

APPENDIX 2

IMPLEMENTATION OF MINISTERIAL GUIDELINES



APPENDIX 2

Statement Outlining Compliance with Section 28 Ministerial Guidelines

Introduction

This Appendix constitutes the statement demonstrating how Fingal County Council has implemented the relevant policies and objectives of the Minister when considering their application to the County in the Draft Development Plan.

Legislative Requirements

Section 28(1) of the Planning and Development Act 2000 (as amended) allows for issuing of Guidelines to planning authorities (such as Fingal County Council) regarding their functions under the Act and specifies planning authorities shall have regard to those Guidelines in the performance of their functions.

Under Sections 28(1A)(b) and 28(1B) of the Act 2010 (as amended) a Planning Authority is required to append a statement to their Development Plan to include information which demonstrates:

- How the Planning Authority has implemented the relevant policies and objectives of the Minister contained in the Guidelines when considering their application to the area or part of the area of the draft development plan and the development plan, or
- If applicable, that the Planning Authority has formed the opinion that it is not possible, because of the nature and characteristics of the area or part of the area of the development plan, to implement certain policies and objectives of the Minister contained in the Guidelines when considering the application of those policies in the area or part of the area of the draft development plan or the development plan and shall give reasons for the forming of the opinion and why the relevant policies and objectives of the Minister have not been so implemented.

In addition, Section 28(1C) of the Act includes a provision that Guidelines made under Section 28(1) may contain specific planning policy requirements (SPPRs) with which planning authorities, regional assemblies and the Board shall, in the performance of their functions, comply.

Implementation of Policies and Objectives of S28 Guidelines in the Draft County Development

In addition, Section 28(1C) of the Act includes a provision that Guidelines made under Section 28(1) may contain specific planning policy requirements (SPPRs) with which Planning Authorities shall, in the performance of their functions, comply. The required statement pertaining to the Fingal Council Development Plan 2023 – 2027 is as below under the following tables:

- **Table 1:** List of Section 28 Ministerial Guidelines
- **Table 2:** Implementation of SPPRs under the Building Height Guidelines
- **Table 3:** Implementation of SPPRs under the Apartment Guidelines
- **Table 4:** Implementation of SPPRs under the Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change

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Table 1: List of Section 28 Ministerial Guidelines

SECTION 28 GUIDELINES	IMPLEMENTATION
DHLGH (2021) Regulation of Commercial Institutional Investment in Housing	The provisions of these Guidelines are implemented by Fingal County Council as part of the development management process. Chapter 3 Sustainable Placemaking and Quality Homes, Chapter 14 Development Management Standards and Appendix 1 Fingal Housing Strategy also address the principles of the Guidelines in relation to the consideration of new housing developments.
DHLGH (2021) Enforcement of Certain Planning Conditions during the Coronavirus (COVID-19) Outbreak	The provisions of these Guidelines are implemented by Fingal County Council as part of the development management and planning enforcement process.
Housing Supply Target Methodology for Development Planning, (2020)	Chapter 2: Planning for Growth, Core Strategy and Settlement Strategy has been prepared having regard to the Methodology set out in the Housing Supply Target Methodology for Development Planning 2020.
Sustainable Urban Housing, Design Standards for New Apartments: Guidelines for Planning Authorities (2020) (Apartment Guidelines)	Chapter 3: Sustainable Placemaking and Quality Homes and Chapter 14: Development Management Standards, contain the relevant policies and objectives for these Guidelines, including compliance with SPPRs.
DHPLG Design Manual for Urban Roads and Streets (2019)	Chapter 6: Connectivity and Movement, Chapter 14: Development Management Standards, and Chapter 12: Implementation and Monitoring implement the relevant policies and objectives of these Guidelines.
Urban Development and Building Heights: Guidelines for Planning Authorities (2018) (Building Height Guidelines)	Chapter 3: Sustainable Placemaking and Quality Homes and Chapter 14: Development Management Standards, implement the relevant policies and objectives of these Guidelines and complies with the 4 SPPRs contained within.
Guidelines for Local Authorities and An Bord Pleanála on Carrying Out Environmental Impact Assessments (2018)	Chapter 14: Development Management Standards Section - Environmental Impact Assessment references requirements in relation to EIAR and has regard to the Guidelines.
Part V of the Planning and Development Act 2000 – Guidelines (2017)	Chapter 2: Planning for Growth, Core Strategy and Settlement Strategy, including the Housing Strategy and Housing Needs Demand Assessment and Chapter 3: Sustainable Placemaking and Quality Homes, implement the relevant policies and objectives of these Guidelines.

