



Oifig an  
Rialaitheora Pleanála  
Office of the  
Planning Regulator

**Submission Ref: S3-012**

**OPR Ref: MA-005-22**

3<sup>rd</sup> January 2023

Planning Department,  
Clare County Council,  
New Road,  
Ennis,  
Co. Clare,  
V95 DXP2

**Re: Material Alterations to Draft Clare County Development Plan 2023-2029**

A chara,

Thank you for your authority's work in preparing the Material Alterations (MAs) to the draft Clare County Development Plan 2023-2029 (the draft Plan).

The Office notes the section 12(5)(aa) notice issued to the Office on 1<sup>st</sup> December 2022, which is consistent with the Chief Executive's Report (CE's Report) under section 12(4)(a) except where the elected members have departed from the recommendations of the Chief Executive.

In view of the current stage of the development plan-making process, the Office would like to alert the planning authority of the requirements of section 31AM(6) under which a notice must be issued to the Office within 5 working days of the making of a development plan. The Office of the Planning Regulator (the Office) is happy to clarify any queries the planning authority may have in respect of this process.

As your authority is aware, a key function of the Office is the strategic evaluation and assessment of statutory plans to ensure consistency with legislative and policy requirements relating to planning. The Office has evaluated and assessed the material alterations to the draft Plan under the provisions of sections 31AM(1) and (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 Plan, the Office considered the draft Plan to be consistent, in many respects, with policies in the *National Planning Framework (NPF)* and the *Regional Spatial and Economic Strategy (RSES)* for the Southern Regional Assembly area, except where otherwise specified. In particular, the Office recommended changes to ensure that a strategy for the future development of the Limerick Shannon Metropolitan Area (LSMA) be clearly set out in the draft Plan, consistent with the RSES and Limerick Shannon Metropolitan Area Strategic Plan.

The Office also recommended changes to enhance its alignment with the aforementioned national and regional policy objectives in the aforementioned; and the *Development Plan Guidelines for Planning Authorities – Draft for Consultation (2021)*<sup>1</sup>; *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas: Cities, Towns & Villages (2009)* and *Circular Letter NRUP 02/2021*; *Retail Planning Guidelines for Planning Authorities (2012)*; *Spatial Planning and National Roads Guidelines for Planning Authorities (2012)* (Spatial Planning and National Roads Guidelines); and the *Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)* (Flood Guidelines); in addition to certain statutory provisions under the Act.

The planning authority is advised that section 12(10) of the Act provides the members of the planning authority with scope to make a further modification to a material alteration subject to the limitations set out in subsection 10(c) parts (i) and (ii).

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

---

<sup>1</sup> Replaced by *Development Plans, Guidelines for Planning Authorities (2022)* (the Development Plans Guidelines) in June 2022.



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 also 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.

### **Overview**

The Office acknowledges the significant work undertaken by Clare County Council in preparing the material alterations to the draft Plan and in responding positively to the many issues raised by the Office through the recommendations and observations made in the Office's submission to the draft Plan.

The presentation of the material alterations is reasonably clear as they are set out within the context of the draft Plan. However, the absence of a simple referencing system to identify the individual material amendments makes it more challenging for all parties to make submissions. The Office would suggest that the use of such a referencing system, which is common practice, should be implemented for future plan preparation in the interest of improving the public consultation process.

The Office notes the inclusion of additional detail on the Limerick Shannon Metropolitan Area (LSMA) in chapter 4 of the written statement and welcomes the identification of the LSMA boundary in figure 4.2 in response to Recommendation 1 of the Office's submission to the draft Plan. However, the level of detail and prominence given to the LSMA under the proposed amendments does not reflect the importance of the metropolitan area, a national economic driver strongly supported by government policy and the RSES, and recognised at a European level as an important spatial planning unit. Going forward, stronger recognition of the



metropolitan area and co-ordination with the Limerick City and County Development Plan will be necessary to fully realise the potential benefits of a strong metropolitan area for County Clare.

