

22nd December 2022

Development Plan Team,
Planning and Strategic Infrastructure Department,
Fingal County Council,
County Hall, Main Street,
Swords

Re: Material Alterations to Draft Fingal County Development Plan 2023 - 2029

A chara,

Thank you for your authority's work in preparing the Material Alterations to the draft Fingal County Development Plan 2023 - 2029 (MAs to the draft Plan).

The Office notes the section 12(5)(aa) notice issued to the Office on 17th November 2022, which is consistent with the Chief Executive's Report (CE Report) under section 12(4)(a).

In view of the current stage of the development plan-making process, the Office would like to alert the planning authority of the requirements of section 31AM(6) under which a notice must be issued to the Office within 5 working days of the making of a development plan. The Office is happy to clarify any queries the planning authority may have in respect of this process.

As your authority will be aware, a key function of the Office of the Planning Regulator (the Office) is strategic evaluation and assessment of statutory plans to ensure consistency with legislative and policy requirements relating to planning. The Office has evaluated and assessed the material alterations to the draft Plan under the provisions of sections 31AM(1) and (2) of the *Planning and Development Act, 2000*, as amended, (the Act) and within the context of the Office's earlier recommendations and observations.

As outlined in the submission of the Office to the draft Plan, the Office considered the draft Plan to be generally consistent with policies in the National Planning Framework

(NPF) and the Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Regional Assembly area. The Office recommended changes to ensure consistency with the aforementioned national and regional policy objectives and the relevant section 28 Guidelines.

The planning authority is advised that section 12(10) of the Act provides the members of the planning authority with scope to make a further modification to a material alteration subject to the limitations set out in subsection 10(c) parts (i) and (ii).

Recommendations issued by the Office relate to clear breaches of the relevant legislative provisions, of the national or regional policy framework and/or of the policy of Government, as set out in the Ministerial guidelines under section 28. As such, the planning authority is required to implement or address recommendation(s) made by the Office in order to ensure consistency with the relevant policy and legislative provisions.

Observations take the form of a request for further information, justification on a particular matter, or clarification regarding particular provisions of a plan on issues that are required to ensure alignment with policy and legislative provisions. The planning authority is requested by the Office to action an observation.

A submission also can include advice on matters that the Office considers would contribute positively to the proper planning and sustainable development of the area. The planning authority is requested by the Office to give full consideration to the advice contained in a submission.

Overview

The Office acknowledges the significant work undertaken by Fingal County Council in preparing and publishing the material alterations to the draft Plan and appendices containing the associated technical and environmental reports. The presentation of the material amendments in a systematic and coherent manner has allowed all parties to access and understand the proposed amendments, and the Office would like to commend the planning authority for its approach. In particular, the Office commends the planning authority for the manner in which the material alterations to

land use zonings are set out which provides clarity and transparency in respect of each proposed zoning change.

The Office draws your attention in particular to the matters raised below in relation to the Strategic Flood Risk Assessment on the draft Plan previously the subject of Recommendation 16 if the Office's submission to the draft Plan. If the required review finds that these issues cannot be rectified at this stage of the process this matter will be considered by the Office in the context of its final assessment of the adopted Plan. You are strongly advised to consult with the OPW if clarification is required regarding the steps to be followed as set out in *The Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009) (Flood Guidelines).

It is within this context the submission below sets out 7 recommendations and 2 observations under the following 6 themes:

Key theme	MA Recommendation	MA Observation
Core strategy and settlement strategy	-	MA Observation 1
Sustainable Development	MA Recommendation 1 and 2	-
Rural Landscapes and Rural Housing	MA Recommendation 3 and 4	-
Economic Development and Employment	MA Recommendation 5	-
Sustainable Transport and Accessibility	MA Recommendation 6	MA Observation 2
Flood Risk Management	MA Recommendation 7	-

1. Core Strategy and Settlement Strategy

The Office welcomes the clarity provided in the revised core strategy table 2.14 and the differentiated approach taken to provide a clearer strategy for areas within Fingal.



The Office is generally satisfied that the settlement hierarchy and distribution of growth across the urban and rural areas is consistent with the national and regional policy framework and that the material amendments address Recommendation 1 of the Office's submission to the draft Plan.

As referenced above, the Office considers that lands zoned for residential development in the draft Plan are generally well located. There are, however, a number of more peripheral legacy locations which require significant public transport investment in order to avoid becoming overly car dependant commuter areas.

In this regard the Office notes that the MASP (RPO 5.5) requires that future residential development follows a clear sequential approach with a primary focus on the consolidation of Dublin and suburbs and the development of Key Towns in the metropolitan area. Consideration of this should inform the approach to spatial planning in the county. As such, the planning authority is advised to include reference to public transport provision in the new objective for the delivery of housing units proposed by material amendment PA CH 2.6.

