OPR Ref: MA-015-22



23rd March 2022

Senior Executive Officer, Planning Department, Carlow County Council, Athy Road, Carlow.

Re: Material Alterations to Draft Carlow County Development Plan 2022 - 2028

A chara,

Thank you for your authority's work in preparing the Material Alterations to the draft Carlow County Development Plan 2022 – 2028 (the MAs to the draft Plan).

As your authority will be aware, a key function of the Office of the Planning Regulator (the Office) includes 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 Southern Regional Assembly area, but recommended specific changes to ensure consistency, particularly in relation to compact growth and aligning residential zoning with infrastructure capacity.

The Office also recommended that the draft Plan be amended in accordance with the requirements of section 28 guidelines, including *The Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009), the *Development Plans Guidelines, Draft for Consultation* (August 2021), and the *Sustainable*



Residential Development in Urban Areas Guidelines for Planning Authorities (2009), and with the provisions of the Act.

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 task undertaken by Carlow County Council in preparing and publishing the material alteration of the draft Plan, and commends the positive approach taken by the Council in responding to the recommendations and observations made by the Office in its submission on the draft Plan.

In particular, the Office welcomes the updates made to the Core Strategy table to guide the development of the county over the Plan period and notes the related proposed amendments to density standards. There remains, however, some relatively minor inconsistencies between the MAs to the draft Plan with the section 28



guidelines concerning density that need to be resolved to ensure implementation of compact growth, the efficient use of land and an economic delivery of housing.

The Office commends the planning authority for its approach to addressing flood management issues in the material alterations of the draft Plan. The Office is satisfied that the application of the plan-making Justification Test across the settlements, the incorporation into the draft Plan of the measures contained in the Justification Test and the amended flood risk mapping will help minimise flood risk in the county. Outstanding concerns regarding flood risk in respect of a single site are outlined below.

The reasoning of the chief executive for not implementing Recommendation 2 of the Office's submission to the draft Plan, which concerns specific land use zonings, are generally accepted by the Office, having regard to the particular context and nature of the subject sites.

The Office notes, however, the relatively significant number of material amendments relating to land use zoning for residential, strategic reserves and other uses. Having reviewed the proposed amendments, the Office accepts the rationale presented by the chief executive and elected members in the majority of cases.

In a relatively small number of cases, however, the Office is of the view that the amendments are not consistent with national or regional policy objectives, section 28 guidelines and the Core Strategy of the draft Plan itself. These instances have been clearly identified in the submission below and the reasons and considerations of the Office in reaching this conclusion have been set out.

It is within this context the submission below sets out three recommendations under the following five themes:

Key theme	MA Recommendation
Core Strategy	-
Zoning for residential use	MA Recommendation $\underline{1}$ and $\underline{2}$
Industrial land use zoning - Flood Risk	MA Recommendation 3
<u>Management</u>	



Residential density standards	-
Traveller accommodation	-

1. Core Strategy

The Office generally welcomes the material amendments (Amendment No.8) made to the Core Strategy, in response to Recommendation 1 of the Office's submission to the draft Plan.

The proposed amended Core Strategy table makes provision for additional 'Residual Provision' for housing units, which equates to 'Additional Provision' under the *Development Plans, Guidelines for Planning Authorities, Consultation Draft* (August 2021) (draft DPGs). Section 4.4.3 of the Guidelines clearly set out that there is no automatic presumption of 'Additional Provision' land or sites in any development plan, and that the identification and quantification of such sites must be justified in terms of compatibility with the Core Strategy, the compact growth of settlements within the hierarchy, infrastructure capacity, and sequential development.

The Office accepts the basis for applying the 'Additional Provision' for Carlow Key Town and for the District Towns of Tullow and Muine Bheag in view of their position in the settlement hierarchy and the level of growth proposed. However there is no clear justification for additional provision for the other smaller settlements, and there is a risk that the level of zoned land would mean that these smaller settlements grow in a disproportionate manner, resulting in a less compact and more car dependant pattern of development.

Furthermore, although the land area of 'Additional Provision' has been specified for some of the settlements, the lands have not been identified in accordance with the requirements of the draft DPGs.

The Office anticipates that this matter will, however, be addressed through the planning authority's response to MA Recommendation 1, below, concerning residential land use zoning.



