

28<sup>th</sup> October 2022

OPR Ref: DP-046-22

Forward Planning Section, Offaly County Council, Áras an Chontae, Charleville Road, Tullamore, County Offaly

# Re: Draft Birr Local Area Plan 2023-2029

### A chara,

Thank you for your authority's work on preparing the Draft Birr Local Area Plan 2023-2029 (the draft LAP).

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

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

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

The Office's evaluation and assessment has had regard to the Offaly County Development Plan 2021-2027 (the Development Plan), the Regional Spatial and Economic Strategy (RSES) for the Eastern and Midlands Region, and relevant section 28 guidelines. This submission makes two (2) recommendations and one (1) observation

Recommendations issued by the Office relate to clear breaches of the relevant legislative provisions, of the national or regional policy framework and/or of the policy of

planning authority is required to implement or address recommendation(s) made by the Office in order to ensure consistency with the relevant policy and legislative provisions.

Observations take the form of a request for further information, justification on a particular matter, or clarification regarding particular provisions of a plan on issues that are required to ensure alignment with policy and legislative provisions. The planning authority is requested by the Office to action an observation.

A submission can include advice on matters that the Office considers would contribute positively to the proper planning and sustainable development of the area. The planning authority is requested by the Office to give full consideration to the advice contained in a submission.

The Office commends the planning authority in the approach taken to address climate change in the draft LAP. Chapter 8 identifies climate action as a cross cutting theme throughout the draft LAP and sets out a number of policies and objectives to support and promote climate change adaption and mitigation including compact growth, green infrastructure and sustainable transport.

The Office welcomes the inclusion of *Decarbonisation Actions and Projects* set out in Table 8.1, which sets out specific local objectives to be progressed in the town to assist compact growth, sustainable mobility and a transition to a low carbon and climate resilient society. This is consistent with National Policy Objective (NPO) 54. However, the climate action strategy would be clearer if it differentiated between projects focused on climate change mitigation and those relating to climate change adaptation.

The Office also welcomes the inclusion of a Local Transport Plan (LTP) to inform the preparation of the draft LAP. The proposed upgrades to the local infrastructure including enhancements to the pedestrian and cycle network to improve connectivity is supported by the Office in line with NPO 64.

The Office further welcomes the planning authority's approach to revitalise the town centre consistent with the government's Town Centre First policy. In particular, the Office welcomes the inclusion of an ambitious target to reduce vacancy in the town by 20%, which will provide a clear focus to policy implementation and may be regarded as a best practice approach.

This approach is supported by the strong policies in the draft LAP promoting regeneration and rejuvenation in the town in accordance with NPO 6, complemented by the identification of opportunity sites in the town centre in accordance with Regional Policy Objective (RPO) 3.3. The draft LAP also includes innovative objectives to increase residential development in the town centre by encouraging the appropriate reuse of rear gardens to create new streets and the use of upper floors within the town centre for residential use.

### Overview

Notwithstanding the above, the Office notes that there are material inconsistencies in the draft LAP that are contrary to the land use zoning objectives in the Development Plan.

The planning authority will be aware of section 19(2) of the Act, which states that the LAP shall be consistent with the objectives of the development plan, its core strategy and any regional spatial and economic strategy.

The Office considers that the draft LAP is broadly consistent with the RSES, however the majority of the land use zoning objectives proposed in the LAP are inconsistent with those in the Development Plan. Several of the proposed land use zoning objectives are also considered to be inconsistent with national and regional objectives for compact growth and do not have regard to provisions for sequential zoning under section 28 guidelines.

Arising from concerns raised by the OPW, regarding the future development of lands within flood risk zone A and B zoned in the Development Plan, the Office considers that the policy objectives relating to management of the flood risk zone should be clarified to ensure that the LAP will have had regard to the detailed requirements of the section 28 guidelines, the *Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009), as amended.

