



3 June 2022

For the Attention of: Mr. Tim Lucey, Chief Executive

Cork County Council
County Hall
Carrigrohane Road,
Cork
T12 R2NC

Section 31 of the Planning and Development Act 2000, as amended
Notice of Intention to Issue a Direction to Cork County Council on the Cork County
Development Plan 2022 - 2028

Dear Tim,

Consequent to a recommendation made to me by the Office of the Planning Regulator (the Office) on 20th May 2022 in respect of the Cork County Development Plan 2022 – 2028, as adopted by the elected members of Cork County Council on 25th April 2022, and pursuant to Section 31 of the Planning and Development Act 2000 (as amended) (the Act), I write to give notice of my intention to issue a direction to Cork County Council to take certain measures specified in this notice.

The matter of requiring Cork City Council and Cork County Council to coordinate on a joint retail strategy, pursuant to section 9(7) of the Act was the subject of a recent High Court judgment (reference 2021 No. 631 JR), issued on 27th May. Consequently, it does not form part of the forming of my Opinion or the Statement of Reasons set out in this notice letter or the accompanying draft Direction.



Opinion

On consideration of the recommendation made to me by the Office, I have formed the opinion that:

- (i) 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.
- (ii) The Plan, as made, fails to set out an overall strategy for the proper planning and sustainable development of the area;
- (iii) The Plan is not consistent with National Policy Objectives set out in the National Planning Framework, specifically NPO 3c.
- (iv) The Plan is not consistent with regional development objectives set out in the Regional Spatial and Economic Strategy for the Southern Region, specifically CMASP PO 16, RPO 35 and RPO 151.
- (v) The Plan is inconsistent with Ministerial Guidelines issued under Section 28 of the Act, specifically:
 - a. the Retail Planning Guidelines 2012;
 - b. the Development Plan Guidelines for Planning Authorities (2007) and the Development Plans, Guidelines for Planning Authorities – Draft for Consultation (August, 2021);
 - c. Specific Planning Policy Requirement 4 contained in the Urban Development and Building Height Guidelines (2018),
 - d. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas: Cities, Towns and Villages (2009).



e. the Spatial Planning and National Roads, Guidelines for Planning Authorities (2012), and the

(vi) The Plan, as made, is not in compliance with the requirements of the Act.

A draft of the Direction accompanies this notice and I request that you publish notice of this draft Direction, no later than two weeks after receipt of this notice. The reasons for the Direction are set out in the Statement of Reasons section of the attached draft Direction and further detail is provided below.

Process to Date

The Draft Cork County Development Plan 2022 – 2028 (the draft Plan) was placed on public display from 22nd April 2021 to 31st July 2022. The Office made a submission on the draft Plan containing 10 recommendations and 4 observations (1st July 2021).

The Elected Members of Cork County Council, having considered the draft Plan and the Chief Executive's (CE's) Report on submissions received (dated 24th September 2021), resolved to amend the draft Cork County Development Plan 2022-2028 on 13th December 2021. The material alterations to the draft Plan were displayed in public from 18th January 2022 to 15th February 2022.

The submission to Cork County Council from the Office at material amendment (MA) stage (dated 15th February 2022) set out seven recommendations and included the following:

- MA Recommendation 1 – Residential Reserve Zoning Objective (the expansion of the 'Residential Reserve' land use zoning objective at material alteration stage is not consistent with the Core Strategy (table under MA 1.2.13) or the approach to the zoning for residential lands under the Development Plans, Guidelines for Planning Authorities – Draft for Consultation (August, 2021).



- MA Recommendation 2 – Additional Residential Reserve zoning objectives (including MA 5.2.6.27 Bantry New Residential BR-R-X).
- MA Recommendation 3 – Existing Residential / Mixed Residential and Other Uses zoning objective.
- MA Recommendation 4 – Residential Densities (including MA 4.2.3.41 Carrigtwohill CT-R-18 and MA 4.2.3.43 Carrigtwohill CT-R-04).
- MA Recommendation 5 - Industrial land use zoning objectives (including MA 3.1.4.15 - FY-I-05 and MA 3.1.4.16 - FY-X-01).
- MA Recommendation 6 – Retail Outlet Centres (MA 1.9.20).
- MA Recommendation 7 - Appropriate Assessment - Having regard to the requirements of the Habitats Directive, the findings of the Natura Impact Assessment prepared by the planning authority, and the greenfield/agricultural nature of the site, the planning authority is required to make the Plan without MA.4.3.8.3.