2. Zoning for residential use

The Office notes the extensive material amendments proposed to the land use zoning objectives, including changes to the extent of lands zoned 'new residential' in settlements throughout the County. As noted above, many of the additions relate to residual or 'Additional Provision', which have not been justified in accordance with the requirements of the *Development Plans, Guidelines for Planning Authorities, Draft for Consultation* (August 2021) (draft DPGs).

The proposed area of 'new residential' lands proposed is not based on the housing allocation proposed for each settlement, as set out in the Core Strategy and therefore is inconsistent with the draft DPGs. , which promote a transparent and evidence-based approach to the core strategy and zoning for residential use. It will also undermine the implementation of compact growth NPO3c and RPO 10; would conflict with the restrictions on growth to <30% to 2040 for non-designated settlements under NPO 9; would not constitute proportionate growth of rural towns / villages contrary to NPO 18a; and would conflict with the implementation of sustainable settlement strategies objectives under section 10(2)(n) of the Act.

The Office has reviewed the proposed material amendments for new residential zoning objectives for each of the settlements and considers there to be conflict with the national and regional policy context and/or with the requirements of section 28 guidelines in respect of the following:

 Ballon - Amendment no. 124 (c.2ha) – Having regard to the extent of land proposed to be zoned, the proposed 'new residential' zoning is not required in order to provide for the Core Strategy housing supply target of 82 houses over the plan period. Furthermore, it is inconsistent with the objective for compact growth under NPO3 and RPO 10, and sequential zoning having regard to the more central sites already zoned in the draft Plan. No justification has likewise been provided for the proposed 'strategic reserve' zoning, which is not consistent with the draft DPG provisions for 'further additional provision'.



- Borris Amendment no. 129 (c.0.8ha) & 130 (c.0.5ha) The 'new residential' zonings are located beyond the adjacent Strategic Reserve land to the south and land already zoned for new residential development in the draft Plan, and are inconsistent with the requirements for sequential zoning and compact growth. Having regard to the extent of land proposed to be zoned, these zonings are not required to provide the Core Strategy housing supply target of 62 houses. The Office further notes that the planning authority's SEA Environmental Report states that there is no planning justification for Amendment no 129. No justification has likewise been provided for the proposed 'strategic reserve' zoning to the north (Amendment no 129), which is inconsistent with the draft DPGs provisions for 'further additional provision'.
- Borris Amendment no. 131 (c.1.1ha) Notwithstanding the justification
 provided in the CE report regarding the location of the proposed 'new
 residential' zoning in the vicinity of the vocational school, the zoning
 necessitates an extension to the settlement boundary, which is already
 extensive relative to the size of this small rural town, further into the open
 countryside. The zoning is, therefore, inconsistent with the requirements for
 sequential zoning and compact growth. Having regard to the extent of land
 proposed to be zoned, the zoning is also not required to provide the Core
 Strategy housing supply target of 62 houses.
- Hacketstown Amendment no. 134 (c.1.9ha) Having regard to the extent of land otherwise proposed to be zoned (4.3 ha), the zoning is not required to provide the Core Strategy housing supply target of 56 houses and is, therefore, inconsistent with the Core Strategy.



MA Recommendation 1 – Residential Land Use Zoning Objectives

Having regard to the provisions for core strategies under section 10(1A) and (2A) of the *Planning and Development Act 2000*, as amended, to national and regional policy objectives for compact growth and proportionate growth under NPO 3c, NPO 9 and NPO 18a of the NPF and RPO 10 of the RSES, the requirements for an evidence-based approach to the preparation of the core strategy, and to the zoning of sufficient land to implement the core strategy, and the sequential approach to development under the *Development Plans, Guidelines for Planning Authorities* (2007) and the *Development Plans, Guidelines for Planning Authorities, Draft for Consultation* (August 2021), the planning authority is required to make the Plan without the following amendments:

- Ballon Amendment no. 124
- Borris Amendment no. 129
- Borris Amendment no. 130
- Borris Amendment no. 131
- Hacketstown Amendment no. 134

The Office notes that a number of amendments are proposed to zoning objectives for individual settlements which replace certain residential zonings but result in no significant alteration to the total amount of land zoned 'new residential'. While the Office has no objection to the approach followed, it will be necessary to make the Plan with all relevant amendments so that an excess of zoned land does not arise without planning justification.



