



22nd July 2022

Mr. Peter Burke TD

Minister for Local Government and Planning

Department of Housing, Local Government and Heritage

Custom House

Dublin 1

D01 W6X0

BY HAND AND BY EMAIL

**Re: Notice Pursuant to section 31AM(8) of the Planning and Development Act
2000 (as amended) – Cork City Development Plan 2022-2028**

A chara,

I am writing to you in relation to the recent adoption by the elected members of the Cork City Development Plan 2022-2028 (the 'Development Plan').

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

- a) the Development Plan has not been made in a manner consistent with and fails to implement recommendations of the Office, which required specific changes to the Development Plan having regard to the provisions of the Southern Regional Spatial and Economic Strategy, specifically RPO 55c which states that it is an objective to "*Prepare Retail Strategies in accordance with the Retail Planning Guidelines including Joint Retail Strategies where applicable*", and the Cork MASP Policy Objective 16, policy objective to '*support the role of the Metropolitan Cork Joint Retail Strategy and seek*

further preparation of joint retail strategies for Metropolitan Cork between Cork City Council and Cork County Council in accordance with Section 28 Retail Planning Guidelines for Planning Authorities 2012)’ thus ensuring that an overall strategy for the proper planning and sustainable development of the area must address retail development to secure plan-led development for retail within the two neighbouring authorities, and adopted into the Development Plan.

- b) the Development Plan has not been made in a manner consistent with recommendations of the Office, which required specific changes to the Development Plan to ensure consistency with national policy objectives (NPOs) of *Project Ireland 2040 National Planning Framework* (the NPF) and the regional policy objectives (RPOs) of the Southern Regional Assembly *Regional Spatial and Economic Strategy* (the RSES) and to have regard to the *Section 28 Development Plans, Guidelines for Planning Authorities (2022)*¹, and the *Housing Supply Target Methodology Guidelines for Planning Authorities (2020)*. Specifically in relation to particular material amendments to the draft Development Plan adopted by the elected members, the Development Plan does not support compact growth and sequential development and objectives to promote sustainable settlement and transport strategies under section 10(2)(n) of the Act, in Cork City.
- c) the Development Plan has not been made in a manner consistent with and fails to implement recommendations of the Office, which required specific changes to the Development Plan to provide for the facilitation of services for the community, in particular schools in accordance with Section 10(2)(l) and Section 10(1) of the Act to set out an overall strategy for the proper planning and sustainable development. Specifically the change of land use zoning objective ZO 13 Education to ZO 5 Mixed Use Development by material amendment, under MA no. 2.26.

¹ Ministerial Planning Guidelines under Section 28 of the Planning and Development Act 2000 (as amended): Development Plans, Guidelines for Planning Authorities were published on 1st July 2022 and superseded the draft version published in August 2021

- d) as a consequence of the above matters, the Development Plan made by Cork City Council ("the Council") fails to set out an overall strategy for the proper planning and sustainable development of the area concerned, contrary to the requirements of Section 10(1) of the Act; and
- e) the use by you of your function to issue a direction under section 31 of the Act would be merited.

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

1. Background

The Draft Cork City Development Plan 2022 – 2028 (the draft plan) was on public display from 26th July 2021 to 4th October 2021.

The Office of the Planning Regulator (the Office) made a submission to the draft plan on 4th October 2021, containing twelve (12) recommendations and eight (8) observations.

Recommendation 7 (Retail) of the Office's submission to the draft Plan required the planning authority to prepare an appropriately detailed Joint Retail Strategy with Cork County Council to secure plan-led development for retail within the two neighbouring authorities.

Recommendation 7 had regard to the Minister's letter under section 9(7) of the Act concerning co-ordination of the objectives for retail outlet centres, the Joint Retail Strategy was required, in particular, to consider the implications of retail developments contemplated in the draft Plan.. Please note that this notice and attached draft direction does not place reliance on the Minister's letter under section 9(7).

The Office also notes that there are matters contained in this recommendation which were not contained in the OPR's original submissions to the Council and the Council has not previously had an opportunity to address the OPR's concerns in relation to them in this context.

In relation to the overall pattern of development proposed by the Council under the Core Strategy of the draft Plan, the Office was generally satisfied with the approach in respect of Cork City. Recommendation 2 (Distribution of Growth) and Recommendation 6 (Development Approach for Settlements) of the Office's submission to the draft Plan required the planning authority to review the proposed distribution of population and housing allocation in its core strategy.

The elected members, having considered the draft Plan and the Chief Executive's (CE's) Report on submissions received (December 2021), resolved to amend the draft Plan. The material alterations to the draft Plan were on public display from 1st April 2022 to 28th April 2022.

The material alterations included a number of changes including:

- A series of individual material amendments to the land use zoning objectives to zone additional land for residential use.
- Material amendment 2.26 change of land use zoning objective from ZO 13 Education to ZO 5 Mixed Use Development.

The Office made a submission on 28th April 2022 to the material alterations to the draft Plan containing seven (7) recommendations. The letter also noted the decision of the planning authority not to comply, in particular, with Recommendation 7 of the Office's submission on the draft Plan concerning the preparation of a Joint Retail Strategy with Cork County Council to secure plan-led development of any future retail development across the two neighbouring authorities.

The Office recommendations at MA stage included:

- MA Recommendation 1 – Distribution of Growth at Stoneview and Ringwood, Blarney (MA no. 2.99).
- MA Recommendation 2 – Residential Land Use Zonings.
- MA Recommendation 3 – Education Facilities.

The elected members of Cork City Council resolved to make the Cork City Development Plan 2022 – 2028 at a Council Meeting on 27th June 2022.

Subsequently, the Chief Executive sent a notice letter under section 31(AM)(6) of the Act dated 4th July 2022 to the Office advising of the making of the Development Plan and specifying the recommendations of the Office not complied with.

The section 31AM(6) notice letter stated that MA Recommendation 3, MA Recommendation 4, MA Recommendation 5 and MA Recommendation 6 had not been complied with, either in full or in part.

The notice letter also noted that the planning authority has taken the decision to partially comply with MA Recommendation 1, MA Recommendation 2, and MA Recommendation 7.

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

1.1 Joint Retail Strategy

Recommendation 7 of the Office's submission on the draft Plan required the planning authority to prepare a Joint Retail Strategy (JRS) with Cork County Council to secure plan-led development for retail within the two neighboring authorities.

Recommendation 7 – Retail stated:

Having regard to the requirements of the Retail Planning Guidelines for Planning Authorities (DECLG, 2012) the planning authority is required to prepare an appropriately detailed Joint Retail Strategy with Cork County Council to secure plan-led development for retail within the two neighbouring authorities. The Joint Retail Strategy is required to:

- (i) appropriately address the functional area of the two authorities;*
- (ii) inform the core strategy, retail hierarchy and retail policy approach of the county development plan consistent with the provisions of the Guidelines, including in particular the key messages, the five national policy objectives*

in section 2.5, and the detailed 'Development Plan and Retailing' requirements as set out under section 3.3;

(iii) identify the additional retail floor space required to support the settlement hierarchy, the quantity and type of retail floor space requirements by constituent authorities, and provide guidance on the location and function of retail objectives taking account of the Retail Planning Guidelines policy objectives and the relevant settlement hierarchy; and

(iv) having regard to the Minister's letter under section 9(7) of the Act concerning co-ordination of the objectives for retail outlet centres, the Joint Retail Strategy is required, in particular, to consider the implications of retail developments that should be contemplated in the draft Plan, including outlet centres.