A Chief Executive's report was prepared on the submissions received, including the submission made by the Office. It is noted that your report accepted the majority of recommendations and observations of the Office and recommended changes in response to the issues raised. The elected members of the planning authority did not accept a number of these recommendations. The elected members of Cork County Council resolved to make the Development Plan on 25th April 2022.

Subsequently, in accordance with Section 31AM(6), you as Chief Executive, issued a notice letter dated 3rd May 2022 to the Office which advised of the making of the Development Plan and further advised that a number of the recommendations issued by the Office at material amendment stage had not been complied with, either in full or in part as set out in Appendix 1 to the notice letter. The notice letter stated that MA Recommendations 5 and 6 had not been complied with either in full or in part. The notice including the accompanying Appendix also noted the decision of the planning authority not to comply, in particular, with Recommendation



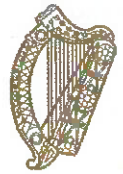
no. 9 of the Office's submission on the draft Plan (Recommendation no. 6 at material amendments stage) concerning the preparation of a Joint Retail Strategy with Cork City Council to secure plan-led development of any future retail development across the two neighbouring authorities.

In addition, it became apparent from the notice letter that the planning authority had taken the decision also not to comply, whether in part or entirely, with MA Recommendation 2, MA Recommendation 3 and MA Recommendation 4.

On 20th May 2022, in accordance to Section 31AM(8) of the Act, the Office notified the Minister for Local Government and Planning that the Cork County Development Plan 2022-2028 had not been made in a manner consistent with the recommendations of the Office, which required specific changes to the Development Plan that are summarised as follows:

- 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 Retail Planning Guidelines for Planning Authorities (2012) ('Retail Planning Guidelines') that an overall strategy for the proper planning and sustainable development of the area must address retail development.

- b) 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 ensure consistency with the Core Strategy and having regard to the requirement to implement the sequential approach to the zoning for residential lands under the Development Plan Guidelines for Planning Authorities (2007) and the Development Plans, Guidelines for Planning Authorities – Draft for Consultation (August, 2021).



- 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 ensure consistency with Specific Planning Policy Requirement (SPPR) 4 of the Urban Development and Building Height Guidelines for Planning Authorities (2018), and having regard to the Sustainable Residential Density Guidelines for Planning Authorities (2009).

- d) 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 Spatial Planning and National Roads, Guidelines for Planning Authorities (2012).

Reasons

The Development Plan as made fails to follow Ministerial Guidelines issued under Section 28 of the Act, specifically the requirement under the Retail Planning Guidelines for Planning Authorities (2012) 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. A Joint Retail Strategy has not been prepared and finalised by Cork County Council and Cork City Council to inform their respective development plans. In this respect, the Development Plan as made is also inconsistent with Cork MASP Policy Objective 16 listed in the Regional Spatial and Economic Strategy for the Southern Region.

Amendment reference MA 1.9.20 introduced policy and objectives to facilitate and support a Retail Outlet Centre with a regional catchment, within the Cork metropolitan area, in the absence of an evidence-based Joint Retail Strategy to inform the material amendment, fails to follow the Guidelines, contrary to Section 28(1) and 28 (1A).



The Development Plan has not therefore been informed or underpinned by the appropriate strategic assessment and analysis (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 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 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).

Having regard to the commitment outlined in the CE’s report (24 September 2021) to work jointly with the City Council post adoption of both Council’s Development Plan, on the specific matter of policy development for retail outlet centres, and the statement that a Joint Retail Strategy is in the process of being prepared and is expected to be concluded within 12 months of the adoption of both City and County Development Plans and once finalised will inform a Variation to the Cork County Development Plan, the Office recommends that a clear policy objective be included to make provision for same.

Furthermore, the adopted Development Plan includes material amendment MA 5.2.6.27(a) to the draft Plan which zones additional residential land in excess of that required for the town of Bantry as set out in the Core Strategy. This amendment is also located in a remote and/or peripheral and non-sequential location outside of the CSO settlement boundary, at a distance from the centre of the settlement, beyond extensive undeveloped greenfield lands, including



lands zoned Agriculture, contrary to national and regional policy objectives promoting compact growth (NPO 3c and RPO 35) and requiring that 'residential development will be carried out sequentially' (RPO 151).

