



An
Bord
Pleanála

Inspector's Report ABP 314291-22 EIA Direction

Development

Construction of 45 no. houses

Question

Whether there is or is not a requirement for EIA for the proposed development

Location

Lehenaghmore townland, Co. Cork, to the south of Cork City Centre

Planning Authority

Cork City Council.

Referred by

Denise Curran

Case Type

EIA Direction

Date of Site Inspection

13th January 2023

Inspector

Alaine Clarke

1.0 Introduction

- 1.1. Under the provisions of Article 120(3)(b) of the Planning and Development Regulations 2001, as amended, Denise Curran is seeking a determination from An Bord Pleanála, as to whether or not the proposal for the construction of a residential development of 45 no. houses, would be likely to give rise to significant effects on the environment, and thereby require the preparation of an Environmental Impact Assessment Report (EIAR). Cork City Council are of the opinion that the works do not require an EIAR.
- 1.2. By correspondence 8th August 2022, An Bord Pleanála wrote to the referrer, Denise Curran, to request that she state the reasons for forming of the view that the development would be likely to have significant effects on the environment and to indicate the class in Schedule 5 within which the development is considered to fall, as required by article 120(3)(b) of the Planning and Development Regulations, 2001, as amended. No response was received by the referrer, and at this point, the Board may conclude that it cannot consider further this request for determination.
- 1.3. Following requests from An Bord Pleanála, a complete set of 8 documents was received from Cork City Council on 1st December 2022.

2.0 Site Location and Description

- 2.1. The site of the proposed development, with a stated area of 1.79ha, is located in the townland of Lehenaghmore, c. 3.5km to the south of Cork City Centre, on the Togher Road, west of the N27 and north of Cork airport.
- 2.2. The site is in pasture and is bounded by public roads to the east, west and south, beyond which are generally open fields. The site rises from north to south by c.15m. An existing residential estate (Laurel Brook) is located to the north and north-east. Access to the site is via the Togher Road, west of the site.
- 2.3. The site rises from north to south by several metres. The highest point being at the most southerly point of the site, with commanding views across the city to the north. Mature hedgerows on raised embankments bound the site along the public roads. Palisade fencing and c.2m wall form the boundary with the residential estate, Laurel Brook, to the north west.

3.0 Description of Proposed Development

- 3.1. The proposed development comprises “*the construction of a residential development of 45 no. houses, designed to consider the existing urban architecture,*” and will be accessed via Togher Road. The proposed development will comprise 14 no. 3-bedroom, semi-detached houses, 21 no. 3-bedroom, townhouses, 10 no. 2-bedroom, townhouses, the provision of 87 no. parking spaces and all ancillary site works and signage.
- 3.2. Access to the site will be from the south-west on the existing Togher Road.
- 3.3. The storm water system will involve a network of underground pipelines and manholes discharging to the storm sewer at the junction of Alderbrook housing development and Togher Road via an attenuation system, and will be controlled via flow control devices. It is proposed to connect to the public foul sewer and watermains. A water connection can be made to the watermain on the Togher Road approx. 20m to the north of the site. Connection can be made to the sewer on the Togher Road.
- 3.4. The Part 8 application was accompanied by a set of drawings and the following documents:
- Architectural Design Statement
 - Environmental Impact Assessment (EIA) Screening Report
 - Appropriate Assessment (AA) – Stage 1 Screening
 - Infrastructure Report

4.0 Request for Direction

- 4.1. By letter dated 4th August 2022, Denise Curran submitted a request for a determination by the Board as to whether EIA would be required for the proposed development. The following summarises the content of the submission received:
- In terms of cumulative effects, the AA Screening Report fails to account for the Part 8 scheme for Lehenaghmore Road Improvement Scheme, which was granted in December 2020, with construction anticipated in 2022/2023;

- Refers to the proposed housing scheme as a SHD;
- There has been no account for the increase in paved surfaces and increase in surface water runoff of these two schemes in combination with one another;
- There has been no consideration of potential impacts on human beings in terms of air and noise quality;
- States that the purpose of the Directive cannot be circumvented by the splitting of projects and the failure to take into account the cumulative effect of several projects.

5.0 Response from Cork City Council

5.1. Schedule 7A of the Planning and Development Regulations, 2001, as amended relates to information to be provided for the screening of sub threshold development for the purposes of EIA. The planning authority was requested to submit the information set out in Schedule 7A of the PDR and to submit a copy of the documentation relating to the Part 8 application, and to make any submissions or observations they may have in relation to the matter.