The Office welcomes the amendment of the core strategy table, which transparently sets out the methodology by which residential land use zoning objectives have been determined and which omits the Strategic Development Zone (SDZ) in response to Recommendation 2 of the Office's submission to the draft Plan. Although the settlement hierarchy remains largely unaltered, contrary to Recommendation 3, the Office accepts the reasons provided by the chief executive in the report under section 12(4). The Office also notes the clarity provided regarding contribution to compact growth in response to Recommendation 8 of the Office's submission.

The Office also acknowledges the reasons provided in the CE's Report for not materially amending the distribution of growth within the LSMA, including, in particular the infrastructural constraints impeding growth within and adjacent to Limerick City and suburbs in response to Recommendations 4 and 5 of the Office's submission to the draft Plan. The planning authority should consider how these constraints can be resolved to ensure that the portion of the LSMA and Limerick City and suburbs within County Clare can be appropriately serviced to facilitate an appropriate level of growth over future plan periods. This should be considered in consultation with the Southern Regional Assembly, infrastructural providers and with Limerick City and County and relevant government departments.

The Office welcomes the identification of the settlement boundary for Ballina, County Tipperary on the land use zoning maps for Killaloe. The Office suggests that, subject to appropriate and clear annotation, differentiation (such as by hatching overlay) and referencing, there is no impediment to illustrating land use zoning objectives for the town from the Tipperary County Development Plan 2022-2028 on the maps for Killaloe.

While the Office welcomes the intention of the planning authority to incorporate a spatial element for Traveller accommodation where this is included in a future

Traveller Accommodation Programme, this is not fully compliant with Recommendation 10 of the Office's submission to the draft Plan.

Regarding Recommendation 9 of the Office's submission (development management standards) the Office has identified the continued use of an incorrect road design standard for urban roads ≤60kph which should be corrected.

The decision of the planning authority not to comply with Recommendation 12 of the Office's submission, Exceptional Circumstances for Access to National Roads, contrary to the recommendation of the chief executive is also noted and will be considered by the Office in the context of its final assessment of the adopted Plan.

The Office also draws your attention to the matters raised below in relation to the Strategic Flood Risk Assessment on the draft Plan previously the subject of Recommendation 13 of the Office's submission to the draft Plan, in addition to material amendments which propose further inappropriate zonings in flood risk areas. You are strongly advised to consult with the OPW if clarification is required regarding the Flood Guidelines.

The Office welcomes, however, the rationalisation of the approach to monitoring in the draft Plan, which will better assist the planning authority in implementing its overall planning strategy for the period.

Having regard to the very large number of proposed material amendments to the written statement and other volumes of the draft Plan, the Office has identified a moderate number of concerns of significance that warrant additional recommendations at this stage of the plan-making process. Apart from a few exceptions, the Office is generally satisfied that no issues arise with proposed amendments to non-residential land use zonings.

The Office notes, however, the inclusion of a very significant number of material amendments to residential land use zoning objectives and associated text changes, which affect the draft Plan's compliance with the proposed core strategy and national and regional policy for compact growth, the proportionate growth of towns, and the sequential development of serviced land.

The Office has also identified a serious concern in relation to the appropriate assessment of the impact of certain material amendments on the integrity of designated European sites in accordance with the relevant environmental legislation and the National Planning Framework.

It is within the above context that the submission below sets out nine (9) recommendations under the following 6 themes:

Key theme	MA Recommendation	MA Observation
<a href="#">Core Strategy, Settlement Strategy and Residential zoned land</a>	MA Recommendation <a href="#">1</a>	-
<a href="#">Sustainable Development</a>	MA Recommendation <a href="#">2</a> , <a href="#">3</a> , <a href="#">4</a> , <a href="#">5</a> , <a href="#">6</a> and <a href="#">7</a>	-
<a href="#">Economic Development and Employment</a>	MA Recommendation <a href="#">8</a>	-
<a href="#">Sustainable Transport and Accessibility</a>	-	-
<a href="#">Flood Risk Management</a>	MA Recommendation <a href="#">9</a>	-
<a href="#">Environmental Assessments</a>	MA Recommendation <a href="#">10</a>	-

### 1. Core Strategy, Settlement Strategy and Residential zoned land

The Office notes the proposed material amendments to the core strategy table 3.4 (p.25). The Office welcomes the clarity provided by the amendments, which transparently show how the housing targets and the total demand for greenfield residential land use zoning have been arrived at.