The planning authority is advised to insert '*accessibility to both current and planned public transport services*' to material amendment PA CH 2.6 Objective CSOXX – Delivery of Housing Units. In addition, in respect of Swords, it remains unclear how the additional population allocation of 20,000 under NPO 68 has been integrated into the housing supply target and population growth in the core strategy table and further clarity on this within the Plan text is advised.

1.2 Core Strategy and Housing Supply Targets

Turning to the relationship between the population/ housing targets and the requirement for a sufficient supply of zoned land to deliver housing targets, the Office has considered the CE's report and the material amendments to the core strategy. The Office has also taken into account the Development Plans, Guidelines for Planning Authorities ('the Development Plans Guidelines') published by the Department of Housing, Local Government and Heritage in June 2022. The Development Plans Guidelines focus on ensuring that infrastructure investment and

delivery is carefully co-ordinated with housing delivery and that undeveloped lands closest to existing services and public transport routes, commensurate with the achievement of compact urban development, should have the greatest level of prioritisation in the zoning of land.

Taking account of the above and noting the anticipated housing yield and the corresponding quantum of zoned land needed to accommodate same, as set out in the revised core strategy table (table 2.14), the Office considers that this quantum is acceptable and reasonable. In arriving at the above, the Office has also taken note of the concept of additional provision of residentially zoned lands provided for under section 4.4.3 of the Development Plans Guidelines to ensure that a suitable range of alternate lands can come forward in a rational and planned way in tandem with the necessary infrastructure.

While such additional provision would normally be justified by the local authority in its development plan, taking into account the criteria specified in the Development Plans Guidelines, the Office is satisfied from its assessment of the draft Plan and its context (including the Infrastructure Assessment, and the general location of zoned lands within the metropolitan area of the Greater Dublin Area) that a reasonable basis for incorporating such additional provision is evident.

The Office generally welcomes the approach of the core strategy in seeking to provide for a consolidated urban form within existing settlements, and the revised objectives included in the material amendments¹ to implement a monitoring process for both housing delivery and the delivery of necessary infrastructure to support sustainable communities.

1.3 Implementation of the Core Strategy

Recommendation 5 of the Office's submission to the draft Plan raised concerns regarding the extent of the requirements for Local Area Plans (LAPs) / masterplans in the draft Plan and the potential to delay housing delivery in key locations and undermine the planning authority's ability to achieve its housing supply target.

¹ Material Amendment Reference PA CH 2.6

The Office notes that the material alterations provide for a revision to the schedule of local area plans (table 2.16) and masterplans (table 2.18) as required by Recommendation 5. While the Office's concerns regarding the rationale for requiring framework plans for designated settlements remains, the clarity introduced by material amendment PA CH 2.16 that developments in these locations will be guided by policies of the Plan as well as national and regional planning policy is welcomed. The Office also welcomes the commitment provided by PA CH 2.8 to consult and engage with the adjoining local authorities of Dublin City Council and Meath County Council where relevant.

Notwithstanding, the planning authority will be aware of the requirements of section 19(2b) of the Act that where any objective of an LAP is no longer consistent with the development plan, the planning authority must as soon as may be (and no later than one year after the making of the development plan) amend the LAP to make it consistent. In this regard, the Office advises that the planning authority sets out a clear timeline with respect to the commencement of the review of these LAPs.

MA Observation 1 – Local Area Plans

Having regard to the provisions of section 19(2b) of the *Planning and Development Act 2000*, as amended (the Act), concerning the time limit for ensuring consistency between existing Local Area Plans and the development plan, the planning authority is advised to provide greater clarity and certainty for the public by introducing a minor modification to amend the wording proposed in material amendment PA CH 2.11 to make clear that where any objective of an LAP is no longer consistent with the development plan, the planning authority will as soon as may be (and no later than one year after the making of the development plan) amend the LAP to make it consistent.



2. Sustainable Development

2.1 Land Use Zoning

The Office welcomes the proposed zoning amendments affecting education facilities which respond to Observation 2 of the Office's submission on the draft Plan.

The Office notes, however, the decision of the planning authority not to review the extent of lands zoned in a number of the tier 5 settlements to address Recommendation 2, 3 and 4 of the Office's submission to the draft Plan. This matter will be considered by the Office in the context of its final assessment of the adopted Plan in relation to the approach to zoning for residential use without a strong evidence-based rationale and in a manner inconsistent with national and regional policy and having regard to section 28 Guidelines.

As per the updated core strategy table (table 2.14), the housing supply target for tier 5 (comprising 14 settlements) is 828 units, while the plan boundaries provide for very substantially in excess of this provision². Given the urban pressure on rural settlements in Fingal, this has the potential to result in urban sprawl and non-sequential development remote from the village centres. Further, this pattern of development would undermine the wider plan objectives and the core strategy to support sustainable development of upper tier settlements to achieve compact growth consistent with NPO 3c, and RPO 4.83 which supports the consolidation of the town and village network to ensure that development proceeds sustainably and at an appropriate scale, level and place in line with the core strategy.

