



Statement in accordance with Article 299B(1)(b)(ii)(II)(C) of the Planning and Development Regulations 2001 - 2021

Proposed Strategic Housing Development at Units 64 & 65, Cherry Orchard Industrial Estate,
Dublin 10

AAI Palmerstown Limited

December 2021

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Contents

01. Introduction	1
1.1 Background	1
1.2 Policy Context	1
1.3 Development Description	2
02. Statement on the Results of Other Environmental Assessments	3
2.1 EU Legislation	3
2.1.1 Directive 92/43/EEC, Habitats Directive, and Directive 2009/147/EC, Birds Directive	3
2.1.2 Directive 2007/60/EC, Floods Directive	5
2.1.3 Directive 2002/49/EC, Environmental Noise Directive.	6
2.1.4 Directive 2000/60/EC, Water Framework Directive	6
2.1.5 Directive 2001/42/EC, SEA Directive:	7
2.1.6 Directive 2008/50/EC, Clean Air for Europe Directive.	7
2.1.7 Directive 92/57/EEC on the minimum safety and health requirements at temporary or mobile construction sites	8
03. Conclusion	10

01. Introduction

1.1 BACKGROUND

HW Planning have been appointed by the Applicant, AAI Palmerstown Limited, to prepare this statement in accordance with Article 299B (1)(b)(ii)(II)(C) of the Planning and Development Regulations 2001 to 2021 (the “Planning Regulations”) in relation to the proposed Strategic Housing Development (SHD) at Units 64 & 65, Cherry Orchard Industrial Estate, Dublin 10.

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 299B and 299C of the Planning Regulations.

In particular, it is provided so that the Board may have regard to the “the available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive” in accordance with Article 299C(1)(a)(iv) of the Planning Regulations.

1.2 POLICY CONTEXT

The proposed SHD is a sub-threshold development, as it comprises 144 residential units and this is below the 500 dwelling threshold at paragraph (1)(b)(i) of Part 2 of Schedule 5 to the Planning Regulations.

No screening determination was requested or made under Section 7 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended) (the “2016 Act”).

Articles 299B and 299C of the Planning Regulations prescribe the requirements for sub-threshold development where no screening determination was made under Section 7 of the 2016 Act.

The application is not accompanied by an Environmental Impact Assessment Report (EIAR).

In cases where an application for sub-threshold development is not accompanied by an EIAR, but where there is “significant and realistic doubt in regard to the likelihood of significant effects on the environment arising from the proposed development”, Article 299B(1)(b)(ii)(II) of the Planning Regulations requires that the must Board satisfy itself that the Applicant has provided the following:

(A) the information specified in Schedule 7A,

(B) any further relevant information on the characteristics of the proposed development and its likely significant effects on the environment, and

(C) 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 have been taken into account

Article 299B(1)(c) of the Planning Regulations indicates that:

The information referred to in paragraph (b)(ii)(II) may be accompanied by a description of the features, if any, of the proposed development and the measures, if any, envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment of the development.

The information required by sub-paragraphs (A) and (B) of Article 299B(1)(b)(ii)(II), namely, the information specified in Schedule 7A and any further relevant information on the characteristics of the proposed development and its likely significant effects on the environment, is contained in the Environmental Impact Assessment Screening document prepared by HW Planning and enclosed with the application.

The information required by sub-paragraph (C) of Article 299B(1)(b)(ii)(II), namely, 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 have been taken into account, is contained in this standalone statement.

All of this information is provided by the Applicant so that the Board may complete an examination for the purposes of a screening determination in accordance with Articles 299B and 299C of the Planning Regulations. It is provided so that the Board may have regard to the all of the matters prescribed at Article 299C(1)(a) of the Planning Regulations.

This statement, in particular, is provided so that the Board may have regard to the “the available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive” in accordance with Article 299C(1)(a)(iv) of the Planning Regulations.

1.3 DEVELOPMENT DESCRIPTION

The nature and extent of the proposed development is described in full detail within the application documents.

