
RELEVANT ASSESSMENTS REGULATION 299B STATEMENT

Project Proposed Strategic Housing Development at
Southgate, Dublin Road, Drogheda, Co Meath

Subject Article 299B Statement

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1.0 INTRODUCTION

In accordance with the provisions of Regulation 299B(1)(b)(ii)(II)(C) of the Planning and Development Regulations 2001 (as amended; hereafter referred to as 'the Regulations'), this document provides a 'statement indicating how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive (Directive 2014/52/EU) have been taken into account'.

This statement will identify the relevant Directives which have informed the proposed development. These relevant assessments will be identified as they relate to the proposed development, the results of those assessments will be outlined, and how those results have been taken into account in determining the significance of the proposed development on the environment will be identified.

As part of the preparations for the proposed development, several assessments have been undertaken by the Applicant to assess the impact of the proposed development on the environment. These assessments have been undertaken so as to establish the baseline environment relative to the proposed development site and identify any impacts the proposed development may have on the environment.

2.0 HABITATS DIRECTIVE (DIRECTIVE 92/43/EEC) AND BIRDS DIRECTIVE (DIRECTIVE 2009/147/EC)

The main EU legislation for conserving biodiversity is the Directive 2009/147/EC of the European Parliament and of the Council of November 2009 on the conservation of wild birds (Birds Directive); and the Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (Habitats Directive).

The Habitats Directive is the cornerstone of habitats and species protection in Ireland. The Habitats Directive (92/43/EEC) and the associated Birds Directive (2009/147/EC) are transposed into Irish legislation by Part XAB of the 2000 Act and the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011) as amended.

The main aim of the Habitats Directive is the conservation of biodiversity by requiring Member States to take measures to maintain or restore natural habitats and wild species listed on the Annexes to the Directive at a favourable conservation status. These annexes list habitats (Annex I) and species (Annexes II, IV and V) which are considered threatened in the EU territory. The listed habitats and species represent a considerable proportion of biodiversity in Ireland and the Directive itself is one of the most important pieces of legislation governing the conservation of biodiversity in Europe.

Articles 10 of the Habitats Directive and the Habitats Regulations 2011 place a high degree of importance on non-Natura 2000 areas as features that connect the Natura 2000 network. Articles 12 and 16 of the Habitats Directive establish a system of strict protection for the animal species listed in Annex IV(a), but also allow for derogation from these provisions under defined conditions.

2.1 RELEVANT ASSESSMENTS

The Birds Directive (Directive 2009/147/EC) and Habitats Directive (Council Directive 92/43/EEC) are the main EU legislation resulting in the legal protection of species in Ireland. The proposed development has taken into account the requirements of the objectives of the Habitats Directive and the Birds Directive through:

- Appropriate Assessment (AA) Screening Report. Enviroguide Consulting (2021)
- Ecological Impact Assessment for Lands At Southgate, Drogheda, Co Meath. Enviroguide Consulting (2021)

The results of assessments have been taken into account at the design phase, informing the design of the proposed development so as to mitigate any impacts that may have been identified in these assessments. The results of these assessments have been considered when determining the potential significance of effects on biodiversity resulting from the proposed development after the implementation of mitigation measures. This is set out in Section 3 of the EIA Screening. The findings of these assessments are discussed further below.

2.1.1 Appropriate Assessment

Appropriate Assessment (AA) Screening

Enviroguide Consulting (2021) undertook an Appropriate Assessment (AA) Screening of the proposed development); this is included with the planning documentation. The AA Screening concluded that:

In conclusion, upon the examination, analysis and evaluation of the relevant information and applying the precautionary principle, it is considered by the authors of this report that, the possibility may be excluded that the Proposed Development will have a significant effect on any of the European sites listed below:

- Clogher Head SAC;
- River Nanny Estuary and Shore SPA; and

- *River Boyne and River Blackwater SPA*
- *Boyne Coast and Estuary cSAC,*
- *River Boyne & River Blackwater cSAC; and*
- *Boyne Estuary SPA*

These complete precise and definitive findings based on the best available scientific evidence, remove all reasonable scientific doubt that the proposed Development will have any likely significant impacts on the European Sites detailed above. In addition, no measures intended to avoid or reduce the potential harmful effects of the project on a European Site have been taken into account in this Appropriate Assessment Screening Report and its conclusions.

