



An
Coimisiún
Pleanála

Internal Technical Note

ABP-323393-25

Development

Demolition of all structures on the site and site clearance works. Construction of 96 apartments in two blocks and 10 duplex units.

Location

Quadrant House, Chapelizod Road and including the adjoining site known as 2B Chapelizod Village (rear of 2 Mullingar Terrace), Chapelizod, Dublin 20.

Planning Authority & Reg. Ref.

Dublin City Council (LRD6005/23-S3)

Planning Authority Reg. Ref.

25/60075

Applicant(s)

Linders of Smithfield Limited

Type of Application

Appeal case and Remittal of Large Housing Development (LRD)

Inspector

Irené McCormack

Ecologist

Fiona Patterson

Topic

Requirement for Appropriate Assessment (Stage 2)

Report No

R323393_TN Ecology

Date

25th November 2025

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1.0 Introduction

1.1. Background

- 1.1.1. ABP-323393-25 is a remittal case relating to the previous Board decision to grant permission for a Large-scale Residential Development (LRD) at Chapelizod, Dublin 20 (previous ref. ABP-318075-23 – quashed by High Court order).
- 1.1.2. The application included a Screening report to inform stage 1 Screening for Appropriate Assessment (AA), and a Natura impact Statement (NIS) to inform stage 2 AA. An Ecological Impact Assessment (EclA) was also submitted with the original application. The Planning Inspector's Report under ABP-318075 and the subsequent addendum report (ABP-323393-25) 'screened out' the need for AA, largely on the basis of the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations. In reaching her screening statement conclusion, the Planning Inspector's Report under ABP-318075 (Section 10) noted that, *"no account was taken of measures that could in any way be considered to be mitigation measures intended to avoid or reduce potentially harmful effects of the project on any European Site. In this project, no measures have been especially designed to protect any European Site and even if they had been, which they have not, European Sites located downstream are so far removed from the subject lands and when combined with the interplay of a dilution affect such potential impacts would be insignificant. I am satisfied that no mitigation measures have been included in the development proposal specifically because of any potential impact to a Natura 2000 site"*.
- 1.1.3. In relation to the applicant NIS, The Planning Inspector's Report under ABP-318075 (Section 10) noted that *"In deciding to prepare and submit a NIS the applicant states that the precautionary principle was being applied. I am of the opinion that the application of the precautionary principle in this instance represents an over-abundance of precaution and is unwarranted"*.
- 1.1.4. In deciding to grant permission under ABP-318075, the Board adopted that AA Screening recommendation.

1.1.5. In re-considering the case in view of the remittal, expert input was requested by the Commission from the Inspectorate Ecology Team in terms of the requirement for a Stage 2 Appropriate Assessment having regard to the following items noted by the Commission:

1. The submission by the applicant of an AA Screening report and NIS and that the planning authority reached their decision after undertaking Stage 1 and Stage 2 AA.
2. That the Northwest Irish Sea Special Protection Area, which is also approximately 12km from the proposed development similar to other Natura 2000 sites assessed in the NIS submitted by the applicant, may have been designated after the application was originally made.
3. That a submission was received at application stage from a Prescribed Body (i.e. DHLGH) in relation to appropriate assessment on the 14th August 2023 (as set out in Section 4.3 but contrary to Section 10.4 of the Inspectors report in ABP-318075-23) recommending all mitigation measures contained in the NIS to prevent the pollution of surface waters during construction in order to avoid causing detrimental impacts to downstream Dublin Bay Natura 2000 sites, and
4. The Inspector's determination that the AA (Stage 2) is not required as set out in Section 8 of their report, and that the conclusions with respect to Appropriate Assessment Screening set out in Section 10 of the Inspector's Report for ABP-318075-23 remain valid.

1.2. Scope of technical note

1.2.1. In considering the requirement for Stage 2 AA, I have had regard to the four items above, raised by the Commission in this technical note. I have reviewed relevant documents related to the proposed development, namely: Screening report for AA, Natura impact Statement, Ecological Impact Assessment Report, Construction and Environmental Management Plan (CEMP) and Construction Management Plan in addition to relevant submissions and planning authority reports.

