

25th May 2022

MA-026-22

Planning Department,
Wicklow County Council,
Station Road,
Wicklow Town,
A67 FW96.

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

A chara,

Thank you for your authority's work in preparing the Material Alterations to the draft Wicklow County Development Plan 2022-2028.

As your authority will be aware, a key function of the Office of the Planning Regulator (the Office) is the 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.

#### **Overview Summary**

Without prejudice to our final assessment of your authority's development plan, to best ensure fit with the statutory context the OPR must operate within, your authority is in particularly encouraged to examine the following;

 Address the internal coherence of the Plan comparing the core strategy to the specific objectives and designations across the settlement hierarchy, taking account of our recommendations at an individual settlement level. In addition,



consideration of modifications of *amendments* to put in place management measures to assure balanced growth across the county, notwithstanding zoning objectives may be beneficial;

- Provide a clearer and more evidence based justification for travel and traffic generating development with potential to add to transport loadings on the N/M11 that safeguards the strategic function of this national/international transport corridor in compliance with planning guidance;
- Resolve the issue concerning regulation of commercial institutional investment in housing vs a vs the published statutory guidance of the Minister in relation to same by deleting MA V1-17;
- Resolve the issue concerning compliance with the Minister's statutory guidance on retail development in respect of Rathdrum;
- Address the lack of clarity in the rural housing policy framework in order to put in place reasonable and effective measures for management of development pressures compatible with the wider objectives of the Plan.

Where the above is addressed, the Plan as made will stand the best prospects of meeting your authority's statutory obligations and making a plan that is a strategy for the proper planning and development of Wicklow and the OPR can support.

#### Our Submission on the Draft Plan

As outlined in the Office's submission to the draft Plan, the Office considered the draft Plan to be generally consistent with policies in the *National Planning Framework* (NPF) and the *Regional Spatial and Economic Strategy* (RSES) for the Eastern and Midland Regional Assembly area, and recommended changes to enhance its alignment with national and regional policies in the aforementioned, and for consistency with, among other things, the *Housing Supply Target Methodology for Development Planning Guidelines for Planning Authorities* (2020), *Development Plans Guidelines for Planning Authorities - Draft for Consultation* (2021)(draft Guidelines (2021)), the *Sustainable Rural Housing Guidelines for Planning* 



Authorities (2005), Retail Planning Guidelines for Planning Authorities (2012), the Climate Action Plan (2021), the Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change (2017), and The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009).

In particular, our submission sought better alignment between the core strategy in the draft Plan, required under Section 10 of the Planning and Development Act 2000, as amended (the Act) and the approach to mid-tier settlements in the county settlement hierarchy.

Specifically, our recommendations sought a revised approach to future housing and population growth in Newtownmountkennedy, Rathdrum and Ashford so that their ongoing rapid development might be better matched by appropriate infrastructure and would not be out of scale with the context and local communities.

The allied intention of the above was to support the further development of key and strategic locations such as Bray, Wicklow Town and Rathnew, each of which benefit from substantial infrastructural investment, locations on strong public transport routes and the capacity to deliver self-sustaining locations with housing, employment and community facilities.

As will be seen below, some of the recommendations of the Office's submission to the draft Plan were accepted and others not.

Where material amendments were not made consequent on our recommendations at draft plan stage, your authority is advised that section 12(10) of the Act provides 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 consideration to the advice contained in a submission.

#### **Overview of Assessment of Material Alterations**

The Office acknowledges the major task undertaken by Wicklow County Council in preparing and publishing the material alterations to the draft Plan, with over 130 material amendments, and appendices containing the associated technical and environmental reports. The presentation of the material amendments in a systematic and coherent manner has allowed all parties to access and understand the proposed amendments, and the Office would like to commend the planning authority for its approach.

The Office acknowledges that the Chief Executive's Report (CE Report) on submissions accepted the majority of recommendations and observations of the Office and recommended changes in response to the issues raised. However, many of the chief executive's recommendations were not accepted by the elected members.

