OPR Ref: MA-044-22



2<sup>nd</sup> June 2023

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

# Re: Material Alterations to the Draft Edenderry 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 Draft Edenderry Local Area Plan 2023-2029 (the draft 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 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.

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 *Project Ireland 2040:* 



National Planning Framework (NPF) and the Regional Spatial and Economic Strategy (RSES) for the Eastern and Midlands Regional Assembly 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 transport and accessibility, water capacity constraints and flood risk management.

## Overview

The Office acknowledges the extensive work undertaken by the planning authority in responding to the issues raised by the Office in its recommendations and observations and in preparing the proposed material alterations.

In particular, the Office welcomes the proposed material amendments made in relation to the transport and accessibility strategy for the town. The Office welcomes PMA 35 in response to Recommendation 1 of the submission to the draft LAP, and PMA 36 to provide for a new footbridge across the Grand Canal increasing permeability and accessibility throughout the town.

The Office also welcomes the inclusion of PMA 29 which includes a new policy to support the undertaking of a feasibility assessment of district heating in the town to support the goals of the *Climate Action Plan 2023* and NPO 54.

Regarding Recommendation 2, the Office notes the response of the chief executive and welcomes the updated wording on Water Services Infrastructure in the site assessments by PMA 40 and the additional wording supporting water efficiency (having regard to Observation 1).

However, the Office is concerned with the proposed additional New Residential zonings on the periphery of the town and the concurrent zoning amendment of a strategically located central site from New Residential to Strategic Residential Reserve. The peripheral sites will likely be costlier and less easy to service, including by sustainable transport modes, are inconsistent with national and regional objectives for compact growth and do not have regard to the sequential approach to zoning.



The amendments proposed to land use zoning objectives within Flood Zones A / B, including the rezoning of land for water compatible uses and limiting development within the constrained land use area (under PMA 49), positively address Recommendation 3. The Office welcomes the inclusion of revised land use zoning maps which overlay Flood Zones A / B in response to Observation 2. This will assist all parties in avoiding flood risk.

However, the Office is concerned that the Community Services / Facilities zoning (identified as a potential school site) within Flood Zone A / B and the Enterprise and Employment zoning within Flood Zone A have been retained, particularly in view of future climate change impacts and the need to apply the precautionary principle.

In addition, the Office is concerned with the proposal to rezone Community Services / Facilities adjacent the Grand Canal for Enterprise and Employment, having regard to the extensive area of Enterprise and Employment lands proposed in the draft LAP, potential conflict with the amenities of the Grand Canal Greenway, the proposed cycle way and with site accessibility issues.

It is within this context the submission below sets out two (2) recommendations under the following seven (7) themes:

Key theme	Recommendation	Observation
Consistency with the Regional,	-	-
Spatial and Economic Strategy		
Consistency with Development	-	-
Plan Core Strategy		
Compact Growth, Zoning and	MA Recommendation 1	-
Tiered Approach to Zoning		
Regeneration	-	-



Economic Development and	MA Recommendation 2	-
Employment		
Sustainable Mobility Transport	-	-
<u>Strategy</u>		
Flood Risk Management	-	-

### 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 Eastern and Midlands Region, except where otherwise stated below.

### 2. Consistency with Development Plan Core Strategy

The Office has concerns over the proposal to rezone an additional 8.2ha of land as New Residential under material amendments PMA 65, PMA 67, PMA 68, PMA 69 and PMA 70.

Taking account of the proposal to rezone c.5ha of New Residential, proposed in the draft LAP as Strategic Residential Reserve, the total area of New Residential land has increased by 3.2ha to 15.6ha. This significantly exceeds and is inconsistent with the 10ha land area required to accommodate the core strategy targets under the Offaly County Development Plan 2021-2027 (the Development Plan), as determined by the planning authority and would result in the draft LAP being significantly inconsistent with development plan core strategy having regard to Section 19(2) of the Act.

The additional New Residential lands are also almost all less favourably located in terms of compact growth, sequential development and accessibility by walking and cycling.



The Office notes that the proposed zonings were included contrary to the recommendations of the chief executive and the Planning and Infrastructural Assessment.

The Office is satisfied that by making the final LAP without the proposed material amendments to the land use zonings objectives specified in MA Recommendation 1, below, the planning authority will ensure that the LAP is consistent with development plan core strategy and provides a sufficient supply of zoned land in locations that provide for a sustainable pattern of development and that are well served by physical and social infrastructure.

In addition, the Office notes that the replacement Edenderry zoning objective map inserted under PMA 46 includes some oversights which can be clarified and/or corrected in adopting the final LAP. In particular, material amendment PMA 59 is not included and New Residential is shown in place of Enterprise and Employment to the south of the Dunnes Stores site, but no proposed material amendment refers to this.

