

8th September 2023

Central Planning Unit,
Donegal County Council,
County House,
Lifford,
Co. Donegal,
F93 Y622

Re: Proposed Material Alterations to the Draft Letterkenny Plan and Local <u>Transport Plan 2023-2029</u>

A chara.

Thank you for your authority's work in preparing the proposed Material Alterations (the proposed Material Alterations) to the Draft Letterkenny Plan and Local Transport Plan 2023-2029 (the draft LAP).

As your authority will be 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.



The Office's evaluation and assessment of the proposed Material Alterations has regard to the current county development plan, the Regional Spatial and Economic Strategy (RSES) and relevant section 28 guidelines.

Overview

As outlined in the Office's submission to the draft LAP, the Office concluded under Recommendation 1, that the publishing of the draft LAP in advance of the completion of the development plan review process could lead to practical and legal uncertainties. The Office therefore welcomes the proposal by the Chief Executive to vary the County Donegal Development Plan 2018-2024 (the Development Plan) to delete the existing Letterkenny local area plan contained therein. The Office would also acknowledge the recommendation of the Chief Executive to comply with the recommendations of the Office in the overall majority of cases.

The Office is generally satisfied that MA1 responds to the requirements of Recommendation 2 of its submission and that the housing target and associated population yield would be consistent with the RSES, which sets ambitious minimum targets for the future development of this important regional growth centre.

The Office also welcomes the omission of the majority of the western Strategic Residential Reserve lands, apart from those lands in Ballymacool and also the amendment from Southern Strategic Sustainable Development to Strategic Residential Reserve south of Leck Road.

However, the Office remains concerned that the extent of land zoned for residential use (Primarily Residential and Opportunity Site) is significantly in excess of that required to meet the housing targets and that many of the sites the Office identified under Recommendations 4 and 5 have not been amended as required.

While it is vital that the draft LAP ensures a sufficient and stable supply of development land for housing providers to develop the homes that the draft LAP estimates are required for various communities, it should first and foremost prioritise locations that are currently serviced in terms of the social and physical infrastructure



that communities expect and are easily accessible from existing urban areas by walking, cycling and public transport.

In this regard, the Office is concerned with the numerous Material Alterations providing additional Primarily Residential lands in the settlement. The Office has accepted the principle of some significant additions, such as MA26 (PR6) and MA32 (PR5) to the west of the town at Glencar Irish and Glencar Scotch, respectively, as these lands will help Letterkenny meet the growth ambitions for the town under the RSES, through effective compact growth with the potential to accommodate active transport modes.

A number of further residential zonings have, however, been identified that do not follow these principles and would result undermine the growth of Letterkenny in a compact and sustainable manner.

Turning to other matters, a significant number of issues were raised by the Office in its submission on the draft LAP concerning transport infrastructure and access issues, reflecting the concerns of the NTA and TII and current sustainable transport policy. The Office welcomes many of the extensive Material Alterations to the Local Transport Plan (LTP) in consultation with the NTA and the clarification provided by the Chief Executive on the design of the Southern Network Project. The additional objectives and policy in respect of sustainable transport and the inclusion of a walking / pedestrian strategy, a public bus network and to refer to the requirement regarding Accessibility to Opportunities and Services (ATOS) are broadly welcomed.

While these amendments will assist the planning authority in implementing a more sustainable approach to the management of development of the town, we consider that earlier engagement with the NTA to gain a better understanding of the ABTA methodology would have provided the potential to increase active and sustainable travel and to relieve traffic congestion in the town consistent with national policy.

The Office is also of the view that several zonings inserted through the Material Alterations, including residential and other uses, have the potential to undermine the good progress made by the planning authority in developing an integrated approach



to land use transport planning. In this regard the Office has included a recommendation, below, concerning the zoning of peripheral lands for Community and Education use (MA44) and for General Employment and Commercial (MA40 and MA41). The decision of the planning authority not to amend the zoning of General Employment and Commercial lands in compliance with Recommendation 13, contrary to the recommendation of the Chief Executive's Report is noted.

The Office notes, however, the decision of the Chief Executive not to comply with the recommendations of the Office concerning the omission of the objective for the Western Relief Road and the Northern Relief Road, and the decision of the elected members not to implement the recommendation of the Chief Executive to omit the southern strategic corridor east of the Southern Network Project (Recommendations 7 and 10). In addition, while the Office acknowledges the additional policy and objective inserted to support the future development and investment in multi-modal corridors, it is not satisfied that the Material Alterations complies with recommendation regarding the requirement for an access strategy for the N56 for agreement with TII. Further, the planning authority should consider the potential conflict between the new policy and objective and the original policy and objective which have been retained contrary to the recommendation of the Chief Executive in response to Recommendation 11.