The amendments to the renewable energy objectives are welcomed, which will ensure that your authority makes a strong contribution to the national renewable energy targets, thus addressing climate change (Recommendation 17 of the Office's submission to the draft Plan).

The Office further commends the approach taken in amalgamating the number of core strategy tables (Recommendation 1) and the material amendments introduced in relation to promoting sustainable travel modes (Recommendation 15 of the Office's submission to the draft Plan).



As such the introduction of modal share baseline figures, and proposed implementation and monitoring of sustainable travel is welcomed to actively deliver significant modal shift from private car transport to greener modes (walking and cycling) and sustainable modes (bus and rail).

However, the Office has concerns regarding the extent of residential zoned land, and the fact that material amendments to the draft plan, in addition to the abundance of land already zoned for housing, further add to same across a range of settlements.

The legitimate aim of the Council along with all local authorities to ensure sufficient housing land is available across a range of locations and in support of Government policy on housing, is fully recognised and supported by the Office.

Clear guidance on the manner in which to ensure a proper supply of well located and appropriate level of housing land has been set out in statutory guidance from the Minister for Housing Local Government and Heritage.

At the same time, Government policy on housing and planning, as well as transport and climate action, is very clear that we must meet our future housing needs in the right locations and through the functions of the planning process.

Collectively, both Government and local government agree on focusing housing delivery in locations close to employment and services and infrastructure and maximising opportunities for infill development and consolidation of towns and villages – Town Centre First - and avoiding piecemeal extensions of urban areas that individually or cumulatively have potential to overwhelm local infrastructure and sense of place.

Looking across many of the material amendments proposed by the members to the draft Plan, while considered individually they appear modest, analysed collectively they have the appearance of moving against a focus on the key Wicklow towns.

If the members of Wicklow County Council accept such amendments, it will tend to reinforce a pattern of scattered and piecemeal development across the county instead of identifying ways to build up the strong network of rural Wicklow towns and



villages from within, by sensitive well-designed and sustainable infill development, re-use of buildings and renewal.

Additional piecemeal zonings across the County also need careful consideration in terms of how such lands will be affected by the forthcoming Residential Zoned Land Tax.

Accordingly, there are a number of areas where the Office is of the view that the material amendments, and/or the response to the recommendations of the Office's submission to the draft Plan create difficulties in relation to the internal coherence of the Plan. The above concerns the fit between the core strategy and the collective impacts of either the recommendations of this Office not being addressed by way of material amendments and/or now compounded by additional material amendments and additional land use zoning proposed.

Moreover, such material amendments are neither consistent with national or regional policies in relation to establishing a proper evidence basis for land use zoning objectives, moving towards compact growth and regeneration and away from urban sprawl.

We would urge the Council to address the areas set out in the submission below in the interests of securing the proper planning and sustainable development of Wicklow and meeting the needs – including housing – of its citizens and bearing in mind your statutory and policy obligations, for the reasons and considerations of the Office, set out as follows.

The submission below sets out 7 recommendations under the following 5 themes:

Key theme	MA Recommendation
Core strategy and settlement strategy	MA Recommendation 1,
	MA Recommendation 2,
	MA Recommendation 3
Compact growth	MA Recommendation 4
Economic development and employment	MA Recommendation 5



Rural housing	MA Recommendation 6
Climate action and renewable energy	MA Recommendation 7

# 1. Core Strategy and Settlement Strategy

### 1.1 Housing and Population Targets

The core strategy tables have been amended in response to Recommendation 1 of the Office's submission to the draft Plan and to provide Housing Supply Target figures for the six-year plan period required under national guidance.

The Office also welcomes the amended Core Strategy Table 3.4, providing for settlement population targets within the course of the plan period, 2022 – 2028.

Targets for population growth for all local authorities, including Wicklow, are set out through the *National Planning Framework Implementation Roadmap* (2018), and the Regional Spatial and Economic Strategy (RSES).

The Office was satisfied that the population projection for the county set out in the draft Plan was consistent with the RSES, as contained in Table 2.2 and Table 2.3 of the draft Plan.