5.2. On foot of a request from the Board, Cork City Council submitted a response to the request for determination; summarised as follows:

- The request makes reference only to the AA screening submitted with the application and does not make any reference to the EIA screening;
- Referencing article 120(3)(c) of the Planning and Development Regulations 2001, as amended, submits the information specified in Schedule 7A of the Regulations:
 - A description of the physical characteristics of the whole development;
 - A description of the aspects of the environment likely to be significantly affected by the proposed development without mitigation are:
 - Increased demand on community and municipal services;
 - Construction and operational traffic;
 - Impact on adjoining residential amenities
 - Measures to reduce impact include:

- Provision of recreation and amenity services;
 - A Construction and Environmental Management Plan;
 - Landscape Screening;
 - Limited car parking and provision of generous cycle parking.
- A description of the likely significant effects on the environment resulting from the expected residues, emissions and waste and the use of natural resources, in particular soil, land, water and biodiversity, taking into account the criteria set out in Schedule 7.

A detailed Table which considers each of the criteria required to be considered in Schedule 7 is included in the response.

- In conclusion, the local authority states that the proposed development is a very modest residential development on residentially zoned land and is significantly below the relevant EIA class thresholds. The local authority states that a sub-threshold EIAR is not required for the proposed development, as adequate measures are in place to avoid, reduce or mitigate likely impacts, such that neither the construction nor operational phase of the overall development will have a significant negative impact on the environment.

5.3. Following a request, Cork City Council submitted the remainder of Part 8 documentation relating to the proposed development.

6.0 Planning History

6.1. There are no known planning applications on the site of the proposed development.

6.2. In the vicinity, and adjoining the site, a Part 8 road improvement scheme was approved in 2020; the L2455 Lehenaghmore Road Improvement Scheme. This scheme comprises upgrading works to existing roads and the provision of footpaths, a pedestrian/cycle bridge, and a roundabout (at an existing junction) and the signalling of an existing junction. The development was subject to its own EIA screening which concluded that the development would not be likely to have significant effects on the environment and an EIA would not be required.

7.0 Policy Context

7.1. Cork City Development Plan 2022-2028

7.2. The relevant development plan is the Cork City Development Plan 2002-2028. I note that the development plan is the subject of a recent Ministerial Direction (under s.31 of the Planning and Development Act 2000, as amended). I have consulted the relevant documents and I am satisfied that the ministerial direction does not relate to the site the subject of this request for EIA direction.

7.3. The development plan states that the National Planning Framework sets significant growth (60% population growth by 2040) for Cork City based on a vision of a regional strategy to provide a counterbalance to Dublin. The DP acknowledges that the Cork Metropolitan Area Strategic Plan (MASP) is included within the Regional Spatial and Economic Strategy for the Southern Region, stating that the MASP builds upon the ambitious growth targets for Cork set out in the NPF and seeks to strengthen the Cork Metropolitan area as an international location of scale, and a primary driver of economic and population growth in the region.

7.4. The following strategic objectives are relevant:

SO1 – Compact Liveable Growth: deliver compact growth that achieves a sustainable 15 minute city of scale providing integrated communities and walkable neighbourhoods, dockland and brownfield regeneration, infill development and strategic greenfield expansion adjacent to the existing city.

SO2 – Delivering Homes and Communities: Provide densities that create liveable, integrated communities by using a mix of house types, tenures and sizes linked to active and public transport. Provide amenities, services and community and cultural uses to enable inclusive, diverse and culturally rich neighbourhoods.

7.5. The site is identified in the Growth Strategy Map 2022-2028, Figure 2.21, as being within an area identified for Compact Growth, Tier 2. Tier 2 being lands that are considered serviceable by physical infrastructure within the life of the Development Plan. Figure 2.22, Built-up Footprint and Greenfield Growth Target Locations 2022-2028, identifies the site as being in the existing built-up footprint.

7.6. Objective 3.3, New Housing Supply, states that provision will be made for at least 17,118 new homes to be built in Cork over the Development Plan period. This will be

achieved, inter alia, by ensuring that all new housing developments contribute to the creation and/or maintenance of successful neighbourhoods and are designed to the highest standards.

7.7. The site is zoned ZO 02 New Residential Neighbourhoods. The zoning objective is as follows:

“To provide for new residential development in tandem with the provision of the necessary social and physical infrastructure.”

7.8. Natural Heritage Designations

7.8.1. The nearest natural heritage designations are:

- Cork Harbour SPA, site code 004030, c. 4.5km to the north-east;
- Douglas River Estuary, proposed NHA, site code 001046, c. 4.5km to the north-east;
- Lee Valley, proposed NHA, site code 000094, c. 3.9km to the north-west;
- Shournagh Valley, proposed NHA, site code 000103, c. 6.6 km to the north-west;
- Cork Lough, proposed NHA, site code 001081, c. 2.5km to the north.
- Great Island Channel SAC, site code 001058, c.11km to the east.

