

STRATEGIC ENVIRONMENTAL ASSESSMENT SCREENING REPORT

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

To inform a determination under Article 9 of the European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations, 2004 (S.I. 435 of 2004), as amended.

23rd November, 2020

1.0 Introduction

Strategic Environmental Assessment (SEA), in accordance with the EU SEA Directive (2001/42/EC), is a process for evaluating, at the earliest appropriate stage, the environmental quality and consequences of plan or programme initiatives by statutory bodies. The purpose is to ensure that the environmental consequences of plans and programmes are assessed both during their preparation and prior to adoption. The SEA process also gives interested parties an opportunity to comment on the environmental impacts of the proposed plan or programme and to be kept informed during the decision making process.

This report considers the proposed update to the Guidelines in the context of the potential requirement to carry out a full SEA and therefore considers whether the proposed update to the Guidelines, would or would not be likely to have significant effects on the environment (please refer to the enclosed proposed updated Guidelines dated November 2020). The competent authority (in this case, the Minister for Housing, Local Government and Heritage (“MHLGH”)) proposes to update the Guidelines and in so doing the competent authority must decide whether the proposed updated Guidelines would or would not be likely to have significant effects on the environment and that, in so doing, the competent authority will take account of relevant criteria set out in Schedule 1 of the European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations, 2004 (S.I. 435 of 2004), as amended. The analysis of the proposed legislation in the context of the criteria in Schedule 1 is presented in Section 4 of this Report.

This Report as well as submissions/ observations from the environmental authorities will be taken into consideration before finalisation of the SEA screening process and the publication of an SEA determination by the Minister, pursuant to S.I. 435 of 2004, as amended.

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'), 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:

- 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:

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.

“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 Procedural Requirements for Screening for SEA

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 in Ireland 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), as amended.

The SEA Directive requires that certain plans and programmes, prepared by statutory bodies, which are likely to have a significant impact on the environment, be subject to the SEA process.

Applying Article 9(1) of S.I. 435 of 2004, as amended by S.I. 200 of 2011, verifies the statutory requirement for SEA:

“an environmental assessment shall be carried out for all plans and programmes

*(a which are prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism and **town and country planning or land use**, and which set the framework for future development consent of projects listed in Annexes I and II to the Environmental Impact Assessment Directive, or*

(b) which are not directly connected with or necessary to the management of a European site but, either individually or in combination with other plans, are likely to have a significant effect on any such site.”

The proposed update to the 2018 Guidelines (“the proposed 2020 Guidelines”) falls under the category of “land-use”. The implications of the proposed 2020 Guidelines will be that there shall be a presumption against granting planning permission for proposed shared accommodation/co-living development unless certain circumstance prevail. Therefore it is regarded to be acting within the overall framework that allows for the consent of applications for development. Development application of this type do not necessarily meet the threshold for it to undergo Environmental Impact Assessment and therefore it is regarded that the statutory requirement for SEA as described in Article 9(1) above does not apply in this case.

Article 3(3) of the SEA Directive states:

“Plans and programmes referred to in paragraph 2 which determine the use of small areas at local level and minor modifications to plans and programmes referred to in paragraph 2 shall require an environmental assessment only where the Member States determine that they are likely to have significant environmental effects.”

Article 3(3) of the Directive is transposed into Irish law by Article 9(2) of S.I.435 of 2004, as amended, as follows:

“A plan or programme referred to in sub-article (1) which determines the use of a small area at local level or a minor modification to a plan or programme referred to in sub-article (1) shall require an environmental assessment only where the competent authority determines that it is likely to have significant effects on the environment and, for this purpose, the competent authority shall make any necessary determination.”

It would be reasonable to take the position that the proposed 2020 Guidelines, would have the effect that it *“determines the use of a small area at local level”* and therefore a full SEA may not be required if it is determined that it will not be likely to have significant effects on the environment. Furthermore it could be regarded that the proposed update is minor in the context of the overall scope of the 2018 Guidelines and that the majority of the text and purpose of the 2018 Guidelines remains unchanged.

Following the completion of the period of consultation with the environmental authorities, the Minister (MHLGH) will then complete the screening of the proposed 2020 Guidelines for the need to undertake SEA.

The SEA screening process itself requires a consideration of the criteria in Schedule 1 of S.I. 435 of 2004, as amended. The record of this consideration is contained within this SEA Screening Report as far it applies to the current text of the proposed 2020 Guidelines. Following the completion of the Screening Report after the conclusion of the four-week period, the Minister will issue a (screening) determination and make it available to the public for inspection during office hours and on the Department’s website and also notify the environmental authorities which were notified previously.

S.I. 435 of 2004 contains a mandatory requirement to consult the relevant environmental authorities as part of the SEA screening process. In this regard Article 9(5) of S.I. 435 of 2004 states that the following bodies must be given notice:

- Environmental Protection Agency;
- Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media (formerly Minister for Culture, Heritage and the Gaeltacht (functions transferred from Minister for Environment, Heritage and Local Government/ Minister for Housing, Planning and Local Government to Minister for Culture, Heritage and the Gaeltacht by S.I. 192 of 2011);
- Minister for Environment, Climate and Communications (formerly Minister of Communications, Climate Change and the Environment) ; and
- Minister for Agriculture, Food and the Marine.

