

Tiznow Property Company Limited
(Comer Group Ireland)

**Former Cork Warehouse
Company Site**

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

267365-ARUP-XX-XX-RP-YE-0007

P03 | 21 March 2022

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Job number 267365-00








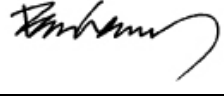
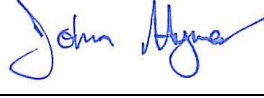
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1 Introduction

1.1 Background

Arup have been appointed by the applicant, Tiznow Property Company Limited (Comer Group Ireland), to prepare this statement in accordance with Article 299B(1)(b)(ii)(II)(C) of the Planning and Development Regulations 2001 to 2021 (the “Planning Regulations”) in relation to the proposed Strategic Housing Development (SHD) on the Former Cork Warehouse Company site in Cork City.

This statement is part of the information provided by the Applicant so that An Bord Pleanála (ABP) may complete an examination for the purposes of a screening determination in accordance with Articles 299B and 299C of the Planning Regulations.

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

1.2 Policy Context

The proposed development is a sub-threshold development for the purposes of environmental impact assessment, as it comprises 190 residential units and this is below the 500-dwelling threshold at paragraph (1)(b)(i) of Part 2 of Schedule 5 to the Planning Regulations.

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

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

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

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

- (a) *the information specified in Schedule 7A,*
- (b) *any further relevant information on the characteristics of the proposed development and its likely significant effects on the environment, and*
- (c) *a statement indicating how the available results of other relevant assessments of the effects on the environment carried out pursuant to*

European Union legislation other than the Environmental Impact Assessment Directive have been taken into account.

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

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

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

The information required by sub-paragraph (c) of Article 299B(1)(b)(ii)(II), namely, a statement indicating how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account, is contained in this standalone statement.

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

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

1.3 Description of the Proposed Development

The proposed development will consist of:

- Demolition of all existing structures and the construction of a strategic housing development of 190 no. apartments in a building ranging in height from single to 12 storeys.
- The proposed development makes provision for 3 no. café/restaurant units, 2 no. retail units, a creche and supporting tenant amenity facilities at ground floor level and includes 64 no. 1 bedroom apartments, 106 no. 2 bedroom apartments and 20 no. 3 bedroom apartment on the upper levels.
- The proposed development also provides for outdoor amenity areas, landscaping, public realm works on Marquee Road and Centre Park Road, car parking, bicycle stores and shelters, bin stores, ESB substation, plant rooms and all ancillary site development works.

- Vehicular access to the proposed development will be provided via Marquee Road.

2 Statement on the Results of Other Environmental Verifications or Assessments

2.1 EU Legislation

The following sections outline the EU legislation (other than the EIA Directive) relevant to the proposed SHD on the Former Cork Warehouse Company site in Cork City. It highlights the nature of the verifications or assessments carried out in accordance with the legislation. Where individual verifications or assessments have influenced the details of the proposed development, this is also described below, to show how the results of those verifications or assessments have been taken into account.

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

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

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

The subject site is not located on or close to any European Site (including Special Protection Areas (SPA) for birds, or Special Areas of Conservation (SAC)). The site is located approximately 2.8 kilometres upstream from the Cork Harbour SPA. There are invasive plant species on and within the proposed development site. An Invasive Species Management Plan has been included as part of the planning application package.

2.1.1.1 AA Screening

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

“The AA screening concluded, on the basis of objective information and in view of best scientific knowledge, the possibility of significant effects from the proposed project on European sites could not be ruled out and therefore an Appropriate Assessment was required. The AA screening concluded that there was potential

for the proposed development to significantly impact the Cork Harbour SPA, via surface water runoff and the spread of invasive species during construction”.

Therefore, a Stage 2 Appropriate Assessment (i.e., the preparation of a Natura Impact Statement) was carried out and the following was concluded:

“It has been objectively concluded following an examination, analysis and evaluation of the relevant information, including in particular the nature of the predicted effects from the proposed development and with the implementation of the mitigation measures proposed, that the construction and operation of the proposed development will not adversely affect (either directly or indirectly) the integrity of any European site, either alone or in combination with other plans or projects. There is no reasonable scientific doubt in relation to this conclusion”.

