



Oifig an  
Rialaitheora Pleanála  
Office of the  
Planning Regulator

22nd March 2023

Kieran O'Donnell TD

Minister of State 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) – Fingal County Development Plan 2023 – 2029**

A chara,

I am writing to you in relation to the recent adoption by the elected members of the Fingal County Development Plan 2023 - 2029 (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 recommendations of the Office, which required specific changes to the Development Plan:
  - (i) to ensure consistency with the National Strategic Outcomes for compact growth, sustainable mobility and transition to a low carbon and climate resilient society of the *National Planning Framework - Project Ireland 2040* (the 'NPF'), and the Regional Spatial and Economic Strategy ('RSES) for the Eastern and Midland Regional Assembly including Regional Policy

Objective 5.3, and in light of the *Development Plans, Guidelines for Planning Authorities* (2022) (Development Plans Guidelines). Specifically the Development Plan includes extensive areas of lands zoned for employment uses which are not underpinned by a clear and strategic evidence basis and do not support compact growth, the sequential approach, and integrated land use and transport planning that will enable increased travel by sustainable transport modes and achieving reductions in greenhouse gas emissions;

- (ii) having regard to the *Spatial Planning and National Roads, Guidelines for Planning Authorities* (2012), specifically that the Development Plan zones land for General Employment immediately south east of the motorway interchange on the M2 at Junction 2 St Margaret's;
  - (iii) to ensure consistency with national and regional policy to strengthen the value of greenbelts and green spaces at a city level (NPO 62). Specifically the Development Plan includes land zoned for employment uses in a piecemeal manner in peripheral and/ or isolated locations including at Newtown St Margaret's, and more often in areas otherwise zoned Green Belt (GB) or Rural (RU), NPO 62 is also relevant to the other areas of land zoned for employment uses which are the subject of this recommendation to the Minister;
  - (iv) to ensure consistency with NPO 65 to support Noise Action Plans, specifically the Development Plan includes provisions relating to airport noise which should be determined through the appropriate statutory processes, including the preparation of the Noise Action Plan.
- b) as a consequence of the above, the Development Plan made by Fingal County Council ('the Council') 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**

### **1.1 Draft Fingal County Development Plan**

The Draft Fingal County Development Plan 2023 – 2029 (the draft Plan) was on public display from 24<sup>th</sup> February to 12<sup>th</sup> May 2022.

A statement was appended to the draft Plan as required under section 28(1A)(b) of the Act, concerning the implementation of the Ministerial Guidelines. The statement did not include any information to demonstrate that the planning authority had formed the opinion that it is not possible to implement certain policies and objectives of the Minister contained in any relevant guidelines, as outlined in further detail below, and did not provide any reasons for not implementing any such policies or objectives. Such information and reasons are required where section 28(1B)(b) applies.

The Office made a submission to the draft Plan on 12<sup>th</sup> May 2022 containing seventeen (17) recommendations and six (6) observations.

The Office's submission to the draft Plan identified a number of issues for the planning authority to address to align the draft Plan with current national and regional policy and the Act. The Office considered that further clarity and transparency was required to ensure that the Plan is consistent with national policy leading to better planning outcomes for existing and new communities.

Specifically issues raised related to the core strategy (Recommendations 1 and 2), the zoning of lands in rural villages and clusters (Recommendation 3), residential zoned land (Recommendation 4), local area plans (Recommendation 5), tiered approach to zoning (Recommendation 7), building height strategy (Recommendation 8), build to rent (Recommendation 9), rural housing policy (Recommendation 10), employment zoned land (Recommendation 11), retail hierarchy (Recommendation 12), protection of the strategic national road network (Recommendation 15), the zoning of lands for specific uses and to achieve a less car dependent pattern of development (Recommendations 6, 13 and 14) and flood risk management (Recommendation 16).

Subsequently, the Chief Executive sent a notice letter under section 12(5)(aa) of the Act dated 17<sup>th</sup> November 2022 to the Office advising of the making of material alterations to the draft Plan. Whilst it was unclear whether recommendations were complied with or not, on review, the Office considered that Recommendations 3, 6, 7, 10, 11 and 14 of the Office's submission were not complied with either in full or in part. In particular, no amendments were made to address Recommendation 11.

Recommendation 11 of the Office's submission to the draft Plan required the planning authority to provide a robust justification for the extent and location of employment zoned lands in the draft Plan and to demonstrate that the criteria set out in specified national and regional policy has been satisfied. Particular attention was drawn to six specific land zoning objectives. Where an evidence-based rationale could not be provided the recommendation states that the subject zoning objective should be removed from the draft Plan.

## **1.2 Material Alterations to the Draft Fingal County Development Plan 2023-2029**

The elected members, having considered the draft Plan and the Chief Executive's (CE's) Report on submissions received (28<sup>th</sup> July 2022), resolved to amend the draft Plan. The material alterations to the draft Plan were on public display from 11<sup>th</sup> November 2022 to 22<sup>nd</sup> December 2022.

The material alterations included a number of changes, including:

- a series of individual material amendments to land use zoning amendments from Greenbelt (GB) to General Employment (GE); from Rural (RU) to Rural Business (RB) and from Greenbelt (GB) to Local Centre (LC), and
- the introduction of additional text in relation to noise at Dublin Airport.

The Office made a submission on 22<sup>nd</sup> December 2022 on the material alterations to the draft Plan containing seven (7) recommendations and two (2) observations. The submission also noted the decision of the planning authority not to comply with Recommendation 11 of the Office's submission to the draft Plan.

The Office's recommendations at Material Alterations stage included:

- MA Recommendation 1 – Tier 5 Towns and Villages: extensions to settlement boundary's in Oldtown, Coolquay, Kinsealy and in the Airport Business Campus.
- MA Recommendation 2 – Map Based Local Objectives: new map based local/ site specific objectives.
- MA Recommendation 3 – Rural Landscapes: extensions to the boundaries of existing rural clusters into designated sensitive landscapes and designation of additional rural clusters.
- MA Recommendation 4 – Rural Housing Policy.
- MA Recommendation 5 – Employment Zoned Land: zoning objectives at Westpalstown, Belinstown, Turvey Avenue, Kilcreagh, Kinsealy, Airport Business Campus and Newtown, St Margaret's.
- MA Recommendation 6 – Noise standards: additional text on night time noise standards at Dublin Airport.
- MA Recommendation 7 – Flood Risk Management.

The Office's submission to the Material Alterations to the draft Plan also noted that the planning authority had not addressed concerns raised in the Office's submission to the draft Plan in relation to Recommendation 11 - the extent of lands zoned for employment uses at Junction 2 on the M2 at St Margaret's; lands south of Coolquay village; lands south east of Junction 5 on the M1 at Courtlough south of Balbriggan; and lands at Turvey.

### **1.3 Adopted Fingal Development Plan 2023-2029**

The elected members of Fingal County Council resolved to make the Fingal County Development Plan 2023 – 2029 on 22<sup>nd</sup> February 2023.

Subsequently, the Chief Executive sent a notice letter under section 31AM(6) of the Act dated 1<sup>st</sup> March 2023 to the Office advising of the making of the Development Plan and specifying the recommendations of the Office not complied with.

The section 31AM (6) notice letter stated that MA Recommendation 4 had been complied with. In relation to MA Recommendation 1, MA Recommendation 2, MA Recommendation 3, MA Recommendation 5, MA Recommendation 6 and MA Recommendation 7 the notice letter stated that the recommendations had not been complied with, either in full or in part, and provided a summary of the elected members' reasons for not complying with the aforementioned recommendations.

As outlined above, whilst the section 12(5)(aa) notice letter (17<sup>th</sup> November 2022) was unclear, on review the Office considered Recommendation 11 of the Office's submission to the draft Plan had not been complied with.