The planning authority did not comply with the recommendation. The Chief Executive's report under section 12(4), responded to each of the parts (i)-(iv) of Recommendation 7, which are summarised as follows:

In relation to part (i):

- The Council is committed to preparing a joint retail strategy with Cork County Council
- It is considered that the preparation of a joint retail strategy for the MASP area only is the most appropriate planning approach given the size and scale of the county.
- Waterford City and County Council have been asked by OPR to do a JRS only for the MASP area.
- Southern Regional Assembly has no concerns with JRS for MASP only.
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Regarding parts (ii) informing the Core Strategy and retail policies of the plan and (iii) identify additional floor area requirements and provide guidance on location and function of retail:

- The Council is committed to the preparation of a JRS however, although the strategy is at an advanced stage, the final strategy could not be agreed by both parties.
- Notwithstanding the above, retail policy guidance has been included as required under legislation.
- A retail hierarchy has been included in the draft Plan and, core retail areas, district centres and larger urban town centres have been defined and identified in the zoning maps.

Regarding part (iv) having regard to Minister's section 9(7) letter and requirement for JRS to consider the implications of outlet centres:

- The City Council is committed to working with the County Council on coordinated objectives for retail outlet centres and may vary the plan in due course regarding any policy outcomes from this process.

The Chief Executive concluded that no material alterations are proposed in respect of Recommendation 7. As noted, above, the section 12(5)(aa) notice broadly repeated the content of the CE's Report.

Several amendments were proposed at material alteration stage relating to retail, including material amendments MA no. 1.19, MA no. 1.157, MA no. 1.158, MA no. 1.165, many of which update the text to omit reference to the *Cork Metropolitan Area Joint Retail Strategy 2022-2028* and include additional text to support the preparation of a joint retail strategy.

Pursuant to Section 10(1A) of the Act, the development plan must include a Core Strategy which shows that the development objectives in the development plan are consistent, as far as practicable, with national and regional development objectives set out in the NPF and the regional spatial and economic strategy and with specific planning policy requirements specified in guidelines under *subsection (1) of section 28*.

Further, and crucially for the purposes of this recommendation, pursuant to section 10(2A)(e), the Core Strategy must also '*provide relevant information to show that, in setting out objectives regarding retail development contained in the development*

plan, the planning authority has had regard to any guidelines that relate to retail development issued by the Minister under section 28’.

Section 10 of the Act also requires that the development plans of county councils must set out a settlement hierarchy (section 10(2A)(f)) and requires the inclusion of certain details in connection therewith.

In addition, pursuant to section 27(1) ‘*A planning authority shall ensure, when making a development plan ... that the plan is consistent with any regional spatial and economic strategy in force for its area.*’

Section 12(18) also provides that the statutory obligations in relation to a local authority includes the obligation to ensure that the development plan is consistent with the NPF and RSES. Section 12(11) provides that in making the development plan members shall be restricted to considering the proper planning and sustainable development of the area to which the plan relates, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or any Minister of the Government.

Consistent with regional policies set out in the Southern Regional Assembly RSES , RPO 55c states that it is an objective to ‘*Prepare Retail Strategies in accordance with the Retail Planning Guidelines including Joint Retail Strategies where applicable.*’”

Furthermore, the Cork MASP Policy Objective 16, provides that it is a policy objective of the Southern Regional Assembly RSES to ‘*support the role of the Metropolitan Cork Joint Retail Strategy and seek further preparation of joint retail strategies for Metropolitan Cork between Cork City Council and Cork County Council in accordance with Section 28 Retail Planning Guidelines for Planning Authorities (2012).*’

The failure of the planning authority to prepare a Joint Retail Strategy to inform the setting out of retail policy and objectives of the plan is therefore inconsistent with the RSES and with sections 10(1A), 10(2A)(a), 10(2A)(e) and/or 12(11) and 12(18) of the Act.

The section 28 *Retail Planning Guidelines for Planning Authorities (2012)* provide that ‘*future retail development should be plan-led following the settlement hierarchy*’ (section 2.5.1, page 14) and section 3.3 (pages 20-21) thereof provides:

The function of the development plan is to establish an overall strategy for the proper planning and sustainable development of its area. Specifically in relation to retailing, the development plan must be:

- *Evidence based through supporting analysis and data to guide decision-making;*
- *Consistent with the approach of these guidelines; and*
- *Clear and precise with regard to specific objectives and requirements.”*

Section 3.5 of the *section 28 Retail Planning Guidelines for Planning Authorities (2012)* (page 22) states:

*...] certain development plans and local area plans **must be informed by joint or multi-authority retail strategies** which should assess retail activity and demand needs that transcend planning authority boundaries (See Annex 3 for further guidance on the preparation of joint or multi-authority retail strategies). **To give these strategies statutory backing the policies and objectives of the strategy should be adopted into the development plan and local area plan as appropriate or adopted as a variation to a development plan..** (emphasis added)*

Table 1 on page 22 of the *section 28 Retail Planning Guidelines for Planning Authorities (2012)*, entitled ‘*Authorities who must prepare joint or multi-authority retail strategies*’, identifies Cork City and County Councils as planning authorities who must prepare a Joint Retail Strategy for the ‘Strategy Area’ of Cork.

Annex 3 to the *section 28 Retail Planning Guidelines for Planning Authorities (2012)* deals with the preparation of joint or multi-authority retail strategies, and states (page 62):

*Once the joint or multi-authority retail strategy is in place, **this strategy will enable relevant planning authorities to properly inform their***

development plan review processes about the overall quantum and type of development that the market is likely to bring forward in response to changing demographic and consumer spending factors. (emphasis added)

Accordingly, an overall strategy for the proper planning and sustainable development of the area must address retail development and, in relation to such development, the policies and objectives included in the plan must be evidence-based and planned.

The guidelines provide that in the case of an area identified as a Strategy Area requiring a joint or multi-authority retail strategy, the overall strategy for the proper planning and sustainable development of the area must, in relation to retail development, be informed by - and, therefore, logically, must follow after - the preparation of the Joint Retail Strategy.

In short, for the Development Plan to set out an overall strategy for the proper planning and sustainable development of the area insofar as concerns retail development, the development of a strategy - in this a Joint Retail Strategy - must come first and the specific policies and objectives included in the plan must be informed by and reflect that strategy.

In the preparation of the Cork City Development Plan 2022-2028, there has been a failure to set out an overall strategy in accordance with the requirements of and within the meaning of the Act.

In relation to the meaning of the 'strategy area' for Cork, the Office has given consideration to the CE's reasoning for the view of the Council that a Joint Retail Strategy for the MASP area only is the appropriate planning approach in particular given the size and scale of the County.

The Office accepts that this approach is reasonable and is consistent with the RSES and the approach to the previous *Joint Retail Strategy* (2013) prepared by both authorities.

Section 11(1A) of the Act requires the preparation of a new development plan to be '*strategic in nature for the purposes of developing*' the objectives and policies to

deliver an overall strategy for the proper planning and sustainable development of the area of the development plan and the core strategy.

Strategic considerations, including the development of a Joint Retail Strategy, must therefore come first and necessarily precede and inform specific policies and objectives.

