



Oifig an
Rialaitheora Pleanála
Office of the
Planning Regulator

Our Ref: AD-025-22

19th 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) – South Dublin County Development Plan 2022-2028

A chara,

I am writing to you in relation to the recent adoption by the elected members of the South Dublin County 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:
 - i. to make the Development Plan without the inclusion of the zoning of an area of 53 hectares of land for Enterprise and Employment uses, in a peripheral location outside the Dublin City and suburbs boundary, which change was recommended by the Office so as to ensure consistency with National Strategic Outcome 1 of the *National Planning Framework - Project Ireland 2040* (the 'NPF') and Regional Policy Objectives 5.3 and 5.6 contained in the *Regional Spatial and Economic Strategy for the*

*Eastern and Midland Regional Assembly and in light of the Development Plans, Guidelines for Planning Authorities (2022)*¹, the *Spatial Planning and National Roads, Guidelines for Planning Authorities (2012)* and the *Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)*; and

- ii. to make the Development Plan without amendments to the zoning objectives for REGEN, Major Retail Centre and Enterprise and Employment which make data centre use a 'not permitted' use class, which changes were recommended by the Office so as to ensure consistency with Regional Policy Objective 8.25 contained in the *Regional Spatial and Economic Strategy for the Eastern and Midland Regional Assembly*.
- b) by reason of the failure to implement the recommendations above, the Development Plan has not been made in a manner consistent with recommendations of the Office, and 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
- c) 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 South Dublin County Development Plan 2022 – 2028 (the draft Plan) was on public display from 7th July 2021 to 15th September 2021.

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

The Office made a submission to the draft Plan containing 9 recommendations and 13 observations on 15th September 2021.

The Office was generally satisfied with the overall approach and policies / objectives in the draft Plan which direct the majority of future development to strategic development zones and the designated strategic development areas for residential and employment in the Regional Spatial and Economic Strategy consistent with the Regional Policy Objectives and guiding principles for growth of the Dublin Metropolitan Area which are set out in the Metropolitan Area Strategic Plan (MASP).

The Office's submission to the draft Plan identified some issues for the planning authority to address to more fully align the draft Plan with current national and regional policy and the Act.

The issues raised related to refinement of the Housing Supply Target (HST) figures in the Core Strategy, moderating the future growth of the settlements of Rathcoole, Newcastle and Saggart and requirements for social and affordable housing under Part V of the Act amongst others.

The majority of the issues raised were either addressed as material alterations or the Office was satisfied with the response provided by the Chief Executive in his report to the elected members on the draft Plan submissions.

The elected members, having considered the draft Plan and the Chief Executive's (CE's) Report on submissions received, resolved to make material alterations to the draft Plan on the 1st, 3rd, 7th and 9th March 2022.

The material alterations to the draft Plan were on public display from 29th March to 26th April 2022.

The material alterations included a number of changes including:

- Material amendments 2.20 and 9.4 which rezoned circa 50 hectares of land to the north and east of Greenogue Business Park from the Rural RU zone to the Enterprise and Employment zone and applied a specific local objective requiring site specific flood alleviation measures forming part of any future planning application for the lands.

- Material amendments 13.1, 13.2 and 13.3 which amended the REGEN, Enterprise & Employment (EE) and Major Retail Centre (MRC) zoning objectives to make data centres a ‘not permitted’ use across all zoning objectives in the Plan.

The Office made a submission on 26th April 2022 to the material alterations to the draft Plan containing 3 recommendations and 3 no. observations. The Office’s submission letter stated:

...the Office considers that the proposal to rezone significant further lands for employment at Greenogue Business Park in an area that is poorly served by public transport is not consistent with the objectives of sustainable mobility and transition to a low carbon and climate resilient society, and would set a further precedent for this pattern of development in the general area.

The Office also considers that the material amendment to make data centres a ‘not permitted’ use across all land use zones represents an unconditional policy approach for which no clear evidence-based rationale is evident, and which is not consistent with the regional policy objectives for economic development in the RSES...

