

Supplementary Submission #3 to European Commission

Complaint ref: CPLT(2026)00881 Filed: 2 March 2026

To: European Commission, DG Environment (EC-CPLT-ENV@ec.europa.eu) From: Gareth O'Brien BE (Civil) MSc, North Runway Technical Group Date: [24 March 2026]
Re: EIA Directive deepening: Ireland's own planning Inspector recommended refusal; the safeguards that justified overruling her have all failed

Dear [name redacted],

I write to file supplementary submission #3 to complaint CPLT(2026)00881. I also wish to confirm receipt of supplementary #2, filed on 21 March, for which I have not yet received acknowledgement.

This supplementary strengthens the case for a breach of Directive 2011/92/EU (Environmental Impact Assessment). It concerns the original 2007 planning decision for Dublin Airport's North Runway and demonstrates that the environmental basis on which the permission was granted no longer exists.

This is the strongest new material for the EIA argument in this complaint. The core point is: daa is not merely operating in breach of a planning condition. daa has invalidated the environmental basis of the permission itself. A new Environmental Impact Assessment is required.

This supplementary also raises a systemic concern under Directive 2011/92/EU. daa's stated position is that "flight paths aren't governed by planning permission" (daa CEO, RTE national television, 3 October 2023). If this position is accepted, the environmental assessment required by the Directive becomes a procedural formality with no binding relationship to the project actually built. Any developer could submit an EIS with assumed operational parameters, obtain consent, and then operate a fundamentally different project. This is not confined to Dublin Airport. It is a precedent that, if left unchallenged, undermines the effectiveness of environmental impact assessment across the European Union.

Timeline of key documents

To assist in following the evidence, the key documents and events are:

- December 2004: Environmental Impact Statement filed. All noise assessment assumes straight-ahead departures from the proposed runway (paragraph 16.1.3.4).
- August 2005: EIS Addendum filed. Introduces Option 7b (60.8% of westerly departures on 28R by 2025). Same straight-ahead tracks as the original EIS.
- August 2007: An Bord Pleanála grants permission. Condition 1 prohibits deviation from the EIS. Condition 3 requires Option 7b. Inspector had recommended refusal.
- October 2016: daa conducts a "Public Consultation on Flight Paths and Change to Permitted Operations," presenting revised flight paths (15-degree and 15/75-degree divergence). The consultation was confined to Fingal County; only 3 of 261 respondents were from County Meath. No planning application for the flight

path changes was ever filed (see Section 7 below). None of the consulted routes was ever implemented.

- 2019: daa files a planning application (F19A/0023, granted by ABP as ABP-305298-19) for physical works to the runway only: earthworks, cabins, blast pads. No flight path changes. No night flight changes. Separately, the Aircraft Noise Act 2019 is enacted, creating for the first time the Relevant Action procedure under Section 34C.
- December 2020: daa files a Relevant Action (F20A/0668) to change night flight operating conditions only. No flight path changes. The flight paths consulted in 2016 are not included. daa nevertheless continues to cite the 2016 consultation to justify the current routes, describing the February 2023 revision as “closer to those that were previously consulted,” as if proximity to a never-implemented set of routes, consulted only in Fingal for an application that was never made, constitutes compliance.
- August 2022: North Runway opens. Aircraft turn either 30 degrees or 75 degrees at the departure end of the runway, not straight ahead. Never assessed, never consulted with the communities overflown.
- September 2022: Fingal County Council issues Warning Letter to daa.
- February 2023: daa declares the routes “fixed.” Aircraft now turn 30 degrees at the departure end of the runway, with more than 50% making a further 56-degree right turn after 3 nautical miles (at waypoint DW128) over Coolquay and Kilcoskan. Total deviation for the majority of flights: 86 degrees. Different communities affected; the problem is not fixed. The revised route, placing DW128 directly on the Fingal-Meath border, also pushed the primary noise impact out of Fingal County Council’s administrative area into County Meath, where Fingal claims no enforcement jurisdiction. Meath similarly claims no jurisdiction as the runway, the project and the planning are all in Fingal.
- September 2023: daa files EIAR supplement for the Relevant Action. Labels the unauthorised routes as “Permitted” baseline. Does not assess the flight path change itself.
- February 2026: Commission Decision C(2026) 919 finds the Relevant Action process non-compliant with Regulation 598/2014.
- No EIA has ever been filed for the flight path change.