The Office acknowledges the CE's response, as accepted by the elected members, in relation to Recommendation 3 (rural villages), Recommendation 6 (compact growth) and Recommendation 14 (modal share targets) which points to the policy framework set out in the draft Plan. It is submitted that this framework, where relevant, will be implemented in the preparation of the local area plans listed in table 2.16. On this basis, no further action is required.

In relation to Recommendation 10 (rural housing policy), the Office has considered the CE's response and the decision of the elected members not to comply with the recommendation. Having regard to the current policy framework and the forthcoming section 28 Guidelines, on balance, the Office considers that there is insufficient basis to make a recommendation to the Minister to issue a draft Direction in respect of this matter.

In relation to MA Recommendation 1 and 3 (rural villages, rural clusters and rural landscapes), the planning authority made the plan without a number of the zoning amendments. With the exception of PA SH 3.3 (Oldtown), the Office notes the reasons given by the elected members for not accepting the recommendation of the Office. The Office considers that the reasons provided by the elected members provide an acceptable rationale for the inclusion of these alterations and/or the scale of the amendment is minor in nature, and no further action is required. In relation to PA SH 3.3 Oldtown, the Office remains concerned regarding the scale and location of the zoning amendment, however does not consider that this single zoning objective is strategic in nature such as to warrant a recommendation to the Minister in this instance.

In relation to MA Recommendation 2 (Map Based Local Objectives), the Office notes that the Plan was made without six of the map based objectives listed in the Office's submission. The Office considers that the reasons provided by the elected members for the outstanding objectives can be accepted and no further action is required.

In relation to MA Recommendation 7 (Flood Risk Management), the Office notes that the Plan was made without three of the material alterations listed in the Office's submission. The Office considers that the reasons provided by the elected members for PA SH 7.1 can be accepted and acknowledges the status of planning permission on these lands. In relation to PA SH 8.2 it is noted that these lands are located contiguous to Swords town centre and have the potential to demonstrate compliance with *The Planning System and Flood Risk Management Guidelines* (2009) (Flood Guidelines). Furthermore, the Office considers that Policy Objective DMSO213 of the adopted Plan will, in this case, provide an adequate policy approach for any proposals for development of these lands. As such, no further action is required.

Having reviewed the CE's reports on the draft Plan (28<sup>th</sup> July 2022) and material alterations to the draft Plan (15<sup>th</sup> January 2023), 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.

The outstanding matters, therefore, relate to the remaining matters in respect of the following:

- Employment Zoned Land - Recommendation 11 and MA Recommendation 5;
- Noise standards (Dublin Airport) – MA Recommendation 6.

## 1.4 Lands Zoned for Employment Uses

### Recommendation 11 – Employment Zoned Land

Recommendation 11 of the Office's submission to the draft Plan required the planning authority to provide robust justification for the extent and location of employment zoned land in six (6) locations and to demonstrate that the zonings satisfied national and regional policy.

Recommendation 11 states the following:

*Having regard to National Strategic Outcomes for compact growth, sustainable mobility and transition to a low carbon and climate resilient society, and enhanced regional accessibility, NPO 10, the principles of sequential approach to zoning set out in the Development Plans Guidelines (2007) and section 6.2.5 of the draft Development Plans Guidelines (2021), the Regional Spatial and Economic Strategy, section 2.5 and 2.7 of the Spatial Planning and National Road Guidelines for Planning Authorities (2012), the planning authority is required to provide robust justification for the extent and location of employment zoned land and to demonstrate that the criteria of the aforementioned national and regional policy have been satisfied, and specifically in respect of the following employment zonings:*

- (i) lands zoned for high intensity employment uses located within the north Blanchardstown Area between the M2 and M3. The planning authority are advised to apply the sequential approach with lands contiguous to existing development and/or settlements being prioritised for high intensity employment zonings ahead of lands located further on the periphery where sustainable public transport infrastructure will not be provided during the lifetime of the draft Plan;*
- (ii) lands zoned General Employment at the Junction 2 of the M2 at St Margaret's;*
- (iii) lands zoned as Rural Business Cluster and Food Park located to the south of Coolquay rural village and south west of Corrstown Golf Club;*



- (iv) lands zoned as General Employment north of Ashbourne to the east of the N2;*
- (v) lands zoned as General Employment (circa 73ha) south of Balbriggan which extends across both sides of the M1; and*
- (vi) undeveloped lands at Turvey (circa 20ha).*

*Where an evidence-based rationale consistent with national and regional policy cannot be provided for these, or any other employment zonings, the subject zoning objective should be removed from the draft Plan.*

In respect of the following zoning amendments, the Office accepts the reasons provided by the Chief Executive and/or the elected members for not accepting the Office's recommendation and considers that the policies and objectives, specifically Policy CSP3, Policy EEP4, Objective CSO11 and Objective EEO3, of the adopted Plan provide an appropriate policy framework to ensure that the sequential approach is applied and that the lands must be serviced by quality supporting infrastructure:

- (i) lands zoned for high intensity employment uses located within the north Blanchardstown Area between the M2 and M3*
- (iv) lands north of Ashbourne to the east of the N2*
- (vi) lands at Turvey.*

In relation to the remaining lands, the CE's Report (28<sup>th</sup> July 2022) recommended the following to comply with the recommendation of the Office:

- (ii) zoned General Employment at Junction 2 of the M2 at St Margaret's:*

*To return the lands at to its original GB (Greenbelt) zoning;*

- (iii) lands zoned Rural Business Cluster and Food Park south of Coolquay village:*

*To zone the FP (Food Park) lands as RU (Rural); to zone the portion of RB zoned lands to north of the Ward River as RU (Rural); and the portion of RB zoned lands to south of the Ward River as GB (Greenbelt);*

(v) additional lands zoned for General Employment south of Balbriggan:

the additional GE (General Employment) lands which form the south eastern portion of the overall site revert to RU (Rural).

The elected members rejected the Chief Executive's recommendation in respect to the zoning amendments and voted to retain all zonings as per the draft Plan, contrary to the recommendation of the Office. The section 12(5)(aa) notice detailed the reasons given by the elected members.

The Office has assessed each of the zoning amendments and considered the reasons provided by the elected members for rejecting the Office's recommendation and the CE's proposal to comply with the recommendation of the Office in each case.

#### **1.4.1 Lands zoned General Employment at Junction 2 of the M2 at St Margaret's**

The lands zoned for General Employment extend to 37 hectares and are located to the east of the M2 at Junction 2, St Margaret's. The lands are bounded by the M2 to the west, by the Junction 2 link road to the north, and by the R135 to the east.

Within this land parcel, and along the R135 route there are three houses and a commercial yard which includes a car sales yard and a plumbing supply store. Otherwise the lands are undeveloped and in agricultural use.

These lands are part of a greenbelt zone which extends east of the M2, around the Dublin Airport lands and across the south of Fingal County.

The CE's recommendation was to return these lands to its original GB (Greenbelt) zoning. The CE Report states the following:

- the current level of lands zoned in the Dublin Enterprise Zone in addition to the lands already identified on the southern side of the N2, employment use, are considered more than adequate to meet current and future demands.
- the rezoning of these lands would lead to significant encroachment into the greenbelt lands and would be detrimental to the character of the area and

surrounding land uses. Physically, it is considered that the M2 road currently acts as a natural barrier in the area and this should be respected as the buffer between the zoned lands and the greenbelt.

- the proposal to change a substantial proportion of strategic Greenbelt lands to General Employment would result in an un-coordinated, ad-hoc provision of unsustainable employment lands of which there no evidence-based need.

The elected members rejected the CE's recommendation for the following reason:

- in order to provide for a sufficient supply of employment zoned lands to enable the growth of employment generating businesses in Fingal.

