



Oifig an
Rialaitheora Pleanála
Office of the
Planning Regulator

20 October 2021

Mr. Peter Burke TD
Minister for Local Government and Planning
Department of Housing, Local Government and Heritage
Custom House
Dublin 1
D01 W6X0

BY HAND AND BY EMAIL

**Re: Notice Pursuant to section 31AM(8) of the Planning and Development Act
2000 (as amended) – Meath County Development Plan 2021-2027**

A chara,

I am writing to you in relation to the recent adoption by the elected members of the Meath County Development Plan 2021-2027 (the 'Development Plan').

In particular, I am writing to you in the context of the statutory duty of the Office of the Planning Regulator ('the Office') pursuant to section 31AM(8) of the Planning and Development Act 2000 (as amended) (the 'Act') to issue a Notice to you on the basis that, having considered the Development Plan, the Office is of the opinion that:

- a) the Development Plan has not been made in a manner consistent with recommendations of the Office, which required specific changes to the Development Plan to ensure consistency with:
 - i. *The Planning System and Flood Risk Management Guidelines for Planning Authorities (November 2009)* published by the Minister under Section 28 of the Act, specifically that in relation to particular material amendments to the draft development plan adopted by the elected

- members, the Development Plan zones land for development in areas of flood risk without application of the sequential approach and the Justification Test; and
- ii. the national policy objectives (NPOs) of *Project Ireland 2040 National Planning Framework* (the NPF) and the regional policy objectives (RPOs) of the *Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy* (the RSES), specifically that in relation to particular material amendments to the draft development plan adopted by the elected members, the Development Plan does not support compact growth of certain towns and villages; and
- b) as a consequence of the above, the Development Plan made by Meath County Council fails to set out an overall strategy for the proper planning and sustainable development of the area concerned, which is a breach of the requirements of the Act; and
- c) the use by you of your function to issue a direction under section 31 of the Act would be merited.

The reasons for the Opinion of the Office are set out in further detail in section 2 of this Notice letter. This letter is a Notice to you pursuant to section 31AM(8) of the Act.

1. Background

The Draft Meath County Development Plan 2021 – 2027 (the draft Plan) was on public display from 18th December 2019 until 6th March 2020.

The Office made a submission on the draft Plan containing 17 no. recommendations and 13 no. observations (6th March 2020).

In relation to the overall pattern of development proposed by the Council under the core strategy of the draft Plan, the Office was generally satisfied with the approach proposed taking account of the relevant policy contexts while making more specific recommendations in relation to specific settlements in relation to the availability of land for longer term development and compact growth.

The Office also included a recommendation (recommendation no. 9) requesting the planning authority to review certain assumptions and to revisit the approach to zoning for residential and mixed development.

The Office did not issue a recommendation or observation in relation to implementation of *The Planning System and Flood Risk Management Guidelines for Planning Authorities (November 2009)*.

The elected members, having considered the draft Plan and the Chief Executive's (CE's) Report on submissions received, resolved to amend the Draft Meath Development Plan 2021 – 2027 over a series of Special Planning Meeting held from November 2020 to March 2021, with the final meeting on the 5th March 2021. The material alterations to the draft Plan were on public display from Monday 31st of May to Tuesday the 29th of June 2021.

The material alterations included, inter alia, approximately 92 no. proposed material amendments to the objectives for the zoning of land for the use solely or primarily of particular areas for particular purposes. Of these, 22 material amendments applied 'A2 New Residential' zoning objectives to additional lands, although eight effectively comprised an exchange of that zoning objective between different lands within a settlement. The Office had no issue with the majority of the proposed amended zoning objectives, including those to which 'A2 New Residential' was proposed to be applied, but raised concern with 12 proposed material amendments on grounds of:

- in some cases inconsistency with national and regional policy objectives for compact growth (NPO 3c and RPO 3.2) and/or for proportionate growth and consolidation of rural villages (NPO 18a and RPO 4.83); and,
- in some cases, inconsistency with the provisions of section 28 Ministerial guidelines, including *The Planning System and Flood Risk Management (2009)* and clarifying Circular PL2/2014 due to the location of the amendment within the flood risk zone A/B; and
- in some cases, having regard to the conclusions of the SEA and AA report for the material amendments.

Having considered the aforementioned Report of the Chief Executive (CE) on submissions to the Draft Meath County Development Plan 2021 – 2027, the Office made a submission on the material alterations to the draft Plan containing 5 recommendations (29th June 2021). The Office's submission letter stated:

'... your authority is advised that the Office is of the view that a number of material alterations to the draft Plan, if adopted in their current form, would have the potential to lead to substantial breaches of strategic planning policies of the Minister and that such material alterations, therefore, should not be made or should be further modified as appropriate, mindful of section 12(10) of the Act, which provides that the members of the planning authority may make a further modification to an alteration subject to the limitations set out in subsection 10(c) parts (i) and (ii).