2.0 Issues examined and suggestions for consideration by the Planning Inspector and the Commission

2.1. Overview of applicant AA Screening report and NIS

- 2.1.1. The AA Screening report and NIS dated May 2023, was prepared by Dr Brian Madden of Biosphere Environmental Services. It notes that the report is based on a review of technical reports which accompany the planning application and a comprehensive literature review.
- 2.1.2. The AA Screening report notes that there are no streams, open drains or natural habitats on site. Natural drainage of the site is towards the River Liffey, which is approximately 250 m to the southwest. There are no watercourses or open channels linking the two locations, i.e. no direct flow path. The area between the site and the river is long established built ground dominated now by the Chapelizod Industrial Estate. The AA Screening report notes that surface and storm drainage is to the River Liffey and therefore identifies a theoretical hydrological linkage between the site and the Dublin Bay conservation area via the Liffey.
- 2.1.3. The AA Screening report notes that during the construction phase, potential sources for water pollution from the construction site to local drains and watercourses include suspended solids derived from soil excavation and movement within site, run-off from wet cement surfaces which can result in alkaline water with high pH and leakages and spillages of hydrocarbons. The AA Screening report notes that during the operational phase, there will be general run-off to the local surface drainage system from roofs and hard surfaces, with potential for leakage of petrol/diesel fuel from vehicles.
- 2.1.4. The AA Screening report concludes that in the absence of mitigation, there is potential for contaminated water emanating from the development site at Chapelizod to enter the River Liffey system and ultimately the aquatic and intertidal environment of Dublin Bay, during the construction and (to a lesser extent) operational phases of the proposed development. I consider that the likely significance of these impacts in view of the conservation objectives of these sites is not explored in the AA Screening report, merely the potential for impacts.

- 2.1.5. I note that there is contradictory information regarding impacts on designated sites between the AA Screening report and EclA report presented in the applicant documentation. I consider that this poses a question mark around the quality and robustness of the data presented by the applicant in terms of informing the AA process. Refer below to Section 2.2 for additional information.
- 2.1.6. I consider that the AA screening report does not examine objective information that could exclude the possibility of water quality effects on downstream European sites. While the proposed development site and the River Liffey are in relatively close proximity (c.250 m apart), it is noted that there are no watercourses or open channels linking the two locations, i.e. no direct flow path. It is also noted that the area between the site and the river is long established built ground dominated now by the Chapelizod Industrial Estate. Therefore, there is a weak hydrological connection via surface water drains to the River Liffey itself.
- 2.1.7. There is no reference to actual downstream distance to receiving habitats within European Sites which could distinguish the strength or weakness of the hydrological connection. The distances quoted in the Table 1 of the AA Screening report are direct measurements (point to point) and the hydrological connection will be greater than the straight line 11km distance quoted to the nearest European site. Over this distance, dilution and settlement process combined with tidal influences would mean that this connection is weak for the majority of construction related fugitive emissions.
- 2.1.8. However, in screening the need for AA, the Planning Inspector and the Commission need to consider more than distance from European Sites. While a project may not have a significant effect on its own, it may have some impact that could combine with other projects to generate an in-combination effect with potentially significant implications for European Sites. The robustness of the applicant documentation informing the AA Screening and documentation of the water quality impacts & features integral to the design also needs to be considered (See Section 2.2 below).
- 2.1.9. The proposed development at Chapelizod requires extensive ground works for site clearance and excavations and earthworks and in an uncontrolled scenario in the absence of pollution prevention measures has the potential for moderate adverse

effects in a local sense on the River Liffey. If other development sites are being cleared within this catchment which could affect water quality, there is the potential for in combination effects that could exert a greater magnitude of impact in relation to downstream European Sites.