The Development Plan was informed by the Fingal Economic and Employment Land Use Study<sup>1</sup> which states that there is 1,170 hectares of lands zoned for General Employment which are undeveloped within the County. Furthermore, there are extensive lands already zoned on the southern side of the N2 which are the subject of an LAP and framework plan, and which the CE's report states are more than adequate to meet current and future demands.

No evidence based rationale has been provided for the rezoning of an additional 37 hectares, whereas detailed analysis was undertaken to demonstrate that the quantity of zoned land would more than meet the projected employment growth over the plan period. Further, there is no 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.

Consequently, no strategic rationale to underpin the zoning of further land for employment purposes at this location has been provided in accordance with Section 6.2.5 of the Development Plans Guidelines, and no or no adequate reasons have been provided to explain why the said Guidelines have not been followed.

These lands are in agricultural use and, as advised to elected members by the CE, form part of a greenbelt to the north of the city. The rezoning to General Employment is contrary to Policy SPQHP48 of the Plan that recognises the importance of

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<sup>1</sup> Supplementary Information to the Draft Fingal County Development Plan 2023-2029, February 2022

greenbelts and to national policy objective NPO 62 to strengthen the value of greenbelts and green spaces at a regional and city scale.

Furthermore, the rezoning does not support a sequential approach or facilitate sustainable travel patterns by providing for greenfield development outside rather than within the existing Dublin city and suburbs boundary contrary to national strategic outcomes for compact growth, sustainable mobility and transition to low carbon and climate resilient society and regional policy objectives (RPO 5.3 and RPO 5.6).

The National Transport Authority (NTA) recommended that this rezoning is not adopted in their submission to the draft Plan (12<sup>th</sup> May 2022) and in their submission to the Material Alterations<sup>2</sup> to the draft Plan (21<sup>st</sup> December 2022), which included the following recommendation:

*the proposed rezoning of lands from a current GB Green Belt zoning to GE General Employment zoning to the west of the R135 and east of Cherryhound and immediately south east of the M2, Junction 2 interchange should be omitted at this time as these lands are not planned to be served with public transport as outlined in both the current Strategy and the Draft Transport Strategy for the Greater Dublin Area 2022-2024.*

Furthermore, the Greater Dublin Area Transport Strategy 2022 - 2042 (the 'GDATS') was published on 24<sup>th</sup> January 2023, prior to the adoption of the Plan. Under section 9(6A) of the Act, the planning authority is obliged to ensure that its development plan is consistent with this strategy. RPO 8.4 also requires that '*land use plans within the GDA shall demonstrate a consistency with the NTA's Transport Strategy for the Greater Dublin Area...*'.

Under Measure PLAN4 of the GDATS, the NTA seeks to support and prioritise consolidation development '*as a means of preventing urban sprawl, reducing the demand for long-distance travel and maximising the use of existing transport infrastructure and services.*'

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<sup>2</sup> Submission to the Material Alterations to the draft Plan (21<sup>st</sup> December 2022).

In this regard, the Chief Executive considered the current level of lands zoned in the Dublin Enterprise Zone in addition to the lands already identified on the southern side of the N2 more than adequate to meet current and future demands. The zoning of peripheral Greenbelt lands to General Employment is not, therefore, necessary, and are not served and not proposed to be served by public transport, the zoning constitutes unsustainable urban sprawl that would increase demand for long-distance travel, inconsistent with Measure PLAN4.

Measure ROAD2<sup>3</sup> of the GDATs states that ‘1. *The primary function of national roads is to cater for strategic traffic and this function must be protected*’ and clarifies that ‘2. *Strategic traffic, in the context of national roads, is primarily comprised of inter-urban and interregional traffic.*’ RPO 8.3 requires ‘that *future development is planned and designed in a manner that maximises the efficiency and protects the strategic capacity of the metropolitan area transport network, both existing and planned and to protect and maintain regional accessibility.*’

These provisions reflect Section 2.7 of the *Spatial Planning and National Roads Guidelines for Planning Authorities* (2012) (SPNRGs) which state, planning authorities ‘*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.*’

Transport Infrastructure Ireland (TII) in the submission to the draft Plan (11<sup>th</sup> May 2022) considered that ‘*the Draft Development Plan with respect to lands indicated to move to a GE General Employment land use zoning objective from a current GB Green Belt land use zoning objective immediately south east of the motorway interchange on the M2 at Junction 2 – St. Margaret’s do not provide the evidence base required under Sections 2.4 and 2.7 of the SPNRGs in relation to impact on existing national road network and necessary mitigations*’ and recommended that the

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<sup>3</sup> National Roads Requirements

subject land use zoning objective be omitted. TII's submission to the Material Alterations to the draft Plan (16<sup>th</sup> December 2022) reiterated this position.

Having regard to the above, the Office does not consider that the reasons provided by the elected members provide an evidence based rationale for zoning 37 hectares of lands at Junction 2 of the M2 at St Margaret's for General Employment having considered the CE's recommendation, the national strategic outcomes of the NPF for compact growth, sustainable mobility and transition to a low carbon and climate resilient society, the sequential approach and planning for future development in a manner that facilitates sustainable transport patterns consistent with the GDATS (measure PLAN4) and RPOs 5.3, 5.6 and 8.1, the protection of the strategic capacity of the transport network consistent with the GDATS (measure PLAN2), RPO 8.3 and 8.4, and having regard to section 2.7 Roads Guidelines, greenbelts (NPO 62), and the evidence based zoning of land for employment purposes having regard to section 6.2.5 Development Plan Guidelines.

#### **1.4.2 Lands zoned Rural Business Cluster and Food Park south of Coolquay village**

The lands zoned as Rural Business Cluster (32 hectares) and Food Park (52 hectares) are located to the south of Coolquay rural village and southwest of Corrstown Golf Club. The land are bounded by the R135 to the west, the R121 and the Ward River to the south and by agricultural land to the north.

Within this land parcel there is a single house and a commercial metal fabrication yard. Otherwise the lands are undeveloped and in agricultural use.

Part of the lands are within a greenbelt zone which extends east of the M2, around the Dublin Airport lands and across the south of Fingal County. The remainder of the lands are surrounded by lands zoned as Rural.

The CE's recommendation was that the Food Park lands be zoned Rural; the portion of Rural Business lands north of the Ward River be zoned Rural; and the portion of the Rural Business lands south of the Ward River be zoned Greenbelt. The CE Report states the following:

*....the subject lands are not contiguous to the village. Furthermore, it is recognised that the subject lands are not well-served by public transportation, nor are they easily accessible by active transport from larger centres of population.....an analysis of the percentage of these lands which have been developed as per their current land use zoning indicates that none of the lands zoned RB 'Rural Business' and only 1.1% of the lands zoned FP Food Park have been developed despite retaining these zonings over a number of Development Plan periods.*

The elected members rejected the CE's recommendation for the following reason:

- in order to provide for a sufficient supply of employment zoned lands to enable the growth of employment generating businesses in Fingal.

The Development Plan was informed by the Fingal Economic and Employment Land Use Study<sup>4</sup> which states that there is a total of 192 hectares of lands zoned for Food Park, of which 127 hectares is undeveloped, and 92 hectares of lands zoned for Rural Business of which 63 hectares is undeveloped.

Based on the extent of undeveloped zoned land there is no evidence based rationale to zone these lands for employment uses in order to provide for a sufficient supply of employment zoned lands over the plan period.

Consequently, no strategic rationale to underpin the zoning of lands for employment purposes at this location has been provided in accordance with Section 6.2.5 of the Development Plans Guidelines, and no or no adequate reasons have been provided to explain why the said Guidelines have not been followed.

These lands are in agricultural use and a portion of these lands form part of a greenbelt to the north of the city. The zoning objectives are, therefore, contrary to national policy objective (NPO 62) to strengthen the value of greenbelts and green spaces at a regional and city scale.