The Office welcomes the response of the planning authority to Recommendation 14 concerning flood risk management, with extensive material amendments included to the draft LAP under MA3 that help the planning authority better manage the serious risk of flooding on certain lands. The amendment of policies set out in section 12.6 under MA9 and MA10 to refer to nature based solution and effective climate change adaptation will also contribute to the management of flood risk. It is noted, however, that no policy objective has been attached to the relevant zoning objectives to limit development as outlined in section 5.28 of the Guidelines, in accordance with part (d) of Recommendation 14.

However, the Office considers it necessary to recommend amended wording to LK-TC-P-10 to ensure consistency with the requirements of the Flood Guidelines. A



recommendation is also necessary in respect of the zoning of additional land for General Employment and Commercial within Flood Risk Zone A at Bonagee under MA42.

It is within this context the submission below sets out four (4) recommendations and one (1) observation under the following four themes:

Key theme	Recommendation	Observation
Sustainable Residential Development	MA Recommendation 1	-
Education Facilities	MA Recommendation 2	MA Observation 1
Employment and Economic Development	MA Recommendation 3	-
Flood Risk Management	MA Recommendation 4	-

Recommendations issued by the Office relate to clear breaches of the relevant legislative provisions, of the national or regional policy framework and/or of the policy of Government, as set out in the Ministerial guidelines under section 28. As such, the planning authority is required to implement or address recommendation(s) made by the Office in order to ensure consistency with the relevant policy and legislative provisions.

Observations take the form of a request for further information, justification on a particular matter, or clarification regarding particular provisions of a plan on issues that are required to ensure alignment with policy and legislative provisions. The planning authority is requested by the Office to action an observation.

A submission can include advice on matters that the Office considers would contribute positively to the proper planning and sustainable development of the area. The planning authority is requested by the Office to give full consideration to the advice contained in a submission.



1. Sustainable Residential Development

The Office notes and accepts the revised housing target for Letterkenny in response to Recommendation 2 of the Office's submission, and welcomes the clarification provided on determining housing yield.

The Office also welcomes MA18 and MA19, to amend the zoning of Opportunity Sites 7 and 11 (Recommendation 5) to residential use.

However, it is evident that the extent of lands zoned Primarily Residential and zoned Opportunity Site with residential use is far in excess of that required to accommodate residential development of the scale required at a density that has regard to the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas: Cities Towns & Villages (2009).

In this regard, the Office notes the decision of the planning authority not to amend the zoning of sites PR1, PR13, PR16, PR17, PR18 and PR22, inconsistent with Recommendation 4 and the decision to continue to provide for residential development during the draft LAP period on Opportunity Sites 3 and 12, inconsistent with Recommendation 5.

These matters will be reviewed by the Office in its consideration of the adopted LAP.

The Office has no objection to MA26 and MA32, to rezone from Strategic Residential Reserve (and minor area of Established Development) to Primarily Residential, notwithstanding the relatively large scale, as they are consistent with urban housing objective UB-O-2, policy UB-P-4 and core strategy objective CS-O-12 for sequential development, and with implementing compact growth as per regional and national policy.

However MA29, MA31, MA30(B) and MA34 amend the zoning from Local Environment¹ to Primarily Residential on relatively more peripheral sites, which will not contribute to effective compact growth consistent with national and regional

¹ Except for a minor area of Established Development in Creeve (Smith) under MA30(B).



policy objectives; and/or do not constitute sequential zoning of land having regard to Ministerial guidelines; and are not required to enable Letterkenny to achieve its housing target at an appropriate residential density consistent with the NPF and RSES and having regard to Ministerial guidelines.

In addition, no information is provided on whether these lands are serviced or can be serviced over the draft LAP period, which does not have regard to the policy objective under s.6.2.1 of the *Development Plans, Guidelines for Planning Authorities* (2022) (the Development Plans Guidelines) that land use zoning be informed by a settlement capacity audit, inclusive of an infrastructural assessment, and is inconsistent with NPO 72a-c for a tiered approach to zoning.

Further, these Material Alterations will undermine the good work being done by your planning authority on regeneration and consolidation of the town and its historic core, consistent with the objectives of the Development Plan, and with the strategy of Government. Accordingly, the draft LAP should be made without these Material Alterations.

In addition, the Office would question the rationale for MA20, in view of the above mentioned policies and objectives. PR10 and PR11, as included in the initial published draft LAP, are favourably located relative to the town centre, constitute compact growth and are consistent with the sequential approach to zoning. They would also help rebalance the development of the town to the south. Unless there are significant servicing issues in respect of these two sites, they should be retained as Primarily Residential as per the draft LAP.