The elected members of South Dublin County Council resolved to make the South Dublin County Development Plan 2022 – 2028 on 22nd June 2022.

Subsequently, the Chief Executive sent a notice letter under Section 31(AM)(6) of the Act dated 28th June 2022 to the Office advising of the making of the Development Plan and specifying the recommendations of the Office not complied with.

The notice letter stated that MA Recommendation 1, MA Recommendation 2 and Recommendation 5 of the Office’s submission to the draft Plan had not been complied with and provided a summary of the elected members’ reasoning for not complying with the aforementioned recommendations.

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 MA Recommendation 1 - Employment zoning at Greenogue

MA Recommendation 1 of the Office's submission to the material alterations to the draft Plan required the planning authority to omit the enterprise and employment zoning to the north and east of the existing Greenogue Business Park which is located north of junction 4 of the N7 Naas Road outside the Dublin City and suburbs boundary.

The Baldonnell Aerodrome is immediately east and northeast of the subject land and the settlement of Newcastle is approximately 2.5 km to the west.

MA Recommendation 1 – Greenogue Business Park stated:

Having regard to National Strategic Outcome 1 (Compact Growth) and National Policy Objective 11 of the National Planning Framework (NPF), Regional Policy Objectives 5.3 and 5.6 of the Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Regional Assembly, section 2.7 of the Spatial Planning and National Roads Guidelines for Planning Authorities (2012), and section 6.2.5 of the Development Plans, Guidelines for Planning Authorities - Draft for Consultation August (2021), the planning authority is required to:

- (i) omit the Enterprise and Employment zoning (Material Amendment 2.20) from the lands at Greenogue Business Park and retain the Rural RU zoning objective. The Office considers that the rezoning is contrary to compact growth and sequential development and would support unsustainable car dependant development at a greenfield location remote from high capacity public transport and in close proximity to a junction on the national road network. Further, there is no evidence based rationale underpinning the zoning of land for employment purposes at this location which also demonstrates that the criteria in section 2.7 of the Spatial Planning and National Roads Guidelines (2012) have not been satisfied; and*

(ii) *omit the specific local objective (Material Amendment 9.4) which requires site specific flood alleviation measures to support its development. The Office notes that lands are affected by flood zones A / B and further rezoning in this general area is not supported in the Justification Test in the Strategic Flood Risk Assessment which recommends retaining the Rural RU zoning (page 27).*

The Office's submission to the material alterations also referred to the fact that

...Greenogue Business Park is not identified as a strategic employment area in the RSES for the EMRA. The strategic employment development areas (Table 5.2 of the RSES) along the south-west corridor and of relevance to South Dublin are Naas Road / Ballymount, Tallaght Town Centre / Cookstown and Grange Castle Business Park.

The CE's recommendation was to omit proposed Material Amendments 2.20 and 9.4 and make the Plan without same. The CE's report on submissions raised concerns about the traffic implications affecting the national road network and policy in the RSES regarding sequential development stating:

...The proposed rezoning, of approximately 53 hectares (130 acres), is a significant addition to the existing zoning in this area adjacent to and reliant on Junction 4 of the N7. The scale of potential new development has not been assessed against the local or national road network but is likely to give rise to significant additional traffic movements both from workers getting to and from the site and from transport related enterprise, to and from this junction which is already subject to capacity constraints. Having regard to the submissions from TII and the OPR on junction capacity and the lack of public transport, the rezoning is not considered to be in the interests of proper planning and sustainable development. This is particularly in light of policy within the RSES which indicates that development within the metropolitan area should be carried out sequentially...²

² Pages 15 to 18 inclusive of the CE's report on submissions to the material alterations to the draft Plan

However, the elected members did not accept the CE's recommendation to make the Plan without proposed Material Amendments 2.20 and 9.4.