8.0 Legislation and Guidelines

8.1. Planning and Development Act 2000 (as amended)

8.1.1. Section 172(1) states that an EIA shall be carried out in respect of certain applications for consent for proposed development. This includes applications for ‘sub threshold’ development, namely those which are of a Class specified in Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended, but do not exceed the relevant quantity, area or other limit specified and the competent authority determines that the proposed development would be likely to have significant effects on the environment.

8.1.2. Section 172(1A) specifies that the above is relevant to development that may be carried out by the local authority under Part X.

8.2. **Planning and Development Regulations 2001 (as amended)**

- 8.2.1. **Article 120(3)(b)** states that any person at any time before the expiration of 4 weeks beginning on the date of publication of the notice may apply to the Board for a screening determination as to whether a development proposed to be carried out by a local authority would be likely to have significant effects on the environment.
- 8.2.2. **Article 120(3)(c)** indicates that such applications for screening determination shall state the reasons for the forming of the view that the development would be likely to have significant effects on the environment and shall indicate the class in Schedule 5 within which the development is considered to fall.
- 8.2.3. **Schedule 5** of the Regulations sets out the classes of development where EIA is required.
- Part 1 – Sets out the development classes which are subject to mandatory EIA.
- Part 2 – Development classes subject to EIA where they exceed a certain threshold in terms of scale or where the development would give rise to significant effects on the environment.
- 8.2.4. **Schedule 7** – Sets out the criteria for determining whether a development would or would not be likely to have significant effects on the environment, under three headings -
1. Characteristics of the proposed development.
 2. Location of the proposed development.
 3. Types and characteristics of potential impacts.
- 8.2.5. **Schedule 7A** - relates to information to be provided by the applicant or developer for the screening of sub-threshold development for the purposes of EIA. The requirement for the submission of this information in the case of requests to the Board for a determination under Article 120(3) of the Regulations arises on foot of revisions to Article 120(3) introduced by the EU (Planning and Development) (Environmental Impact Assessment) Regulations, 2018.
- 8.2.6. **Directive 2014/52/EU** entered into force on 15th May 2014. The EIA Directive 2014/52/EU reaffirms that 'Annex I projects' shall be subject to EIA and that for 'Annex II projects', Member States shall determine whether the project should be

subject to EIA on a case-by-case basis or subject to thresholds or other criteria set by the Member State. The screening determination must be based on the information provided by the developer and if mitigation measures are influential to a screening determination, these must be stated by An Bord Pleanála, as the competent authority, in a screening determination. Annex III of the EIA Directive sets out the revised criteria for determining whether projects should be subject to an EIA.

8.3. Relevant Guidance

- 8.3.1. Following transposition by the EU of Directive 2014/52/EU, guidance document 'EIA of Projects - Guidance on Screening' published in 2017 and other documents were prepared on behalf of the European Commission to assist competent authorities, developers and EIA practitioners in the EU Member States. The screening Guidance outlines a stepped approach to the screening process for competent authorities.
- 8.3.2. The 'Environmental Impact Assessment Guidance for Consent Authorities regarding Sub-threshold Development' published in 2003 by the Department of the Environment, Heritage and Local Government, provides guidance on the criteria to be assessed when deciding whether or not a proposed development is likely to have significant effects on the environment. More recent guidance is also provided in the 'Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment' published in 2018 by the Department of Housing, Planning and Local Government.

9.0 Assessment

9.1. Introduction

- 9.1.1. The proposed development is set out in Section 3 above. It comprises the construction of 45 no. houses, 87 no. car parking spaces, connection to public services and ancillary site works. The request for a screening determination under Article 120(3)(b) references a consented road improvement scheme in the area and states that cumulative effects require the consideration of an EIA. As stated in Section 1.2 of this Report, the Referrer was requested to state the reasons for forming of the view that the development would be likely to have significant effects on the environment and to indicate the class in Schedule 5 within which the development is considered to fall. No response was received from the Referrer.

