



Draft Wicklow Town – Rathnew LAP Submission - Report

Who are you:	State Body
Name:	The Office of the Planning Regulator
Reference:	DWTRLAP-172840
Submission Made	November 20, 2024 5:35 PM

Topic

Proposed Variation No. 2 to the CDP

Submission

A chara,

Please see attached the OPR submission on the Proposed Variation No. 2 to the Wicklow County Development Plan 2022-2028. Please note that the attached submission applies to the plan in its entirety.

Kind regards,
Iuliu Tudose, OPR

File

OPR Submission Proposed Variation No. 2 to the Wicklow County Development Plan 2022-2028.pdf, 0.27MB



Oifig an
Rialaitheora Pleanála
Office of the
Planning Regulator

OPR Ref: DP-022-24

20th November 2024

Administrative Officer,
Planning Department,
Wicklow County Council,
County Buildings,
Station Road,
Wicklow Town,
A67 FW96.

Re: Proposed Variation No. 2 to the Wicklow County Development Plan 2022-2028

A chara,

Thank you for your authority's work in preparing the Proposed Variation No. 2 to the Wicklow County Development Plan 2022-2028 (the proposed Variation).

The Office has made a submission in respect of the proposed draft Wicklow Town - Rathnew Local Area Plan 2025 (draft Local Area Plan) and intends to rely on same in respect of addressing the legislative and policy matters set out in section 31AO(2) of the Planning and Development Act 2000, as amended, (the Act).

The Office notes that the Wicklow County Development Plan 2022-2028 (the County Development Plan) states that after its adoption separate Local Area Plans will be reviewed, and the proposed Variation acknowledges that these plans are subsidiary to the County Development Plan.

However, insofar as Wicklow County Council (the Planning Authority) consider it necessary to make a variation to the County Development Plan – for the stated reasons of ensuring the zoning and key development objectives of these local area plans clearly form part of the County Development Plan, and the zoning maps are adopted as part of the County Development Plan – the Office makes this submission in respect of the proposed Variation to address the legislative and policy matters set out in section 31AM(2) of the Act.

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 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

Wicklow Town - Rathnew has been identified as a settlement of strategic potential under the Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Regional Assembly (EMRA). The zoning objectives set out in the proposed Variation play an important role in ensuring the sustainable development and expansion of the settlement over the forthcoming years.

The Office welcomes the consolidation of the Local Area Plan boundary and the rationalisation of substantial strategic reserve lands included in the Wicklow Town – Rathnew Local Area Plan 2013 – 2019, which were less favourably located, and/or had significant infrastructure constraints.

The Office also strongly commends the identification of strategic sites for regeneration on the Land Use Zoning Map.

However, the Office notes that additional fundamental supporting documents, such as a Settlement Capacity Audit for lands zoned for new residential and employment uses and a Local Transport Plan (LTP), have not been prepared to support the decisions regarding land use zoning.

The County Development Plan states:

Detailed 'Infrastructural Assessments' in accordance with NPO 72 and the methodology for a Tiered Approach to Zoning set out under Appendix 3 of the NPF shall be carried out for all lands proposed to be zoned and de-zoned in future Local Area Plans.

However, no such assessment has been included to support the land use zoning objectives proposed in the draft Local Area Plan. These documents provide the critical evidence-base upon which the draft Local Area Plan is underpinned as well as supporting rationale for such decisions.

While the Office acknowledges the inclusion of the Wicklow Town-Rathnew Transportation Strategy Map, this was based on the Local Transport Assessment (LTA) (attached as Appendix 1 to the draft Local Area Plan). As set out in our submission to the draft Local Area Plan, it is of concern that an Area Based Transport Assessment, ABTA as per National Transport Authority Guidance, has not been carried out to support the preparation of an LTP for the plan area, as required under CPO 12.3 of the County Development Plan and under RPO 8.6 of the RSES. A key function of LTPs, as set out under the RSES (RPO 8.1), is to ensure the integration of land use and transport planning at local level.

With the exception of the specific concerns set out below, the proposed Variation otherwise sets out a clear zoning strategy and framework for the future development of the lands concerned. The issues raised below largely focus on supporting the delivery of the vision of the Local Area Plan and building on the ambition of the County Development Plan to develop well serviced, well connected and sustainable neighbourhoods, and promote sustainable modes of transport.