Accordingly, the overall strategy for the proper planning and sustainable development of the area should, in relation to retail development, be informed by the Joint Retail Strategy, rather than pre-emptively determining the matter.

1.2 Residential Zoning Objectives

MA Recommendation 2 of the Office's submission to the material alterations to the draft Plan required the planning authority to omit a total of nineteen zoning amendments from the draft Plan. The aggregate area of the zoning amendments amounted to approximately 64 ha.

MA Recommendation 2 – Zoning Amendments stated the following:

Having regard to national and regional policy objectives for compact growth under NPO 3, RPO 10, RPO 35, supported by ambitious objectives 2.25 and 3.4 in the draft Plan; to objective CMASP PO 7 Integrated Landuse and Transport Planning, the Cork Metropolitan Area Strategic Plan and Strategic Objective 3 of the draft Plan to support the delivery of same; and to the provisions under section 10(2)(n) of the Act; and having regard to the Development Plans, Guidelines for Planning Authorities - Draft for Consultation (2021), the planning authority is required to make the Plan without the following amendments:

Glanmire -

- *MA no.2.52 – from ZO 3 Tier 3 Residential Neighbourhoods to ZO 2 New Residential Neighbourhoods*
- *MA no.2.62 - from ZO 18 Landscape Preservation Zones to ZO 2 New Residential Neighbourhoods*

- *MA no.2.60 - from ZO 21 City Hinterland to ZO 1 Sustainable Residential Neighbourhoods*
- *MA no.2.66 - from ZO 16 Public Open Space to ZO 2 New Residential Neighbourhoods*
- *MA no.2.67 - from ZO 16 Public Open Space to ZO 2 New Residential Neighbourhoods*

Kilcully -

- *MA no.2.65 - From ZO 16 Public Open Space to ZO 1 Sustainable Residential Neighbourhoods*
- *MA no.2.74 - From ZO 21 City Hinterland to ZO 1 Sustainable Residential Neighbourhoods*
- *MA no.2.78 - From ZO 21 City Hinterland to ZO 2 New Residential Neighbourhoods*

Upper Glanmire -

- *MA no.2.57 - From ZO 21 City Hinterland to ZO 1 Sustainable Residential Neighbourhoods*
- *MA no.2.61 - From ZO 21 City Hinterland to ZO 2 New Residential Neighbourhoods*
- *MA no.2.69 - From ZO 21 City Hinterland (2.7ha) to ZO 2 New Residential Neighbourhoods*
- *Ballincrossig - MA no.2.70 - From ZO 21 City Hinterland to ZO 2 New Residential Neighbourhoods*
- *Ballyhooly Road - MA no.2.71 - From ZO 21 City Hinterland to ZO 14 Institutions & Community*

Castletreasure -

- *MA no.2.8 from ZO 21 City Hinterland to ZO 1 Sustainable Residential Neighbourhoods*

- *MA no.2.9 from ZO 21 City Hinterland to ZO 1 Sustainable Residential Neighbourhoods*
- *Hop Island - MA no.2.28 from ZO 21 City Hinterland to ZO 1 Sustainable Residential Neighbourhoods*

Lee Road -

- *MA no.2.97 - From ZO 21 City Hinterland to ZO 2 New Residential Neighbourhoods*
- *MA no.2.98 – from ZO 21 City Hinterland to ZO 18 Landscape Preservation Zone; and*

Carrigrohane

- *MA no.2.32 from ZO 21 City Hinterland to ZO 1 Sustainable Residential Neighbourhoods*

The planning authority complied in part with MA Recommendation 2. The elected members voted to make the Plan in accordance with the recommendation of the Office by making it without MA no. 2.66, MA no. 2.67 Glanmire, MA no. 265, MA no. 274 Kilcully, MA no. 2.70, MA no. 2.71 Upper Glanmire, MA no. 2.28 Castletreasure and MA no. 2.97, MA no. 2.98 Lee Road. The outstanding material amendments (ten in total), as set out in Office’s MA Recommendation 2, were adopted as part of the Plan.

The Office’s submission letter to the material alterations stated:

The cumulative impact of these material amendments risks undermining the very positive policies, objectives and strategies included in the draft Plan promoting compact growth and urban regeneration in support of NPO3b (50% compact growth). Indeed the impact of the proposed amendments on the achievement of compact growth is evident from a comparison of Table 2.5 Built-Up Footprint and Greenfield Growth Targets 2022-2028 and the new core strategy table under MA no.1.27.

Table 2.5 has a target of almost 65% compact growth and 35% greenfield, which is consistent with NPO 3b and with RPO 10 Compact Growth in

Metropolitan Areas and RPO 35 Support for Compact Growth. The corresponding figures in the revised core strategy table are 51.6% and 48.4%, respectively. The amendments therefore conflict with, and will undermine the highly ambitious targets (Objective 2.25 Compact Growth).

The Office has given consideration to the reasons of the planning authority for deciding not to comply with the Office's recommendation concerning MA no. 2.52 (Glanmire), MA no. 2.57 (Upper Glanmire), MA no. 2.8, MA no. 2.9 (Castletreasure) and MA no. 2.32 (Carrigrohane). The Office accepts the reasons provided by the Chief Executive in support of the zoning amendments and considers that these changes would not unduly impact on the overall Core Strategy, or the compact and sequential growth of the aforementioned settlements.

The Office has assessed each of the zoning amendments and considered the reasons provided by the elected members for rejecting the CE's recommendation in each of the following cases.

MA no. 2.62 Glanmire (Map 13 of Draft Plan)

Zoning amendment MA no. 2.62 amended the zoning in the draft Plan from ZO 18 Landscape Preservation Zones to ZO 2 New Residential Neighbourhoods. The land, comprising c.5.62 ha, is located approximately 300 metres west of the N8.

In respect of this amendment, the elected members provided the following reasons in the notice letter for rejecting the CE's recommendation to not zone the land to ZO 2 New Residential Neighbourhoods:

- 1. Site offers natural progression from existing housing*
- 2. Water supply available*
- 3. Proximate to bus service*
- 4. Traffic congestion not an issue in the area*

The Office considers that the above reasons do not address the substantive issue in the recommendation concerning this amendment, which was in respect of the peripheral location of the land and inconsistency with NPO 3c, RPO 35 and RPO 10 in relation to compact growth.

Furthermore the subject land has no apparent vehicular access and the immediately surrounding land to the north, west and east is largely undeveloped with ribbon type residential development to the immediate west of the site. Moreover the land is not in immediate proximity to the town centre as it is approximately 1 km from the edge of the urban town centre zoning at its closest point. The development of peripheral sites for residential development has the potential to undermine the redevelopment of sites more favourable to achieving compact growth and the redevelopment of brownfield sites and therefore resulting in unsustainable patterns of settlement that would be car-dependent and not conducive to public transportation contrary to the mandatory objectives for development plans in relation to sustainable settlement patterns required under section 10(2)(n) of the Act.

The land to the immediate west of MA 2.62 is also designated as a Landscape Protection Zone and the Chief Executive Report on Proposed Material Amendments to the Draft Cork City Development Plan 2022 – 2028, under the heading 'Consultation' states the following in relation to the site:

This is an elevated site with landscape value to create habitats for biodiversity and to create ecological corridors for the movement of species, as well as contributing to the setting of Glanmire. This proposed Material Amendment failed the Strategic Environmental Assessment (SEA).

