OPR Ref: DP-043-22



12th October 2022

Senior Executive Officer, Planning and Strategic Infrastructure Department, Fingal County Council, County Hall, Main Street, Swords, Co. Dublin,

K67 X8Y2.

Re: Draft Lissenhall East Local Area Plan

A chara,

Thank you for your authority's work on preparing the Draft Lissenhall East Local Area Plan (the draft LAP).

The Office of the Planning Regulator (the Office) wishes to acknowledge the considerable and evident work your authority has put into the preparation of the draft LAP against the backdrop of an evolving national and regional planning policy and regulatory context and the need to balance competing pressures within an increasingly complex system.

As your authority is aware, a key function of the Office is the assessment of statutory plans to ensure consistency with legislative and policy requirements relating to planning.

The Office has evaluated and assessed the draft LAP under the provisions of sections 31AO(1) and (2) of the *Planning and Development Act 2000*, as amended, (the Act) and this submission has been prepared accordingly.

The Office's evaluation and assessment has had regard to the current County Development Plan, the Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Regional Assembly 2019-2031, and relevant section 28 guidelines.

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 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 welcomes the preparation of the Lissenhall East Draft LAP, as provided for by the objectives of the Fingal Development Plan 2017-2023. However, in view of the statutory requirements under Section 19(1)(b) of the Act to prepare an LAP for Swords Town, and the objective to prepare a separate LAP for the extensive development lands at Lissenhall, the preparation of a single LAP to cover these three areas would better provide for an integrated approach to the planning of this important area at the terminus of the future MetroLink.

The Office acknowledges the extensive work that has been undertaken by the planning authority to inform the draft LAP, including the Strategic Flood Risk Assessment (SFRA), Transport Assessment, Sustainable Urban Drainage Systems Strategy, Heritage Report and Ecology Report, in addition to the SEA Environmental Report and Natura Impact Report.

Subject to specific concerns set out below, the draft LAP sets out a clear strategy and framework for the future development of the lands concerned. The issues raised below relate to the nature and range of uses provided for, consistent with the role of Swords in the Development Plan and the proximity to the M1 junction, providing clarity regarding the scale of development (number of employees) to be facilitated, and flood risk management.

It is within this context the submission below sets out 2 recommendations and 1 observation under the following three themes:

Key theme	Recommendation	Observation
Consistency with Development Plan	Recommendation 1	-
Transport and Accessibility	-	Observation 1
Flood Risk Management	Recommendation 2	-

1. Consistency with Development Plan

1.1 Land use

The lands subject of the draft LAP are zoned HT – High Technology, to 'provide for office, research and development and high technology/high technology manufacturing type employment in a high quality built and landscaped environment. In addition to the 'permitted in principle' uses listed in table 11-1, the draft LAP allows for a range of uses 'which will make a positive contribution towards the achievement of the HT zoning objective'. These include a very wide range of additional uses that are typical of district centre and town centres, including convenience stores, restaurants, childcare, health centres, hotels and gyms.

Furthermore, the development plan also makes provision for additional uses, stating 'Uses which are neither 'Permitted in Principle' nor 'Not Permitted' will be assessed in terms of their contribution towards the achievement of the Zoning Objective and Vision and their compliance and consistency with the policies and objectives of the Development Plan.'

There is danger, therefore, that by facilitating such a wide range of retail, commercial, civic, cultural, leisure, community and other services uses in this highly accessible location adjacent to a junction on M1, the site risks becoming a destination centre, contrary to the HT – High Technology land use zoning objective for these lands and the development of Swords Town Centre as a Metropolitan Consolidation Town under Objective SWORDS 1 of the Development Plan.

Development of this nature also has the potential to compromise the capacity and efficiency of the national road/associated junctions contrary to section 2.7 of the section 28 *Spatial Planning and National Roads Guidelines for Planning Authorities* (2012) (National Roads Guidelines).

For these reasons, the Office considers that the LAP should set clear limits for the range and scale of the additional uses, other than those 'Permitted in Principle', commensurate with the HT zoning objectives, the policy objectives for Swords in the Development Plan, and having regard to the section 28 National Roads Guidelines.

