

**Chief Executives report on Submissions received in
respect of Proposed Variation No 1 of the Louth County
Development Plan 2015-2021**

**In accordance with Section 13 (4) (a) of the Planning and
Development Act 2000 (as amended).**

April 2019

Section One

Introduction

This report forms part of the statutory process for varying a Development Plan and is prepared under Section 13(4)(a) of the Planning and Development Act 2000 (as amended).

The following report shall include:

1. A list of the persons or bodies who made submissions or observations
2. A summary of the submissions/observations made under this section including:
 - a. Issues raised by the Minister
 - b. Issues raised by the relevant regional assembly
 - c. Issues raised by other bodies or persons
3. A response from the Chief Executive to the issues raised, taking account of the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.

The purpose of this draft variation is to provide for additional and more wide ranging uses on the subject lands which are identified as an Economic Business Zone requiring the preparation of a Masterplan to ensure that development occurs in a co-ordinated, integrated, and sustainable manner.

The report has been subdivided into two sections as follows:

Section One:

Provides an overview of the statutory process to date and sets out the legislative background and requirements for the preparation of the Chief Executives Report under the Planning and Development Act 2000 (as amended).

Section Two:

Contains a full listing of each of the submissions received during the public consultation phase, a summary of the main issues raised in each submission, together with the Chief Executives response and recommendations, taking into account the proper planning and sustainable development of the County, the statutory obligations of any local authority in the area and any relevant policies or objectives of the Government or Government Minister.

This Report is now formally submitted to the Elected Members for consideration.

1.1 Public Consultation:

A copy of the proposed Draft Variation No 1 and the accompanying Strategic Environmental Assessment Screening, Appropriate Assessment Screening and Strategic Flood Risk Assessment Reports were available for inspection from Tuesday 19th February 2019 until Wednesday 20th March 2019. These were available at the following locations:

Louth County Council Customer Services Desk
• Louth County Council Millennium Centre, Dundalk
• Louth County Council Civic Centre, Town Hall, Dundalk
• Louth County Council Fair Street, Drogheda
• Louth County Council, Mid Louth Civic Service Centre, Ardee
Public Libraries in County Louth
• County Library
• Drogheda Library
• Ardee Library
• Dunleer Library
• Carlingford Library

The proposed draft Variation (No. 1) of the Louth County Development Plan 2015-2021 was also available for inspection on the website www.louthcoco.ie

1.2 Next Steps

It is required that the report of the Chief Executive is prepared and submitted to the Elected Members not later than 8 weeks after notice of the intention to make the proposed variation. This report is being circulated to the Elected Members on the 10th April 2019.

In accordance with Section 13(5)(a) of the Planning and Development Act 2000 (as amended) the Elected Members shall consider the proposed variation and the report of the Chief Executive. The Elected Members are then required to complete their consideration of the proposed variation and the report of the Chief Executive within 6 weeks of receiving the Chief Executive Report. Following this, the Members must resolve to make the variation to the Development Plan, either with or without the proposed alterations. Material alterations require a further public display period of 4 weeks.

In making the variation to the Louth County Development Plan 2015-2021, the Members shall be restricted to considering the proper planning and sustainable development of the area to which the Development Plan relates, the statutory obligations of any Local Authority in the area and any relevant policies or objectives of the Government or any Ministers of the Government.

If adopted, the variation to the County Development Plan shall have effect from the day that the variation is made.

Section Two

Submissions Received

7 no. submissions were received during the draft display period.

These are as follows:

Ref No.	Name	Company Name	Date received
LH-Var-01	Niamh McDonald	Irish Water*	28.1.2019
LH-Var-02	Jim Conway	Eastern & Midland Regional Assembly	05.3.2019
LH-Var-03	Ger Fahy	Ger Fahy Planning	07.3.2019
LH-Var-04	David Galvin	EPA	11.3.2019
LH-Var-05	Michael McCormack	TII	13.3.2019
LH-Var-06	Denis Kelly	Northern & Western Regional Assembly	15.3.2019
LH-VAR-07	Niall Cussen	Department of Housing, Planning & Local Government	20.3.2019

Each submission is summarised below and the Chief Executives response and recommendation to each is also provided.

