

OPR Ref: MA-034-22

13th March 2023

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

Re: Material Alterations to Birr Local Area Plan 2023-2029

A chara,

Thank you for your authority's work in preparing the proposed Material Alterations (the proposed material alterations) to the Birr 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. It is a requirement for the Office to make submissions on statutory plans and to include any observations or recommendations it considers necessary to ensure the effective coordination 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, and within the context of the Office's earlier recommendations and observations.

As outlined in the Office's submission to the draft LAP, the Office considered the draft LAP to be generally consistent with the policies in the National Planning



Framework (NPF) and the Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Region (EMRA).

However, the Office recommends changes to ensure alignment with the Offaly County Development Plan 2021-2027 (the Development Plan) in accordance with Section 19(2) of the *Planning and Development Act 2000*, as amended, in terms of land use zoning objectives, and to ensure alignment with national and regional policy objectives for compact growth.

Overview

The Office made two (2) Recommendations and one (1) Observation to the draft LAP. The Office welcomes the inclusion of specific amendments to Chapter 11 to address the concerns raised in Observation 1 in relation to flood risk management.

The Office notes that no material alterations have been introduced in response to Recommendation 1 of the Office submission to the draft LAP in relation to Existing Residential zoned lands. Notwithstanding legacy issues from previous plans this piecemeal approach to zoning is inconsistent with national and regional policy and risks inconsistency with the core strategy of the Development Plan.

In relation to Recommendation 2 concerning inconsistency with the zoning objectives of the Offaly County Development Plan 2021-2027 (the Development Plan), the Chief Executive recommends a future variation to the Development Plan to resolve this matter. However, the LAP as proposed remains inconsistent with the Development Plan contrary to Section 19(2) of the Act. This will give rise to significant practical and legal uncertainties regarding the relevant policy framework for both the public and the planning authority itself, and should be resolved prior to the adoption of the LAP.

Turning to the material alterations, the Office supports the proposed material alterations in relation to the positive measures included in the Local Transport Plan (LTP) to enhance the sustainable transport policies of the town. The Office also welcomes the insertion of an additional section in the SFRA dedicated to SuDS techniques.



However, the Office has identified a need to give further consideration to Policy CIO-06 (amendment PMA24) having regard to national and regional policy for sustainable mobility patterns. In addition, the Office also suggests that the planning authority reconsiders the omission of the proposed greenway from Figure 6.14 under PMA 13.

It is within this context the submission below sets out one (1) recommendation under of the following themes:

Key theme	Recommendation	Observation
Consistency with Regional, Spatial and Economic Strategy	-	-
Consistency with Development Plan Core Strategy	-	-
Sustainable Mobility and Transport Strategy	Recommendation 1	-
Flood Risk Management	-	-

- 1. Consistency with Regional, Spatial and Economic Strategy
- 2. Consistency with Development Plan Core Strategy
- 3. Sustainable Mobility and Transport Strategy
- 4. Flood Risk Management

1. Consistency with 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 Eastern and Midland Region, excepting any conflicts raised below.



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

The Office notes that no material amendments have been proposed to the draft LAP in response to Recommendation 1 of the Office's submission. This concerned the inconsistency of proposed land use zoning objectives for sites 1, 2, 3, 4 with the core strategy of the Development Plan, national and regional objectives for compact growth and the policy and objective for sequential zoning under Ministerial guidelines.

Although the Office notes the reasons given in the Chief Executive's report under s.20(3)(c)(i), the planning authority will be aware that this piecemeal approach to land use zoning is contrary to the policy and objective on sequential zoning under the *Development Plans, Guidelines for Planning Authorities* (2022) and is not good practice. The proposed Existing Residential zoning objective is unnecessary to validate existing authorised uses, or to facilitate minor developments associated with same. The inclusion of that zoning objective will, however, facilitate multiple unit residential developments on those sites, often in peripheral locations and which has not been taken into account in the core strategy.

