
**STATEMENT IN ACCORDANCE WITH
ARTICLE 299B (1)(b)(ii)(II)(C) OF THE
PLANNING AND DEVELOPMENT
REGULATIONS 2001 – 2021**

The Tecpro Building,
Clonshaugh Business & Technology Park,
Dublin 17, Ireland.

T: + 353 1 847 4220
F: + 353 1 847 4257
E: info@awnconsulting.com
W: www.awnconsulting.com

Project Strategic Housing Development at the Former
Royal Oak Public House, Finglas Road and
Old Finglas Road, Glasnevin, Dublin 11

Subject Article 299B (1)(b)(ii)(II)(C) Statement

Author Niamh Kelly

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1.0 INTRODUCTION

AWN Consulting have been appointed by the Applicant, Three Castle Investments Limited, to prepare this statement in accordance with the provisions of Article 299B(1)(b)(ii)(II)(C) of the Planning and Development Regulations 2001 (as amended; hereafter referred to as the “Planning 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 2011/92/EU, as amended by 2014/52/EU) have been taken into account’.

This statement is part of the information provided by the Applicant so that the Board may complete an examination for the purposes of a screening determination in accordance with Articles 229B and 229C of the Planning Regulations. This statement will identify the relevant European Union legislation, and assessments of the effects on the environment carried out pursuant thereto, 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 the proposed development is a sub-threshold development, the application is not accompanied by an Environmental Impact Assessment Report. An EIA screening report has been prepared by AWN under separate cover.

The proposed development comprises the (i) removal of existing carpark, associated areas of hard-standing surface and construction materials on site; (ii) construction of a Build-To-Rent residential development within a new part six, part seven, part eight, part nine storey over basement level plant room apartment building comprising 103 no. apartments (10 no. studio, 33 no. one-bedroom & 60 no. two-bedroom) all of which have direct access to private amenity space, in the form of a balcony or terrace, and

shared access to 450.9sq.m of internal resident's amenities, 1,061sq.m of external communal amenity space (1st floor & 7th floor roof terraces) and 365sq.m of public open space (public terrace and landscaped area at ground level); (iii) provision of 48 no. vehicular parking spaces (including 3 no. mobility parking spaces and 5 no. electric charging spaces), 2 no. motorcycle parking spaces, 222 no. bicycle parking spaces, bin stores, switch room and ESB substation at ground floor/undercroft level; (iv) provision of 1 no. new vehicular entrance and 7 no. new pedestrian entrances to the development and associated public amenity areas from Old Finglas & Finglas Road, 3 no. pedestrian entrances will provide access to the provided public open space, 2 no. pedestrian entrances will provide direct access to 2 no. ground floor level apartments and 2 no. pedestrian entrances will provide direct access to the apartment building; and, (v) all ancillary works including landscaping, boundary treatments, provision of internal footpaths, provision of foul and surface water drainage, green roofs and all site services, site infrastructure and associated site development works necessary to facilitate the development. A Natura Impact Statement has been prepared in respect of the proposed development.

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

Appropriate Assessment (AA) Screening and Natura Impact Statement (NIS)

An Appropriate Assessment (AA) Screening Report and Natura Impact Statement has been undertaken for the proposed development by Meehan Ecology (2022). This takes into account the requirements of the objectives of the Habitats Directive and the Birds Directive. This is included with the planning documentation. The AA Screening concludes:

The proposed residential development at the site of the former Royal Oak public House has been assessed with regard to:

- *the nature, size and location of the proposed development and possible impacts arising from the proposed project*
- *the qualifying interests and conservation objectives of the relevant European sites*
- *the potential for in-combination effects arising from other plans and projects.*

It is concluded that with the implementation of the mitigation measures included in the design of the development and the implementation of preventative measures during the construction and operational phase as per this Natura Impact Statement report, the CEMP and the Resource and Waste Management Plan, significant negative effects on the conservation objectives or site integrities of North Bull Island SPA, North Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA, alone or in combination with other plans and projects, are not likely.

The conclusions of the AA Screening and NIS have been adopted within the EIA Screening Report (Sections 3.4 and Section 5.3) when considering the ecological sensitivity of the site and determining the likelihood of significant effects on the environment arising from the proposed development with particular attention to potential impacts on European Sites.

