

12th March 2020

Senior Executive Officer, Land Use Planning and Transportation Department, South Dublin County Council, County Hall, Tallaght, Dublin 24

### Re: Draft Tallaght Town Centre Local Area Plan 2020-2026 - Material Amendments

A Chara,

Thank you for your authority's work in preparing a comprehensive local area plan for Tallaght.

As your authority will be aware, one of the key functions of the Office includes assessment of statutory plans and strategies to ensure consistency with legislative and policy requirements relating to planning.

The Office notes and welcomes the response of the Chief Executive's report to the observations of the Office, including the three recommendations, in its submission of 24<sup>th</sup> October 2019 (in particular, sections 6.5 Section 2.4 Land Use and Urban Framework, 6.17 *Chapter 8: Implementation and Sequencing*, and 6.12 *Appendix 4: SFRA*, refer). The Office is satisfied that the response, including points of clarification and individual recommended amendments proposed by the Chief Executive to address the Office's recommendations, sufficiently address the matters it raised.

The Office is currently developing an overall assessment methodology for statutory plans. The submission below has been prepared to provide a high-level input to your authority in finalising the plan.

The Office has assessed the proposed material amendments to the draft Tallaght Town Centre Local Area Plan 2020-2026 (the LAP) under the provisions of Section 31AO(2) of the Planning and Development Act 2000, as amended (the Act) and the matters arising are summarised, below.

### 1. Matters within the scope of section 19 concerning the proposed material alterations

It is a requirement under s.19(2) of the Planning and Development Act 2000, as amended (the Act) that an LAP be consistent with the objectives of the development plan, its core strategy and any RSES that applies.

**Material alteration no.1(a)-1(d)** – The proposed revised wording would appear to limit consideration of residential development in the Broomhill neighbourhood to the southern side of Airton Road. 1(a) omits consideration of mixed use frontages on Broomhill Road and Greenhills Road north of its junction with Airton Road. While Material Alteration 1(d) allows that residential elements to be considered within Broomhill and Greenhills '*along mixed-use frontages identified in the urban framework*', given that Material Amendment 1(a) omits such mixed frontages, the proposed LAP would appear to imply that residential development will not be considered within the aforementioned areas.

This is supported by the detail of the CE Report (p.24), which states:

Given the limited potential for residential development in Broomhill and the promotion of this area for high intensity employment, it should be clarified in the LAP that residential development that will be considered in this area under the proposed LAP should be directed to Airton Road, particularly the southern side of Airton Road, with some potential along Greenhills Road subject to enhanced public realm, connectivity, mixed-uses and integrating effectively with existing surrounding uses.

Under the County Development Plan, the entirety of the Broomhill and Airton neighbourhoods, and the frontage strip of lands along the eastern side of the Greenhills Road (but not the majority of Greenhills neighbourhood), are zoned objective REGEN, *to facilitate enterprise and/or residential-led regeneration.* The range of uses permitted in principle on REGEN lands include residential and residential institution and a range of employment including; light industry, office-based industry, office and commercial uses. General and heavy industries are also open for consideration.

The Office notes that the CE Report (s.6.5) and the draft LAP (s.2.4.1) clearly acknowledge that the land use zoning objective for lands within the draft LAP will be determined under Chapter 11 of the Land Use Zoning Tables in the South Dublin County Council Development Plan 2016–2022.

Notwithstanding this, in view of the foregoing assessment, the Office considers the proposed material alteration could give rise to a lack of clarity in terms of permissible land uses in certain sections of the plan area when both the provisions of the development plan and the local area plan are read together.

In addition, as set out under section 2 below, the Office considers there to be potential for inconsistency between the proposed material alteration and the objectives (specifically RPO 5.4) of the RSES, which identified the subject lands as a strategic development area for residential and industrial development.

### **Observation 1:**

Your authority should satisfy itself that the provisions of proposed material alteration 1(a)-(d) do not materially conflict with the REGEN land use zoning objective under the South Dublin County Development 2016-2022, in view of the provisions of s. 19(2) of the Act.