The Planning and Development Act specifically refers to the manner in which submissions made by the NTA and the Regional Authority should be dealt with. The issues raised by the Minister for Housing, Planning & Local Government must also be summarised separately.

**It is noted that this submission was received on foot of the first advertisement. The submission has been included for reference*

2.1 Summary of Submissions and Chief Executive's Response and Recommendations.

Submission Ref. No. LH-VAR 07

Department of Housing, Planning and Local
Government

Summary of Main Issues Raised

- Provides a background on the site in terms of planning history and zoning
- Future development should be appropriate to the rural location & therefore uses should be restricted to Motorway Services Area and ancillary facilities only
- Specifies the uses that should not be permitted stating that these are appropriate to an urban area on suitably zoned land. (Uses not to be allowed include: motel/hotel, ancillary retail shop, dining facility, light industrial, storage & logistics facilities, retail warehousing and motor sales development).
- Advises LA to be compliant with obligations under planning legislation.

Chief Executive's Response

- The planning history and zoning pertaining to the site are noted.
- The recommendation that a motorway services area and ancillaries be facilitated at this location is welcome.
- It is not considered that the uses to be permitted at this location will be of the type to attract short, local trips and the class of traffic which is inconsistent with the primary intended role of the motorway and other national roads in catering for strategic long distance inter urban and inter regional traffic.
- The range of uses and facilities proposed at this location will aid in encouraging economic growth through the support and development of the cross-border network focused on the Dublin-Belfast Economic Corridor, and promote and enhance its international visibility, as detailed in National Policy Objectives 44 in the National Planning Framework (NPF). The development of this 'Economic Business Zone' as proposed in Variation No. 1 is also in line with National Policy Objectives 10b and 21 of the NPF in terms of strategic employment development in rural areas and enhancing the competitiveness of rural areas in the region. Accordingly, proposed Variation No. 1 is also consistent with Pillar 2 (Supporting Enterprise & Employment) of the national policy document 'Realising our Rural Potential: Action Plan for Rural Development', in terms of

the key objective of growing and attracting enterprise through the implementation of the 'Action Plan for Jobs (North East/ North West) 2015-2017'.

Recommendation

No change recommended

Submission Ref. No. LH-VAR 02

Eastern Midland and Regional Assembly

Summary of Main Issues Raised

- EMRA provides an overview of the role and function of the Assembly outlining the transition period experienced between the RPG's and the RSES.
- The legislative context including an obligation to prepare submissions/observations
- References Strategic Goal S9 (RPG's Border Region 2010-2021) concerning exploitation of the unique location at the interface of two economies, by establishing drivers for economic growth through the development of the Eastern Corridor. There is a need to protect the safety & capacity of the road network but the degree of protection from Plan policy should reflect the role and function of the network.
- EU policy requires member states to provide rest areas and European TEN T Regulation seeks to increase benefits to road users.
- Welcomes the requirement for an agreed masterplan for any new development in this area as per the provisions of the NRA Service Area Policy 2014
- EMRA considered the proposed variation to be consistent with the Regional Planning Guidelines for the Border Region 2010-2021

Chief Executive's Response

Until the adoption of the Regional Spatial & Economic Strategy for the Eastern & Midlands Region, it is the Regional Planning Guidelines for the Border Region 2010-2021 which continue to operate. The recognition for the need to establish drivers for economic growth at the interface of two economies is welcomed as is the requirement for the provision of an agreed masterplan.