The Office remains concerned that lands remain zoned in the draft Plan which are often outside of the CSO boundary and further from services and facilities, in a manner which does not follow the sequential approach to zoning for residential development under section 4.4.3 of the Development Plans Guidelines, including:

- Lands to the west of the R107 in Kinsealy

² As per Table 2.14 (updated) total units/potential yield of combined settlements is 2,072 units



- Lands to the north of the Ward River in Rivermeade, which are also partially located in Flood Zone A and B
- Lands to west of R108 at Dooroge and east of Ballyboghal Square in Ballyboghill
- Lands to east of Cloch Choirneil in Balrothery
- Lands between the R130 and Oldtown Road in the south east of Garristown
- Lands to the west of Shamrock Park in Oldtown
- Lands to the east of the R130 in Coolquay
- Lands to east of Rowlestown Meadows and lands to the west of Rowlestown National School in Rowlestown, a portion of which is also located in Flood Zone B
- Lands to the west of Flemington Road and south of Balscadden
- Lands to south of the public road at Glebe in Ballymadun

Given the extent of land zoning in the draft Plan, the Office has serious concerns regarding a number of material amendments which propose to further extend the boundaries of the settlements of Coolquay, Oldtown and Kinsealy in an uncoordinated and piecemeal manner, specifically:

- PA SH 3.2 and 3.3 seek to extend the boundary of Oldtown to the east and the west by 1.3 hectares and 4.6 hectares respectively. Both land parcels are located beyond the CSO boundary for the settlement.
- PA SH 3.5 seeks to extend the boundary of Coolquay to the north east and south east, 11.4 hectares and 5.3 hectares respectively. These lands are also located in Flood Zone B.
- PA SH 9.6 seeks to extend the boundaries of Kinsealy by 0.76ha beyond the CSO boundary.



- PA SH 11.5 seeks to amend the zoning from HT High Technology to RA Residential Area at the Airport Business Campus north of Santry. These brownfield lands are surrounded by intensive commercial activity and the evidence to rezone the lands as Residential is not clear.

Instead of focusing on building up local communities through sensitive infill development, reuse of existing buildings, these amendments will instead tend to encourage piecemeal additions to sensitive local communities that have access to limited services and infrastructure which is contrary to the obligations on all local authorities to secure compact forms of urban development and contrary to the implementation of sequential and public transport and active travel centred housing delivery locations.

The amendments are, therefore, considered to be inconsistent with national and regional policy in respect of compact growth (NPO 3c and RPO 4.83) and/or with sequential residential zoning under the Development Plans Guidelines, the implementation of the core strategy, the proportionate growth of settlements (NPO 18a), and the provision of a sustainable settlement and transport strategy in accordance with section 10(2n) of the Act.

MA Recommendation 1 - Tier 5 Towns and Villages

Having regard to national and regional policy objectives NPO 3c, NPO 18a and RPO 4.83, section 4.4.3 of the *Development Plans, Guidelines for Planning Authorities* (2022), and section 10(2)(n) of the *Planning and Development Act 2000*, as amended, the Office considers that the following settlement boundary extensions proposed under the material amendments are inconsistent with the core strategy and/or contrary to the implementation of compact growth, sequential zoning and the provision of a sustainable settlement and transport strategy. The planning authority is therefore required to make the Plan without the following material amendments:

- PA SH 3.2 Oldtown

- PA SH 3.3 Oldtown
- PA SH 3.5 Coolquay
- PA SH 9.6 Kinsealy
- PA SH 11.5 Airport Business Campus

The planning authority's attention is also drawn to the related recommendation (MA Rec 7 Flood Risk Management) in relation to PA SH 3.5 Coolquay.

The Office notes that the land use zoning maps identify specific land use zoning objectives for Portrane, Balrothery, Loughshinney and Baskin whereas the remaining tier 5 settlements have one land use zoning objective identified as '*Rural Villages*'. In the interests of clarity and transparency the planning authority is advised that a standardised zoning should be applied to all of the tier 5 settlements in order to provide a consistent approach and aid the understanding of the zoning objective by the public.

2.2 Map Based Objectives

The map based local objectives are listed in Appendix 8 of the draft Plan and identified on the land use zoning maps. There is, however, no clear description within the draft Plan as to the policy context and/or policy weighting that will be afforded to the map based local objectives.

Section 10(2)(a) of the Act requires that a development plan include objectives for '*the zoning of land for the use solely or primarily of particular areas for particular purposes (whether residential, commercial, industrial, agricultural, recreational, as open space, or otherwise, or a mixture of these uses) and to such extent as the proper planning and sustainable development of the area, in the opinion of the planning authority, requires the uses to be indicated*'.