The site is not located on a Natura 2000 site however, there are several Natura 2000 sites within a c. 15 km radius: the closest to the site being the River Boyne and River Blackwater SAC, the Boyne Coast and Estuary SAC and the Boyne Estuary SPA. These areas can be found approximately 1.6km to 1.9km from the site.

The AA Screening report sets out that the subject site does not support springs or flowing watercourses nor were any drainage ditches observed beneath the boundary treelines/hedgerows. As such there is no pathway linkage for impact on water receptors.

The EIA Screening Report (Section 3) has been relied upon and adopted the conclusions of the project specific AA Screening when determining the likelihood of significant effects on the environment arising from the proposed development with particular attention to potential impacts on European Sites.

2.1.2 Ecological Impact Assessment

An Ecological Impact Assessment (EclA) has been undertaken of the proposed development lands by Enviroguide Consulting (2021); this is included with the planning documentation. This report includes an assessment if potential impacts to protected species or habitats are likely to arise from the residential development during either the construction or operation phases. A habitat survey, walkover bird survey and mammal survey of the Site of the Proposed Development was conducted by Enviroguide Consulting.

All Irish bat species are protected under the Wildlife Act (1976) and Wildlife Amendment Acts (2000 and 2010). Also, the EC Directive on The Conservation of Natural habitats and of Wild Fauna and Flora (Habitats Directive 1992), seeks to protect rare species, including bats, and their habitats and requires that appropriate monitoring of populations be undertaken.

Roost inspection and activity surveys were carried out in relation to the Proposed Development on 6th June 2020 by qualified Bat ecologists, Brian Keeley and Donna Mullen. The complete Bat Survey is attached in Appendix V to the EclA. No bat roosts were found in the trees on the boundary of the site however Bat foraging activity was noted during the survey. It is predicted that this development will have no direct impact upon the conservation status of bats. The potential impacts on protected bat (foraging loss) from the proposed development have been taken into account through the development of the Landscape Plan.

The EclA states that:

Both standard Construction Phase control measures, and specific mitigation measures, have been outlined to ensure that the Proposed

Development does not impact on any species habitats, or designated sites of conservation importance. It is essential that these measures are complied with, in order to ensure that the Proposed Development complies with National conservation legislation.

Provided all recommended measures are implemented in full and remain effective throughout the lifetime of the Proposed Development, no significant negative residual impacts on the local ecology, or on any designated nature conservation sites, will occur as a result of the Proposed Works.

The conclusions of the EclA and Bat Assessment have been adopted within the EIA Screening Report (Section 3) when determining the likelihood of significant effects on the environment arising from the proposed development in respect of Biodiversity, with particular attention to species and habitats protected under the Habitats Directive and the Birds Directive.

3.0 WATER FRAMEWORK DIRECTIVE (DIRECTIVE 2000/60/EC) AND THE GROUNDWATER DIRECTIVE (DIRECTIVE 2006/118/EC)

The Water Framework Directive (WFD) (Directive 2000/60/EC) and The Groundwater Directive (Directive 2006/118/EC) requires all Member States to protect and improve water quality in all waters. The WFD is one of the key overarching instruments in the protection of waters and includes subordinate directives or water-related legislation that complement or have been developed in response to, or coherent with, the requirements of the Water Framework Directive.

The WFD requires 'Good Water Status' for all European waters to be achieved through a system of river basin management planning and extensive monitoring by 2015 or, at the least, by 2027. 'Good status' means both 'Good Ecological Status' and 'Good Chemical Status'.