1. The Inspector recommended refusal; the Board overruled unanimously

In 2007, An Bord Pleanála (Ireland’s planning appeals board) considered the application for the North Runway (ABP ref: PL 06F.217429). Inspector Pauline Fitzpatrick conducted a 12-day oral hearing and recommended refusal on three grounds:

- (a) Noise and public health: the runway “would result in a material extension in the geographical area and population that would be affected by Dublin Airport in terms of noise and public health and safety risk,” with impacts “only partially offset by the proposed mitigation measures.”
- (b) School insulation inadequacy: no location-specific evidence that proposed insula-

tion could achieve the 45 dBA internal target. The RANCH study showed a 5 dB increase in aircraft noise corresponds to a 2-month reading delay in children.

- (c) Night-time noise: the EIS “fails to comply with the requirements of Schedule 6 of the Planning and Development Regulations 2001.” The Inspector found: “the applicant’s continuing failure in any meaningful sense to address this matter in clear and unambiguous terms is unacceptable” and “the repeated failure by the applicant to adequately address the above matters despite the number of opportunities afforded it is, in my opinion, fatal.”

2. The EIS assumed straight-ahead departures; the rationale for choosing 28R has been inverted

The EIS’s foundational flight track assumption (paragraph 16.1.3.4) was explicit: “For the proposed runway, it was assumed that the aircraft would join up with the tracks used for the existing 10/28 runway which was agreed with the Irish Aviation Authority to be a reasonable assumption at this stage.” The IAA agreed straight-ahead departures were “reasonable.” AirNav Ireland (at the time a department within the IAA, not even a separate legal entity) then designed routes that turn 30-86 degrees away from these tracks.

The reason the EIS recommended 28R (the north runway) as the primary departure runway was precisely because straight-ahead departures from 28R would avoid populated areas. At paragraph 16.1.4.3: “the most environmentally friendly mode of operation will be Segregated Mode, with Runway 28R as the main take-off runway, i.e. Option 2b. This minimises the over-flight of highly populated areas such as Portmarnock.” The 2005 EIS Addendum adopted this logic in Option 7b, placing 60.8% of westerly departures on 28R by 2025.

The entire rationale has been inverted. The EIS chose 28R to protect approximately 8,000 people in Portmarnock from overflight. The routes actually designed by AirNav turn departures from 28R north over approximately 30,000 residents of County Meath who were never assessed in the EIS. The 10 night-time noise monitoring locations in the EIS (paragraph 16.1.5.2) are all in Fingal County. Not one is in County Meath, where the majority of noise impact of the actual operations falls.

3. The Board overruled the Inspector on three safeguards; all three have collapsed

The Board overruled the Inspector unanimously and granted permission. Its reasons relied on three specific protections. All three have failed.

Safeguard 1: Option 7b operational mode (Condition 3)

The entire noise assessment in the 2004 Environmental Impact Statement and the 2005 EIS Addendum was predicated on “Option 7b,” a specific runway operating mode that assumed straight-ahead departures. The Board found “no significant deterioration in night noise” on this basis.

Option 7b was never implemented. Since August 2022, aircraft departing the North Runway (28R) have made 30 to 86 degree turns at 400ft above ground level, overflying residential areas in County Meath that were never assessed in the EIS. Every noise contour, every insulation threshold, and every population count in the 2007 permission derives from the straight-ahead assumption.

Safeguard 2: Night flight condition (Condition 5)

The Board imposed a condition that average night movements should not exceed 65 per night (2300-0700). The permitted scenario in the EIS assessed 60 night movements.

daa's own EIAR documents 114 night movements per night against a permitted 65. Over the 92-day summer modelling period specified in Condition 5, that implies approximately 10,500 night movements against a legal limit of 5,980, nearly double the permitted level.

Safeguard 3: Future EU noise regime (Directive 2002/49/EC)

The Board explicitly noted that Dublin Airport "would in the future be subject to the new noise control regime introduced under the EU Environmental Noise Directive 2002/49/EC." This was cited as additional protection that would address any residual noise concerns.

The competent authority established under that Directive is ANCA (Aircraft Noise Competent Authority for Dublin Airport). As documented in the original complaint, ANCA has conducted zero enforcement actions in five years, is embedded within Fingal County Council with no separate legal personality, and is statutorily funded by the airport operator (daa) under section 5 of the Aircraft Noise (Dublin Airport) Regulation Act 2019. ANCA's own data documents a 343% increase in population exposed to 55 dB Night since the 2019 baseline.

The Board's reliance on the EU noise regime as a safeguard has been rendered meaningless by the failure of the competent authority to function.

4. The Inspector warned about flight track deviations; what occurred is worse

Inspector Fitzpatrick specifically identified the risk that now materialises. She found: "Air Traffic Control can direct or approve such deviation" from environmental corridors, and "effectively the situation where ATC can authorise deviations from the environmental corridors, will continue, notwithstanding any restrictions which may be imposed in the planning process."