The zoning would facilitate a higher quantum of greenfield development thus undermining the highly ambitious targets of the adopted plan (Objective 2.25 Compact Growth) to deliver 65% of all new homes in the city on lands within the existing footprint of the city (metropolitan area).

The extent of this greenfield zoned land is such that it risks significantly reducing the proportion of housing that complies with the requirement for compact growth under NPO 3c and RPO 35 (at least 30% of all new homes within the existing footprint of settlement). The zoning amendment is, therefore, inconsistent with the requirements for compact growth in NPO 3c and RPO 35, and the sequential approach to development having regard to the *Development Plans, Guidelines for Planning Authorities* (2022)..

In addition the proposed zoning would result in land significantly in excess of that which can reasonably be considered to be required to provide for the housing supply target.

MA no. 2.60 Glanmire (Map 13 of Draft Plan)

Zoning amendment MA no. 2.60 amended the zoning in the draft Plan ZO 21 City Hinterland to ZO 1 Sustainable Residential Neighbourhoods. The land comprises c. 0.5 ha. The existing housing development Richmond Wood is situated to the immediate north of the zoned land.

In respect of this amendment, the following reasons were provided in the notice letter for the elected members rejecting the CE's recommendation to not zone the land to City Hinterland.

- 1. Site has existing infrastructure access and water supply*
- 2. Site next to existing development at Richmond Estate and Ashwood Estate.*

The Office considers that the reasons provided by the elected members in support of zoning amendment MA no. 2.60 do not address the substantive issue in the recommendation concerning this amendment, which was inconsistency with NPO 3c and RPO 35 in relation to compact growth.

While the Office acknowledges that the land adjoins the existing Richmond estate, it is located outside the settlement boundary. The proximity to existing development is not, in itself, an exclusive basis upon which to zone land that would otherwise not be consistent with national or regional policy, or indeed with the Core Strategy of the Plan.

Significantly, the subject land is a steep sloping site with biodiversity value and the Chief Executive Report on Proposed Material Amendments to the Draft Cork City Development Plan 2022 – 2028 Consultation submits that there is no justification at this time to zone this land for residential use or include it within the Glanmire development boundary. Further, the CE Report states as follows:

This proposed Material Amendment failed the Strategic Environmental Assessment (SEA) as it would undermine the sustainable development initiative of the Plan and also have potential associated unnecessary adverse

environmental effects. The view expressed in the December 2021 Chief Executive's Report remains unchanged.

As outlined in respect of zoning amendment MA 2.62 above, additional Residential Z01 'Sustainable Residential Neighbourhoods' is not required to meet the Core Strategy's housing allocation for Cork City over the plan period.

Furthermore, the land is located on the edge of the settlement. The zoning amendment is, therefore, inconsistent with the requirements for compact growth in NPO 3c and RPO 35, and the sequential approach to development having regard to *Development Plans, Guidelines for Planning Authorities (2022)*..

MA no. 2.78 Kilcully (Map 13 of Draft Plan)

Zoning amendment 2.78 amended the zoning in the draft Plan from ZO 21 City Hinterland to ZO 2 New Residential Neighbourhoods. The land, comprising c. 7 ha, is located in a peripheral location.

In respect of this amendment, the elected members provided the following reasons in the notice letter for rejecting the CE's recommendation to not zone the land to City Hinterland:

- i. The lands will significantly absorb additional residential development and uplift population in the northside of the city, and is made in the context of the Government's 'Housing for All'*
- ii. Kilcully will satisfy the demand for housing across a range of tenures*
- iii. The area is identified for additional population growth in order to rebalance the city*
- iv. Lands are serviced by existing Irish Water network*
- v. Lands can be served by either private system as is the case with the lands adjacent*
- vi. Appropriate vehicular site line provision in place*
- vii. No flooding issues*
- viii. Lands are level and suitable for construction. Developer ready to commence*
- ix. The zoning of these lands does not give rise to any environmental concerns*

- x. *Established community infrastructure locally*
- xi. *Existing residential development adjacent these lands*

The Office considers that the reasons provided by the elected members in support of zoning amendment MA no. 2.78 do not address the substantive issue in the recommendation concerning this amendment, which was in respect of the peripheral location of the land and inconsistency with NPO 3c and RPO 35 in relation to compact growth and objectives to promote sustainable settlements and transport strategies under section 10(2)(n) of the Act.

The Office notes that the land was proposed to be zoned City Hinterland in the draft Plan and while it may form part of the future expansion of Cork City in a manner consistent with the provision of adequate social and physical infrastructure, additional land is not required to meet the Core Strategy's housing allocation for Cork City over the plan period. The Plan already zones numerous sites closer to the city centre and urban town centres which can provide for private housing and social and affordable housing in accordance with Part V of the Act.

The zoning amendment is, therefore, inconsistent with the requirements for compact growth in NPO 3c of the NPO and RPO 35 of the RSES , and does not have regard to the sequential approach to development in section 6.2.3 of the *Development Plans, Guidelines for Planning Authorities (2022)* and is inconsistent with the Core Strategy of the adopted Plan.

The land in question is remote from a definable urban centre and from public transport, and the rezoning is not required to meet the housing allocation for Cork City in the Core Strategy over the plan period. Furthermore, the zoning amendment leapfrogs to a remote location at the edge of the settlement. The zoning amendment is, therefore, inconsistent with the requirements for compact growth in NPO 3c and RPO 35, and does not have regard to the sequential approach to development in the *Development Plans, Guidelines for Planning Authorities (2022)*.

MA no. 2.61 Upper Glanmire (Map 13 of Draft Plan)

Zoning t MA no. 2.61 amended the zoning in the draft Plan from ZO 2 City Hinterland to New Residential Neighbourhoods. The land, comprises c. 5.9 ha.

A planning application for 24 residential units on part of this land, pertaining to the south west portion of the overall site, was granted planning permission in February 2022.

The Chief Executive Report on Proposed Material Amendments to the Draft Cork City Development Plan 2022 – 2028 Consultation (27th May 2022) stated as follows;

The December 2021 Chief Executive's Report recommended against this proposal. This site is currently within the settlement boundary of Upper Glanmire, however there are limited services and facilities in Upper Glanmire and, together with MA 2.57 and MA 2.69, would add over 10 ha of development land to this small hinterland settlement. The approach set out in the Draft Plan is for managed development of hinterland settlements. Submission 14 from Irish Water is noted which sets out that this proposal is not sequential and does not conform with the ethos of compact growth and that network upgrades and extensions would be required to facilitate this proposal. This proposed Material Amendment failed the Strategic Environmental Assessment (SEA), in relation to an evidence-based approach to sustainable planning.

The Chief Executive committed to review this proposed Material Amendment pending a decision on a planning application in the southwestern part of the landholding. Permission was granted for 24 no. dwellings, including all associated roads and pedestrian infrastructure. In light of this decision the Chief Executive recommends a minor modification to this proposed Material Amendment to partly adopt the amendment at the south western part of the site and to partly revert to the Draft Plan for the remainder of the site, i.e. to revert to ZO 21 City Hinterlands as per the Draft Plan. This approach is in keeping with the hinterland strategy set out in the Draft Plan. This approach will also address the concerns raised in the SEA and will ensure proper coordinated growth within the existing built up foot print of Upper Glanmire only.