- 9.1.2. The question for determination by the Board is whether the proposed development would be likely to have significant effects on the environment and require the preparation of an EIAR. Following its receipt of the request under Article 120(3)(b) of the Planning and Development Regulations 2001-2020, the Board requested the Planning Authority to submit the information as specified in Schedule 7A of the Planning and Development Regulations, 2001, as amended. In response, Cork City Council submitted the specified information in Schedule 7A, concluding that the development does not trigger the requirement for sub-threshold EIA and that an EIAR is not required. I note that the Part 8 documentation contained a 'Sub threshold EIA Screening Report' which included Appendix A, 'EIAR Screening' which was prepared by McCutcheon Halley, Planning Consultants. It concluded that there will no real likelihood of significant effects on the environment arising from the proposed development and EIA is not required.
- 9.1.3. I note also that an Appropriate Assessment Screening Report for the development is included with the Part 8 documentation, prepared by Dixon Brosnan, Environmental Consultants. It concluded that in view of best scientific knowledge, that the proposed development, on its own or in combination with other plans or projects, would have no significant effects on any Natura 2000 and it was not necessary to undertake any further stage of the appropriate assessment process.
- 9.1.4. The following matters are considered relevant in the determination of the requirement for EIA and the corresponding need of an EIAR in this case:
- project type/class of development under Schedule 5 of the Planning and Development Regulations 2001, as amended, relevant to the proposed development;
 - relevant thresholds under Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended;
 - examination of proposal by reference to the criteria set out Schedule 7A and Schedule 7, where relevant, of the Planning and Development Regulations 2001, as amended/Annex III of the EIA Directive 2014/52/EU.

9.2. **Relevant project types/class of development**

- 9.2.1. The project type is the construction of dwelling units on 'residential' zoned lands within the identified development boundary of Cork City, as set out in the Cork City Development Plan 2022-2028. The zoning objective, 'ZO 02 New Residential Neighbourhoods' is *"To provide for new residential development in tandem with the provision of the necessary social and physical infrastructure."*
- 9.2.2. The relevant classes of development applicable to the proposed project that is the subject of this referral are as follows:
- Class 10(b)(i) of Part 2 of the Fifth Schedule of the Planning and Development Regulations 2001, as amended, (construction of more than 500 dwelling units);
 - Class 10(b)(iv) of Part 2 of the Fifth Schedule of the Planning and Development Regulations 2001, as amended, (urban development which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha elsewhere). [In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use].

It is therefore my opinion that the proposed project involves development that is of a class for the purposes of EIA.

9.3. Relevant threshold under Part 2 of Schedule 5 of the Planning and Regulations 2001, as amended.

- 9.3.1. The threshold cited under Class 10(b)(i) in Part 2 of Schedule 5 of the Regulations is the 'construction of more than 500 dwellings'. The proposal involves the construction of 45 no. residential / dwelling units. The proposed development is therefore of a Class but does not meet the threshold of 500 units to require mandatory EIA. It is therefore sub-threshold development for the purpose of EIA under this class.
- 9.3.2. I have also considered Class 10(b)(iv), being urban development, which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha elsewhere. [In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use]. The site is c. 1.79ha and while it is of a class, it does not

meet the area threshold of 10ha. It is therefore also sub-threshold development for the purpose of EIA under this class.

9.4. Examination of the development by reference to the criteria set out in Schedule 7 of the Regulations

9.4.1. Schedule 7 lists the criteria for determining whether a development would or would not be likely to have significant effects on the environment. I have therefore considered these in my examination and assessment below, having regard to the information submitted pursuant to Schedule 7A and the legalisation and guidance. I have also considered the concerns raised by the applicant in this EIAR screening determination.

Table 1: EIA Screening Determination (Examination)

Examination	Characteristics of impacts and any Mitigation Measures proposed to avoid or prevent a significant effect (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)		
1.1 Is the project significantly different in character or scale to the existing surroundings or environment?	No. The scheme for 45 no. houses on a site of c.1.7ha is on zoned lands on the outskirts of Cork City. There are existing low and medium density housing in	No.

	the vicinity. The development will be connected to existing infrastructure.	
1.2 Will construction, operation, decommissioning or demolition works causing physical changes to the locality (topography, land use, waterbodies)?	The existing use is agriculture, proposed use is residential, however the overall scale is small. No demolition works proposed. No significant effects arising.	No.
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?	The proposed scheme, being small in scale, will not result in a significant use of natural resources. No out of the ordinary use of natural resources is likely during construction. The development will be connected to public infrastructure; I note that a water and wastewater connection is feasible without infrastructure upgrade.	No.
1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?	No such materials required or produced.	No
1.5 Will the project produce solid waste, release pollutants or any	Discharge of foul effluent to existing public	No

hazardous / toxic / noxious substances?	infrastructure. Waste quantities generated as a result of the construction would be small and would be managed by the preparation of and adherence to a CEMP.	
1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?	No discharge of pollutants to ground or surface waters.	No
1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?	Some noise and vibration during construction. Temporary duration, construction hours controllable, localised impact. Mitigation measures proposed in the CEMP.	No
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	No water pollution. Some dust during construction. Temporary duration, construction hours controllable, localised impact. Mitigation measures to be addressed in a CEMP.	No
1.9 Will there be any risk of major accidents that could affect human health or the environment?	No risk of major accidents given nature of project.	No