<p>Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change (2017)</p>	<p>Chapter 5: Climate Action addresses the requirements as set out in these guidelines. It includes policy on achieving national targets in a range of policy areas including renewable energy.</p>
<p>Local Area Plans: Guidelines for Planning Authorities (2013)</p>	<p>These Guidelines are not considered applicable to the Draft County Development Plan process, any future Local Area Plans shall have regard to these Guidelines.</p>
<p>Development Contributions: Guidelines for Planning Authorities (2013)</p>	<p>These Guidelines are not considered to be directly applicable but have informed the preparation of the <i>2021 – 2025 Development Contribution Scheme</i> which complements the Draft County Development Plan. Chapter 4: Community Infrastructure and Open Space contains reference.</p>
<p>Spatial Planning and National Roads: Guidelines for Local Authorities (2013)</p>	<p>Chapter 6: Connectivity and Movement and Chapter 11: Infrastructure and Utilities – Noise, implement the relevant policies and objectives of these Guidelines.</p>
<p>Retail Planning: Guidelines for Planning Authorities (2012)</p>	<p>Chapter 7: Employment and Economy and Chapter 12: Implementation and Monitoring implement the relevant policies and objectives of these Guidelines.</p>
<p>Architectural Heritage Protection: Guidelines for Planning Authorities (2011)</p>	<p>Chapter 10: Heritage, Culture and Arts -section on built heritage references these Guidelines. Appendix 2: Record of Protected Structures and ACA's and Appendix 3: Recorded Monuments also relate to these Guidelines.</p>
<p>Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities (2009)</p>	<p>The Development Plan has been assessed under the requirements of the Habitats Directive and has had regard to this guidance. Refer to Appropriate Assessment which is included as an accompanying document to the Plan.</p>
<p>The Planning System and Flood Risk Management: Guidelines for Planning Authorities (2009)</p>	<p>Chapter 5: Climate Change, Chapter 11: Infrastructure and Utilities, Chapter 9: Green Infrastructure and Natural Heritage, Chapter 12: Implementation and Monitoring, Chapter 13: Land Use Zoning and Chapter 14: Development Management Standards and accompanying document Strategic Flood Risk</p>

	Assessment implements the relevant policies and objectives of these Guidelines.
Sustainable Residential Development in Urban Areas (Cities, Town and Villages): Guidelines for Planning Authorities (and the accompanying Urban Design Manual: a best practice guide) (2009)	Chapter 3: Sustainable Placemaking and Quality Homes, Chapter 4: Community Infrastructure and Open Space and Chapter 12: Implementation and Monitoring implement the relevant policies and objectives of these Guidelines.
The Provision of Schools and the Planning System: A Code of Practice (2008)	Chapter 4: Community Infrastructure and Open Space and Chapter 12: Implementation and Monitoring implement the relevant policies and objectives of these Guidelines
Development Management: Guidelines for Planning Authorities (2007)	Chapter 12: Implementation and Monitoring, Chapter 13: Land Use Zoning and Chapter 14: Development Management Standards implement the relevant policies and objectives of these Guidelines.
Development Plans: Guidelines for Planning Authorities (2007)	The Plan implements the policies and objectives of these Guidelines throughout.
Wind Energy Development: Guidelines for Planning Authorities (2006)	Chapter 5: Climate Action provides policy and objectives in relation to Wind Energy in the County. The policy and objectives contained therein were prepared in accordance with the methodology laid out in these Guidelines and therefore aligns with these Guidelines.
Sustainable Rural Housing: Guidelines for Planning Authorities (2005)	Chapter 3: Sustainable Placemaking and Quality Homes and Chapter 14: Development Management Standards implement the relevant policies and objectives of these Guidelines.
Implementation of the SEA Directive: Guidelines for Regional Authorities and Planning Authorities (2004)	These Guidelines informed the preparation of the Strategic Environmental Assessment (SEA) of the Development Plan, which is included as an accompanying document to the Plan. All recommendations and mitigation measures from the SEA process have been incorporated into the Plan. The SEA process and report implements the relevant policies and objectives of these Guidelines.
Quarries and Ancillary Activities: Guidelines for Planning Authorities (2004).	Policy and Objectives relating to mineral extraction and quarrying are contained in Chapter 7: Employment and Economy, Section 7.5.3.4 of the Plan.