Of the 5 recommendations in its submission on the material alterations to the draft Plan, the Office made specific recommendations in relation to zoning objectives (MA Recommendation 2) and flood risk management (MA Recommendation 4).

Subsequently, the Chief Executive sent a notice letter dated 9th September 2021 to the Office advising of the making of the Development Plan and that MA Recommendation 2, MA Recommendation 4, and MA recommendation 5, issued by this Office to the material alterations, had not been complied with in full.

Having reviewed the CE's reports on the Draft Plan and material alterations to the Draft Plan, the notice of the making of the Development Plan and the reasons in the notice letter, the Office has concluded that, with the exception of MA Recommendations 2 and 4, below, the other recommendations of the OPR have been responded to in the reports and/or Notice and have been addressed to the satisfaction of the Office, or are otherwise considered satisfactory within the legislative and policy context.

MA Recommendation 2 – Material alterations to zoning

The Office issued a recommendation (MA Recommendation 2 – Material alterations to zoning) requiring the Plan be made without (i.e. to omit) the following 12 material amendments. The rationale for this recommendation was provided as follows:

Alteration no.	Vol.2 Page	Proposal and comment
Ashbourne MA 08	9	<p>Change from Rural Area RA to New Residential A2.</p> <p>Peripheral site adjacent the M2. It is inconsistent with NPO 3c and RPO 3.2 for compact growth and is not required to meet the core strategy population target for Ashbourne.</p>
Athboy MA 03	19	<p>Change from Rural Area RA to New Residential A2.</p> <p>Detached from the settlement and will not contribute to compact growth. Adjacent River Boyne and Blackwater SPA.</p> <p>The site is within flood risk zone and would therefore be required to pass the plan-making Justification Test before it is zoned for vulnerable uses.</p>
Clonard MA 01	24	<p>Relatively extensive change from minor commercial / town or village centre B1 and Rural Area RA to community G1, open space F1 and new residential A2 on the periphery.</p> <p>The additional area is not proportional to the size of the village and the location of A2 land is peripheral and inconsistent with NPO 3c and RPO 3.2 for compact growth.</p>
East Meath MA 05	44	<p>Change from Rural Area RA to Tourism D1 and Open Space F1 (buffer).</p> <p>The site is within flood zone A. The land use zoning objective D1 allows for a range of uses that are highly vulnerable to flood risk, including B&B/Guesthouse, Caravan park, Children Play etc.</p> <p>The site would therefore be required to pass the plan-making Justification Test before it is zoned for vulnerable uses.</p> <p>The site is adjacent the Boyne Coast and Estuary SAC and the Boyne Estuary SPA and the SEA notes likely significant effects on biodiversity and surface water / flooding.</p>
East Meath MA 06	45	<p>Change from Rural Area RA to Open Space F1 and New Residential A2.</p> <p>The site is within flood zone A and would therefore be required to pass the plan-making Justification Test before it is zoned for vulnerable uses.</p>

		<i>The site is adjacent the Boyne Estuary SPA and almost adjacent the Boyne Coast and Estuary SAC and the SEA notes likely significant effects on environment and surface water / flooding.</i>
<i>East Meath MA 11</i>	<i>11</i>	<i>Change from Open Space F1 to New Residential A2. The site is located in flood risk zone A, which may be exacerbated by climate change and would therefore be required to pass the plan-making Justification Test before it is zoned for vulnerable uses.</i>
<i>Moynalty MA 01</i>	<i>86</i>	<i>Change of use from Rural Area RA to New Residential A1. Located at s distance from the village. Contrary to policy objectives for compact growth NPO 3a and RPO 3.2, and to NPO 18a and RPO 4.83 to ensure the proportionate growth and consolidate of rural towns and villages.</i>
<i>Navan MA 05</i>	<i>92</i>	<i>Change from Rural Area RA to New Residential A2 Phasing post 2027. Location is inconsistent with NPO 3c and RPO 3.2 for compact growth and is peripheral development and backland development.</i>
<i>Navan MA 07</i>	<i>93</i>	<i>Change from Mixed Use C1 to New Residential A1. The site is within the flood risk zone and would therefore be required to pass the plan-making Justification Test before it is zoned for vulnerable uses.</i>
<i>Slane MA 04</i>	<i>121</i>	<i>Change from Rural Area RA to Tourism D1. The site is adjacent to and may encroach on the SPA/SAC boundary. The site is also partly within a flood risk zone and would therefore be required to pass the plan-making Justification Test before it is zoned for vulnerable uses, including for tourism.</i>
<i>Summerhill MA 2</i>	<i>125</i>	<i>Change from Rural Area RA to Community G1. The site is partly within the flood risk zone and would therefore be required to pass the plan-making Justification Test before it is zoned for vulnerable uses.</i>
<i>Trim MA 06</i>	<i>134</i>	<i>Change from Rural Area RA to Community G1 and Tourism D1. The proposal is contrary to objectives NPO 3a and RPO 3.2 for compact growth.</i>

The CE Report on Submissions on the Proposed Material Alterations to the Draft Meath County Development Plan 2021-2027, recommended implementing the Office's recommendation, in full, that is, to make the Plan without the 12 material alterations.