The WFD does not require site specific assessments to be undertaken by a developer. It lays down standards for the quality of designated waters ("guide" values as well as "imperative" values) and requires Member States to monitor the quality of designated waters and to take measures to ensure that they comply with the minimum standards¹.

3.1 RELEVANT ASSESSMENTS

The EIA Screening Report has been informed by the water quality status as defined by the monitoring program and assessment undertaken by the EPA pursuant to the obligations to the WFD. The results of the monitoring program and assessment undertaken by the EPA are summarised below:

The Stagrennan stream was not assigned a WFD status during the 2013-2018 WFD round and is currently under review as per the EPA online mapping tool (<https://gis.epa.ie/EPAMaps/>). The Boyne Estuary transitional waterbody achieved "Moderate" status under the 2013-2018 WFD round and is currently "At Risk" of not meeting its Water Framework Directive targets (<https://gis.epa.ie/EPAMaps/>). The site is situated within the Drogheda Ground Water Body (IE_EA_G_025), which achieved

¹ Handbook on the Implementation of EC Environmental Legislation, SECTION 5 – WATER PROTECTION LEGISLATION (European Commission, 4th ed. 2016)

“Good” status during the 2013-2018 WFD monitoring round and is currently projected to be not at risk (<https://gis.epa.ie/EPAMaps/>).

The results of this assessment provided by the EPA have been used to determine the current water body status of the aquifer and receiving waters for any discharge from the proposed development site.

As stated in the AA Screening (Enviroguide, 2021); there is no hydrological connection between the Site of the Proposed Development and the Stagrennan stream or the Boyne Estuary. There are no drainage ditches at the site of the Proposed Development and there is no following water course linking the Site of the Proposed Development to the Stagrennan Stream or the Boyne Estuary. As there is no direct pathway or proposed discharges the proposed development will not impact on the current water quality status of the *Stagrennan stream or the Boyne Estuary* under the Water Framework Directive.

The current water body status has been considered within the EIA Screening Report (Section 3) in the examination of the likelihood of significant effects on water quality on the Stagrennan stream or the Boyne Estuary, having regard to potential direct and indirect impacts from surface water from the proposed development during the construction and operational phases.

4.0 THE FLOODS DIRECTIVE (DIRECTIVE 2007/60/EC)

The Floods Directive (Directive 2007/60/EC) establishes a framework for the assessment and management of flood risks, with the aim to reduce the adverse consequences on human health, the environment and material assets.

The Floods Directive requires Member States to assess if all water courses and coast lines are at risk from flooding, to map the flood extent and assets and humans at risk in these areas and to take adequate and coordinated measures to reduce this flood risk. The Floods Directive also reinforces the rights of the public to access this information and to have a say in the planning process.

The Floods Directive must be implemented in tandem with the WFD. In Ireland, the OPW is the national authority assigned with the implementation of the Floods Directive, which was transposed into Irish law by the EU (Assessment and Management of Flood Risks) Regulations SI 122 of 2010.

4.1 RELEVANT ASSESSMENTS

Meath County Council (MCC) as part of the preparation of the Meath County Development Plan, 2013-2019 undertook Strategic Flood Risk Assessment (FRA), which assessed the flood risk indicators in relation to land use proposals pursuant to the Floods Directive.

This identified flood risk areas in the plan areas and highlighted that Drogheda Southern Environs is impacted by the Stameen River which outfalls to the River Boyne in Mornington. It also identifies the North-Eastern corner of the Southern Environs lands which is bounded by the tidal River Boyne which presents fluvial and tidal flood risk to this section of the lands.

The Site-Specific Flood Risk Assessment (FRA) prepared by DBFL Consulting Engineers and is included with the application documentation. The Flood Risk Assessment, relies upon, and is informed by the Eastern Catchment-based Flood Risk

Assessment and Management (CFRAM) and the Irish Coastal Protection Strategy Study ICPSS. The Eastern CFRAM and ICPSS study was commissioned in order to meet the requirements of the Floods Directive, as well as to deliver on core components of the 2004 National Flood Policy, in the Eastern district.