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<sup>4</sup> Table 4.13 Supplementary Information to the Draft Fingal County Development Plan 2023-2029, February 2022

Furthermore, the rezoning does not facilitate sustainable travel patterns and provides for greenfield development outside Coolquay village contrary to national strategic outcomes for compact growth, sustainable mobility and transition to low carbon and climate resilient society and regional policy objective RPO 5.3.

Having regard to the above, the Office does not consider that the reasons provided by the elected members provide an evidence based rationale for zoning 32 hectares of lands Rural Business Cluster and 52 hectares Food Park south of Coolquay village having considered the CE's recommendation, the national strategy outcomes of the NPF for compact growth, sustainable mobility and transition to a low carbon and climate resilient society , RPO 5.3, greenbelts (NPO 62), and the evidence based zoning of land for employment purposes having regard to section 6.2.5 Development Plan Guidelines.

#### **1.4.3 Additional lands zoned for General Employment south east of Junction 5 on the M1 at Courtlough south of Balbriggan**

The draft Plan zoned an additional 8.5 hectares of lands for General Employment (GE) at Courtlough, to the south east of Junction 5 on the M1. The lands adjoin a land parcel zoned for General Employment (M1 Business Park) in the Fingal County Development Plan 2017-2023, which extends along both sides of the M1 motorway at Junction 5.

The total lands zoned for General Employment at Junction 5 extend to 77 hectares with 13 hectares developed and 64 hectares undeveloped.

The CE's recommendation was that the draft Plan be amended so that the additional 8.5 ha General Employment (GE) land at the south eastern portion of the overall site not zoned for employment in the previous Development Plan (2017), revert to Rural (RU). The CE Report states the following:

*...the proposed zoning would have been in breach of key objectives of the current FDP 2017-2023 and the emerging Draft FDP 2023-2029 and NTA policy to protect strategic transport corridors and channel employment growth within key strategic employment areas of the County, aligned with existing and planned infrastructure and as such is contrary to proper planning and sustainable development.*



The elected members rejected the CE's recommendation for the following reason:

- in order to provide for a sufficient supply of employment zoned lands to enable the growth of employment generating businesses in Fingal.

The Development Plan was informed by the Fingal Economic and Employment Land Use Study<sup>5</sup> which states that there is 1,170 hectares of lands zoned for General Employment which are undeveloped within the County. Furthermore, there is an existing 64 ha of undeveloped zoned land in the immediate vicinity and there is no evidence based rationale to zone an additional 8.5 ha in order to provide for a sufficient supply of employment zoned lands over the plan period.

Further, there is no 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.

Consequently, no strategic rationale to underpin the zoning of further land for employment purposes at this location has been provided in accordance with Section 6.2.5 of the Development Plans Guidelines, and no or no adequate reasons have been provided to explain why the said Guidelines have not been followed.

The lands are removed from any existing or planned high frequency public transport network and are located 6 km outside of Balbriggan. The rezoning does not therefore support a sequential approach or facilitate sustainable travel patterns and provides for greenfield development outside rather than within any settlement boundary contrary to national strategic outcomes for compact growth, sustainable mobility and transition to low carbon and climate resilient society and regional policy objectives (RPO 5.3 and RPO 5.6).

Having regard to the above, the Office does not consider that the reasons provided by the elected members provide an evidence based rationale for zoning 8.5 hectares of lands for General Employment at Courtlough having considered the CE's recommendation, the national strategy outcomes of the NPF for compact growth, sustainable mobility and transition to a low carbon and climate resilient society, the

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<sup>5</sup> Supplementary Information to the Draft Fingal County Development Plan 2023-2029, February 2022

sequential approach and planning for future development in a manner that facilitates sustainable transport patterns consistent with RPOs 5.3 and 5.6, and the evidence based zoning of land for employment purposes having regard to section 6.2.5 Development Plans Guidelines.

### **MA Recommendation 5 – Employment Zoned Land**

MA Recommendation 5 of the Office’s submission to the material alterations to the draft Plan required the planning authority to make the plan without nine (9) land use zoning amendments and one (1) map based objective.

MA Recommendation 5 states the following:

*Having regard to National Strategic Outcome 1 (Compact Growth) and National Policy Objectives 11 and 62 of the National Planning Framework (NPF), Regional Policy Objectives 4.82 and 5.6 of the Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Regional Assembly, and section 6.2.5 of the Development Plans, Guidelines for Planning Authorities (2022), the planning authority is required to make the Plan without the following material amendments:*

- *PA SH 3.1 - Westpalstown*
- *PA SH 3.4 and PA SH 3.6 – Belinstown*
- *PA SH 7.1 - Turvey Avenue, Donabate*
- *PA SH 7.2 and PA SH 7.6 - Kilcreagh*
- *PA SH 9.7 - north east of Kinsealy*
- *PA SH 11.6 – Airport Business Campus*
- *PA SH 12.4 and PA SH 12.6 - Newtown, St Margaret’s*

*The planning authority’s attention is also drawn to the related recommendation (MA Rec 7 Flood Risk Management) in relation to PA SH 7.1 and 7.2.*

The Office’s submission to the material alterations also stated:

*While the Office strongly supports the strengthening and expansion of the employment-base of Fingal, consistent with national and local policy, it is important that this is evidence-based and plan-led, and that the evidence and rationale*

*underpinning the zoning of land for employment purposes is clear and strategic in nature...*

*....the proposed rezonings are 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.*

The CE's Report agrees with the Office in relation to all of the zoning amendments listed above, and recommends that the Plan is made without the specified zoning amendments.

The elected members accepted the CE's recommendation to make the Plan without the following proposed Material Amendments:

- PA SH 7.2 and PA SH 7.6 (Kilcreagh), and
- PA SH 12.6 (map based objective at Newtown, St Margaret's).

The elected members voted to make the Plan contrary to the recommendation of the Chief Executive and the Office in respect of the remaining zoning amendments. The section 31AM(6) notice details the reasons given by the elected members.

The Office has assessed each of the zoning amendments and considered the reasons provided by the elected members for rejecting the CE's recommendation in each case.

In respect of the following zoning amendments, the Office accepts the reasons provided by the elected members in support of the zoning amendments and considers that the policies and objectives, specifically Policy CSP4 and Objective EEO3, of the adopted Plan provide a robust policy framework to ensure that these lands provide for sustainable site specific enterprise development:

- PA SH 3.1 Westpalstown
- PA SH 3.4 and PA SH 3.6 Bellinstown
- PA SH 7.1 Turvey Avenue, Donabate
- PA SH 9.7 North East of Kinsealy
- PA SH 11.6 Airport Business Campus

However, the Office considers that the reasons provided by the elected members do not satisfactorily address MA Recommendation 5 in respect of PA SH 12.4 Newtown, St Margaret's.

#### **1.4.4 PA SH 12.4 Newtown St Margaret's**

Zoning amendment PA SH 12.4 amends the zoning of 38 ha of land from Greenbelt (GB) to General Employment (GE) on lands at Newtown, St Margaret's. The material amendment states the following:

*Amend the zoning from GB Greenbelt to GE General Employment, extending from the Dublin Airport Logistics Park to the south to Kilshane Road to the north, at Newtown, St Margaret's. In addition, insert new map based local objective as follows, and insert site specific objective boundary: 'any general enterprise and employment type development of the lands identified by the site specific objective boundary at Newtown St Margaret's shall be contingent on the widening and upgrading of Kilshane Road to the northern boundary of the site, including installation of active travel infrastructure, the provision of a detailed landscaping plan for the land and subject to restrictions on development arising from the inner public safety zone.'*

The lands are located at Newtown, north of the M50. To the east of the lands is the Dublin Airport, to the west is a warehouse distribution park with the Dublin Airport logistics park to the south. These lands are part of a greenbelt zone which extends around the Dublin Airport lands and across the south of Fingal County.