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

As previously noted, the Office has concerns over the inclusion of a number of New Residential zonings, particularly those that extend beyond the draft LAP boundary, namely PMA 65, PMA 68 and PMA 69, and the re-zoning of well located, highly accessible lands adjoining the town centre from New Residential to Strategic Residential Reserve, PMA 66.

The New Residential zonings are peripherally located relative to services and facilities, are not well served by public transport or easily accessed by active modes and would not, therefore, deliver good planning outcomes for the draft LAP area. Furthermore, as identified above, these New Residential zonings are not required to accommodate the housing supply targets in the Core Strategy of the Development Plan.

The cumulative impact of these material amendments risks undermining the very positive policies, objectives and strategies included in the draft LAP promoting compact growth and urban regeneration in support of NPO3c (30% compact growth).



In addition, the proposed zonings do not represent sequential development, particularly within the context of compact growth and result in the zoning of land in excess of that which can reasonably be considered to be required to provide for the housing supply target. This is contrary to the provisions of the *Development Plans, Guidelines for Planning Authorities* (2022) (the Development Plans Guidelines).

It is noted that the planning authority's Planning and Infrastructural Assessment, carried out in accordance with NPO 72, recommends that sites PMA 65, PMA 68 and PMA 69 not be zoned due to their peripheral locations, the lack of sustainable transport services and their contribution to urban sprawl contrary to the objectives for compact growth under the Development Plan (CSP-02), the RSES (RPO 3.2) and the NPF (NPO 3c).

It is also noted that the Chief Executive's Report (CE Report) (and Site Appraisals Table 10.2 of the draft LAP), having regard to, among others, the requirement to be consistent with the core strategy of the Development Plan, recommended against the rezoning of these lands on the basis that the subject sites do not promote compact growth, do not promote sustainable mobility and have infrastructural constraints.

With regard to PMA 66, (New Residential to Strategic Residential Reserve) the Office agrees with the conclusions of the Planning and Infrastructural Assessment and the chief executive, which do not support the proposed rezoning on the basis that the subject lands are highly suitable for residential development as they adjoin the town centre, would promote compact growth and support the 10-minute town concept.

#### MA Recommendation 1 – Residential Land Use Zoning

Having regard to:

- the core strategy of the Offaly County Development Plan 2021-2027;
- Development Plan objectives CSP-01 and CSP-02;



- Section 19(2) of the *Planning and Development Act 2000,* as amended;
- NPO 3 and RPO 3.2 for compact growth;
- NPO 72 for tiered approach to zoning; and
- Development Plans, Guidelines for Planning Authorities (2022),

the planning authority is required to make the Plan without the following material amendments:

- (i) PMA65;
- (ii) PMA66;
- (iii) PMA68; and
- (iv) PMA69.

In relation to the servicing capacity of the zoned lands, the Office welcomes proposed material amendment PMA 40 which clarifies the policy approach of the planning authority pending the resolution of current wastewater capacity issues. It is acknowledged and confirmed with Uisce Éireann that the wastewater treatment plant upgrade will be completed within the lifetime of the draft LAP and will cater for the population proposed in the core strategy.

#### 4. Regeneration

The Office acknowledges the approach set out in the CE Report in response to Observation 3 of the Office's submission to the draft LAP in respect of clarifying the inconsistencies between the Development Plan and the draft LAP in identifying the Opportunity Site in the town. It is noted that the chief executive intends to vary the Development Plan to omit reference to Site 1 in order to focus development on the Blundell Masterplan area only. The Office is satisfied that this approach addresses Observation 3.



# 5. Economic Development and Employment

The Office was generally satisfied with the approach taken in respect of the policies and objectives to support economic development and employment in the draft LAP. However, the Office has concerns over the proposed material amendment which introduces a new Enterprise and Employment zoning to the south of the town, c.2ha.

The Office notes that the chief executive has recommended against the rezoning under PMA 71 of c.2ha of land from Community Services / Facilities to Enterprise and Employment on the basis that there is c.83.5ha of undeveloped lands zoned Enterprise and Employment under the draft LAP. No credible rationale has been put forward to support the zoning of additional lands for employment uses. Further, the Site Assessment indicates that the subject lands are not physically suitable and that independent road access to the lands is restricted due to its isolated location within Community Services / Facilities zoned lands. The proposed amendment would therefore appear to be inconsistent with NPO 72.

The proposed material amendment does not therefore have regard to the provisions under section 6.2.5 of the Development Plans Guidelines, which requires the application of an evidence-based approach to determine the area of land required to accommodate enterprise and employment type uses, including having regard to the infrastructural assessment of plan lands.

The chief executive and Site Assessment considered that, in contrast with Enterprise and Employment, the Community Services / Facilities zoning objective would allow for complementary use to the amenity of the Grand Canal Greenway and direct access to the proposed pedestrian bridge. The proposed amendment is therefore inconsistent with Council TRP-29, which recognises Edenderry's role as a service hub for the Grand Canal Greenway in the east of the county; with RPO 5.7 to protect regional green infrastructure; and with NPO 18a, which seeks to support the appropriately designed development in rural towns that will contribute to their regeneration and renewal, including interventions in the public realm and the provision of amenities.