The amendment therefore fails to follow the requirement to implement or adopt the sequential approach to residential zoning under section 4.19 of the Development Plans, Guidelines for Planning Authorities (2007) issued under Section 28 of the Act, except in exceptional circumstances (which 'must be clearly justified ... in the written statement', and under section 6.2.3 of the Development Plans, Guidelines for Planning Authorities, Draft for Consultation (2021).

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 4.5 of the Development Plan Guidelines for Planning Authorities (2007) to ensure enough land is zoned and to avoid zoning too much land.

In making the Development Plan with the subject amendment, 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 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 Development Plan Guidelines for Planning Authorities (2007) and / or in the Development Plan Guidelines for Planning Authorities, Draft for Consultation (2021), 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).



The Development Plan as made with material amendments MA 4.2.3.41 and MA 4.2.3.43 Carrigtwohill, to provide for a reduction of residential densities on lands within the metropolitan area settlement within 1km of a railway station on the Cork Suburban railway line, below the minimum densities recommended in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas: Cities, Towns and Villages (2009), is inconsistent with:

- A specific planning policy requirement contained in Ministerial Guidelines issued under section 28 of the Act, specifically SPPR 4 of the Urban Development and Building Height Guidelines for Planning Authorities (2018) which requires that planning authorities must secure the minimum densities set out in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas: Cities, Towns and Villages (2009);
- The recommendation under section 5.8 of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas: Cities, Towns and Villages (2009) to increase residential densities within 1km of a rail station to at least 50uph net; and
- The policy objectives of the NPF and the RSES for the Southern Regional Assembly, specifically the requirement to implement compact growth under NPO 3 and RPO 35.

The statement under Section 28(1A)(b) attached to the 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 Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas: Cities, Towns & Villages (2009) and in the Urban Development and Building Height Guidelines for Planning Authorities (2018), 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).

The Development Plan as made with material amendments MA 3.1.4.15 Fermoy: new Industrial site FY-I-05 and MA 3.1.4.16 Fermoy: new special policy area FY-X-01, which zone two extensive rural sites outside of any settlement adjacent Junction 15 of the M8, and which fails to follow the



Ministerial Guidelines issued under Section 28 of the Act, specifically the requirement under section 2.7 of the Spatial Planning and National Roads Guidelines for Planning Authorities (2012) that planning authorities:

- must ensure that the strategic traffic function of national roads is maintained by limiting the extent of development that would give rise to the generation of short trip traffic on national roads;
- must exercise particular care where plan proposals relating to the development objectives and/or to the zoning of locations at or close to interchanges, where such development could generate significant additional traffic with potential to impact on the national road, and
- must make sure that such development which is consistent with planning policies can be catered for by the design assumptions underpinning such junctions and interchanges, thereby avoiding potentially compromising the capacity and efficiency of the national road/associated junctions and possibly leading to the premature and unacceptable reduction in the level of service available to road users.

Material amendments MA 3.1.4.15 Fermoy: new Industrial site FY-I-05 and MA 3.1.4.16 Fermoy: new special policy area FY-X-01, due to their remote location at a distance from the built-up area and from land zoned to accommodate planned development contiguous with the settlement of Fermoy, is not practically accessible by sustainable transport. In this respect, no or no adequate reasons relating to the proper planning and sustainable development of the area have been provided to explain why the said Guidelines have not been followed.

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 Spatial Planning and National



Roads 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)].

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.

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.

Measures to be taken - Draft Direction

Accordingly, having considered the recommendation of the Office, I am issuing a draft Direction pursuant to Section 31 of the Planning and Development Act 2000 (as amended), to direct Cork County Council with regard to the Cork County Development Plan 2022 – 2028.

The Draft Direction sets out the following steps for the Planning Authority to take:

- a) Delete replacement paragraph 9.5.7 inserted under MA 1.9.16 relating to the preparation of a Joint Retail Strategy and insert the following objective in Chapter 9 of the Plan:

To complete the preparation of a Joint Retail Strategy with Cork City Council which will jointly determine the scope for retail development generally, and for retail outlet centre development specifically, 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 County Development Plan by way of a Variation.