However, the revised core strategy set a housing target (5,760 units, inclusive of 'unmet demand') and consequential land requirement (215ha inclusive of 'additional provision' and 'unmet demand') that are significantly in excess of that required based on the *Housing Supply Target Methodology for Development Planning Guidelines for Planning Authorities (2020)* (HST Guidelines) – 4,500 units and 166ha (inclusive of the 'additional provision' to ensure a sufficient supply of zoned land). Furthermore,



the core strategy indicates that the area of greenfield residential land proposed to be zoned following the material amendments is 280ha.<sup>2</sup>

In this regard the Office is concerned with the amended text included under section 3.4.2 Core Strategy (p.18), which indicates that the growth projections are targets rather than limits for individual settlements. There is a high risk that this loose policy framework, combined with the extent of the proposed material amendments to rezone land in peripheral non-sequential locations or smaller settlements with poor infrastructural capacity, is contrary to the implementation of national and regional policy for compact growth, the regeneration of towns and villages, the proportionate growth of towns, and ensuring that zoned land can be serviced in the plan period.

This approach also conflicts with several objectives in the draft Plan including objective CDP19.2, which seeks “*to ensure that sufficient lands are zoned at appropriate locations in ... the County, in accordance with the Core Strategy population and housing targets...*” and with objectives to achieve compact growth CDP2.15, CDP4.3, CDP4.6, CDP4.7, CDP4.8, CDP4.13 and CDP11.1.

While the Office sets out its specific concerns relating to individual land use zoning material amendments below, the planning authority should consider what options are available to it under section 12(10) of the Act to bring the core strategy into line with legislative and policy context in accordance with its statutory obligations under sections 12(11) and (18).

#### MA Recommendation 1 – Core strategy

Having regard to national and regional objectives for compact growth under NPO 3c and RPO 35, for regeneration under NPO 6 and RPO 34, and for proportionate growth under NPO 18a, to the Core Strategy of the draft Plan, and to the provisions of the *Housing Supply Target Methodology for Development Planning Guidelines for Planning Authorities (2020)*, and the *Development Plans, Guidelines for Planning Authorities (2022)*, the planning authority is required to make the Plan without:

<sup>2</sup> Inclusive of 22ha in Broadford and Cooraclare.



- i) the material amendments to the draft Plan, Volumes 3a, 3b, 3c and 3d, that have increased the area of land zoned primarily for residential development without justification; and
- ii) the following text on p.18 of Volume 1 Written Statement Proposed Amendments:

*'The growth projections are to be viewed as targets rather than caps or limitations to growth within those individual settlements. Where there is scope within settlements and appropriately zoned land available, planning decisions which may include growth over and above the stated target as set out in the core strategy will be considered.'*

## 2. Sustainable Development

### 2.1 Key Town

The Office notes that approximately 54 material amendments are proposed to land use zoning objectives for Ennis and its immediate environs, 21 of which relate to changes to greenfield residential land uses and impact on the core strategy figure. The 99.67ha of greenfield residential zoned land is c.70% in excess of that required to meet the housing target for the town, and c.30% in excess of that required to meet the target plus 'unmet demand'.

Of these amendments to residential zoning objectives, six are also considered particularly inconsistent with national and regional objectives for compact growth and regeneration and / or the provisions of the Development Plans Guidelines for the sequential approach to land use zoning and / or may not be serviceable within the plan period. The SEA also identifies services capacity constraints in respect of a number of proposed Residential zoning objectives (R17, R20 and R22) and, for those same sites, does not rule out adverse effects on European sites arising from the proposed amendments (see MA Recommendation 10, below).