## MA Recommendation 2 – Enterprise and Employment

#### Having regard to:

- section 6.2.5 of the *Development Plans, Guidelines for Planning Authorities* (2022), issued under section 28 guidelines; and
- NPO 72;

and to

- Policy TRP-29 of the Offaly County Development Plan 2021-2027;
- RPO 5.7; and
- NPO 18a,

the planning authority is required to make the plan without PMA 71.

### 6. Sustainable Mobility Transport Strategy

The Office welcomes PMA 35 to amend Objective CIO-06 in response to Recommendation 1(ii) of the Office's submission to the draft LAP. In addition, the Office acknowledges the rationale provided in the CE Report in respect of the accessibility of the New Residential areas in response to Recommendation 1(i), which required the planning authority to include appropriate policies and objective and specific measures to prioritise the provision of active travel to the New Residential areas.

The Office notes the proposed material amendment of the proposed infrastructure map in Appendix B of the Local Transport Plan (LTP), by PMA 56, which would reduce the number of pedestrian and cycle routes for the town. This is inconsistent with Policy CIP-01 of the draft LAP and with policies SMAP-11 and SMAP-12 of the Development Plan. It is also inconsistent with the All Options map inserted to the



LTP by PMA 57, which includes interventions not identified in the legend. The Office assumes that these are the result of simple errors in the drafting process.

The planning authority should ensure that in making the LAP, the subject maps clarify the position regarding the proposed infrastructure to be delivered as part of the LTP by way of minor amendment.

## 7. Flood Risk Management

The Office welcomes the many proposed material amendments to the draft LAP in response to Recommendation 3 of the Office's submission concerning flood risk. In particular, PMA 46 which indicates the constrained land use zone overlaid on the zoning map, and PMA 49, which introduces additional text to LUZO-13 Constrained Land Use to limit development to water compatible uses in flood zone A and less vulnerable or water compatible uses in flood zone B, unless a Justification Test has been passed.

The Office also acknowledges material amendments PMA 58, PMA 59, PMA 60 and PMA 61, which seek to rezone undeveloped land from New Residential, Enterprise and Employment and Community Services / Facilities to Open Space Amenity and Recreation or to White Land.

However, concern remains over lands proposed to be zoned for Community Services / Facilities and Enterprise and Employment within constrained land use zones which have not been subject to plan making Justification Tests. These lands have been identified to accommodate a school, which will be highly vulnerable to flooding. Although PMA 44 and PMA 51 limit development on the Community Services / Facilities lands to water compatible uses, *The Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009) (Flood Guidelines) require that a plan making Justification Test should be carried out and passed before a decision is taken to zone such lands for highly vulnerable uses. In this regard, criteria 2 of the Justification Test requires that the zoning of lands must be justified on the basis that there are no suitable alternative lands for the particular use or development type at lower risk of flooding in the area.



The section 31AO(5) notice letter should provide clarity that the zoning of these lands is in accordance with the provisions of the Flood Guidelines, and in particular that it is satisfied that there are no suitable alternative sites and that its policy framework is sufficient to ensure consistency with the Flood Guidelines.

The Office would also draw the planning authority's attention to the provisions of the Flood Guidelines concerning climate change impacts on flood risk, which states 'there is a great deal of uncertainty in relation to the potential effects of climate change, and therefore a precautionary approach should be adopted,' as a key principle. In this regard, the CFRAM medium and high range future scenarios indicate more extensive flooding on these lands.

The Office is also concerned that it remains proposed to zone land, west of the aforementioned Community Services / Facilities zoning, for Enterprise and Employment land within Flood Zone A (based on CFRAM data in the OPW's submission). This does not have regard to the requirements of the Flood Guidelines that where it is proposed to zone land for vulnerable uses within Flood Zone A, the lands must first pass the plan making Justification Test.

Having regard to NPO 52 that 'the planning system will ... ensure that development occurs within environmental limits...', NPO 54 which seeks to integrate '...climate action into the planning system in support of national targets for climate policy mitigation and adaptation objectives...', in addition to NPO 57, RPO 7.12 and CAEP-53, the Office is not satisfied that the draft LAP, as proposed to be amended, is compliant with Recommendation 3 of the Office's submission on the draft LAP.

As referenced above, the section 31AO(5) notice letter should also set out the manner in which the adopted LAP is consistent with the Flood Guidelines concerning the implementation of the precautionary approach to mitigation of increased flood risk arising from climate change.

The planning authority should consult with the OPW in relation to the above issues.



#### Summary

The Office requests that your authority addresses the recommendations and observations outlined above. As you are aware, the report of the chief executive of your authority prepared for the elected members under section 13 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.

Is mise le meas,

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Anne Marie O'Connor

Deputy Regulator and Director of Plans Evaluations