Recommendation

No change recommended

Summary of Main Issues Raised

No observations

Chief Executive's Response

Noted

Recommendation

No change recommended

Summary of Main Issues Raised

The submission requires that the TII's comments & observations are taken into account prior to adoption of the proposed Variation No. 1. The submission is divided into three parts as follows:

Proposed Variation No. 1

- The lands were subject to a draft Ministerial Direction, (ultimately not issued).
- The site lies in proximity to Junction 20 on the EU TEN-T Core Network, an objective of which is to increase the benefits for road users through safe, secure, high quality standards
- Section 8.3 of the NPF recognises the importance of the Dublin-Belfast Economic Corridor seeking to protect its strategic function from unnecessary development sprawl.
- Due to EU & national policy concerning this network, it's reasonable that caution is exercised in assessing development proposals that impact on the network and junctions
- Reiterates the contents of the TII submission (2015) to the Draft LCDP which failed to comply with requirements of the 2012 Guidelines. It further states that LCC proceeded with a proposed variation rather than carry out the plan led evidence base approach required by the national guidelines to demonstrate compatibility of the proposal with safeguarding the safety and capacity of the national road and junctions. Additionally it promoted a range of uses which need to be considered in light of the Retail Planning Guidelines 2012.

Proposed Masterplanning

- Masterplanning is inappropriate due to unresolved significant strategic national road network issues in the absence of an appropriate evidence base.

- As per National Guidelines, masterplans should supplement & not replace statutory plans, should be prepared by the LA's not developers & where non statutory plans are being used for development management that they should be done through incorporation by means of a variation of the plan including public consultation. This is not evident in the proposed variation no.1.
- Whilst the proposed variation will have significant implications on the national road network, there was no appropriate Plan-led evidence based planning & no collaboration between the LA & the TII. Collaboration is essential prior to adopting a variation
- 2012 guidelines require a plan led approach to development. It is considered that the proposal is totally inappropriate in light of the following:
 - The absence of a strategic transport evidence base requirement
 - A lack of consultation with the TII (especially where may be material implications on national road)
 - And developer led masterplanning (LA should lead, incorporating provision for consultation with stakeholders & consultees)
- The TII proposes a new wording to Policy RD39. This is included in Appendix 1

Service Areas

- LCDP policy for Service Areas is guided by DoEHLG 2012 Guidelines (Section 7.3.2).
- 2012 Guidelines advise avoidance of proliferation of service areas at junctions, requiring coordination between LA's in consultation with TII be undertaken in drafting development plans. No such forward planning approach was undertaken as per S2.8.
- TII seeks proposals for a forward planning approach to provision of off line service areas in Louth as per 2012 Guidelines & safeguarding the national road network.

Chief Executive's Response

- The lands which are the subject of the current Variation No. 1 were previously the subject of a Draft Ministerial Direction in relation to the Louth County Development Plan 2015-2021. Whilst the Planning Authority was advised to comply with the requirements of the Spatial Planning and National Roads Guidelines 2012 the Ministerial Direction did NOT issue and in this regard the policies and objectives of the Louth County Development Plan in relation to National Roads continue to apply and guide development.
- Having regard to the above response and where the original policies and objectives of the Louth County Development Plan continue to apply, it is considered both appropriate and pertinent that a masterplan be agreed in writing with the Planning Authority to ensure the co-ordinated, integrated and sustainable development of this substantial

site, which is primarily to include for the provision of a motorway services area and ancillary facilities. Given the planning history on the site and the piecemeal manner in which development previously occurred, the requirement for the masterplan is considered both desirable and necessary to ensure that future development is in accordance with the proper planning and sustainable development of the area.

- The requirement of the masterplan in this instance is to supplement and not replace the Louth County Development Plan. Herein, under Section 4.13 recognition is afforded to masterplans as a valuable tool in ensuring sustainable development of large areas. This is particularly the case in this instance given the extent of the site and the significance of the development permitted thereon which includes for a motorway services area and ancillary facilities to serve a broad hinterland at the interface of two economies in addition to the range of additional uses permitted at this location. To permit development in the absence of an agreed masterplan would be considered imprudent and not in accordance with the Louth County Development Plan which promotes the preparation of a masterplan by the applicant in consultation with the Planning Authority
- The Guidelines advise that a proliferation of motorway services areas should be avoided. The Draft Variation No. 1 is concerned with accommodating primarily the first and only off line motorway service area in the County. It is worth noting that the Department of Housing Planning and Local Government has no objection to the provision of the Motorway Services Area at this location.