The Office also notes that no material amendments have been proposed in response to Recommendation 2 of the Office's submission regarding inconsistency between the zoning map in the Development Plan and that of the draft LAP. In this regard, the Office acknowledges the recommendation of the Chief Executive to vary the development plan to omit the Birr land use zoning map from the Development Plan. However, as the proposed variation process has not yet commenced, there will be two statutory land use zoning maps with conflicting objectives when the LAP is made. This outcome will be inconsistent with the provisions under section 19(2) of the Act and section 20(5) of the Act.

Furthermore, in practical terms, the public will not be able to rely upon the zoning objectives of the LAP for an indefinite period after it is made.

The planning authority should therefore take timely and appropriate action to avoid this outcome.



3. Sustainable Mobility and Transport Strategy

The Office welcomes amendment PMA 47 of the Local Transport Plan (LTP), accompanying the draft LAP, to include the proposed combined walking and cycle routes in the town. This is consistent with NPO 27 and NPO 64 to prioritise walking and cycling, and with the goals of the government's *National Sustainable Mobility Policy* (2022) (NSMP).

While the Office welcomes the proposal to reallocate road space to walking, cycling and public transport within Birr under new objective CIO-06 (amendment PMA24), it is concerned that this is contingent on the delivery of road schemes, including the Birr relief road and by-pass under objective CIO – 05. This is inconsistent with the sustainable transport strategy policies and objectives under section 8.8 of the Offaly County Development Plan 2021-2027.

It is inconsistent with the goals (including Goals 4 and 7) of the *National Sustainable Mobility Policy* 2022 (NSMP), which supports road space reallocation without reference to providing relief roads or alternative routes. The goals of the NSMP align with the *Climate Action Plan* 2023, which seeks to implement government's mandatory national to reduce GHG emissions by 51% by 2030 and to achieve carbon neutrality by 2050 under the Climate Action and Low Carbon Development (Amendment) Act 2021.

Furthermore, this approach is inconsistent with NPO 27 and NPO 64 to prioritise walking and cycling and with NPO 54 to integrate climate action into the planning system to support national targets for climate change mitigation. It is also inconsistent with the guidelines, principles and objectives of the RSES for integration of transport and land use planning (RPO 8.1) including the 10 minute town concept.



Recommendation 1 - Sustainable Transport

Having regard to:

- the sustainable transport strategy policies and objectives under section 8.8
 of the Offaly County Development Plan 2021-2027;
- NPO 27, NPO 54, NPO 64, RPO 8.1; and
- the provisions of the Climate Action and Low Carbon Development
 (Amendment) Act 2021, and the Climate Action Plan 2023 and the goals of
 the National Sustainable Mobility Policy (2022), including Goals 4 and 7,

the planning authority is required to make the LAP with a minor modification of Policy CIO-06, to delete the text in red-strike-through font, as follows:

To reallocate corresponding roadspace within Birr to walking, cycling and public transport to accompany / occur concurrently with the provision of additional roadspace capacity under CIO-05. This may take the form of removing traffic from streets, removing lanes of traffic, narrowing carriageways, traffic management measures, or removing on-street parking to provide cycle tracks or widened footpaths.

The Office notes that objective TRO-17 of the Development Plan seeks to protect potential greenway, blueway and peatway routes (i) along and in proximity to abandoned rail lines and (ii) routes identified in Figure 6.13 'Midlands Cycling Destination, Offaly Network Map, which includes the greenway route proposed to be omitted under PMA 13. Greenway facilities have benefits in terms of green-house-gas emissions reduction, health and tourism, and are consistent with the National Sustainability Policy. The planning authority should therefore reconsider the omission of the proposed greenway from Figure 6.14 under PMA 13.



4. Flood Risk Management

The Office welcomes proposed material amendment PMA 40 of Objective LUZO-13 to refer to *The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)*, and the amendment (PMA 39) to Section 11.6 to refer to the requirement to provide for a site specific flood risk assessment (SFRA) in the constrained land use zone. The Office is satisfied that the material alterations appropriately respond to Observation 1 of the Office's submission.

Summary

The Office requests that your authority addresses the recommendation 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 the recommendations and the manner in which they will be addressed.

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



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

Is mise le meas,

Anne Marie O'Connor

Deputy Regulator and Director of Plans Evaluations