## MA Recommendation 2 – Ennis key town

Having regard to the core strategy of the draft Plan; national and regional objectives for compact growth under NPO 3c and RPO 35, regeneration under NPO 6 and RPO 34, proportionate growth under NPO 18a, and for the tiered approach to zoning under NPO72a-c; the provisions of the *Development Plans, Guidelines for Planning Authorities (2022)* including the policy and objective for a sequential approach to development; and the provision of a sustainable settlement and transport strategy in accordance with section 10(2)(n) of the *Planning and Development Act 2000*, the planning authority is required to make the Plan without the following material amendments in Volume 3a:

- Ennis p.112 R22 – from Agriculture to Residential (c.0.4ha);
- Ennis p.114 R17 – from Agriculture to Residential (c.4.5ha);
- Ennis p.115 R20 – from Agriculture to Residential (c.1.8ha);
- Ennis p.120 LDR14 – from Agriculture to LDR (c.3.5ha);
- Ennis p.122 LDR6 – from Agriculture to LDR (3ha);
- Ennis p.124 LDR15 – from Agriculture to LDR (c.0.8ha); and
- All text changes associated with the preceding named amendments.

## 2.2 Limerick Shannon Metropolitan Area

Relatively few material amendments have been made to the land use zoning objectives for the LSMA. On balance, the Office considers them to be generally acceptable in terms of scale and location having regard to the national and regional policy context, having regard to Recommendations 3(i), 4, 5 and 6(i) of the Office's submission on the draft Plan. However, some of the amendments may conflict with other policy requirements and are included in MA recommendations below.



## 2.3 Serviced Towns

The Office notes that nine material amendments have been proposed to Kilrush / Cappa in Volume 3d of the draft Plan. Of these, seven are also considered particularly inconsistent with national and regional objectives for compact growth, regeneration, and proportionate growth and / or the provisions of the Development Plans Guidelines for the sequential approach to land use zoning, as well as being inconsistent with the housing targets and associated residential land requirements determined under the core strategy. Cappa p.54 R2 will also contribute to the coalescing of Kilrush and Cappa and is inconsistent with NPO 62 of the NPF.

### MA Recommendation 3 – Kilrush service town

Having regard to the core strategy of the draft Plan; national and regional objectives for compact growth under NPO 3c and RPO 35, regeneration under NPO 6 and RPO 34, proportionate growth under NPO 18a, and to prevent coalescence of settlements under NPO 62; the provisions of the *Development Plans, Guidelines for Planning Authorities (2022)* including the policy and objective for a sequential approach to development; and the provision of a sustainable settlement and transport strategy in accordance with section 10(2)(n) of the *Planning and Development Act 2000*, as amended, the planning authority is required to make the Plan without the following material amendments:

- Kilrush p.48 Agriculture – from Residential R5 to Agriculture (-c.1.3ha)
- Kilrush p.49 R7 – from Recreation to Residential (c.0.7ha)
- Kilrush p.50 R5 – from White lands to Residential (c.6ha)
- Kilrush p.51 R10 – from White lands / Agriculture to Residential (c.0.9ha)
- Kilrush p.52 SR4 – from Agriculture to Strategic Reserve (c.0.6ha)
- Cappa p.54 R2 – from Agriculture to Residential (c.1.4ha)
- Cappa p.55 Agriculture – from Residential R2 to Agriculture (-c.1.4); and
- All text changes associated with the preceding named amendments.



## 2.4 Small Towns

The Office notes that 26 material amendments have been proposed to the small towns of Kilkee, Lisdoonvarna and Milltown in West Clare MD Volume 3d; Killaloe and Tulla in Killaloe MD Volume 3c; and Newmarket-on-Fergus in Shannon MD Volume 3b of the draft Plan. Of these, eleven are also considered particularly inconsistent with national and regional objectives for compact growth, regeneration, and proportionate growth and / or the provisions of the Development Plans Guidelines for the sequential approach to land use zoning, as well as being inconsistent with the housing targets and associated residential land requirements determined under the core strategy.