It is within this context that the submission below sets out six (6) recommendations under the following themes:

Key theme	Recommendation	Observation
Residential Zoning	Recommendation 1	-
Transport and Accessibility	Recommendation 2	-
Flood Risk Management	Recommendation 3	-
Zoning for Economy and Employment	Recommendation 4	-

Village Centre Regeneration	Recommendation 5	-
Environmental Assessments	Recommendation 6	-

1. Residential Zoning

Chapter 4 of the Development Plans, Guidelines for Planning Authorities (2022) (the Development Plans Guidelines) outlines the approach for zoning that should be followed by planning authorities.

The Office welcomes the zoning objectives for New Residential Priority 1 lands which are well located and will facilitate the compact and sustainable growth of the town in a sequential manner.

However, no Settlement Capacity Audit / Infrastructure Assessment has been prepared to demonstrate that the lands zoned as New Residential Priority 1 and/or 2 have been evaluated to ensure the infrastructure capacity exists or will be delivered over the plan period and to demonstrate either Tier 1 or Tier 2 status for these undeveloped lands contrary to NPO 72a-c of the National Planning Framework and RPO 4.2 of the RSES.

Recommendation 1 – Co-ordination of housing delivery and infrastructure

Having regard to the provision of new homes at locations that can support compact and sustainable development and the co-ordination of housing delivery and infrastructure, and in particular to:

- NPO 72a-c of the NPF and Appendix 3, A Methodology for a Tiered Approach to Zoning;
- RPO 4.2 of the RSES to align the settlement strategy to infrastructure investment; and
- the policy and objective for zoned land to be informed by a Settlement Capacity Audit (SCA) under section 6.2.1 of the Development Plans, Guidelines for Planning Authorities (2022),

the Planning Authority is required to:

- (i) prepare an SCA and engage with the relevant statutory bodies to identify that the lands zoned for New Residential are serviceable within the plan period; and
- (ii) review the zoning objectives on Map No.1 Land use Zoning Objectives of Proposed Variation No. 2 to the Wicklow County Development Plan 2022-2028 to ensure that lands that cannot be reasonably or cost effectively delivered within the plan period are not zoned for development.

2. Transport and Accessibility

As set out in the submission to the draft Local Area Plan, the Office has concerns regarding the integration of land use and transportation planning in respect of the Land Use Zoning Map and Transportation Strategy Map which are part of the proposed Variation.

Specifically, in relation to the proposed Variation, the details of the recommendations set out in the Local Transport prepared as part of the Local Area Plan are not reflected in the Transport Strategy Map, and it is recommended that the interventions are mapped and prioritised as appropriate for implementation.

The Office is also concerned that the LTA does not include an adequate focus on the connectivity needs of the emerging development areas listed as Specific Local Objectives (SLOs). While the SLO Concept Plans do give indicative connectivity details at site level, there is no detail on connectivity to the wider network illustrated on the Transportation Strategy Map.

Similarly, it is recommended that public realm and active travel related projects in the town, including the pathfinder project from the train station to the town centre, are included in the Transport Strategy Map together with the wider suite of proposed active travel interventions, to form a clear picture of the emerging active travel network for the plan area. The interventions to be prioritised for progression during the plan period should be clearly highlighted.

Recommendation 2 – Integrated Land Use and Transport Planning

Having regard to the provision of a sustainable transport strategy and the transition to a low carbon and climate resilient society including the reduction of greenhouse gas emissions, and in particular to:

- The Climate Action and Low Carbon Development Act 2015, as amended, mandatory target to reduce greenhouse gas emissions by 51%, and the Climate Action Plan 2024, and associated actions including the National Sustainable Mobility Policy (2022) targets to reduce vehicle kilometres travelled per year and the National Investment Framework for Transport in Ireland (2021);
- NPO 27 of the NPF for safe and convenient alternatives to the car, NPO 54 to reduce our carbon footprint, NPO 64 for improved air quality, NPO 74 and National Strategic Outcome 4 for sustainable mobility; and
- RPO 8.1 and RPO 8.4 of the RSES for the integration of land use and transport planning,

the Planning Authority is required to amend the Transport Strategy map to include the following:

- (i) the specific active travel recommendations, identified in section 2 of the Local Transport Assessment (LTA) under the appraisal of regional routes R772, R752, R750 & R751, into section 3.1 of the LTA and into the Transport Strategy map;
- (ii) all other the measures and proposed modal networks in the LTA;
- (iii) all planned and proposed public realm and active travel interventions to form a clear picture of the emerging active travel network; and
- (iv) detail on connectivity between the SLOs and the wider network.