Recommendation

No change recommended

Submission Ref. No. LH-VAR 04

Environmental Protection Agency

Summary of Main Issues Raised

- Provides an overview of the role and function of the EPA, references incorporation of the EPA Guidance document and available guidance and resources.
- Ensure variation is in accordance with proper planning & sustainable development & that critical infrastructure is in place/put in place to service any development proposed
- LCC must align with national commitments on climate change mitigation and adaptation & incorporate recommendations of sectoral/regional/local climate adaptation plan.
- Consider recommendations of the State of the Environment Report [Irelands Environment-An Assessment 2016](#)
- Screen future amendments for potential for likely significant effects.

Chief Executive's Response

All issues raised by the EPA are noted.

Recommendation

No change recommended

Submission Ref. No. LH-VAR 01

Irish Water

Summary of Main Issues Raised

No objection to the draft variation No. 1.

Chief Executive's Response

Noted

Recommendation

No change recommended

Submission Ref. No. LH-VAR 03

Ger Fahy Planning (on behalf of Mr Burns)

Summary of Main Issues Raised

The submission is divided in two sections: the Planning Submission and the Legal Opinion

Planning Submission:

Inclusion of wording "small scale" in relation to uses proposed

- Conflict between use of wording "small scale" alongside the proposed uses on the lands
- History of refusal on site by ABP due to lack of zoning
- EM in the adoption of the 2015 Plan supported an economic/Business zone which was supported by Minister on foot of review by Senior Inspector from Department
- Extant wording prevents an application being lodged as ABP would refuse it. States the Executive of LCC has failed to cooperate with the applicant since adopting the LCDP.
- The proposed variation will be rendered unworkable and any application will be refused by ABP due to use of wording "small scale".

Requirement for Masterplan to be agreed with Planning Authority & associated time delay

- Reaching agreement with a masterplan is unlikely due to ineptitude of PA to date.

- No Masterplan was required by ABP or Minister. There is an objection to the need for the masterplan to be agreed with the PA, but not with the masterplan itself.
- Applicant proposes new wording as detailed in (Appendix 2).

Legal opinion:

Inclusion of wording “small scale” in relation to uses proposed:

- History of zoning provided & reference to meeting between applicant and executive of LCC regarding a variation of the LCDP.
- Legal governance regarding variation provided. Requirement for “stated reasons” where the PA is making a variation. Details regarding Notice are provided but states that regarding proposed Variation No. 1 that a notice under S13(2) has not been made available and hence the reasons for the proposed variation are therefore unknown.
- “Small scale” wording is a contradiction in context of categories of large development listed in proposed variation. Legal case quoted finding that planning documents are not legal documents & wording must be construed in its ordinary meaning by the lay person
- “Small scale” wording means it wouldn’t be possible to either successfully make or succeed in a planning application which is contrary to intention of the EM when they made the development plan and as per the Ministers letter of 2016.
- Representations to LCC for variation were to rectify conflict between Map 3.1 & RD39 & end confusion. Suggests wording proposed by G Fahy on 17/1/2019 (See Appendix 3)
- EM may remove wording “small scale” through modification in making the variation

Requirement for Masterplan to be agreed with Planning Authority

- There is one owner/developer of the lands & masterplan currently not part of RD39
- PA is restricted to considering proper planning & sustainable development of the area the principle of which would preclude uncoordinated, un-integrated unsustainable development & therefore no need for costly masterplan.

Chief Executive’s Response

This response deals with both elements of this submission in totality.

