

Appropriate Assessment Screening Report

CONCERNING PROPOSED UPDATE OF THE SUSTAINABLE URBAN HOUSING: DESIGN STANDARDS FOR NEW APARTMENTS -GUIDELINES FOR PLANNING AUTHORITIES (MARCH, 2018).

To inform screening for Appropriate Assessment under Article 42(2) of the European Communities (Birds and Natural Habitats) Regulations, 2011 (S.I. 477 of 2011), as amended.

23rd November 2020

1.0 Introduction

Appropriate Assessment (AA) is a process required under Article 6(3) of the EU Habitats Directive. It is transposed in Ireland by the European Communities (Birds and Natural Habitats) Regulations, 2011 (S.I. 477 of 2011), as amended, and by Part XAB of the Planning and Development Act 2000, as amended.

All plans and projects that either individually or in combination with other plans, are likely to have a significant effect on any site in the Natura 2000 network (“a European site”), require an appropriate assessment of these effects to determine if they will adversely affect the integrity of these sites.

The screening process scrutinises the plan or project to determine if there are likely significant effects either individually or in combination with other plans, on any site in the Natura 2000 network. These sites include those designated as Special Areas of Conservation or Special Protection Areas. This Screening Report reports the outcome of this analysis of the proposed update to the Sustainable Urban Housing: Design Standards for New Apartments -Guidelines for Planning Authorities (March, 2018).

The guidance which has been taken into account during the screening process includes the following:

- Managing Natura 2000 Sites: The Provisions of Article 6 of the Habitat’s Directive 92/43/EEC (EC Environment Directorate-General, 2019);
- Guidance Document on Article 6(4) of the 'Habitats Directive' 92/43/EEC. Clarification of the Concepts of Alternative Solutions, Imperative Reasons of Overriding Public Interest, Compensatory Measures, Overall Coherence. Opinion of the European Commission (European Commission, January 2007).
- Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities. (Department of Environment, Heritage and Local Government, 2010).
- Appropriate Assessment under Article 6 of the Habitats Directive: Guidance for Planning Authorities. Circular NPW 1/10 & PSSP 2/10.
- Assessment of Plans and Projects Significantly Affecting Natura 2000 sites: Methodological Guidance on the Provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (European Commission Environment Directorate-General, 2001).

2.0 Overview and purpose of the proposed update to the Sustainable Urban Housing: Design Standards for New Apartments -Guidelines for Planning Authorities (March, 2018).

In 2018, Sections 5.13-5.24 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, 2018 (the '2018 Guidelines') made pursuant to Section 28 of the Planning and Development Act 2000, were updated to introduced a policy context for the consideration of 'Shared Accommodation' proposals by planning authorities, including An Bord Pleanála¹. This new format of rental accommodation had emerged in the private residential development sector in recent years, described under various titles including 'Co-living' and 'Shared-Living'. This residential format comprises professionally managed rental accommodation, where individual rooms are rented within a centrally managed development that includes access to shared or communal facilities and amenities. Unlike most other forms of residential accommodation, co-living is generally intended for occupation for short lease periods of up to a year in duration.

The 2018 Guidelines identified "Shared Accommodation" as a distinct segment within the overall residential sector but which, due to its specific nature, has a limited, 'niche' role to play in the provision of the new residential accommodation needed within Ireland's cities.

To date, there have been a total of 14 planning applications for shared accommodation schemes, all located in Dublin, comprising more than 2,100 proposed bedspaces. Of these:-

- 5 applications have been granted planning permission (comprising c.740 bedspaces)
- 2 applications have been refused permission/quashed (comprising c.430 bedspaces), and
- 7 applications are presently under consideration (comprising c.930 bedspaces).

To date, this planning activity has not led to the commencement of construction of any approved Shared Accommodation scheme.

The 2018 Guidelines stated an intention to monitor and update policy guidance in relation to Shared Accommodation. Following a review of planning activity in this sector, the Minister has decided to amend the 2018 Guidelines to seek to restrict all future commercial co-living development in Ireland. This will require an updated guidance document that includes a Specific Planning Policy Requirement (SPPR) and/or guidance in respect of local authority level City or County Development Plan processes.

The proposed nature of the updates to the 2018 Guidelines, also to be made pursuant to Section 28 of the Planning and Development Act 2000, is summarised as follows:

¹ The updates proposed in 2018 were subject to screening for SEA and, following consultation with the environmental authorities, it was determined that there was no likelihood of significant effects on the environment and therefore that SEA was not required.

- The proposed technical updates are in relation to ‘Shared Accommodation/Co-living’ only;
- Deletion of text from the 2018 Guidelines relating to Shared Accommodation and proposed insertion of:

“Specific Planning Policy Requirement 9

There shall be a presumption against granting planning permission for proposed shared accommodation/co-living development unless either:-

- *required to meet specific demand identified by a local planning authority further to a Housing Need and Demand Assessment (HNDA) process;*
- or,*
- *on the date of publication of these updated Guidelines, subject to a current valid planning application to a planning authority, or, a current valid strategic housing development (SHD) application or appeal to An Bord Pleanála, in which case the application or appeal may be determined on its merits.”*

3.0 Identification of European Sites within the potential zone of influence of development associated with the proposed update of the Guidelines.

The proposed updated Guidelines have a national scale of application but the nature of the updates is that they will manifest themselves in their effects in urban locations. Whilst the updates lack geographic specificity, the potential zone of influence of the proposed update is expected to be relatively small locations within and around city centres. These are disturbed and heavily modified environments and not likely to support any of the species or habitats that constitute qualifying/conservation interests for European sites.

The process of screening for appropriate assessment focuses on any interaction between the conservation objectives and the effects of implementing the proposed update of the Guidelines. Since the proposed update of the Guidelines lack geographic specificity and are limited in scale and detail, the discussion of the likelihood of any significant effects has been taken at a high-level.