3. Flood Risk Management

The Office welcomes the preparation of the Strategic Flood Risk Assessment (SFRA) and accompanying Plan Making Justification Tests (Justification Test) as part of the draft Local Area Plan to inform the zoning objectives, and the inclusion of Map No. 4 Indicative Flood Zones as part of the proposed Variation.

However, the flood mapping has not been overlaid on the land use zoning maps. It is difficult therefore to fully understand the implications of flood risk across the draft Local Area Plan area, and the Planning Authority is advised to overlay the future scenario mapping on the land use zoning maps in order to provide clarity on areas at risk from climate change. In addition, the SFRA utilises data from the national scale coastal flood hazard maps from the ICPSS which are now superseded by the outputs of the National Coastal Flood Hazard Mapping (NCFHM) project.

As referenced in the submission to the draft Local Area Plan, the approach to the SFRA and in particular the quality of the Justification Tests is of a very high standard. However, the Office requests Part 3 of the Justification Test is reviewed to ensure that it is clearly demonstrated that the specific risk at the sites which have failed the Justification Test can be mitigated. For example, in respect of the Justification Tests for the lands zoned at the Waterfront, Area 2 (Recreation and Amenity Area) where tourist car parking of motorhomes and caravans, which are classified as a highly vulnerable use, are permitted in principle.

In addition, it is noted that the lands at Wicklow County Campus failed the Justification Test, but the concluding recommendation of the Justification Test outlines that significant areas within the *'the zone is sufficiently large to provide for development of the desired uses which avoiding development in the at risk area'*. In such instances, in accordance with The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) (Flood Guidelines), any undeveloped lands in Flood Zone A should be zoned for water compatible development, and in Flood Zone B for less vulnerable usage, unless all criteria of the Plan Making Justification Test can be satisfied.

For existing development, when avoidance or substitution is not possible and all criteria cannot be satisfied, a policy should be included to limit development to minor extensions only in accordance with section 5.28 of the Flood Guidelines and limit new development accordingly.

Recommendation 3 – Flood Risk Management

Having regard to flood risk management, and in particular,

- NPO 57 of the NPF and RPO 7.12 of the RSES to avoid inappropriate development in areas at risk of flooding in accordance with the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) (Flood Guidelines); and
- the Flood Guidelines,

the Planning Authority is required to:

- (i) overlay the flood zones maps and future scenario maps with the land use zoning maps in the proposed variation;
- (ii) review and amend the flood zone maps to ensure the correct datasets and probability extents have been illustrated; and
- (iii) review the undeveloped lands zoned for Wicklow County Campus which are located within Flood Zone A and / or B and, where they do not pass the Plan Making Justification Test, rezone such lands in Flood Zone A for water compatible use, and in Flood Zone B for water compatible or substitute for a land use appropriate to the level of flood risk.

The Planning Authority should consult with the Office of Public Works regarding this recommendation.

4. Zoning for Economy and Employment

The County Wicklow Economic Development Hierarchy¹ identifies that the settlement's economic function is to attract major investment through foreign direct and local investment and people and product intensive industries. To support and grow the economic activity in the settlement, 37 ha of undeveloped land has been zoned for Employment uses in the draft Local Area Plan to strengthen and promote economic development in the settlement and build on its existing assets such as Wicklow Port and Harbour, the Wicklow County Campus and its strategic location on the M/N11 corridor and south-eastern rail corridor.

¹ Table 9.2 Wicklow County Development Plan 2022 - 2028

In terms of consistency with national planning policy, it is important that Employment zonings do not conflict with the National Strategic Outcomes in the NPF for compact growth, sustainable mobility and transition to a low carbon and climate resilient society by facilitating development in areas poorly served by public transport.

In this regard, the Office is concerned that there is no robust rationale underpinning the location and extent of each zoned site in the draft Local Area Plan for employment purposes. As set out at section 6.2.5 of the Development Plans Guidelines, an evidence-based approach to zoning for employment development is a critical part of the County Development Plan preparation process.

It is also unclear that all of the lands zoned for Employment are serviceable within the plan-period and/or that their development is integrated with the timely delivery of sustainable transport infrastructure connections. This is particularly relevant to the lands at Newrath and Charvey Lane/Milltown North, which are located outside the CSO settlement boundary² and in peripheral locations that are inconsistent with the achievement of compact growth, will contribute to the continuance of a dispersed settlement pattern and also encourage car-based development that will not support the modal shift to active modes contrary to RPO 8.1 of the RSES and CPO 9.6 of the County Development Plan.