The inclusion of land use zoning objectives within the draft Plan is, therefore, about identifying lands within a plan area for particular use types, and the best locations for



such land uses. Furthermore, as outlined in the Development Plans Guidelines, the land use zoning objective for a particular area is intended to provide a degree of certainty and clarity to the community, landowners, developers and investors regarding future development.

In this regard, it is noted that a number of material amendments propose new map based local objectives that have the potential to cause a policy conflict and/or confusion within the Plan. The Office would question the evidence based rationale for the inclusion of the following amendments:

- PA SH 3.8 to provide for improved connectivity between Rowlestown and Swords for all modes of transport. This project is not listed in table 6.3 Transportation Schemes in Chapter 6 of the Plan
- PA SH 3.10 upgrade to Toberburr Road not listed in Table 6.3 Transportation Schemes. This road upgrade has the potential to conflict with an indicative road proposal to provide a western by-pass of Swords
- PA SH 5.1 to insert a map based school symbol on lands which are zoned as 'Rural'. Education is not a '*permitted in principle use*' for this zoning objective
- PA SH 12.2 to support the conservation of Dunsoghly Castle and the sympathetic and appropriate development in scale and quantum of the surrounding lands...' on lands that are zoned Greenbelt where the land use zoning objective is '*to protect and provide for a green belt*' wherein the permitted in principle uses are limited
- PA SH 12.6 to insert a map based objective on lands at Newtown, St Margaret's to 'Support and facilitate a Park and Ride Facility' on lands that are zoned Greenbelt where the land use objective is "*to protect and provide for a green belt*' wherein the permitted in principle uses are limited and do include for such a use.
- PA SH 13.5 and PA CH 2.17 to undertake a framework plan for lands at Knockmaroon House and Estate on lands that are zoned high amenity where



the land use zoning objective is to ‘*Protect and enhance high amenity areas*’ where limited use classes are permitted in principle.

- PA SH 13.10 to show an ecological corridor free of new housing development with a buffer consisting of a minimum width of 30 metres from the top of each bank of the Canal. The SEA and NIR of Plan do not include any reference or rationale of this objective and it is therefore unclear what evidence basis there is for its inclusion. The Office further notes that the Grand Canal is a protected structure which already affords the Canal special protection against inappropriate development.
- PA SH 13.8 to ensure connectivity across the canal and rail line in vicinity of Granard Bridge, Castleknock. There are a number of public infrastructure projects in the vicinity of this location including a greenway, established bus corridor, Dart + and this it is not clear that this objective will complement these other projects in the wider area.
- PA SH 15.2 and PA SH 15.3 include new green infrastructure mapped objectives. Both objectives as proposed are unclear in terms of what they set out to achieve over the plan period.
- PA SH 12.1 seeks to remove local objective 44 to facilitate the provision of a turning space for public buses. The Bus Connects Network Redesign project has not yet been finalised and the inclusion of this objective will ensure the successful implementation of the Bus Connects. Therefore, the Office considers the removal of this local objective is premature pending the determination of a terminus location which will ultimately enhance the public transport provision in this area.

MA Recommendation 2 - Map Based Local Objectives

Having regard to the provisions of Section 10(2)(a) of *Planning and Development Act 2000*, as amended, and section 6.2 of *the Development Plans Guidelines for Planning Authorities (2022)*, the planning authority is required to make the Plan without the following material amendments:

- PA SH 3.8 - improved connectivity between Rowlestown and Swords
- PA SH 3.10 - upgrade to Toberburr Road
- PA SH 5.1 - site specific school objective
- PA SH 12.1 –local objective 44 at Hollystown
- PA SH 12.2 - Dunsoghly Castle
- PA SH 12.6 – park and ride facility at Newtown, St Margaret’s
- PA SH 13.5 (and PA CH 2.17 - Knockmaroon House and Estate)
- PA SH 13.8 - connectivity across the canal and rail line in vicinity of Granard Bridge, Castleknock
- PA SH 13.10 - Canal ecological corridor
- PA SH 15.2 – wetland and river protection project for Delvin River
- PA SH 15.3 – multi function Green Infrastructure System

2.3 Compact growth

The draft Plan sets out a range of policies and objectives to support compact growth and regeneration but has not clearly quantified in the core strategy table how the 50% compact growth target required by the NPF and the RSES will be met. This is considered important to ensure that infill and brownfield development takes place in locations well served by high quality public transport as part of the transition to a low carbon economy and the requirements under section 10(2)(n) of the Act.

The chief executive’s response to Recommendation 6 of the Office’s submission to the draft Plan is noted and the strong policy context of the Plan is acknowledged. Notwithstanding, the Office reiterates the importance of identifying ‘*opportunity sites*’ within the urban centres and advises that the planning authority should consider this as part of the forthcoming preparation of LAPs and/or masterplans.