The CE's recommendation was to omit proposed Material Amendment PA SH 12.4 and make the Plan without same. The CE's report on submissions considers that the rezoning of these lands as General Employment may not be suitable at this time. The elected members agreed to remove the map based objective to 'Support and facilitate a Park and Ride Facility' (PA SH 12.6) but did not accept the CE's recommendation to make the Plan without material amendment PA SH 12.4 to rezone the lands.

A summary of the elected members reasons provided in the notice letter are as follows:

- (i) the essence of this alteration relates to the road upgrade in an effort to ensure the road safety at the location;
- (ii) the transportation element of PA SH 12.4 is being proposed to ensure the road safety of all road users, including most importantly, pedestrians and recreational walkers;
- (iii) it is the responsibility of the elected members and the executive to act in the best interest of the communities and to ensure the highest level of road safety is afforded to the public; and
- (iv) regardless of the GE zoning going forward or not it is clear the area in question is under development pressure, considering the existing commercial and industrial development, this amendment should be retained in the interests of proper planning and development of the area.

Having regard to the reasons given by the elected members that the zoning objective is necessary to ensure road safety in this area, the Office considers that there are sufficient policies and objectives included in the Plan that will provide for road safety and road upgrades including:

- in response to the reasons that a road upgrade is required, section 6.5.10 of the Plan sets out the policy framework for the management of the county's road network. Objective CMO35 sets out to deliver improvements and upgrades and Objective CMO38 sets out to improve, manage and maintain the regional and road network in the County in a manner which safeguards the strategic function of the road network.
- in response to the reasons relating to road safety for all users, Policy CMP 5 sets out to promote best practice mobility management and travel planning, Policy CMP 7 sets out to secure high quality connected pedestrian and cycling network across the County, and Objective CMO5 sets out to promote the development of pedestrian cycle routes to link with schools, residential and employment areas and Objective CMO7 sets out to prepare an Active Travel Strategy.

Further, while the office appreciates the intention of the elected members' reason in respect of the widening and upgrading of Kilshane Road, this is not a sufficient basis for rezoning Greenbelt lands in a location that does not support sustainable travel patterns.

In relation to the reasons that the area is under development pressure and the rezoning is required in the interests of proper planning of the area the Office notes that the Fingal Economic and Employment Land Use Study<sup>6</sup> states that there is 1,170 hectares of lands zoned for General Employment which are undeveloped within the County.

No evidence based justification has been provided for the rezoning of an additional 38 hectares, whereas detailed analysis was undertaken to demonstrate that the quantity of zoned land would more than meet the projected employment growth over the plan period. Further, there is no 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.

Consequently, no strategic rationale to underpin the zoning of further land for employment purposes at this location has been provided in accordance with Section 6.2.5 of the Development Plans Guidelines, and no or no adequate reasons have been provided to explain why the said Guidelines have not been followed.

These lands are in agricultural use and form part of a greenbelt to the north of the city. The rezoning from Greenbelt (GB) to General Employment (GE) is contrary Policy SPQHP48 of the Plan which that recognises the importance of greenbelts and to national policy to strengthen greenbelts (NPO 62).

Furthermore, the rezoning does not therefore support a sequential approach or facilitate sustainable travel patterns and provides for greenfield development outside rather than within any settlement boundary contrary to national strategic outcomes for compact growth, sustainable mobility and transition to low carbon and climate resilient society and regional policy objectives (RPO 5.3 and RPO 5.6).

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<sup>6</sup> Supplementary Information to the Draft Fingal County Development Plan 2023-2029, February 2022

In its submission on that Material Alterations (21<sup>st</sup> December 2022) the NTA noted that the lands are significantly removed from any existing or planned high frequency public transport network and that any development permitted under the proposed zoning would be primarily car dependent. The NTA refers, in particular to RPO 5.6 which states:

*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.*

Accordingly, the NTA recommended that this land is not rezoned to General Employment and that the lands remains under the Greenbelt zoning objective in the finalised Plan.

Having regard to the above, the Office does not consider that the reasons provided by the elected members provide an evidence based rationale for zoning of 38 ha of land from Greenbelt (GB) to General Employment (GE) on lands at Newtown, St Margaret's having considered the CE's recommendation, the national strategic outcomes of the NPF for compact growth, sustainable mobility and transition to a low carbon and climate resilient society, the sequential approach and planning for future development in a manner that facilitates sustainable transport patterns consistent with RPOs 5.3 and 5.6, greenbelts (NPO 62), and the evidence based zoning of land for employment purposes having regard to section 6.2.5 Development Plans Guidelines.

### **1.5 MA Recommendation 6 – Noise Standards**

MA Recommendation 6 of the Office's submission to the material alterations to the draft Plan required the planning authority to make the plan without material amendment PA CH 8.1.

MA Recommendation 8 states the following:

*Having regard to section 10(2)(d) of the of Planning and Development Act 2000, as amended, and NPO 65 to promote pro-active management of noise*

*and to support the Noise Action Plans, the planning authority is required to make the Plan without PA CH 8.1.*

The text of PA CH 8.1 is as follows:

*That the Development Plan recognises the inadequacy of the proposed noise insulation scheme to protect the health of those affected by aircraft noise and that in view of the increasing knowledge and scientific evidence of the serious health impact of aircraft noise on the physical health of Fingal residents that it is an objective to take measures including the expansion of noise insulation to ensure noise levels produced by aircraft during night time are reduced to below 40DbL Night, as night-time aircraft noise above this level is associated with adverse effects including increased mortality, stress, high blood pressure and a deterioration in cardiovascular health.*

The CE report states that:

*...the Aircraft Noise Competent Authority (ANCA), rather than the Planning Authority, is responsible for ensuring that noise generated by aircraft activity at Dublin Airport is assessed in accordance with EU and Irish Legislation; and ...the council is fully committed to the continual engagement with local communities that are likely to be affected by airport growth....*

The CE's Report agrees with the OPR and recommends that the Plan be made without material amendment PA CH 8.1. The elected members rejected this recommendation.

The section 31AM(6) notice states that the Plan has been made with 'PA CH 8.1 as modified'. The modified text in the adopted Plan states (modification underlined):

*That the Development Plan recognises the inadequacy of the proposed noise insulation scheme to protect the health of those affected by aircraft noise and that in view of the increasing knowledge and scientific evidence of the serious health impact of aircraft noise on the physical health of Fingal residents that it is an objective to take measures including the expansion of noise insulation schemes operated by DAA to include all areas exposed to 40dB Lnight or higher as produced by aircraft during night time. The insulation schemes should be designed to ensure that internal noise levels are in keeping with BSI*



Standards Publication BS 8233:2014 Guidance on sound insulation and noise reduction for buildings, table 4: Indoor ambient noise levels for dwellings, as referenced in Chapter 14: Development Management Standards of the Development Plan 2023-2029. This approach is in response to the knowledge that night-time aircraft noise above this level is associated with adverse effects including increased mortality, stress, high blood pressure and a deterioration in cardiovascular health.

The reasons sets out by the elected members for rejecting the CE recommendation can be summarised as follows:

- alteration ensures that both this text and PA CH 8.3 (amendment to Objective DAO13 Section 8.5.7) agree and meet the objectives of the Development Plan;
- the reasons for including PA CH 8.3 (amendment to Objective DAO13 Section 8.5.7) is that health issues are a matter of importance for inclusion in the Development Plan.