The development will consist of the demolition of an existing warehouse / factory building and the construction of a residential development of 144 no. apartments with supporting tenant amenity facilities (gym and activity areas, lounges and meeting room), employment uses including 2 no. incubator units and a remote working space, building management facilities and all ancillary site development works. The proposed development includes 72 no. 1-bedroom apartment and 72 no. 2-bedroom apartments to be provided as follows: Building A (35 no. 1-bedroom & 24 no. 2-bedroom over 5-9 storeys), Building B (7 no. 1-bedroom & 10 no. 2-bedroom over 3-4-storeys), Building C (16 no. 1-bedroom, 19 no. 2-bedroom over 5-storeys), Building D (14 no. 1-bedroom & 19 no. 2-bedroom over 4-5-storeys). Vehicular access to the proposed development will be provided via an entrance from the existing estate road as accessed from Kennelsfort Road Upper.

The proposal includes improvement works on the northern side of the junction at the estate road/Kennelsfort Road Upper to alter junction radii, new pedestrian/cycle paths on the estate road to the south of the site, and provision of a controlled pedestrian crossing on Kennelsfort Road Upper to the west as part of enabling infrastructure. The proposed development provides for outdoor amenity areas, landscaping, external podium lift, under-podium and street car parking, bicycle parking, bin stores, ESB substation, public lighting, roof mounted solar panels and all ancillary site development works.

02. Statement on the Results of Other Environmental Assessments

2.1 EU LEGISLATION

The following sections outline the various EU Directives (other than the EIA Directive) relevant to the proposed SHD at Units 64 & 65, Cherry Orchard Industrial Estate, Palmerstown, Dublin 10. It highlights the nature of the assessments carried out in accordance with the said directives. Where individual assessments have influenced the details of the proposed scheme, this is also described below, to show how the results of those assessments have been taken into account.

2.1.1 Directive 92/43/EEC, Habitats Directive, and Directive 2009/147/EC, Birds Directive

The Birds Directive (Directive 2009/147/EC on the conservation of wild birds), first adopted by the Member States in 1979, is the European Union's oldest piece of nature legislation.

Adopted in 1992, the Habitats Directive (Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora) aims to promote the maintenance of biodiversity, taking account of economic, social, cultural and regional requirements. It forms the cornerstone of Europe's nature conservation policy with the Birds Directive and establishes the EU wide Natura 2000 ecological network of protected areas, safeguarded against potentially damaging developments.

The subject site is not located in close proximity to any European Site (including Special Protection Area (SPA), Special Area of Conservation (SAC)) or even any Natural Heritage Areas (NHA). The site is located approximately 10 km from the South Dublin Bay and River Tolka Estuary SPA and 13.2km and 13.3 km from the North Dublin Bay SAC and North Dublin Bay SPA respectively, these being the sites where some (although unlikely) potential source-pathway-receptor link exists. The full list of designated sites is as follows:

Natura 2000 Sites	Site Code	Distance at closest point and potential source-pathway-receptor link
Special Area of Conservation (SAC)		
Rye Water Valley/Carlton SAC	001398	8.0km west. No pathway exists.
Glenasmole Valley SAC	001209	9.95km south. No pathway exists.
South Dublin Bay SAC	000210	11.1km east. Although unlikely, a source-pathway-receptor link has been identified between the source (proposed development site) and the receptor (South Dublin Bay SAC) via a potential pathway (impacts on water quality and spread of invasive species during construction or operational phase).
Wicklow Mountains SAC	001209	12.3km south. No pathway exists.
North Dublin Bay SAC	000206	13.2km east. Although unlikely, a source-pathway-receptor link has been identified between the source (proposed development site) and the receptor (North Bull Island SAC) via a potential pathway (impacts on water quality and spread of invasive species during construction or operational phase).
Special Protection Area (SPA)		
South Dublin Bay and River Tolka Estuary SPA	004024	10.0km east. Although unlikely, a source-pathway-receptor link has been identified between the source (proposed development site) and the receptor (South Dublin Bay and River Tolka Estuary SPA) via a potential pathway (impacts on water quality and spread of invasive species during construction or operational phase).
North Bull Island SPA	004006	13.3km. Although unlikely, a source-pathway-receptor link has been identified between the source (proposed development site) and the receptor (North Bull Island SPA) via a potential pathway (impacts on water quality and spread of invasive species during construction or operational phase).
Wicklow Mountains SPA	004040	13.2km southeast. No pathway exists.