In respect of zoning amendment MA no. 2.61, the elected members provided the following reasons in the notice letter for rejecting the CE's recommendation to not zone the land to Residential 2:

1. *Site previously zoned*
2. *Many of the sites zoned for residential will not be built out. The Development Plan has failed to deliver the desired number of dwellings anticipated to be built during the lifetime of the plan*
3. *NPO 3b and RPO 10 conceived in advance of the housing crisis*
4. *Bus Eireann will only extend public transport to this area if population increases*
5. *The developer intends to commence development*
6. *The approach adopted by the city council is conservative in light of the scale of the boundary extension.*

The Office considers that the reasons provided by the elected members in support of zoning amendment no. 2.61 do not address the substantive issue in the recommendation concerning this amendment, which was in respect of the peripheral location of the land and inconsistency with NPO 3c and RPO 35 in relation to compact growth and objectives to promote sustainable and transport strategies under section 10(2)(n) of the Act.

There is already land zoned ZO 2 New Residential Neighbourhoods in locations all of which are closer to Cork City Centre than the subject land, which is sequentially preferable than the subject land.

Furthermore, the rezoning leapfrogs to the edge of the settlement to a location removed from Cork City and an urban town centre. The zoning amendment is, therefore, inconsistent with the requirements for compact growth in NPO 3c and RPO 35, and does not have regard to the sequential approach to development in section 6.2.3 of the *Development Plans, Guidelines for Planning Authorities (2022)* and is inconsistent with the core strategy of the adopted Plan.

MA no. 2.69 Upper Glanmire (Map 13 Draft Plan)

Zoning material amendment no. 2.69 amended the zoning in the draft Plan from ZO 21 City Hinterland to ZO 2 New Residential Neighbourhoods. The land, comprises c.2.7 ha.

In respect of zoning amendment MA no. 2.69, the elected members provided the following reasons in the notice letter for rejecting the CE's recommendation to not zone the land to Residential 2:

1. *Site is connected to an existing housing development*
2. *Sites development will improve scale of settlement for future infrastructure investment*
3. *A new bus route will serve Upper Glanmire*

The Office considers that the reasons provided by the elected members in support of zoning amendment no. 2.69 do not address the substantive issue in the recommendation concerning this amendment, which was in respect of the peripheral location of the land and inconsistency with NPO 3c and RPO 35 in relation to

compact growth and objectives to promote sustainable settlements and transport strategies under section 10(2)(n) of the Act.

There is already land zoned ZO 2 New Residential Neighbourhoods which is sequentially preferable than the subject land. The rezoning leapfrogs to the edge of the settlement to a peripheral and non-sequential location.

The zoning amendment is, therefore, inconsistent with the requirements for compact growth in NPO 3c of the National Planning Framework and RPO 35 of the Regional Spatial and Economic Strategy, and the sequential approach to development having regard to section 6.2.3 of the Development Plans, Guidelines for Planning Authorities, (2022) and is inconsistent with the Core Strategy of the adopted Plan.

ZO 02 New Residential Neighbourhood (Carrigrohan)

Recommendation 6 of the Office's submission required the omission of zonings New Res Neighbourhood, Tier 3 Residential Neighbourhoods and Sustainable Res Neighbourhood from the draft Plan.

Recommendation 6 – stated as follows

Having regard to the National Strategic Objective for compact growth under the NPF, the provisions of NPO 72c, the planning authority is required to remove proposed land use zonings:

- *ZO 02 New Res Neighbourhood and ZO 03 Tier 3 Residential Neighbourhoods at Carrigrohane to the east of Ballincollig; and*
- *ZO 02 New Res Neighbourhood and ZO 01 Sustainable Res Neighbourhood at and / or adjacent the north of Ardostig, to the south of the N40'.*

The Office was satisfied at MA stage that the proposed zonings at Ardostig were acceptable and justified by the planning authority. However, the zonings at Carrigrohane were not satisfactorily addressed in full.

The CE recommended at draft plan stage that the zonings at Carrigrohane be amended as follows:

- Change zoning of the lands in this location situated within the Ballincollig settlement boundary from “ZO 2 New Residential Neighbourhoods” to “ZO 14 Institutions and Community”.
- Change zoning of the lands in this location situated outside the Ballincollig settlement boundary from “ZO 2 New Residential Neighbourhoods” to “ZO 21 City Hinterland”.

The section 12(5)(aa) Notice set out that this recommendation was not put forward for a vote by the elected members and as such no material amendments were included to address this recommendation.

The ZO 03 Tier 3 lands within the city administrative area were rezoned under MA 2.1 to ZO 21 City Hinterland and designated as Longer Term Strategic Development Lands. This MA was adopted by the elected members without modification. The office is satisfied that the designation of the ZO 03 Tier 3 lands to ZO 21 City Hinterland and Longer Term Strategic Development Lands is justified and acceptable.

In relation to the ZO 02 New Residential Lands, for reasons that are unclear, no material amendment was put forward by the Executive to address the Office's recommendation.

As noted in the Office's submission to the draft Plan, the subject lands are located outside the settlement boundary, on greenfield lands identified for long term growth in Figure 2.8 of the draft Plan. Part of the lands c. 6.1ha are within the settlement boundary and c. 8.9ha are located outside the settlement boundary. In total, the combination of residential zoned land is significant for lands that are designated for longer term growth in accordance with Figure 2.8 of the plan and are not intended to come forward during the lifetime of this plan.

The proposed ZO 02 New Res Neighbourhood to the east of Ballincollig would be premature pending the determination of LRT route and represent a non-sequential approach to development planning and is inconsistent with the requirements for compact growth in NPO 3c of the National Planning Framework and RPO 35 of the Regional Spatial and Economic Strategy, and does not have regard to the sequential approach to development in section 6.2.3 of the *Development Plans, Guidelines for*

Planning Authorities (2022) and is inconsistent with the Core Strategy of the adopted Plan

MA no. 2.99 Distribution of Growth at Stoneview and Ringwood

MA Recommendation 1 of the Office's submission to the material alterations to the draft Plan required the planning authority to omit a number of zonings where the proposed rezoning of land for residential use is peripherally located relative to services and facilities, is not well served by public transport and cannot be easily accessed by active modes.

MA Recommendation 1 – stated as follows

Having regard to NPO 3b and NSO 3 for compact growth, and to NPO 72c for tiered approach to zoning and to the provisions of the Development Plans, Guidelines for Planning Authorities - Draft for Consultation (2021) for settlement capacity audits, the planning authority is required, subject to the exclusion specified below, to make the Plan without MA no.2.99 to change the zoning objectives in Stoneview and Ringwood, Blarney from ZO 2 New Residential Neighbourhoods, ZO 3 Tier 3 Residential Neighbourhoods and ZO 16 Public Open Space, to ZO 2 New Residential Neighbourhoods, ZO 7 Urban Town Centre, ZO 13 Education, ZO 16 Public Open Space and ZO 21 City Hinterland and designated as Longer term Strategic Development Land.

Exclusion: The proposed amendment to change an area of c.3.4ha at Ringwood adjacent the N20 from ZO 2 New Residential Neighbourhoods Tier 3 Residential Neighbourhoods to ZO 21 City Hinterland, designated as Longer term Strategic Development Lands.