The Site-Specific FRA indicates that the subject site is within Flood Zone C, with a low probability of flooding. The potential impact of climate change has been allowed for in the design of the surface water drainage network and storage system.

The Site-Specific FRA considers that the proposed development is appropriate for the Flood Zone C locations and therefore, further assessment and justification test is not required under the Flood Risk Management Guidelines.

The results of the Site-Specific FRA have been adopted within the EIA Screening Report (Section 3) in the examination of the likelihood of significant effects on the environment arising from the proposed development as a consequence of flooding, which has the potential to affect human health and material assets.

5.0 STRATEGIC ENVIRONMENTAL ASSESSMENT (DIRECTIVE 2001/42/EC)

The Strategic Environmental Assessment (SEA) Directive 2001/42/EC, on the assessment of the effects of certain plans and programmes on the environment requires that an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment. Public plans and programmes that are likely to have significant effects on the environment must have a Strategic Environmental Assessment (SEA).

The SEA Directive (2001/42/EC) is implemented in Ireland by the European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations 2004 (SI 435/2004) and the Planning and Development (Strategic Environmental Assessment) Regulations 2004 (SI 436/ 2004), as amended.

5.1 RELEVANT ASSESSMENTS

Meath County Council as part of the Meath County Development Plan 2013 – 2019 (including variations no. 1 through no. 5) undertook a SEA and/or SEA Statement, to provide a clear understanding of the likely environmental consequences of decisions regarding the adoption and implementation of the Plan.

In zoning the land for mixed residential and business use under the Meath County Development Plan 2013-2019, the Planning Authority have assessed the nature of the site to ascertain its capacity to accommodate residential development and merit a zoning as designated.

The SEA identifies potential negative impacts as a result of the settlement and housing strategy in respect of water quality; surface water, ground water and flooding. The potential residual effects in respect of Water Quality, and Flooding that have been identified in the SEA have informed the EIA Screening Report (JSA, 2021) and the Site-Specific Flood Risk Assessment (DBFL Consulting Engineers, 2021) for the proposed development.

The results of the SEA have been considered within the EIA Screening Report in the examination of the likelihood of significant effects on the environment arising from the proposed development on the existing water regime and have informed in particular

the assessment of potential negative impacts on the water quality; surface water, ground water and flooding.

6.0 ENVIRONMENTAL NOISE (DIRECTIVE 2002/49/EC)

The Environmental Noise Directive 2002/49/EC relates to the assessment and management of environmental noise; this is the main EU instrument to identify noise pollution levels and to trigger the necessary action both at Member State and at EU level. The Directive requires Member States to prepare and publish, every 5 years, noise maps and noise management action plans for:

- agglomerations with more than 100,000 inhabitants
- major roads (more than 3 million vehicles a year)
- major railways (more than 30.000 trains a year)
- major airports (more than 50.000 movements a year, including small aircrafts and helicopters)

When developing noise management action plans, Member States' authorities are required to consult the concerned public. Relevant bodies develop noise action plans that we consider as appropriate.

6.1 RELEVANT ASSESSMENTS

The Meath County Council (MCC) is the designated Action Planning Authority under the Environmental Noise Regulations (2018) and is responsible for the production and implementation of the Noise Action Plan (NAP) for County Meath.

MCC have published Noise Action Plan 2019 the aim of the document is to provide an overview of the requirements of the Regulations, to review the results of the strategic noise mapping within Meath County, and to set out an approach to the strategic management and control of environmental noise over the next five years. The NAP was considered under a SEA Screening Report and AA Screening Determination.

This Noise Action Plan 2019 primarily considers the long-term environmental noise impact from "Major Road" and "Major Rail" traffic noise sources and sets out an approach to review noise impact levels.

The development of the policies, objectives, and land use zoning within the Meath CDP, has taken into account the findings of the NAP (and previous iterations). The design of the proposed development has been informed and, where applicable, complies with the objectives and policies set out in the CDP.