3. Rural Landscapes and Rural Housing

The rural housing policies in the draft Plan apply to lands zoned Rural (RU), Greenbelt (GB), High Amenity (HA) and Rural Cluster (RC).

As outlined in the Office's submission to the draft Plan (Recommendation 3), the designation of 37 rural clusters within the Plan area has the potential to undermine objectives set out elsewhere in the draft Plan to redirect growth to the upper tier settlements where social and physical infrastructure is available and in the interests of proper planning and sustainable development.

Furthermore, concerns remain about the extent of land included within these settlements that will further provide for residential development relative to the housing supply targets in the core strategy and the local characteristics of these settlements.

A review of the material amendments indicates an increase in the number of Rural Clusters within the Plan area to 39, in addition to other material amendments which propose an extension of the boundaries of existing rural clusters;

- PA SH 5.4 to amend the zoning from *HA High Amenity* to *RC Rural Cluster* and increase the boundaries of Milverton Rural Cluster by circa 2.8 hectares.
- PA SH 6B.1 to amend zoning from *RU Rural* to *RC Rural Cluster* at Rathartan (3 hectares).
- PA SH 7.4 amend zoning from *HA High Amenity* to *RC Rural Cluster* and increase Balcarrick rural cluster by 0.3 hectares.

All of these land parcels are located within the 'coastal' landscape character area which is designated as 'exceptional' value and 'high sensitivity' in table 9.3³ of the draft Plan. The Office further notes;

- PA SH 7.3 to amend zoning from *HA High Amenity* to *RC Rural Cluster* for circa 4.5 hectares Corballis. This land parcel is located within the 'estuary'

³ Landscape Character Assessment Summary – Character, Value and Sensitivity



landscape character area which is also designated as ‘exceptional’ value and high’ sensitivity’ in table 9.3 of the draft Plan.

- PA SH 5.5 to amend the zoning of 1 hectare of land from HA High Amenity to RU Rural at Balcunnin, Skerries Road, Lusk. This land parcel is located within the ‘high lying’ landscape character area which is designated as being of high value and high sensitivity.

Whilst the absence of a National Landscape Character Map (NPO 61) and/or Regional Landscape Character Assessment (RPO 7.27) is acknowledged, the *National Landscape Strategy for Ireland 2015 – 2025* (National Landscape Strategy), published by the Department of Arts, Heritage and the Gaeltacht, recognises the need to support sustainable landscape change and better promote landscape protection, management and planning.

Furthermore, NPO 14 seeks to protect and promote the quality, character and distinctiveness of the rural landscape and NPO 62 to strengthen the value of greenbelts and green spaces to enable enhanced connectivity to wider strategic networks.

The Office also notes section 9.7 of the Development Plans Guidelines which states that *‘planning authorities should ensure that policies relating to landscape use are complementary and mutually reinforcing and that conflicting policy objectives are to be avoided’*. In addition to specific landscape designations, there are a number of policies and objectives in the draft Plan to protect the rural landscape character with which the above mentioned material amendments would be in conflict. These include Policy GINHP25 which sets out to ensure the preservation of the uniqueness of the landscape character type and Policy GINHP24 to implement the relevant objectives and actions of the National Landscape Strategy. Whilst section 3.5.15.12 and SPQh57, SPQHO97 and SPQHO98 set out to protect greenbelt land and *‘to safeguard valuable countryside’*.

As such, the Office considers that there is no evidence to support the material amendments, which are piecemeal in nature, but have the potential to erode the character of landscapes which are designated in the draft Plan as being the most

sensitive and highly valued in the county, which is inconsistent with national policy objectives as well as conflicting with policies set out in the draft Plan.

MA Recommendation 3 - Rural Landscapes

Having regard to section 10(2)(f) of the *Planning and Development Act 2000*, as amended, the National Policy Objectives NPO 14 and NPO 62 to strengthen the value of greenbelts and green spaces, and section 9.7 of the *Development Plans, Guidelines for Planning Authorities (2022)* the planning authority is required to make the Plan without the following material amendments:

- PA SH 5.4 - Milverton Rural Cluster
- PA SH 6B.1 - Rathartan
- PA SH 7.4 - Balcarrick
- PA SH 7.3 - Corballis
- PA SH 5.5 – Balcunnin, Skerries Road, Lusk

Moving onto rural housing policy, the Office notes that PA CH 3.18 and PA CH 3.19 reduces the time period under which an applicant can demonstrate a rural generated housing need, from ten years to seven years, thereby providing for a relaxation in rural housing policy for the lands zoned Rural (RU), Greenbelt (GB), High Amenity (HA) and Rural Cluster (RC). Furthermore, table 3.5⁴ retains references to ‘*family ties*’ notwithstanding Recommendation 10 of the Office’s submission to the draft Plan requiring a review of the rural housing policy in accordance with NPO 19.