The Office welcomes the clarity provided in the amended core strategy tables. The plan and core strategy tables are now amended to ensure that the population targets for the plan period (2022-2028) and the period up to 2031 are aligned and consistent with NPO 8 and the NPF Implementation Roadmap 2018.

The Office strongly welcomes and supports these amendments.

At the same time, the Office notes material alteration Amendment V1 - 7 in relation to the core strategy, which states;



'Where the targets set out in the tables above can't be fulfilled within the quantum of land identified due the lack of infrastructure as set out in Appendix 9, prioritisation will be given to fulfilling the targets set out in the tables above on land identified within Local Area Plans and Small Town Plans where infrastructure is or will be available and based on the sequential approach set out in Principle 4'.

The Office considers that the wording of this material amendment is very broad and interpreted in extremis would clear the way for individual and cumulative planning decisions to randomly redistribute future housing and population growth away from infrastructurally constrained locations to other locations within the settlement hierarchy.

This would have the effect of undermining the purpose and aims of the core strategy, would be contrary to both the provisions of the *Housing Supply Target Methodology* for *Development Planning Guidelines for Planning Authorities* (2020) published by the Minister under Section 28 of the Act, and Section 10(2A)(a) of the Act as well as the *Development Plans, Guidelines for Planning Authorities - Draft for Consultation* (2021).

At the same time, the underlying issue your authority would appear to be grappling with, in relation to housing lands in infrastructurally constrained locations limiting the more general release of lands in locations with options for delivery of housing over the plan period, is understood.

It might be argued that where housing lands are infrastructurally constrained over the plan period that they might not be identified for delivery in such period in the plan in the first instance.

Notwithstanding the above, your authority should consider modifying MA V1-7 to ensure a greater measure of management of evolving housing delivery objectives without significantly up-ending the core strategy, in the manner suggested below.



## MA Recommendation 1- Core Strategy and Housing Targets

Having regard to Section 10(2A) of the *Planning and Development Act 2000*,as amended, the section 28 *Housing Supply Target Methodology for Development Planning Guidelines for Planning Authorities* (2020) and the *Development Plans, Guidelines for Planning Authorities - Draft for Consultation* (2021), the planning authority is required to make the Plan with minor modification (in red) to proposed Amendment V1 – 7.

Amendment V1 – 7

'Where the targets set out in the tables above can't be fulfilled within the quantum of land identified in a specific settlement due the lack of infrastructure as set out in Appendix 9, prioritisation will be given to fulfilling the targets set out in the tables above on land identified within the most proximate Local Area Plans and Small Town Plans where infrastructure is or will be available and based on the sequential approach set out in Principle 4'.

### 1.2 Settlement Strategy

The Office acknowledges the CE Report recommended streamlining the county settlement hierarchy in response to Recommendation 2. However notwithstanding the CE Report recommendation the elected members did not fully accept the CE recommendation and the material amendment to the Plan does not address Recommendation 2.

The Office's submission to the draft Plan identified a high number of 'rural clusters' in the Level 9 settlement tier such that they could undermine wider plan objectives and the core strategy to support the sustainable development of upper tier settlements to achieve compact growth (consistent with NPO 3), sustainable development of rural areas (NPO 15), and targeting the reversal of rural decline in small towns and villages (NPO 16).



The Office notes that a justification for the proposed extent of rural clusters was not provided in response to Recommendation 2(iv) of the draft Plan submission and concurs with the section 12(5)(aa) notice issued by the planning authority that Recommendation 2, has not been complied with.

The decision of the members not to address recommendation 2(iv) in particular, will have to be considered by the Office in the context of its final assessment of the Plan when made in relation to the inclusion of a number of Level 9 rural clusters without a strong planning rationale.

#### 1.3 Distribution of Population Growth

The Office acknowledged in its submission to the draft Plan that the housing unit allocations at settlement tier level (combined) were generally acceptable as the majority of future housing growth had been targeted for delivery in larger settlements and settlements designated for significant growth in the RSES.