- b) Delete the amended and additional provisions for 'Retail Outlet Centres' inserted under MA 1.9.20, including objective TCR 10-2 Retail Outlet Centre and associated map;
- c) Reinststate the zoning objective of those lands subject of zoning objective Bantry BT-R-0X inserted under MA 5.2.6.27(a) to that of the draft Plan i.e. the subject land reverts to BT-AG-01 Agriculture.
- d) Delete the amended residential densities on specific sites under MA 4.2.3.41 Carrigtwohill CT-R-18 to revert to Medium A density and MA 4.2.3.43 Carrigtwohill CT-R-04 to revert to High Density, and
- e) Reinststate the zoning objectives of the following lands to that of the draft Plan consistent with the recommendations of the Chief Executive' Report dated 16th March 2022.
 - i. MA 3.1.4.15 - FY-I-05 Fermoy 'Industrial development' – reinststate the zoning objective of the subject land to that of the draft Plan i.e. the subject land reverts to Greenbelt 1.
 - ii. MA 3.1.4.16 - FY-X-01 Fermoy 'Special Policy Area – Expansion of existing mart facilities and provision of an NCT centre' - reinststate the zoning status of the subject land to that of the draft Plan i.e. the subject land reverts to unzoned.

Please note that in accordance with Section 31(4)(c) and Section 31(6) of the Act, those parts of the Cork County Development Plan 2022 – 2028 referred to in this notice shall be taken not to have not come into effect, been made or amended.



Next Steps - Procedural Requirements

I wish to draw your attention to the public consultation obligations under Section 31 of the Act, and the initial requirement as Chief Executive under Section 31(7) to publish notice of the draft Direction no later than 2 weeks after receipt of this notice, stating that the draft direction may be inspected as specified in the notice, for a period of not more than 2 weeks.

The notice must also state that written submissions or observations in respect of the draft direction may be made to the planning authority during the consultation period.

Also in line with statutory requirements, a Chief Executive's report is to be prepared on the public consultation period under Section 31(8), and must be furnished to the Office, the elected members and myself as Minister, no later than 4 weeks after the public consultation process is completed, for further consideration.

In accordance with Section 31(9) of the Act, the report of the Chief Executive must;

- a) summarise the views of any person who made submissions or observations to the planning authority;
- b) summarise the views of and recommendations (if any) made by the elected members of the planning authority;
- c) summarise the views of and recommendations (if any) made by the regional assembly, and
- d) make recommendations in relation to the best manner in which to give effect to the draft direction.

In addition, the elected members of the planning authority may make a submission to the Office of the Planning Regulator at any time up to the conclusion of the 2 week public consultation period referred to above and may also copy any such submissions to me, as Minister.



The Office will then consider the Chief Executive's report together with any submissions made and will make a further recommendation to me, as Minister, regarding whether the Direction is to be issued with or without minor amendments. Where I am in agreement with the further recommendation, I may issue the final direction.

Where the Office is of the opinion that a material amendment to the Draft Direction is required, or further investigation is necessary, or it is necessary for another reason, then the Office may appoint an inspector no later than 3 weeks after receipt of the Chief Executive's report, prior to making a final recommendation to me.

My officials are available to assist you, as necessary, in complying with the foregoing process now underway. Should you have any queries please contact Laura Courtney, Planning Adviser at Laura.Courtney@housing.gov.ie.

Yours sincerely,

Darragh O'Brien, T.D.,

Minister for Housing, Local Government and Heritage

Copied to:

- Cathaoirleach, Cork County Council, County Hall, Carrigrohane Road, Cork, T12 R2NC
- Mr. David Kelly, Director, Southern Regional Assembly, Assembly House, Waterford, X91 F8PC
- Office of the Planning Regulator, Fourth Floor (West Wing) Park House, Grangegorman, 191-193A North Circular Road, Dublin 7, D07 EWW4.

DRAFT DIRECTION IN THE MATTER OF SECTION 31

OF THE PLANNING AND DEVELOPMENT ACT 2000 (as amended)

Cork County Development Plan 2022-2028

“Development Plan” means the Cork County Development Plan 2022-2028

“Planning Authority” means Cork County Council

The matter of requiring Cork City Council and Cork County Council to coordinate on a joint retail strategy, pursuant to section 9(7) of the Act was the subject of a recent High Court judgment (reference 2021 No. 631 JR), issued on 27th May. Consequently, it does not form part of the forming of my Opinion or the Statement of Reasons set out in this draft Direction or the accompanying notice letter.