The summary of the elected members' reasons provided in the notice letter are:

- *Greenogue is expanding constantly, with the land in question giving opportunities for companies to grow, creating more jobs for the people of South Dublin.*
- *The motion has cross-party support as it will aid communities like Newcastle, Rathcoole, Tallaght and Clondalkin.*
- *The plot in question does not jeopardise housing as it is located away from housing and has direct access from the N7.*
- *Flood risks have been mitigated in the past and engineers of today will be able to come up with solutions which mitigate against flooding.*
- *Greenogue provides employment in engineering/construction roles which Grange Castle and Citywest are not suitable for. Greenogue can also provide apprenticeships to deal with the growing demand in these sectors of work.*
- *Greenogue can provide employment land for businesses which may need to move from regeneration areas like City Edge.*
- *Greenogue has provided millions in council levies since its establishment.*

The Development Plan was informed by a land capacity analysis of remaining lands to facilitate, inter alia, employment development, an infrastructural assessment of potential development sites and a planning assessment all of which form part of Appendix 2 (Part 1) of the Development Plan³. The aforementioned notes drainage / flood risk issues affecting the employment lands at Greenogue Business Park.

The CE's report on draft Plan submissions refers to the capacity to develop 624 hectares of employment lands⁴ and states that

³ Appendix 2 (Part 1) – Developing Core Strategy

⁴ Figure of 624 hectares excludes lands rezoned at Greenogue Business Park

...This would more than meet the projected employment growth of 18,336 jobs over the Plan period set out in section 2.6.8 of the Core Strategy in the Draft Plan...⁵

Having regard to the reasons given by elected members that the zoning objective was justified in terms of the need for employment land/ jobs, the Office is satisfied that this analysis demonstrates that there is no strategic justification to support zoning significant further employment lands at Greenogue.

The Office does not, therefore, accept that the reasons put forward by the elected members in favour of the zoning provide a robust planning rationale for zoning a relatively large area for employment uses in a peripheral location that is outside the Dublin City and Suburbs boundary and remote from high quality public transport and the members' decision to retain Material Amendments 2.20 and 9.4 fails to have regard, properly, and/or adequately, and/or at all to relevant Ministerial Guidelines issued under section 28 of the Act, specifically:

- Section 6.2.5 (zoning for employment uses) in the *Development Plans, Guidelines for Planning Authorities (2022)*;
- Section 2.7 (Development at National Road Interchanges or Junctions) in the *Spatial Planning and National Roads Guidelines for Planning Authorities (2012)*; and
- Section 3 (Principles and key mechanisms – Justification Test) of the *Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)*.

The Greenogue Business Park consists of an 'island' of Enterprise & Employment zoned land surrounded by Rural RU zoned land in a location that is remote from high quality public transport and a significant residential population. The subject lands are in agricultural use and form part of the greenbelt on the western edge of the city.

The rezoning does not provide for compact growth or follow a sequential approach and does not provide for a plan led approach that facilitates sustainable travel

⁵ Page 100 of the CE's report on draft Plan submissions

patterns contrary to national (National Strategic Outcome 1) and regional planning objectives (RPO 5.3 and 5.6). The rezoning provides for greenfield development outside rather than within the existing Dublin City and suburbs boundary and built up area of Newcastle.

The adopted Plan already provides 554 hectares of undeveloped enterprise and employment lands before the enterprise and employment zoning at Greenogue is added in and in a location poorly served by public transport.

No evidenced-based justification has been provided for the rezoning of an additional c. 53 hectares, whereas detailed analysis was undertaken which supports the CE's conclusion that the quantity of zoned land would more than meet the projected employment growth over the plan period set out in the Core Strategy in the draft Plan. Neither is there any further policy support for the rezoning of the subject lands, for example by reason of being identified as a strategic employment area in the RSES for the Eastern and Midlands Region.

Accordingly, the zoning is not underpinned by any strategic justification or supporting evidence, which would be required firstly to demonstrate a need for future employment land at a peripheral location close to the national road network such as at Greenogue, and secondly in order to demonstrate that Greenogue is a suitable location for a significant expansion of employment lands notwithstanding the absence of high quality public transport and implications for traffic management, flood risk management and Baldonnell Aerodrome.

