

1.0 INTRODUCTION

This submission seeks that proposed material amendment DLR3 – Lands south of the Motte, Dunleer to rezone these lands from Residential A2 – Phase 1 to H1 Open Space is not adopted and that the lands retain their A2 Residential zoning in the adopted Plan.

As required by Louth County Council to comply with the provisions of the Data Protection Act, the name and address of the person making the submission is provided on a separate page.

2.0 SECTION 12(11) OF THE PLANNING AND DEVELOPMENT ACT 2000 (AS AMENDED)

It is submitted that this proposed material alteration cannot reasonably, logically and/or rationally be considered as being in compliance with Section 12(11) of the Planning and Development Act 2000 as amended which restricts members to considering the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area and any relevant policies for the time being of the Government or any Minister of the Government.

The above is compounded when considered in the context of proposed material alteration DLR2 for the addition of a site east of R132 and north of Mountain View Road (3HA) from RPZ2 to New Residential Phase 1. My Client has made a separate submission with regard to DLR2. Bellscape Limited has made a separate submission with respect to proposed material alteration DLR2.

Our Client wishes to express his grave concern that the availability of crucial information has been delayed to allow this submission to be made based on all relevant information, and especially with respect to Section 12(11) of the Act. The submission period for the material alterations is from 29th June 2021 to 4pm on Wednesday the 28th July. However, the minutes of the Council meetings where this proposed material alteration was discussed and voted on were only made available on the 20th July. The implications of that is that the period under which submissions can be made, with full and necessary information available, is reduced to a maximum period of 9 days (20th July to 28th July).

3.0 REPORT OF THE CHIEF EXECUTIVE OF THE COUNCIL ON LAND ZONING AT DUNLEER

With regard to the DLR3 lands, in response to a submission seeking the rezoning of the lands from Residential to Open Space the Report of the CE notes that as no map accompanied the submission the CE assumes the location of the lands and concludes – *“The Dunleer LAP specifically identifies that the zoned new residential lands which are the subject of this submission through their development”*.

The CE Report recommends that the DLR3 lands remain zoned for residential development and states –

“Inclusion of the subject lands for residential purposes within the development boundary of Dunleer will contribute to sequential, sustainable and compact growth and transition to a low carbon, climate resilient society. Development of these lands in accordance with the policies of both the Dunleer LAP and the Draft Plan will protect the built and natural heritage of the site in a sensitive manner. It is therefore recommended that no change is made and these lands remain within the development boundary of Dunleer”.

Regarding DLR2 it is noted that this was submission LCDPDR058 in the Report of the Chief Executive (CE) on the Draft Plan. The Report of the CE on these lands not only notes that no map was submitted with that submission but that the CE “assumed” it was at a particular location. The CE recommends no change to the zoning.

With regard to the submission made at draft Plan stage for the DLR2 lands the CE states there is sufficient land available for residential development in Dunleer and that – *“In conclusion, the quantum of residential land identified for development has to be aligned with the housing demand for each settlement as set out in the Core Strategy. The identification of any additional lands would result in the Plan being inconsistent with the Core Strategy and national and regional policy. It is therefore recommended that no change is made and these lands remain outside the development boundary of Dunleer”.*

4.0 PLANNING HISTORY ON DLR3 LANDS

The landowner has made three planning applications on these lands and in all cases Louth County Council has issued a notification of decision to grant planning permission (PA Refs. 18/ 360 – ABP Ref. 302779-18; 19/212 ABP 305231-19; 20/707 ABP 310345/21). Applications 18/360 and 19/212 were appealed and whilst refused by An Bord Pleanála the Bord decided that the principle of residential development was acceptable on the site with the refusals restricted to design and layout matters. In response to the refusal my client lodged application 20/707 and this application for which a notification of decision to grant planning permission was issued by Louth County Council is now also subject to appeal. According to the An Bord Pleanála website the case is due to be decided by the 29th September 2021. This will be before the new Louth County Plan comes into force, which could lead to the bizarre situation where planning permission for residential development is granted on land now zoned for open space.

5.0 THE MATERIAL ALTERATIONS IN DUNLEER

The updated IALUE for Dunleer makes no reference to the site proposed under DLR2 of the material alterations. The updated IALUE with respect to Dunleer states that an additional 2 sites were examined. These are identified as sites 4 and 5 in the updated IALUE. It states – *“This document should be read alongside Appendix 2 of Volume 3 of the Draft County Development Plan. The sequencing of the numbering of the sites continues on from the numbering of the final site examined in each settlement in Appendix 2”*.