The Office also highlighted high population growth forecasted for both Newtownmountkennedy and Rathdrum and considered a more moderate growth rate for these settlements would better ensure alignment with strategic planning policy aims, including National Planning Objective 9 of the National Planning Framework.

This objective requires that locations identified for significant growth (like Newtownmountkennedy) are only proposed after balancing the proposed growth with that for other urban and rural areas and co-ordinated alignment of investment in enabling infrastructure, employment provision etc. and this has not been done.

While material alteration, amendment ref. V2 – 91, reduces the extent of 'New Residential' land within Newtownmountkennedy over what was proposed in the draft Plan, additional material alterations to both Newtownmountkennedy and Rathdrum are of concern.

These material amendments provide for enhanced population growth targets and housing supply in these respective settlements, whereas your authority's core



strategy does not make such provision for additional housing balanced across the wide range of locations earmarked for residential delivery across the County.

The net effect of such material alterations is to create an internal conflict in the Plan between the core strategy and the settlement level objectives in these locations and, if such locations were to be developed, to divert housing growth towards them and away from other locations (such as Wicklow, Rathnew and Bray) that would have a better fit with the core strategy and high-level planning aims to secure housing growth in self-sustaining locations and with access to a wide range of physical and social infrastructures.

In considering this matter, your authority will also be aware of the requirement under section 10(2A) of the Act for the core strategy to provide relevant information to show that the development plan is consistent with the NPF and the RSES.

As such, the Office has significant concerns that the proposed strategy fails to achieve a reasonable or appropriate balance in relation to housing and population growth across the settlement hierarchy, of the nature required to ensure consistency with national and regional policy and to deliver good planning outcomes for both urban and rural communities in Wicklow.

The Office also highlighted the intended growth forecast for Ashford as a concern, having regard to its Level 5 status within the county settlement hierarchy and also having regard to its low employment base, resulting in an unsustainable settlement and transportation strategy contrary to Section 10(2)(n) of the Act.

The Office notes, that the CE Report provided a rationale for the objectives for 'New Residential' lands included in the draft Plan within Ashford, and proposed no further or additional zonings, in the form of material amendments, for residential development to the draft Plan for Ashford.

Notwithstanding the above recommendation, the elected members amended the draft Plan for Ashford to include an additional 11Ha lands at Ballinalea (Amendment V2 - 99) and Inchanappa (Amendment V2 - 100) that in view of the limited



infrastructures and employment in the area, will be highly likely to encourage more car-dependent commuting patterns along the N11.

The Office is therefore concerned about the cumulative and combined effect of these proposed amendments in Newtownmountkennedy, Rathdrum and Ashford in undermining an otherwise well-crafted settlement hierarchy and core strategy to such an extent that it creates wider conflicts with other stated policies in the draft Plan.

#### 1.4 Traveller Accommodation

Recommendation 12 of our assessment of the draft Plan sought additional specifics in relation to meeting the mandatory objective requirements of the Act in relation to Traveller accommodation, including the identification of specific locations for its provision.

The contents of the CE Report is noted in relation to your authority's intention to meet the majority of accommodation needed through the standard housing format and through various social housing delivery channels.

The content of Table 8.4 in relation to assessment of demands for Traveller accommodation up to 2024 of 80 homes (59 standard housing type and 21 Traveller specific accommodation) is noted.

However, the Material Amendment does not make clear where such 21 Traveller specific units of accommodation will be provided in relation to the options available and your authority should consider what modifications it could add to the Material Amendment to make that clear and so that our final assessment of the Plan as made can conclude that this mandatory objective requirement has been satisfied.

#### MA Recommendation 2 – Traveller Accommodation

Having regard to Section 10(2)(i) of the *Planning and Development Act 2000* (as amended), the planning authority is required to consider what further modification of the amendments to the Traveller accommodation objectives of the Plan and the 21 Traveller specific accommodation units now identified in such amendments,



that may be necessary to meet the statutory requirement that the specific locations for Traveller accommodation in the land use zoning maps be identified.