In this regard, the addition of significant additional zoned lands for employment purposes at Greenogue as proposed under Material Amendment 2.20 over and above the Development Plan's own estimation of needs and in an area at risk of flooding, demonstrates the absence of an overall strategy for the proper planning and sustainable development of employment lands in the Development Plan.

1.2 MA Recommendation 2 - Prohibition on data centres

MA Recommendation 2 of the Office's submission to the material alterations to the draft Plan required the planning authority to retain data centre use class as an 'open for consideration' use class in the REGEN, Enterprise & Employment (EE) and Major Retail Centre (MRC) zoning objectives.

Data centre is a 'not permitted' use class in all other zoning objectives in the adopted Plan.

MA Recommendation 2 – Data Centres stated:

Having regard to Regional Policy Objective 8.25 of the Regional Spatial and Economic Strategy for the Eastern and Midland Regional Assembly which states that 'Local authorities shall... Support the national objective to promote Ireland as a sustainable international destination for ICT infrastructures such as data centres and associated economic activities at appropriate locations...', and the absence of any strategic justification to support making data centres a 'not permitted' use across all zoning objectives in the draft Plan, the planning authority is required to make the Plan without Material Amendments 13.1, 13.2 and 13.3 and retain data centres as an 'open for consideration' use in the REGEN, Enterprise & Employment (EE) and Major Retail Centre (MRC) zoning objectives.

The CE's recommendation was to omit Material Amendments 13.1, 13.2 and 13.3 and make the Plan without the proposed amendments.

However, the elected members did not accept the CE's recommendation to omit proposed Material Amendments 13.1, 13.2 and 13.3 and make the Plan without same.

The summary of the elected members' reasons provided in the notice letter are:

- *Necessary to have a moratorium on Data Centres in the County.*
- *Need to meet Carbon Emission Targets.*
- *EPA Report which recognised the increased energy use caused by Data Centres and potential of not meeting carbon emission targets.*
- *Need to ease pressure on Water and electricity infrastructure.*
- *Need to prioritise needs of residents.*
- *Proposal is not a ban but a moratorium until 2028.*

- *Need to consider all national policy including climate change policies that Ireland has signed up to. It is considered that national policy is contradictory as it supports Data Centres, but this can't be reconciled with meeting a carbon emission targets.*

While the Office fully appreciates the concerns of elected members regarding the need to meet carbon emission targets, there is no prohibition or moratorium on data centres set out in national policy in respect of meeting these targets. Furthermore, many of the matters raised, including the need for a moratorium, national energy use and infrastructure capacity, are strategic evaluations regarding the infrastructure capacity of the county which are not evidence-based and which can be appropriately addressed on a project specific basis through the development management process and the associated requirements for connection agreements from infrastructure providers.

In this respect, the Office notes that Development Plan objective EDE7 Objective 2 requires that space extensive enterprises demonstrate measures to reduce their carbon footprint such as measures to facilitate district heating or heat networks where excess heat is produced.

The Office is of the view, therefore, that the reasons put forward by the elected members to make data centre use class a 'not permitted' use class in the REGEN, Major Retail Centre (MRC) and Enterprise and Employment (EE) zonings do not amount to a robust planning rationale for imposing a blanket restriction on data centres across all land use zonings in the Development Plan.

The policies and objectives in the adopted Development Plan do not support a moratorium on data centres in the county. Section 9.3 of the Development Plan recognises the demand for space intensive uses such as data centres and acknowledges their significant presence in the county.

In particular, Policy EDE7 recognises the need for land extensive uses while EDE7 Objective 1 aims *'To ensure that, insofar as possible, space extensive enterprise is located on lands which are outside the M50 and which do not compromise labour intensive opportunity on zoned lands adjacent to public transport.'*

The changes to the zoning objectives to make data centres a 'not permitted' use on lands zoned for REGEN, Major Retail Centre (MRC) and Enterprise and Employment (EE) introduces a policy conflict in the adopted Plan since there are policies and objectives that support data centres on appropriate lands outside the M50, however the aforementioned changes to the zoning objectives mean that data centres are not permitted in any land use zoning including EE lands that already contain a number of existing data centres such as at Grange Castle.