It is within this context the submission below sets out one two (2) recommendations and one (1) observation under two of the following themes:

Key theme	Recommendation	Observation
Consistency with Regional, Spatial and Economic Strategy	-	-
Consistency with Development	Recommendation 1	-
Plan Core Strategy and land use zoning objectives	Recommendation 2	
Town Centre and Regeneration	-	-
Transport and Accessibility	-	-
Climate Action	-	-
Flood Risk Management	-	Observation 1
Utilities and infrastructure capacity	-	-

## 1. Consistency with the Regional, Spatial and Economic Strategy

Section 19(2) of the Act requires the LAP to be consistent with any RSES that applies to the area of the plan. The RSES for the Eastern and Midland Region seeks to support self-sustaining growth towns, such as Birr, as regional drivers through good connectivity, economic development and regeneration opportunities in line with Regional Strategic Outcomes 2 and 3.

RPO 4.83 supports the consolidation of the town and village network to ensure that development proceeds sustainably and at an appropriate scale, level and pace in line with the core strategies of the county development plans.

The Office is satisfied that the provisions of the draft LAP are broadly consistent with the RSES.

## 2. Consistency with Development Plan Core Strategy and zoning objectives

Section 19(2) of the Act also requires the LAP to be consistent with the objectives of the development plan and its core strategy. Section 5.2 of the LAP sets out how the LAP is compliant with the development plan core strategy.

The core strategy in the adopted plan has allocated a projected population increase of 1,263 over the development plan period. The housing supply target for the same period is 441 units for the town.

It is noted that the Development Plan core strategy includes lands zoned mixed-use within the town and indicates that c. 23 units can be delivered on these lands (3.8ha). To accommodate the remaining housing target, a total of 14.4ha of lands are zoned for new residential within the LAP which the Office considers to be consistent with the core strategy.

The Office has, however, concerns regarding the following zonings objectives for "Existing Residential" in the draft LAP:

- Site 1: Rezoning of c. 0.7ha of lands located in the north east corner of the LAP area at Ballywilliam from "Open Space, Amenity and Recreation" to "Existing Residential";
- Site 2: Rezoning of c. 0.4ha of lands located along the northern section of Burke's Hill from "Open Space, Amenity and Recreation" to "Existing Residential";
- Site 3: Rezoning of c. 0.2ha of lands located lands located along the northern section of Burke's Hill from "Open Space, Amenity and Recreation" to "Existing Residential";
- Site 4: Rezoning of c. 0.4ha of lands located north of Crinkle at Hillside Road from "Open Space, Amenity and Recreation" to "Existing Residential"; and
- Site 14: Rezoning of a combination of lands located to the north of Crinkle, west of Military Road comprising of c. 0.8ha from "Strategic Reserve" to "Open Space, Amenity and Recreation" and c. 0.4ha of lands from "Strategic Reserve" to "Existing Residential".

These dispersed, non-sequential land use zoning objectives are not necessary to accommodate the existing development on those sites but would facilitate further residential development that may conflict with the core strategy, contrary to the requirements of section 19(2) of the Act. Further the sites 1, 4 and 14 are located outside the CSO boundary and would act against the effective delivery of compact growth contrary to the objectives of the Development Plan contrary to RPO 3.2 and NPF NPO 3, and none of the sites are considered to be sequential having regard to the policy and

objective for sequential development in the section 28 Ministerial guidelines, *Development Plans Guidelines for Planning Authorities* (2022).

#### **Recommendation 1 – 'Existing Residential' land use zoning objectives**

Having regard to the provisions under section 19(2) of the *Planning and Development Act 2000*, as amended, to the national and regional policy objectives for compact growth, NPO 3 and RPO 3.2, and to the policy and objective for the sequential approach to residential land use zoning under the *Development Plans Guidelines for Planning Authorities* (2022), the planning authority is required to omit the proposed land use zoning objectives for sites 1, 2, 3, 4 and 14, with reference to Map 1 appended to this submission letter.

The Office also notes that, including the above referenced land, the draft LAP has amended the zoning map to include new areas of existing residential, open space, recreation and amenity and has omitted some Enterprise and Employment, Industrial and Warehousing and Strategic Reserve zonings resulting in land use zoning objectives in the LAP which are inconsistent with the land use zoning map for Birr under Volume II, Settlement Plans of the County Development Plan.

