substances that would be used in the construction and operation of the proposed development. Foul effluent from the depot would be diverted to the sewerage system. Nevertheless there is a possibility that spillage of fluids such as fuels, lubricants or cement during construction, or of lubricants or cleaning agents during operation, could damage the quality of water entering Baldoyle Bay in a manner that would have a negative effect on the protected habitats downstream. However section 19.5 and Table 6 of Annex C of the EIS specify the measures the applicant would carry out to avoid this impact. The measures to be implemented during construction include the installation of a temporary drainage system; restricting fuelling to bunded areas allowing spills to be contained and brought off the site; and a formal assessment of risk before any pouring of concrete. Measures to be implemented during operation include the installation of Class I bypass interceptors before surface water outfalls; the use of a water recycling and biodegradable shampoos and waxes at the tram wash and the installation of a treatment system there; and controls on the use of herbicides in the maintenance of landscaped areas around the depot. These measures are feasible and their implementation should not entail any unusual difficulties. They would be adequate to ensure that the project did not cause any emission of effluent whose chemical composition would threaten the protected habitats and species at Baldoyle Bay. An appropriate assessment can therefore conclude beyond reasonable scientific doubt that the proposed project would not adversely affect the integrity of the SAC or SPA there, or any other Natura 2000 site. The provisions of the Habitats Directive would not preclude the making of the proposed railway order.

Soil

10.17 The project will involve the removal of topsoil from the site whose estimated volume is 65,000m³. It would require the importation of 220,000m³ of fill material onto the site. Thus the project would profoundly alter the character of the soil on the site, but would not affect other soils elsewhere. Section 16 of the

EIS states that previously dumped household waste and construction and demolition waste has been uncovered on the site, and that there is a potential for more fly-tipped material to be unearthed from the site due to its proximity to the city and agricultural use. Analysis of the uncovered waste indicates that it is not hazardous. Its removal is not likely to cause a significant threat to health and safety or a risk of contamination of waters or air. To mitigate the potential impact of the removal of this waste material, section 17.4.1.3 of the EIS states that it will be removed from the site by a contractor with an appropriate permit for disposal in accordance with the requirements of waste management legislation and policy. This follows the essence of the advice given by the EPA in its submission and is considered acceptable. The environmental impact assessment of the project can therefore conclude that its impact on the soil on the site would be profound, but that it would not have significant negative impact on the environment.

Water

- 10.18 The project would generate comparatively small amounts of foul effluent, which would be diverted to public sewerage system via the sewer at Collinstown Lane. This element of the project would not have any significant impact on the environment.
- 10.19 The surface water runoff from the project would be diverted to the Mayne River system via the tributary that flows through the site. This would create a much greater potential for environmental impact on both the volume and quality of water in that river system. The impact on water quality is considered in the appropriate assessment in paragraph 10.15 above. The conclusions that the proposed mitigation measures should be sufficient to avoid a negative impact on water quality are also applicable to this element of the EIA.

Flood Risk Assessment

- 10.20 The project would have a profound effect on the hydrological characteristics of the site as a result of the raising of levels upon it and the importation of approximately 220,000m³ of fill material; the diversion of the tributary river and other drainage channels across the site; and the introduction of landcover with different percolation and water storage characteristics than the existing grassland and tillage. The flood risk assessment contained in appendix G1 of the EIS states that there is some overbank flood storage on the site by the river and that there are records of flooding along the tributary river in 2000 and 2002 at the Old Airport Road to the east of the site, as well as on adjoining lands upstream. It therefore concludes that there is some risk of fluvial or pluvial flooding associated with the site, although the previously recorded flooding was as result of particular constraints on the river flow at culverts rather than a general saturation of the land. It is therefore possible that the project could cause flooding either on the site, or upstream or downstream from it. Measures proposed to address this risk are set out in section 19 and appendix G1 of the EIS. In line with SUDS principles, the outflow of surface water from the site