### **Residential Zoning Amendments**

Having reviewed the proposed material amendments in respect of the zoning objectives for individual sites and changes to settlement boundaries, the Office does accept the planning rationale presented by the chief executive and elected members for many of the proposed amendments.

However, a significant portion of the subject lands are situated in peripheral locations on the edges or beyond of settlements in often sensitive locations. This is inconsistent with the provisions for a sequential approach to zoning for residential development under section 4.19 of the *Development Plans, Guidelines for Planning Authorities* (2007) and section 6.2.3 and SPPR DPG 7 of the draft Development Plans Guidelines (2021), which require planning authorities to consider first and foremost how to encourage town and village development starting with their centres before moving outwards in a considered way that results in compact, well-planned, walkable and attractive places.

Material amendments that are considered to be significantly inconsistent and out-ofstep with national and regional policy in respect of achieving a sustainable pattern of development would include:

MA V-11(a) (Kilpeddar and Willowgrove) and MA V1-13 (Johnstown) do not comply with the requirement for sequential development given their locations on the periphery or detached from the existing built up area, and the extent of more preferably located zoned land in these settlements.

MA V-11(a) (Kilpeddar and Willowgrove) also sets a precedent for further zoning of lands in the vicinity which taken in conjunction with MA V-11(a) would direct housing growth away from larger and medium tier settlements. MA V1-13 (Johnstown) in particular would lead to further ribbon development contrary to the *Sustainable Rural Housing Guidelines for Planning Authorities* (2005).



As mentioned above, the extent of the additional proposed residential zoning for Ashford, MA V2-99 (Ballinalea) and MA V2-100 (Inchanappa) is not consistent with the settlement hierarchy status and housing supply targets for this location under the core strategy and are located at the edge of the town. MA V2-99 also relates to a site with no apparent access or access whose provision would not clash with other open space and amenity objectives of the plan.

The Office is therefore of the view that the cumulative effect of material amendments MA V1-/11(a)//13 and MA V2- 99 and 100 results in an incoherent and piecemeal strategy for the proper planning and sustainable development of these areas.

Moreover, the Office also has particular concerns regarding proposed material amendments to extend the residential zonings to Carnew (MA V2-102 and MA V2-103) and extend the settlement boundary for Tinahely (MA V2-108 and MA V2-109). The extent of residential zoning within these Level 5 settlements would potentially be inconsistent with the respective settlement level objectives.

That said, the aforementioned material amendments in relation to Carnew and Tinahely might be resolved through a minor modification to the Plan to include an objective to manage growth in these settlements during the plan period in line with the Core Strategy.

The planning authority should therefore consider making a minor modification in this regard, to ensure consistency between the core strategy and settlement level objectives in these settlements.

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



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

## MA Recommendation 3 – Material Zoning Amendments

Having regard to national and regional policy objectives NPO 3c and NPO 18a, the *Development Plans, Guidelines for Planning Authorities* (2007) and *Development Plans, Guidelines for Planning Authorities - Draft for Consultation* (August 2021), and section 10(2)(n) of the *Planning and Development Act 2000*, as amended, the Office considers that the following settlement boundary extensions and residential zonings proposed under the material amendments are inconsistent with the core strategy and/or contrary to the implementation of compact growth, sequential zoning and the provision of a sustainable settlement and transport strategy.

- (i) the planning authority is therefore required to make the Plan without the following material amendments:
  - Amendment V1 11(a) (Kilpeddar Willowgrove)
  - Amendment V1 13 (Johnson)
  - Amendment V2 99 (Ashford)
  - Amendment V2 100 (Ashford)
- (ii) the planning authority is required to include a minor modification as necessary to the lands identified in the following material amendments to clearly indicate that growth in these settlements will be managed to ensure future development is consistent with the plans objectives in relation to these Level 5 settlements and the core strategy.
  - Amendment V2 102 (Carnew)



- Amendment V2 103 (Carnew)
- Amendment V2 108 (Tinahely)
- Amendment V2 109 (Tinahely)

## 2. Compact Growth

The Office notes the decision by the elected members not to accept the chief executive's advice regarding Recommendation 6 of the Office's submission to the draft Plan, in relation to a number of areas earmarked for development in Baltinglass, Aughrim, Dunlavin and Roundwood.

