



October '21

Title

Report on Requirement for Environmental Impact Assessment Screening

Development Description

“Housing development consisting of 39 residential units, ranging for 1 to 3 storeys high and modification of existing stone vehicular bridge over Pausdeen stream to include footpath and associated and ancillary services and site works”

Location

Ardclough Road, Celbridge, Co.Kildare

Applicant

Kildare County Council

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1.0 INTRODUCTION

We refer to the planning application made by Kildare County Council seeking permission for “*Housing development consisting of 39 residential units, ranging for 1 to 3 storeys high and modification of existing stone vehicular bridge over Pausdeen stream to include footpath and associated and ancillary services and site works*” at Ardclough road, Celbridge, Co. Kildare.

This application is accompanied by;

- Engineering Documentation prepared by Tobin Consulting Engineers.
- The Appropriate Assessment Screening Report (August 2021), prepared by Planning Consultancy Services.
- The Natura Impact Statement (August 2021), prepared by Planning Consultancy Services.
- The Ecological Impact Assessment (August 2021), prepared by Planning Consultancy Services.
- The preliminary Construction & Demolition Environmental Management plan, prepared by Planning Consultancy Services.
- Landscape Drawings, prepared by Cunnane Stratton Reynolds Land Planning & Design.
- Tree Survey prepared by Cunnane Stratton Reynolds Land Planning & Design.
- Services layout drawings prepared by Delap & Waller.
- Archaeological Impact Assessment prepared by Archer Heritage Planning.
- Asbestos Survey Report prepared by Phoenix Environmental Safety Ltd.
- Flood Risk Documentation prepared by Tobin Consulting Engineers.
- Invasive Weed Site Inspection prepared by Connacht Weed Control.
- Architectural Drawings Prepared by Vincent Hannon Architects.
- Associated maps, drawings and layouts.

The subject report examines the “*Requirement for Environmental Impact Assessment Screening*” with respect to the proposed development. This report been specifically prepared to assist the determination whether or not the proposed development is a development listed in Schedule 5 of the Planning and Development Regulations 2001(as amended), as a development for the purposes of Part 10 of the Planning and Development Act 2000 (as amended) regarding the requirement for Environmental Impact Assessment.

This report has been prepared by Colette Casey (BSc (Hons)) in partnership with James O’Donnell, Planning Consultant (BA, MRUP, Dip APM). Colette Casey is an experienced and qualified ecologist. She has obtained a Bachelor’s degree in Environmental Science (BSc Hons) at the National University of Ireland, Galway. She has been involved in the completion of numerous Appropriate Assessment Screening Reports (AASR’s), Natura

Impact statements (NIS's), Construction Environmental Management Plans (CEMP's), Otter and Bat Surveys in the Republic of Ireland. She is an active member of Birdwatch Ireland, Bat conservation Ireland and a Registered member of CIEEM.

James O' Donnell is a qualified Town Planner and Project Manager with over 22 years planning experience in both the public and private sector in the west of Ireland, including 6 years experience as a local authority planning officer. James has extensive experience in the project management and delivery of a wide range of complex planning applications requiring environmental and ecological assessment, in accordance with the requirements of the EU Habitats Directive and EIA Directives. James has particular experience in the preparation of EIA Screening Reports for a wide range of projects in the Republic of Ireland.

1.1 PURPOSE OF PRELIMINARY EXAMINATION REPORT

This report examines the “*Requirement for Environmental Impact Assessment Screening*” for the proposed development. The purpose of this report is to assist a determination as to whether or not EIA is required in the first instance, and to determine as to whether not a Screening Report as per Schedule 7A of the Planning & Development Regulations 2001 (as amended) is required in this case.

1.2 METHODOLOGY

This “*Requirement for Environmental Impact Assessment Screening*” has been prepared with regard to the following documents (where relevant and/or applicable):

- Planning and Development Act 2000 (as amended);
- Planning and Development Regulations 2001-2021 (as amended);
- Directive 2011/92/EU¹ as amended by 2014/52/EU²;
- EPA (2015) Advice Notes for Preparing Environmental Impact Statements – Draft September 2015
- EPA (2017) Guidelines on the information to be contained in Environmental Impact Assessment Reports – Draft August 2017;
- EPA (2021) Good Practice Guidance on Cumulative Effects Assessment in Strategic Environmental Assessment;
- European Commission (1999) Guidelines for the Assessment of Indirect and Cumulative Impacts as well as Impact Interactions;
- European Commission (2017) Environmental Impact Assessment of Projects – Guidance on Screening;

¹ Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment

² Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment.