Objective DAO13 (as adopted) states:

*Ensure that aircraft-related development and operation procedures proposed and existing at the Airport consider the requirements of the Aircraft Noise Regulations, the Noise Abatement Objective (NAO) for Dublin Airport, the Noise Action Plan, Health Issues and all measures necessary to mitigate against the potential negative impact of noise from aircraft operations (such as engine testing, taxiing, taking off and landing), on existing established residential communities, while not placing unreasonable, but allowing reasonable restrictions on airport development to prevent detrimental effects on local communities, taking into account the EU Regulation 598/2014 (or any future superseding EU regulation applicable) having regard to the “Balanced Approach” and the involvement of communities in ensuring a collaborative approach to mitigating against noise pollution.*

The Office acknowledges the reasons given by the elected members in terms of protecting health and amenities of the surrounding residents. However there are

extensive and reasonable provisions in the plan to manage noise effects associated with the operations of Dublin Airport including:

- Policy DAP 5 to support the actions of the Noise Action Plan for Dublin Airport and any update of same;
- Policy DAP 6 to protect the health of residents affected by aviation noise, particularly night time noise;
- Policy DAP 8 to support community engagement with neighbouring airport communities to ensure the environmental impacts are managed and mitigated through land use planning;
- DAO 11 to strictly control inappropriate development and require noise insulation where appropriate;
- DAO 15 to review the operation of noise zones in line with legislative framework;
- DAO 16 to encourage and promote the introduction of a noise quota system.

Furthermore, the Office does not accept that amendment PA CH 8.1 was necessary by reason of objective DAO13 (PA CH 8.3).

There is similarly no evidence basis to support the reason that this additional text is required to ensure the integration of the planning and sustainable development of the area with the social or community requirements of the plan and its population in accordance with section 10 (2)(d) of the Act.

Matters of noise control at Dublin Airport are subject to the provisions of a separate statutory code under which Fingal County Council has been designated as the Airport Noise Competent Authority (ANCA) with responsibility for assessing potential aviation noise impacts. These statutory functions are separate to planning functions of the local authority under the Act.

Matters of noise control at Dublin Airport are governed by the provisions of the Aircraft Noise (Dublin Airport) Regulation Act 2019 and sections 34B and 34C of the Act. The 2019 Act provides that the Chief Executive shall be independent in the performance of the functions of the competent authority.

The Noise Action Plan for Dublin Airport 2019-2023 (NAP) was prepared by Fingal County Council as the designated action planning authority with responsibility for preparing the plan under the Environmental Noise Regulations 2006. These regulation have since been revoked and replaced by the European Communities (Environmental Noise) Regulations 2018. The 2018 Regulations give effect to the European Union (EU) Directive 2002/49/EC relating to the assessment and management of environmental noise as amended by Commission Directive (EU) 2015/996 establishing common noise assessment methods. The Noise Action Plan identifies existing aircraft noise emissions, the current methods of noise management, and their appropriateness and possible improvements in line with latest developments in policy and research.

Having regard to the above, PH CH 8.1 addresses matters that are the subject of other legislative provisions and creates conflict with and uncertainty in the application of, such legislative provisions and policies and is therefore inconsistent with NPO 65. Furthermore, by *‘recognising the inadequacy of the proposed noise insulation scheme to protect the health of those affected by aircraft noise’* and committing to *‘the expansion of noise insulation to ensure noise levels produced by aircraft during night time are reduced to below 40DbL Night’*, it introduces provisions which are not supported by the Noise Action Plan.

The Office also notes the submission from Dublin Airport Authority to the planning authority, a prescribed authority under sections 11 and 12 of the Act, objecting to the material alteration on the basis of the detailed reasons set out in its submission.

The reasons given do not, therefore, address the substantive issue in the recommendation that there is no basis relating to the proper planning and sustainable development for the introduction of material amendment PA CH 8.1 which matters should be determined through the appropriate statutory processes, including the preparation of the NAP.

## **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 in the notice letters dated (17<sup>th</sup> November 2022 and 1<sup>st</sup> March 2023) 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) as set out above.
- 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 for 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 17<sup>th</sup> November 2022 issued under section 12(5)(aa) and 1<sup>st</sup> March 2023 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 under 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) and Section 2.7 (development at national road interchanges or junctions) in the SPNRGs, which failure is particularly demonstrated by:

- a. the zoning of land for general employment use where the planning authority has not provided supporting evidence or a strategic rationale to underpin the zoning of further land for employment purposes at Junction 2 of M2 at St Margaret's, lands located south of Coolquay village, lands south east of Junction 5 on the M1 at Courtlough south of Balbriggan, and lands at Newtown St Margaret's which fails to have regard to Section

6.2.5 of the Development Plans, Guidelines for Planning Authorities (2022);

- b. the zoning of land for general employment in close proximity to a Junction 2 of the M2 national road network where the planning authority has not demonstrated that the rezoning has regard to the criteria in Section 2.7 of the SPNRGs for Planning Authorities (2012) regarding development at national road interchanges or junctions.

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 the Greater Dublin Area Transport Strategy 2022 - 2042 (Measures ROAD2 and PLAN 4), national and regional policy in the NPF and RSES, namely the National Strategic Outcomes for compact growth, sustainable mobility and transition to a low carbon and climate resilient society, NPO 62 (greenbelts), NPO 65 (noise), RPO 5.3 (MASP Sustainable Transport), RPO 5.6 (MASP Employment lands), RPO 8.3 (strategic capacity of the metropolitan area transport network) and RPO 8.4 (consistency with the GDATS).

The Plan as made contains a significant land use zoning for employment uses outside of any settlement boundary and at locations remote from high quality public transport.

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 zone significant employment lands does not provide for effective integration of transport planning with spatial planning policies consistent with a sequential approach to zoning and a sustainable and plan-led approach for future employment development in the MASP and is inconsistent with RPOs 5.3 and 5.6 and the GDATS.

Furthermore, the lands at the M2 and Newtown were previously zoned Greenbelt (GB) and the lands south of Coolquay village lie within an area otherwise zoned Rural or Greenbelt. These lands therefore form part of a greenbelt to the north of the city, and the zoning for employment uses without an evidence based rationale and where sufficient zoned and undeveloped lands exist, is inconsistent with NPO62 to strengthen the value greenbelts and green spaces at a regional and city scale.

In relation to airport noise, this matter is subject to a separate statutory code which includes the designation of a separate action planning authority and the preparation of a Noise Area Plan. The inclusion of matters which should be determined through the appropriate statutory process, including the Noise Area Plan, is therefore inconsistent with NPO 65.

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 are contrary to and inconsistent with the Greater Dublin Area Transport Strategy 2022 - 2042, national and regional policy in the NPF and RSES, namely the National Strategic Outcomes for compact growth, sustainable mobility and transition to a low carbon and climate resilient society, NPO 62, NPO 65, RPO 5.3, RPO 5.6, RPO 8.3 and RPO 8.4.

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 the lands zoned General Employment at Junction 2 of the M2, at Newtown, to the national road network.
- ii. The remoteness of the lands zoned for employment uses from high quality public transport. The lands are served by a limited bus serviced and are significantly removed from any existing or planned high-frequency public transport network.
- iii. Measures ROAD 2 and PLAN 4 of the Greater Dublin Area Transport Strategy 2022 - 2042 (the 'GDATS').