The Inspector was referring to day-to-day tactical deviations, where an individual controller clears an individual aircraft to deviate from a published route. What has actually occurred is worse: daa contracted AirNav Ireland, its air traffic service provider, to design the departure procedures themselves. AirNav designed routes that deviate fundamentally from the environmental corridors assessed in the EIS. AirNav has confirmed that "the planning permission requirement is a matter for daa" and that "it is not appropriate for the IAA ANSP to advise on what conditions daa might be in a position to

comply with its planning permission” (letter to the Transport Minister, 3 April 2023). In a separate letter to daa (17 November 2023), AirNav stated it would not act on any flight path review without formal instruction and funding from daa. No such instruction has been given. The deviation the Inspector warned about as an occasional tactical occurrence has been embedded in the permanent procedure design, by the organisation the airport operator hired to do the work.

5. Chapter-by-chapter EIS invalidation: 42%

NRTG has conducted a chapter-by-chapter analysis of the 2004 Environmental Impact Statement against actual operations since August 2022. The findings:

- 8 of 19 EIS chapters (42%) are directly invalidated by the route change.
- All three chapters on which the Board relied when overruling the Inspector (noise, hazard to the natural environment, and human health) are invalidated.
- 4 of 8 technical appendices are invalidated.
- The entire 2005 EIS Addendum (which introduced Option 7b) is invalidated, because the operational mode it assessed based on straight-ahead departure was never implemented.

The three chapters on which the Board relied are not merely outdated. They assessed an operation that does not exist. The noise contours, the population counts, the insulation thresholds, and the health impact predictions all derive from straight-ahead departures that were never flown. The actual operations affect a fundamentally different population in a fundamentally different geographic area.

6. daa’s own EIAR confirms the scale of deviation

In September 2023, daa submitted an Environmental Impact Assessment Report supplement to An Coimisiun Pleanala (formerly An Bord Pleanala), prepared by AECOM and Bickerdike Allen Partners. This EIAR was prepared for a separate application (the Relevant Action to amend the night flight operating conditions), not for the flight path deviation itself. No EIA has ever been conducted for the route change.

However, because the EIAR needed to model actual operations, it contains data that inadvertently exposes the scale of the deviation. daa’s stated reason for the supplement was: “Actual flightpaths from North Runway upon commencement differing from assumed flightpaths used for modelling/assessment purposes in the EIAR.” The document labels the actual unauthorised routes as “Permitted,” treating them as the lawful baseline, and then models the proposed night flight and operating hour changes as “Proposed” on top of that baseline. The actual permitted operations (straight-ahead departures as assessed in the 2007 EIS) do not appear in the comparison at all. The EIAR embeds the unauthorised route change as an assumed fact rather than assessing it.

daa may point to this EIAR as evidence that an assessment has been conducted. It has not. This EIAR assessed night flight conditions, not the flight path change. It did not compare the actual operations against the 2007 EIS. It did not assess the impact on the communities in County Meath who are actually overflown. And the Relevant Action

application it supported was itself found non-compliant by the Commission in Decision C(2026) 919.

The data in this document, prepared by daa's own consultants, nevertheless confirms:

- (a) Night movements: 114 actual versus 60 permitted (Condition 5 allows 65).
- (b) Population adversely affected by night noise by 2035: 9,456 adverse versus 185 beneficial, a ratio of 51 to 1. After all proposed mitigation measures: 8,301 people remain adversely affected.
- (c) Population exposed to 55 dB Lnight (high impact): 1,463 under actual operations versus 315 under the permitted scenario, a nearly fivefold increase.
- (d) Additional awakenings per year: 40,985 in 2025 (versus 33,326 permitted), rising to 33,089 in 2035 (versus 20,849 permitted, a 59% increase).
- (e) At Tyrellstown/Toberburr, the night noise increase is +10 dB in 2025 and +12 dB in 2035. At Ridgewood: +9 dB in 2025 and +11 dB in 2035. A 10 dB increase is perceived by humans as a doubling of loudness.

These are daa's own numbers, from daa's own consultants, filed with the planning authority. They confirm that the actual operations produce environmental impacts fundamentally different from those assessed in the 2007 EIS.