3.0 WATER FRAMEWORK DIRECTIVE (DIRECTIVE 2000/60/EC)

The Water Framework Directive (WFD) (Directive 2000/60/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 have been developed in response to, 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 objectives of the WFD are (1) to prevent the deterioration of water bodies and to protect, enhance and restore them with the aim of achieving at least good status and (2) to achieve compliance with the requirements for designated protected areas

3.1 RELEVANT ASSESSMENTS

The EIA Screening prepared by AWN 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 River Tolka (Section: Tolka_050) has a WFD status (2019) of 'poor'. Dublin Bay has a WFD status of 'Good'. The River Tolka has a WFD risk score of 'At risk' of not achieving good status' while the Dublin Bay waterbody has a WFD risk score of 'Not at risk'. The ecological status (which comprises biological and chemical status) of transitional and coastal water bodies during 2013-2018 for the Tolka Estuary and Dublin Bay is classed as 'moderate' and 'Good' respectively.

The most recent surface water quality data for the Liffey Estuary Upper and Dublin Bay (2019-2020) indicate that they are 'Unpolluted'. Under the 2015 'Trophic Status Assessment Scheme' classification of the EPA, 'Unpolluted' means there have been no breaches of the EPA's threshold values for nutrient enrichment, accelerated plant growth, or disturbance of the level of dissolved oxygen normally present.

The results of the monitoring program and assessment 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. Furthermore, the Appropriate Assessment (AA) Screening and Natura Impact Statement (Meehan Ecology 2022) has adopted and relied upon this monitoring program and assessment undertaken by the EPA pursuant to the obligations to the WFD. The current water body status has been considered within the EIA Screening (Section 4.2) and also informed the Appropriate Assessment (AA) Screening undertaken for the proposed development by Meehan Ecology (2022).

The current water body status has been considered in the examination of the likelihood of significant effects on water quality in the Tolka catchment and Dublin Bay having regard to potential direct and indirect impacts from surface water and foul water arising 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

A Site-Specific Flood Risk Assessment (FRA) has been prepared by Curtins Consulting Engineers (2022a).

This Site-Specific FRA draws on, and is informed by, the Dublin City Council Strategic FRA, including the Flood Zone C designation. 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 Planning System and Flood Risk Management Guidelines (OPW, 2009).

The results of the Site-Specific FRA and the Strategic FRA have been considered with the EIA Screening Report 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 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.

5.1 RELEVANT ASSESSMENTS

The proposed development is of a type not especially vulnerable to risk of major accidents as there are no substances to be stored as part of the proposed development that would be controlled under Seveso Directive or COMAH Regulations, and the site is not located near any existing Seveso site.

The closest SEVESO site to the proposed development is the Upper Tier Chemco Ireland Limited headquarters, which is located c. 4.30km from the Site. The proposed development site is not located within the consultation zone, therefore this site does not form a constraint to the proposed development at this location.

There are no specific assessments required by the Applicant under the Seveso Directive or COMAH Regulations.

6.0 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 µg/m³ was measured in 2019. This is above the EU annual limit value for NO₂ of 40 µg/m³. 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 by the Dublin Local Authorities in conjunction with the EPA, this is not due for publication until the end of 2021.

6.1 RELEVANT ASSESSMENTS

There are no Air Quality Action Plans published in Ireland. Furthermore, the proposed development is not located within an area has an identified exceedance in the EU air quality limits; therefore, there are no specific assessments under the CAFE Directive relevant to the proposed development at this location.

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

Directive 2008/98/EC has applied since December 2010 and Amending Directive (2018/851/EU) was adopted on 30 May 2018 (together, the “Waste Framework Directive”). The Waste Framework Directive was transposed into national legislation by the European Union (Waste Directive) Regulations 2011-2020, which includes amendments to the Environmental Protection Agency Act 1992 (as amended) and the Waste Management Act 1996 (as amended).

The Waste Framework Directive sets long-term objectives for the Union’s waste management and gives economic operators and Member States a clear direction for the investments to achieve those objectives. The overall goal of the directives is to improve EU waste management. This will contribute to the protection, preservation, and improvement of the quality of the environment as well as encourage the prudent and rational use of natural resources.

