

6<sup>th</sup> March 2023

Forward Planning, Economic Development and Enterprise Directorate, Limerick City and County Council, Merchants Quay, Limerick, V94 EH90.

# Re: Material Alterations to Draft Caherconlish Local Area Plan 2023-2039

A chara,

Thank you for your authority's work in preparing the proposed Material Alterations (the proposed material alterations) to the Caherconlish Local Area Plan 2023-2029 (the LAP).

As your authority is aware, a core function of the Office of the Planning Regulator (the Office) is the strategic evaluation and assessment of statutory plans to ensure consistency with legislative and policy requirements relating to planning. This includes a requirement to make submissions on statutory plans, including any observations or recommendations the Office considers necessary to ensure the effective co-ordination of national, regional and local planning requirements. The Office may also include advice on matters it considers would contribute positively to the proper planning and sustainable development of the area.

The Office has evaluated and assessed the proposed material alterations under the provisions of sections 31AO (1) and 31AO (2) of the *Planning and Development Act 2000*, as amended, (the Act) and within the context of the Office's earlier recommendations and observations.



The Office's evaluation and assessment of the proposed material alterations has regard to the current county development plan, the RSES, relevant section 28 guidelines, section 31AO(1) and (2) of the Act and within the context of the Office's earlier recommendations.

As outlined in the submission of the Office to the draft LAP, the Office considered the draft LAP to be generally consistent with policies in the *National Planning Framework* (NPF) and the *Regional Spatial and Economic Strategy* (RSES) for the Southern Regional Assembly (SRA) area.

However, the Office found it necessary to recommend changes to ensure alignment with national and regional policies and with associated section 28 guidelines concerning town centre regeneration and flood risk management.

## Overview

The Office raised a few concerns about the draft LAP, including the matters outlined in Recommendation 1 and Recommendation 2 to the draft Plan, concerning regeneration and flood risk management, respectively.

While the Office acknowledges the preparation of a revised Strategic Flood Risk Assessment (SFRA) for the town, the SFRA has not been progressed to a Stage 3 assessment as required by Recommendation 2 of the submission to the draft Plan, and in accordance with The *Planning System and Flood Risk Management Guidelines* (2009) (the Flood Guidelines). In the absence of this assessment it is not possible to determine if the flood risk areas identified in the SFRA are accurate. As such, it is not possible to be certain that development on foot of the plan will not be subject to flooding or cause flooding elsewhere. Given the serious impact of flooding on people and the environment, it is important that this matter is resolved before the plan is adopted.

The Office welcomes the inclusion of a new action in the monitoring and implementation strategy, to carry out a town centre health check and to implement



active land management measures, in response to Recommendation 1 to the draft Plan.

While the proposed material alterations introduce positive revisions to the development framework for the draft LAP area, the Office has identified a small number of proposed amendments that require further consideration having regard to national and regional policy for sustainable mobility patterns and flood risk management.

This submission letter also includes comments on the process of environmental assessments carried out in respect of the material amendments, which should be carefully considered. In this regard, this submission makes one (1) Recommendation on the material alterations to the draft LAP. Comments are included under the following headings:

- 1. Consistency with Regional, Spatial and Economic Strategy
- 2. Consistency with Development Plan Core Strategy
- 3. Compact Growth and Tiered Approach to Zoning
- 4. Regeneration
- 5. Education and Community
- 6. Sustainable Mobility Transport Strategy
- 7. Flood Risk Management
- 8. Environment and Natural and Built Heritage

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

The Office considers the draft LAP, as proposed to be amended is generally consistent with the regional policy objectives of the RSES for the Southern Region.



# 2. Consistency with Development Plan Core Strategy

The Office considers the draft LAP, as proposed to be amended is generally consistent with the objectives and core strategy of the Limerick City and County Development Plan 2022-2028.

# 3. Compact Growth, Zoning and tiered Approach to Zoning

The Office considered that draft LAP, as proposed to be amended is generally consistent with national and regional objectives and national and regional strategic outcomes for compact growth, and with the policies objectives to implement the sequential approach under the *Development Plans, Guidelines for Planning Authorities* (2022).

# 4. Regeneration

The Office welcomes proposed material amendments to Chapter 4 (MA 1 and MA 2) and to Chapter 11 (MA 22), which respond to Recommendation 1 of the Office's submission on the draft LAP.

The Office acknowledges the proactive work of Limerick City and County Council in addressing vacancy and dereliction across the county. The identification of the active land measures available to the Council and its designated *Dereliction, Vacancy and Re-Use Team*, under amendment MA 1 Town Centre Health Check provides greater clarity of the approach of the Council. This is supported by Objective ED O4: Active Land Management, (MA 2), which sets out a clear policy approach for active land management in the settlement, and is welcomed by the Office. Further, the Office is satisfied that the proposed amendments in relation to the retail strategy (MA 3), in addition to the amendment of Objective ED P4: Retail Development (MA 4), resolve concerns raised in its submission about limiting ground floor uses of vacant premises to shopping and related services.

The Office welcomes the proposal to undertake a further Health Check Survey within the lifetime of the LAP under amendment MA 22 of Table 11.1 in Chapter 11. The



Office suggests that a mid-plan review would set an appropriate timeframe for carrying out this survey.

# 5. Education and Community

The Office notes Zoning Map (MA 1) introduces a 2.465ha site for Education and Community uses on the western side of the settlement. The Office is satisfied that this site is consistent with the sequential approach to zoning and with the achievement of the National Strategic Outcome (NSO) for compact growth.

