

1<sup>st</sup> September 2022

Development Plan Team,
Planning and Property Development Department,
Dublin City Council,
Wood Quay,
Dublin 8,
D08 RF3F.

## Re: Material Alterations to Draft Dublin City Development Plan 2022 - 2028

OPR Ref: MA-001-22

A chara.

Thank you for your authority's work in preparing the Material Alterations to the draft Dublin City Development Plan 2022 - 2028 (the draft Plan).

The Office acknowledges the major task undertaken by Dublin City Council in preparing and publishing the material alterations to the draft Plan, with over 100 land use zoning amendments, and material amendments to the written statement, appendices and the associated technical and environmental reports. The presentation of the amendments in a systematic and coherent manner is commended and has allowed all parties to access and understand the proposed amendments.

As your authority is 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.



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 Project Ireland 2040 National Planning Framework (NPF) and the Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Regional Assembly (EMRA) area, and recommended changes to ensure its alignment with national and regional policies in the aforementioned, and for consistency with amongst others, the *Development Plans, Guidelines for Planning Authorities, Draft for Consultation* (2021)<sup>1</sup>, Sustainable Urban Housing: Design Standards for New Apartments (2020) and the National Transport Authority's (NTA's) *Draft Transport Strategy for the Greater Dublin Area* 2022 – 2042.

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.

<sup>&</sup>lt;sup>1</sup> Development Plans, Guidelines for Planning Authorities were published on 1st July 2022 and superseded the draft version published in August 2021



The planning authority is requested by the Office to give full consideration to the advice contained in a submission.

#### Overview

The Office welcomes many of the changes proposed as material amendments to the draft Plan in particular, the inclusion of a Core Strategy table and Settlement Hierarchy, the changes to Chapter 13 - Strategic Development Regeneration Areas to ensure greater consistency alignment with the NPF and RSES and provide additional policy clarity, and the overall improvements to maps.

The Office welcomed the range of policies and objectives in the draft Plan which support the overarching strategic approach to develop a low carbon, sustainable, climate resilient city, and commends the planning authority for the updates and refinements regarding climate action and sustainable travel included as material alterations, such as those regarding the *Climate Action Plan 2021*.

The Office generally considers the majority of the proposed material alterations to be reasonable and evidence-based, but has identified a number of instances where further modification is required to ensure alignment with national and regional policy objectives or section 28 Ministerial guidelines.

While some of the text and policy changes regarding Build to Rent (BTR) Accommodation, such as in respect of the planning assessment criteria are acceptable, the material alterations do not address the principal concerns raised in Recommendation 5 of the Office's submission regarding policies QHSN38 and QHSN39.

It is within this context the submission below sets out one (1) recommendation and three (3) observations under the following seven (7) themes:

Key theme	MA Recommendation	MA Observation
Core strategy and Settlement	-	-
Strategy		
Sustainable Development	-	MA Observation 1 and 2



Housing Strategy and Relevant	-	MA Observation 3
Policies		
Sustainable Transport and	MA Recommendation	-
Accessibility	1	
Climate Action and Renewable	-	-
Energy		
Zoning Amendments	-	-
Other Matters	-	-

# **Core Strategy and Settlement Strategy**

# 1.1 Core Strategy Table and Distribution of Growth

The Office strongly commends the planning authority for including Table 2.8 – Core Strategy and Settlement Hierarchy in Chapter 2 of the draft Plan.

The table sets out the broad settlement hierarchy and distribution of future growth across the city which includes the Inner City Centre Core, the four Metropolitan Area Strategic Plan (MASP) corridors, and for urban consolidations (city centre within M50) with reference to the relevant Strategic Development Regeneration Area (SDRA) / Key Urban Village (KUV) as applicable. Specifically, the table sets out the character and general density, proposed zoned area, proposed residential yield and estimated population for each.

The inclusion of the table is an extremely positive addition to the draft Plan and provides a satisfactory response to Recommendation 1 parts (i) - (v) inclusive.

#### 1.2 Implementation of Core Strategy

Recommendation 2 of the Office's submission raised concerns regarding the extent of the requirements for Local Area Plans (LAPs) / masterplans in the draft Plan and the potential to delay housing delivery in key locations and undermine the planning authority's ability to achieve its Housing Supply Target.