Childcare Facilities: Guidelines for Planning Authorities (2001)	Chapter 4: Community Infrastructure and Open Space and Chapter 12: Implementation and Monitoring implement the relevant policies and objectives of these Guidelines.
Telecommunications Antennae Support Structures: Guidelines for Planning Authorities (1996)	Chapter 11: Infrastructure and Utilities and Chapter 14: Development Management Standards set out the Council's policies on Telecommunications and implement the relevant policies and objectives of these Guidelines.
Tree Preservation Guidelines (1994)	Chapter 9: Green Infrastructure and Natural Heritage includes policy and objectives relating to trees tree preservation orders and other Tree Protections.

Table 2: Implementation of SPPRs under the Building Height Guidelines

SPPR NUMBER AND DESCRIPTION	IMPLEMENTATION
<p>SPPR 1: In accordance with Government policy to support increased building height and density in locations with good public transport accessibility, particularly town/ city cores, planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.</p>	<p>Chapter 3: Sustainable Placemaking and Quality Homes and Chapter 14: Development Management Standards. Quality Design and Healthy Placemaking, set out policies and objectives to support increased building heights and density in locations with good public transport accessibility, particularly urban cores, and specifically encourage renewal, redevelopment, regeneration and infill opportunities to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies.</p> <p>This complies with SPPR 1</p>
<p>SPPR 2: In driving general increases in building heights, planning authorities shall also ensure appropriate mixtures of uses, such as housing and commercial or employment development, are provided for in statutory plan policy. Mechanisms such as block delivery sequencing in statutory plans could be utilised to link the provision of new office, commercial, appropriate retail provision and residential accommodation, thereby enabling urban redevelopment to proceed in a way that comprehensively meets contemporary economic and social needs, such as for housing, offices, social and community infrastructure, including leisure facilities.</p>	<p>Chapter 3 and Chapter 14 support the Settlement Strategy in Chapter 2 and seek to deliver successful Placemaking and sustainable development with an appropriate mix of uses including residential, commercial and employment.</p> <p>Mixed use development is supported across a number of land use zonings including MC, LC, RA, TC and ME.</p> <p>This complies with SPPR 2.</p>
<p>SPPR 3: It is a specific planning policy requirement that where;</p> <p>(A) 1. an applicant for planning permission sets out how a development proposal complies with the criteria above; and 2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these Guidelines; then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.</p>	<p>In respect to Part (A) 1 and 2:</p> <p>Chapter 3: Sustainable Placemaking and Quality Homes, and Chapter 14: Development Management Standards - set out policies and objectives to support SPPR 3.</p> <p>Chapter 14: Development Management Standards provides detailed guidance to support and guide an application for planning permission in demonstrating how a development proposal should comply with requirements.</p> <p>In respect of Part (B), Hansfield SDZ was adopted in 2006. Given the development permitted to date, the levels of completed/occupied units, the high</p>

<p>(B) In the case of an adopted planning scheme the Development Agency in conjunction with the relevant planning authority (where different) shall, upon the coming into force of these Guidelines, undertake a review of the planning scheme, utilising the relevant mechanisms as set out in the Planning and Development Act 2000 (as amended) to ensure that the criteria above are fully reflected in the planning scheme. In particular the Government policy that building heights be generally increased in appropriate urban locations shall be articulated in any amendment(s) to the planning scheme</p> <p>(C) In respect of planning schemes approved after the coming into force of these Guidelines these are not required to be reviewed.</p>	<p>number of active sites and the flexibility of the planning scheme in relation to building heights and density parameters (Sections 4 and 5), the scheme is compliant with Part (B)</p> <p>Part (C) not applicable.</p>
<p>SPPR 4: It is a specific planning policy requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure:</p> <p>1. the minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended), titled “Sustainable Residential Development in Urban Areas (2007)” or any amending or replacement Guidelines;</p> <p>2. a greater mix of building heights and typologies in planning for the future development of suburban locations; and</p> <p>3. avoid mono-type building typologies (e.g. two storey or own-door houses only), particularly, but not exclusively so in any one development of 100 units or more.</p>	<p>Chapter 3: Sustainable Placemaking and Quality Homes and Chapter 14: Development Management Standards set out policies and objectives to secure:</p> <ol style="list-style-type: none"> 1. The minimum densities required under Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended) “Sustainable Residential Development in Urban Areas (2007)” or any amending or replacement Guidelines; 2. An appropriate mix of heights and typologies in planning for edge of town and suburban locations and 3. An appropriate mix of housing types, tenures and typologies in order to avoid mono-type building typologies, particularly, but not exclusively so in any one development of 100 units or more. <p>Applications for residential development are required to comply with residential density standards prescribed by Guidelines under Section 28 of the Planning and Development Act 2000 (as amended)</p> <p>This complies with SPPR 4.</p>