No high-risk invasive species were recorded within the proposed development having regard to European legislation. The project ecologist has determined that the *Medium Impact Invasive species Buddleia (Buddleja davidii)* was recorded on the site, at the south west corner of the building. This species is listed on the Invasive Species Ireland “Amber List: Recorded Species”.

Birds species listed in Annex I of the Birds Directive are considered a conservation priority. No Annex I bird species were recorded during the site survey. An existing industrial estate, the proposed development site is of a low local value for terrestrial bird species that are relatively common in the Irish urban environment. No species of high conservation status were recorded within the proposed development site. No signs of other significant nesting species were recorded. The findings mean that no changes to the proposed development were required.

2.1.1.1 AA Screening

Article 6.3 of the Habitats Directive 92/43/EEC requires that an Appropriate Assessment (AA) should be carried out where plans or projects are likely to have a significant effect on any European Site. A Stage One AA Screening Report has been prepared by Dixon Brosnan Environmental Consultants and concludes the following:

Through an assessment of the source-pathway-receptor model, which considered the ZoI¹ of effects from the proposed development and the potential in-combination effects with other plans or projects, the following findings were reported:

- *The proposed development at Units 64 & 65, Cherry Orchard Industrial Estate, Palmerstown, Dublin 10 either alone or in-combination with other plans and/or projects, does not have the potential to significantly affect any European Site, in light of their conservation objectives.*

As it has been concluded that no direct or indirect construction/operational stage impacts on any European Site are expected as a result of the proposed development, progression to Stage 2 Appropriate Assessment was not required. The results of the assessment confirm that no changes to the proposed development were required.

2.1.1.2 Bat Assessment

In addition to domestic legislation bats are also protected under the EU Habitats Directive (92/43/EEC) with all bat species are listed in Annex IV of the Directive. The Irish government is also a signatory to the 1979 Bonn convention (Convention on the conservation of migratory species of wild animals) and the 1982 Bern convention (The convention on the conservation of European wildlife and natural habitats) and has a commitment to the 1991 Eurobats agreement (Agreement on the conservation of bats in Europe).

An assessment of the suitability of the site for bats was undertaken to inform the design approach. This included tree inspections, visual inspection of the existing building and bat detector survey. The survey results indicate the buildings and trees are not being used as bat roosts. Furthermore, the treelines at the site are not used as commuting routes for bats. The results of the assessment mean that no changes to the proposed development were required.

2.1.2 Directive 2007/60/EC, Floods Directive

2.1.2.1 Flood Risk Assessment

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 Directive also reinforces the rights of the public to access this information and to participate in the planning process.

The potential for flood risk on the subject site has been reviewed by project engineers Hayes Higgins Partnership. There are no watercourses located within the site. The OPW's online national flood hazard mapping (www.floodmaps.ie) indicates that the subject lands are well removed from any flood risk areas and historical flood events. It is intended that all surface water run off generated by the proposal by the 1 in 100 year storm will be dealt with via attenuation tank storage and porous surfacing. An allowance has been made for a 20% increase in runoff due to global warming, as per the "Greater Dublin Strategic Drainage Study" recommendations. As such the proposed development is deemed not to be subjected to pluvial flooding from internal sources.

¹ Zone of Influence

It has therefore been concluded that there is no material flood risk on the site. The results of the assessment completed mean that the risk of the development increasing flood risk elsewhere can be minimised through the implementation of proposed SuDS measures, outlined in the Infrastructure Report prepared by Hayes Higgins Partnership that accompanies the application.

2.1.3 Directive 2002/49/EC, Environmental Noise Directive.

The Environmental Noise Directive focuses on three action areas:

- The determination of exposure to environmental noise;
- Ensuring that information on environmental noise and its effects is made available to the public; and,
- Preventing and reducing environmental noise where necessary and preserving environmental noise quality where it is good.