### MA Recommendation 4 – Small towns

Having regard to the core strategy of the draft Plan; national and regional objectives for compact growth under NPO 3c and RPO 35, regeneration under NPO 6 and RPO 34, and proportionate growth under NPO 18a; the provisions of the *Development Plans, Guidelines for Planning Authorities (2022)* including the policy and objective for a sequential approach to development; and the provision of a sustainable settlement and transport strategy in accordance with section 10(2)(n) of the *Planning and Development Act 2000*, as amended, the planning authority is required to make the Plan without the following material amendments:

- Kilkee p.69 R8 – from White land to Residential (c.1.8ha);
- Killaloe p.34 R6 – from Tourism to Residential (c.8ha);
- Tulla p.46 R3 – from SR to Residential (2ha);
- Lisdoonvarna p.80 R3 – Agriculture to Residential (c.2ha);
- Lisdoonvarna p.81 R4 – Agriculture to Residential (c.0.25);
- Lisdoonvarna p.83 R5 – White lands to Residential (c.0.5ha);
- Milltown Malbay p.90 R3 – Agriculture to Residential (c. 1.25);
- Milltown Malbay p.92 R4 – Enterprise to Residential (c.1.6ha);



- Newmarket-on-Fergus 76 R5 – from white land to Residential (c.1.9ha);
- Newmarket-on-Fergus 77 R6 – from white land to Residential (c.1ha); and
- All text changes associated with the preceding named amendments.

## 2.5 Large unserviced villages and small towns

The Office notes that eight material amendments have been proposed to the small towns of Quin in Killaloe MD Volume 3c; and Ballyvaughan, Mullagh and Liscannor in West Clare MD Volume 3d. Of these, six are considered particularly inconsistent with national and regional objectives for compact growth, regeneration and proportionate growth and / or the provisions of the Development Plans Guidelines for the sequential approach to land use zoning, as well as being inconsistent with the housing targets and associated residential land requirements determined under the core strategy.

### MA Recommendation 5 – Small towns

Having regard to the core strategy of the draft Plan; national and regional objectives for compact growth under NPO 3c and RPO 35, regeneration under NPO 6 and RPO 34, proportionate growth under NPO 18a, and the tiered approach to zoning under NPO72a-c; the provisions of the *Development Plans, Guidelines for Planning Authorities (2022)* including the policy and objective for a sequential approach to development; and the provision of a sustainable settlement and transport strategy in accordance with section 10(2)(n) of the *Planning and Development Act 2000*, as amended, the planning authority is required to make the Plan without the following material amendments:

- Quin p.74 SR4 – from White land to Strategic Reserve (c.2.7ha);
- Ballyvaughan p.102 Agriculture – from Residential R3 to Agriculture (- c.1ha);
- Ballyvaughan p.103 R3 – from Open Space to Residential (c.0.4ha);



- Mullagh p.128 R3 – from Agriculture to Residential (c.2ha);
- Liscannor p.140 R3 – from Agriculture to Residential (c.1.6ha); and
- All text changes associated with the preceding named amendments.

## 2.6 Unserviced large villages and small towns

The Office notes the extensive proposed changes in land use zoning objectives proposed for Broadford in Killaloe MD Volume 3c and for Cooraclare in West Clare MD Volume 3d. The planning authority is aware that these small rural settlements do not have public wastewater services and, according to Irish Water, are unlikely to be provided with such services within the period of the plan even if funding is approved. The zoning of these settlements for residential development is therefore not consistent with NPO 72a-c of the NPF concerning the implementation of the tiered approach to zoning. The proposed zoning amendments are also not consistent with the core strategy housing targets for these settlements.

In addition, two material amendments are proposed to the designation of Village Growth Areas for the unserviced large village of Kilmihil in Volume 3d, one of which is considered particularly inconsistent with national and regional objectives for compact growth and / or the provisions of the Development Plans Guidelines for the sequential approach to land use zoning, as well as being inconsistent with the housing targets and associated residential land requirements determined under the core strategy.