The Elected Members voted to adopt the Plan in accordance with the CE Report recommendation in respect of 3 material amendments (*ie* omitting the zoning objectives), but contrary to the CE Report recommendation in respect of the following 9 material amendments (*ie* retaining the zoning objective):

- Ashbourne MA No.08,
- Athboy MA No.03,
- Clonard MA No.01,
- East Meath (Bettystown) MA No.05,
- Moynalty MA No.01,
- Navan MA No.05,
- Slane MA No.04,
- Summerhill MA No.02 and
- Trim MA No.06.

Consideration of reasons given by elected members

Having considered the reasons given by the elected members, the Office accepts the rationale provided by members in relation to the following material amendments:

- Navan MA No.05
- Clonard MA 01
- Trim MA No.06

The reasons the elected members gave for rejecting MA Recommendation 2 in respect of the remaining 6 material amendments were as follows:

	Ref	Reasons

1	Ashbourne MA 08	<p>No guidelines around sound</p> <p>Engineering and natural solutions exist to eliminate sound and light from motorway</p> <p>Cycleway and path links will be provided to the site</p> <p>No history of flooding on the site</p>
2	Athboy MA 03	<p>No impact on the Core Strategy</p> <p>Intention of landowner to develop a nursing home which is a much needed service in the community</p> <p>No other lands are available in the town for this type of development</p> <p>Elements of the site are not in a flood zone and engineering solutions could be used as part of the development management process</p> <p>Site is zoned under the Meath County Development Plan 2013-2019</p>
3	East Meath MA 05	<p>Site currently has planning permission for a driving range</p> <p>Need to address issues with regards to lack of tourism facilities</p> <p>Need to encourage tourism</p> <p>This is the only site available for this type of facility</p> <p>Flood issues can be addressed as part of the development management process with mitigation measures</p>
4	Moynalty MA 01	<p>Only available site in Moynalty that is serviced and where the landowner is willing to develop</p> <p>Site will not compromise the Architectural Conservation Area of Moynalty and will allow for modest local development</p> <p>Would reduce the number of people seeking to build one-off houses in the area</p>
5	Slane MA 04	<p>Site is currently used for tourism purposes</p> <p>Sustainable employment on the site</p>
6	Summerhill MA 2	<p>Only some of the site is subject to flooding and this can be addressed under the development management process</p>

		Site is adjacent to support services for the elderly Close to the motorway and trainline Core Strategy neutral
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Having considered the reasons given by the elected members, the Office remains of the view that 6 material amendments are inconsistent with national and regional policy for the following reasons:

(1) Ashbourne MA 08 – *Change from Rural Area RA to New Residential A2*. The reasons given do not address the substantive issue in the recommendation concerning this amendment, which was in respect of the peripheral location of the land and inconsistency with NPO 3c and RPO 3.2, compact growth. Based on the Core Strategy Table in the adopted Plan (table 2.11) Ashbourne is not projected to fully achieve the target of 30% of new homes within the existing built-up footprint but is instead projected to achieve c.26% and sufficient lands have been zoned for residential use in Ashbourne to meet the core strategy population in the adopted Plan (table 2.11).

(2) Athboy MA 03 - *Change from Rural Area RA to New Residential A2*. The reasons given by elected members refer to the intended use of the lands for a nursing home. The G1 Community zoning would, however, accommodate a range of uses, including group housing, residential / sheltered housing, retirement home / residential institution / retirement village and community services. The additional zoned area is located in a peripheral location, detached from the small settlement, c.500m from the existing built up area as defined by the CSO, without pedestrian footpaths or public street lighting. There is no information on availability of other essential infrastructure for this site.

The site is also located within Flood Zone B and under the Ministerial Flood Risk Management Guidelines 2009 the plan-making Justification Test must be satisfied before it is zoned for highly vulnerable uses such as a nursing home (Table 3.2 FRMG). No plan-making Justification Test has been carried out.

Furthermore, the reasons provided for not complying with the Office's recommendation do not address the Office's recommendation that the Plan be made without Athboy MA No.3 due to its location relative to a designated European Site (River Boyne and Blackwater SPA).

The Appropriate Assessment and the SEA Environmental Report¹ of the proposed material amendments, in respect of this specific amendment noted that '*This area is very vulnerable to development*'. The Appropriate Assessment mitigation measures included the incorporation of a 25m buffer space / open space zoning in between the SAC & SPA boundary and the zoning. The adopted plan was made without the buffer.