The proposed development was assessed in terms of the potential for noise generation during construction phase and once operational. In addition, potential sources of noise in the surrounding environment were assessed in terms of their potential to impact on future residents of the development. An External Noise Impact Report has been prepared by DK Partnership having regard to the European Environmental Noise Regulations 2018 (S.I. No. 549), World Health Organisation and EPA NG4 guidelines. A noise survey was completed at the site on Friday the 23rd March 2021 and concluded that the majority of the noise level effecting the proposed development would be generated by the traffic on Kennelsfort Road Upper, with little nuisance noise being generated by the industrial estate units. Conservative reduction capabilities for the modern construction were applied. The findings confirm internal room noise levels ranging from 34dB(A) to <25dB(A) which places the development at 'Good / Reasonable' levels during daytime and 'Very good' for nighttime. As such, no particular measures are required to lower the noise level threshold as part of the development. It is also noted that the calculated predicted noise levels in the amenity area of 50dBday and 41dBnight are also well within the EPA NG4 day and nighttime noise level guidelines for general amenity spaces. With demonstrated compliance with the relevant standards and guidelines, no changes to the proposed development were required.

In terms of the construction phase, the proposed development shall be carried out in accordance with a Construction Management Plan. The proposed plan, prepared by Hayes Higgins Partnership, accompanies the application. The plan outlines various mitigation measures to be employed during construction to ensure the development is operated in a way that minimises detrimental impact to the amenities of local residents.

2.1.4 Directive 2000/60/EC, Water Framework Directive

The Water Framework Directive establishes common principles and an overall framework for action in relation to water protection and developed the overall principles and the structure for protection and sustainable use of water in the European Union.

The proposed development site lies within the catchment of the River Liffey and is located approximately 1.3km from the river. The Appropriate Assessment Screening Report prepared with the application assesses the potential impact of the proposal in relation to the Liffey and Dublin Bay Catchment and concludes that:

The area surrounding the proposed development is heavily urbanised with a mixture of commercial properties scattered within, which have the potential to produce "in combination" effects to water quality in Dublin Bay. Sustainable

drainage proposals at this site will ensure that operational surface water runoff arising from this development will be treated prior to discharge to the existing storm sewer. Therefore, the likelihood of impacts arising from this development is deemed to be low. It is considered extremely unlikely that during construction, a pollution event would occur of a magnitude that would have any adverse effects on water quality in Dublin Bay or affect the features of interest of any of the Natura 2000 sites.

The proposed development will not affect the surface water status and, in particular, will not cause any deterioration of the status of the relevant water body. The results of the assessment done mean that no changes to the proposed development were required.

2.1.5 Directive 2001/42/EC, SEA Directive:

Strategic Environmental Assessment (SEA) is a process for evaluating at the earliest appropriate stage the likely environmental effects of implementing a Plan or other strategic action in order to ensure that environmental considerations are appropriately addressed in the decision making process both during the preparation and prior to adoption of a Plan.

The European Directive (2001/42/EC) on the Assessment of the Effects of Certain Plans and Programmes on the Environment (the SEA Directive) was transposed into national legislation by the European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations 2004 (S.I. 435 2004) and the Planning and Development (Strategic Environmental Assessment) Regulations 2004 (S.I. 436 2004). The legislation requires that the Planmaking Authority must make available an SEA Statement summarising how the SEA and consultations have been taken into account in the making of the Plan.

The South Dublin County Council Development Plan 2016 was subject to Strategic Environmental Assessment and included the preparation of SEA statements.

The application for the proposed development at Units 64 & 65, Cherry Orchard Industrial Estate, Dublin 10 is accompanied by a Statement of Consistency prepared by HW Planning which demonstrates that the details of the proposal are, for the most part, consistent with the relevant objectives of the South Dublin County Council Development Plan 2016, and any relevant guidelines issued by the Minister under Section 28 of the Act of 2000.