will be attenuated to pre-development levels of no more than 2 litres per hectare per second, with storage provided both in tanks and in pervious pavements. The new channel for the tributary river will have a greater capacity than the existing one. Storage capacity of 2,200m³ would be provided at the compensatory floodplain area at the eastern end of the site. The 1% annual equivalent period (AEP) flood event level is calculated as 60.28m above Ordnance Datum (OD), including a 10% allowance for climate change, using a model based on the *Fingal and East Meath Flood Risk Assessment and Management Study* carried out for the local authority by the same consulting engineers as those retained by the applicant. The said measures would ensure that there was no additional flood risk either upstream or downstream of the site during such a flood event. The ground level of the depot would be raised to 60.78m which would avoid flooding of this piece of essential infrastructure at the 0.1% AEP flood event. The hydrological environment of the site, the impact of the development, the proposed mitigation measures are described with a reasonable degree of precision in the EIS. The basis on which their likely effectiveness was judged is set out clearly and the assumptions and operation of the model are reasonable. The conclusions in the EIS are therefore considered acceptable, and the environmental impact assessment of the project can conclude that it would not give rise to an undue risk of flooding.

Air

10.21 The construction of the project could give rise to dust emissions that would have a negative impact on air quality. Measures to mitigate this impact are set out in section 20.5.1 of the EIS. They comprise standard dust suppression methods for large scale works, including keeping material covered or damp as appropriate and limiting vehicle speeds on unfinished surfaces. Their implementation should be adequate to avoid significant negative effects on air quality. The operation of the project would not threaten air quality. The EIA can therefore conclude that the project would not give rise to significant adverse impacts on air.

Climate

10.22 The project would have no direct impact on the climate. It would facilitate a significant piece of public transport infrastructure that might lead to an overall decrease in greenhouse gas emissions from the city, and so might be regarded as having a minor, indirect and positive impact on climate.

Landscape

10.23 The site of the project is characterised by a flat land covered by grass or cereals in large fields divided by hedgerows, with scattered buildings. The landscape does not have any particular scenic amenity. Its rural character is heavily qualified by the nearby airport and motorway. Therefore, although the project would change the agricultural character of the entire site, its effect on the

landscape would not represent a significant negative impact on the environment. The mitigation measures proposed in section 21 of the EIS include landscaping, the use of good materials on the facades of the proposed buildings and the control of signage. They reflect good practice but are not necessary to mitigate a serious potential negative impact on the landscape.

Material Assets

10.24 The project would remove 13ha of land from agricultural and sporting use and provide facilities to support public transport to a large part of the city. This would represent a very large improvement in the material assets on the site. Section 25 of the EIS lists sewers, watermains, gas pipelines and electricity supply cables along public roads around the site that might be affected by the proposed project. It outlines standard methods for road works, including consultation with the local authority and utility companies. These measures should be adequate to ensure any significant negative impact on those material assets. The most significant material asset in the vicinity of the site is the airport. The proposed structures and operations would not be likely to have a substantial impact on the use of that asset, apart from the radio mast whose omission is recommended, and a possibility that improper lighting or the attraction of birds could interfere with aircraft. Proper management of the depot and consultation with the airport and aviation authorities can adequately mitigate this potential impact, as indicated in the submission from the DAA. The comments in that submission regarding the risk that the proposed compensatory floodplains might attract birds are noted. However the board should be advised that the floodplains do not have to be permanent wetlands to fulfil their function. They may comprise the same habitats as the surrounding grassland, they just have to be the proper shape and level to retain water during rare flood events. Therefore the compensatory floodplains do not necessarily have to be attractions for birds.

10.25 The submission from Hainvale Ltd. and AIBP Ltd. expressed concern about impact of the project on its meat factory to the south and the consideration of this impact in the EIS. No meat processing was occurring there at the time of inspection. It is noted that it was not in use for meat processing at the time of inspection for appeal PL06F. 234511 on 16th October 2009. The decision on that appeal gave permission to retain a waste transfer facility for cooking oil on part of the same site. The application form on the file for the appeal states that the premises is connected to the public foul sewer, rather than the disused treatment plant to the east. The main access to the premises is along a modern road which links with the R108 close to its junction with the M50, and so does not cross the site. The construction of the proposed depot over part of the line of Ballystruan Lane would have no practical impact on the accessibility of the premises. Any private or public right of way along the lane would be severed in any event by the authorised line of Metro North. That project also includes an alternative access from Collinstown Lane to the disused wastewater treatment plant over which Hainvale Ltd. claims ownership. The assignment of a low sensitivity to the factory premises in the EIS was unhelpful. However the EIS contains adequate information on the likely emissions of noise, dust and light

from the project during construction and operation to demonstrate that it would not be likely to have any impact on human or animal welfare or hygiene. The environmental impact assessment of the project can therefore conclude that it would not have a significant negative impact on the premises over which Hainvale Ltd. and AIBP Ltd. assert ownership.