Finally, the proposed variation fails to outline how it has applied the Guiding Principles to Identify Locations for Strategic Employment Development as required by RPO 6.1 of the RSES and the Guiding Principles for the Integration of Land Use and Transportation as required by RPO 8.1 of the RSES.

Recommendation 4 – Economic Development and Employment

Having regard to the provision of an evidence-based employment strategy, and the location of employment in areas that can support more sustainable transport options, and in particular to:

² This means within the existing built-up footprint of all sizes of urban settlement, as defined by the CSO in line with UN criteria i.e. having a minimum of 50 occupied dwellings, with a maximum distance between any dwelling and the building closest to it of 100 metres, and where there is evidence of an urban centre (shop, school etc.).

- NPO 10b to identify suitable areas for strategic employment development of the NPF;
- NPO 72a-c of the NPF and Appendix 3, A Methodology for a Tiered Approach to Zoning;
- RPO 4.2 of the RSES to require employment development to be planned in collaboration with infrastructure providers to ensure adequate capacity for services is available;
- RPO 6.1 of the RSES to apply the Guiding Principles to Identify Locations for Strategic Employment, and
- RPO 8.1 of the RSES for the integration of transport and land use planning consistent with the guiding principles of the RSES transport strategy; and
- the policy and objective of the Development Plans, Guidelines for Planning Authorities (2022) under section 6.2.1 for zoning to be informed by a settlement capacity audit, section 6.2.5 for the provision of an evidence and rationale underpinning the zoning of land for employment purposes,

the Planning Authority is required to:

- (i) provide robust justification for the extent and location of Employment zoned land and to demonstrate that the criteria of the aforementioned national and regional policies have been satisfied, and specifically in respect of the following Employment zonings:
 - (a) Newrath, North of Wicklow County Campus
 - (b) Charvey Lane/Milltown North; and
- (ii) demonstrate by way of an Infrastructure Assessment / Settlement Capacity Audit that lands zoned for Employment are realistically serviceable within the plan period, including a reasonable estimate of the full cost of delivery of the required infrastructure in accordance with NPO 72a-c and Appendix 3 of the NPF.

Where an evidence-based rationale consistent with the above cannot be provided for these, or any other Employment zonings, the subject zoning objective should

be removed from Map No.1 Land use Zoning Objectives of the Proposed Variation No. 2 to the Wicklow County Development Plan 2022-2028.

5. Village Centre Regeneration

While the Office generally welcomes the approach of the Planning Authority, there is a concern that the inclusion of undeveloped lands beyond the existing village centre as Village Centre / Local Shops and Services has the potential to undermine the vitality and vibrancy of the established Rathnew village centre.

The lands to the east of Clermont Grove, which extend to circa 2.4 ha have no clear function identified in the Rathnew Village Regeneration Strategy other than to enhance connections with the Wicklow County Campus. It is identified as an opportunity site in the Village Centre Strategy Map but there is no supporting detail on the vision for these lands and how or if there is any opportunity to improve access to and from the County Campus directly into the village as part of their development. It is also noted that these lands are located outside of the CSO settlement boundary.

In addition, 1.4 ha of lands are zoned which are undeveloped along Charvey Lane and have access constraints due to deficiencies of the Charvey Lane – R752 junction.

The Office considers that the inclusion of these lands as Village Centre / Local Shops and Services requires an improved focus and they should only be included where it can be clearly demonstrated that they can support the overall regeneration strategy for the village centre with clearer co-ordination of development and infrastructure delivery provided.

Further, it is considered necessary that it is demonstrated by way of the Settlement Capacity Audit and / or Infrastructure Audit as required by Recommendation 1 and 4 that the lands can be serviced over the plan period.

Finally, there is an opportunity to improve permeability and ensure that the Wicklow County Campus can positively interact with Rathnew village centre, which should be more strongly supported and indicated on the Transport Strategy Map.