The SEA also refers to the Appropriate Assessment (Table 3.1), and under SEA 'mitigation/ recommendation' states "*Retain Draft Plan zoning. Alternatively provide for minimum 25m setback buffer / open space between SAC / SPA boundary and zoning change. Open space uses only within Flood Zone A/B.*"

(3) East Meath MA 05 – Change from Rural Area RA to Tourism D1 and Open Space F1 (buffer). This site is primarily located in Flood Zone A, with the remainder of the site in Flood Zone B. The reasons given by the members state that flood issues can be addressed as part of the development management process with mitigation measures. These reasons did not address the substantive issue, that is the zoning for development that includes highly vulnerable uses such as B&B/Guesthouse, Caravan park, hotel, motel, hostel, and childcare facility within Flood Zone A and B, and less vulnerable uses, such as community facility, craft centre/shop, restaurant/ café within Flood Zone A, without carrying out a plan-making Justification Test, as required by the *The Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009), as revised.

The SEA also refers to the Strategic Flood Risk Assessment, and under SEA 'mitigation/ recommendation' states "*Retain Draft Plan zoning. No development*

¹ This comprised a single document entitled '*Meath Draft County Development Plan 2021-2027 Material Amendments Screening for Strategic Environmental Assessment (SEA) & Appropriate Assessment (AA) and for SEA & AA*'.

within open space zoned lands. Proposed development to be limited to water compatible uses.”

(4) Moynalty MA 01 – Change of use from Rural Area RA to New Residential A1.

The reasons given do not address the substantive issue in the recommendation concerning this amendment, which was in respect of the peripheral location of the land and inconsistency with NPO 3c and RPO 3.2, compact growth. The additional A2 New Residential zoning is at a remove from the general fabric of the village, and is not therefore consistent with compact growth.

The SEA also states that *“Zoning would lead to unnecessary residential development in rural setting with potential negative environmental effects on landscape and material assets, and loss of habitat”*. The ‘mitigation/ recommendation’ states *‘Retain Draft Plan zoning’*.

(5) Slane MA 04 – Change from Rural Area RA to Tourism D1. The site is partially located within Flood Zone A, partially in Flood Zone B and the remainder of the site is not subject to flood risk (Flood Zone C). The reasons given by the members did not address the substantive issue, that is the zoning of land for highly vulnerable/ less vulnerable uses, including B&B/Guesthouse, Caravan park, hotel etc., within a flood zone, without the application of the plan-making Justification Test, contrary to *The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)*, as revised.

Furthermore, the members did not address the Office’s recommendation that the Plan be made without Slane MA No.4 due to the location relative to the River Boyne and River Blackwater Special Area of Conservation (site no.002299) and the River Boyne and River Blackwater Special Protection Areas (site no.004232).

The Appropriate Assessment and the SEA Environmental Report² of the proposed material amendments noted that Slane MA No.04 *‘is adjacent to the Boyne Valley includes the River Boyne and River Blackwater SAC and SPA, as well as leading to*

² This comprised a single document entitled *‘Meath Draft County Development Plan 2021-2027 Material Amendments Screening for Strategic Environmental Assessment (SEA) & Appropriate Assessment (AA) and for SEA & AA’*.

the Boyne Coast and Estuary SAC, Boyne Estuary SPA, River Nanny Estuary and Shore SPA. This area is very vulnerable to development.'

The Appropriate Assessment mitigation measures included the following: 'Zoning should remain as open space. Area is narrow so that a 25m buffer space / open space between SAC boundary and land parcel would probably result in much of the land parcel being subsumed by the buffer.'

The SEA also refers to the SFRA and Appropriate Assessment (Table 3.1), and under SEA 'mitigation/ recommendation' states "Retain Draft Plan zoning".

(6) Summerhill MA 02 – *Change from Rural Area RA to Community G1*. The site is partially located within the Flood Zone A/B. The Office does not dispute the members' assertion that only part of the site is subject to flooding, but would highlight that *The Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009), as revised, requires that before any land within flood zone A/B is zoned for vulnerable development the application of the Justification Test is required. Having regard to the limited extent of the flood risk on the periphery of the site, the Office is satisfied that this specific material amendment can be addressed by way of the general requirement for a plan-making Justification Test under MA Recommendation 4 below.

In addition, **Athboy MA No.3** and **Slane MA 04** the Plan was adopted without the mitigation measures set out in the Appropriate Assessment. The Conclusion on Appropriate Assessment states:

The risks to the safeguarding and integrity of the qualifying interests, special conservation interests and conservation objectives of the European sites have been addressed by the inclusion of mitigation measures for the Proposed Material Amendments that will prioritise the avoidance of effects in the first place and mitigate effects where these cannot be avoided.

..... Having incorporated the recommended mitigation measures, it is concluded that the Proposed Material Amendments to the Meath Draft County Development Plan 2021-2027 are not foreseen to give rise to any adverse effects on designated European Sites, alone or in combination with other plans or projects. This evaluation is made in view of the conservation

objectives of the habitats or species for which these sites have been designated.