- 2.1.10. Section 3.1 of the NIS details mitigation measures to manage surface water and control pollution during the construction phase. It states that this includes the preparation of a CEMP which will include measures for the management of suspended solids in run-off, concrete run-off and accidental spills and leaks and regular monitoring. The NIS does not appear to have had regard to the water quality measures detailed in the applicant CEMP as not all of the water quality measures listed in the NIS are consistent with those listed in the CEMP. For example, the NIS states that stockpiled material will be removed off-site as soon as possible whereas the CEMP states that stockpiles of excavated materials and / or topsoils will be continuously inspected to ensure that erosion potential and run-off is minimized.
- 2.1.11. In my opinion, there should be just one set of consistent water quality measures presented throughout the applicant documentation. I consider that the inconsistent information regarding water quality protection poses a question mark around the quality and robustness of the data presented by the applicant in terms of AA. Refer to Section 2.2 for further details on the other relevant applicant documentation.
- 2.1.12. Section 3.2 of the NIS details mitigation measures to manage surface water and pollution during the operational phase and is based on the Engineering Services Report prepared by DBFL Engineers for the applicant. In Section 2.5 below, I discuss whether the NIS 'mitigation measures' (construction and operation phases) should be considered as such for the purpose of AA Screening.

2.2. Review of other applicant documentation

- 2.2.1. The EclA, dated June 2023, was prepared by Wildlife Surveys Ireland. Potential water quality impacts on the River Liffey are not identified in the EclA. Section 7.1 of the EclA report discusses impacts on designated sites. It states that the proposed development will not have any measurable effects on water quality in Dublin Bay or the Irish Sea due to the scale and location of the proposed development relative to the surface water network, the substantial distance to Natura 2000 sites, the

potential for pollution to be dissipated in the drainage network and the level of mixing, dilution and dispersion of any surface water run-off/discharges into receiving watercourses, Dublin Bay and the Irish Sea. The above EclA findings are inconsistent with the findings of the AA Screening/NIS report.

- 2.2.2. The CEMP, dated June 2023, was prepared by TMS Environmental Ltd. The protection of European sites is not specifically discussed in the CEMP. Section 4.3 of the CEMP notes a distance of 220m from the site to the Liffey. Section 4.3 notes that water quality impacts will be managed by a combination of design features and mitigation measures including no concrete batching on site, proper management of excavations and stockpile inspections, refuelling controls such as use of a mobile refuelling system in designated hard-stand impermeable areas on site with no bulk storage on site, use of drip trays etc and discussions with DCC and Uisce Eireann on treatment of site runoff/water discharges. Section 6 of the CEMP discusses the implementation of a monitoring programme to ensure that significant adverse environmental impacts will not arise. It notes that the recommendations in the Dublin City Good Practice Guide for Construction and Demolition, have been considered in the formulation of the CEMP. As noted previously, the CEMP water quality mitigation measures do not appear to have had regard to the water quality measures detailed in the NIS. As mentioned previously, some measures are inconsistent with those presented in the applicant NIS report. In my opinion, there should be just one set of consistent water quality measures presented throughout the applicant documentation.
- 2.2.3. A Resource Waste Management Plan (RWMP), dated June 2023, prepared by TMS Environmental Ltd is included in the application documentation. The protection of European sites is also not discussed in this plan, however it lists similar measures to the CEMP regarding water quality, to minimise the risk of pollution to watercourses by hydrocarbons. The RWMP water quality mitigation measures are inconsistent with those presented in the applicant NIS report.
- 2.2.4. A Construction Management Plan, dated June 2023, prepared by John Sisk Ltd has also been included in the application documentation. This includes an environmental management section (Section 5) and appears to have been prepared independently of the CEMP. Whilst similar type measures to the CEMP for water quality are listed,

additional measures such as wheel washing and bunded storage arrangements for hydrocarbons are also included. The protection of European sites is not also discussed in the CMP. The CMP water quality measures are also not consistent with the mitigation measures presented in the applicant NIS report.

- 2.2.5. As noted previously, there is in-consistent and contradictory information regarding impacts on designated sites and measures to protect water quality in the applicant documentation. I consider that this poses a question mark around the quality and robustness of the data presented by the applicant in terms of AA.