MA Recommendation 1 – Residential Zoning Objectives

Having regard to the provision of new homes at locations that can support compact and sustainable development, and in particular to:

- growth targets for Letterkenny under RPO 3.7.20 and RPO 3.7.23;
- NPO 3a and 3c, and RPO 3.7.22 compact growth;



- urban housing objective UB-O-2 and policy UB-P-4 for sequential development, and core strategy objective CS-O-12 for sequential growth, under the County Donegal Development Plan 2018-2024;
- the policy objective to adopt the sequential approach to land use zoning, and the policy objective that land use zoning be informed by a settlement capacity audit, under the *Development Plans*, *Guidelines for Planning* Authorities (2022);
- NPO72a-c and the co-ordination of land use zoning, infrastructure and services; and

RPO 3.7.29 consolidation and NPO 6 and NPO 11 regeneration;

the planning authority is required to make the plan without:

- (i) MA20, in respect only of site PR10 (23ha) and site PR11 (9.84ha) of the draft LAP, which amended the use of these lands from Primarily Residential to Strategic Residential Reserve;
- (ii) MA29, in respect of MA site PR15 (4.7ha), which amended the use of these lands from Local Environment to Primarily Residential;
- (iii) MA30(B), in respect of MA site PR12 (2.62ha), which amended the use of these lands from Local Environment and Established Development to Primarily Residential;
- (iv) MA31, in respect of MA site PR11 (4.43ha), which amended the use of these lands from Local Environment to Primarily Residential; and
- (v) MA34, in respect of MA site PR2 (6.3ha), which amended the use of these lands from Local Environment to Primarily Residential.

The planning authority should consult with Uisce Éireann in respect of (i) above.



2. Education Facilities

The Office welcomes MA7, which generally requires any student accommodation on the Strategic Community Opportunity masterplan lands to be located on the southernmost portion of those lands, consistent with Observation 1 of the Office's submission.

The Office fully accepts the need for an additional school site in Letterkenny. However, the Office notes the provisions of the Development Plan under policies CCG-P-1 and CCG-P-4, which require school locations to be walkable, and objective CS-O-13 to promote the integration of land use transportation to encourage modal shift, and objective CS-O-17 for sustainable development and transportation strategies. It is therefore essential that any future school is well located in terms of proximity to existing and future housing and that students can easily get to school by walking, cycling, and public transport.

The appropriate siting of school facilities will also ensure consistency with the goals of the NSMP, including Goal 5 by, ensuring people can 'choose sustainable mobility over the private car', and Goal 9, to 'better integrate land use and transport planning at all levels'. The achievement of these goals are necessary to meet the Climate Action Plan target to reduce vehicle kilometres travelled by 20% by 2030 and are consistent with actions necessary to achieve same.

In this context, the Office has concerns regarding MA44, to rezone a peripheral, non-sequential site of c.12ha to the southwest of the settlement at Ballymacool from Local Environment to Community and Education, is inconsistent with CS-O-12 of the Development Plan. This objective requires 'growth of towns in a sequential manner outwards from the core so as to make best use of existing and planned infrastructure to the benefit of local communities and effective urban growth'.

Although a site is required by the Department of Education to accommodate at least one primary school over the medium term, there is nothing to suggest that this site was selected in discussion with the Department. Indeed, the planning rationale for the selection of this site is not evident.



For example, the planning authority has provided no infrastructure assessment for this site, which is accessed via a narrow country lane of poor vertical and horizontal alignment and is without footpaths or public lighting. It is therefore inconsistent with NPO72a-c.

Similarly, there is no evidence that this site has been considered as part of an appropriately detailed LTP consistent with the ABTA methodology.

MA Recommendation 2 - School Site

Having regard to the provision of a new school that is well located relative to existing and future populations and can support more sustainable transport options, and in particular to:

- objectives CS-O-12, CS-O-17 and policies CCG-P-1 and 4 of the County Donegal Development Plan 2018-2024;
- Goals 5 and 9 of the National Sustainable Mobility Policy (2022);
- RSES Regional Growth Ambition and National Strategic Outcome for compact growth; and
- NPO72a-c tiered approach to development;

the planning authority is required to make the plan without MA44.

MA Observation 1 - Provision for a Future School Site

In view of the prospective need, identified by the Department of Education, for lands to accommodate at least one primary school arising from housing and population growth targets over the draft LAP period, the planning authority is requested to consider whether a minor modification can be made to the draft LAP to insert an objective to amend the draft LAP to provide an appropriately located site, or sites, to accommodate one or more primary schools, in discussion with the



Department of Education and the National Transport Authority, informed by an update to the LTP.

3. Employment and Economic Development

The Office notes proposed amendments MA40 and MA41 to the northwest of the settlement, located in Killylastin and Killyclug, which propose to amend the zoning from Local Environment to General Employment and Commercial for an area of c.3.5ha.