As you are aware, Section 19(2) of the Act also requires an LAP to be consistent with the objectives of the development plan. However, a total of 14 blocks of land<sup>1</sup> are proposed under the draft LAP to be materially rezoned from the zoning set out in the Development Plan, as follows:

- Site 1: Rezoning of c. 0.7ha<sup>2</sup> of lands located in the north east corner of the LAP area at Ballywilliam from "Open Space, Amenity and Recreation" to "Existing Residential";
- Site 2: Rezoning of c. 0.4ha of lands located along the northern section of Burke's Hill from "Open Space, Amenity and Recreation" to "Existing Residential";

<sup>&</sup>lt;sup>1</sup> The subject lands are not individually referenced in the draft LAP or associated Birr Town plan map and site number references are those determined by the Office. <sup>2</sup> All site areas are approximate.

- Site 3: Rezoning of c. 0.2ha of lands located lands located along the northern section of Burke's Hill from "Open Space, Amenity and Recreation" to "Existing Residential";
- Site 4: Rezoning of c. 0.4ha of lands located north of Crinkle at Hillside Road from "Open Space, Amenity and Recreation" to "Existing Residential";
- Site 5: Zoning of c. 3.3ha unzoned lands south of the Waste Water Treatment Plant to "Open Space, Amenity and Recreation";
- Site 6: Zoning of c. 0.3ha of white lands at Westgate Residential estate to "Open Space, Amenity and Recreation";
- Site 7: Rezoning of c. 100sq.m. of lands located off Ely Place, Crinkle, from "Open Space, Amenity and Recreation" to "Community Services/ Facilities";
- Site 8: Rezoning of c.0.2ha of lands located on the north side of Chapel Lane from "Community Services / Facilities to "Open Space, Amenity and Recreation";
- Site 9: Rezoning of c. 0.1ha of backland bound by Cornmarket Street to the west, Connaught Street to the south and O'Connell Street to the east from "Town Centre/ Mixed Use to "Open Space, Amenity and Recreation";
- Site 10: Rezoning of c. 0.1ha of lands located Hawthorn Drive, Crinkle, from "Existing Residential" to "Open Space, Amenity and Recreation";
- Site 11: Rezoning of c. 0.2 ha of lands at the junction of Orchard Lane and Railway Road from "Enterprise and Employment" to "Existing Residential";
- Site 12: Rezoning of c. 5.51ha of lands located to the west side of the N62 Roscrea Road from "Enterprise and Employment" to "Open Space, Amenity and Recreation";
- Site 13: Rezoning of c. 3.15ha of lands to the east side of the N62 Roscrea Road from "Industrial and Warehousing" to "Open Space, Amenity and Recreation"; and
- Site 14: Rezoning of a combination of lands located to the north of Crinkle, west of Military Road comprising of c. 0.8ha from "Strategic Reserve" to "Open Space, Amenity and Recreation" and c. 0.4ha of lands from "Strategic Reserve" to "Existing Residential".

The proposed land use zonings identified above, except Site 5 and Site 6 are inconsistent with the land use zoning objectives of the Development Plan, contrary to the statutory requirements under section 19(2) of the Act.

Site 5 and Site 6 relates to 'white lands' in the Development Plan, that is they were not subject of a land use zoning objective. No inconsistency arises, therefore, between the land use objectives of the Development Plan and the proposed land use zoning objectives under the draft LAP. Accordingly there is no conflict under section 19(2) with the proposed land use zoning objectives for Site 5 and Site 6.

It is the Office's understanding that the zoning proposals in the draft LAP are largely intended to correct inconsistencies in the Development Plan zoning map to reflect existing uses, which were identified during the preparation of the LAP. The planning authority will be aware, however, that where it is proposed to vary the land use zoning objectives of the Development Plan, regardless of the reasons for doing so, the statutory procedures under section 13 of the Act apply.

# **Recommendation 2 – Consistency with Development Plan Objectives**

Having regard to the provisions under section 19(2) of the *Planning and Development Act 2000*, as amended, and to land use zoning objectives for Birr Town in Volume 2: Settlements Plans of the Offaly County Development Plan 2021-2027, the planning authority is required to regularise the discrepancies between land use zoning objectives in the draft LAP and the Offaly County Development Plan 2021-2027 in accordance with the statutory provisions in the *Planning and Development Act 2000*.