The Appropriate Assessment conclusion of 'no adverse effects' is therefore based on the omission of the change in zoning as proposed by Slane MA No.4, and the incorporation of a 25m buffer area in respect of Athboy MA No.3. The members have given no reason for not accepting these mitigation measures, nor have any reasons been given for concluding that the Plan would not adversely affect European sites without the mitigation measures.

Similarly, the SEA clearly identified likely significant effects in respect of Athboy MA 03, East Meath MA 05, Moynalty MA 01, Slane MA 04, and included 'mitigation/recommendation' to retain the draft zoning in each case (with the exception of Athboy MA03 where an alternative buffer is provided for). The members have given no reason for not accepting these mitigation/recommendations of the SEA.

MA Recommendation 4 – Flood Risk Management

MA Recommendation 4 (Flood risk management) required

The Planning Authorities and Flood Risk Management Guidelines (2009), as revised by Circular PL 2/2014, provide that where a planning authority is considering (in the plan) the future development (for vulnerable development) of areas at a high or moderate risk of flooding, that would generally be inappropriate under the sequential approach (section 3.2), the planning authority must be satisfied that it can clearly demonstrate on a solid evidence base that the zoning or designation for development will satisfy the Justification Test for the plan making stage (Box 4.1).

The planning authority is required to review the Strategic Flood Risk Assessment, in consultation with the OPW, to ensure consistency with the Flood Risk Planning Authorities and Flood Risk Management Guidelines (2009), as revised. The land use zoning objectives under the draft Plan, including the proposed material alterations, are also required to be reviewed and amended, as appropriate, having regard to the revised SFRA, and in accordance with the application of the sequential approach, and the

Justification Test where appropriate, and having regard to potential climate change effects.

This review may entail:

- *the deletion of proposed material alterations within flood risk zones;*
- *the inclusion of necessary alterations to relevant zonings proposed in the original draft plan within flood risk zones to ensure consistency with the guidelines.*

The Office notes that the submission of the Office of Public Works on the material alterations (21st of June 2021) also raised concerns in relation to flood risk management.

Notwithstanding that the requirement related to the material alterations generally, the Office indicated in the pre-amble to the recommendation that 11 material amendments, 6 of which are also part of MA Recommendation 2, were of particular concern.

In respect of MA Recommendation 4, the CE Report stated that the planning authority had not reviewed the Strategic Flood Risk Assessment (SFRA), as *'it is not considered necessary, appropriate or possible to undertake such a significant review'* at material amendments stage (vol.1 p.62, responding to OPW submission).

The CE report recommended that, of the 11 material amendments of concern to the OPR, 7 should be omitted, 2 should be subject to minor modifications, and 2 retained.

The Elected Members adopted a mixed approach to the recommendations of the CE report above, and made the Plan inclusive of 5 of the material amendments referenced in connection with MA Recommendation 4 as follows:

- Navan MA No 8 (consistent with recommendation of the CE report);
- Athboy MA No 3 (addressed above under Recommendation MA 2);
- Bettystown (East Meath) MA No 10 (consistent with recommendation of the CE report);

- Dunshaughlin MA No 2 (contrary to the recommendation of the CE report);
- Summerhill MA No 2 (contrary to the recommendation of the CE report);
- Trim MA No 6 (contrary to the recommendation of the CE report).

Consideration of reasons given by Chief Executive and elected members

The Office does not accept the reason given by the CE that Strategic Flood Risk Assessment (SFRA) has not been reviewed as ‘*it is not considered necessary, appropriate or possible to undertake such a significant review*’ at material amendments stage’. The requirement to adopt the sequential approach and to carry out a plan-making justification test is clearly set out in the Guidelines, and there is no exclusion for lands proposed to be zoned for development at the material alterations stage. The Office notes, however, that the CE report adopted an alternative approach to the recommendation, *ie* through the omission, minor modification or retention of the individual modifications.

The elected members did not give a reason for failing to review the SFRA carried out for the Plan to ensure consistency with *The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)*, as revised.

In relation to the recommendation to review the proposed material alterations in accordance with the application of the sequential approach (section 2.3 of the guidelines) and the Justification Test (box 4.1 of the Guidelines), the reasons of the elected members in respect of a number of the material amendments included that flood risk matters would be addressed at the development management stage.

The document *The Planning System and Flood Risk Management - Guidelines for Planning Authorities (November 2009)*, as revised, is aimed at ensuring a more consistent, rigorous and systematic approach to flood risk identification, assessment and management within the planning system. In summary, these guidelines provide that:

- development in areas at risk of flooding should be avoided unless there are wider sustainability grounds that justify appropriate development and where

the risk to development on site and to other areas can be reduced or managed to an acceptable level;

- a sequential approach must be adopted to flood risk management when assessing the location of new development based on avoidance, reduction and mitigation of flood risk; and
- that where a planning authority is considering (in the plan) the future development (for vulnerable uses) of areas that are at a high or moderate risk of flooding, the planning authority must be satisfied that it can clearly demonstrate on a solid evidence base that the zoning or designation for development will satisfy the Justification Test for the plan making stage (Box 4.1)..