10.26 Having regard to the foregoing, the EIA of the project can conclude that it would have a significant positive impact on material assets.

Cultural Heritage

10.27 The project would not have a significant impact on architectural heritage. The sports facilities that would be removed have their historical connections with the north of the city as opposed to the rural area around the site. Their displacement to other peripheral urban areas would not be significant in terms of social history. The information at section 23 of the EIS indicates that there may be some remains of archaeological interest on the site that could be affected by the proposed works. The measures to mitigate any impact include archaeological monitoring and preservation of any remains by excavation and record. These measures would be adequate to ensure that the project did not have a significant negative impact on cultural heritage.

Interaction of the Foregoing

10.28 The impact of the development on water quality has the potential to have a significant impact on flora and fauna downstream on the project at Baldoyle Bay. This is considered in the appropriate assessment above, which is adequate to assess the interaction of the impact of the project on the various elements of the environment cited in the EIA directive.

Traffic and access

10.29 The submission from Hainvale Ltd. asserts the project would have a significant impact on the use of the road network in the area. The generation of traffic by the proposed park and ride facility and by the Dardistown stop has been considered in the Metro North railway order. The operation of the proposed depot would generate only a small amount of additional traffic movements by relatively few staff. It would have no appreciable impact on the surrounding road network. The traffic generated during construction would be more significant, particularly during the proposed importation of 220,000m³ of fill material. However the site is well served by the surrounding road network, with close connections to the M50 along Collinstown Lane and the R108, which are both roads built to modern specifications but outside the continuous built-up area of the city. The temporary impact of construction traffic on the users of that road network would not justify refusing permission or substantially altering the current proposals for an important piece of public transport infrastructure.

10.30 The spoil management strategy provides a scheme for the vehicular movements associated with spoil handling. Such movements will be governed by the strategic traffic management plan required by the railway order for the overall Metro North project. The essential difference from the proposals in the application for that order is that, rather than all spoil being routed to Bellinstown along the M1, it would now be directed towards the M50 and thence to the various sites in the surrounding area that have been identified as possible locations for its re-use, recovery, re-cycling or disposal. The new strategy would not place a substantial additional burden on local roads. The additional traffic volume on the national road network would be marginal and would be justified by the public benefits arising from the overall project. The route for the haulage of spoil from the airport site is via a secondary access at the northern boundary of the airport site onto a county roads (the Castlemoate and Naul Road), then onto the R132 at the Cloghran Roundabout. Fingal County Council have advised that the route should use the main road access from the airport to avoid the junction between the Naul Road and the Castlemoate Roads and the poor vertical alignment of the approaches to the roundabout. The proposed alignment is the same as that of the STMP required under the Metro North Railway Order and would avoid disruption to a junction of national strategic importance, that between the airport and the national road system. The proposed route is therefore preferred, although management of heavy vehicle movements will be required on the county roads to protect public safety. The impact of traffic associated with the construction of the overall project would be governed by the Metro North Railway Order rather than one granted on foot of this application. The imposition of a condition onto the proposed order requiring a financial contribution to the county council in respect of damage to roads arising from that traffic would not be appropriate, therefore, even if the statutory basis for such a condition was clear.

10.31 The revised layout of the park and ride provides adequate facilities for buses serving Dardistown stop. Additional parking for buses is not considered necessary, given the proximity of the bus depot at Harristown. The provision of cycle lanes along public roads should be the responsibility of the county council rather than the applicant. The proposed works include bicycle parking at the Metro stop and cycle lanes along the access road. The proposed cycle lanes have been designed in accordance with discredited standards and would not provide reasonably safe and convenient access for cyclists. It would be appropriate for a condition to be imposed requiring the re-design of the lanes in accordance with the manual issued by the National Transport Authority.

