



5 March, 2020

For the Attention of: Tim Lucey, Chief Executive

Cork County Council,
County Hall,
Carrigrohane Road
Co. Cork
T12 R2NC

Section 31 of the Planning and Development Act 2000, as amended
Notice of Intent to Issue a Direction relating to Variation No. 2 to the Cork County
Development Plan 2014

Dear Mr. Lucey,

I am writing to you in connection with Variation No. 2 of the Cork County Development Plan 2014 as adopted, by the elected members of Cork County Council, on 27 January 2020.

TAKE NOTICE that I am issuing an intent to Direct pursuant to section 31 of the Planning and Development Act 2000 (as amended) (the Act). A draft of the proposed Direction is attached to this letter and request that you publish notice of this draft Direction, no later than two weeks after receipt of this letter.

As appears therefrom, I have formed the opinion that -

- (i) Cork County Council has failed to implement a recommendation made to the planning authority by the Office of the Planning Regulator (the Office), in November 2019, under



section 31AM of the Act, and the variation, as made, fails to set out an overall strategy for the proper planning and sustainable development of the area.

The reasons for the proposed Direction are set out in the Statement of Reasons section of the attached draft direction.

PROCESS TO DATE

The Office wrote to Cork County Council, in accordance with section 31AM of the Act, in relation to proposed Variation No. 2 to the Cork County Development Plan 2014 on 21 November 2019.

The submission made by the Office highlighted the statutory requirement for Cork County Council to be consistent with the Retail Planning Guidelines 2012, underlining concerns that the adoption of the proposed Variation would be premature to the preparation and finalisation of wider retail, spatial planning and transportation policies and recommending that Variation No. 2 not be made.

As you are aware, a report was prepared by yourself on the submissions received, including the submission made by the Office, stating that Cork County Council was satisfied that Variation No. 2 was in compliance with the Retail Planning Guidelines and that a Study on the Requirement for a Retail Outlet Centre in the Cork Metropolitan Area as well as the Variation, will be used to inform the preparation of any future Joint Retail Strategy.

Variation No. 2 to the Cork County Development Plan, 2014 was adopted by Cork County Council on 27 January 2020, with minor changes, consistent with the recommendations set out in the Chief Executive's Report.

Cork County Council informed the Office of its decision not to comply with the Office's recommendation on Variation No.2 on 30 January 2020, in accordance with section 31AM(6).

On 21 February 2020 the Office notified the Minister for Housing and Urban Development, in accordance with section 31P(1)(b) and section 31AM(8), that Variation No. 2, as adopted, has not



been made in a manner consistent with the recommendation of the Office, and has failed to set out an overall strategy for proper planning and sustainable development of the area. As a consequence, the Office recommends that the Minister exercise the relevant provisions of section 31 of the Act and instruct Cork County Council to delete Variation No. 2.

Accordingly, having considered the recommendation of the Office, I am issuing a draft Ministerial Direction under section 31 of the Planning & Development Act 2000 (as amended), to direct Cork County Council with regard to the now adopted Variation No. 2 to the Cork County Development Plan, 2014.

SUMMARY OF ISSUES

Cork City Council and Cork County Council are identified within the Retail Planning Guidelines as authorities who must prepare joint or multi-authority retail strategies (section 3.5). Both the Cork City and Cork County Development Plans are due to commence their review processes on the 12 March 2020 and 14 April 2020, respectively. The Metropolitan Cork Joint Retail Strategy 2015 has not been updated and does not contain any policies in relation to Retail Outlet Centres.

Variation No. 2 identifies a preferred sub-catchment area for a prospective retail outlet centre to serve the Cork metropolitan area in advance of the preparation of a joint retail strategy and therefore is not consistent with the holistic approach as set out in the Retail Planning Guidelines, 2012.

Concerns have also been raised by the National Transport Authority and Transport Infrastructure Ireland in relation to the road network and having sufficient regard to *Spatial Planning and National Roads Guidelines for Planning Authorities*.



DRAFT DIRECTION

The Office has set out a valid rationale in recommending that I exercise my functions under section 31 of the Act.

I am in agreement with the recommendation given by the Office, in that the making of Variation No.2 is premature and inconsistent with Ministerial Guidelines issued under section 28 of the Act, namely *Retail Planning Guidelines for Planning Authorities, 2012* and *Spatial Planning and National Roads Guidelines for Planning Authorities, 2012*.

PROCEDURAL REQUIREMENTS

I would draw your attention to the public consultation obligations under section 31 of the Planning and Development Act 2000 (as amended), 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.

In line with statutory requirements, a report is to be prepared on foot of this public consultation under section 31(8), including any views of the elected members, and must be furnished to the Office, the elected members and myself no later than 4 weeks after the public consultation process is completed, for further consideration.

The Office will then consider the Chief Executive's report together with any submissions made and on foot of that, will make a recommendation to myself on whether the Direction is issued with or without minor amendments. 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.

Please find Draft Direction attached.



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 on 01 8882203 or at laura.courtney@housing.gov.ie.

Yours sincerely,

Damien English, T.D.,

Minister for Housing and Urban Development

Copied to:

Cathaoirleach, Cork County Council, County Hall, Carrigrohane Road, Co. Cork, T12 R2NC

Mr. David Kelly, Director, Southern Regional Assembly, Assembly House, Waterford

Office of the Planning Regulator, Block C, 77 Sir John Rogerson's Quay, Dublin 2, D02 VK60.