Table 3: Implementation of SPPRs under the Apartment Guidelines

SPPR Number and Description	Implementation
<p>SPPR 1: Housing developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).</p>	<p>SPPR 1 is addressed in the Housing Strategy including Housing Need and Demand Assessment contained in Appendix 1.</p>
<p>SPPR 2: For all building refurbishment schemes on sites of any size, or urban infill schemes on sites of up to 0.25ha:</p> <ul style="list-style-type: none"> • Where up to 9 residential units are proposed, notwithstanding SPPR 1, there shall be no restriction on dwelling mix, provided no more than 50% of the development (i.e. up to 4 units) comprises studio-type units; • Where between 10 to 49 residential units are proposed, the flexible dwelling mix provision for the first 9 units may be carried forward and the parameters set out in SPPR 1, shall apply from the 10th residential unit to the 49th; • For schemes of 50 or more units, SPPR 1 shall apply to the entire development; <p>All standards set out in this guidance shall generally apply to building refurbishment schemes on sites of any</p>	<p>Chapter 3: Sustainable Placemaking and Quality Homes, Section 3.5.13 and Chapter 14: Development Standards, Section 14.5 relate to building refurbishment and urban infill schemes.</p> <p>The policies and standards set out in the Development Plan comply with SPPR 2.</p>

<p>size, or urban infill schemes, but there shall also be scope for planning authorities to exercise discretion on a case-by-case basis, having regard to the overall quality of a proposed development.</p>	
<p>SPPR 3: Minimum Apartment Floor Areas:</p> <ul style="list-style-type: none"> • Studio apartment (1 person) 37 sq.m • 1-bedroom apartment (2 persons) 45 sq.m • 2-bedroom apartment (4 persons) 73 sq.m • 3-bedroom apartment (5 persons) 90 sq.m 	<p>Chapter 14: Development Management Standards, specifically Section 14.7, and Objective DMS024, reference compliance with SPPR 3 and Appendix 1 of the Guidelines.</p> <p>The standards set out in the Development Plan comply with SPPR 3.</p>
<p>SPPR 4: In relation to the minimum number of dual aspect apartments that may be provided in any single apartment scheme, the following shall apply:</p> <p>i. A minimum of 33% of dual aspect units will be required in more central and accessible urban locations, where it is necessary to achieve a quality design in response to the subject site characteristics and ensure good street frontage where appropriate in.</p> <p>ii. In suburban or intermediate locations it is an objective that there shall generally be a minimum of 50% dual aspect apartments in a single scheme.</p> <p>iii. For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, planning authorities may exercise further discretion to consider dual aspect unit provision at a level lower than the 33% minimum outlined above on a case-by-case basis, but subject to the achievement of overall high design quality in other aspects.</p>	<p>Chapter 14: Development Management Standards, specifically Section 14.7.4: Dual Aspect, reference compliance with the requirement of SPPR 4.</p> <p>The standards set out in the Development Plan comply with SPPR 4.</p>

<p>SPPR 5: Ground level apartment floor to ceiling heights shall be a minimum of 2.7m and shall be increased in certain circumstances, particularly where necessary to facilitate a future change of use to a commercial use. For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, planning authorities may exercise discretion on a case-by-case basis, subject to overall design quality.</p>	<p>Chapter 14: Development Management Standards, specifically Section 14.7.2: Floor to Ceiling Heights, reference compliance with the requirements of SPPR 5.</p> <p>The standards set out in the Development Plan comply with SPPR 5.</p>
<p>SPPR 6: A maximum of 12 apartments per floor per core may be provided in apartment schemes. This maximum provision may be increased for building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, subject to overall design quality and compliance with building regulations.</p>	<p>Chapter 14: Development Management Standards, specifically Section 14.7.5: Lift and Stair Cores, reference compliance with the requirements of SPPR 6.</p> <p>The standards set out in the Development Plan comply with SPPR 6.</p>
<p>SPPR 7: BTR development must be: a) Described in the public notices associated with a planning application specifically as a 'Build-To-Rent' housing development that unambiguously categorises the project (or part of thereof) as a longterm rental housing scheme, to be accompanied by a proposed covenant or legal agreement further to which appropriate planning conditions may be attached to any grant of permission to ensure that the development remains as such. Such conditions include a requirement that the development remains owned and operated by an institutional entity and that this status will continue to apply for a minimum period of not less than 15 years and that similarly no individual residential units are sold or rented separately for that period; b) Accompanied by detailed proposals for supporting communal and recreational amenities to be provided as part of the BTR development. These facilities to be categorised as:</p>	<p>Chapter 3: Sustainable Placemaking and Quality Homes and Chapter 14: Development Management Standards, specifically Section 14.7 Apartment Development/Standards, reference compliance with the requirements of SPPR 7</p> <p>The standards set out in the Development Plan comply with SPPR 7.</p>