Recommendation 1 – Land uses

Having regard to Objective SWORDS 1 of the Fingal Development Plan 2017-2023, the provisions under section 2.7 of the Spatial Planning and National Roads Guidelines (2012), and the purpose of the HT – High Technology land use zoning objective, the planning authority is required to include clear and appropriate restrictions on the scale and range of such additional uses to be accommodated within the LAP.

2. Transport and Accessibility

The subject lands are situated adjacent Junction 4 of the M1, Dublin-Belfast motorway. The National Roads Guidelines recognise such locations as especially important elements of national roads infrastructure. Planning authorities are therefore required to exercise particular care in their assessment of LAP proposals in such locations.

The Office welcomes the preparation of a Transport Assessment (TA), based on TII's *Area Based Transport Assessment Guidance Notes* (2018), to inform the draft LAP, although it is noted that the TA has not been agreed with TII. The Office would have concerns, however, that the TA only appears to have considered the potential traffic impact in terms of employment numbers and does not expressly take account of the traffic impact that would be likely to arise from the nature and range of uses that would be facilitated by the draft LAP.

The Office also notes the intention of the draft LAP to limit development to c.1,000 employees in the pre-MetroLink scenario. The draft LAP should make clear that this limit

applies to the full extent of the LAP, including the existing developed lands at the southern end and any redevelopment of same.

It is noted that Objective MT01 – Lissenhall East Transport Assessment requires any planning application to demonstrate compliance with the recommendations of the Transport Assessment. As the Transport Assessment recommends that development is limited to between 1,000-2,000 employees, there are conflicting objectives in the draft LAP regarding the scale of development to be accommodated in the pre-MetroLink scenario. In view of the potential impact on national roads infrastructure, such conflicts need to be resolved.

Furthermore, in order to ensure a reasonable mode share for active and sustainable modes, the draft LAP should include a framework for providing pedestrian, cyclist and public transport infrastructure on a phased basis in tandem with future development.

Observation 1 – Transport and accessibility

The planning authority is requested to:

- amend 'Objective MT01 Lissenhall East Transport Assessment' to clarify that, regardless of the recommendations of the Transport Assessment, in the pre-MetroLink scenario development will be limited to 1,000 employees for the entire local area plan, inclusive of the existing developed lands to the south; and
- include a framework for the provision of relevant transport measures (pedestrian, cyclist and public transport infrastructure) on a phased basis in tandem with future development.

3. Flood risk management

The Office welcomes the SFRA and the preparation of the detailed Sustainable Urban Drainage Systems Strategy to inform the draft LAP. The Office also welcomes the commitment under Objective SW2 to manage flood risk in line with *The Planning System and Flood Risk Management Guidelines* (2009) (the Flood Guidelines). The subject lands are at significant and extensive risk of flooding, which will be exacerbated in the future climate change scenarios. The initial stage of the draft LAP would appear to take due account of this risk and has limited the location of development to avoid flood risk. This would, however, be more evident if the planning authority included an overlay of the flood zone mapping onto the proposed site layout plan. The Office suggests that this is included as part of the final LAP to provide clarity for the development management process.

Based on the submission of the OPW, the Office also advises that the SFRA and the plan-making Justification Test should be reviewed to take account of residual risk such as blockage of the M1 culvert and sensitivity to climate change, including for coastal flooding, and to consider all potential sources of flooding (pluvial, groundwater, etc) within flood zone C, and to make any changes to the LAP necessary on foot of this assessment.

The Office has more significant concerns, however, that the draft LAP (Figure 11-5) shows extensive '*potential subsequent development*' on land identified as flood risk zone A and B in the SFRA. This approach is contrary to the sequential approach to flood risk management as set out in the Flood Guidelines as it would locate vulnerable development in areas at high risk of flooding. This figure should be amended to remove these areas.

Recommendation 2 – Flood risk management

Having regard to NPO 57 and to section 28 *The Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009), the planning authority is required to amend figure 11-5 of the draft LAP to remove the indicated 'potential subsequent development' from Flood Risk Zone A and B.

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 20(3)(c) 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 draft LAP. 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,

C'Onne.

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