Property Acquisition

- 10.32 The project is required to allow the operation of an authorised railway that would provide greatly improved public transport facilities to a significant part of Dublin. The location of the proposed works follows the requirements of the Metro North railway order and comply with local planning policies, as discussed above. The acquisition of property under the proposed order would therefore serve a purpose set out in the Transport (Railway Infrastructure) Act 2001 and the public good generally.
- 10.33 Submissions were received from three persons who are listed in the schedules as persons whose interest in land would be affected by the making of the proposed order. The submission from the owner of the larger part of the land to be acquired, Mr Hugo Byrne, did not object to the order. A submission was received from Gatland Ltd. as the owners of the land currently used by Na Fianna GAA Club of which 0.63ha would be permanently acquired. It referred to details of boundary treatments, utilities diversion and amenities. All the said details are set out in the drawings and documents submitted with the application for the railway order. The submission did not seek any particular amendments to the proposed order, nor did it submit any grounds that would justify amendment.
- 10.34 In their submission Hainvale Ltd. and AIBP Ltd. stated that they would be affected by the extinguishment of the private right of way along Ballystruan Lane to their property at the (currently disused) meat factory and wastewater treatment plant to the south of the authorised line of the Metro North railway. Any such impact would not be significant and would not justify amendments to the proposed acquisition of property. The access to the disused meat factory is not from Ballystruan Lane, but from the R108 via a modern access road. There is a remnant of roadway at one end of Ballystruan Lane that extends as far that access road. It is closed by gates and overgrown by vegetation and would not be passable by road-going vehicles or pedestrians. The line of Ballystruan Lane would be cut and an alternative access track provided from Collinstown Lane to the treatment plant as part of the works authorised by the Metro North railway.

Agreements

- 10.35 Fingal County Council submitted a copy of an agreement that was reached with the applicant. It governs various details of the construction and operation of the proposed depot. The terms of the agreement would not substantially alter the proposed works or their EIA and are generally in keeping with public policy and good practice. The agreement should be included in the schedules to any railway order the board might make.
- 10.36 The submission from Hainvale Ltd. insisted that the agreement it reached with the applicant with respect to Metro North order should be honoured. No reason was advanced as to how the proposed order would effect that agreement.

11.0 CONCLUSIONS

- 11.1 The proposed project and the draft order would be in keeping with the Metro North Railway Order, 2010 in general and with condition no. 1 of the fourteenth schedule to that order in particular.
- 11.2 The proposed project would be in keeping with national and regional policy on transport and planning.
- 11.3 The proposed project would be in keeping with the local planning policies and objectives that apply to the site.
- 11.4 The proposed spoil management strategy would be in keeping with the requirements of the regional waste management plan.
- 11.5 The submitted environmental impact statement is generally adequate and complies with the legislative requirements for such statements.
- 11.6 An environmental impact assessment of the project should conclude that, subject to the implementation of the proposed mitigation measures, the proposed project would not be likely to have significant negative effects on the environment with regard to human beings, fauna and flora, soil, water, air, climate, the landscape, material assets, cultural heritage or the interaction of the any of those factors.
- 11.7 An appropriate assessment of the project in light of its implications for the conservation objectives of the SAC and SPA at Baldoyle Bay can conclude beyond reasonable scientific doubt that it would not have an adverse impact on the integrity of those sites.
- 11.8 The submitted spoil management strategy would allow the board to conclude that the indirect effects of the spoil material that would be generated by the construction of the Metro North railway would not be likely to have a significant negative impact on the environment.
- 11.9 The proposed project would not have an undue impact on the users of the road network in the vicinity of the site.
- 11.10 The interference with property rights that the draft order would allow are for a purpose set out in the Transport (Railway Infrastructure) Act 2001 and would serve the public good, and the said interference would be necessary and proportional to that purpose and public good.
- 11.11 The proposed project would be in keeping with the proper planning and sustainable development of the area.

12.0 RECOMMENDATION

12.1 I recommend that the board make a railway order similar to the draft order but subject to the amendments set out below with the instructions in italic font and the revised text for the order in standard font –

Replace the pre-amble to the draft order with the following text -

PREAMBLE

(Including reasons and considerations)

AN BORD PLEANÁLA in exercise of the powers conferred on it by Section 43 of the Transport (Railway Infrastructure) Act 2001 (as amended by the Planning and Development (Strategic Infrastructure) Act 2006) and as amended by the Planning and Development (Amendment) Act 2010, having considered:

- an application, duly made on the 29th day of April, 2011 by the Railway Procurement Agency for a Railway Order to be designated as appears hereunder, to authorise railway works at Dardistown North in the County of Dublin and a strategy for the management of spoil arising from the construction of the Metro North railway,
- the Draft Railway Order and documents that accompanied the application including the environmental impact statement,
- the provisions of the Railway (Metro North – Belinstown to St. Stephen’s Green) Order, 2010 made by the board on 27th day of October 2010 and in particular condition no. 1 on the fourteenth schedule to that order
- the consent given by the National Transport Authority to the granting of the Railway Order,
- the submissions duly made to it under section 40(3) and not withdrawn,
- the written response by the applicant,
- the submissions duly made to it by an authority referred to in section 40(1)(c),
- national policy contained in the provisions of Transport 21 which provide for an integrated public transport system serving the greater Dublin region and the provisions of the National Development Plan 2007-2013 which contains an objective to link the City Centre to Swords via Dublin Airport,
- regional policy contained in the provisions of “A Platform for Change – Dublin Transportation Office Strategy 2000-2016” and the Regional Planning

Guidelines for the Greater Dublin Area 2010-2022, the provisions of the Fingal County Development Plan 2011-2017,

- the agreement and undertakings between the applicant and Fingal County Council, and
- the likely consequences for proper planning and sustainable development in the area in which it is proposed to carry out the railway works, and for the environment of such works,

and having considered the report of the Board's Inspector, the board is of the opinion that, subject to compliance with the conditions set out below, the development of the depot for Metro North and the implementation of the spoil management strategy proposed in the application and as modified by this Order:

- would be consistent with the provisions of the Metro North Railway Order, 2011
- would not have unacceptable impacts on the environment from construction or operation,
- would not have an unacceptable impact on traffic safety or congestion, and
- would be consistent with the proper planning and sustainable development of the area,

Now An Bord Pleanála hereby makes the following Order –

In article 2 at page 7 of the draft order after (“spoil management strategy” means the Metro North Spoil Management Strategy designated as such and submitted to An Bord Pleanála on) insert (29th day of April, 2011;)

In article 21(1) at page 15 of the draft order omit the first appearance of (Schedule) and the text in bold and insert (fourteenth schedule)

In the first schedule omit Work no. 9

In the first schedule amend Work no. 12 as it appears on the draft order by replacing (including a cycleway and footpath on both verges) with (including cycle lanes and footpaths) and insert the following text after the drawing numbers (as amended in accordance with condition no. 4 of the fourteenth schedule to this order)

Insert the following schedule –

THIRTEENTH SCHEDULE

AGREEMENT SUBMITTED IN THE COURSE OF THE APPLICATION

Parties to the agreement – Fingal County Council and the Railway Procurement Agency

Date submitted - 21st June 2011

Insert the following schedule –

FOURTEENTH SCHEDULE

CONDITIONS IMPOSED BY AN BORD PLEANÁLA

1. All mitigation measures described in the environmental impact statement shall be implemented during the construction and operation of the railway facility herein authorised.

Reason: To control the environmental impact of the project

2. The proposed radio mast and radio building at the depot described as works no. 9 in the first schedule of the draft order shall be omitted.

Reason: These structures and their potential environmental impact were not properly described in the submitted drawings or in the environmental impact statement.

3. The applicant shall prepare a detailed scheme that shall govern the design and operation of all external lighting in and around the depot, car park and roads authorised by this order. The applicant shall submit this scheme to the Irish Aviation Authority and the Dublin Airport Authority and secure their written agreement to it before the commencement of any works under this order. In default of agreement the matter may be referred to the board for determination.

Reason: To avoid any impact on the safe operation of the airport

4. The proposed access road described as works no. 12 in the first schedule of the draft order shall be amended by the omission of the proposed cycle lanes and the provision of revised cycle facilities that comply with the *National Cycle Manual* issued by the National Transport Authority in 2011. Revised plans demonstrating compliance with this condition shall be submitted and agreed in writing with the planning authority before the commencement of works under this order. In default of agreement the matter may be referred to the board for determination.

Reason: The proposed access road would not provide a safe and convenient access for cyclists or pedestrians to the Metro stop because it would not provide any facility for cyclists to negotiate the junction between the access road and the public road or between the access road and the road entrance to the depot, nor would it properly separate cycle traffic from the footpath.

5. The noise and vibrations emitted during the construction and operation of the railway facility herein authorised shall comply with the limits set down in conditions nos. 12, 13, 14, 15 and 16 in the fourteenth schedule of the Metro North Railway Order, 2010.

Reason: To protect the amenities of properties in the vicinity of the site.

Stephen J. O'Sullivan
17th August 2011