The change to the zoning objectives is contrary to and inconsistent with RPO 8.25 in the RSES, which promotes Ireland as a sustainable international destination for ICT infrastructures such as data centres and associated economic activities at appropriate locations.

The Office is of the opinion that there is no clear evidenced-based rationale for making data centres a 'not permitted' use class across all zoning objectives in the development plan while at the same time there are policies and objectives in the Development Plan that support data centres at appropriate locations and seek to reduce their carbon footprint.

In this regard, this demonstrates a lack of an overall strategy for the proper planning and sustainable development of the area concerned in respect of employment lands in the Development Plan, which has the effect of prohibiting further data centres in the county.

2. Opinion of the Office and Reasons

Having considered the adopted Development Plan, the Office also notes, under section 31AM(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, as set out in the notice letter dated 28th June 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) 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 of 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 28th June 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 pursuant to section 31AM (7).

The Development Plan as made fails to have regard, properly and/or adequately and/or at all, to certain Ministerial Guidelines issued under section 28 of the Act, specifically Section 6.2.5 (zoning for employment uses) in the *Development Plans, Guidelines for Planning Authorities (2022)*, Section 2.7 (Development at National Road Interchanges or Junctions) in the *Spatial Planning and National Roads Guidelines for Planning Authorities (2012)* and Section 3 (Principles and key mechanisms – Justification Test) of the *Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)*, which failure is particularly demonstrated by:

- i. the zoning of land for enterprise and employment development where the planning authority has not provided supporting evidence or a strategic rationale to underpin the zoning of further land for employment purposes at Greenogue Business Park which is advocated for in Section 6.2.5 of the *Development Plans, Guidelines for Planning Authorities (2022)*;
- ii. the zoning of land for enterprise and employment development in close proximity to a junction on the national road network where the planning authority has not demonstrated that the rezoning satisfies the criteria in Section 2.7 of the *Spatial Planning and National Roads Guidelines for*

Planning Authorities (2012) regarding development of national or strategic importance. The CE's report on submissions to the material alterations to the draft Plan states that the scale of potential new development has not been assessed against the local or national road network and junction 4 of the N7 Naas Road is already subject to capacity constraints; and

- iii. the zoning of land for enterprise and employment development affected by flood zones A / B which is not supported in the Justification Test in the Strategic Flood Risk Assessment prepared as part of making the development plan, which recommends retaining the Rural RU zoning.

Insofar as the Planning Authority has purported to depart from those Guidelines, it has failed to provide adequate reasons consistent with the proper planning and sustainable development of the area.

The Development Plan as made is contrary to and inconsistent with national and regional objectives in the NPF and RSES, namely National Strategic Outcome 1 (Compact Growth), NPO 11, RPO 5.3 (MASP Sustainable Transport), RPO 5.6 (MASP Employment lands) and RPO 8.25 (Communications Networks and Digital Infrastructure).

The Plan as made contains a significant land use zoning change for enterprise and employment uses at a peripheral location remote from high quality public transport which does not support a plan led or sequential approach for future employment development in the MASP as advocated for in RPOs 5.3 and 5.6.

The RSES states '*...The principles underpinning the development of the MASP include the effective integration of transport planning with spatial planning policies, from regional down to local level and the alignment of associated transport and infrastructure investment priorities....*'.

The uncoordinated approach by the planning authority to rezone significant further employment lands at Greenogue does not provide for effective integration of transport planning with spatial planning policies.

It is considered inappropriate for the planning authority to take a unilateral decision to impose a blanket restriction on further data centres in the county contrary to

regional and national policies which promote Ireland as a sustainable international destination for ICT infrastructures such as data centres and associated economic activities at appropriate locations.