7. Relevance to Directive 2011/92/EU

Article 1(2)(a) of Directive 2011/92/EU defines "project" to include "other interventions in the natural surroundings and landscape." Article 2(1) requires that projects likely to have significant effects on the environment "shall be made subject to... an assessment." The CJEU has consistently held that the Directive must be given a wide scope and broad purpose (Case C-72/95 Kraaijeveld).

daa has a documented pattern of framing applications to avoid triggering EIA obligations. The flight path change is the most significant example. In 2016, daa conducted a public consultation on revised flight paths and changes to night-time operating conditions. Based on public records, daa was simultaneously preparing a draft EIS for a planning application to amend the relevant conditions. A decision of the Commissioner for Environmental Information (OCE-93474-R9M5N9, March 2021) confirmed that daa had been drafting this EIS since 2016/2017 and that the work was halted pending Ireland's implementation of EU Regulation 598/2014. That implementation came with the Aircraft Noise Act 2019, which created the "Relevant Action" procedure (Section 34C of the Planning and Development Act) for the first time. When daa finally filed a Relevant Action in December 2020 (F20A/0668), it covered night flight operating conditions only. The flight path changes were dropped. daa has declined to engage further with NRTG, so the precise reason cannot be confirmed from the operator, but the public record is clear: no planning application for the flight path change has ever been filed, and no EIA has ever been conducted for it. daa nevertheless continues to cite the 2016 consultation to justify the current routes.

The pattern extends beyond flight paths. In 2018, daa applied under Section 146A to redefine "passengers" to exclude transfers (refused by ABP). In 2019, it asked Fingal to

refer to ABP whether exceeding the cap constituted “development” at all (dismissed). In December 2024, it filed a 1,353-page “no-build” Operational Application for 36 million passengers, framed as not requiring EIA. Fingal declared it invalid. daa resubmitted, then withdrew it entirely. The Passenger Capacity Bill 2026 is the latest iteration: remove the constraint through legislation rather than submit to EIA.

daa may rely on Case C-275/09 (Brussels Hoofdstedelijk Gewest), in which the CJEU held that renewal of an operating permit without physical works does not constitute a “project” requiring EIA. That case is distinguishable: it concerned continued operation at the same level of impact. Here, daa’s own EIAR data demonstrates that the environmental impacts are fundamentally different from those assessed in the 2007 EIS. The flight paths affect a different geographic area, a different population, and produce dramatically worse noise outcomes (51:1 adverse-to-beneficial ratio by 2035). This is not continued operation at the same level. It is a material change in environmental impact that has never been assessed.

The flight path change at Dublin Airport is a material change that:

- Affects a fundamentally different geographic area and population than assessed
- Produces environmental impacts that daa’s own data shows are dramatically worse than assessed
- Was never subject to public consultation (confirmed on the Oireachtas record by the Department of Transport on 4 March 2026)
- Has not been subject to any environmental impact assessment

There is a broader principle at stake. daa has maintained two positions: “the actual flight paths, whether they are the deviated or the original, are not a factor of our planning permission” (daa interim CEO, Oireachtas committee, January 2023), and “flight paths aren’t governed by planning permission” (daa CEO, RTE Prime Time, 3 October 2023). If these positions are allowed to stand, the EIA Directive is unenforceable for any project where operational parameters can change after consent. Any developer could submit an EIS with assumed routes, heights, emissions, or operational modes, obtain planning permission on that basis, and then operate a fundamentally different project for “operational reasons” or “safety compliance.” The environmental assessment would become a procedural formality with no binding relationship to the project actually built. This is not a Dublin Airport problem. It is a precedent that, if accepted, undermines the integrity of the EIA process across the European Union.

Ireland’s own planning Inspector identified the EIS as deficient. The safeguards used to justify overruling the Inspector have all failed. The operator should be required to either operate the runway in accordance with the Environmental Impact Statement on which planning permission was granted, or demonstrate to the competent authority why it cannot do so safely and submit a new Environmental Impact Assessment under Directive 2011/92/EU for the operations actually being conducted. Until one of these conditions is met, no further growth, including the removal of the passenger cap, should proceed.

Annexes

The following annexes from the original complaint filing (2 March 2026) are directly relevant to this supplementary and are referenced here by their original codes:

- Annex J4: ABP Inspector's Report, key sections (PL 06F.217429, Pauline Fitzpatrick)
- Annex A1: ABP planning conditions (23 August 2007)
- Annex C1: EIAR Supplement, Chapter 13, Aircraft Noise and Vibration (Bickerdike Allen Partners, September 2023)
- Annex B2: NRTG visual comparison of EIS assessed vs actual flight paths (10 pages)

New annexes filed with this supplementary:

- S3-A: NRTG chapter-by-chapter EIS invalidation analysis (8 of 19 chapters, 4 of 8 appendices, entire 2005 Addendum)
- S3-B: EIS Addendum, August 2005, Section 16 (Noise), including Table 1 (runway usage percentages for Option 7b, which became Condition 3)

All annexes are available at www.dublin-north-runway.com/submission-annexes/ and can be provided in hard copy on request.

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