MA Recommendation 2 – Land Use Zoning Objectives

Having regard to the provisions for core strategies under section 10(1A) and (2A) of the *Planning and Development Act 2000*, as amended, and to the requirements for alignment of land use zoning with the core strategy under the *Development Plans, Guidelines for Planning Authorities, Draft for Consultation* (August, 2021), the Office requires that the Plan is either made with all relevant amendments, or to revert to the draft Plan as follows:

- Carrickduff Amendment no. 138 and Amendment no. 139.
- Rathoe Amendment no. 146 and amendment no.147.

3. Industrial land use zoning – Flood Risk Management

As discussed in the Office's submission to the draft Plan, the Office supports the strategy for enterprise and employment in the draft Plan. This strategy provides a coherent approach to the location of such development within settlements and, where appropriate to accommodate and facilitate employment generating uses in rural areas, including the expansion of rural enterprise under Policy RE P3.

The proposal under Amendment no. 112 to zone lands associated with an existing employment facility in the rural countryside c.2.5km to the north of Carlow on lands is, however, located within flood zone A and B and has not passed the plan-making Justification Test carried out by the planning authority. The proposed amendment is, therefore, contrary to the provisions of *The Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009), and is inconsistent with NPO 57 to avoid inappropriate development in areas at risk of flooding in accordance with the Guidelines. In this regard the Office notes the recommendation of the OPW not to zone land for vulnerable uses in flood risk areas that have not passed a Justification Test.

The Office further notes that the planning authority's Strategic Flood Risk Assessment and Strategic Environmental Assessment Environmental Report have



recommended that the Plan be made without the subject amendment on grounds of flood risk.

MA Recommendation 3 – Industrial Land Use Zoning Objective & Flood Risk Management

Having regard to NPO 57 of the National Planning Framework and *The Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009), as amended, the planning authority is required to make the Plan without the following amendment for 'Industrial' land use zoning:

• Amendment no. 112 Newacre

4. Residential Density Standards

The Office welcomes the omission of the residential density cap of 30 units per hectare (uph) for '*town/village centre*' locations in Amendment no. 13 to table 3.3 of the MAs to the draft Plan, in response to Recommendations 1 and 5 of the Office's submission to the draft Plan. This amendment will improve the ability of your authority to achieve 30% compact growth within the built up area of existing settlements in accordance with NPO 3c and RPO 10. It will also facilitate the implementation of objectives for sustainable settlement and transport strategies for urban areas thereby contributing to the mitigation of climate change.

However, the 30uph limit still applies in '*edge of centre*' locations to Tullow, Muine Bheag and Carlow where compact growth can be achieved, and in this context the indicative ranges (Table 3.3) are below the standards set out in the *Sustainable Residential Development in Urban Area Guidelines for Planning* (2009). Consistent with Recommendation 5 of the Office's submission to the draft Plan, the planning authority should make a minor modification to ensure the Plan and future residential development in these settlements are consistent with the section 28 guidelines.



5. Traveller accommodation

The Office welcomes Amendment no.14 of the draft Plan, which indicates the locations of Traveller specific accommodation sites within the county, at Bestfield, Saint Brigid's Place and Ardristan, in response to Recommendation 7 of the Office's submission to the draft Plan.

However the scale of the map is insufficient to enable the subject lands to be easily identified and does not appear to identify particular areas for the provision of future Traveller Accommodation, to reflect the Council's Traveller Accommodation Plan 2019-2024, as per the requirements of section 10(2A)(i) of the Act. The Office would therefore encourage the planning authority to make a minor modification to the amendment by including the location of the sites on land use zoning maps where feasible.

It is also not apparent from the details provided in the amendments whether the sites indicated relate only to existing facilities or to the sites intended to facilitate the provision of future Traveller Accommodation in accordance with the requirements of section 10(2A)(i) of the Act and the Office's recommendation. In this regard it is important that the final Plan provisions align with the *Carlow County Council Traveller Accommodation Programme (TAP) 2019-2024* estimates of housing demand for the Traveller populations.

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.

The planning authority is strongly advised that the above recommendations relate to significant breaches of policy and failure to address the matters raised in the manner outlined prior to adoption of the county development plan may lead to the Office to determine that the plan fails to set out an overall strategy for proper planning and sustainable development of the area concerned.



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 made by this Office, then the chief executive shall inform the Office and give reasons for this decision.

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