

**DIRECTION IN THE MATTER OF SECTION 31**  
**OF THE PLANNING AND DEVELOPMENT ACT 2000 (as amended)**

**Fingal Development Plan 2023-2029**

“Development Plan” means the Fingal Development Plan 2023-2029

“Planning Authority” means Fingal County Council

“RSES” means Regional Spatial and Economic Strategy for the Eastern and Midland Region

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 (No.30 of 2000) and the Housing, Local Government and Heritage (Delegation of Ministerial Functions) Order 2023 (S.I. No. 116 of 2023), and consequent to a recommendation made to him by the Office of the Planning Regulator under section 31AN(4) of the Act, hereby directs as follows:

- (1) This Direction may be cited as the Planning and Development (Fingal Development Plan 2023-2029) Direction 2023.
- (2) The Planning Authority is hereby directed to take the following steps with regard to the Development Plan:
  - (a) Delete the following zoning objectives from the adopted Plan i.e. the subject land is unzoned:

- (i) Land zoned General Employment in the adopted Plan to the east of Junction 2 on the M2 at St. Margaret's which was zoned Greenbelt in the Fingal Development Plan 2017-2023.
  - (ii) Land zoned Food Park in the adopted Plan south of Coolquay village.
  - (iii) Land zoned Rural Business in the adopted Plan to the south of Coolquay village.
  - (iv) Land zoned General Employment in the adopted Plan to the south east of Junction 5 on the M1 at Hedgestown, Courtlough, which was zoned Rural in the Fingal Development Plan 2017-2023.
- (b) Delete the amended and additional text inserted under PA CH 8.1 as modified, consistent with the recommendation of the chief executive's report dated 15<sup>th</sup> January 2023.

## STATEMENT OF REASONS

- I. The Development Plan as made includes significant land zoned for General Employment, Rural Business, and Food Park outside of the Dublin City and suburbs boundary or any settlement boundary and at locations remote from high quality public transport and outside the designated strategic employment development areas identified in the RSES for the Dublin Metropolitan Area inconsistent with the National Strategic Outcomes for compact growth, sustainable mobility and transition to a low carbon and climate resilient society, NPO 62 to strengthen the value of greenbelts and green spaces at a regional and city scale, as well as the sequential approach and planning for future development in a manner that facilitates sustainable transport patterns consistent with the *Greater Dublin Area Transport Strategy 2022 - 2042* (Measure PLAN 4), Regional Policy Objectives 5.3, 5.6, and 8.4 in the RSES.

- II. The Development Plan as made includes land zoned for General Employment to the east of the M2 at Junction 2 at St. Margaret's in close proximity to a junction of the M2 national road network inconsistent with the Greater Dublin Area Transport Strategy 2022 - 2042 Measure ROAD 2, and Regional Policy Objectives 8.3 and 8.4, and where the planning authority has not demonstrated that the rezoning satisfies the criteria in Section 2.7 of the *Spatial Planning and National Roads Guidelines for Planning Authorities* (2012) regarding development at national road interchanges or junctions.
- III. The Development Plan does not include a strategy for employment development to inform the zoning of further land for employment purposes at Junction 2 of the M2 at St. Margaret's, lands located south of Coolquay village and lands south east of Junction 5 on the M1 at Hedgestown, Courtlough which fails to have regard to the Ministerial Guidelines issued under Section 28 of the Act, specifically the requirement that the evidence and rationale underpinning the zoning of land for employment purposes must be clear and strategic in nature under Section 6.2.5 zoning for employment uses in the *Development Plans, Guidelines for Planning Authorities* (2022) (the Development Plans Guidelines).
- IV. No adequate reasons nor explanations relating to the proper planning and sustainable development of the area have been provided to explain why lands have been zoned in such a way and how this approach (involving a failure to demonstrate a strategic rationale to underpin the zoning of further land for employment purposes and a failure to have regard to the Development Plan Guidelines and to satisfy the criteria for development at national road interchanges or junctions) is consistent with an overall strategy for the proper and sustainable development of the area.

- V. The Development Plan as made includes provisions that state that the proposed noise insulation scheme to protect the health of those affected by aircraft noise is inadequate and that it is an objective to take measures including the expansion of noise insulation schemes operated by DAA to include all areas exposed to 40dB Lnight or higher as produced by aircraft during night time which matters are subject to separate statutory provisions and processes including the European Communities (Environmental Noise) Regulations 2018, the Aircraft Noise Regulation 598/2014 and the Aircraft Noise (Dublin Airport) Regulation Act 2019. This includes the designation of separate action planning authorities under the 2018 Regulations for the purpose of preparing Noise Action Plans, while the 2019 Act designated Fingal County Council as competent authority for the purposes of Aircraft Noise Regulation 598/2014 and that 2019 Act, which is statutorily independent of the planning authority. The inclusion of an objective in the Development Plan, which conflicts with and undermines these separate statutory provisions and processes, including the Noise Action Plan, is therefore inconsistent with National Policy Objective 65 of the National Planning Framework.

The inclusion of this particular objective is not in compliance with the provisions of the Planning and Development Act, 2000 (as amended) and the Aircraft Noise (Dublin Airport) Regulation Act 2019 and the exclusive jurisdiction conferred on ANCA and the Chief Executive under the 2019 Act in respect of the subject matter of the objective. There is a conflict with section 15 of the Planning and Development Act, 2000 whereby it is a general duty of the planning authority to secure the objectives of the development plan, and with section 3 of the Act of 2019 having regard to obligations of independence, influence and direction contained therein.

In particular, the inclusion of an objective in respect of a noise insulation scheme in the Development Plan is a noise mitigation measure and noise related action, or in the alternative an operating restriction, without having complied with the provisions of the Balanced Approach or the other requirements of the Aircraft Noise Regulation or the Act of 2019.

- VI. The making of the material alteration to the Development Plan by way of the additional text inserted under PA CH 8.1 and by reason of the matters set out in V is not in compliance with the provisions of section 10(2A)(a), section 12(11) and section 15(1) of the Planning and Development Act 2000. It is also not in compliance with the provisions of sections 3(1) to (5) inclusive and section 3(7), section 4, sections 9(1), (2)(a), (b), (c), (3)(a) to (d), (7)(a), (11) and (15) and sections 20 and 21 of the Aircraft Noise (Dublin Airport) Regulation Act 2019. By reason thereof it is also not in compliance with the provisions of Articles 3(1) and (2), 5(1), (2) and (3) and 6 of the Aircraft Noise Regulation 598/2014.
- VII. The Development Plan has not been made in a manner consistent with, and has failed to implement, the recommendations of the Office of the Planning Regulator under Section 31AM of the Act.
- VIII. In light of the matters set out at I-VII above, the Minister is of the opinion that the Development Plan as made fails to set out an overall strategy for the proper planning and sustainable development of the area.
- IX. In light of the matters set out at I and V above, the Development Plan is not consistent with the national development objectives set out in the National Planning Framework.

- X. In light of the matters set out at I to IX above, the Development Plan is not in compliance with the requirements of the Planning and Development Act 2000.

GIVEN under my hand,



Minister of State for Local Government and Planning

28 July 2023