

Provision of information to inform screening for Appropriate Assessment under Regulation 42A (3) of the European Communities (Birds and Natural Habitats) Regulations, 2011 (S.I. 477 of 2011), as amended by S.I. 293 of 2021, with respect to:

Housing for All - A New Housing Plan for Ireland (*Final Version*)

1st September 2021

1.0 Introduction

Appropriate Assessment (“AA”) is a process required under Article 6(3) of the EU Habitats Directive. It is transposed in Ireland, for certain plans and projects, by the European Communities (Birds and Natural Habitats) Regulations, 2011 (S.I. 477 of 2011), as amended.

All plans and projects that either individually or in combination with other plans, are likely to have a significant effect on any site in the Natura 2000 network (“a European site”), require an appropriate assessment of these effects to determine if they will adversely affect the integrity of these sites.

The screening process scrutinises the plan or project to determine if there are likely significant effects either individually or in combination with other plans, on any site in the Natura 2000 network. These sites include those designated as Special Areas of Conservation or Special Protection Areas.

This note which has been drafted on behalf of the Minister provides the information to the Ecological Assessment Unit (“EAU”) within the Department of Housing, Local Government and Heritage to assist them to carry out screening for AA, pursuant to Regulation 42A (1) of the European Communities (Birds and Natural Habitats) Regulations, 2011 (S.I. 477 of 2011), as inserted by S.I. 293 of 2021.

The subject of this information note is the proposal titled “*Housing for All - A New Housing Plan for Ireland*”.

2.0 Consideration as to the status of *Housing for All* as a “Plan”

Article 6(3) of the EU Habitats Directive requires that all “plans and projects” are subject to screening for AA. There is no definition of a “plan” either in the Directive or the transposing legislation and there does not appear to be any clarification made by the national or European Courts. However, since the EU Strategic Environmental Assessment (SEA) Directive may require a similar process of screening for the SEA of “plans and programmes” it is reasonable to be guided in part by the definition of a plan. This is partly provided by Article 2 of the SEA Directive as follows:

“For the purposes of this Directive:

(a) "plans and programmes" shall mean plans and programmes, including those co-financed by the European Community, as well as any modifications to them:

- which are subject to preparation and/or adoption by an authority at national, regional or local level or which are prepared by an authority for adoption, through a legislative procedure by Parliament or Government, and

- which are required by legislative, regulatory or administrative provisions;"

Article 2, SEA Directive

Notwithstanding that the proposal is referred to as a "plan" in the text of the document, it is the view of the Minister that since *Housing for All* is:

a) a proposal that is referred to in the Programme for Government and

b) since it will be approved at a Cabinet level, it falls within the broad definition of a "plan" pursuant to Article 2 of the SEA Directive¹. Therefore, it has been considered prudent to regard the proposal as being a "plan" for the purposes of screening for AA and to request screening for AA from the EAU as referred to above.

3.0 Overview and purpose of "*Housing for All - Ireland's Plan for Housing to 2030*".

Housing for All is a proposal to address the need to increase the rate of delivery of housing supply, within the overall context of the commitments made in the National Planning Framework. It sets out planning, financing and delivery measures, systems, structures, and processes change to ensure that this level of delivery of housing is sustainable over the longer term. *Housing for All* is organised across four pathways to achieving goals:

- To supporting homeownership and increasing affordability
- To addressing homelessness, increasing social housing delivery and supporting social inclusion
- To increasing new housing supply
- To tackling vacancy and efficient use of existing stock.

The forecasted requirement for housing and the delivery of supply that is the main purpose of the proposal is embodied within the National Planning Framework (NPF) and the proposal will therefore be implemented in the context of NPF objectives, including those that aim to protect European sites from likely significant effects. The NPF has undergone Strategic Environmental Assessment and Appropriate Assessment.

4.0 Identification of European Sites within the potential zone of influence of development associated with proposal.

Housing for All is proposed to have a national scale of application and for the most part lacks any geographic specificity. The exception to this would be the reference to specific locations in section 3.3.1 where it is proposed to transfer the ownership of specific sites from the State to the Land

¹ Although it should be noted that further consideration by the Minister of the proposed *Housing for All* strategy in terms of the need for screening for SEA or for SEA to be required, cannot be concluded until after a determination by EAU is made as to whether AA will be required.

Development Agency. The text in this section does not suggest that there is a presumption that consent to develop the land will be given and it does state that any planning application for development at these locations would be subject to the normal planning application process. Therefore it would be our opinion that the proposed act of change of ownership could not be regarded to pose any likely significant effects on European sites.

For the remainder of the document it is not possible to identify any particular European Sites that may be within the zone of influence of the proposal. Similarly, it would not be appropriate to consider that all or any European Sites would be within the zone of influence, given the lack of geographic specificity in the proposal.

The process of screening for appropriate assessment focuses on any interaction between the conservation objectives and the effects of implementing the proposed update of the Guidelines. Since the proposal generally lacks geographic specificity, the discussion of the likelihood of any significant effects should be made at a high-level.