WHEREAS the Minister for Housing, Local Government and Heritage is, for the reasons set out in the Statement of Reasons hereto, of the Opinion that –

- (1) 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.
- (2) The Plan, as made, fails to set out an overall strategy for the proper planning and sustainable development of the area;
- (3) The Plan is not consistent with National Policy Objectives set out in the National Planning Framework, specifically NPO 3c.

- (4) The Plan is not consistent with regional development objectives set out in the Regional Spatial and Economic Strategy for the Southern Region, specifically CMASP PO 16, RPO 35 and RPO 151.
- (5) The Plan is inconsistent with Ministerial Guidelines issued under Section 28 of the Act, specifically:
 - a. the Retail Planning Guidelines 2012;
 - b. the Development Plan Guidelines for Planning Authorities (2007) and the Development Plans, Guidelines for Planning Authorities – Draft for Consultation (August, 2021);
 - c. Specific Planning Policy Requirement 4 contained in the Urban Development and Building Height Guidelines (2018),
 - d. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas: Cities, Towns and Villages (2009).
 - e. the Spatial Planning and National Roads, Guidelines for Planning Authorities (2012), and the
- (6) The Plan, as made, is not in compliance with the requirements of the Act. This Direction may be cited as the Planning and Development (Cork County Development Plan 2022-2028) Direction 2022.
- (7) The Planning Authority is hereby directed to take the following steps with regard to the Development Plan:

And therefore the Minister is of the opinion that section 31 of the Planning and Development Act 2000 (as amended) apply;

NOW, THEREFORE, in exercise of the powers conferred on him by section 31 of the Planning and Development Act 2000 (as amended), the Minister for Housing, Local Government and Heritage hereby directs as follows:

1. This Direction may be cited as the Planning and Development (Cork County 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) Delete replacement paragraph 9.5.7 inserted under MA 1.9.16 relating to the preparation of a Joint Retail Strategy and insert the following objective in Chapter 9 of the Plan:

To complete the preparation of a Joint Retail Strategy with Cork City Council which will jointly determine the scope for retail development generally, and for retail outlet centre development specifically, 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 County Development Plan by way of a Variation.

b) Delete the amended and additional provisions for 'Retail Outlet Centres' inserted under MA 1.9.20, including objective TCR 10-2 Retail Outlet Centre and associated map;

c) Reinstate the zoning objective of those lands subject of zoning objective Bantry BT-R-0X inserted under MA 5.2.6.27(a) to that of the draft Plan i.e. the subject land reverts to BT-AG-01 Agriculture.

d) Delete the amended residential densities on specific sites under MA 4.2.3.41 Carrigtwohill CT-R-18 to revert to Medium A density and MA 4.2.3.43 Carrigtwohill CT-R-04 to revert to High Density, and

e) Reinstate the zoning objectives of the following lands to that of the draft Plan consistent with the recommendations of the Chief Executive' Report dated 16th March 2022.

- i. MA 3.1.4.15 - FY-I-05 Fermoy 'Industrial development' – reinstate the zoning objective of the subject land to that of the draft Plan i.e. the subject land reverts to Greenbelt 1.
- ii. MA 3.1.4.16 - FY-X-01 Fermoy 'Special Policy Area – Expansion of existing mart facilities and provision of an NCT centre' - reinstate the zoning status of the subject land to that of the draft Plan i.e. the subject land reverts to unzoned.

STATEMENT OF REASONS

i. Pursuant to section 31(1)(b) and section 31(1)(c)

The Cork County Development Plan 2022-2028 as made fails to follow 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 County Development Plan must be informed by a Joint Retail Strategy prepared with Cork City Council.

The Development Plan as made has not been informed by an up to date Joint Retail Strategy. It contains specific policy and an objective as to the location of a retail outlet centre which are not informed or underpinned by the appropriate strategic assessment and analysis (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 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 including provisions for a retail outlet centre.

II. Pursuant to section 31(1)(c)

The Cork County Development Plan 2022-2028 as made includes policy and an objective to facilitate and support a Retail Outlet Centre within a regional catchment, within the Cork metropolitan area, inserted by material amendment (MA 1.9.20) in the absence of an evidence-based Joint Retail Strategy to inform said policy and objective and fails to follow the requirements of the Guidelines as outlined in (I) above, contrary to Section 28(1) and 28 (1A). In this respect, 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 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"*.