The Waste Framework Directive includes requirements for member states to carry out certain monitoring and assessment, including in relation to the implementation of the waste prevention measures, implementation of measures on re-use and food waste prevention measures, need for waste installation infrastructure, waste collection schemes, rates of recycling and landfill and the implementation of waste management plans and waste prevention programmes.

One of the major relevant aspects 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.

7.1 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.

There are no specific assessments required by the applicant pursuant to the Waste Framework Directive. Irrespective of this, a Resource and Waste Management Plan prepared by Curtins Consulting Engineers is included with the planning documentation. The principles set out in the Waste Framework Directive have been taken into account thorough the design of the proposed development and the mitigation measures set out in these reports.

The Resource and Waste Management Plan (Curtins Consulting Engineers 2022b) has been prepared to demonstrate how it is proposed during the Construction Phase to comply with the following relevant legislation and guidelines including:

- Waste Management Act 1996 (as amended)
- Waste Management (Collection Permit) Regulations 2007 (SI No. 820 of 2007)
- Waste Management (Collection Permit) Amendment Regulations 2008 (SI No. 87 of 2008)
- Department of Environment, Heritage and Local Government (DoEHLG), Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects (2006).

The management measures set out in Section 5 of Resource and Waste Management Plan have been adopted within the EIA Screening Report (Section 5.10) in the examination of the likelihood of significant effects on the environment arising from the proposed development in respect of material assets and waste.

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

Directive 2001/42/EC, the SEA Directive, 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.

8.1 RELEVANT ASSESSMENTS

Dublin City Council as part of the Dublin City Development Plan (2016-2022) undertook a Strategic Environmental Assessment (SEA), to provide a clear understanding of the likely environmental consequences of decisions regarding the adoption and implementation of the Plan. The SEA Statement establishes the residual effects after implementation of the Dublin City Development Plan (2016-2022) as shown in Table 5.1 below.

Environmental Component	Residual Effect
Population and Human Health	None
Biodiversity, Flora and Fauna	Loss of biodiversity with regard to European Sites and Annexed habitats and species and loss of biodiversity to designated sites, including wildlife sties and listed species.
Water	Potential significant adverse impact on quality and status of water bodies. Limitations of Wastewater Treatment Facility at Ringsend which could lead to deterioration of water based habitats and species and to the quality of water. Failure to comply with the drinking water regulations and to provide new development with a clean water supply.
Air and Climatic Factors	Increase in the number of flood events due to increased development pressure on the land, and hard surfacing areas of the city. Uncertainty with regard to extreme flood events. Failure to tackle climate change and emissions from transport and issues regarding climate change.
Material Assets	Increase in waste levels.
Architectural Heritage	Effects on entries to the Record of Protected Structures.
Archaeological Heritage	Effects on entries to the record of Projected Monuments and Places and other archaeological heritage.
Landscape	Potential adverse impacts arising from visual impacts on the landscape.

Figure 8.1 *Dublin CDP SEA Statement Potential Residual Effects*

The residual effects of particular relevance to the proposed development are those that relate to Water Quality, in respect of the limitations at Ringsend, and flooding in respect of the increase in areas of hardstanding. The potential residual effects in respect of Water Quality, and Flooding that have been identified in the SEA have informed the Appropriate Assessment Screening Report and Natura Impact Statement (Meehan Ecology, 2022) and the Site-Specific Flood Risk Assessment (Curtins Consulting Engineers 2022a) for the proposed development.

The results of these assessments 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 impacts on the water quality of Dublin Bay and the European Sites located there.

The application is accompanied by a Pre-Planning Statement of Consistency and Planning Report prepared by Hughes Planning and Development Consultants, which demonstrates that proposed development is broadly consistent with the Dublin City Development Plan 2016-2022, which itself was subject to SEA. Overall, the proposed development is line with the objectives of the Development Plan and the land use zoning.

9.0 DIRECTIVE 2008/56/EC; MARINE STRATEGY DIRECTIVE

The Marine Strategy Directive (2008/56/EC) was adopted on 17 June 2008 and establishes a framework for community action in the field of marine environmental policy. This has been subsequently amended by Directive (2017/845/EC) as regards the indicative lists of elements to be taken into account for the preparation of marine strategies. The Marine Strategy Directive (2008/56/EC) was transposed into national legislation by the European Communities (Marine Strategy Framework) Regulations 2011 (S.I. 249 2011).