Recommendation 5 – Village Centre Regeneration

Having regard to the regeneration of Rathnew village centre, and in particular to:

- NPO 6 of the NPF for the regeneration of towns and villages;
- RSO 2 of the RSES to promote regeneration by making better use of under-utilised land and buildings within the existing built up urban footprint;
- RPO 4.26 of the RSES to achieve compact growth; and
- RPO 8.1 of the RSES to ensure the integration of land use and transport planning,

the Planning Authority is required to:

- (i) clarify the regeneration aims and principles which demonstrates how the following sites will promote regeneration and revitalisation of Rathnew village centre:
 - (a) undeveloped lands located to the east of Clermont Grove
 - (b) undeveloped lands to the south of Charvey Lane;
- (ii) demonstrate by way of a settlement capacity audit and / or an Infrastructure Assessment that the sites at (i) (a) and (b) above are serviced and/or serviceable within the plan period; and
- (iii) include permeability measures on the Transport Strategy Map to ensure that the Wicklow County Campus can positively interact with Rathnew village centre.

Where the criteria requested at (i) - (iii) of this recommendation cannot be demonstrated, the lands identified at (i) above the land use zoning objectives for the lands identified to the east of Clermont Grove and south of Charvey Lane should be omitted.

6. Environmental Assessments

The Office notes that a Natura Impact Report was not prepared in respect of the proposed Variation. The Screening for AA Report references elements of the proposed Variation that were identified as having the potential to affect European Sites, including provisions relating

to residential that introduce sources for effects through construction phase such as habitat destruction, light pollution, hydrological interactions and disturbance effects; and loading pressures from the operational phase of developments – these sources could result in habitat loss, disturbance effects, interactions with water quality and/habitat fragmentation, settlement/neighbourhood centre, retail, employment, community and education, open space.

It is stated that these elements are considered by the Stage 2 Appropriate Assessment (AA) being undertaken for the Local Area Plan, and there are no additional sources for any likely significant effect on any European site that would be introduced by the proposed Variation that have not already been considered by the Stage 2 AA undertaken for the County Development Plan and/or the emerging Stage 2 AA being undertaken for the Local Area Plan.

On this basis, the screening for AA concluding advice states that that proposed Variation is not foreseen to have any likelihood for any significant effect on any European site, alone or in combination with other plans or projects – and therefore any potential for a significant effect to any European site as a result of implementing the variation can be ruled out.

While, in principle, this approach is considered reasonable provided the draft Local Area Plan is adopted and the Appropriate Assessment is concluded by the Planning Authority, the Planning Authority should ensure that its full statutory obligations are satisfied in the situation that only the proposed Variation is adopted.

However, as set out in the Office's submission on the draft Local Area Plan, the Office notes that the lands identified as SLO 4 at Bollarney North have been zoned to provide a range of land uses, including: Residential, Car Parking, Community/Education and Recreation, with the potential for effects on Murrough Special Protection Area (SPA) and the Murrough Special Area of Conservation (SAC) which are located in close proximity.

While development within and close to European sites is not precluded, any likely significant effects of the proposed objective would need to be fully assessed and addressed by means of site-specific mitigation measures. The draft Natura Impact Report (NIR), however, includes only high-level mitigation measures.

The Planning Authority should therefore review the mitigation measures set out in the NIR to ensure that the stated conclusion that *'upon the inclusion of suitable mitigation*

measures, the Draft Plan will not result in any adverse effects to the ecological integrity of any European site' is a complete, precise or definitive finding and conclusion, and that no reasonable scientific doubt remains as to the adverse effects of zoning SLO 4 on the European sites.

Recommendation 6 – The Murrough SPA and SAC

Having regard to the protection of natural heritage and to the appropriate assessment of plans, and in particular to:

- the proximity to the Murrough Special Protection Area (SPA) and the Murrough Special Area of Conservation (SAC);
- NPO 60 of the NPF to conserve and enhance the rich qualities of natural heritage;
- NPO 75 of the NPF that plans are subject to the relevant environmental assessment requirements, including AA; and
- RSO 7.16 of the RSRS to support the implementation of the Birds and Habitats Directives and ensure alignment with development plans,

the planning authority is required to:

- (i) review the mitigation measures outlined in the Natura Impact Report for the Draft Wicklow Town - Rathnew Local Area Plan 2025; and
- (ii) where it cannot be concluded that there would be no adverse effect on the integrity of any European site omit the proposed zoning objectives for the lands identified as SLO 4 from Map No.1 Land use Zoning Objectives of the Proposed Variation No. 2 to the Wicklow County Development Plan 2022-2028.

7. 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 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 proposed Variation. 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 made by this Office, then the chief executive shall inform the Office and give reasons for this decision.

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,

A handwritten signature in black ink that reads "AM O'Connor". The signature is written in a cursive, slightly slanted style.

Anne Marie O'Connor

Deputy Regulator and Director of Plans Evaluations