The Office notes the rationale provided by the chief executive in relation to why it was not possible to comply with this recommendation and concurs with the section 12(5)(aa) notice issued by the planning authority that this recommendation has not been complied with.

The decision of the members not to address Recommendation 6 will have to be considered by the Office in the context of its final assessment of the Plan when made in relation to the measures included to effectively manage the overall development of the county and housing delivery in particular in line with the core strategy and regional and national policy guidance.

### 2.1 Development Management Standards and Guidelines

The Office supports the proposed material amendment V1-16, in response to Observation 5 of the Office's submission to the draft Plan, which amendment omits from the draft Plan Policy CPO 6.2 and certain housing occupancy controls for scheme housing.

However the Office is concerned with Amendment V1 - 17, to the draft Plan, which provides a policy objective (policy CPO 6.X) prohibiting the sale of residential units to commercial institutional investment bodies. The proposed policy objective has no statutory national or regional policy framework support, would conflict with



Regulation of Commercial Institutional Investment in Housing Guidelines (2021), and create internal inconsistencies in the development plan resulting in an unsound basis for decision making by your authority in its statutory development management function.

Legal advice should be sought in relation to the vires of the planning authority to include such an amendment as the Minister for Housing, Local Government and Heritage has already published specific guidance on this issue that planning authorities are obliged to have regard to.

However, in any event, your authority is recommended not to make the development plan with MA V1-17.

### MA Recommendation 4 – Development Management

Material Amendment V1-17 proposes that the development plan will prohibit the sale of all residential developments to institutional investors, whether these are for houses, duplex units or apartments.

In particular, the "blanket" type effect of the MA V1-17 would be at odds with the targeted approach outlined in the Minister's guidelines.

Therefore, having regard to the aforementioned statutory Ministerial planning guidelines on *Regulation of Commercial Institutional Investment in Housing Guidelines* (2021) published under Section 28 of the Planning Act, the planning authority is required to make the Plan without material amendment V1 – 17.

#### 3. Economic Development and Employment

The Office's submission to the draft Plan generally accepted the strong policy support for promoting the economic development of County Wicklow including supporting additional sources of local employment.



The submission also highlighted some concerns about employment zoning objectives conflicting with policy for national roads set out the *Spatial Planning and National Roads Guidelines for Planning Authorities* (2012).

In particular, Recommendation 13 addressed the inclusion of four blocks of employment land in the Newtownmountkennedy and Kilpedder areas and sought a rationale for their inclusion.

The Office notes the content of the CE Report in relation to Recommendation 13. While the background to the inclusion of the subject lands was outlined, this did not address how the strategic function of the adjacent N/M11 corridor was to be protected in the light of the policy advice and evaluation approaches required under Section 2.8 of the *Spatial Planning and National Roads Guidelines for Planning Authorities* (2012).

The failure to address this recommendation fully will have to be considered by the Office in the context of its final assessment of the Plan when made.

In addition, recommendation 14 (i) raised an issue in relation to the designation of a site for a discount supermarket store under an Action Area Plan (AAP) Objective relating to an area on the southern approaches to Baltinglass on the N81 outside the town centre. The Office notes and accepts the rationale offered by the members in not agreeing with this recommendation and retaining the AAP objective for mixed use development in this area, given the limitations on alternative sites for retail investment in Baltinglass given its physical configuration, topography and associated site limitations.

However, Recommendation 14 (ii) raised a similar issue in relation to provision being made to enable retail development in an uncompleted industrial area on the edge of Rathdrum village, well outside the centre of this attractive and sensitive location.

This recommendation was not implemented either but without an effective planning rationale contrasting the risks of the development of this site significantly damaging the integrity of the village form and shape of Rathdrum against the progression of alternative village centre options to meet such retailing needs in Rathdrum.