- DoEHLG (2003) Environmental Impact Assessment (EIA) - Guidance for Consent Authorities regarding Sub-Threshold Development; and
- DoHPLG (2018) Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment – August 2018.
- Office of the Planning Regulator (June, 2021) “*OPR Practice Note PN02 – Environmental impact Assessment Screening.*”

This report was also informed by ecological surveys of the site carried out by Megan Lee, Consultant Ecologist (Bsc. Hons) in July 2021, and a supplementary ecological survey carried out on site by Megan Lee & Colette Casey, Consultant Ecologist (Bsc. Hons) in August 2021.

2.0 LEGISLATION

As further described in Section 4 of this Screening Report, the proposed development consists of the construction of “*Housing development consisting of 39 residential units, ranging for 1 to 3 storeys high and modification of existing stone vehicular bridge over Pausdeen stream to include footpath and associated and ancillary services and site works*” on a 1.4 hectare site.

As it pertains to this application, the requirement to complete an EIA as per Directive 2014/52/EU amending Directive 2011/92/EU is transposed into Irish legislation primarily via the:

- Planning and Development Act 2000 (as amended) (the ‘Act’); and
- Planning and Development Regulations 2001 (as amended) (the ‘Regulations’).

2.1 RELEVANT LEGISLATIVE CONTEXT

Section 172 of the Act (as amended) states:

(1) An environmental impact assessment shall be carried out by the planning authority or the Board, as the case may be, in respect of an application for consent for proposed development where either —

(a) the proposed development would be of a class specified in —

(i) Part 1 of Schedule 5 of the Planning and Development Regulations 2001, and either

—

(i) such development would equal or exceed, as the case may be, any relevant quantity, area or other limit specified in that Part, or

(ii) no quantity, area or other limit is specified in that Part in respect of the development concerned,

or

(ii) Part 2 of Schedule 5 of the Planning and Development Regulations 2001 and either

—

(i) such development would equal or exceed, as the case may be, any relevant quantity, area or other limit specified in that Part, or

(ii) no quantity, area or other limit is specified in that Part in respect of the development concerned,

or

(b) (i) the proposed development would be of a class specified in Part 2 of Schedule 5 of the Planning and Development Regulations 2001 but does not equal or exceed, as the case may be, the relevant quantity, area or other limit specified in that Part, and

(ii) it is concluded, determined or decided, as the case may be, —

(i) by a planning authority, in exercise of the powers conferred on it by this Act or the Planning and Development Regulations 2001 (S.I. No. 600 of 2001),

(ii) by the Board, in exercise of the powers conferred on it by this Act or those regulations,

(iii) by a local authority in exercise of the powers conferred on it by regulation 120 of those regulations,

(iv) by a State authority, in exercise of the powers conferred on it by regulation 123A of those regulations,

(v) in accordance with section 13A of the Foreshore Act, by the appropriate Minister (within the meaning of that Act), or

(vi) by the Minister for Communications, Climate Action and Environment, in exercise of the powers conferred on him or her by section 8A of the Minerals Development Act 1940, that the proposed development is likely to have a significant effect on the environment

Article 103(1) of the Regulations states:

“103(1) (a) Where a planning application for sub-threshold development is not accompanied by an EIAR, the planning authority shall carry out a preliminary examination of, at the least, the nature, size or location of the development.

(b) Where the planning authority concludes, based on such preliminary examination, that—

(i) there is no real likelihood of significant effects on the environment arising from the proposed development, it shall conclude that an EIA is not required,

(ii) there is significant and realistic doubt in regard to the likelihood of significant effects on the environment arising from the proposed development, it shall, by notice in writing served on the applicant, require the applicant to submit to the authority the information specified in Schedule 7A for the purposes of a screening determination unless the applicant has already provided such information, or

(iii) there is a real likelihood of significant effects on the environment arising from the proposed development, it shall—

(I) conclude that the development would be likely to have such effects, and

(II) by notice in writing served on the applicant, require the applicant to submit to the authority.”

3.0 MANDATORY EIA THRESHOLD SCREENING

As per the above, Schedule 5 of the Regulations prescribes the classes and scale of development which require EIA.

There is no class set out under Part 1 of Schedule 5 in relation to the provision of a housing development.

Under Part 2 of Schedule 5, Class 10 (b) (i) refers as follows:

“10. Infrastructure projects

(b) (i) Construction of more than 500 dwelling units.”

In response, the proposed development consists of 39 No. dwelling units which is only 7.8% of the relevant threshold and accordingly there is no mandatory EIA threshold met or exceeded under this class.

Under Part 2 of Schedule 5, Class 10 (b) (iv) refers as follows:

“10. Infrastructure projects

(b) (iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares 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.)”

In response, the proposed development is located on a site size of 1.4 hectares. Although the subject site is located within the statutory urban plan area for Celbridge (as set out in the current Celbridge Local Area Plan 2017-2023), the subject site is not located within a business district. As such, owing to the nature of the proposed development, the site size and the location of the site outside of a business district, there is no mandatory EIA threshold met or exceeded under this class.