- iv. All of these lands are located outside the Dublin City and suburbs boundary or any settlement boundary and are not listed as a strategic employment location in table 5.2 of the RSES.
- v. The Development Plan already provides 2,966 hectares of undeveloped employment lands including 1,170 hectares of general employment lands, 63 hectares of Rural Business Lands and 127 hectares of Food Park Lands.
- vi. Section 6.2.5 (zoning for employment uses) in the Development Plans, Guidelines for Planning Authorities (2022) and Section 2.7 (Development at National Road Interchanges or Junctions) in the SPNRGs.
- vii. National Strategic Outcomes of the National Planning Framework – Project Ireland 2040 (NPF) for compact growth, sustainable mobility and transition to low carbon and climate resilient society.
- viii. The statutory provisions in relation to airport noise including the European Communities (Environmental Noise) Regulations 2018, the Aircraft Noise (Dublin Airport) Regulation Act 2019 and sections 34B and 34C of the Planning and Development Act, 2000,
- ix. National Policy Objective 62, 65, of the NPF and Regional Policy Objectives 5.3, 5.6, 8.1, 8.3 and 8.4 of the RSES which state:

**NPO 62**

*Identify and strengthen the value of greenbelts and green spaces at a regional and city scale, to enable enhanced connectivity to wider strategic networks, prevent coalescence of settlements and to allow for the long-term strategic expansion of urban areas.*

**NPO 65**

*Promote the pro-active management of noise where it is likely to have significant adverse impacts on health and quality of life and support the aims of the Environmental Noise Regulations through national planning guidance and Noise Action Plans.*



### ***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 reintensification 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 8.3***

*That future development is planned and designed in a manner which maximises the efficiency and protects the strategic capacity of the metropolitan area transport network, both existing and planned and to protect and maintain regional accessibility.*

### ***RPO 8.4:***

*Land use plans within the GDA shall demonstrate a consistency with the NTA's Transport Strategy for the Greater Dublin Area and plans with or outside of the GDA shall be consistent with the guiding principles expressed in the RSES.*

### ***Greater Dublin Area transport Strategy***

### ***PLAN 4: Consolidated Development***

*In accordance with the NPF and RSES, the NTA will support and prioritise development patterns in the GDA which seek to consolidate development as a means of preventing urban sprawl, reducing the demand for long-distance travel and maximising the use of existing transport infrastructure*

*and services. Peripheral development will be supported in exceptional circumstances – on an evidence-based planned approach – where located on high capacity public transport routes and for specific land uses that cannot be accommodated in town and city centres.*

**ROAD2:**

*1. The primary function of national roads is to cater for strategic traffic and this function must be protected;*

*2. Strategic traffic, in the context of national roads, is primarily comprised of inter-urban and interregional traffic. This includes vehicles involved in the transportation of goods and products, especially those travelling to and from the main ports and airports, both freight and passenger related. It also includes buses, other public service vehicles and cars which contribute to national and regional economic development.*

- (vi) The Chief Executive's reports on submissions on the draft Development Plan and material alterations to the draft Development Plan.
- (vii) The relevant requirements of section 10, section 12(18) and section 28 of the Act.
- (viii) 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 12<sup>th</sup> May 2022 and 22<sup>nd</sup> December 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 matter as set out in the draft direction to the planning authority accompanying this notice, namely:.

- a. Delete the following zoning objectives from the adopted Plan i.e. the subject land is unzoned:
- (i) Land zoned General Employment in the adopted Plan to the east of M2 at Junction 2 at St Margaret's.
  - (ii) Land zoned Food Park in the adopted Plan south of Coolquay village.
  - (iii) Land zoned Rural Business in the adopted Plan to the south of Coolquay village.
  - (iv) Land zoned General Employment in the adopted Plan to the south east of Junction 5 on the M1 at Courtlough which was zoned Rural in the Fingal County Development Plan 2017-2023.
- (b) Reinstate the Greenbelt zoning objective for lands PA SH 12.4 Newtown i.e. the subject lands revert to Greenbelt from General Employment consistent with the recommendation of the chief executive's report dated 15<sup>th</sup> January 2023.
- (c) Delete the amended and additional text inserted under PA CH 8.1 as modified, consistent with the recommendation of the chief executive's report dated 15<sup>th</sup> January 2023.

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](mailto:plans@opr.ie).

Yours sincerely,



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**Niall Cussen**

Planning Regulator

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

**Fingal Development Plan 2023 -2029**

“Development Plan” means the Fingal Development Plan 2023 -2029

“Planning Authority” means Fingal County Council

The Minister of State at the Department of Housing, Local Government and Heritage in exercise of the powers conferred on him by section 31 of the Planning and Development Act 2000 (No.30 of 2000) and the Housing, Local Government and Heritage (Delegation of Ministerial Functions) Order 2023 (S.I. No. 116 of 2023), and consequent to a recommendation made to him by the Office of the Planning Regulator, hereby directs as follows:

1. This Direction may be cited as the Planning and Development (Fingal Development Plan 2023-2029) Direction 2023.
2. The Planning Authority is hereby directed to take the following steps with regard to the Development Plan:
  - (a) Delete the following zoning objectives from the adopted Plan i.e. the subject land is unzoned:
    - (i) Land zoned General Employment in the adopted Plan to the east of M2 at Junction 2 at St Margaret's.
    - (ii) Land zoned Food Park in the adopted Plan south of Coolquay village.

- (iii) Land zoned Rural Business in the adopted Plan to the south of Coolquay village.
- (iv) Land zoned General Employment in the adopted Plan to the south east of Junction 5 on the M1 at Courtlough which was zoned Rural in the Fingal County Development Plan 2017-2023.
- (b) Reinstate the Greenbelt zoning objective for lands PA SH 12.4 Newtown i.e. the subject lands revert to Greenbelt from General Employment consistent with the recommendation of the chief executive's report dated 15<sup>th</sup> January 2023.
- (c) Delete the amended and additional text inserted under PA CH 8.1 as modified, consistent with the recommendation of the chief executive's report dated 15<sup>th</sup> January 2023.

## **STATEMENT OF REASONS**

- I. The Development Plan as made includes significant land zoned for General Employment, Rural Business, and Food Park outside of the Dublin City and suburbs boundary or any settlement boundary and at locations 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 National Strategic Outcomes for compact growth, sustainable mobility and transition to a low carbon and climate resilient society, NPO 62 to strengthen the value greenbelts and green spaces at a regional and city scale, as well as the sequential approach and planning for future development in a manner that facilitates sustainable transport patterns consistent with the Greater Dublin Area Transport Strategy 2022 - 2042 (Measure PLAN 4), Regional Policy Objectives 5.3, 5.6, and 8.4 in the RSES.

- II. The Development Plan as made includes land zoned for General Employment to the east of the M2 at Junction 2 at St Margaret's in close proximity to a Junction 2 of the M2 national road network inconsistent with the Greater Dublin Area Transport Strategy 2022 - 2042 (Measure ROAD 2), and Regional Policy Objectives 8.3 and 8.4, and 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 at national road interchanges or junctions.
  
- III. The Development Plan does not include a strategy for employment development to inform the zoning of further land for employment purposes at Junction 2 of the M2 at St Margaret's, lands located south of Coolquay village, lands south east of Junction 5 on the M1 at Courtlough south of Balbriggan, and lands at Newtown St Margaret's which fails to have regard to the Ministerial Guidelines issued under Section 28 of the Act, specifically the requirement that the evidence and rationale underpinning the zoning of land for employment purposes must be clear and strategic in nature under Section 6.2.5 (zoning for employment uses) in the *Development Plans, Guidelines for Planning Authorities* (2022).
  
- IV. The Development Plan as made includes provisions that recognises the inadequacy of the proposed noise insulation scheme to protect the health of those affected by aircraft noise and that it is an objective to take measures including the expansion of noise insulation to ensure noise levels produced by aircraft during night time are reduced to below 40DbL Night, which matters are subject to a separate statutory code which includes the designation of a separate action planning authority, the Aircraft Noise Competent Authority, and the preparation of a Noise Action Plan. The inclusion of matters which should be determined through the appropriate statutory process, including the Noise Action Plan, is therefore inconsistent with NPO 65.