Further, 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 outlined at (I), above, as contained in the Guidelines, because of the nature and characteristics of the area and to give reasons for the forming of that opinion contrary to Section 28(1A)(b).

III. Pursuant to section 31(1)(ba)(i) and section 31(1)(c)

The inclusion in the Development Plan as made of specific policy and objectives to facilitate and support a Retail Outlet Centre with a regional catchment, within the Cork metropolitan area, in the absence of an evidence-based Joint Retail Strategy to inform such policy and objective is inconsistent with CMASP PO 16 of the Cork Metropolitan Area Spatial Plan which forms part of the Regional Spatial and Economic Strategy for the Southern Region, and is therefore inconsistent with sections 10(1A) and/or 10(2A)(a) and/or 12(11) read in conjunction with 12(18) of the Act.

IV. Pursuant to section 31(1)(ba)(i) and section 31(1)(c)

The Development Plan as made includes a material amendment (MA 5.2.6.27(a)) to the draft Plan that is not consistent with the Development Plan's own 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 a remote and/or peripheral and non-sequential location outside of the CSO settlement boundary which leapfrogs beyond land zoned Agriculture, inconsistent with the requirements for compact growth in NPO 3c and RPO 35, and the requirement under RPO 151 that '*residential development will be carried out sequentially*', and fails to follow the requirement to implement or adopt a sequential approach to the zoning of land for development under section 4.19 of *Development Plans Guidelines for Planning Authorities* (2007), except in exceptional circumstances (which '*must be clearly justified ... in the written statement*'), and under section 6.2.3 of the *Development Plans, Guidelines for Planning authorities, Draft for Consultation* (2021). Accordingly, the development plan as made is not consistent with national and regional objectives set out in the National Planning Framework and the regional spatial and economic strategy for the region.

- b) Land zoned for residential development in excess of that needed to meet the Core Strategy housing supply targets for Bantry in the adopted Plan. This results in an internal inconsistency and incoherence in the Development Plan in circumstances where the plan zones an excessive amount of land for residential use having regard to the core strategy of the plan.

In making the 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 4.5 of the *Development Plan Guidelines for*

Planning Authorities (2007) to seek to get the right balance between making sure enough land is zoned and avoiding the zoning of too much land.

Further, this zoning amendment is also 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.

Further, 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 outlined at (IV), above, as contained in the Guidelines, because of the nature and characteristics of the area and to give reasons for the forming of that opinion contrary to Section 28(1A)(b).

V. Pursuant to section 31(1)(ba)(ii) and section 31(1)(c)

The Cork County Development Plan 2022-2028 as made is inconsistent with a requirement contained in Ministerial Guidelines issued under Section 28 of the Act, specifically Specific Planning Policy Requirement 4 contained in the Urban Development and Building Height Guidelines (2018) to secure minimum densities set out in the *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas: Cities, Towns & Villages* (2009) and the requirements for the planning authority to comply with, and the development plan to be consistent with, the aforementioned Specific Planning Policy Requirement under sections 28(1C) and/or 10(1A) and/or 10(2A)(a) and/or 12(11) read in conjunction with section 12(18).

Further, 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 outlined at (V), above, as contained in the Guidelines, because of the nature and

characteristics of the area and to give reasons for the forming of that opinion contrary to Section 28(1A)(b).

VI. Pursuant to section 31(1)(c)

The Cork County Development Plan 2022-2028 as made fails to follow the Ministerial Guidelines issued under Section 28 of the Act, and specifically fails to ensure the strategic function of national roads is maintained and that land zoned for development can be catered for by the design assumptions underpinning interchanges, under the *Spatial Planning and National Roads Guidelines for Planning Authorities (2012)*. In this respect, no or no adequate reasons relating to the proper planning and sustainable development of the area have been provided to explain why the said Guidelines have not been followed.

Furthermore, the statement under Section 28(1A)(b) attached to the 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 outlined at (VI), above, as contained in the Guidelines to ensure the strategic function of national roads is maintained and that land zoned for development can be catered for by the design assumptions underpinning interchanges, because of the nature and characteristics of the area and fails to give reasons for the forming of that opinion contrary to Section 28(1A)(b).

VII. Pursuant to section 31(1)(a)(i)(II)

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.

GIVEN under my official seal,

Minister for Housing, Local Government and Heritage

day of Month, year.