<p>i. Resident Support Facilities - comprising of facilities related to the operation of the development for residents such as laundry facilities, concierge and management facilities, maintenance/repair services, waste management facilities, etc.</p> <p>ii. Resident Services and Amenities – comprising of facilities for communal recreational and other activities by residents including sports facilities, shared TV/lounge areas, work/study spaces, function rooms for use as private dining and kitchen facilities, etc.</p>	
<p>SPPR 8: Specific Planning Policy Requirement 8 For proposals that qualify as specific BTR development in accordance with SPPR 7:</p> <p>(i) No restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise;</p> <p>(ii) Flexibility shall apply in relation to the provision of a proportion of the storage and private amenity space associated with individual units as set out in Appendix 1 and in relation to the provision of all of the communal amenity space as set out in Appendix 1, on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. This shall be at the discretion of the planning authority. In all cases the obligation will be on the project proposer to demonstrate the overall quality of the facilities provided and that residents will enjoy an enhanced overall standard of amenity;</p> <p>(iii) There shall be a default of minimal or significantly reduced car parking</p>	<p>Chapter 3: Sustainable Placemaking and Quality Homes and Chapter 14: Development Management Standards, specifically Section 14.7 Apartment Development /Standards reference compliance with the requirements of SPPR 8</p> <p>The standards set out in the Development Plan comply with SPPR 8.</p>

<p>provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. The requirement for a BTR scheme to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures.</p> <p>(iv) The requirement that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10% shall not apply to BTR schemes;</p> <p>(v) The requirement for a maximum of 12 apartments per floor per core shall not apply to BTR schemes, subject to overall design quality and compliance with building regulations.</p>	
<p>SPPR 9: There shall be a presumption against granting planning permission for shared accommodation/co-living development unless the proposed development is either:</p> <p>(i) required to meet specific demand identified by a local planning authority further to a Housing Need and Demand Assessment (HNDA) process; or,</p> <p>(ii) on the date of publication of these updated Guidelines, a valid planning application to a planning authority, appeal to An Bord Pleanála, or strategic housing development (SHD) planning application to An Bord Pleanála, in which case the application or appeal may be determined on its merits.</p>	<p>Section 14.7.15 of Chapter 14: Development Management Standards and the HNDA references compliance with the requirements of SPPR 9.</p> <p>The standards set out in the Development Plan comply with SPPR 9.</p>

Table 4: Implementation of SPPRs under the Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change

SPPR Number and Description	Implementation
<p>SPPR 1: Ensure that overall national policy on renewable energy as contained in documents such as the Government’s ‘White Paper on Energy Policy - Ireland’s Transition to a Low Carbon Future’, as well as the ‘National Renewable Energy Action Plan’, the ‘Strategy for Renewable Energy’ and the ‘National Mitigation Plan’, is acknowledged and documented in the relevant development plan or local area plan;</p>	<p>The Plan has been prepared taking full cognisance of EU, National and Regional Policy. Climate Action is an overarching principle of the Plan.</p> <p>Chapter 5: Climate Action acknowledges national policy on renewable energy in compliance with this SPPR. Chapter 5: Climate Action and Chapter 11: Infrastructure and Utilities include energy related policies and objectives.</p>
<p>SPPR 2: Indicate how the implementation of the relevant development plan or local area plan over its effective period will contribute to realising overall national targets on renewable energy and climate change mitigation, and in particular wind energy production and the potential wind energy resource (in megawatts); and</p>	<p>Chapter 5: Climate Action acknowledges national targets on renewable energy and climate change mitigation in compliance with this SPPR.</p>
<p>SPPR 3: Demonstrate detailed compliance with item number (2) above in any proposal by them to introduce or vary a mandatory setback distance or distances for wind turbines from specified land uses or classes of land use into their development plan or local area plan. Such a proposal shall be subject to environmental assessment requirements, for example under the SEA and Habitats Directives. It shall also be a material consideration in SEA, when taking into account likely significant effects on climatic factors, in addition to other factors such as landscape and air, if a mandatory setback or variation to a mandatory setback proposed by a planning authority in a development plan or local area plan would create a significant limitation or constraint on renewable energy projects, including wind turbines, within the administrative area of the plan.</p>	<p>In relation to wind turbines the Draft Plan does not set out any mandatory set back distances from specified land uses or classes of land use and is therefore fully consistent with SPPR 3.</p>