

22nd February 2021

Senior Planner, Planning Department, Tipperary County Council, Emmet Street, Clonmel, Co. Tipperary. E91 N512

<u>Re: "PROPOSED MATERIAL ALTERATIONS TO DRAFT CAHIR LOCAL AREA PLAN, 2021-</u> <u>2027"</u>

A chara,

Thank you for your authority's work in preparing the "*Proposed material alterations to draft Cahir Local Area Plan 2021-2027*" (the proposed material alterations).

As your authority will be aware, a key function of the Office is the assessment of statutory plans and strategies to ensure consistency with legislative and policy requirements relating to planning. This includes a requirement to make submissions on statutory plans, including any observations or recommendations the Office considers necessary to ensure the effective co-ordination of national, regional and local planning requirements.

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. The planning authority is required to implement or address recommendation(s) made by the Office.

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 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.

On adoption of the proposed LAP, the Office will consider whether the LAP has been made in a manner consistent with the recommendations of the Office and whether the plan sets out an overall strategy for the proper planning and development of the area concerned.

The Office has evaluated and assessed the proposed material alterations under the provisions of sections 31AO(1) and 31AO(2) of the Planning and Development Act 2000, as amended (the Act). This submission makes 1 recommendation and 4 observations.

Overview

The Office supports and endorses the overall approach of your planning authority to the making of a new Local Area Plan for Cahir. It is recognised that your planning authority has had to take tough decisions on the future distribution of and accommodation of growth across the plan area, within a context of competing legislative, policy and economic pressures, and overall the Office considers the proposed plan achieves a balanced approach.

In particular, the Office welcomes the response of your planning authority to <u>draft LAP</u> <u>Recommendation 1</u>, in omitting residential use from consideration on lands zoned objective 'T: *Tourism and Recreation*'; and your response to draft LAP Observation 2, in reducing or restricting the overall extent of land zoned objective R3 '*Medium/High Density Residential*'in order to ensure implementation of compact growth in line with national and regional policy objectives.

Regarding draft LAP Observations 1, 3, 5 and 7, the response of the planning authority in the Chief Executive's Report, in addition to the proposed amendment of SC4 to address observation 5, are considered appropriate.

Whilst the Office also welcomes progress made in addressing sustainable and safe site access for the Cahirabbey Quarry site flood risk (draft LAP Recommendation 2 and draft LAP Observation 4, refer) and in addressing flood risk management (draft LAP Observation 6), we still have some outstanding concerns in this regard in view of the obligations under the relevant section 28 guidelines. The recommendations and observations, set out below, are intended to afford your planning authority the opportunity to resolve these matters through the final stages of the planmaking process.

The Office considers the proposal for the masterplan for public lands at Mountain View Drive to be a very positive approach to the future development of this area, although it would question the

inclusion of lands proposed to be zoned for agriculture (objective AG) within the masterplan boundary.

Finally, the Office would like to take the opportunity to commend your planning authority on the overall quality of the plan and the opportunity it provides for the regeneration of this historic town through an integrated approach to spatial and transport planning.

1.0 Arising from the response to draft LAP Recommendation 2 of the Office's submission

In accordance with the requirement of the Regional Spatial Economic Strategy (RSES) concerning the application of an integrated approach to land use and transport planning (RPO 151) and, accordingly, the achieving of modal shift towards active and sustainable modes (RPO 163), the Office specifically required the planning authority 'to insert an objective into the draft LAP that any decision to permit development on Cahirabbey opportunity site ... shall be dependent on the prior or concurrent provision of pedestrian and cycling links directly to the centre of the settlement and excluding any route via or following the N24.'

The Office welcomes the proposed amendment to the site strategy for the Cahirabbey Opportunity Site under Appendix 1, which includes a commitment to carrying out a Strategic Transport Assessment (STA) and a site masterplan, and the provision of pedestrian and cycle links to the town. However, the amendment is not consistent with the recommendation of the Office, as the future development of the site is not dependent on the prior or concurrent provision of the necessary pedestrian and cycling links, excluding any route via or following the N24.