Material amendment no. 2.99 reverted back to the draft Plan as amended by MA no. 2.1 no. e.g. Tier 3 lands to be replaced by ZO 21 City Hinterland and designated as Longer Term Strategic Development Lands. The Office considered this approach acceptable. However the part adoption of MA no. 2.99 in relation to Ringwood does not fully address the OPR recommendation. An area of ZO 16 Public Open Space and a large ZO 2 New Residential Neighbourhood lands as proposed under MA no .2.99 have however been retained by the elected members, which conflict the Office's Recommendation.

The Strategic Flood Risk Assessment (SFRA), Strategic Environmental Assessment and submissions made by Irish Water and OPW all recommended against the adoption of MA no. 2.99 in full. The SFRA notes that MA no. 2.99 was found to potentially conflict with proper flood risk management and not comply with the Flood Risk Management Guidelines. The submission from the OPW concurred with these findings. The SEA further notes that proposed MA no. 2.99 does not provide for the most evidence-based framework for development and has the potential to undermine sustainable development and proper planning.

The resolution to adopt MA no. 2.99 in respect of ZO 16 Public Open Space is considered acceptable by the Office given the characteristics of the site as a heavily wooded area. The public open space zoning would protect the extensive tree coverage in the area which is supported by Action 364 of the *Climate Action Plan 2021* to protect woodland to develop a shared national approach for trees, woods and forests and section 10 (2)(ca) of the Act to manage features of the landscape what are important for the ecological coherence of the Natura 2000 network. The open space zoning is a suitable water compatible use in accordance with the *Planning System and Flood Risk Management Guidelines 2009*.

In relation to resolving to make that plan with the remaining ZO2 New Residential Neighbourhood zoning, the elected members state that the lands are a natural progression of development in the town of Blarney and that there is sufficient availability of amenities in the area to serve residential development.

However, the subject residential zoned lands could not be considered to represent a sequential progression from the town centre of Blarney. The lands are intersected by an area of open space and city hinterland zoned lands, designated as longer term strategic development lands and are therefore separated from the residential zoned lands to the north.

Section 6.2.3 of the *Development Plans, Guidelines for Planning Authorities (2022)* state that the most spatially centrally located development sites in settlements are prioritised for more development first with the more spatially peripherally located development sites being zoned subsequently. The new residential zoned lands to the north of the subject site are better located in terms of accessibility and connectivity to the town centre and existing residential development. These zoned

lands were considered acceptable at draft plan stage. The introduction of the additional new residential zoned lands to the south subject to MA 2.99 are more peripheral in nature and are disconnected in terms of accessibility to the town centre.

The subject lands can also not be accommodated in terms of infrastructure including water and waste water with the City Capacity Study Report noting that '*Water and Wastewater network infrastructure upgrade needed for Stoneview Site*'.

In addition, the zoning of these lands are not supported by Irish Water, stating that the zoning proposed in MA no. 2.99 far exceeds the available capacity for the area and that it is not envisaged that works to service Stoneview will be included in the current investment programme. Therefore, having regard to the infrastructural constraints and the recommendations of the SEA and SFRA, it is considered that the proposed ZO 2 New Residential Neighbourhood zoning is not consistent with NPO 3b and NSO 3 for compact growth.

MA 2.26 Community Services – schools

MA Recommendation 3 of the Office's submission to the material alterations to the draft Plan required the planning authority to omit MA no. 2.26 a change land use zoning objective from ZO 13 Education to ZO 5 Mixed Use Development.

MA Recommendation 3 – stated as follows

Having regard to NPO 13 and RPO 185, to the provisions of the Guidelines for Planning Authorities on Sustainable Residential development in Urban Areas: Cities, Towns and Villages (2009), and to the requirements under section 10(2)(l) and section 10(1) of the Planning and Development Act 2000, as amended, the planning authority is required to make the plan without MA no.2.26 - change of land use zoning objective from ZO 13 Education to ZO 5 Mixed Use Development.

In respect of zoning amendment MA no. 2.26, the elected members provided the following reasons in the notice letter for rejecting the CE's recommendation to not zone the land to ZO 13 Education:

1. *The mixed use zoning will facilitate education, existing and future expansion*

The Office considers that the reasons provided by the elected members in support of zoning amendment MA no. 2.26 do not address the substantive issue in the recommendation concerning this amendment, which was in respect of the need to support sustainable community expansion in Cork Docklands, a key enabler for future growth of Cork City in the NPF, in reaching its critical mass and ambitious population targets.

The Chief Executive Report on Proposed Material Amendments to the Draft Cork City Development Plan 2022 – 2028 Consultation (27th May 2022) stated as follows;

The proposed amendment MA no.2.26 would reduce the gross site area, to c.0.4ha, of one of the three school sites in the South City Docklands, zoned ZO 13 Education in the draft Plan, which the Department of Education has identified as necessary to accommodate up to six 24-classroom primary schools and two 1,000 pupil post-primary schools. The department has indicated that the reduced site area will compromise the capacity of the site to deliver one, let alone two schools.

The proposed amendments to ZO 13 Education, ZO 17 Sports Ground and Facilities and ZO 2 New Residential Neighbourhoods under MA no.2.12, MA no.2.13, MA no.2.14 and MA no.2.26 also create challenges for the provision of essential, ancillary sports and recreational facilities, which are proposed to be shared between future schools and the general public. It is important that greater certainty in the Plan concerning the permanent availability of these facilities is needed.

The material amendment is inconsistent with NSO 10 and NPO 31 which promote strategic planning of and investment in the provision of education to reinforce the delivery of sustainable communities, and the provisions of RPO 185 to support a planned approach to location of school facilities such that both proposed locations and existing schools are accessible by public transport and active travel modes.

The Office considers, therefore, that proposed amendment MA no. 2.26 will conflict with the requirement to include objectives for the provision or facilitation of services for the community, in particular schools under section 10(2)(l) of the Act, and with

section 10(1) of the Act to set out an overall strategy for the proper planning and sustainable development.

2. Opinion of the Office and Reasons

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

Further, the Office does not accept that the reasons given for not implementing the Office's recommendations in the notice letter dated 4th July 2022 adequately justify the failure to implement those recommendations or explain how, notwithstanding that failure, the Development Plan as adopted sets out an overall strategy for the proper planning and sustainable development of the area.

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

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

- The provisions of section 31AM(2).
- Under section 31 AM(3)(a), the Office shall make such recommendations in relation to the Office's evaluation and assessments to those authorities as it considers necessary in order to ensure effective co-ordination of national, regional and local planning requirements by the relevant planning authority in the discharge of its development planning functions.
- In performing its functions, the Office must, under section 31P(3) of the Act, take account of the objective for contributing to proper planning and sustainable development and the optimal functioning of planning under the Act.
- Under section 31S, the Office must, in performing its functions, have regard to:

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

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

Accordingly, having considered the Development Plan in light of section 31AM(1)(a-e), section 31AM(2), section 31AM(3)(a), section 31P(3) and section 31S, and the letter from the planning authority of the 4th July 2022 issued under section 31AM(6), the Office is of the opinion that the Development Plan has not been made in a manner consistent with the recommendations of the Office under section 31AM (7).