There is no other development already authorised, executed or in the process of being executed on the subject site, therefore Class 13 (*Changes, extensions, development and testing*) of Schedule 5 does not apply.

Having regard to the above, the project is not of a class of development in Schedule 5, Parts 1 and 2. Accordingly, there is no mandatory requirement for EIA in this case. Furthermore, it is considered that a “*Screening Report as set out in Schedule 7A*” is not required in this instance.

4.0 IS THE PROJECT SUB-THRESHOLD?

Article 92 of the regulations defines “*sub-threshold development*” as “*development of a type set out in Part 2 of Schedule 5 which does not equal or exceed, as the case may be, a quantity, area or other limit specified in that Schedule in respect of the relevant class of development;*”

Advice on this matter is set out in the recent publication prepared by the Office of the Planning Regulator (OPR) entitled “*OPR Practice Note PN02*”. This practice note provides useful information and guidance in relation to the requirement for Environmental Impact Assessment.

This states that “*If the project is not of a class of development in Schedule 5, Parts 1 and 2, it is not ‘sub-threshold development’, and no EIA or EIA screening is required.*”

In response, the proposed housing development of 39 units and construction of a pedestrian bridge, does not constitute a class of development set out in Schedule 5, Parts 1 and 2. Therefore, it is **not sub-threshold development**. Therefore, neither an EIAR or a “*Screening Report as set out in Schedule 7A*” is required in this case.

5.0 CONSISTENCY WITH OPR “STEP-BY-STEP APPROACH”

Section 3.0 of the OPR First Practice note PN02 sets out a “Step-by-step Approach” to EIA Screening. This involves;

- Step 1: Understanding the proposal,
- Step 2: Preliminary Examination and Conclusion,
- Step 3: Formal Screening Determination

This step by step approach is outlined in Figure 1 below for ease of reference.

Figure 1. Step-by-Step Approach to EIA Screening for Development Proposals
(excluding retention situations) ¹²