2.3. Planning Authority AA

- 2.3.1. The planning authority accepts the findings of the applicant AA Screening report and NIS and carries out Stage 1 and 2 AA. In relation to the mitigation measures proposed by the applicant, the planning authority (planners report pg 29) notes *“that the measures listed largely represent best practice construction methods that are generally adhered to during construction phases. Therefore, the enforcement of strict measures to manage surface water on site and to control and treat pollutants, would adequately reduce the risk of contaminated water from the site and discharging to local drains and watercourses, and ultimately to the Dublin Bay conservation area.”*
- 2.3.2. In Section 2.5 below, I discuss whether the NIS ‘mitigation measures’ (construction and operation phases) should be considered as such for the purpose of AA Screening.

2.4. Submission from DHLGH dated 14th August 2023

- 2.4.1. The DHLGH submission noted that the applicant NIS recognises the possibility of contaminated surface water runoff from the development site reaching the River Liffey and downstream to European sites in Dublin Bay. It recommends that all mitigation measures contained in the NIS to prevent water quality pollution is implemented. The relevant excerpts from the submission are repeated below:

“It is also noted that the Natura Impact Statement (NIS) supporting this application recognises the possibility of pollutants mobilised from the development site in surface water runoff to reaching the River Liffey approximately 250 away and having been transported downstream into Dublin Bay potentially adversely affect the Qualifying Interests for a number of European sites located there, namely the North

Dublin Bay Special Area of Conservation (SAC), the South Dublin Bay SAC, the North Bull Island Special Protection Area (SPA) and the South Dublin Bay and River Tolka Estuary SPA. The NIS therefore sets out various measures to prevent any mobilisation of pollutants into runoff from the proposed development during its construction phase to be included in a Construction Environmental Management Plan (CEMP) and avoid any adverse effects on downstream European sites.”

“Recommendations:

In the light of the above it is therefore recommended that any planning permission granted in response to the present application shall be subject to the following conditions:.....”

“That prior to the commencement of any works on the development site a Construction Environmental Management Plan (CEMP) shall be submitted to the planning authority for its written agreement, this plan to include all the mitigation measures set out in the NIS and Preliminary CEMP supporting the current application to prevent the pollution of surface waters during the construction phase of the proposed project, and to be implemented in full.

Reason: To avoid the proposed development causing detrimental effects on the flora, fauna and natural habitats of the River Liffey and downstream Dublin Bay Natura 2000 sites”.

- 2.4.2. In Section 2.5 below, I discuss whether the NIS ‘mitigation measures’ (construction and operation phases) should be considered as such for the purpose of AA Screening.

2.5. Should the NIS ‘mitigation measures’ should be considered as such for the purpose of AA Screening? See Sections 3.1 and 3.2 of the NIS for details of the ‘mitigation measures’.

- 2.5.1. In carrying out Screening for AA, The Planning Inspector and An Coimisiún Pleanála need to distinguish between (a) measures intended to avoid or reduce harmful effects of a project on a European site which should not be taken account of at screening stage and (b) features or characteristics of a project which can be taken account of at screening stage because they are standard features, inherent in the project or features that are integral to the design even though those features may

incidentally have the effect of avoiding or reducing some of the potentially negative effects of a proposal. This clarification comes from CJEU Case C – 721/21 also referred to as Eco Advocacy case where it was ruled that:

“Article 6(3) must be interpreted as meaning that, in order to determine whether it is necessary to carry out an appropriate assessment of the implications of a plan or project for a site, account may be taken of the features of that plan or project which involve the removal of contaminants and which therefore may have the effect of reducing the harmful effects of the plan or project on that site, where those features have been incorporated into that plan or project as standard features, inherent in such a plan or project, irrespective of any effect on the site”.

2.5.2. The EC methodological guidance on Appropriate Assessment (2021/C 437/01¹) includes guidance which is consistent with this ruling:

“However, project developers can sometimes design projects in a way to avoid or minimise potential impacts from the outset. This can be done by using best available technologies or by applying pre-emptive measures, including statutory measures (e.g. no-go zones) prescribed e.g. in sector-specific regulations, Natura 2000 management plans or in spatial/zoning plans. Such generic components of the project can be considered in the screening, contrary to the plan- or project-specific mitigation measures that must not be taken into account at this stage.

2.5.3. In this particular case (323393), I consider that certain measures have been incorporated into the project design. These include:

- Operational drainage measures including SUDS, and operational surface water discharge to the River Liffey
- Operational measures for the management of foul wastewater.