The Office notes that the material alterations do not provide for a reduction in the number of proposed LAPs in table 2-14 as required in Recommendation 2 (i). While the Office's concerns regarding the rationale for requiring LAPs for areas with limited redevelopment potential remain, the Office welcomes the flexibility introduced in material alteration 2.12 to enable developments to be considered through the development management process in the absence of a LAP.

The Office notes that the material alterations make text changes to provide for greater consistency in respect of the draft Plan's requirements for masterplans and this is welcome.

The extent of masterplans required for sites within the SDRAs and the requirement for a masterplan on sites over 0.5 ha (Policy SC17), has not been amended in response to Recommendation 2 (ii) and (iii) notwithstanding the Chief Executive's (CE's) recommendation to amend the threshold for masterplans applicable to Policy SC17 to 1 ha<sup>2</sup>.

The planning authority is advised to consider making further minor modifications to address the above issues in order to provide further clarity for members of the public.

## 2. Sustainable Development

#### 2.1 Strategic Development Regeneration Areas

The Office welcomes the material alterations to Chapter 13 which respond to Recommendation 3 and Observation 1 of the Office's submission to the draft Plan.

The inclusion of table 13.1 is a positive addition to the draft Plan and provides clarity in relation to the estimated residential yield from each SDRA and the key supporting infrastructure needed to support development in each SDRA such as DART+ and water service upgrade. It also assists in cross referencing the forecasted development outcomes for each SDRA with the core strategy table.

<sup>&</sup>lt;sup>2</sup> Page 6 of the Section 12 (5)(aa) letter dated 21 July 2022



The inclusion of the objective SDRAO1 *Overarching Principles and Vision* enhances the alignment of the SDRA section of the draft Plan with the NPF and RSES and is a welcome addition. It also provides clarity and signposting to standards, principles and requirements in other parts of the draft Plan such as Appendices.

The material alterations included in response to Recommendation 3 and Observation 1 are acceptable.

Notwithstanding, the Office would like to draw the planning authority's attention to the minor anomalies as identified in the observation below.

MA Observation 1 – Core Strategy Table 2.8 and Strategic Development Regeneration Area table 13.1

The planning authority is requested to make minor changes to table 2.8 – Core Strategy and Settlement Hierarchy in Chapter 2 and table 13.1 – Capacity of SDRA Designated Lands for Residential Use or a Mixture of Residential and Other Uses and Supporting Infrastructure in Chapter 13 in relation to the following matters:

- (i) The figures in tables 2.8 and 13.1 regarding the proposed zoned area and residential yield differ in relation to SDRA 8; and
- (ii) SDRA 13 (St. James' Medical Campus and Environs) and SDRA 17(Werburgh Street) are missing from table 2.8.

# 2.2 Building Height

The Office has reviewed the material alterations to the guiding principles regarding building height in the individual SDRAs and considers that the proposed changes are generally acceptable and will support National Policy Objectives for compact growth (NPO 3) and regeneration and rejuvenation of the City to accommodate increased residential population and employment activity (NPO 6).



In this regard, the Office welcomes the mapping and text changes in SDRA 6 (Docklands) and SDRA 7 (Heuston and Environs) which support additional landmark building such as at the Shelbourne Stadium site and west of Dr. Steeven's Hospital.

While the planning authority's intention to reassess the 'cone of vision' at Heuston and Environs is also welcomed, it is considered that the draft Plan should include a specific time commitment to complete this work such as within one year of adoption of the Plan given the area's significant potential for housing delivery served by high quality public transport.

# MA Observation 2 – Re-assessment of cone of vision at Heuston and Environs

Having regarding to national policy objectives NPOs 3, 6 and 11 of the National Planning Framework and RPO 5.4 of the Regional Spatial and Economic Strategy regarding future development of strategic residential development areas within the Dublin Metropolitan area, and the significant potential of Strategic Development Regeneration Area 7 to assist with housing delivery over the plan period, the planning authority is requested to make a minor modification to the text in section 13.9 the subject of Material Alteration 13.32 to include a specific time commitment for the completion of the reassessment within one year of adoption of the development plan.