These statutory guidelines, when taken together with the legislative measures in the planning code, provide a sound basis for planning authorities to identify, assess and take appropriate steps to manage flood risk in a sustainable manner within their area.

In respect of the reasons given by elected members the following is relevant:

- The guidelines specify provisions in respect of the consideration of planning applications through the development management process. These are, however, additional to the plan-making provisions, and are not a replacement for same.
- The Guidelines do not differentiate between lands that are partially located in Flood Zone A or B. Any lands proposed to be zoned for highly vulnerable development in areas at a high or moderate risk of flooding are subject to the aforementioned provisions.

Having considered the reasons given by the elected members, the Office remains of the view that the following 4 material amendments comprise inappropriate zoning for development where at least part of the lands are identified as Flood Risk A or B in the SFRA. These material amendments include 3 identified by the Office in connection with MA Recommendation 4, and an additional material amendment identified by the OPW in its submission to the Planning Authority (Rathoath MA 03) and recommended to be subject to a minor modification in the CE report:

- (1) Dunshaughlin MA No 2
- (2) Summerhill MA No 2
- (3) Trim MA No 6
- (4) Rathoath MA 03

Summary

Despite the Office's clear recommendations contained in MA Recommendation 2 and 4, the members of the planning authority resolved to make the Development Plan with material alterations which:

- a) Include individual instances of piecemeal zoning, introduced as material amendments to the draft Plan, where the Office has identified inconsistency with national and regional policy and/or section 28 Guidelines including:
 - (i) Land for development located in peripheral locations detached from the existing settlement, inconsistent with the requirements for compact growth in NPO 3c and RPO 3.2. (Asbourne MA 08; Moynalty MA 01)
 - (ii) Land for development in excess of that needed to meet the core strategy population in the adopted Plan (table 2.11) and which would further undermine the achievement of brownfield development targets. (Asbourne MA 08)
 - (iii) Land proposed for development despite the fact that the mitigation measures upon which the Appropriate Assessment Conclusion was based included the omission of Slane MA 04 and the provision of a 25m buffer for Athboy MA No.3, and where no reason for rejecting these mitigation measures or reasoning to support the AA Conclusion without such measures has been given.
 - (iv) Land proposed for development despite the fact that the mitigation/recommendation of the Strategic Environmental Assessment included the omission of Athboy MA 03, East Meath MA 05, Moynalty MA 01, Slane MA 04 (with the exception of Athboy MA03 where an alternative buffer is provided for).

(v) Land zoned for development vulnerable to flood risk in areas known to be at risk of flooding contrary to the statutory guidelines of the Minister *The Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009), as revised. (Athboy MA 03, East Meath MA 05, Slane MA 04).

b) Include individual instances of inappropriate zoning for development where at least part of the lands are identified as Flood Risk A or B in the SFRA, and where the sequential approach and the plan-making Justification Test have not been undertaken in accordance with the *Flood Risk Planning Authorities and Flood Risk Management Guidelines* (2009), as revised.

2. Opinion of the Office and Reasons

Having considered the adopted Development Plan, the Office also notes, under section 31 AM(7) of the Act, that the said Development Plan has not been made in a manner consistent with the recommendations of the Office.

Further, the Office does not accept that the reasons given for not implementing the Office's recommendations in the notice letter dated 9th September 2021 adequately justify the failure to implement those recommendations or explain how, notwithstanding that failure, the Development Plan as adopted sets out an overall strategy for the proper planning and sustainable development of the area.

As you will be aware, under section 31AM(1)(a-e) of the Act, the Office has a statutory duty to evaluate and assess local authority development plans.

The following provisions of the Act are relevant in terms of the evaluation and assessment of local authority development plans such as this Development Plan:

- The provisions of section 31AM(2) as set out above.
- Under section 31 AM(3)(a), the Office shall make such recommendations in relation to the Office's evaluation and assessments to those authorities as it considers necessary in order to ensure effective co-ordination of national,

regional and local planning requirements by the relevant planning authority in the discharge of its development planning functions.

