

DIRECTION IN THE MATTER OF SECTION 31
OF THE PLANNING AND DEVELOPMENT ACT 2000 (as amended)
Cork County Development Plan 2022-2028

“Development Plan” means the Cork County Development Plan 2022-2028

“Planning Authority” means Cork County Council

WHEREAS the powers and duties of the Minister for the Department of Housing, Local Government and Heritage under the Planning and Development Act 2000 (as amended), other than the power to prosecute an offence, have been delegated to the Minister of State at the Department of Housing, Local Government and Heritage pursuant to the Housing, Local Government and Heritage (Delegation of Ministerial Functions) Order 2020 (S.I. 559 of 2020).

WHEREAS the Minister of State at the Department of Housing, Local Government and Heritage in exercise of the powers conferred on him by section 31 of the Planning and Development Act 2000 (as amended) ("the Act"), and consequent to a recommendation made to him by the Office of the Planning Regulator under section 31AN(4) of the Act is, for the reasons set out in the Statement of Reasons hereto, of the Opinion that –

- (1) The Development Plan has not been made in a manner consistent with and has failed to implement a recommendation of the Office of the Planning Regulator under Section 31 AM.
- (2) The Plan, as made, fails to set out an overall strategy for the proper planning and sustainable development of the area;
- (3) The Plan is not consistent with National Policy Objectives set out in the National Planning Framework, specifically NPO 3c.

- (4) The Plan is not consistent with regional development objectives set out in the Regional Spatial and Economic Strategy for the Southern Region, specifically RPO 35, and RPO 151.
- (5) The Plan is inconsistent with Ministerial Guidelines issued under Section 28 of the Act, specifically:
 - a. the Development Plan Guidelines for Planning Authorities (2007) and the Development Plans, Guidelines for Planning Authorities – (2022);
 - b. Specific Planning Policy Requirement 4 contained in the Urban Development and Building Height Guidelines (2018),
 - c. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas: Cities, Towns and Villages (2009).
 - d. the Spatial Planning and National Roads, Guidelines for Planning Authorities (2012),

and whilst the failure to implement the guidelines is not a failure to have regard to the guidelines per se, the failure to implement the guidelines has not been explained adequately or at all.

- (6) The Plan, as made, is not in compliance with the requirements of the Act.

And therefore the Minister is of the opinion that section 31 of the Planning and Development Act 2000 (as amended) apply;

NOW, THEREFORE, in exercise of the powers conferred on him by section 31 of the Planning and Development Act 2000 (as amended), the Minister of State at the Department of Housing, Local Government and Heritage hereby directs as follows:

1. This Direction may be cited as the Planning and Development (Cork County Development Plan 2022 – 2028) Direction 2022.
2. The Planning Authority is hereby directed to take the following steps with regard to the Development Plan:

- a) Reinstate the zoning objective of those lands subject of zoning objective Bantry BT-R-0X inserted under MA 5.2.6.27(a) to that of the draft Plan i.e. the subject land reverts to BT-AG-01 Agriculture.
- b) Delete the amended residential densities on specific sites under MA 4.2.3.41 Carrigtwohill CT-R-18 to revert to Medium A density and MA 4.2.3.43 Carrigtwohill CT-R-04 to revert to High Density, and
- c) Reinstate the zoning objectives of the following lands to that of the draft Plan consistent with the recommendations of the Chief Executive' Report dated 16th March 2022.
 - i. MA 3.1.4.15 - FY-I-05 Fermoy 'Industrial development' – reinstate the zoning objective of the subject land to that of the draft Plan i.e. the subject land reverts to Greenbelt 1.
 - ii. MA 3.1.4.16 - FY-X-01 Fermoy 'Special Policy Area – Expansion of existing mart facilities and provision of an NCT centre' - reinstate the zoning status of the subject land to that of the draft Plan i.e. the subject land reverts to unzoned.