### 3. Town Centre and Regeneration

The Office welcomes the inclusion of a number of policies and objectives to regenerate and revitalise the town centre and, in particular the designation of two opportunity sites within the town in accordance with NPO 6 and RPO 3.3. These will complement the provisions of the Development Plan and support the delivery of the regeneration of these two centrally located and substantial sites for a range of uses.

The Office commends the planning authority on the completion of a number of successful projects for public realm revitalisation within the town such as Emmet Square and the Birr Castle, Gardens and Science Centre. The draft LAP provides further commitment to the delivery of public realm enhancements in line with the addendum to the non-statutory *Public Realm Plan for Birr 2021*. This is consistent with the *Town Centre First – A Policy* 

*Approach for Irish Towns 2022*, which recognises the transformational role of the public realm improvements in driving the regeneration of town centres, in tandem with, among others, active land management and support for retail / commercial operators.

The Office also strongly supports the innovative objectives to increase residential development in the town centre by encouraging the appropriate reuse of rear gardens to create new streets and the objective to reduce vacancy rates by 20%. In particular, the Office notes Policy TCP-03 which seeks to reduce vacancy rates by encouraging and facilitating the reuse and regeneration of derelict, vacant, backland and underutilised sites through legislative measures and / or by supporting the progression and delivery of projects funded by the Rural Regeneration and Development Fund and other appropriate funds.

### 4. Transport and Accessibility

The Office welcomes the Local Transport Plan (LTP), which was prepared by the planning authority having regard to the Area Based Transport Assessment approach as advised by the NTA, to inform the LAP.

The Office acknowledges and supports the outcomes of the LTP in relation to proposed infrastructural upgrades to improve the connectivity to all of the new residential zoned lands within the LAP area.

The draft LAP includes policy provision for the improvement of pedestrian permeability to the town centre, green spaces, and a series of cycling objectives improving connectivity and providing high quality and safe links to shops, services and amenities and thus reducing the need to travel by private car in accordance with NPO 64.

The Office strongly welcomes the inclusion in the draft LAP of modal share targets for work and education trips for the plan period and objective CIO-01 to secure funding under the NTA Active Travel Investment Programme. This is consistent with the provisions of the Development Plan and its objectives under section 10(2)(n), and with NPO 54. The Office considers the targets, which were informed by the LTP, to be a positive step to redressing the imbalance between sustainable and active modes and cars.

### 5. Climate Action

The Office commends the Council in their approach to addressing climate change in the draft LAP, including the cross-cutting climate change policy objectives provided throughout the Plan. The Office welcomes identification of the key contributions of the draft LAP (by chapter) to climate adaptation and mitigation in table 8.2, which provides clarity to the approach of the planning authority to climate action, consistent with NPO 54. However, to ensure a clearer focus the Office suggests that the contribution of the draft LAP climate change mitigation and climate change adaption should be identified separately.

The Office notes the Decarbonisation Actions and Projects set out in table 8.1 of the draft LAP, which identify actions and potential projects to help achieve a low carbon, climate resilient and environmentally sustainable economy, set against three key aims – promote compact growth; sustainable mobility; and transition to a low carbon society. The implementation of these actions are supported by objective CAP-14. The identification of climate change mitigation actions and climate adaptation actions in table 8.1 would provide a clearer focus for the implementation of climate actions.

The Office would advise that it would be appropriate to reference the Climate Action and Low Carbon (Amendment) Act (2021), which sets binding targets for GHG emissions reduction and for the delivery of renewable electricity, and to the Climate Action Plan 2021 (CAP), which includes actions designed to meet those targets.

#### 6. Flood Risk Management

The Office welcomes the policy CIP – 09 which seeks to manage flood risk in conjunction with the OPW and the *Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009), as amended (the Flood Guidelines); and objective CIO -07 which seeks to support and work in co-operation with the OPW in implementing of the Birr Flood Relief Scheme to ensure the implementation of the Flood Guidelines and associated circulars.