The Development Plan as made is inconsistent with the provisions of the Southern Regional Spatial and Economic Strategy, specifically RPO 55c which states that it is an objective to '*Prepare Retail Strategies in accordance with the Retail Planning Guidelines including Joint Retail Strategies where applicable*', and the Cork MASP

Policy Objective 16, policy objective to '*support the role of the Metropolitan Cork Joint Retail Strategy and seek further preparation of joint retail strategies for Metropolitan Cork between Cork City Council and Cork County Council in accordance with section 28 Retail Planning Guidelines for Planning Authorities (2012)* which require that that certain development plans must be informed by joint retail strategies, the policies and objective of which strategy should be adopted into the Development Plan and the Council has failed to have regard to the requirements of the section 28 *Retail Planning Guidelines for Planning Authorities (2012)* and no or no adequate reasons relating to the proper planning and sustainable development of the area have been provided to explain why the guidelines have not been followed.

A Joint Retail Strategy has not been prepared and finalised by Cork City Council and Cork County Council to inform their respective development plans.

The Development Plan has not therefore been informed or underpinned by the necessary strategic work (contrary to section 11(1A) which requires the preparation of a development plan to be "*strategic in nature for the purposes of developing*" (a) the policies and objectives to deliver an overall strategy and (b) the core strategy) and retail strategy, and it therefore fails to set out an overall strategy for the proper planning and sustainable development of the area. In this regard there has been a breach of the requirement in Section 10(2A)(e) that the Core Strategy must '*provide relevant information to show that, in setting out objectives regarding retail development contained in the development plan, the planning authority has had regard to any guidelines that relate to retail development issued by the Minister under section 28*'.

The statement under section 28(1A)(b) attached to development plan as made fails to include information which demonstrates that the planning authority has formed the opinion that it is not possible to implement the policies and objectives contained in the *Retail Planning Guidelines for Planning Authorities (2012)* because of the nature and characteristics of the area, in addition to the reasons for the forming of that opinion contrary to section 28(1A)(b).

Furthermore, the adopted Development Plan includes material amendments to the draft Plan which zone additional residential land in excess of what is required for

Cork City as set out in the Core Strategy. These amendments also are located in peripheral and non-sequential locations beyond extensive undeveloped greenfield lands, contrary to national and regional policy objectives promoting compact growth (NPO 3c and RPO 35) and contrary to the requirement that '*residential development will be carried out sequentially*' (RPO 151). The amendments would encourage a pattern of development in particular locations which are inconsistent with national and regional policy objectives promoting compact growth (NPO 3c and RPO 35) and which fails to have regard to section 6.2.3 of the *Development Plans, Guidelines for Planning Authorities* (2022) issued under section 28 of the Act regarding the sequential approach no or no adequate reasons relating to the proper planning and sustainable development of the area have been provided to explain why the guidelines have not been followed.

In addition, the Development Plan fails to provide for the facilitation of services for the community, in particular schools in accordance with section 10(2)(l) and section 10(1) of the Act to set out an overall strategy for the proper planning and sustainable development.

Moreover, having considered the reasons given by the elected members as set out above, the Office remains of the view that provisions of the development plan as made are inconsistent with RPO 55c and the Cork MASP Policy Objective 16, National Planning Objectives NPO 3(c) and NPO 13, Regional Policy Objective RPO 35, section 10(2)(l) and section 10(1) of the Act and fails to have regard to the section 28 *Guidelines for Planning Authorities Retail Planning Guidelines* (2012) and the *Development Plans, Guidelines for Planning Authorities* (2022).

Further, in making the Development Plan with residential zoning in excess of that determined to be required under the Core Strategy, the planning authority has failed to have regard to the requirement under section 4.4 of the *Development Plans, Guidelines for Planning Authorities* (2022) to ensure enough land is zoned and to avoid zoning too much land.

In making the Development Plan with the subject amendments, the planning authority has made the plan inconsistent with the requirements of section 10(2A)(d)(ii) of the Act which requires the development plan to provide details of how the zoning proposals in respect of lands zoned for residential and for a mixture of

residential and other uses accords with national policy that development of land shall take place on a phased basis.

The Development Plan has not been made in a manner consistent with and has failed to implement the recommendations of the Office of the Planning Regulator under section 31 AM of the Act.

Having regard to the matters set out, above, the Development Plan fails to set out an overall strategy for the proper planning and sustainable development of the area and is not in compliance with the requirements of the Act

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

- i. National Policy Objective NPO3(c) and NPO 72(c), and Regional Policy Objective RPO 35(c) and Cork MASP Policy Objective 16, which state:

NPO3(c)

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

RPO 35(c)

Development Plans shall set out a transitional minimum requirement to deliver at least 30% of all new homes that are targeted in settlements other than the cities and suburbs, within their existing built-up footprints in accordance with NPF National Policy Objective 3c. This will be evidence based on availability and delivery of lands within the existing built-up area.

Cork MASP Policy Objective 16 b

Support the role of the Metropolitan Cork Joint Retail Strategy and seek further preparation of joint retail strategies for Metropolitan Cork between Cork City Council and Cork County Council in accordance with Section 28 Retail Planning Guidelines for Planning Authorities (DECLG, 2012).

- ii. *The Guidelines for Planning Authorities Retail Planning Guidelines (2012)*, which states:

... future retail development should be plan-led following the settlement hierarchy”.

The function of the development plan is to establish an overall strategy for the proper planning and sustainable development of its area. Specifically in relation to retailing, the development plan must be:

- Evidence based through supporting analysis and data to guide decision-making;*
- Consistent with the approach of these guidelines; and*
- Clear and precise with regard to specific objectives and requirements.”*

...certain development plans and local area plans must be informed by joint or multi-authority retail strategies which should assess retail activity and demand needs that transcend planning authority boundaries (See Annex 3 for further guidance on the preparation of joint or multi-authority retail strategies). To give these strategies statutory backing the policies and objectives of the strategy should be adopted into the development plan and local area plan as appropriate or adopted as a variation to a development plan.

and

Once the joint or multi-authority retail strategy is in place, this strategy will enable relevant planning authorities to properly inform their development plan review processes about the overall quantum and type of development that the market is likely to bring forward in response to changing demographic and consumer spending factors.

- iii. *The Development Plans, Guidelines for Planning Authorities (2022)*, which state:

In undertaking the zoning function for new residential development at individual settlement scale, planning authorities are required to adopt a sequential approach which reflects the compact growth, utilisation of existing

infrastructure and town regeneration national policy objectives of the NPF, furthering developing the Tiered Approach.

- iv. Section 10(2)(l) and Section 10(1) of the Act and NSO 10 and NPO 31 which promote strategic planning of and investment in the provision of education to reinforce the delivery of sustainable communities, and the provisions of RPO 185 to support a planned approach to location of school facilities
- v. The Core Strategy Table in the adopted Development Plan.
- vi. The Chief Executive's reports on submissions on the draft Development Plan and material alterations to the draft Development Plan.
- vii. The relevant requirements of section 10, section 12(18) and section 28 of the Act.
- viii. The Office's statutory obligations under the Act.

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

3. Recommendation to the Minister

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

- (a) Insert the following objective in Chapter 7 of the Plan:

To complete the preparation of a Joint Retail Strategy with Cork County Council which will jointly determine the scope for retail development generally, within the Cork metropolitan area within 12 months of the adoption of both City and County Development Plans and to adopt the Joint Retail Strategy into the Cork City Development Plan by way of a variation.