The Marine Strategy Framework Directive requires European member states to reach good environmental status (GES) in the marine environment by the year 2020 at the latest. Good environmental status in the marine environment means that the seas are clean, healthy and productive and that human use of the marine environment is kept at a sustainable level. Under the Marine Strategy Directive, marine waters must be assessed against an agreed set of standards across a number of important environmental areas (e.g. biodiversity, fish stocks and contaminants). Based on the assessment, appropriate environmental targets and indicators must be set and programmes of measures put in place to reach GES.

As a residential development set well back from any coastal area, the Marine Strategy Directive is not directly relevant to the proposed Project. Any impact to nearby water bodies has been assessed as part of the EIA Screening Report and factored into project design.

The EIA Screening Report (Section 4.3) notes that the *'proposed development due to its size and localised nature will not have any effect on wetlands, riparian areas, river mouths, coastal zones and the marine environment, mountain and forest areas, nature reserves and parks, or densely populated areas'*.

10.0 DIRECTIVE 2010/75/EU; INDUSTRIAL EMISSIONS DIRECTIVE

The Industrial Emissions Directive (2010/75/EU) on industrial emissions (integrated pollution, prevention and control) was adopted on 24 November 2010. The Directive was transposed into national legislation by the Environmental Protection Agency (Industrial Emissions) (Licensing) Regulations 2013 (S.I. 137 2013).

The Directive lays down rules on integrated prevention and control of pollution arising from industrial activities. It also lays down rules to prevent or, where that is not practicable, to reduce emissions into air, water and land and to prevent the generation of waste, in order to achieve a high level of protection of the environment as a whole.

The Directive is not directly relevant to the proposed project, and the proposed development will not directly involve industrial activities under the Directive.

11.0 REGULATION (EU) 1315/2013; TRANS-EUROPEAN NETWORKS IN TRANSPORT, ENERGY AND TELECOMMUNICATION REGULATION

Regulation (EU) 1315/2013 on Union guidelines for the development of the trans-European network and repealing Decision 661/2010/EU was adopted on 11 December 2013.

The policy addresses the implementation and development of a Europe-wide network of railway lines, roads, inland waterways, maritime shipping routes, ports, airports and railroad terminals. The objective is improved use of infrastructure, reduced environmental impact of transport, enhanced energy efficiency and increased safety.

Regulation 1315/2013 is not directly relevant to the proposed project.

12.0 CONCLUSION

This statement indicates how the available results of relevant assessments of the effects on the environment carried out pursuant to European Union legislation other

than the Environmental Impact Assessment Directive have been taken into account in this proposed project.

This statement identifies the relevant Directives which have informed the proposed project. The relevant assessments has been identified as they relate to the proposed development, the results of those assessments, and how those results have been taken into account in determining the significance of the proposed development on the environment.

This statement should be read in conjunction with the Environmental Impact Assessment Screening document prepared by AWN Consulting and enclosed with the application.

ABP may complete an examination for the purposes of a screening determination in accordance with Article 299B of the Planning Regulations and, in particular, may have regard to the all of the matters prescribed at Article 299B(1)(b) of the Planning Regulations.

This statement, in particular, is provided so that ABP may have regard to "*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 have been taken into account*" in accordance with Article 299B (1)(b)(ii)(II)(C) of the Planning Regulations.

This statement supports the conclusion in the EIA Screening document prepared by AWN Consulting that the proposed development is not likely to have any significant impacts on the environment and, therefore, that no EIA is required in respect of the proposed development.

13.0 REFERENCES

Flood Risk Assessment, Site at the Former Royal Oak Public House, Finglas Road and Old Finglas Road, Glasnevin, Dublin 11. Curtins Consulting Engineers 2022a.

Resource and Demolition Waste Management Plan, Site at the Former Royal Oak Public House, Finglas Road and Old Finglas Road, Glasnevin, Dublin 11. Curtins Consulting Engineers 2022.

Appropriate Assessment Screening and Natura Impact Statement, Development of the Former Royal Oak Public House, Finglas Road, Glasnevin, Dublin 11. Meehan Ecology 2022.

Infrastructure Report for Planning, Site at the Former Royal Oak Public House, Finglas Road and Old Finglas Road, Glasnevin, Dublin 11. Curtins Consulting Engineers 2022b.