National Transport Authority, Harcourt Lane, Dun Sceine, Dublin 2

**DRAFT DIRECTION IN THE MATTER OF SECTION 31
OF THE PLANNING AND DEVELOPMENT ACT 2000 (as amended)**

Variation No.2 of the Cork County Development Plan 2014

“Development Plan” means the Cork County Development Plan 2014

“Planning Authority” means Cork County Council

WHEREAS the powers and duties of the Minister for Housing, Planning and Local Government under the Planning and Development Act 2000 (as amended), other than the power to prosecute an offence, have been delegated to the Minister of State at the Department of Housing, Planning and Local Government pursuant to the Housing, Planning and Local Government (Delegation of Ministerial Functions) (No. 2) Order 2017 (S.I. 352 of 2017).

WHEREAS the Minister of State at the Department of the Housing, Planning and Local Government in exercise of the powers conferred on him by section 31 of the Act 2000, 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 (Variation No.2 of the Cork County Development Plan 2014) Direction 2020.
- (2) The Planning Authority is hereby directed to take the following steps with regard to the Cork County Development Plan 2014:

Revert to the Cork County Development Plan 2014 as made following the adoption of Variation No.1 and prior to the adoption of Variation No.2 by:

- (i) The text in Paragraph 7.10.5 Retail Outlet Centres is to be deleted as follows:

~~In relation to Retail Outlet Centres the Councils vision is to;~~

~~“Facilitate an innovative competitive comparison retail outlet centre serving a regional catchment that is sustainably located, which provides synergies with tourism attractions and existing urban centres, avails of existing and planned public transport, does not give rise to traffic congestion, and does not have any adverse effects upon the vitality and viability of existing retailing centres.”~~

- (ii) The text in Paragraph 7.10.5 Retail Outlet Centres is to be reinstated as follows:

“Cork County Council will undertake a detailed evidence based assessment to confirm the need for such developments and which will identify potential suitable locations.”

- (iii) The text in Paragraph 7.10.5 Retail Outlet Centres is to be deleted as follows:

~~In 2019 Cork County Council appointed consultants to carry out a Study on the Requirement for a Retail Outlet Centre in the Cork Metropolitan Area. On the basis of the study’s findings Cork County Council is satisfied that there is scope and retail potential capacity to accommodate a quantum of additional comparison retail floor space within the Cork Metropolitan Area and region up to 2023 of between 90,000 and 100,000 sq.m. of net retail comparison floor area. Therefore there is capacity to accommodate a Retail Outlet Centre in the Cork Metropolitan Area.~~

~~There are a variety of different Retail Outlet Centre formats and the success, and indeed impact of a Retail Outlet Centre is dependent upon the precise format chosen or proposed. The Council are satisfied such a proposal should not have an adverse impact upon the vitality and~~

~~viability of other retail centres in Metropolitan Cork or the existing retail network/hierarchy as set out in Table 7.1.~~

~~The Study indicates that the cumulative retail impact of a retail outlet centre on Cork City Centre, the District Centres and the Metropolitan Towns would be 1% or less.~~

~~Metropolitan towns in particular generally offer middle order comparison retailing which is generally not in direct competition with the type of goods on offer in the typical Retail Outlet Centre format which seeks to attract customers from a wide catchment area and from the tourism sector. Furthermore there is a requirement on applicants to demonstrate that products sold will not be in competition with those currently on sale in typical city/town centre locations.~~

~~The provision of such a Retail Outlet Centre can be a significant benefit to the metropolitan economy and an important contributor to the life, vitality and attractiveness of Metropolitan Cork as well as an important asset to the wider southern region.~~

~~Having assessed a number of potential locations within a number of sub catchments against a range of considerations including retail impact, tourism synergy, traffic, access and public transport it was concluded that the most appropriate location for a Retail Outlet Centre in Metropolitan Cork is the NE-2 sub catchment (N25).~~

- (iv) County Development Plan Objective TCR10-2: Retail Outlet Centre is to be deleted.

- (v) The Map in adopted Variation No.2 titled 'NE-2 Sub Catchment (N25)' is to be deleted.

(vi) Section 7.10.6 Innovation in the County's Retail Offer is to be deleted as follows:

~~Innovation in the County's Retail Offer~~

~~To ensure that the county sustains and enhances its attraction and competitiveness as a retail destination, it must be proactive and responsive in respect of innovation in retailing and new retail market trends. Retailing is a key part of Cork County's tourism offer and, as such, is important to the county's economy as a whole. Encouraging and facilitating innovation, be that in trading format, location or product, will assist the county to build on the success that has been established to date and, consequently its retail profile and attraction.~~

STATEMENT OF REASONS

- I. Variation No.2 has not been made in a manner consistent with the recommendations of the Office of the Planning Regulator under Section 31AM.

- II. The Cork County Development Plan 2014 as varied by Variation No.2 purports to identify a preferred location for a retail outlet centre to serve the Cork metropolitan area in advance of the preparation of a joint retail strategy as required under the Guidelines on Retail Planning published by the Minister in April 2012 under Section 28 of the Act and is inconsistent with the Guidelines on Spatial Planning and National Roads published by the Minister in January 2012 under Section 28 of the Act, and therefore fails to set out an overall strategy for the proper planning and sustainable development of the area.

GIVEN under my hand,

Minister for Housing and Urban Development

day of March, 2020.