4.0 Consideration of the SEA screening criteria in Schedule 1 of S.I. 435 of 2004

This Screening Report includes a consideration of the criteria set out in Schedule 1 of S.I. 435 of 2004, as amended. These qualitative criteria are used to assist in the determination as to whether the proposed 2020 Guidelines are likely to have significant effects on the environment.

Criteria 1. The characteristics of the plan or programme, or modification to a plan or programme, having regard, in particular, to

— the degree to which the plan or programme, or modification to a plan or programme, sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources.

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 centre and/or nearby urban areas. The proposed 2020 Guidelines proposes a presumption against a specific type of residential development - shared accommodation/co-living - but does not rule it out entirely and considers it permissible² 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.

— the degree to which the plan or programme, or modification to a plan or programme, influences other plans including those in a hierarchy.

The proposed updates will influence one particular aspect of the 2018 Guidelines regarding shared accommodation/co-living developments. The planning hierarchy is such that planning authorities will take account of this update in their consideration of applications for this specific type of development and may include the nature of the update in their Development plans. Then proposed update has a narrow scope of application and therefore the degree to which other plans are influenced is therefore limited.

— the relevance of the plan or programme, or modification to a plan or programme, for the integration of environmental considerations in particular with a view to promoting sustainable development

Whilst there are elements of shared accommodation/co-living developments that may promote aspects of sustainable development such as shared energy and resource use (e.g. water), the consequences of the updates do not rule out this type of development where it is flagged up as being required as part of the Housing Need and Demand Assessment (HNDA) process. Furthermore it has been determined that there is now a sufficient quantum of co-living units either permitted or subject to consideration within the planning system, to demonstrate and prove the co-living concept, without impacting housing provision generally.

— environmental problems relevant to the plan or programme, or modification to a plan or programme,

² 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.

The lack of geographic specificity in the proposed update means that it is not possible to determine what environmental problems may exist in locations where these types of development may have been proposed. However it is reasonable to state that there would be no environmental problems that are relevant to the proposed update of the Guidelines.

— *the relevance of the plan or programme, or modification to a plan or programme, for the implementation of European Union legislation on the environment (e.g. plans and programmes linked to waste management or water protection).*

The proposed 2020 Guidelines have no direct relevance.

Criteria 2: Characteristics of the effects and of the area likely to be affected, having regard, in particular, to

— *the probability, duration, frequency and reversibility of the effects,*

And

— *the cumulative nature of the effects,*

The proposed update to the Guidelines lack geographic specificity and therefore it is not possible to predict either the effects or the area likely to be affected. While it is recognized that these types of development are more likely to be located in urban areas and cities in particular, it is principally a matter for local planning authorities to identify areas that may be suitable for different types of residential development and the guidelines are not sufficiently specific to characterise the effects and the area likely to be affected in this regard. 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 transboundary nature of the effects,*

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

— *the risks to human health or the environment (e.g. due to accidents),*

No significant additional risk to health or the environment.

— *the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected),*

The proposed update to the Guidelines lack geographic specificity and therefore it is not possible to predict either the effects or the area likely to be affected. While it is recognized that these types of development are more likely to be located in urban areas and cities in particular, it is principally a matter for local planning authorities to identify areas that may be suitable for different types of

residential development and the guidelines are not sufficiently specific to characterise the effects and the area likely to be affected in this regard. 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 value and vulnerability of the area likely to be affected due to:*

(a) special natural characteristics or cultural heritage,

(b) exceeded environmental quality standards or limit values,

(c) intensive land-use,

— *the effects on areas or landscapes which have a recognised national, European Union or international protection status.*

The proposed update to the Guidelines lack geographic specificity and therefore it is not possible to predict either the effects or the area likely to be affected. While it is recognized that these types of development are more likely to be located in urban areas and cities in particular, it is principally a matter for local planning authorities to identify areas that may be suitable for different types of residential development and the guidelines are not sufficiently specific to characterise the effects and the area likely to be affected in this regard. 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.

5.0 Conclusions

The purpose of this Report is to present the results of the SEA screening of the proposed update to the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, 2018. The objective of screening is to determine if the proposed update is likely to have significant effects on the environment. It was regarded that the proposed update required screening, since the implication of it being implemented “*determines the use of a small area at local level or a minor modification to a plan or programme*” as per Article 9(2) of S.I. 435 of 2004. The screening process therefore applied the criteria in Schedule 1 of S.I. 435 of 2004 to determine if the proposed update would be likely to have significant effects on the environment.

The outcome and recommendation of this SEA Screening Report is that the proposed update is not likely to have any significant effects on the environment and does not require further assessment in the form an SEA. The principle reasons for this conclusion was that the update primarily introduces a presumption against development of this type, save for a limited circumstances where a local planning authority may identify a specific demand. The lack of geographic specificity at this stage in the planning hierarchy means that the environmental effects cannot be predicted and are more appropriately addressed by local planning policies.

You are therefore invited to note that a submission or observation on behalf of one of the statutory environmental authorities identified by S.I. 435 of 2004, as amended, in relation to whether the

proposed update would or would not be likely to have significant effects on the environment, may be made to DHLGH (EU and International Planning Regulation Unit) no later than 4 weeks from the date of the attached notice (under Article 9(2)) by the 21st December 2020.

This Report as well as submissions/ observations from the statutory environmental authorities will be taken into consideration before finalisation of the SEA screening process and the publication of an SEA determination by the Minister.