## 3. Housing Strategy and Relevant Policies

#### 3.1 Build to Rent

Recommendation 5(i) of the Office's submission regarding the draft Plan's policies on Build to Rent (BTR) required the planning authority to omit policy QHSN39 which universally discourages BTR accommodation schemes of less than 100 units, or revise the policy to apply clear and reasonable performance-based criteria for the evaluation of communal facilities and also to amend policy QHSN38 to omit the text stating:



There will be a general presumption against large scale residential developments (in excess of 100 units) which comprise of 100% BTR typology. To ensure a sustainable mix of tenure and long term sustainable communities, a minimum of 40% of standard build to sell apartments will be required in such instances.

The Office's submission also raised concern regarding the 40% requirement (Recommendation 5(ii)) and other policy requirements for the Liberties and North Inner City sub areas.

It is noted that the elected members did not accept the Chief Executive's (CE's) recommended changes to Policy QHSN39 in response to part (i) of Recommendation 5 of the Office's submission<sup>3</sup>. Recommendation 5(i) has not, therefore been addressed by the material alterations to the draft Plan.

The Office has considered the CE's response to Recommendation 5 (ii) including the reason provided by the elected members for the change in the minimum requirement from 40% to 60%, and reviewed the material alterations to the text in section 5.5.7 regarding BTR (Material Alteration 5.23) and Policy QHSN38 (Material Alteration 5.24) and advises the planning authority that the Office's principal concerns with the policy have not been addressed.

While the material alterations concerning assessments of other permitted and proposed BTR developments within a reduced 1km radius of the site and demonstration of how a proposed development would support housing need are considered reasonable, the minimum requirement for standard apartments set out in Policy QHSN38 'Build to Rent Accommodation' has been increased from 40% to 60% without any evidential basis.

Recommendation 5(ii) has not, therefore been addressed by the material alterations to the draft Plan. Further, the Office considers that the basis for its recommendation to omit Policy QHSN38 for the reasons set out in the submission letter remains

<sup>&</sup>lt;sup>3</sup> Page 8 of the Section 12 (5)(aa) letter dated 21 July 2022



unchanged in respect of the material amendment to increase the minimum requirement for standard apartments from 40% to 60%.

The Office also notes that there are minor inconsistences between the text in section 5.5.7 regarding BTR (Material Alteration 5.23) and Policy QHSN38 (Material Alteration 5.24). For example the text in section 5.5.7 refers to 'standard build to sell apartments' while Policy QHSN38 refers to 'standard apartments'.

#### 3.2 Traveller accommodation

The Office welcomes the material alterations to the draft Plan regarding Traveller accommodation which respond to Recommendation 6 of the Office's submission.

These changes include a map that illustrates existing halting sites in the city's administrative area and strengthened policy support for the delivery of the Dublin City Council's *Traveller Accommodation Programme 2019 – 2024* including an objective to provide over 200 units of Traveller accommodation.

While the mapping changes do not identify new proposed halting sites, the Office considers that the material alterations substantially address Recommendation 6.

#### 3.3 Universal Design

The proposed amendments to Objective QHSNO10 Universal Design seek to ensure 50% of apartments in any development that are required to be in excess of the minimum sizes are designed to be suitable for older people / mobility impaired, people with dementia etc. The changes also reference various national guidelines.

While the Office appreciates the planning authority's motivation for the changes to Objective QHSNO10, the development plan is not the appropriate vehicle to address design requirements in relation to apartments that are the subject of other statutory codes and regulations.

In this regard, the planning authority is advised to review the wording of Objective QHSNO10 and the text changes introduced in material alteration 15.7 which affect section 15.9.2 (Unit Size / Layout) of the draft Plan and to ensure that any changes adopted in the final Plan are consistent with paragraph 3.8 of the section 28



Guidelines Sustainable Urban Housing: Design Standards for New Apartments (2020).

# MA Observation 3 – Objective QHSNO10 Universal Design

The planning authority is requested to review the need for the proposed material alterations to Objective QHSNO10 (Universal Design) and section 15.9.2 (Unit Size / Layout) in the form set out in material alterations 5.16 and 15.7. Should the planning authority wish to retain similar requirements for universal design in apartment developments, the planning authority is requested to ensure that the text changes to Objective QHSNO10 (Universal Design) and section 15.9.2 (Unit Size / Layout) are consistent with paragraph 3.8 of the section 28 Guidelines *Sustainable Urban Housing: Design Standards for New Apartments* (2020).