### MA Recommendation 6 – Unserviced large villages and small towns

Having regard to the Core Strategy of the draft Plan; national and regional objectives for compact growth under NPO 3c and RPO 35, regeneration under NPO 6 and RPO 34, proportionate growth under NPO 18a, and the tiered approach to zoning under NPO72a-c; the provisions of the *Development Plans, Guidelines for Planning Authorities (2022)* including the policy and objective for a sequential approach to development; and the provision of a sustainable settlement and transport strategy in accordance with section 10(2)(n) of the *Planning and*



*Development Act 2000*, as amended, the planning authority is required to make the Plan without the following material amendments:

- Broadford p.93 LDR1 – from Agriculture to LDR (c.0.5);
- Broadford p.93 LDR2 – from Agriculture to LDR (c.4.5ha);
- Broadford p.93 LDR4 – from VGA to LDR (c.2.1ha);
- Broadford p.93 LDR5 – from mixed to LDR (c.0.25ha);
- Broadford p.93 LDR6 – from VGA to LDR (c.0.8ha);
- Broadford p.93 LDR7 – from Existing Residential to LDR (c.1ha);
- Broadford p.93 LDR8 – from Existing Residential to LDR (c.0.8ha);
- Broadford p.93 LDR9 – from Existing Residential to LDR (c.0.3ha);
- Cooraclare p.197 LDR1 – from VGA to LDR (c.1.25ha);
- Cooraclare p.197 LDR2 – from Agriculture to LDR (c.1.5ha);
- Cooraclare p.197 LDR3 – from VGA to LDR (0.75ha);
- Cooraclare p.197 LDR4 – from Agriculture to LDR (c.1.5ha);
- Cooraclare p.197 LDR5 – from Agriculture to LDR (c.0.6ha);
- Cooraclare p.197 LDR6 – from VGA to LDR (c.0.25ha);
- Kilmihil p.157 VGA6 – from Enterprise to VGA (2ha); and
- All text changes associated with the preceding named amendments.

## 2.6 Clusters

A number of material amendments have been proposed to the boundaries of unserviced cluster settlements across the county. The Office considers the majority of those amendments to be reasonable. However, three amendments proposed to Ballintlea South and to Kilmore are of particular concern due to their proximity to Limerick City and, in the case of Ballintlea South, its location within the metropolitan area adjacent to Cratloe. These amendments are considered inconsistent with



national and regional objectives for compact growth and regeneration, and the provision of a sustainable settlement and transport strategy.

#### MA Recommendation 7 – Clusters

Having regard to national and regional objectives for compact growth under NPO 3c and RPO 35, and regeneration under NPO 6 and RPO 34, and the provision of a sustainable settlement and transport strategy in accordance with section 10(2)(n) of the *Planning and Development Act 2000*, as amended, the planning authority is required to make the Plan without the following material amendments to the settlement boundaries to the following clusters:

- Ballintlea South p.81;
- Ballintlea South p.82; and
- Kilmore p.134.

### 3. Economic Development and Employment

A number of material amendments have been proposed to Enterprise land use zoning objectives on the outskirts of Ennis. The proposed extensive (29ha) ENT5 is located outside the N85 to the southwest of Ennis and the proposed extensive (22ha) ENT4 is located in the rural area to the east of the town.

The zoning amendments have been proposed without any appropriate evidence base, including economic, transport and climate impact, to justify their inclusion as set out in sections 4.6.2 and 6.2.5 the Development Plan Guidelines. Further, the Office considers the proposed amendments to be inconsistent with the achievement of the National Strategic Objective (NSO) for compact growth and with the implementation of sustainable settlement and transport strategies for climate action under section 10(2)(n) of the Act.

The Office also notes concerns raised by TII in respect of the potential cumulative impact of ENT5 with ENT1 and TOU2 on the operation of the national road and associated junctions in the absence of plan-led approach. In this regard the Office



notes the requirements of the Spatial Planning and National Roads Guidelines regarding the application of an evidence-based approach, particularly in respect of development plan proposals relating to zoning objectives at or close to interchanges where such could generate significant additional traffic with potential to impact on the national road.

Furthermore, the planning authority determined that significant adverse effects on European sites could not be ruled out in respect of ENT5 (see MA Recommendation 10, below).