However, the competent authority will make the final determination in this regard.

The results of the assessments carried out mean that no changes to the proposed development are required.

2.1.2 Directive 2007/60/EC, Floods Directive

2.1.2.1 Flood Risk Assessment

The Floods Directive requires Member States to assess if all water courses and coast lines are at risk from flooding, to map the flood extent and assets and humans at risk in these areas and to take adequate and coordinated measures to reduce this flood risk. The Directive also reinforces the rights of the public to access this information and to participate in the planning process.

The site-specific Flood Risk Assessment (FRA), prepared by Arup and included with the planning application, has been carried out in accordance with ‘*The Planning System and Flood Risk Management Guidelines*’ (hereafter referred to as the FRM Guidelines) published in November 2009 jointly by the then Department of the Environment, Heritage and Local Government, DEHLG, (now the Department of the Environment, Community and Local Government, DECLG) and the Office of Public Works (OPW). The guidelines were prepared in accordance with the requirements of the Floods Directive.

The proposed development is located approximately 300m to the south of the River Lee. The site is located within what is referred-to as Flood Zone A, as it is located within the 1 in 200-year tidal flood extent according to CFRAM mapping. However, it is protected to a high standard by the existing polder defences along the quayside. Cork City Council intend to raise this polder defence in the future to ensure the existing standard of protection is maintained or increased. Accordingly, it will be the primary flood protection measure for the Cork South Docklands.

The FRA carried out by Arup concludes the following –

“This FRA has demonstrated that the risks relating to flooding to the proposed development can be managed and mitigated to acceptable levels and therefore comply with DoEHLG/OPW and Cork City Council planning guidance”.

2.1.3 Directive 2002/49/EC, Environmental Noise Directive

The Environmental Noise Directive focuses on three action areas:

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

The proposed development was assessed in terms of the potential for noise generation during the construction phase and also during the operational phase. In addition, potential sources of noise in the surrounding environment were assessed in terms of their potential to impact on future residents of the development.

The baseline noise environment at the proposed development site is primarily influenced by road traffic noise generated by vehicles on Centre Park Road, Marquee Road and Monahan Road as well as operations at the nearby commercial properties such as Marina Commercial Park.

In terms of the construction phase, the proposed development will be carried out in accordance with a Construction Environmental Management Plan (CEMP). The proposed CEMP, prepared by Arup, is included with the planning application. The CEMP outlines various mitigation measures to be employed during construction to ensure the noise generated by the construction activities is minimised, consequently reducing adverse impacts on receptors in the surrounding environment.

As the proposed development will be primarily residential once operational, it is not predicted that it will generate any significant levels of noise that would impact sensitive receptors.

Implementation of the CEMP will ensure that the objectives of the Environmental Noise Directive are met, insofar as they apply to the proposed development.

2.1.4 Directive 2000/60/EC, Water Framework Directive

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

The Natura Impact Statement included in the planning application package assesses the potential impact on designated sites as a result of any potential changes to surface water quality and concluded that *“although unlikely given the distance from Cork Harbour SPA and the dilution available with the Atlantic Pond and the River Lee, there is potential for contamination arising during construction works, particularly during groundworks and concrete pouring, to*

enter the River Lee and Cork Harbour SPA". However, a range of standard water protection measures have been included to "*ensure there is no impact on the Cork Harbour SPA from surface water runoff during the construction phase*".

In addition, all surface water run-off will be appropriately managed by the implementation of the CEMP, also included as part of the planning application documentation. During the operational phase, the proposed surface water infrastructure will include hydrocarbon interceptors and other necessary elements to ensure safe discharge into the receiving waters.

2.1.5 Directive 2001/42/EC, SEA Directive

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

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

The Cork City Development Plan 2015-2021 was subject to Strategic Environmental Assessment in accordance with the requirements of the SEA Directive. The Proposed Cork City Development Plan 2022-2028, which is currently being prepared, includes an SEA Environmental Report which addresses the requirements of the SEA Directive for the implementation of the new Plan.