MARecommendation 1 – Access to/from Cahirabbey Opportunity Site

Having regard to RPO 151 and RPO 163 of the RSES, and arising from Recommendation 2 of the Office's submission on the draft LAP, the planning authority is required to amend the proposed wording (highlighted blue) to the Site Strategy for the Cahirabbey Opportunity Site, under Appendix 1 of the draft LAP, as follows:

- 1. To provide required pedestrian and cycling infrastructure and vehicular access, following the completion of a Strategic Transport Assessment and preparation of Masterplan for the lands in accordance with Policy ED4 in consultation with the NTA and TII.
- 2. To provide for new pedestrian and cycle links to the town prior to or in tandem with the development of the Cahirabbey Opportunity Site, including the examination of the feasibility to provide a bridge over the River Suir, to provide access to the eastern river bank.

1.1 Arising from the response to draft LAP Observation 4 of the Office's submission

In accordance with the requirements of the *Spatial Planning and National Roads Guidelines for Planning Authorities* (DECLG, 2012) that the statutory plan must, inter alia, avoid the creation of new accesses and the intensification of existing accesses to national roads where a speed limit greater than 50 kph applies, the Office specifically advised under draft LAP Observation 4 that the planning authority consider the application of section 2.6 *Exceptional Circumstances*, through the current plan making process, in order to facilitate site access to/from the N24 for the Cahirabbey Opportunity Site.

The Office notes the proposed amendment of Section 6.4 *Cahirabbey– Integrated Tourism Development* requires a masterplan for the subject site '*to include a Strategic Transport Assessment which addresses issues of access, traffic loads and other criteria as set out at section 2.7 of the Spatial Planning and National Roads Guidelines*', in addition to related policy ED4 also inserted as a proposed amendment. The requirements of section 2.6 *Exceptional Circumstances* have not, however, been applied and it is considered by the Office that such matters should be addressed at the plan stage as required by the Guidelines and in order to provide a strong policy basis for the future development of the Cahirabbey site.

MA Observation 1 – Access to/from the N24 from/to the Cahirabbey Opportunity Site.

The planning authority is requested to consider the application of exceptional circumstances under section 2.6 of the 'Spatial Planning and National Roads Guidelines for Planning Authorities' (DECLG, 2012) in order to facilitate access from the Cahirabbey Opportunity Site, in consultation with TII and having taken on board any such advice that TII may issue.

Arising from the proposed amendments requiring the provision of a masterplan and Strategic Transport Assessment for the Cahirabbey Opportunity Site in response to draft LAP Recommendation 2 and draft LAP Observation 4, the Office notes that a masterplan is not a statutory plan and that there is no indication that the planning authority proposes to adopt the finalised masterplan into the LAP.

The 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas Guidelines: Cities, Towns & Villages' (DEHLG, 2012) advise that if a masterplan is used as a basis for development management decisions it should be incorporated into the plan by amendment or variation. Otherwise any planning decisions concerning the site will necessarily be made only on the basis of the land use zoning and other objectives of the relevant statutory plans.

In view of the suggested site access via the N24, the failure to apply the provisions of section 2.6 of the Spatial Planning and National Roads Guidelines (DECLG, 2012) to resolve same, and the proposal to consider site access in a Strategic Transport Assessment as part of a proposed masterplan for the Cahirabbey Opportunity Site, the planning authority should consider the including an objective in the LAP to incorporate the said future masterplan into the LAP prior to the authority making any decision to grant permission for development in accordance with the said masterplan.

The planning authority should also consider whether a similar objective should be applied to support the proposed masterplan for Mountain View Drive.

MA Observation 2 – Cahirabbey Opportunity Site Masterplan

In view of the suggested site access via the N24, the failure to apply the provisions of section 2.6 of the Spatial Planning and National Roads Guidelines (DECLG, 2012) to resolve same, and the proposal to consider site access in a Strategic Transport Assessment as part of a proposed masterplan for the Cahirabbey Opportunity Site, the planning authority is advised to include an objective to incorporate a masterplan for the Cahirabbey Opportunity Site, by way of an amendment, into the Cahir LAP prior to any decision on a future planning application.