Moreover, having considered the reasons given by the elected members as set out above, the Office is of the view that these reasons, when considered in conjunction with the provisions of the Development Plan as made demonstrate a failure to have regard or proper regard to Ministerial Guidelines issued under section 28 of the Act and are inconsistent with national and regional policy objectives namely NSO 1 (Compact Growth) and NPO 11 of the NPF, and RPOs 5.3, 5.6 and 8.25 of the RSES.

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

The factors that the Office has taken into account in forming this opinion include:

- i. The proximity of Greenogue Business Park to the national road network and its remoteness from high quality public transport. The business park is served by a limited bus service and the nearest LUAS stop at Saggart is between 3.5 – 4.5 km to the southwest on the opposite side of the N7 Naas Road.
- ii. Greenogue Business Park is located outside the Dublin City and suburbs boundary and is not listed as a strategic employment location in table 5.2 of the RSES.
- iii. The Development Plan already provides 624 hectares of undeveloped employment lands including 554 hectares of enterprise and employment zoned lands.⁶
- iv. The policy objectives in the adopted Plan for economic development and employment including EDE1 Objective 3 which aims *‘To ensure that there is a sufficient supply of zoned and serviced lands at suitable locations to accommodate a range of enterprise and employment development types*

⁶ Section 9.1 (page 332) of the Draft South Dublin County Development Plan 2022 - 2028

and to promote compact growth by strengthening the integration between employment, housing and transportation.' (Emphasis added)

- v. The policy and objectives for space extensive land uses in the adopted Plan including Policy EDE7 which recognises the need for land extensive uses while EDE7 Objective 1 aims '*To ensure that, insofar as possible, space extensive enterprise is located on lands which are outside the M50 and which do not compromise labour intensive opportunity on zoned lands adjacent to public transport*' and EDE7 Objective 2 which requires that space extensive enterprises demonstrate measures to reduce their carbon footprint.
- vi. Section 6.2.5 (zoning for employment uses) in the *Development Plans, Guidelines for Planning Authorities (2022)*, Section 2.7 (Development at National Road Interchanges or Junctions) in the *Spatial Planning and National Roads Guidelines for Planning Authorities (2012)* and Section 3 (Principles and key mechanisms – Justification Test) of the *Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)*.
- vii. Government Statement on The Role of Data Centres in Ireland's Enterprise Strategy.
- viii. National Strategic Outcome 1 – Compact Growth of the *National Planning Framework – Project Ireland 2040 (NPF)*.
- ix. National Policy Objective 11 of the NPF and Regional Policy Objectives 5.3, 5.6 and 8.25 of the RSES which state:

NPO 11

In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

RPO 5.3 – MASP Sustainable Transport

Future development in the Dublin Metropolitan Area shall be planned and designed in a manner that facilitates sustainable travel patterns, with a particular focus on increasing the share of active modes (walking and cycling) and public transport use and creating a safe attractive street environment for pedestrians and cyclists.

RPO 5.6 - MASP Employment lands

The development of future employment lands in the Dublin Metropolitan Area shall follow a sequential approach, with a focus on the re-intensification of employment lands within the M50 and at selected strategic development areas and provision of appropriate employment densities in tandem with the provision of high quality public transport corridors.

RPO 8.25 - Communications Networks and Digital Infrastructure

Local authorities shall: ‘...Support the national objective to promote Ireland as a sustainable international destination for ICT infrastructures such as data centres and associated economic activities at appropriate locations...’.

- x. The Chief Executive’s reports on submissions on the draft Development Plan and material alterations to the draft Development Plan.
- xi. The relevant requirements of section 10, section 12(18) and section 28 of the Act.
- xii. 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 as set out in the submission of 26th April 2022 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 matters as set out in the draft direction to the planning authority accompanying this notice, i.e.

- a) Omit the Enterprise and Employment zoning and the specific local objective which requires site-specific flood alleviation measures introduced as Material Amendments 2.20 and 9.4 from the lands to the north and east of the existing Greenogue Business Park and retain the Rural RU zoning objective.