Due to the nature of the proposed development, there are no specific assessments required by the applicant under the Environmental Noise Directive 2002/49/EC for the Proposed Development.

7.0 CLEAN AIR FOR EUROPE (CAFE) DIRECTIVE (DIRECTIVE 2008/50/EC)

The Clean Air for Europe (CAFE) Directive 2008/50/EC is the prevailing legislation to improve the quality of air in Europe and limit exposure to air pollution. The CAFE Directive set rules including how to monitor, assess, and manage ambient air quality.

Overall, the main objective of the CAFE Directive is to reduce human and environmental exposure to air pollutants and ensure that the limits of values and

thresholds are not exceeded. The CAFE Directive was transposed into Irish legislation by S.I. No. 180/2011 - Air Quality Standards Regulations 2011.

The CAFÉ Directive mandates the location and quantity of air monitoring stations that Environmental Protection Agency (EPA) should undertake ambient air monitoring. If there is an exceedance of the ambient limit value an Air Quality Action Plan must be developed by Local Authorities in conjunction with the EPA.

In Ireland there is only one monitoring site that has exceedance of the EU Air Quality limit value for nitrogen dioxide, this is located at St. John's Road West station Dublin. An annual average concentration of 43 $\mu\text{g}/\text{m}^3$ was measured in 2019. This is above the EU annual limit value for NO₂ of 40 $\mu\text{g}/\text{m}^3$. This exceedance of an air pollution standard is as a result of the heavy traffic passing this monitoring station. In response to this an Air Quality Action Plan will be developed Dublin Local Authorities in conjunction with the EPA, this is not due for publication until the end of 2021.

7.1 RELEVANT ASSESSMENTS

Due to the nature of the proposed development, there are no specific assessments required by the applicant under the CAFE Directive for the Proposed Development.

Section 3 of the EIA Screening Statement discusses the potential significance of effects on air quality resulting from the proposed development after the implementation of mitigation measures.

National air quality standards shall not be adversely affected as a result of the short-term construction phase or the long-term operational phase, thus ensuring that the potential for adverse impacts on human health is negligible.

8.0 THE WASTE FRAMEWORK DIRECTIVE (DIRECTIVE 2008/98/EC)

The Waste Framework Directive 2008/98/EC entered into force on 12 December 2008. It repealed the old Framework Directive (Directive 2006/12/EC) and incorporating and repealing the Hazardous Waste Directive (Directive 91/689/EEC) and the Waste Oil Directive (Directive 75/439/EEC). The Directive is the European Union's primary piece of legislation governing waste management.

The European Communities (Waste Directive) Regulations 2011 (S.I. No. 126 of 2011) as amended gives effect to EU Directive 2008/98/EC (hereafter referred to as the Waste Directive Regulations).

One of the major relevant aspect of the Waste Directive in relation to construction sites is Article 5 that is transposed into Irish legislation by Article 27 of the Waste Directive Regulations.

The Waste Directive provides a formal mechanism by which a substance or object, which is production residue, could be determined not be a waste but instead a by-product.

In relation to construction, uncontaminated excavated soil and other naturally occurring materials can potentially be considered as a by-product rather than as a waste when being imported or exported between separate sites. In short, surplus soil or stone being imported or exported from a site, could be categorised as a by-product and be reused for the development of sites, instead of being taken for disposal as a waste at a licensed waste facility.

8.1 RELEVANT ASSESSMENTS

The Eastern-Midlands Region Waste Management Plan 2015-2021 published by the Dublin City Council on behalf of the Eastern-Midland Waste Region is the overarching policy document set out how the requirements of the Waste Framework Directive are met.

The development of the policies and objectives within the Meath CDP has taken into account *Eastern-Midlands Region Waste Management Plan 2015-2021*. The design of the proposed development has been informed and, where applicable, complies with the objectives and policies set out in the CDP.