If the plan was made with such provision, in the opinion of the Office, it would represent a significant breach of the *Retail Planning Guidelines* (2012) (particularly sections 1.6 and 4.4 – sequential approach) and such decision will have to be considered in the context of the final assessment of the Plan when made.

The Office acknowledges and welcomes the material amendment for the inclusion of a map illustrating the location of quarries and extractive industries across county Wicklow in line with the relevant planning guidelines.

Having reviewed the proposed material amendments in respect of the zoning objectives for economic and employment uses, the Office has identified one amendment where the evidence and rationale underpinning the zoning is not clear or strategic in nature as per section 6.2.5 of the *Development Plans - Guidelines for Planning Authorities - Draft for Consultation* (2021), and is located in a peripheral location and/ or would result in a piecemeal approach to development.

Proposed Amendment V1 - 31 proposes to identify a new 'nursing home / residential care facility for the elderly at Kilmullen, Newcastle'.

This location is beyond any defined town or village boundary. The planning rationale for this zoning objective is not clear and would run counter to the general sense that new care facilities for the most vulnerable in society, such as older persons, are located in such a way as to be highly accessible and connected to the towns and villages they serve, not cut off, rendering residents and visitors alike to be completely dependent solely on car based transport (that they may not have access to), which would also be contrary with the implementation of objectives for sustainable settlement and transport strategies under section 10(2)(n) of the Act

It is further considered that the location of MA V1-31 is not sequentially located to provide for compact growth, utilisation of existing infrastructure and town regeneration and that MA V1-31 would therefore be contrary to the section 4.19 of the *Development Plans, Guidelines for Planning Authorities* (2007) and section 6.2.3 of the draft *Development Plans Guidelines* (2021), including SPPR DPG 7, which states:



Planning authorities shall adopt a sequential approach when zoning lands for development, whereby the most spatially centrally located development sites in settlements are prioritised for new development first, with more spatially peripherally located development sites being zoned subsequently.

## MA Recommendation 5 - Employment lands

Having regard to section 6.2.5 of the *Development Plans, Guidelines for Planning Authorities - Draft for Consultation* (2021), including SPPR DPG 7 and to the requirements to implement sequential zonings under the *Development Plans, Guidelines for Planning Authorities* (2007) and to the implementation of objectives to promote sustainable settlement and transport strategies under section 10(2)(n) of the Act.

The planning authority is required to make the Plan without the following amendment:

 Amendment V1 – 31 To provide for a new nursing home / residential care facility for the elderly at location shown on Map 7.01 (Kilmullen, Newcastle (c. 2 ha))

## 4. Rural Housing

Wicklow has a strong rural-based population and it is important that the countryside continues to be a living and lived-in landscape, focusing on the requirements of rural economies and rural communities as recognised by the NPF.

At the same time, it is imperative that development plan policy protects against ribbon and over-spill development from urban areas, and supports the National Strategic Outcomes of the National Planning Framework in terms of compact growth, sustainable mobility, transition to a low carbon and climate resilient society and sustainable management of environmental resources.



Subject to a small number of recommendations, the policy framework to protect against urban generated housing was generally considered to be evidence-based, reasonable and generally consistent with the legislative and policy context, including NPO 15 and 19 and the *Sustainable Rural Housing Guidelines for Planning Authorities* (2005).

However Recommendation 10 requested an amendment to CPO 6.41 removing a sweeping provision in relation to rural housing policy that the housing needs of rural applicants would overtake most wider planning considerations such as location or design, except traffic safety and public health.

The Office notes that neither this recommendation, nor the related Recommendation 11 in relation to rural area typologies were implemented.

The failure to implement such recommendations, if the plan was made as is, would result in planning policies for rural areas being adopted which are not evidence based and would set one aim (provision of housing for certain persons in rural areas) ahead of other planning considerations that both the legislation and settled national planning policies signal are all part of a balanced approach to making planning decisions in the interests of the proper planning and sustainable development.