The Office fully acknowledges the planning authority’s intention (Policy CSP 40) to commence a review of the rural housing policy and local need criteria on publication of the updated *Guidelines for Planning Authorities and Sustainable Rural Housing* and considers that the material amendments to the rural housing policy are

⁴ Criteria for eligible applicants from rural community for planning permission for new housing



premature pending the review of the rural housing policy as intended by Policy CSP 40.

MA Recommendation 4 - Rural Housing Policy

Having regard to National Policy Objective (NPO) 19 of the National Planning Framework which requires that '*...in rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area...*', and the planning authority's intention to review its rural housing policy, the planning authority is required to make the Plan without PA CH 3.18 and PA CH 3.19 which are inconsistent with NPO 19 and premature pending a comprehensive review of the rural housing policy and the criteria for determining economic and social need.

4. Economic Development and Employment

The Office's submission to the draft Plan noted that it had provided 2,966 hectares of undeveloped land zoned specifically for employment use in the county.

The Office notes that the planning authority has retained all of the employment related zoning objectives referenced in Recommendation 11 of the Office's submission to the draft Plan. The Office also notes that the section 12(5)(aa) notice provides one collective reason for the decision of the planning authority not to comply with Recommendation 11 and does not provide any robust justification for the extent of lands zoned at the following locations:

- Junction 2 on the M2 at St Margaret's
- Lands zoned as Rural Business Cluster and Food Park south of Coolquay and south west of Corrstown Golf Club
- Lands zoned as General Employment south of Balbriggan, a portion of which is also located in Flood Zone A and B
- Lands zoned as General Employment at Turvey, a portion of which is also located in Flood Zone A and B

Further, TII in their submission also raise *'serious concerns for precedent and contravention of Spatial Planning and National Road Guidelines for Planning Authorities'* in relation to the continuation of the draft Plan proposal for the lands zoned as General Employment at Junction 2 on the M2 at St Margaret's.

While the Office strongly supports the strengthening and expansion of the employment-base of Fingal, consistent with national and local policy, it is important that this is evidence-based and plan-led, and that the evidence and rationale underpinning the zoning of land for employment purposes is clear and strategic in nature.

In this context, the Office has identified a number of material amendments where the evidence and rationale underpinning the zoning is not clear or strategic in nature as per section 6.2.5 of the Development Plans Guidelines:

- PA SH 3.1 amends the zoning from RU Rural to RB Rural Business for 7 hectares of lands in a rural location at Westpalstown, isolated from any designated settlement off the R129 public road where maximum speed limits apply.
- PA SH 3.4 amends the zoning from RU Rural to RB Rural Business for 4.6 hectares of land and PA SH 3.6 amends the zoning for adjoining lands from RU Rural to WD Warehousing and Distribution for 5.7 hectares at Belinstown. Whilst it is acknowledged there is an established commercial operation on part of the lands of PA SH 3.6, the location is isolated and a designated settlement along the R108 public road where maximum speed limits apply.
- PA SH 7.2 amends the zoning from HA High Amenity to GE General Employment for 2.6 hectares of land at Kilcreagh. Material amendment PA SH 7.6 also refers to this site to include a map based objective to require any development to be of a high quality design. These lands are located beyond the CSO boundary for Donabate, are located in Flood Zone A and B, and are located in a landscape character area which is designated as highly sensitive.



- PA SH 9.7 amends the zoning from GB Greenbelt to LC Local Centre for 1.5 hectares of lands located to the north east of Kinsealy. Material amendment PA SH 9.7 also refers to this site to include a map based objective to require only office type development to be permitted on these lands. These amendments would extend the boundary of Kinsealy beyond that of the CSO boundary and into the Greenbelt.
- PA SH 11.6 amends the zoning from HT High Technology to LC Local Centre at Airport Business Campus. The land use zoning objective as set out in the draft Plan for a Local Centre is to protect, provide and/or improve local centre facilities for existing and developing communities of the County. It is unclear why a local centre in this location is required given the significant scale of commercial uses surrounding these lands. Furthermore the Office notes that there is a designated 'Key Urban Village' and 'Neighbourhood Centre' located just beyond Santry Park to the south of this location (within the Dublin City Council administrative boundary).
- PA SH 12.4 amends the zoning from GB Greenbelt to GE General Employment for 38 hectares of lands at Newtown, St Margaret's and to include a map based local objective that any development on the lands shall be contingent on the widening and upgrading of Kilshane Road and the installation of active travel infrastructure. Material amendment PA SH 12.6 inserts a new map based objective to '*support and facilitate a park and ride facility*'. The lands are located to the west of Dublin Airport and to the north of a substantial land bank of undeveloped lands zoned for General Employment (circa 268 hectares) located between Dublin Airport and the M50 route. Further, this amendment will result in the loss of greenbelt lands which the Plan clearly seeks to protect as outlined in section 3.5.15.12, Policy SPQHP47 and Objective SPQHO97 and SPQHO98. The lands are also located in close proximity to an intersection on the N2 national road. Section 2.7 of the Spatial Planning and National Roads Guidelines for Planning Authorities (2012) states '*...planning authorities must exercise particular care in their assessment of development/local area plan proposals relating to the development objectives*



and/or zoning of locations at or close to interchanges where such development could generate significant additional traffic with potential to impact on the national road.’ It is not clear to the Office that the proposed rezoning satisfies the criteria in section 2.7 of the guidelines regarding development of national or strategic importance.