- b) Amend the land use zoning objectives in tables 13.4, 13.8 and 13.10 to reinstate data centre use class as an 'open for consideration' use class in the REGEN, Enterprise & Employment (EE) and Major Retail Centre (MRC) zoning objectives.

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)

South Dublin County Development Plan 2022-2028

“Development Plan” means the South Dublin County Development Plan 2022-2028

“Planning Authority” means South Dublin County 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 (South Dublin County Development Plan 2022-2028) Direction 2022.

(2) The Planning Authority is hereby directed to take the following steps:

- a. Omit the Enterprise and Employment zoning and the specific local objective which requires site-specific flood alleviation measures introduced as Material Amendments 2.20 and 9.4 from the lands to the north and east of the existing Greenogue Business Park and retain the Rural RU zoning objective.

- b. Amend the land use zoning objectives in tables 13.4, 13.8 and 13.10 to reinstate data centre use class as an 'open for consideration' use class in the REGEN, Enterprise & Employment (EE) and Major Retail Centre (MRC) zoning objectives.

STATEMENT OF REASONS

- I. The Development Plan as made includes material amendments to the draft Plan, which are not consistent with national and regional planning policy and the proper planning and sustainable development of the area, including:
 - a. Land zoned for enterprise and employment development at a peripheral location at Greenogue Business Park (Material Amendment 2.20, which is also facilitated by Material Amendment 9.4), is remote from high quality public transport and outside the designated strategic employment development areas identified in the RSES for the Dublin Metropolitan Area inconsistent with the requirements for compact growth in National Strategic Outcome 1 and National Planning Objective NPO11 to generate jobs within existing cities, towns and villages, as well as the sequential approach and planning for future development of employment lands in a manner that facilitates sustainable transport patterns consistent with Regional Policy Objectives 5.3 and 5.6 in the RSES.
 - b. Changes to land use zoning objectives for REGEN, Major Retail Centre and Enterprise and Employment (Material Amendments 13.1, 13.2 and 13.3) which make data centre use class a 'not permitted' use class across all zoning objectives in the Plan inconsistent with Regional Policy Objective 8.25 in the RSES for the EMRA which promotes Ireland as a sustainable international destination for ICT infrastructures such as data centres and associated economic

activities at appropriate locations and lacks an appropriate evidential basis.

- II. The Development Plan fails to show how the development objectives in the development plan are consistent, as far as practicable, with national and regional development objectives set out in the National Planning Framework and RSES, as required by Section 10(1A) and Section 10(2A)(a) of the Act when read in conjunction with Section 12(18) of the Act.
- III. The South Dublin County Development Plan 2022 – 2028 does not include a strategy for employment development to inform Material Amendments 2.20 and 9.4 which has regard to the Ministerial Guidelines issued under Section 28 of the Act, specifically Section 6.2.5 (zoning for employment uses) in the *Development Plans, Guidelines for Planning Authorities (2022)*, Section 2.7 (Development at National Road Interchanges or Junctions) in the *Spatial Planning and National Roads Guidelines for Planning Authorities (2012)*, and Section 3 (Principles and key mechanisms – Justification Test) of the *Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)*.
- IV. The Development Plan fails to identify proper or adequate reasons for departing from Section 6.2.5 (zoning for employment uses) in the *Development Plans, Guidelines for Planning Authorities (2022)*, Section 2.7 (Development at National Road Interchanges or Junctions) in the *Spatial Planning and National Roads Guidelines for Planning Authorities (2012)* and Section 3 (Principles and key mechanisms – Justification Test) of the *Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)* consistent with the presence of an overall strategy for the proper planning and development of the area.
- V. 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 31AM which results in the making of a Development Plan that fails to set out an overall strategy for the proper planning and sustainable development of the area.

- VI. By virtue of the matters set out at I-V 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.
- VII. By virtue of the matters set out at I to V, 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.