#### MA Recommendation 8 – Enterprise zoning objectives

Having regard to the National Strategic Outcome for compact growth, mandatory objectives for sustainable settlement and transport strategies for climate action under section 10(2)(n) of the Act, and the provisions of the *Development Plans, Guidelines for Planning Authorities (2022)* and *Spatial Planning and National Roads Guidelines for Planning Authorities (2012)*, the planning authority is required to make the Plan (Volume 3a) without the following material amendments:

- Ennis p.25 ENT5 – from White land to Enterprise;
- Ennis p.26 ENT4 – from Agriculture to Enterprise; and
- All text changes associated with the preceding named amendments.

#### 4. Sustainable Transport and Accessibility

The amended notes to table A3 Bicycle and Vehicle Parking Standards respond positively to point (ii) of Recommendation 9 of the Office's submission to the draft Plan, development management standards. The Office also welcomes the revised standards for bicycle parking, which are more consistent with an integrated approach to land use transport planning.

Regarding point (iv) of Recommendation 9, the Office acknowledges the response of the planning authority that note 12 to table A3 provides for flexibility in application of parking standards. In the interest of ensuring consistency of approach, the Office



encourages the planning authority to include a minor modification to clarify that alternative parking arrangements may include car-free development within specified contexts.

However, the sightline distances in table A2 of A1.6.2 Sight Distance have not been amended to comply with the *Design Manual for Urban Roads and Streets* (revised 2019) (DMURS) in terms of the Y distance. This should correspond to table 4.2 of DMURS<sup>3</sup> for urban roads and streets of less than or equal to 60kph. The Office notes, however that table A2 incorrectly specifies the standard for national roads >60kph outside of urban areas<sup>4</sup>.

The planning authority will be aware that TII adopted new road standards for national roads within urban areas *The Treatment of Transition Zones to Towns and Villages on National Roads DN-GEO-03084* (2021), to supplement the information provided in DMURS. It also clarifies that DMURS shall apply to national roads within the centres of towns and villages.

The matter of non-compliance with part (v) of Recommendation 9 of the Office's submission to the draft Plan is not addressed in the section 12(5)(aa) Notice. The application of excessive standards is not consistent with the implementation of national and regional objectives for compact growth (NPO 3a-c and RPO 35). It will also undermine the implementation of sustainable settlement and transport strategies under section 10(2)(n) necessary to achieve the government's mandatory target of 51% reduction in Greenhouse Gas (GHG) emissions by 2030 and carbon neutrality by 2050 and, therefore, are not consistent with national objectives to support national targets by integrating climate action into the planning system (NPO 54).

The standards also have road safety implications for vulnerable road users by facilitating excessive vehicular speeds in urban contexts and are not consistent with national objectives to integrate safe and convenient alternatives to the car into the design of our communities by prioritising walking and cycling (NPO 27).

---

<sup>3</sup> According to DMURS s.4.4.5 Visibility Splays.

<sup>4</sup> Table 5.5 of *Geometric Design of Junctions (priority junctions, direct accesses, roundabouts, grade separated and compact grade separated junctions) DN-GEO-03060* (2017)



The Planning Authority is advised, therefore, to consider whether any appropriate minor modifications could be made to the standards in finalising the Plan.

The Office also notes that no amendment has been proposed in response to Recommendation 12 of the Office's submission to the draft Plan, in relation to exceptional circumstances to restrictions to access to national roads under section 11.2.9.3 of the draft Plan, contrary to the recommendation of the CE's Report under section 12(4).

## **5. Flood Risk Management**

The Office notes the amendments to the Strategic Flood Risk Assessment (SFRA) carried out by the planning authority to inform the draft Plan, and also the material amendments to certain land use zoning objectives (such as Ennis p.111 from LDR 2 to Open Space) to comply with the requirements of the Flood Guidelines in response to Recommendation 13 of the Office's submission to the draft Plan.

However, the amended SFRA does not appear to include a plan-making Justification Test for each of the zoning objectives raised in the Office's submission. The Plan also does not appear to have been amended to include, where relevant, appropriate non-structural and structural flood risk management measures as should be identified in point 3 of the Justification Test. Furthermore, the flood risk zones A/B have not been overlaid on the land use zoning objectives, except at a poor level of resolution within the amended SFRA which is not considered to be sufficient.