Furthermore, Material Alteration V1-21 seeks to further widen the qualifying criteria for approval of rural housing to include persons with access to an affordable site, who are carers and those working in healthcare settings.

The inclusion of these references in this amendment are very loosely defined and would be likely to further ease the measures of the plan to properly manage the very significant level of pressure for development of the Wicklow countryside.

If included in the plan, Material Alteration V1-21 would have the effect of undermining the rural living and development strategy of the Council in relation to reinforcing the vitality and future of rural villages. Failure to address recommendation 10 and 11 and include Material Alteration V1-21 would also cumulatively undermine the achievement of NPO15 and NPO16 to reverse rural decline in small towns and villages and support their regeneration and renewal.



The decision of the members not to address Recommendation 10 and 11 of the Office's submission to the draft Plan, will have to be considered by the Office in the context of its final assessment of the Plan when made. In addition, the planning authority is required to make the Plan without Material Amendment V1-21.

## MA Recommendation 6 - Rural Housing Criteria

#### Having regard to:

- 1. National and regional policy objectives to support sustainable development in rural areas by managing growth of areas that are under strong urban influence while reversing rural decline of small towns and villages (NPO 15, 16 and 19);
- 2. The Sustainable Rural Housing Guidelines (2005) in respect of managing urban generated housing and ribbon development; and
- 3. National Strategic Outcomes for sustainable mobility, transition to a low carbon and climate resilience society, and sustainable management of environmental resources;

the planning authority is required to make the Plan without proposed Amendment V1-21.

## 5. Climate Action and Renewable Energy

#### 5.1 Renewable Energy

The Office welcomes the response of the planning authority to Recommendation 17 of its submission to the draft Plan. In particular, the Office commends the planning authority for including proposed amendment, Amendment V1 – 64, which includes a realistic and quantitative target that includes for renewable energy from off shore wind resources.



The Office also acknowledges and welcomes the clarifications and commitments from the planning authority, to provide variations to the Plan, and to review the 2016 Wicklow Wind Energy Strategy upon the publication of the new Wind Energy Guidelines, to ensure consistency with the Climate Action and Low Carbon Development Act 2021, the Climate Action Plan 2021 and the Development Plans, Guidelines for Planning Authorities, Consultation Draft (2021).

## 5.2 Flood Risk Management

The Office welcomes the planning authority's approach to updating the Strategic Flood Risk Assessment (SFRA), including the addition of Plan Making Justification Tests.

The Office also welcomes Amendments V2 - 82 and V2 - 97, providing for an objective for Level 4 and 5 Plans ensuring where existing development is located in Flood Zones A and B, will be limited to minor development for existing developed zonings and accompanied by an appropriately detailed FRA for new development zonings.

With respect to the specific lands identified in Recommendation 18 (iii), the Office notes that whilst it is indicated in the CE Report that the SFRA Addendum will revisit the flood risk issue on these lands, the report assesses additional land use zonings only and no further flood risk assessment has been set out. Accordingly, omission of these material amendments is therefore required in accordance with NPO 57 and The *Planning System and Flood Risk Assessment Guidelines and Circular PL* 2/2014 – Flooding Guidelines.

# MA Recommendation 7 - Flood Risk Management

Having regard to NPO 57 of the NPF, and to the provisions of *The Planning System and Flood Risk Management, Guidelines for Planning Authorities* (2009), as amended, the planning authority is required to include a minor modification as necessary to the lands identified in Recommendation No 18 (iii) of the Office's submission to the draft Plan to clearly indicate that the sequential approach will be



applied in the site planning, to ensure no encroachment onto or loss of the flood plain shall occur or that only water compatible development such as Open Space would be permitted for the lands, which are identified as being at risk of flooding within that site.

## Summary

The Office requests that your authority addresses the recommendations outlined above. 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 are to be addressed.

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

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



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 <a href="mailto:plans@opr.ie">plans@opr.ie</a>.

Is mise le meas,

Will Cosse

**Niall Cussen** 

Planning Regulator