Small Scale:

- The use of the wording “small scale” is not a new introduction into Policy RD39 but rather the retention of existing wording.
- The reference to the history of refusal on the site by An Bord Pleanala is not in context as this refusal relates to the previous Louth County Development Plan 2009-2015 and

associated Policy RD 40 wherein the lands were identified as Development Zone 5 (where there was no specific provision for the type of development proposed in the Draft Variation). The current Draft Variation No. 1 specifically identifies the lands as suitable for the provision of a variety of uses (commercial and industrial) including the provision of a Motorway Services Area. Therefore a proposed development meeting the criteria as specified in the Policy would come within the scope of the type of development that would be facilitated within this zoning objective and would be taken into consideration by ABP on any future appeal.

- On the adoption of the Louth County Development Plan 2015-2021, by the Elected Members (See Appendix 4) the current wording as is provided for in Policy RD 39 restricted development at this location to small scale commercial development linked to leisure, recreation and tourism....". Any reference to the Draft Ministerial Direction is superfluous as the Direction did NOT issue.
- It should be noted that the Executive of Louth County Council has fully engaged with and appropriately advised the applicant at all stages including an FOI request.
- Neither the applicant nor the agent can pre-judge the outcome of any appeal process should such a process be engaged. ABP is an independent body, which assesses planning applications having regard to a range of considerations including inter alia the relevant and applicable development plan, its policies and objectives, the regional authority, and the proper planning and sustainable development of the area.
- The use of the wording "small scale" will not negatively impact on future development as any future development on the site will be guided by the policies and objectives of the Development plan and the proper planning and sustainable development of the area which includes consideration of *inter alia*: site size, plot ratio, site coverage, traffic generation, environmental considerations in an unserved rural area etc.

Masterplan to be agreed with Planning Authority:

- The Executive of Louth County Council works successfully with both applicant and agents in promoting the proper planning and sustainable development of the area and in applying the policies and objectives of the Development Plan. The insinuation of ineptitude on behalf of the Executive in relation to any future masterplan is wholeheartedly refuted.
- Having regard to the above response and where the original policies and objectives of the Louth County Development Plan continue to apply, it is considered both appropriate and pertinent that a masterplan be agreed in writing with the Planning Authority to ensure the co-ordinated, integrated and sustainable development of this substantial site, which is primarily to include for the provision of a motorway services area and ancillary facilities. Given the planning history on the site and the piecemeal manner in

which development previously occurred, the requirement for the masterplan is considered both desirable and necessary to ensure that future development is in accordance with the proper planning and sustainable development of the area.

- The requirement of the masterplan in this instance is to supplement and not replace the Louth County Development Plan. Herein, under Section 4.13 recognition is afforded to masterplans as a valuable tool in ensuring sustainable development of large areas. This is particularly the case in this instance given the extent of the site and the significance of the development permitted thereon which includes for a motorway services area and ancillary facilities to serve a broad hinterland at the interface of two economies in addition to the range of additional uses permitted at this location. To permit development in the absence of an agreed masterplan would be considered imprudent and not in accordance with the Louth County Development Plan which promotes the preparation of a masterplan by the applicant in consultation with the Planning Authority
- It is worthy of note that the submission of a masterplan for the agreement of the Planning Authority prior to submission of a single or multiple applications will offer a degree of certainty and comfort to the applicant as the masterplan will have addressed the key design assessment criteria as outlined in Section 4.13. Thereby the principles of the overall development will have already been established and agreed.
- Considering the scale of the development proposed at this location and in the interest of the proper planning and sustainable development of the area it is not considered either financially disproportionate or onerous to require the provision of a masterplan.
- It is imperative that the masterplan be for the written agreement of the Planning Authority as otherwise its value and application would be diminished and the very basis of its principle lost.
- There is no reference by ABP or the Minister to the need for the provision a masterplan principally for two reasons. In the first instance (ABP) permission was refused for the development and therefore there would be no requirement for a masterplan and in the second instance relating to the Minister, there was NO Ministerial Direction issued.