(b) Reinstate the following zoning objectives to that of the draft Plan:

- (i) MA no. 2.62 i.e. the subject land reverts to ZO 18 Landscape Preservation Zones from ZO 2 New Residential Neighbourhoods.
- (ii) MA no. 2.60 i.e. the subject land reverts to ZO 21 City Hinterland from ZO 2 New Residential Neighbourhoods.
- (iii) MA no. 2.78 i.e. the subject land reverts to ZO 21 City Hinterland from ZO 2 New Residential Neighbourhoods
- (iv) MA no. 2.61 i.e. the subject land reverts ZO 21 City Hinterland from ZO 2 New Residential Neighbourhoods except in respect of the lands to be developed for housing under Cork City Council planning reference 2140600.
- (v) MA no. 2.69 i.e. the subject land reverts ZO 21 City Hinterland from ZO 2 New Residential Neighbourhoods.
- (vi) MA no. 2.26 i.e. the subject land reverts to ZO 13 Education from ZO 5 Mixed Use Development.
- (vii) MA no. 2.99 with respect of “Ringwood” (south of M20) i.e. the remaining residential land reverts from ZO 2 New Residential Neighbourhoods to ZO 21 City Hinterland & Longer Term Strategic Development Lands.

(c) Delete ZO 02 New Residential Neighbourhood zoning in Carrigrohane

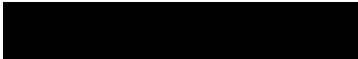
Please do not hesitate to contact the Office should you have any queries in relation to the above. Contact can be initiated through the undersigned or at plans@opr.ie.

Yours sincerely,



Niall Cussen

Planning Regulator



DRAFT DIRECTION IN THE MATTER OF SECTION 31

OF THE PLANNING AND DEVELOPMENT ACT 2000 (as amended)

Cork City Development Plan 2022 – 2028

“Development Plan” means the Cork City Development Plan 2022 – 2028

“Planning Authority” means Cork City Council

WHEREAS the powers and duties of the Minister for Housing, Local Government and Heritage under the Planning and Development Act 2000 (as amended) ("the Act"), other than the power to prosecute an offence, have been delegated to the Minister of State at the Department of Housing, Local Government and Heritage pursuant to the Housing, Local Government and Heritage (Delegation of Ministerial Functions) Order 2020 (S.I. 559 of 2020).

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

- (1) This Direction may be cited as the Planning and Development (Cork City Development Plan 2022 - 2028) Direction 2022.
- (2) The Planning Authority is hereby directed to take the following steps with regard to the Development Plan:
 - a. Insert the following objective in Chapter 7 of the Plan:

To complete the preparation of a Joint Retail Strategy with Cork County Council which will jointly determine the scope for retail

development generally, within the Cork metropolitan area within 12 months of the adoption of both City and County Development Plans and to adopt the Joint Retail Strategy into the Cork City Development Plan by way of a variation.

b. Reinstate the following zoning objectives to that of the draft Plan:

(i) MA no. 2.62 i.e. the subject land reverts to ZO 18 Landscape Preservation Zones from ZO 2 New Residential Neighbourhoods.

(ii) MA no. 2.60 i.e. the subject land reverts to ZO 21 City Hinterland from ZO 2 New Residential Neighbourhoods.

(iii) MA no. 2.78 i.e. the subject land reverts to ZO 21 City Hinterland from ZO 2 New Residential Neighbourhoods.

(iv) MA no. 2.61 i.e. the subject land reverts to ZO 21 City Hinterland from ZO 2 New Residential Neighbourhoods except in respect of the lands to be developed for housing under Cork City Council planning reference 2140600.

(v) MA no. 2.69 i.e. the subject land reverts to ZO 21 City Hinterland from ZO 2 New Residential Neighbourhoods.

(vi) MA no. 2.99 with respect of "Ringwood" (south of M20) i.e. the remaining residential land reverts from ZO 2 New Residential Neighbourhoods to ZO 21 City Hinterland & Longer Term Strategic Development Lands.

(vii) MA no. 2.26 i.e. the subject land reverts to ZO 13 Education from ZO 5 Mixed Use Development.

c. Delete ZO 02 New Residential Neighbourhood zoning in Carrigrohane

STATEMENT OF REASONS

- I. The Cork City Development Plan 2022-2028 as made fails to implement policy objectives of the Southern Regional Spatial and Economic Strategy, specifically RPO 55c which states that it is an objective to “*Prepare Retail Strategies in accordance with the Retail Planning Guidelines including Joint Retail Strategies where applicable*”, and the Cork MASP Policy Objective 16, and as such have regard to Ministerial Guidelines issued under Section 28 of the Act, specifically the requirement under the *Retail Planning Guidelines for Planning Authorities* (2012) that future retail development should be plan-led, that the development plan, specifically in relation to retailing, must be evidence-based, and that the Cork City Development Plan must be informed by a Joint Retail Strategy prepared with Cork County Council.

The Development Plan as made has not been informed by an up to date Joint Retail Strategy. It contains specific policy and objectives which are not informed or underpinned by the necessary strategic work (contrary to Section 11(1A), which requires the preparation of a development plan to be “*strategic in nature for the purposes of developing*” (a) the policies and objectives to deliver an overall strategy and (b) the core strategy) and retail strategy, and it therefore fails to set out an overall strategy for the proper planning and sustainable development of the area, a key element of which is a strategy for the proper planning and sustainable development of retail development.

In this regard, there has been a breach of the requirement in Section 10(2A)(e) that the Core Strategy must “*provide relevant information to show that, in setting out objectives regarding retail development contained in the development plan, the planning authority has had regard to any guidelines that relate to retail development issued by the Minister under section 28*”.

II. The Development Plan as made includes material amendments to the draft Plan, that individually and cumulatively are not consistent with the Core Strategy, national and regional planning policy, and the proper planning and sustainable development of the area, including:

- a) Land zoned for residential development located in peripheral locations remote from the existing settlement, inconsistent with the requirements for compact growth in NPO 3c, RPO 35 and RPO 151, and fails to have regard to the sequential approach to development in 6.2.3 of *Development Plans Guidelines for Planning Authorities* (2022).
- b) Land zoned for residential development in excess of that needed to meet the Core Strategy housing supply targets for Cork City in the adopted Plan, and which would further undermine the achievement of the brownfield development targets in the Core Strategy Table.

The development plan as made therefore fails to set out an overall strategy for the proper planning and sustainable development of the area.

III. The Development Plan as made includes a material amendment to change Education zoned site to Mixed Use in the Cork Docklands, an area designated as a key enabler for Cork City, inconsistent with NSO 10 and NPO 31 which promote strategic planning of and investment in the provision of education to reinforce the delivery of sustainable communities, and the provisions of RPO 185 to support a planned approach to location of school facilities such that both proposed locations and existing schools are accessible by public transport and active travel modes.

- IV. The Development Plan has not been made in a manner consistent with and has failed to implement the recommendations of the Office of the Planning Regulator under Section 31 AM.

- V. In light of the matters set out at I to III, above, the Minister is of the opinion that the Development Plan fails to set out an overall strategy for the proper planning and sustainable development of the area.

- VI. In light of the matters set out at I to IV, above, the Development Plan is not in compliance with the requirements of the Act

GIVEN under my hand,

Minister for Housing, Local Government and Heritage

day of Month, year.