RPO 4.82 states that *‘Local authorities shall ensure that economic development that is urban in nature should be in the first instance located in urban areas’* whilst RPO 5.6 (MASP Employment Lands) states *‘the development of future employment lands in the Dublin Metropolitan Area shall follow a sequential approach, with a focus on the re-intensification of employment lands within the M50 and at selected strategic development areas and provision of appropriate employment densities in tandem with the provision of high quality public transport corridors.’*

All of the material amendments referenced above are outside both the CSO boundaries of the settlements and the Dublin City & Suburbs boundary as shown on Figure 5.1 of RSES for the EMRA.

The Office considers that the proposed rezonings are contrary to compact growth and sequential development and would support unsustainable car dependant development at a greenfield location remote from high capacity public transport and in close proximity to a junction on the national road network.

MA Recommendation 5 - Employment Zoned Land

Having regard to National Strategic Outcome 1 (Compact Growth) and National Policy Objectives 11 and 62 of the National Planning Framework (NPF), Regional Policy Objectives 4.82 and 5.6 of the Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Regional Assembly, and section 6.2.5 of the Development Plans, Guidelines for Planning Authorities (2022), the planning authority is required to make the Plan without the following material amendments:

- PA SH 3.1 - Westpalstown
- PA SH 3.4 and PA SH 3.6 - Belinstown

- PA SH 7.1 - Turvey Avenue, Donabate
- PA SH 7.2 and PA SH 7.6 - Kilcreagh
- PA SH 9.7 - north east of Kinsealy
- **PA SH 11.6 – Airport Business Campus**
- PA SH 12.4 and PA SH 12.6 - Newtown, St Margaret's

The planning authority's attention is also drawn to the related recommendation (MA Rec 7 Flood Risk Management) in relation to PA SH 7.1 and 7.2 .

5. Sustainable Transport and Accessibility

The Office welcomes the material amendments to Chapter 6 in the draft Plan which will support the integration of land use and transport planning and will further align the Development Plan with national and regional transport policy.

The inclusion of amendments to support the protection of the EU TEN-T network, national road access and the provision of the *Blanchardstown Town Centre Bus Interchange* in collaboration with NTA and other relevant stakeholders is also noted.

The Office further welcomes the clarity provided in the Chief Executive's Report that the Estuary Central and Estuary East lands will be incorporated into the forthcoming Swords Local Area Plan.

The decision of the planning authority to not include baseline mode share targets in the Plan is noted. The Office would strongly advise their inclusion in the preparation of Local Area Plans and associated local transport plans to provide a clear focus for the implementation of the Council's sustainable transport strategy and facilitate the monitoring of an important key indicator over the plan period to support the requirements under section 10(2)(n) of the Act and the need to transition to a low carbon society.

The Office also considers that the matters raised in respect of the location of certain employment zoning objectives, under MA Recommendation 5, which are located in



proximity to junctions on the national road network will need to be justified with regard to their potential impact on the road network.

The Office further notes amendment PA CH 2.10 removes Belcamp from the schedule of local area plans to be commenced over the plan period, nor is it listed in the schedule of masterplans or framework plans to be commenced. Given the strategic location of the lands at Belcamp and to ensure a sustainable transport and land use strategy for the area is delivered, the Office considers that Belcamp should be listed in the schedule of masterplans to be prepared over the plan period and to which the requirement for a Local Transport Plan under Policy CMP4 applies.

MA Observation 2 – Belcamp

The planning authority is requested to include Belcamp in the schedule of masterplans to be commenced over the plan period as a minor modification to Table 2.18.

5.1 Dublin Airport

Section 8.5.7 of the draft Plan seeks to ensure environmental protection and sustainability and the Aircraft Noise Zones are set out in Table 8.1. It is stated that these standards have been developed in compliance with relevant standards and guidance from a range of sources that includes ProPG: Planning and Noise and ICAO guidance on land-use planning and management.

Further, Policy DAP5 supports the actions of any update of the noise action plan and Objective DAO15 commits to a review of the operation of noise zones in line with the legislative framework of the area whilst Policy DAP6 sets out to protect residents affected by noise aviation '*particularly night-time noise*' and DAO11, DAO13, DAO16 and DAO21 set out a clear policy approach for noise monitoring and management.