With a score of 7 Site DLR3 ranked by far the best of the three sites assessed in Dunleer. The material alterations updated IALUE states two additional sites were assessed, both west of the R132 to the north of the town. These are identified as sites 4 and 5. Both these sites scored worse than the DLR3 site. It is extremely disconcerting that proposed material alteration site DLR2 was not assessed under the IALUE at any time in the plan-making process, yet the elected members propose to dezone site DLR3 from residential to open space and add site DLR2, a site that was not even assessed as part of either the original IALUE or the updated IALUE.

6.0 COUNCIL DEVELOPMENT PLAN MEETING MINUTES

The material alterations as they affect both of the sites in question were discussed at the Special Planning Meeting to consider the Chief Executive’s Report on Submissions on the Draft County Development Plan on 24th May 2021. According to the ‘approved’ meeting minutes the proposal to dezone site DLR3 to open space arose out of a recommendation by a single Elected Member that the site be zoned for agricultural uses. The same Elected Member also proposed the addition of a site east of the R132 and north of Mountain View Road (3HA) from RP22 to New Residential Phase 1 DLR2. The minutes refer to *“some discussion”* taking place and note the proposal to zone the site for open space uses was made in a complete evidence-base vacuum with neither officers nor the elected members of the Council recording any planning justifications for recommendations made or proposals voted on.

Given the very strong planning policy based recommendation of “no change” to the DLR3 site by the Chief Executive, it is extremely troubling that no planning or evidence based justifications for the amendment have been recorded as part of that discussion. The Officers of the Planning Authority in attendance at the meeting would have been fully aware of the IALUE and updated IALUE, yet there is nothing in the minutes that provides any enlightenment as to why it appears the IALUE was ignored. The Minutes simply state,

“Senior Planner Joanna Kelly advised that lands could not be zoned as agricultural in the middle of a village and proposed that they be zoned as open space. On questioning no member raised an objection and this was agreed”.

Moreover, given that Louth County Council has issued notification of decision to grant planning permission on the site on three separate occasions, the most recent being 30th April 2021 under P.A. Ref. No. 20/707, it is irrational to now propose the same site be zoned open space uses without any apparent justification. It is submitted the proposed material alteration if adopted would be entirely inconsistent with current national objectives for compact growth as set out in the National Planning Framework (NPF) and the Regional Spatial and Economic Strategy, specifically NPO 3(c) and RPO 3.2 respectively.

We also note from the same Meeting Minutes that in almost all other cases up for discussion at the Special Meeting of May 24th, the Officers of the Planning Authority advised the Members of the reasons for the CE recommendation. There is no evidence in the Minutes that the Elected Members were advised of the reasons for the CE's recommendation in the case of site DLR3. As noted previously, the "no change" to the zoning as recommended by the CE was very much grounded in current planning policy matters. There is nothing in the minutes of the meeting to justify the zoning of the DLR3 lands as either 'agriculture' or for that matter 'open space'.

In the absence of this information, it is submitted that the Elected Members did not restrict themselves to considering the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area and any relevant policies for the time being of the Government or any Minister of the Government as they are obliged to do by law under Section 12(11) of the Act.

Logically and with the application of any rational assessment, if the elected members wish to add site DLR2 then either site 4 or 5 should have been removed. It is strongly contended that removing the site with the best IALUE assessment (DLR3) cannot be justified in terms of the proper planning and sustainable development of the area the statutory obligations of any local authority in the area and any relevant policies for the time being of the Government or any Minister of the Government.

Given the above, serious questions arise regarding the SEA for the proposed material alterations and how, the SEA as undertaken for the DLR2 lands.

We would also point out that Material Amendment DLR 3, if adopted, would be in direct conflict with Section 2.4.3 of the Dunleer Local Area Plan (LAP) 2017-2023 which includes a specific objective to develop the site (identified as the "Dublin Raod" site) in conjunction with a riverside park. In this regard Section 2.4.3 of the LAP states,

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“These lands, with a limited area of circa 0.9 ha are identified for high quality, low density residential development within the town boundary and are considered the most suitable to achieve the objective of low density development given the requirement for serviced sites as an alternative option to building houses in the countryside. They should be developed in accordance with the requirements of Section 6.4.3 (Riverside Amenity Park).”

It is further submitted given the above that the elected members have not adhered to the relevant policies for the time being of the Government or any Minister of the Government as they are required by law to do.

7.0 CONCLUSION

My Client seeks that proposed material alteration DLR3 is not adopted and that the adopted zoning for DLR3 is Residential Phase 1 as per the draft Plan and the recommendations of the Chief Executive.

In light of the above, my Client wishes to state he reserves all rights with respect to challenging the process and procedures in this case.

Please also be advised that this submission is being forwarded to the Office of the Planning Regulator.