



18th November 2022

For the Attention of: Mr. Danny McLoughlin, Chief Executive

South Dublin County Council,
County Hall,
Belgard Square North,
Tallaght
Dublin 24,
D24 A3XC

Section 31 of the Planning and Development Act 2000, as amended
Decision to Issue a Direction to South Dublin County Council on the South Dublin County
Development Plan 2022 – 2028

Dear Danny,

I am writing to you to inform you of the following in relation to the Section 31 draft Direction issued to South Dublin County Council on 28th July 2022, and the subsequent consideration by the Office of the Planning Regulator (the Office) of your report, dated September 2022 on the twenty-seven submissions received and the eight submissions (including one joint submission) made directly to the Office in connection with the South Dublin County Development Plan 2022 – 2028, as adopted by the elected members of South Dublin County Council on 22nd June 2022.

BACKGROUND

The Office notified the Minister, pursuant to section 31AN(4) of the Planning and Development Act 2000 (as amended), on 10th October 2022 and recommended that I as Minister, issue the Direction, as attached to the Notice of Intention to Issue a Direction dated 28th July 2022, with minor amendment to the draft direction to reflect the correct table references in the final version



of the adopted Development Plan (tables 12.4, 12.8 and 12.10 instead of tables 13.4, 13.8 and 13.10) and also some minor amendments to the wording in the Statement of Reasons section of the draft Direction to better reflect the wording of the statutory framework.

The draft Direction contained two parts:

- Part (2)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;
- Part (2)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 and Employment (EE) and Major Retail Centre (MRC) zoning objectives.

A copy of the Notice letter and proposed Final Direction was submitted to the Minister by the Office along with supporting documentation, which included the following:

- 1) South Dublin County Council Chief Executive’s Report issued under section 31(8) of the Act (September 2022);
- 2) Copies of eight (8) submissions received by the OPR pursuant to section 31(10)(a) of the Act.

There were 34 submissions in total received on the following public consultation on the Draft Direction under Section 31. These are as follows:

- 8 direct submissions to the Office from elected members;
- 3 submissions to the Council from prescribed authorities (TII, OPW and IDA),
- 6 submissions to the Council from elected members; and
- 17 submissions made to the Council by members of the public.



Furthermore, I note that your CE report has agreed with all steps to be taken by the Council as set out in the Draft Direction with minor amendment to reflect the correct table references in the final version of the adopted Development Plan.

Having reviewed and considered the Office's notification letter pursuant to section 31AN(4) including your report on the draft Direction and submissions and the submissions made directly by elected members of the Council to the Office, I am of the opinion that the Direction should be issued as attached, with minor amendments.

The Development Plan has not been made in a manner consistent with the recommendations of the Office and the Development Plan as made fails to set out an overall strategy for the proper planning and sustainable development of the area.

Also, the Development Plan as made is not in compliance with the provisions of the Act including s. 10(1A), s.10(2A), a. 12(18) and is inconsistent with National Strategic Outcome 1 and National Planning Objective NPO 11 to generate jobs within existing cities, towns and villages, and Regional Policy Objectives 5.3 and 5.6 in the RSES to ensure a sequential approach and planning for future development of employment lands in a manner that facilitates sustainable transport patterns. The Plan is also inconsistent with Regional Policy Objective 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 Plan also 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 the proper planning and sustainable development of the area.



Accordingly, South Dublin County Council should **TAKE NOTICE** that on the 18 day of November 2022, I have issued a Direction pursuant to Section 31 of the Planning and Development Act 2000 (as amended).

Pursuant to Section 31(17) of the Planning and Development Act 2000, as amended, this Direction is deemed to have immediate effect and its terms are considered to be incorporated into the plan.

A copy of this Direction is attached to this letter.

STEPS TO BE TAKEN

In light of the foregoing the Council is required, pursuant to Section 31(2) of the Planning and Development Act 2000 (as amended) to comply with this Direction so as to rectify the matter in a manner that, in my opinion, will ensure that the South Dublin County Development Plan 2022 sets out an overall strategy for proper planning and sustainable development and meets the requirements of the Act.

The Council should ensure that the Direction is available for inspection at its offices and on its website.

My officials remain available to assist you, as necessary, in complying with the foregoing process.

Yours sincerely,

**Peter Burke T.D.,
Minister of State with responsibility for Local Government and Planning**



Copied to:

- Cathaoirleach, South Dublin County Council, County Hall, Belgard Square North, Tallaght, Dublin 24, D24 A3XC
- Mr. Jim Conway, Director, Eastern and Midland Regional Assembly, 3rd Floor North, Ballymun Civic Centre, Main Street, Ballymun, Dublin 9, DO9 C8P5.
- Office of the Planning Regulator, Fourth Floor (West Wing) Park House, Grangegorman, 191-193A North Circular Road, Dublin 7, D07 EWW4.

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 31AN(4)(a) 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 12.4, 12.8 and 12.10 to reinstate data centre use class as an 'open for consideration' use class in the REGEN, Enterprise and Employment (EE) and Major Retail Centre (MRC) zoning objectives.

STATEMENT OF REASONS

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

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

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.

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

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. Pursuant to section 31(1)(c)

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 the proper planning and sustainable development of the area.

V. 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 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,

A handwritten signature in blue ink, appearing to read 'Peter Burke', is written over a horizontal line.

**Peter Burke T.D.
Minister of State with responsibility for Local Government and Planning**

18 November 2022.