- In performing its functions, the Office must, under section 31P(3) of the Act, take account of the objective for contributing to proper planning and sustainable development and the optimal functioning of planning under the Act.
- Under section 31S, the Office must, in performing its functions, have regard to:
 - a) the policies and objectives for the time being of the Government, a State authority (including Ministerial guidelines, policy directives and directions issued under *Chapter IV of Part II*), planning authorities and any other body which is a public authority whose functions have, or may have, a bearing on the proper planning and sustainable development of cities, towns, villages or other areas, whether urban or rural,
 - b) the public interest and any effect the performance of the Office's functions may have on issues of strategic, economic or social importance to the State,
 - c) the National Planning Framework (or, where appropriate, the National Spatial Strategy) and any regional spatial and economic strategy for the time being in force, and
 - d) the requirements of relevant acts of the European Union, in particular, those relating to—
 - (i) the Environmental Impact Assessment Directive,
 - (ii) Directive 2001/42/EC of the European Parliament and Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment,
 - (iii) the Habitats Directive, and
 - (iv) the Birds Directives,

in so far as those requirements relate to planning authorities by virtue of being designated competent authorities for the purposes of those acts.

Accordingly, having considered the Development Plan in light of section 31AM(1)(a-e), section 31AM(2), section 31AM(3)(a), section 31P(3) and section 31S, and the letter from the planning authority of the 9th September 2021 issued under section 31AM(6), the Office is of the opinion that the Development Plan has not been made in a manner consistent with the recommendations of the Office under Section 31AM (7).

The Development Plan as made is inconsistent with Ministerial Guidelines issued under Section 28 of the Act, specifically *The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)* which require Planning Authorities to avoid development within areas at risk of flooding and to only consider development within areas at risk where it passes the provisions of the sequential approach and plan-making Justification Test detailed in the Guidelines.

Furthermore, the adopted Development Plan includes material amendments to the draft Plan, that are inconsistent with the Appropriate Assessment and the ‘mitigation/recommendation’ of the Strategic Environmental Assessment and which individually and cumulatively are not consistent with the Core Strategy, national and regional planning policy, and the proper planning and sustainable development of the area.

Moreover, having considered the reasons given by the elected members as set out above, the Office remains of the view that provisions of the development plan as made are inconsistent with National Planning Objective NPO3(c), Regional Policy Objective RPO 3.2, and the section 28 *The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)* and that the inclusion of such provisions, individually and cumulatively means the plan as made fails to set out an overall strategy for the proper planning and development of the area because such amendments:

- enable development in locations at risk of flooding and/or contrary to the statutory guidelines on flood risk;
- facilitate development at locations disconnected from nearby towns and villages and infrastructure required for such development;
- zone land for development inconsistent with the appropriate assessment of the likely significant effects of such development on designated European

sites and the strategic environmental assessment of the likely significant effects on the environment; and

- encourage a pattern of development in particular locations not in accordance with the proper planning and development of such areas, planned and sequential development and the wider provisions of the Core Strategy of the development plan.

The factors that the Office has taken into account in forming this opinion are as follows:

- i. *The Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009) which:

“require the planning system at national, regional and local levels to:

Avoid development in areas at risk of flooding, particularly floodplains, unless there are proven wider sustainability grounds that justify appropriate development and where the flood risk can be reduced or managed to an acceptable level without increasing flood risk elsewhere;

Adopt a sequential approach to flood risk management when assessing the location for new development based on avoidance, reduction and mitigation of flood risk;”

- ii. 92/43/EEC The Habitats Directive.
- iii. Directive 2001/42/EC of the European Parliament and Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment,
- iv. National Policy Objective NPO3(c) and Regional Policy Objective 3.2 which state:

NPO3(c)

Deliver at least 30% of all homes that are targets in settlements other than the five Cities and the suburbs, within existing built-up footprints.

RPO 3.2

Local authorities, in their core strategies shall set out measures to achieve compact urban development targets of at least 50% of all new homes within or contiguous to the built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.

- v. The Core Strategy population in Table 2.11 of the adopted Development Plan.
- vi. The Chief Executive's reports on submissions on the draft Development Plan and material alterations to the draft Development Plan.
- vii. The requirements of section 12(18) and section 28(1) and 28(1A) of the Act.

In light of the above, the Office is therefore of the opinion that the Development Plan has not been made in a manner consistent with its recommendations and that the Development Plan fails to set out an overall strategy for the proper planning and sustainable development of the area.

3. Recommendation to the Minister

Having regard to section 31AM(8) of the Act, the Office recommends the exercise of your function under the relevant provisions of section 31 of the Act taking such steps as to rectify the matter as set out in the draft direction to the planning authority accompanying this notice, i.e.

- a. Reinststate the following zoning objectives to that of the draft Plan, consistent with the recommendation of the Chief Executive report on Submissions on the Proposed Material Alterations to the Draft Meath County Development Plan 2021-2027:
 - i. **Ashbourne MA 08** – *Change from Rural Area RA to New Residential A2.*
 - ii. **Athboy MA 03** - *Change from Rural Area RA to New Residential A2.*
 - iii. **East Meath MA 05** – *Change from Rural Area RA to Tourism D1*
 - iv. **Moyalty MA 01** – *Change of use from Rural Area RA to New Residential A1.*

- v. **Slane MA 04** – *Change from Rural Area RA to Tourism D1*
- b. Amend the following zoning objectives to exclude land identified as Flood Zone A or B in the Strategic Flood Risk Assessment, and reinstate the zoning objective for that part of the land to that of the draft Plan:
 - (5) Dunshaughlin MA No 2
 - (6) Summerhill MA No 2
 - (7) Trim MA No 6
 - (8) Rathoath MA 03.