STATEMENT OF REASONS

I. Pursuant to section 31(1)(ba)(i) and section 31(1)(c)

The Development Plan as made includes a material amendment (MA 5.2.6.27(a)) to the draft Plan that is not consistent with the Development Plan's own Core Strategy, national and regional planning policy, and the proper planning and sustainable development of the area, including:

- a) Land zoned for residential development located in a remote and/or peripheral and non-sequential location outside of the CSO settlement boundary which leapfrogs beyond land zoned Agriculture, inconsistent with the requirements for compact

growth in NPO 3c and RPO 35, and the requirement under RPO 151 that '*residential development will be carried out sequentially*', and fails to follow the requirement to implement or adopt a sequential approach to the zoning of land for development under section 4.19 of *Development Plans Guidelines for Planning Authorities (2007)*, except in exceptional circumstances (which '*must be clearly justified ... in the written statement*'), and under section 6.2.3 of the *Development Plans, Guidelines for Planning authorities, (2022)*. Accordingly, the development plan as made is not consistent with national and regional objectives set out in the National Planning Framework and the regional spatial and economic strategy for the region.

- b) Land zoned for residential development in excess of that needed to meet the Core Strategy housing supply targets for Bantry in the adopted Plan. This results in an internal inconsistency and incoherence in the Development Plan in circumstances where the plan zones an excessive amount of land for residential use having regard to the core strategy of the plan.

In making the plan with residential zoning in excess of that determined to be required under the Core Strategy, the planning authority has failed to have regard to the requirement under section 4.5 of the *Development Plan Guidelines for Planning Authorities (2007)* to seek to get the right balance between making sure enough land is zoned and avoiding the zoning of too much land and under section 4.4.3 of the *Development Plans Guidelines for Planning Authorities (2022)*.

Further, this zoning amendment is also inconsistent with the requirements of section 10(2A)(d)(ii) of the Act which requires the development plan to provide details of how the zoning proposals in respect of lands zoned for residential and for a mixture of residential and other uses accords with national policy that development of land shall take place on a phased basis.

Further, the statement under Section 28(1A)(b) attached to development plan as made fails to include information which demonstrates that the planning authority has formed the opinion that it is not possible to implement the policies and

objectives outlined above, as contained in the Guidelines, because of the nature and characteristics of the area and to give reasons for the forming of that opinion contrary to Section 28(1B)(b).

II. Pursuant to section 31(1)(ba)(ii) and section 31(1)(c)

The Cork County Development Plan 2022-2028 as made is inconsistent with a requirement contained in Ministerial Guidelines issued under Section 28 of the Act, specifically Specific Planning Policy Requirement 4 contained in the Urban Development and Building Height Guidelines (2018) to secure minimum densities set out in the *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas: Cities, Towns & Villages* (2009) and the requirements for the planning authority to comply with, and the development plan to be consistent with, the aforementioned Specific Planning Policy Requirement under sections 28(1C) and/or 10(1A) and/or 10(2A)(a) and/or 12(11) read in conjunction with section 12(18).

Further, the statement under Section 28(1A)(b) attached to Development Plan as made fails to include information which demonstrates that the planning authority has formed the opinion that it is not possible to implement the policies and objectives outlined above, as contained in the Guidelines, because of the nature and characteristics of the area and to give reasons for the forming of that opinion contrary to Section 28(1B)(b).

III. Pursuant to section 31(1)(c)

The Cork County Development Plan 2022-2028 as made fails to follow the Ministerial Guidelines issued under Section 28 of the Act, and specifically fails to ensure the strategic function of national roads is maintained and that land zoned for development can be catered for by the design assumptions underpinning interchanges, under the *Spatial Planning and National Roads Guidelines for Planning Authorities* (2012). Whilst a failure to follow the guidelines per se does not amount to a breach of the obligation to have regard to the guidelines, no or no adequate reasons relating to the proper planning and sustainable development of the area have been provided to explain why the said Guidelines have not been followed.

Furthermore, the statement under Section 28(1A)(b) attached to the Development Plan as made fails to include information which demonstrates that the planning authority has formed the opinion that it is not possible to implement the policies and objectives outlined above, as contained in the Guidelines to ensure the strategic function of national roads is maintained and that land zoned for development can be catered for by the design assumptions underpinning interchanges, because of the nature and characteristics of the area and fails to give reasons for the forming of that opinion contrary to Section 28(1B)(b).

VII. Pursuant to section 31(1)(a)(i)(II)

The Development Plan has not been made in a manner consistent with and has failed to implement a recommendation of the Office of the Planning Regulator under Section 31 AM.

GIVEN under my hand,

A handwritten signature in blue ink, appearing to read "Peter Burke", is written over a horizontal line.

Peter Burke T.D.

Minister of State with responsibility for Local Government and Planning

28th day of September, 2022.