5.0 Consideration of any likely significant effects on European sites.

Guidance from Ireland² and the European Commission³ has suggested that the following criteria treating to the nature of the proposal may be used in helping to determine if a proposal is likely to have significant effects. These include:

- size and scale;
- Disturbance;
- land-take;
- distance from the Natura 2000 site or key features of the site;
- resource requirements (water abstraction etc.);
- emissions (disposal to land, water or air);
- excavation requirements; (potential loss of area).
- transportation requirements;
- duration of construction, operation, decommissioning, etc.;
- Other.

Irish guidance (DEHLG, 2010) gives examples of effects that are likely to be significant include the following:

- Any impact on an Annex I habitat;
- Causing reduction in the area of the habitat or Natura 2000 site;

² Department of the Environment, Heritage and Local Government (DEHLG, (2010) Appropriate Assessment of Plans and Projects in Ireland Guidance for Planning Authorities.

https://www.npws.ie/sites/default/files/publications/pdf/NPWS_2009_AA_Guidance.pdf

³ European Commission (2001) Assessment of plans and projects significantly affecting Natura 2000 sites Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC

https://ec.europa.eu/environment/nature/natura2000/management/docs/art6/natura_2000_assess_en.pdf

European Commission (2019) Managing Natura 2000 sites: The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC.

https://ec.europa.eu/environment/nature/natura2000/management/docs/art6/EN_art_6_guide_jun_2019.pdf

- Causing direct or indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the Natura 2000 site;
- Causing serious or ongoing disturbance to species or habitats for which the Natura 2000 site is selected (e.g. increased noise, illumination and human activity);
- Causing direct or indirect damage to the size, characteristics or reproductive ability of populations on the Natura 2000 site;
- Interfering with mitigation measures put in place for other plans or projects.

These criteria are particularly suited to screening individual projects rather than plans, as detail on the receiving environment will be more identifiable for project locations and available for analyses. However, in the current case of the proposed *Housing for All*, it is not possible to predict where or how such impacts will occur as a direct or indirect result of its implementation due to the general lack of geographic specificity about the locations and nature of the projects that are referred to.

Housing for All, is essentially a procedural, pathway-oriented document that sets out how the commitments made in the National Planning Framework (“NPF”) can be delivered by a series of initiatives including schemes to allow easier home ownership, improving the supply of social and affordable housing, support the need of people who are homeless, supporting traveller accommodation and mechanisms to increase the rate of housing supply including financial and regulatory measures.

Whilst the ultimate consequence of *Housing for All* will result in homes being constructed and/or occupied, the impacts of these action on European Sites has already been comprehensively assessed during the Appropriate Assessment of the NPF. The AA of the NPF addressed many of the topics inherent in *Housing for All* including increasing population in the existing urban framework and infill/brownfield sites, occupation of vacant properties, construction-related impacts and impacts of retrofitting existing housing stock.

In all cases where there was a potential for adverse effects on the integrity of European sites to occur as a result of implementation of the NPF, mitigation measures were proposed to address these potential impacts so that the final version of the NPF was determined to pose no adverse effects on the integrity of any European sites.

Therefore when considered in isolation, *Housing for All* is not considered to pose any likely significant effects on European sites.

6.0 Consideration of in-combination effects.

Housing for All is expected to have most effect in urban areas, predominantly cities, where objectives in the NPF recommend compact urban growth and sustainable residential development. These areas are typically served by specific recommendations in the Regional Spatial and Economic Strategies and zoning objectives in County Development plans. These plans have undergone their own AA and are obliged to have regard to the mitigation measures embedded in the NPF that address likely significant effects on European Sites. So whilst they will act in cumulation with the proposed actions in *Housing for All*, these other land use plans will continue to apply their inherent safeguards required to protect the environment including European sites. Therefore it is reasonable to assume that there will be no likelihood of in-

combination effects as all policies and objectives relating to housing proposals will have been tested by the AA process and appropriate mitigation measures applied.

7.0 Conclusions

The purpose of this note is to provide the information to the EAU to assist them to carry out screening for AA, pursuant to Regulation 42A (1) of the European Communities (Birds and Natural Habitats) Regulations, 2011 (S.I. 477 of 2011), as amended.

Following analysis of the of the enclosed *Housing for All* document, including in particular, taking into account its largely procedural nature, its close relationship to the National Planning Framework (which is more specific in its proposals and where they will be implemented and has undergone its own AA) and considering other plans and projects that will result from the implementation of both plans and applying the precautionary principle, it is the Minister's view that that there is no possibility that the enclosed *Housing for All* would be likely to have any significant effects on any European sites.

The Ecological Assessment Unit may wish to rely on this note to determine if AA is required or not, in terms of whether the *Housing for All*, individually or in combination with other plans or projects, will have a likely significant effect on any European sites.