- V. No adequate reasons nor explanations relating to the proper planning and sustainable development of the area have been provided to explain why lands have been zoned in such a way and how this approach (involving a failure to demonstrate a strategic rationale to underpin the zoning of further land for employment purposes zone lands and to a failure to have regard to the Development Plan Guidelines and to satisfy the criteria for development at national road interchanges or junctions) is consistent with an overall strategy for the proper and sustainable development of the area.
- VI 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 of the Act.
- VII In light of the matters set out at I-VI above, the Minister is of the opinion that the Development Plan as made fails to set out an overall strategy for the proper planning and sustainable development of the area.
- VIII In light of the matters set out at I to VI, above, the Development Plan is not in compliance with the requirements of the Act.

GIVEN under my hand,

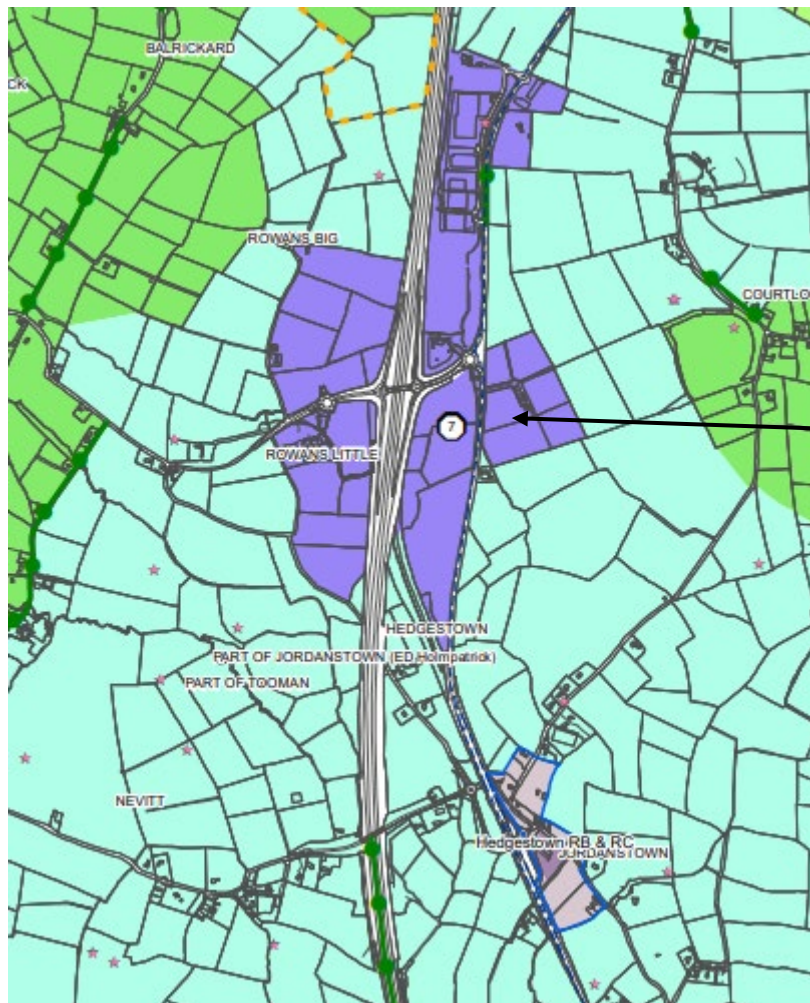
Minister for Housing, Local Government and Heritage

day of Month, year.

**Appendix to section 31AM8 Notice Letter Fingal County Development Plan  
2023-2029 AD-013-22**

Site: To the south east of Junction 5 on the M1 at Courtlough

**Zoning Objective** 'General Employment'

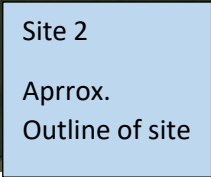


Site 1





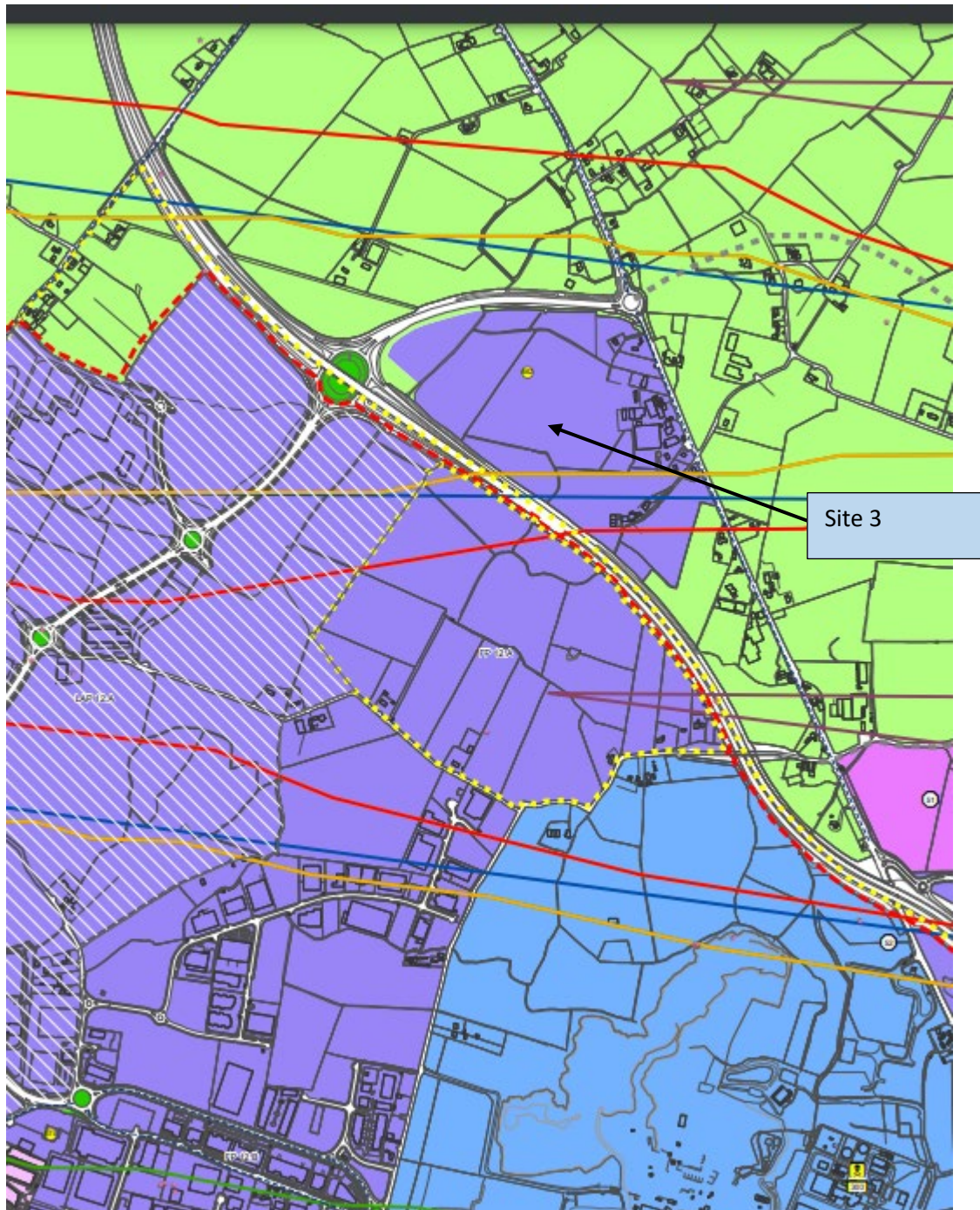
**Zoning Objective:** 'Food Park and Rural Business' south of Coolquay village





Site: To the east of Junction 2 on the M2 at St Margaret's

**Zoning Objective:** 'General Employment'





Site 3

Approx. outline of  
site.



**Amend** the zoning from GB-Greenbelt to GE-General Employment