Please do not hesitate to contact the Office should you have any queries in relation to the above. Contact can be initiated through the undersigned or at plans@opr.ie.

Yours sincerely,



Niall Cussen

Planning Regulator

niall.cussen@OPR.ie

DRAFT DIRECTION IN THE MATTER OF SECTION 31
OF THE PLANNING AND DEVELOPMENT ACT 2000 (as amended)
Meath County Development Plan 2021-2027

“Development Plan” means the Meath County Development Plan 2021-2027

“Planning Authority” means Meath County Council

WHEREAS the powers and duties of the Minister for Housing, Local Government and Heritage under the Planning and Development Act 2000 (as amended), other than the power to prosecute an offence, have been delegated to the Minister of State for Local Government and Planning pursuant to the Housing, Planning and Local Government (Delegation of Ministerial Functions) (No. 2) Order 2017 (S.I. 352 of 2017).

WHEREAS the Minister of State at the Department of Housing, Local Government and Heritage in exercise of the powers conferred on him by section 31 of the Act 2000, and consequent to a recommendation made to him by the Office of the Planning Regulator under section 31AM(8) of the Act hereby directs as follows:

- (1) This Direction may be cited as the Planning and Development (Meath County Development Plan 2021-2027) Direction 2021.
- (2) The Planning Authority is hereby directed to take the following steps:
 - a. Reinstate the following zoning objectives to that of the draft Plan, consistent with the recommendation of the Chief Executive report on Submissions on the Proposed Material Alterations to the Draft Meath County Development Plan 2021-2027:
 - i. Ashbourne MA 08 – Change from Rural Area RA to New Residential A2.
 - ii. Athboy MA 03 - Change from Rural Area RA to New Residential A2.

- iii. East Meath MA 05 – Change from Rural Area RA to Tourism D1
 - iv. Moynalty MA 01 – Change of use from Rural Area RA to New Residential A1.
 - v. Slane MA 04 – Change from Rural Area RA to Tourism D1
- b. Amend the following zoning objectives to exclude land identified as Flood Zone A or B in the Strategic Flood Risk Assessment, and reinstate the zoning objective for that part of the land to that of the draft Plan:
- i. Dunshaughlin MA No 2
 - ii. Summerhill MA No 2
 - iii. Trim MA No 6
 - iv. Rathoath MA 03

STATEMENT OF REASONS

- I. The Development Plan as made is inconsistent with Ministerial Guidelines issued under Section 28 of the Act, specifically *The Planning System and Flood Risk Management, Guidelines for Planning Authorities (2009)* which require Planning Authorities to avoid development within areas at risk of flooding and to only consider development within areas at risk where it passes the provisions of the sequential approach and plan-making Justification Test detailed in the Guidelines.
- II. The Development Plan as made includes material amendments to the draft Plan, that are inconsistent with the Appropriate Assessment and the ‘mitigation/ recommendation’ of the Strategic Environmental Assessment and which individually and cumulatively are not consistent

with the Core Strategy, national and regional planning policy, and the proper planning and sustainable development of the area, including:

- a. Land for development located in peripheral locations detached from the existing settlement, inconsistent with the requirements for compact growth in NPO 3c and RPO 3.2. (Asbourne MA 08; Moynalty MA 01)
 - b. Land for development in excess of that needed to meet the core strategy population in the adopted Plan (table 2.11) and which would further undermine the achievement of brownfield development targets. (Asbourne MA 08)
 - c. Land proposed for development despite the fact that the mitigation measures upon which the Appropriate Assessment Conclusion was based included the omission of Slane MA 04 and the provision of a 25m buffer for Athboy MA No.3, and where no reason for rejecting these mitigation measures or reasoning to support the AA Conclusion without such measures has been given.
 - d. Land proposed for development despite the fact that the mitigation/recommendation of the Strategic Environmental Assessment included the omission of Athboy MA 03, East Meath MA 05, Moynalty MA 01, Slane MA 04 (with the exception of Athboy MA03 where an alternative buffer is provided for).
 - e. Land zoned for development vulnerable to flood risk in areas known to be at risk of flooding contrary to the statutory guidelines of the Minister The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009), as revised. (Athboy MA 03, East Meath MA 05, Slane MA 04).
- III. The Development Plan has therefore not been made in a manner consistent with the recommendations of the Office of the Planning Regulator under Section 31 AM and fails to set out an overall strategy for the proper planning and sustainable development of the area.

GIVEN under my hand,

Minister for Housing, Local Government and Heritage

day of October, 2021.