There are no specific assessments required by the applicant under the Waste Framework Directive. Byrne Environmental has produced a Construction and Demolition Waste and By-Product Management Plan (2021) and Operational Phase Waste Management Plan (OPWMP) (2021) that is included with the planning documentation.

The principals set out in the Waste Framework Directive have been taken into account through the design of the proposed development and the mitigation measures set out in the CWMP (2021) and OPWMP (2021).

The CWMP has been prepared to demonstrate *“how the Construction Phase will comply with the following relevant legislation, relevant Best Practice Guidelines and Local Authority Waste Management Policies”* that have been developed pursuant to the Waste Framework Directive.

The CWMP sets out that any excavated excess soils that are required to be exported off-site shall be tested to determine their classification as hazardous or non-hazardous and may be declared as a by-product in accordance with Article 27. This assessment shall be undertaken prior to the export of excess soils or stones from the site.

The objective of the OPWMP is *“to maximise the quantity of waste recycled by providing sufficient waste recycling infrastructure, waste reduction initiatives and waste collection and waste management information to the residents of the development.”* The OPWMP has been prepared to ensure consistency with the Waste Targets set out in *The Eastern-Midlands Region Waste Management Plan 2015-2021* and the *Meath County Development Plan 2013 – 2019, and Draft Meath County Development Plan 2021 - 2027*.

The Eastern-Midlands Region Waste Management Plan 2015-2021 and the Meath County Development Plan are discussed in Section 4.7.

The principals set out in the Waste Framework Directive have been taken into account through the design of the proposed development and the mitigation measures set out in the Construction Waste and By-Product Management Plan (2021) and Operational Phase Waste Management Plan (2021) The results of these assessments have been considered when determining the potential significance of effects in respect of material assets and waste resulting from the proposed development after the implementation of mitigation measures. This is set out in Section 3 of the EIA Screening Statement.

The conclusions and mitigation measures set out in the CWMP and OWMP have been adopted within the EIA Screening Statement (Section 3) in the examination of the likelihood of significant effects on the environment arising from the proposed development in respect of material assets and waste.

9.0 SEVESO DIRECTIVE 82/501/EEC, SEVESO-II DIRECTIVE 96/82/EC, SEVESO-III DIRECTIVE 2012/18/EU

The Seveso Directive (Directive 82/501/EEC, Directive 96/82/EC, Directive 2012/18/EU) was developed by the EU after a series of catastrophic accidents involving major industrial sites and dangerous substances. Such accidents can give rise to serious injury to people or serious damage to the environment, both on and off the site of the accident.

The Chemicals Act (Control of Major Accident Hazards involving Dangerous Substances) Regulations 2015 (S.I. No. 209 of 2015) (the "COMAH Regulations"), implements the latest Seveso III Directive (2012/18/EU). The purpose of the COMAH Regulations is to transpose the Seveso Directive into Irish law and lay down rules for the prevention of major accidents involving dangerous substances, and to seek to limit as far as possible the consequences for human health and the environment of such accidents, with the overall objective of providing a high level of protection in a consistent and effective manner.

9.1 RELEVANT ASSESSMENTS

The subject lands are not proximate to any Seveso/COMAH designated sites. The closest Seveso site is the Flogas facility at Marsh Road with consultation zone of 600 metres, a further site, located adjacent to the Flogas site (Maxol Ltd) has a consultation zone of 400 metres. The subject is approximately 1.6 kilometres from the Flogas facility and Maxol Ltd, this places the site significantly outside the consultation zone.

The proposed development site is not located within the consultation zones, therefore this does not form a constraint to the proposed development at this location.

Furthermore, there are no substances to be stored as part of the proposed development that would be controlled under Seveso Directive or COMAH Regulations.

Due to the separation distance from the proposed development site to the nearest site controlled under the Seveso Directive, and the fact that it lies outside the consultation zone are no specific assessments required by the Applicant under the Seveso Directive or COMAH Regulations.