1.2 Arising from the response to draft LAP Observation 6 of the Office's submission

The Office welcomes the response of the planning authority at MA stage to our concerns about flood risk for Cahir, which, in view of the requirements of *The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)*, can be anticipated to reduce the risk to people and property in your town. In particular, the Office welcomes the proposed rezoning as Open Space of lands at flood risk on the Cahirabbey Quarry. In addition, the Office acknowledges the proposed inclusion of Map 5 *Future Scenarios Mapping*, which takes account of future potential climate change effects, has the potential to be a useful tool for planning authority decisions. The planning authority should consider overlaying this as a layer on the land use zoning maps in order to increase the utility of the map as a decision making tool.

The Office notes, however, that the OPW still has concern over the failure of the planning authority to undertake the required Justification Tests at plan-making stage for existing developed zonings, contrary to the requirements of the guidelines, as clarified by Circular PL 2/2014, which states:

'Where the planning authority considers that the existing use zoning is still appropriate, the planning authority must specify the nature and design of structural or non-structural flood risk management measures required prior to future development in such areas, in order to ensure that flood haz ard and risk to the area and to other adjoining locations will not be increased, or if practicable, will be reduced.

MA Observation 3 – Cahirabbey Opportunity Site Masterplan

Having regard to the requirements of 'The Planning System and Flood Risk Management Guidelines for Planning Authorities' (2009), **as clarified by Circular PL 2/2014**, the planning authority is requested, **in consultation with the OPW**, to fully implement the requirements of the guidelines through the carrying out of its SFRA to inform the proposed LAP, including:

- (i) the application of the Justification Test to urban centre sites where highly vulnerable and vulnerable uses would be accommodated in Flood Zone A and highly vulnerable uses would be accommodated in Flood Zone B, including the Mill Opportunity Site (in this regard the provisions of Circular PL 2/2014, including paragraph 2.27a, are of particular importance);
- (*ii*) take account of the potential impact of climate change on flood extent, having regard to CFRAMs and to the Guidelines; and
- (*iii*) give consideration to the inclusion of climate change adaptation strategies for the Mill Opportunity Site as part of the proposed LAP.

2.0 Amendment 2

The Office notes the proposal to amend a footnote (no.13) to the zoning matrix of the draft LAP, which explains the primary purpose of the agricultural land use zone Objective (AG), as follows:

Primary purpose of this zoning is to preserve the integrity of these lands and to ensure future access; therefore, proposals for new homes will be directed to alternative locations outside of this zoning type. Applications for single homes will only be permitted in exceptional cases to persons who are direct descendants of farming long term landowners.

The footnote (original and as amended), which effectively comprises a rural housing policy for the draft LAP area, is considered contrary to the advice of the *Local Area Plan Guidelines for Planning Authorities* (2014) that LAPs should be clear and concise and easy to understand. The Office would

therefore strongly advise the planning authority to avoid this approach in future, in the interest of clarity for all parties operating within the planning system.

Furthermore, the said policy, as initially proposed and as amended, is inconsistent with the rural housing policy under section 3.4 of the South Tipperary County Development Plan 2009 (as varied). This is contrary to the provisions of section 19(2) of the Act which requires that the LAP shall be consistent with the objectives of the development plan.

MA Observation 4 – Rural Housing Policy

Having regard to the provisions of section 19(2) of the Act and to the provisions of section 3.4 of the South Tipperary County Development Plan 2009 (as varied), the planning authority is advised to amend the wording of proposed amended footnote 3, to ensure the LAP is consistent with the Rural Housing Policy (policy SS4) of the Development Plan, by reference to the requirement to comply with Category B: Functional Need to Live in a Rural Area, or Category C: Exceptional Medical Circumstances under the said policy SS4 Housing in the Rural Countryside.

In summary

The Office requests that your authority addresses the recommendations outlined above, which are made in the context of the provisions of section 31AO(3)(a) of the Act, in order to ensure that the LAP is consistent with relevant national and regional 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 **five working days** of the making of the local area plan and send a copy of the written statement and maps as made, in accordance with section 31AO(5) of the Act. **Please note that this statutory time line differs from the requirement for other consultees and must be complied with.**

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.

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.

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Anne Marie O'Connor Deputy Regulator and Director of Plans Evaluations