The Office also notes the concerns raised by the OPW that a number of proposed land use zonings within Flood Zones A and B would accommodate highly vulnerable development where the plan-making Justification Test does not appear to have been applied and passed.

The Office would strongly advise the planning authority to review the SFRA in the context of these matters in order to demonstrate that the identified flood risk can be adequately managed in accordance with the Flood Guidelines. If any such review finds that these issues cannot be rectified at this stage of the process this matter will



be considered by the Office in the context of its final assessment of the adopted Plan.

The Office also notes that a significant number of material amendments have been proposed to zone of lands at risk of flooding for vulnerable or high vulnerable uses which the OPW considers do not satisfy the plan-making Justification Test. The subject amendments are therefore not consistent with NPO 57 to avoid inappropriate development in areas at risk of flooding.

#### MA Recommendation 9 – Flood risk management

Having regard to NPO 57, RPO 3.10, and to the provisions of the *Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009), the planning authority is required to make the Plan (Volumes 3a, 3b and 3d) without the following material amendments:

- Ennis p.26 ENT4 – from Agriculture to Enterprise;
- Ennis p.65 R12 – from Strategic Reserve to Residential
- Ennis p.74 LDR12 – from Open Space to LDR
- Ennis p.71 Existing Residential (ER1) – from Open Space to Existing Residential
- Ennis p.76 UT1 – from Open Space to Utilities
- Ennis p.82 COM5 – from Agriculture to Commercial
- Ennis p.96 Existing Residential – from Open Space
- Parteen p.53 Existing Residential – from Open Space
- Ballynacally p.174 VGA3 – from Agriculture; and
- All text changes associated with the preceding named amendments.



## 6. Environmental Assessments

A self-contained Natura Impact Report has not been prepared to accompany the proposed material amendments. In this regard, the planning authority, as the competent authority, should satisfy itself that it has complied with its obligations to carry out appropriate assessment of the proposed material amendments.

The Office notes, however, that an Addendum to Environmental Assessments, Volumes 10a & b, includes some assessment of potential effects on European sites. The addendum assessment found that significant adverse effects on the integrity of specific European sites, in view of their conservation objectives, cannot be ruled out in respect of proposed amendments relating to the zoning of certain lands.

The planning authority, as the competent authority, will be aware of its obligations under article 6(3) of the Directive that it shall agree to the Plan only after having ascertained that it will not adversely affect the integrity of a European site(s).

Further, it is an objective of the NPF to ensure development occurs within environmental limits, having regard to the requirements of relevant environmental legislation (NPO 52); to enhance the conservation status and improve the management of protected areas (NPO 59); and to conserve and enhance natural heritage appropriate to its significance (NPO 60). Accordingly, the Plan should be made without the subject amendments.

### MA Recommendation 10 – Appropriate Assessment

Having regard to NPO 52, NPO 59 and NPO 60, and to the requirements of Article 6(3) of the Habitats Directive and transposing legislation under the Planning and Development Act 2000, as amended, the planning authority is required to make the Plan (Volume 3a) without the following material amendments:

- Ennis p.25 ENT5 – from White lands to Enterprise;
- Ennis p.112 R22 – from Agriculture to Residential;
- Ennis p.114 R17 – from Agriculture to Residential;



- Ennis p.115 R20 – from Agriculture to Residential;
- Ennis p.123 C6 – from White lands to Community; and
- All text changes associated with the preceding named amendments.

## Summary

The Office requests that the planning authority address the recommendations outlined above. As you are aware, under section 12 of the Act the report of the Chief Executive prepared for the elected members must summarise these recommendations and the manner in which they will be addressed.

At the end of the process, the planning authority is required to notify this Office within five working days of the decision of the planning authority in relation to the Material Alterations to the draft Plan. Where the planning 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](mailto:plans@opr.ie).

Is mise le meas,

**Anne Marie O'Connor**

Deputy Regulator and Director of Plans Evaluations