The Office also welcomes the policies and objectives to support SuDS within the LAP in accordance with the *Nature-based Solutions to the Management of Rainwater and Surface Water Runoff in Urban Areas – Water Sensitive Urban Design Best Practice Interim Guidance Document* (2021). These are key actions for adaptation of climate change and ensuring the climate resilience of Birr town.

The SFRA, carried out by the planning authority for the draft LAP area, has identified lands designated as flood zone A and B within the town. The flood zones have helpfully been overlaid onto the land use zoning map as constrained land use areas. Section 11.6 and objective LUZO-13 limits new development within this constrained area, but facilitates small-scale development to existing land uses that shall be informed by a site-specific flood risk assessment in accordance with the Flood Guidelines.

The Office notes that there is one undeveloped site within the constrained area, zoned "Enterprise and Employment" to the south of the town, off Roscrea Road. The Office notes the OPW recommends that any such undeveloped land within the Constrained Land Use zoning, where inappropriate development could be proposed, should be rezoned as Open Space unless it passes the plan-making Justification Test. However, as the subject site is zoned under the Development Plan, the requirements of section 19(2) of the Act, as referred to above, apply.

As indicated in section 11.6 of the draft LAP, the requirements of the section 28 Flood Guidelines will apply to the subject lands, at development management stage, which lands have been clearly identified in the draft Birr Town Map in the draft LAP and in the Development Plan. However, for clarity and for consistency with the requirements of the Flood Guidelines, it would be appropriate to reference the Flood Guidelines and the requirement to consult with OPW in objective LUZO-13 and to reference the requirement for a site-specific flood risk assessment in section 11.6 of the draft LAP.

### **Observation 1 – Flood risk management**

Having regard to the provisions of the *Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009), as amended, issued by the Minister under section 28 of the Act, the planning authority is requested to:

(i) amend objective LUZO-13 to insert the following text after 'the zoning map':

in accordance with the provisions of the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009), as amended, in consultation with the OPW;

(ii) amend section 11.6 designations to replace:

'detailed Flood Risk Assessment' with

site specific flood risk assessment

#### 7. Utilities and infrastructure capacity

The Office welcomes the preparation of an infrastructural assessment to inform the draft LAP, which assessment clearly identifies lands that promote compact growth and sustainable mobility in addition to assessing the availability of infrastructure, services and physical suitability of the lands.

It is noted that there is an existing waste-water constraint within the town, with capacity available for only 989 of the projected population of 1,263. It is also noted that during periods of heavy rain, the WWTP overflows into the Little Brosna River. In this regard, the Office notes that the settlement boundary has been extended in the draft LAP to north of the town to include an area of open space south of the existing WWTP. The Office welcomes the inclusion of these lands as a wetland to prevent future leakage into the river. As no land use-zoning objective was specified in the Development Plan for the subject land, there is no conflict with the provisions of section 19(2).

#### Summary

Arising from the foregoing evaluation and assessment of the Draft Birr Local Area Plan 2023-2029, the Office commends the planning authority in preparing a comprehensive and considered planning framework for the town. However, the proposed land use zoning objectives create inconsistencies with the Development Plan and as such, the LAP is not fully in accordance with section 19(2) of the Development Plan. Some of the proposed land use zoning objectives are also inconsistent with the national and regional policy objectives for compact growth (NPO 3 and RPO 3.2) and the implementation of the sequential approach to residential zoning having regard to section 28 Ministerial guidelines.

In this regard, the Office requests that your authority addresses the recommendations above. As you are aware, the report of the chief executive of your authority prepared for the elected members under section 20 of the Act must summarise these recommendations and the manner in which they will be addressed. At the end of the process, your authority is required to notify this Office within five working days of the decision of the planning authority in relation to the draft LAP. Where your authority decides not to comply with the recommendations of the Office, or otherwise makes the plan in such a manner as to be inconsistent with the recommendations of the Office, the chief executive must inform the Office accordingly and state the reasons for the decision of the planning authority.

Please feel free to contact the staff of the Office in the context of your authority's responses to the above, which we would be happy to facilitate. Contact can be initiated through plans@opr.ie.

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Anne Marie O'Connor

Deputy Regulator and Director of Plans Evaluations

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# Appendix 1 – Land Use Zoning Map