There are a couple of instances where the proposal is not consistent with the policy objectives contained in the County Development Plan (CDP), namely with regard to compliance with building heights and housing mix. As outlined in accompanying Material Contravention Statement prepared by HW Planning, there are certain inconsistencies between policy guidance on these matters at local and national level. The statement outlines the manner in which the proposal is consistent latest national policy, such as defined by the National Planning Framework, which itself has been subject to SEA and outlines in detail the justification for the proposal to be granted permission despite contravening both the County Development Plan.

No further assessment was considered to be required to demonstrate compliance with the SEA Directive. The results of the completed assessment mean that no changes to the proposed development were required.

2.1.6 Directive 2008/50/EC, Clean Air for Europe Directive.

The 2008 CAFE Directive outlines the appropriate measures to be adopted at a local, regional or national level to provide for the attainment of air quality objectives, including:

- measures to limit transport emissions through traffic planning and management.

- measures to encourage a shift of transport towards less polluting modes.

Subsequent policies at national, regional and local level including but not limited to the National Planning Framework, Regional Spatial Economic Strategy and Cork County Development Plan, have been prepared in accordance with the Directive and include objectives to encourage a shift towards more sustainable modes of travel.

The proposed development has been designed to accord with these policies and includes measures to encourage sustainable travel and to protect air quality. It is proposed to provide significantly enhanced cyclist and pedestrian links between Cherry Orchard Industrial Estate and Kennelsforth Road Upper. The high quality of accessibility of the proposed development by non-car modes of travel is addressed in detail in the application. A traffic impact assessment has also been prepared by Michael Moran TPS which confirms that the proposed development will have a minimal impact upon the established local traffic conditions and can easily be accommodated on the road network without significantly contributing to congestion in the area.

In addition to the above, and reflecting the sites location at the edge of an industrial estate, DK Partnership were commissioned to prepared a report investigating existing ambient air quality in the development area and examine the impact of the proposed development on air quality. This has been prepared in accordance with the CAFE programme, as transposed into Irish legislation under the Air Quality Standards Regulations. During the construction phase, with standard mitigation measures in place, the report considers impacts of the proposed development on air quality for the construction phase are likely to result in negligible impacts.

During the operational phase, results show an expected small increase in annual NO₂, PM₁₀, benzene and CO but each parameter remains well below the limit values for EU regulations. This predicted increase above the existing situation results in a negligible impact and would not result in a perceptible change in the existing local air quality environment.

There are no existing industrial emissions of concern that would have an adverse impact on future resident's air quality. The predicted air quality index for future occupancies is index 1 & 2. The Index 2 corresponding health advice for future residents for both general and at-risk groups of people is 'Enjoy your usual outdoor activities'.

The results of the assessment done mean that no changes to the proposed development were required.

2.1.7 Directive 92/57/EEC on the minimum safety and health requirements at temporary or mobile construction sites

This Directive defines minimum safety and health requirements for temporary or mobile construction sites i.e. any construction site at which building or civil engineering works are carried out and intends to prevent risks by establishing a chain of responsibility linking all the parties involved.

The application is accompanied by a Construction Management Plan which includes details of Health and Safety provisions for the construction phase of the proposal and has been informed by the Safety Health and Welfare at Work (Construction) Regulations 2013. The aforementioned regulations were prepared pursuant to Directive 92/57/ EEC.

The Construction Management Plan outlines preliminary safety requirements in relation to contractors on the site. This will be further informed by more detailed procedures for control of substances hazardous to health as well as emergency fire and accident procedures as part of the final pre-commencement Construction Management Plan.

The results of the assessment mean that the proposed development shall be carried out in accordance with a final Construction Management Plan.

03. 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 Strategic Housing Development at Units 64 & 65, Cherry Orchard Industrial Estate, Dublin 10.

Each of the relevant assessments that are available have been identified. The results of those assessments have been identified. This statement also identifies how those results have been taken into account.

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

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

This statement, in particular, is provided so that the Board may have regard to the “the available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive” in accordance with Article 299C(1)(a)(iv) of the Planning Regulations.

This statement supports the conclusion in the Environmental Impact Assessment Screening document prepared by HW Planning that sub-threshold EIA is not required for the proposed development.

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