# 6. Sustainable Mobility Transport Strategy

As previously set out in the Office's submission to the draft LAP, the planning authority has taken a positive approach to sustainable mobility and active travel in the LAP. However, the Office would question the proposed material amendments (MA 5 and MA 6) to Chapter 4 to dramatically reduce the extent of the Groody River walk at Opportunity Site 3. The originally proposed walk would have much greater benefits in terms of active travel and physical activity consistent with NPO 27 and RPO 174 and the goals of the *National Sustainable Mobility Policy* 2022. Where possible, the Office encourages the maximisation of such facilities.

# 7. Flood Risk Management

The Office welcomes the preparation of a revised Strategic Flood Risk Assessment, but is seriously concerned that a Stage 3 assessment has not been prepared in accordance with Recommendation 2 of its submission on the draft LAP. Compliance with this recommendation is necessary to ensure that the flood risk arising within the area of the draft LAP is adequately assessed, consistent with NPO 57, RPO 115 and RPO 116 and in accordance with the Flood Guidelines.

The Office notes that the revised SFRA states that flood modelling did not take place because the 'on the ground' survey by Limerick City and County Council supported the historic flood reports and the benefitting lands. However, this approach does not have regard to the detailed requirements of the Flood Guidelines, which states that



in areas where CFRAM data is not available, Stage 3 *Detailed Food Risk Assessments* should be prepared. This approach is not sufficiently robust to protect against the risk of flooding in Caherconlish.

Under the Flood Guidelines a Stage 3 assessment is required to address flood risk issues in sufficient detail and to provide a quantitative appraisal of the:

- potential flood risk to existing or proposed development, or to land proposed to be zoned;
- potential impact on flood risk elsewhere; and
- effectiveness of any proposed mitigation measures,

including having regard to the planning to future climate change flood risk scenarios in accordance with the *Flood Risk Management – Climate Change Sectoral Adaptation Plan* (2019).

As the draft LAP has not been informed by a Stage 3 assessment, it is not possible to determine whether the planning authority is proposing to zone lands at risk of flooding for vulnerable or highly vulnerable uses. Similarly, it is also, therefore, not evident that the sequential approach has been applied and whether the plan-making Justification Test has been carried out for all relevant lands as required by the Flood Guidelines.

It is also not possible to determine whether relevant structural or non-structural measures are proposed to be applied to appropriate lands, or whether flood risk management measures are required for certain lands in the absence of the planmaking Justification Test, where necessary.

Having regard to the outcome of the necessary Stage 3 assessment, the planning authority will need to consider whether it is possible to proceed to make the LAP, or whether flood risk can be addressed by appropriate minor modifications in making the LAP to ensure it has had regard to the requirements of the Flood Guidelines.



### **Recommendation 1 – Flood Risk Management**

Having regard to:

- NPO 57 of the NPF
- RPO 115 and RPO 116 of the RSES, and
- The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009), as amended by Circular PL 2/2014,

(a) the planning authority is required to:

- i) carry out a Stage 3 Detailed Flood Risk Assessment as part of a revised Strategic Flood Risk Assessment (SFRA), based on appropriate level of detail and up to date flood risk modelling at an appropriate scale, and taking account of future climate change scenarios having regard to *Flood Risk Management – Climate Change Sectoral Adaptation Plan* (2019); and
- ii) carry out the plan-making Justification Tests for any and all lands proposed to be zoned, which are newly identified as within Flood Risk Zone A/B by the Stage 3 assessment under part i).
- (b) Based on the findings of Stage 3 assessment:
  - i) where lands are proposed to be zoned for vulnerable use / development within flood risk zone A and / or highly vulnerable use / development within flood risk zone B, which lands have not passed the plan-making Justification Test the planning authority is required not make the LAP;

or

 where lands are proposed to be zoned for vulnerable use / development within flood risk zone A and / or highly vulnerable use / development within flood risk zone B, which lands have passed the plan-making Justification Test, the planning authority is required, in making the LAP, to:



- (I) identify any structural and / or non-structural measures required to be implemented on relevant lands; and / or
  - (II) any mitigation measures necessary to address residual flood risk, identified in the plan making justification tests; and / or
  - (III) any other minor modification necessary to ensure the LAP has regard to the Flood Guidelines and is consistent with the aforementioned national and regional policy objectives.

The Planning Authority is strongly advised to consult with the OPW in responding to this recommendation.

It should also be noted that Objective IU O4 was incorrectly referenced in Section 5.1 of the SFRA as IU O5. The planning authority is advised to review this reference to ensure consistency between the SFRA and LAP.

# 8. Environment and Natural and Built Heritage

The Office welcomes the amendments proposed to Chapter 8 'Climate Action, Environment and Heritage' (MA 9 and MA 10) in relation to archaeological and built heritage and Chapter 9 'Infrastructure and Utilities' (MA 11- MA19) in relation to nature based solutions, SuDS and flood risk.

The Office notes that an AA screening determination statement was published with the material alterations. However, no screening report for either AA or SEA has been published and it is not clear if SEA screening has been carried out for the proposed material amendments.

The planning authority should satisfy itself that the approach taken is consistent with its obligations under the Habitats Directive and the Strategic Assessment Directive and respective transposing legislation.



#### In summary

The Office requests that your authority addresses the recommendations outlined above. As you are aware, the report of the chief executive of your authority prepared for the elected members under section 20 of the Act must summarise these recommendations and the manner in which they will be addressed.

At the end of the process, your authority is required to notify this Office within five working days of the decision of the planning authority in relation to the draft LAP. Where your authority decides not to comply with the recommendations of the Office, or otherwise makes the plan in such a manner as to be inconsistent with the recommendations of the Office, under the provisions of section 31AO(5) of the Act the chief executive must inform the Office accordingly and state the reasons for the decision of the planning authority.

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

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ONNO

# Anne Marie O'Connor Deputy Regulator and Director of Plans Evaluations