Recommendation

No Change recommended

Appendix One

TII suggested wording to Policy RD39 to read as follows:

Policy RD 39:

...**To ensure co-ordinated and integrated development, this area will be subject to the preparation of a Masterplan** prepared in collaboration with the ~~for the written agreement of the~~ Planning Authority subject to the development of an appropriate evidence base including addressing any implications for the strategic national road network in the area. The Planning Authority will undertake appropriate consultation with stakeholders and consultees and will incorporate the proposed masterplan into the statutory framework for the area prior to any decision on any planning application in the area concerned. ~~linked to leisure, recreation and tourism, agricultural diversification and extensions to authorised developments).~~

For Information

Proposed text additions are shown in green font. Deleted text is shown in red font with a strikethrough

Appendix Two

Suggested wording of RD 39 as proposed by Ger Fahy (See Submission No. 3)

Policy RD 39:

To consider developments falling within the following categories; limited one-off housing, agricultural developments, extensions to existing authorised uses and farms, appropriate farm diversification projects; developments to be used for leisure, recreation and tourism; holiday accommodation including cottages and lodges where these are part of an existing or proposed integrated tourism complex; hotels/ guest houses / B & B's (only where the proposal involves the re-use or diversification of an existing building); extensions to existing authorised commercial and industrial developments; renewable energy schemes, public utility infrastructure, certain resource based and location specific developments of significant regional or national importance, critical infrastructure projects, nursing homes/analogous services, ** and Economic Business Zone at Carrickcarnan*** **including off line Motorway Services Area, truck stop, service, repair and parking area and associated ancillary infrastructure to include motel/hotel, ancillary retail shop and dining facility, light industrial, storage and logistics facilities, retail warehousing (bulky goods only) and motor sales. To ensure co-ordinated and integrated development, this area will be subject to the preparation of a Masterplan.***

** Refer to Section 2.19.1 for Qualifying Criteria*

*** In the location identified by red dot on Map 3.1 'Development Zones'*

**** In the location identified by light blue dot on Map 3.1 'Development Zones'*

This does not interfere with Policy EDE 13 having regard to the fact that the zone is a sufficient distance from the interchange.

Appendix Three

Suggested wording of RD 39 as proposed by Mary Moran-Long (See Submission No. 3)

Policy RD 39

To consider developments falling within the following categories; limited one-off housing, agricultural developments, extensions to existing authorised uses and farms, appropriate farm diversification projects; developments to be used for leisure, recreation and tourism; holiday accommodation including cottages and lodges where these are part of an existing or proposed integrated tourism complex; hotels/ guest houses / B & B's (only where the proposal involves the re-use or diversification of an existing building); extensions to existing authorised commercial and industrial developments; renewable energy schemes, public utility infrastructure, certain resource based and location specific developments of significant regional or national importance, critical infrastructure projects, nursing homes/analogous services, and Economic Business Zone at Carrickcarnan to facilitate the provision of an off line motorway services area, truck stop, service, repair and parking area and associated ancillary infrastructure to include motel/hotel, related retail shops and dining facility. Upgrading Centrepoint Business Park and expanding light industrial and storage and logistics facilities and to expand the bulky retail and services which are currently operating at centre point business park in accordance with the Economic Business zoning and :*

*'*** In the location identified by the dot on Map 3.1 entitled Development Zones'
Policy EDE 13 is not applicable within this Economic and Business Zone' (emphasis added)*

Appendix Four

Amendment to Draft LCDP 2015-2021 (28th September 2015)

At a Special Meeting of the Council on the 28th September 2015, Minute 230/15 records that Cllr Mark Dearey proposed and Cllr Marianne Butler seconded that the CE's recommendation in relation to Submission No. 1 be accepted. However an amendment to this was subsequently proposed by Cllr J. Loughran and seconded by Cllr P. Savage which stated the following:

“That the area as set out on Map 1.2 circulated by Cllr Loughran be included as an Economic and Business Zone and defined as including the following wording as submitted by Cllr Loughran “small scale commercial development linked to leisure, recreation and tourism, agricultural diversification and extensions to authorised developments”.

The amendment was carried. Hence this wording as passed by the Elected Members on the 28th September 2015 was incorporated into the LCDP through inclusion into Policy RD 39 and Map 3.1.