## 4. Sustainable Transport and Accessibility

The Office's submission to the draft Plan welcomed the policies and objectives which support modal shift, compact growth, decarbonising transport and transition to more sustainable travel modes, consistent with Government's transport policy, *Smarter Travel: A Sustainable Transport Future: A New Transport Policy for Ireland 2009 – 2020.* 

The Office welcomes the material alterations to Chapter 8 in the draft Plan which support accessibility, active travel and public realm improvements.

The Office commends the planning authority for the amendments to policies SMT20 (Key Sustainable Transport Projects), SMT21 (The Rail Network and Freight Transport) and SMT28 (National Road Projects) and mapping changes in particular, which enhance the draft Plan's alignment with the *Draft Transport Strategy for the Greater Dublin Area* 2022 – 2042 and the larnród Éireann *Irish Rail Freight* 2040 *Strategy*.

While the Office considers that the planning authority has provided a satisfactory response to Recommendation 7 parts (i) to (iv) inclusive, the Office notes that



material alterations 8.24, 13.41, 13.45 and 13.47 promote the development of a new rail station serving Croke Park.

While the Office appreciates the planning authority's ambition for a new station serving Croke Park, this infrastructure project is not included in the NTA's *Draft Transport Strategy for the Greater Dublin Area* 2022 – 2042.

Further, the NTA has advised that the potential of a new station in the environs of Croke Park was examined as part of the DART+ West project.

Therefore, the planning authority is advised to review the material alterations which promote a new station serving Croke Park to avoid creating unrealistic expectations around the delivery of this project and in the interest of clarity and transparency.

#### MA Recommendation 1 - Rail Station at Croke Park

Having regard to section 9 (6A) of the *Planning and Development Act 2000*, as amended and the need to ensure that the Dublin City Development Plan is consistent with the *Greater Dublin Area Transport Strategy 2022 – 2042*, the planning authority is required to review material alterations 8.24, 13.41, 13.45 and 13.47, and in particular material alterations 8.24 and 13.41 which '...promote the provision of a station at Croke Park...' and acknowledge that a new station at Croke Park does not form part of the aforementioned strategy or proposed DART + West project.

# 5. Climate Action and Renewable Energy

## 5.1 Climate Action

The Office's submission to the draft Plan welcomed the manner in which climate action is integrated into the draft Plan and the policies and objectives supporting initiatives such as low carbon district heating and waste heating recovery.

The Office welcomes the further changes introduced as material alterations such as to update the Plan's references to the *Climate Action Plan 2021* and the Government's higher target for a reduction in greenhouse gas emissions.



In respect of the draft Plan's policies on Energy from Renewable Sources (Policy CA10); Micro Renewable Energy Production (Policy CA11); Offshore Wind Energy Production (Policy CA12); Geothermal Energy (Policy CA13), District Heating (Policies CA15 and CA16) and Decarbonising Zones (Policy CA18), the Office welcomes the change in policy wording to 'To support, encourage and facilitate...'.

## 6. Zoning amendments

The Office commends the planning authority for the manner in which the material alterations to land use zonings are set out in Volume 3. The Office considers that the format and layout of Volume 3 provides clarity and transparency in respect of each proposed zoning change.

The Office notes the proposed zoning amendments affecting education facilities which in tandem with the proposed material alteration to Policy QHSN51 respond to Observation 3 of the Office's submission letter.

The Office has reviewed the zoning amendments included as material alterations and considers that no recommendation or observations are warranted regarding same.

#### 7. Other matters

## 7.1 Mapping

Observation 2 of the Office's submission requested the planning authority to review the land use zoning maps to provide greater clarity with respect to the policy objectives set out in the plan and how their implications are presented spatially.

The Office welcomes the various updates to the maps in particular to Maps J and K and regarding Objective SMTO23 – Road, Street and Bridge Schemes.

These mapping changes provide clarity regarding the key transport infrastructure such as proposed LUAS lines and DART + affecting the various SDRAs and Key Urban Villages and provide further clarity regarding the Southern Port Access Route.



It is considered that the planning authority has provided a satisfactory response to Observation 2 parts (i) to (iii) inclusive.

## **Summary**

The Office requests that your authority addresses the recommendation 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.

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.

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.

Is mise le meas,

**Anne Marie O'Connor** 

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Deputy Regulator and Director of Plans Evaluations