Conservation objectives can be accessed on www.npws.ie and have been considered as part of the screening process but for the purposes of brevity these have not be reproduced.

4.0 Consideration of any likely significant effects on European sites.

Guidance from Ireland² and the European Commission³ has suggested that the following criteria relating to the nature of the proposal may be used in helping to determine if a proposal is likely to have significant effects. These include:

- size and scale; disturbance).
- land-take;
- distance from the Natura 2000 site or key features of the site;
- resource requirements (water abstraction etc.);
- emissions (disposal to land, water or air);
- excavation requirements; (potential loss of area).
- transportation requirements;
- duration of construction, operation, decommissioning, etc.;
- Other.

Irish guidance (DEHLG, 2010) gives examples of effects that are likely to be significant include the following:

- Any impact on an Annex I habitat
- Causing reduction in the area of the habitat or Natura 2000 site
- Causing direct or indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the Natura 2000 site
- Causing serious or ongoing disturbance to species or habitats for which the Natura 2000 site is selected (e.g. increased noise, illumination and human activity)
- Causing direct or indirect damage to the size, characteristics or reproductive ability of populations on the Natura 2000 site
- Interfering with mitigation measures put in place for other plans or projects

These criteria are particularly suited to screening individual projects, as detail on the receiving environment will be available for analyses. However, in the current case of the proposed update to the Guidelines, it is not possible to predict if such impacts will occur due to the lack of geographic specificity about the locations and nature of the projects that are referred to.

The proposed update to the Guidelines will set the framework for the consent for proposals of a defined scale and nature (or more accurately will result in the presumption against specific

² Department of the Environment, Heritage and Local Government (DEHLG, (2010) Appropriate Assessment of Plans and Projects in Ireland Guidance for Planning Authorities.

https://www.npws.ie/sites/default/files/publications/pdf/NPWS_2009_AA_Guidance.pdf

³ European Commission (2001) Assessment of plans and projects significantly affecting Natura 2000 sites Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC

https://ec.europa.eu/environment/nature/natura2000/management/docs/art6/natura_2000_assess_en.pdf

European Commission (2019) Managing Natura 2000 sites: The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC.

https://ec.europa.eu/environment/nature/natura2000/management/docs/art6/EN_art_6_guide_jun_2019.pdf

developments receiving consent). The characteristics of the effects of the update of the Guidelines on the European sites are discussed below.

The proposed updates do not have any geographic specificity associated with them although previous and current applications for this development type have been located in city centres and/or nearby urban areas. The proposed 2020 Guidelines puts forward a presumption against a specific type of residential development - shared accommodation/co-living - but does not rule it out entirely and considers it permissible⁴ in the future where it is required to meet specific demand identified by a local planning authority further to a Housing Need and Demand Assessment (HNDA) process. If any proposed development of this nature were to pose likely significant effects on a European site, either on its own or in combination with other plans and projects, then it would require an appropriate assessment. The precise nature of any likely significant effects (or absence thereof) on European sites would be clarified at the stage where a location and scale of such a development proposal would be decided upon. Local planning authorities would also address the likelihood of significant effects when identifying suitable locations for such development types during the review and preparation of their development plans, which may also require AA. The presumption against shared accommodation/co-living developments is not likely to remove the likelihood of other types of development at the same locations and this will be addressed by the relevant development standards and local planning policy.

The proposed update is not likely to have any transboundary effects due to the small scale and nature of these types of development.

Therefore when considered in isolation, the proposed update to the Guidelines and its implications for developments of this type, is not considered to pose any likely significant effects on European sites.

5.0 Consideration of in-combination effects.

The proposed update to the Guidelines is expected to have effect in urban areas, predominantly cities. Development plans for these areas have undergone their own appropriate assessment and therefore it is reasonable to assume that there will be no likelihood of in-combination effects as all policies and objectives relating to urban developments will have been tested by the AA process. Other relevant plans and programmes that may provide support for residential/apartment proposals that may overlap with the scope of application of the proposed update of the Guidelines may include:

- River Basin Management Plans;
- Regional Waste Management Plans;
- National Planning Framework;
- National Development Plan

There is no risk of any combination with any of the strategies listed in the plans above due to the small scale and nature of the proposed changes, that themselves offer no likelihood of significant effects on European sites.

⁴ Or secondly where on the date of publication of these proposed 2020 Guidelines, a valid planning application to a planning authority, appeal to An Bord Pleanála, or strategic housing development (SHD) application to An Bord Pleanála, in which case the application or appeal may be determined on its merits.

Conclusions

The purpose of this Report is to present the results of screening the proposed updates to the update to the Sustainable Urban Housing: Design Standards for New Apartments -Guidelines for Planning Authorities (March, 2018). The objective of screening is to determine if the proposed update is likely to have significant effects on European sites

Following an analysis and evaluation of the relevant information, including in particular, the nature of the changes that could occur as a result of the update of the Guidelines and their potential relationship with European sites that could result, as well as considering other plans and projects, and applying the precautionary principle, this report recommends that there is no possibility that the proposed updated Guidelines would be likely to have any significant effects on any European sites.

The principle reasons for this conclusion included: the lack of geographic specificity in the nature of the updated Guidelines; the fact that the update comprises a presumption against a specific development type; and in the event that any development was considered permissible, it is likely that this would be taking place in highly disturbed modified urban environments.

The Minister for Housing, Local Government and Heritage will rely on this report and its recommendation (as well as any other relevant information) to determine if AA is required or not, in terms of whether the proposed update of the Guidelines, individually or in combination with other plans or projects, will have a significant effect on any European sites.

This report, as well as the AA screening determination by the Minister, will be available for public display at the Department and on its website.