2.5.4. I note that both of these measures are referenced as mitigation measures to minimise impacts on European sites in Section 3.2 of the NIS. However, in my

¹ Assessment of plans and projects in relation to Natura 2000 sites – Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (2021/C 437/01). [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021XC1028\(02\)](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021XC1028(02))

opinion, these measures are integral to the design and can be considered in screening for AA.

- 2.5.5. The mitigation measures detailed in Section 3.1 of the NIS relate to the protection of water quality during construction phase. I consider that water quality protection measures are not unique to the NIS as they are also specified in other applicant reports (see Section 2.2 above) to protect the River Liffey.
- 2.5.6. I note that Appendix 1 of the Planning Inspector's addendum report (ACP-323393-25) details the Water Framework Directive (WFD) Screening Determination. The impact of proposed development on the Liffey is considered in the assessment. The pathway is identified as "weak hydrological connection". The potential impact is listed as "siltation, pH (concrete), hydrocarbon spillages". The mitigation measure considered at WFD Screening stage is listed as "standard construction practice CEMP". The risk to the water environment is screened out.
- 2.5.7. As noted previously, there are no European Sites immediately downstream from the works. The distance (as the crow flies) to the closest point of any Dublin Bay SAC or SPA site is greater than 11km. The hydrological distance (i.e. via the river network) will be longer than this but it has not been specifically calculated in the AA Screening report or NIS.
- 2.5.8. In my opinion, and having regard to the WFD assessment, I consider that the construction water quality measures are required primarily to protect the water quality in the River Liffey, regardless of the presence of a European site downstream. However, as noted previously, the presentation of water quality measures is inconsistent throughout the applicant documentation and there is no clear standard list between the various reports.
- 2.5.9. As mitigation is undoubtedly required to protect local watercourses from pollution and siltation and given the inconsistent and somewhat contradictory water quality measures presented in the applicant documentation, I consider that the most robust approach is to adopt a precautionary approach and to undertake AA of the proposed development including in combination effects.

2.6. Northwest Irish Sea cSPA (004236)

- 2.6.1. The Commission and Planning Inspector should note that an additional candidate SPA has been designated since the planning application was made. Northwest Irish Sea SPA (004236) was advertised as candidate SPA on 13th July 2023 and therefore was not included in the European sites originally considered by the Developers agents, Biosphere. This site should be included in any reconsideration of Screening for AA undertaken for this proposed development.
- 2.6.2. I note that the North-west Irish Sea cSPA is an important resource for seabirds, that is, birds that travel into marine environments to obtain food. Site specific conservation objectives have been set for the individual species listed for the cSPA, related to the marine environment. Notwithstanding that there may be some uncertainty that potential for significant effects cannot be excluded for other SPAs listed in the applicant AA Screening report due to construction-related pollution risks, I consider that any such risk in the marine environment would be rapidly dispersed and diluted to non-significant levels. I consider that the development would not result in impacts that could affect conservation objectives related to population trends, cause disturbance of birds in the marine environment, their spatial distribution, forage distribution and abundance or cause barriers to access to the cSPA or other ecologically important sites outside the cSPA. I also note that the cSPA is not designated for wetland habitats.

2.7. Requirement for AA (Stage 2)

- 2.7.1. In this particular case, as mitigation is undoubtedly required to protect local watercourses from pollution and siltation and given the inconsistent and somewhat contradictory water quality measures presented in the applicant documentation, I consider that the most robust approach is to adopt a precautionary approach and to undertake AA of the proposed development.

3.0 Conclusion

- 3.1. In summary, the following is my professional opinion on the questions posed by the Commission:

- In this particular case, as mitigation is undoubtedly required to protect local watercourses from pollution and siltation and given the inconsistent and somewhat contradictory water quality measures presented in the applicant documentation, I consider that the most robust approach is to adopt a precautionary approach and to undertake AA of the proposed development.

Signed:

A handwritten signature in blue ink, appearing to read 'Fiona Patterson'.

Fiona Patterson, BSc, MSc, MISEP CEnv

Senior Ecologist Inspector

25th November 2025