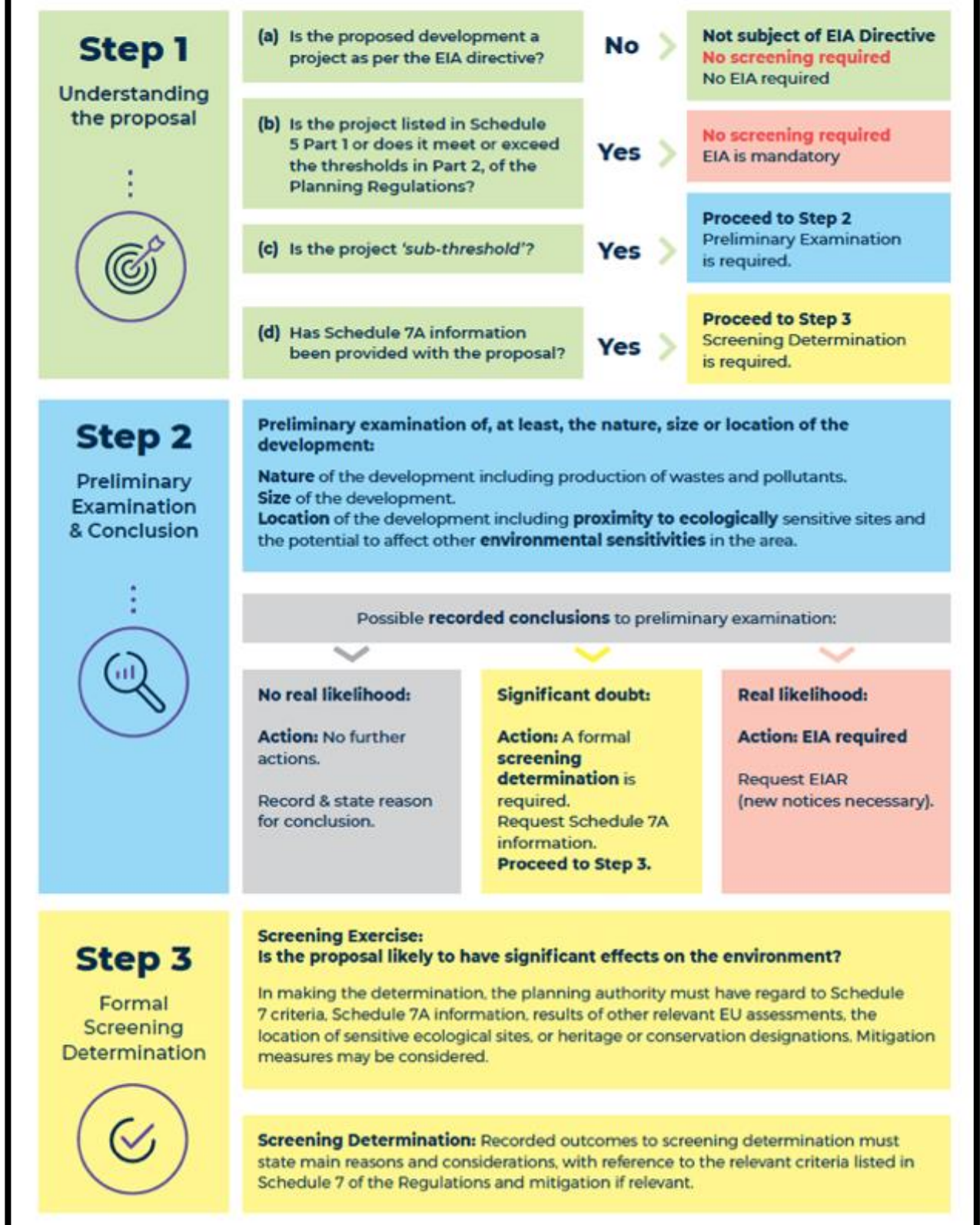


Figure 1: Extract from “OPR Practice Note PN02” setting out Step by Step approach to EIA Screening for development Proposals.

As per Step 1 of the OPR guidance set out above, the project is not listed in Schedule 5, Parts 1 & 2, therefore EIA is not mandatory and no EIA Screening is required. Furthermore as the project is not “sub-threshold”.

As per Step 2, the “*preliminary examination*” is to be informed of ‘*at the least, the nature, size or location of the development*’. This is discussed in Section 6 below.

6.0 PRELIMINARY EXAMINATION REVIEW

As per OPR guidance, the proposed development is not sub-threshold and therefore a preliminary examination and conclusion may not be required in this case. However, a discussion on the relevant criteria is provided in the interest of due diligence.

6.1 Nature of the development

The proposal consists of “*Housing development consisting of 39 residential units, ranging for 1 to 3 storeys high and modification of existing stone vehicular bridge over Pausdeen stream to include footpath and associated and ancillary services and site works*” at Ardclough road, Celbridge, Co. Kildare.

The topography of the site is generally flat and large scale excavation works are not required to facilitate the development. As set out in the EclA “*Following consideration of the residual effects (post mitigation) it is noted that the proposed development will not result in any significant effects on any of the flora and fauna of the existing environment.*” In terms of wastes and pollutants, the proposed development is located on serviced lands. Provided there is sufficient capacity and that the connection is installed and maintained correctly, it is not expected that the proposed development will result in significant effects on the Natura 2000 network in this regard. The site is located alongside a Flood Risk area to the south of the river Liffey. A suite of mitigation measures are proposed as part of the Natura impact Statement to prevent water deterioration during the construction and operational phases.

6.2 Size of the proposed development

The development site comprises an overall area of 1.4 ha and will consist of the development of 39 no. residential units together with a new pedestrian bridge over the Pausdeen stream.

6.3 Location of the proposed development

The application site is located on Newton Road L2008, Ardclough Road, Celbridge, Co. Kildare. The proposed housing site is composed of an unused agricultural field and an unused dwelling house. The north of the housing site consists of a greenfield site along the southern edge of the River Liffey. The

lands to the east consist of large houses on large plots arranged in a linear pattern along the western edge of the Ardclough road.

There are no Natural Heritage Designations on or in close proximity to the subject site. The site for the proposed housing development lies approximately 5.69km from the Rye Water Valley/ Carton SAC. Owing to the proximity and indirect hydrological connection to the River Liffey, in the absence of mitigation there is a risk of deterioration to water quality during the construction and operational phases. However, suitable mitigation measures are described in the Natura Impact Statement and the application. Accordingly, no residual impacts are expected on the wider area.

6.4 Preliminary Examination Opinion

Given the aforementioned nature, size and location of the proposed development it is reasonable to conclude based on this preliminary examination that there is no real likelihood of significant effects on the environment arising from the development, and that neither EIA or EIA screening is required in this case.

7.0 CONCLUSIONS

In response to the request from the Planning Authority, this report confirms that the project is not of a class of development in Schedule 5, Parts 1 and 2. Accordingly it does not require mandatory EIA. Furthermore, the proposed is not 'sub-threshold development' and no EIA screening is required in this case.

Owing to the nature and extent of the proposed development, no significant environmental impacts are expected to occur once the mitigation measures outlined in the Natura Impact Statement and Ecological Impact Assessment area implemented. These mitigation measures are representative of standard industry environmental management practices that are implemented to minimise the impact of projects to the environment.

APPENDIX A – SITE LAYOUT PLAN