These sites are peripheral, with poor road access and no public footpath, and they extend along the public road well out to the rural area. These lands are not identified as a strategic employment location under the RSES² and the expansion of employment lands in this location is considered inconsistent with the RSES.

No evidence-base is provided in the draft LAP or in the Chief Executive's Report to support the significant extension of objective in this location, having regard to section 6.2.5 of the Development Plans Guidelines. In addition, no information is provided on whether these lands are serviced or can be serviced over the draft LAP period. It is therefore inconsistent with NPO 72a-c for a tiered approach to zoning. This is similarly the case for MA42, referred to below.

Further, the lands subject of MA40 and MA41 are highly peripheral and will not contribute to the achievement of the Regional Growth Ambition of the RSES for compact growth and the National Strategic Outcome for compact growth under the NPF.

The expansion of employment lands in peripheral locations such as this, without clear consideration of accessibility, under an appropriately detailed LTP consistent with the ABTA methodology, and the sequential approach is contrary to the requirement for the integration of land use and transport planning under Goal 9 of

² RSES figure 34 refers to 'Ind Tech' sites.



the NSMP and will undermine the targets of the NSMP, the Climate Action Plan and the Climate Action and Low Carbon Development (Amendment) Act 2021.

Therefore, they are inconsistent with the requirement to integrate climate action into the planning system under NPO 54. Moreover, they do not have regard to the provisions in relation to the sequential approach and accessibility as set out in section 1.4 of Appendix A of the Development Plans Guidelines.

The subject lands are not appropriate to accommodate development over the draft LAP period and therefore the Office is of the view that the zoning is contrary to objective ED-O-2 of the Development Plan 'to ensure that sufficient land is provided at appropriate locations for employment generating uses..."

MA Recommendation 3 – Employment and Enterprise Zoning Objectives

Having regard to the location of employment lands in locations that can support compact and sustainable development, and in particular to:

- objective ED-O-2 of the County Donegal Development Plan 2018-2024 and NPO 10b of the NPF;
- RSES Regional Growth Ambition, National Strategic Outcome for compact growth, and NPO 74 to secure alignment with delivery of National Strategic Outcomes;
- section 6.2.5 of the Development Plans, Guidelines for Planning Authorities
 (2022) that the evidence and rationale underpinning the zoning of land for employment purposes must be clear and strategic in nature;
- NPO72a-c for tiered approach to zoning; and
- Goal 9 of the National Sustainable Mobility Policy (2022),

the planning authority is required to make the plan without MA40 and MA41.



4. Flood Risk Management

The Office generally welcomes the planning authority's response to Recommendation 14 under MA3.

Proposed policy LK-TC-P-10 parts (b) and (e) inserted under MA3 would, however, facilitate vulnerable development within Flood Risk Zone A and does not have regard to *The Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009) (Flood Guidelines) and is therefore inconsistent with NPO57. Parts (b) and (e) should be modified, accordingly, to clarify consistency with the planmaking Justification Test carried out by the planning authority and with the provisions of the Flood Guidelines.

Further, proposed amendment MA42 amends the zoning objective of land within Flood Risk Zone A from Open Space to General Employment and Commercial when the lands have not passed a plan-making Justification Test in accordance with the Flood Guidelines. The accommodation of vulnerable uses within Flood Risk Zone B does not have regard to the provisions of the Flood Guidelines and is inconsistent with NPO57.

The Office notes that the planning authority has decided not to comply with part (d) of Recommendation 14. The Office would advise the planning authority to consider whether a policy objective could be included in the LAP at plan-making stage to limit development within areas at flood risk as outlined in section 5.28 of the Flood Guidelines.

MA Recommendation 4 – Flood Risk Management

Having regard to flood risk management, and in particular to:

- RPO 3.10, RPO 3.11, and
- NPO 57 and The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009), as amended by Circular PL 2/2014,



the planning authority is required to:

- (a) make the plan without MA42 (c.0.5ha), which amended the zoning objective from Open Space to General Employment / General Employment and Commercial:
- (b) update part b of policy LK-TC-P-10 under MA3 to clarify that it supports, in principle, the expansion of Atlantic Technological University (ATU) only within the limitations set out in part 3 of Plan Making Justification Test 2.7, Justification Test for ATU Site; and
- (c) update part e of policy LK-TC-P-10 under MA3 to clarify that the areas defined in the Letterkenny 2040 Regeneration Strategy, such as C1. LK Green Connect and C2. Urban Wetlands, are acceptable subject to the findings of a detailed site specific flood risk assessment, and that less vulnerable development in Flood Zone A and highly vulnerable development in Flood Zones A or B would not be acceptable.

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.



The Office will then consider the response of the planning authority in the LAP, as made, to the recommendations made by the Office at draft LAP and at Material Alterations stages, to determine whether a recommendation to the Minister is warranted.

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