<p>1.10 Will the project affect the social environment (population, employment)</p>	<p>Will result in localised increase in population and increase in employment during construction.</p>	<p>No</p>
<p>1.11 Is the project part of a wider large-scale change that could result in cumulative effects on the environment?</p>	<p>This is a standalone project. The consented adjoining part 8 road improvement scheme was subject to an EIA Screening process and was determined unlikely to have an effect on the environment.</p>	<p>No</p>
<p>2. Location of Proposed Development</p>		
<p>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <p>a) European site (SAC/ SPA/ pSAC/ pSPA)</p> <p>b) NHA/ pNHA</p> <p>c) Designated Nature Reserve</p> <p>d) Designated refuge for flora or fauna</p> <p>e) Place, site or feature of ecological interest, the preservation /conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan.</p>	<p>Not located in or close to any site. No pathway for waste or surface water to reach these receptors.</p> <p>The site has been screened for Appropriate Assessment by the planning authority and it was concluded that the proposed development would not result in adverse effects on any European site, having regard to the sites' conservation objectives.</p>	<p>No</p>

<p>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be significantly affected by the project?</p>	<p>Site is located adjacent to existing residential development in an urban area. Submitted schedule 7A information stated that a search of recent records in the national Biodiversity Database (NBDC) did not indicate any rare or endangered habits or species present in the 2km grid square within which the site is located. No evidence of sensitive species on the site or in the vicinity.</p>	<p>No</p>
<p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>The site is not within an Architectural Conservation Area and there are no recorded archaeological sites within the site boundary. The closest archaeological site is c.200m to the southeast. It is not proposed to impact this site.</p>	<p>No</p>
<p>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry,</p>	<p>No</p>	<p>No</p>

agriculture, water/coastal, fisheries, minerals?		
2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	Site is not located within a flood zone. No surface water features in the vicinity of the site.	No
2.6 Is the location susceptible to subsidence, landslides or erosion?	No	No
2.7 Are there any key transport routes (e.g. National primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	No	No
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be significantly affected by the project?	No such facilities nearby.	No
3. Any other factors that should be considered which could lead to environmental impacts		
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	There is a permitted Part 8 road improvement scheme adjoining the site. This scheme has been screened for both EIA and AA and it was found that	No

	there was no requirement for an EIA or an AA.	
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	No
3.3 Are there any other relevant considerations?	No	No
Conclusion on EIA Screening		
Having regard to the examination above which considers the nature, scale and location of the development, the characteristics and location and the characteristics of potential impacts it is considered that the project is unlikely to give rise to significant environmental impacts. Accordingly, that the preparation and submission of an EIAR, is therefore, is not required.		

10.0 Recommendation

I recommend that the Board determine that the development proposed to be carried out by Cork City Council would not be likely to have significant effects on the environment and the preparation and submission of an environmental impact assessment report is not required for the reasons and considerations set out under.

11.0 Reasons and Considerations

Having regard to the following:

- (a) The nature and scale of the proposed development, which is significantly under the threshold in respect of Classes 10(b)(i) (infrastructure – dwelling units) and 10(b)(iv) (urban development) of Part 2 of the Fifth Schedule of the Planning and Development Regulations 2001, as amended,
- (b) The location of the site on lands that are zoned for residential use under the provisions of the Cork City Development Plan 2022-2028 and the results of the strategic environmental assessment of this Plan undertaken in accordance with the SEA Directive (2001/42/EC),

- (c) The location of the site in an established residential area served by public infrastructure including a stated available capacity in the wastewater treatment plant and the existing pattern of development in the vicinity,
- (d) The location of the site outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001, as amended, and the absence of any relevant connectivity to any sensitive location,
- (e) the guidance referenced in the Inspector's Report,
- (f) the criteria set out in Schedule 7 and 7A of the Planning and Development Regulations 2001, as amended,
- (g) the submissions made by the applicant requesting a determination and by the local authority, and
- (h) the report and recommendation of the reporting inspector,

it is considered that the proposed development would not be likely to have significant effects on the environment and, accordingly, that the preparation and submission of an Environmental Impact Assessment Report is not required.

Alaine Clarke

Inspector

19th January 2023