In addition, your authority is also invited to consider, and to address as appropriate, any potential inconsistency with the objectives of the RSES (specifically RPO 5.4) concerning lands identified the subject lands as a strategic development area for residential and industrial development **Material alteration 2** – It is proposed to insert an additional objective which would require a local employment clause as part of the phasing of construction projects within the draft LAP area. The proposed wording to be included under s.4.2 of the draft LAP states:

With 33% unemployment rates in some areas of Tallaght "CSO Figures" a local Employment Clause should be part of the phasing of construction projects in the Tallaght LAP with endeavours on the part of construction companies to employ local labourers and apprentices. This should be done in partnership with employers, SDCC, DDETB, TUI, South County Partnership & Tallaght Training Centre that would support individuals to train & upskill.

Whilst there is merit in the spirit of the proposed objective, it is essential that any policies or objectives to be included in the proposed LAP have a statutory basis. As an LAP is required to be consistent with the objectives of the development plan, the provisions of the Act concerning development plan objectives (mandatory objectives under s.10(2) and the discretionary objectives under the first schedule) are relevant. As none of the mandatory or discretionary objectives provide a basis for the attachment of the aforementioned proposed policy, there is no legislative basis under the Act for the attachment of such a policy or objective.

The Office also considers the wording of the subject proposed material alteration, which is aspirational rather than directive, is likely to result in confusion as to the actual requirements of the objective, and to result in inconsistency in its application between different grants of planning permissions.

Accordingly, the Office considers the proposed material alteration to be contrary to accepted best practice that a planning authority should not include aspirational objectives on matters over which it has no vires.

### **Recommendation 1:**

Your authority is requested to omit the proposed local employment clause subject of material alteration no.2 on the basis that the proposed attachment of the subject aspirational clause has no statutory basis under the Planning and Development Act, 2000, as amended, subject to your authority seeking its own legal advices on the inclusion of subject of material alteration no.2.

### 2. Consistency of the proposed material alterations with the Hierarchy of Statutory Plans & NTA Transport Strategy for the Greater Dublin Area

**Material alteration 1(a)-(d)** - The RSES identifies Tallaght as part of a strategic development area/corridor (table 5.1), where the regeneration of brownfield lands is to be provided to accommodate residential development. Industrial lands at Tallaght Town Centre / Cookstown are to be re-intensified for industrial and mixed use development.

It is a key aim of the MASP to unlock the development capacity of the strategic development areas, including (RPO 5.4) for higher residential densities.

The proposed material alteration 1(a)-(d) would appear to limit consideration of residential development within the Broomhill and Greenhill neighbourhoods on lands zoned for, inter alia, residential use under the development plan. The Office therefore considers there to be potential for inconsistency with the objectives of the RSES. Your planning authority should consider this issue within the context of observation 1, above.

# 3. Matters relating to Ministerial Planning Guidelines issued under s.28 of the Act and the proposed material alterations

No issues arise in this regard.

### 4. Matters relating to policy directives issued under section 29

No issues arise in this regard.

# 5. Matters relating to any other legislative and policy matters as the Minister may communicate

No issues arise in this regard.

#### <u>Summary</u>

The Office requests that your authority addresses the specific recommendation and observation outlined above, which are made in the context of the provisions of Section 31AO(3)(a), in order to ensure that the LAP is consistent with relevant national policy obligations, guidelines and legislative requirements.

The report of the Chief Executive of your authority prepared for the elected members under Section 20 of the Act must summarise these recommendations and the manner in which they should be addressed.

Your authority is required to notify this Office within 5 working days of the making of the local area plan and send a copy of the written statement and maps as made.

Where the planning authority decides not to comply with a recommendation of the Office, or otherwise makes the plan in such a manner as to be inconsistent with any recommendations made by the Office, then the Chief Executive shall inform the Office and give reasons for the decision of the planning authority.

Such notice requirements enable the Office to consider the matters further as regards the making of any recommendations to the Minister in relation to the provisions of Sections 31AO and 31AP of the Act.

Your authority is reminded that the Planning and Development Act imposes obligations on a planning authority in the carrying out of its forward planning functions, regardless of any observations or recommendations made by the Office in respect of a local area plan (or development plan) arising from an evaluation and assessment carried out in accordance with the provisions of the legislation.

Your authority should therefore satisfy itself that the proposed Draft Tallaght Town Centre Local Area Plan 2020-2026, inclusive of proposed amendments, accords with the requirements of the legislation.

Please feel free to contact the staff of the OPR in the context of your authority's responses to the above, which we would be happy to facilitate. Contact can be initiated through the undersigned or at <u>plans@opr.ie</u>.

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