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

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

- measures to limit transport emissions through traffic planning and management.
- measures to encourage a shift of transport towards less polluting modes. Subsequent policies at national, regional and local level including but not limited to the National Planning Framework, Regional Spatial Economic Strategy and Cork City Development Plan, have been prepared in accordance with the Directive and include objectives to encourage a shift towards more sustainable modes of travel.

The proposed development has been designed to accord with these policies and includes measures to encourage sustainable travel and to protect air quality. The

proposed development will be highly permeable for pedestrians and cyclists. A number of shared pedestrian/cyclist access points into the site will be provided around the perimeter and the proposed bicycle parking areas located within the site will have dedicated access points from the external and street network. A pedestrian/cyclist street is also proposed through the site along the western site boundary, linking Monahan Road and Centre Park Road. This will encourage active mobility throughout the site and encourage a move towards more sustainable forms of travel.

During the operational phase, potential air quality impacts may arise due to the increased volumes of traffic generated by the proposed development. However, as reported in the Traffic and Transport Assessment that is included with the planning application documentation for the proposed development, the trips generated by the proposed development will be low in the context of the existing traffic volumes in the vicinity of the site. The scale of this increase is such that it will not give rise to significant negative effects on air quality.

No additional assessments of the proposal were required in relation to the CAFE Directive. The proposed development will be residential in nature and is not expected to produce any significant emissions once operational. In addition, the proposed residential dwellings will be energy efficient.

The construction phase of the proposal will be guided by the CEMP, which is included in the planning application documentation. As established in the CEMP, construction works will be carried out in such a way as to limit the emissions to air of pollutants.

The results of the assessment completed meant that no changes to the proposed development were required.

2.1.7 Directive 92/57/EEC on the Minimum Safety and Health Requirements at Temporary or Mobile Construction Sites

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

The planning application documentation includes the CEMP which incorporates details of health and safety provisions for the construction phase of the proposal and this has been informed by the Safety Health and Welfare at Work (Construction) Regulations 2013. These regulations were prepared pursuant to Directive 92/57/ EEC.

The CEMP outlines in detail the various safety requirements in relation to contractors on the site, procedures for control of substances hazardous to health as well as emergency fire and accident procedures, which ensures compliance with the provisions of Directive 92/57/EEC.

2.1.8 Seveso III Directive (2012/18/EU)

The Seveso III Directive (2012/18/EU) aims at the prevention of major accidents involving dangerous substances. However, as accidents may nevertheless occur, it also aims at limiting the consequences of such accidents not only for human health but also for the environment.

A review was undertaken to identify the closest Seveso site in relation to the proposed development site. Goulding Chemicals Limited is located circa. 550m west of the site along Centre Park Road and is classed as a Lower-Tier site, under the Chemical Act (Control of major Accident Hazards Involving Dangerous Substances Regulations, 2015) which transposes the Seveso III Directive (2012/18/EU) into Irish law. The proposed development is not located in the consultation zone of this Seveso site and therefore, no consultation with the Health and Safety Authority was necessary with regard to the proposed development. In accordance with the Regulations, operators of a 'Lower Tier Establishment' are to develop a site-specific Major-Accident Prevention Policy (MAPP) which is implemented by site specific procedures and systems. Due to the nature of the proposed development, and the distance between the Goulding facility and the proposed development, it is not predicted that the risk of major accidents relating to the facility will constrain the proposed development, and the provisions of the Directive have been appropriately considered with regard to the proposed development.

3 Conclusion

This statement indicates how the available results of relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account in this proposed Strategic Housing Development on the Former Cork Warehouse Company site in Cork City.

Each of the relevant assessments that are available have been identified. The results of those assessments have been identified. This statement also identifies how those results have been taken into account. This statement should be read in conjunction with the Environmental Impact Assessment Screening document prepared by Arup and included as part of the planning application documentation.

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

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

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