As such the Office considers that PA CH 8.1 which seeks to include additional text on noise level standards for night time has the potential to cause a policy conflict



and/or confusion within the Plan. In addition, it is unclear what evidence supports the inclusion or the requirement for additional standards.

MA Recommendation 6 - Noise Standards

Having regard section 10(2)(d) of the of *Planning and Development Act 2000*, as amended, and NPO 65 to promote pro-active management of noise and to support the Noise Action Plans, the planning authority is required to make the Plan without PA CH 8.1.

6. Flood Risk Management

The Office welcomes the planning authority's updates to the Strategic Flood Risk Assessment (SFRA) and the revision to overlay the flood zone maps on the land use zoning maps.

The Office notes the updated Justification Tests included in section 5 of the SFRA which responds directly to Recommendation 16 of the Office's submission to the draft Plan. Notwithstanding, the Office notes that the plan-making Justification Test has not applied all of the criteria of Box 4.1 of *The Planning System and Flood Risk Management, Guidelines for Planning Authorities* (2009). The Office remains concerned that lands are zoned for vulnerable uses in areas identified as within flood risk A and B where the Justification Test has not been carried out in accordance with the Flood Guidelines, that includes lands referenced in section 2.1 and section 4 above, along with the following:

- Lands zoned for residential along the R127 south of Balbriggan
- Lands zoned for rural business at Blakes Cross (north of R127)
- Lands zoned for high technology and general employment at Damastown/Macetown
- Lands zoned for community infrastructure in Donabate (lands east of St Patricks Boys National School and lands adjoining the community school)



- Lands zoned for general employment at Townparks west of Skerries

The Office would strongly advise the planning authority to review the SFRA in the context of the specific matters listed below in order to demonstrate that the identified flood risk can be adequately managed in accordance with the Flood Guidelines. If any such review finds that these issues cannot be rectified at this stage of the process this matter will be considered by the Office in the context of its final assessment of the adopted Plan.

In particular the following is of concern:

- Criteria 1 of the plan making justification test is not specific to the settlement and/or lands identified within a flood risk zone, and is instead a general application of Fingal County in the context of national and regional policy.
- There are five specific points which make up Criteria 2. All of these points have not been assessed in the Justification Tests applied in the updated SFRA.
- In accordance with Criteria 3, the Justification Test has failed to demonstrate that flood risk can be adequately managed and the use or development of the lands will not cause an unacceptable adverse impact elsewhere.
- PFRA is listed as the data source in the Justification Tests supplied for Ballybough, Ballyboughal, Ballymadun, Bascadden, Courtlough (M1 Business Park), Dublin Airport and Oldown / Wyanstown. The PFRA maps have been superseded and should not be used as a data source for the purposes of managing flood risk.
- The flood zones outlined in the Justification Tests of the SFRA are inconsistent with the *Material Alterations Interactive Mapping* for flood zones A and B.

The Office further notes that a number of material amendments have been proposed for the zoning of lands at risk of flooding for vulnerable or highly vulnerable uses at Coolquay, Kilcreagh and Turvey Avenue in Donabate, and, at Pinnock Hill

Roundabout and Barrysparks in Swords, which have not passed the Justification Test and are contrary to NPO 57 to avoid inappropriate development in areas at risk of flooding.

MA Recommendation 7 – Flood Risk Management

Having regard to NPO 57 and to the provisions of *The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)* the planning authority is required to make the Plan without the following material amendments:

- PA SH 3.5 Coolquay
- PA SH 7.1 at Turvey Avenue, Donabate
- PA SH 7.2 at Kilcreagh, Donabate
- PA SH 8.2 at Pinnock Hill Roundabout, Swords
- PA SH 8.3 at Barrysparks, Swords

Summary

The Office requests that your authority addresses the recommendations and observations outlined above. As you are aware, the report of the chief executive of your authority prepared for the elected members under section 12 of the Act must summarise these recommendations and the manner in which they will be addressed.

At the end of the process, your authority is required to notify this Office within five working days of the decision of the planning authority in relation to the Material Alterations to the draft Plan. Where your authority decides not to comply with the recommendations of the Office, or otherwise makes the plan in such a manner as to be inconsistent with the recommendations of the Office, the chief executive must inform the Office accordingly and state the reasons for the decision of the planning authority.



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Office of the
Planning Regulator

Please feel free to contact the staff of the Office in the context of your authority's responses to the above, which we would be happy to facilitate. Contact can be initiated through plans@opr.ie.

Yours sincerely,

A handwritten signature in black ink that reads "AM O'Connor". The signature is written in a cursive, slightly slanted style.

Anne Marie O'Connor

Deputy Regulator and Director of Plans Evaluations
