

Monthly Meeting of Dún Laoghaire Rathdown County Council

13 November 2023

Extension of Duration of the Stillorgan Local Area Plan 2018

Chief Executive's Report submitted in accordance with Section 19 of the Planning and Development Act 2000 (as amended), to extend the life of the Stillorgan Local Area Plan 2018.

This report contains the Chief Executive's opinion and advice to the Elected Members on the proposal to invoke their powers, under Section 19 of the Planning and Development Act 2000 (as amended) and provides for the extension of the valid life of a Local Area Plan, in this case the extension of the valid life of the Stillorgan Local Area Plan 2018 for a further period, being not greater than 5 years from 13th November 2023 to 13th November 2028 (noting that this will extend to 28th December 2028 when the 45 days over Christmas are taken into account (9 days per annum x 5 years)).

In accordance with Section 19(1)(e)(ii) of the Planning and Development Act 2000 (as amended), this report comprises the Chief Executive's:

- a) Opinion that the LAP is consistent with the objectives and core strategy of the Dun Laoghaire Rathdown County Development Plan 2022 - 2028.
- b) Opinion that the objectives of the LAP have not been substantially secured, and
- c) Confirmation that the sending and publishing of the notices may be deferred and the period for which they may be deferred.

The format of this report is as follows;

1. Legislation
2. The Stillorgan Local Area Plan 2018
3. Chief Executive's Opinion
4. Concluding opinion (including recommendation and resolution)

1. Legislation

Section 19 of the Planning and Development Act 2000 (as amended) provides for the extension of the valid lifespan of a Local Area Plan, from a maximum of six years to an effective maximum of ten years in total. Section 19(1)(d), (e) and (f) of the Planning and Development Act 2000 (as amended) states that:

(d) Subject to paragraph (e), not more than 5 years after the making of the previous local area plan, a planning authority may, as they consider appropriate, by resolution defer the sending of a notice under section 20(3)(a)(i) and publishing a notice under section 20(3)(a)(ii) for a further period not exceeding 5 years.

(e) No resolution shall be passed by the planning authority until such time as the members of the authority have:

(i) notified the chief executive of the decision of the authority to defer the sending and publishing of the notices, giving reasons therefor, and

(ii) sought and obtained from the chief executive—

(I) an opinion that the local area plan remains consistent with the objectives and core strategy of the relevant development plan,

(II) an opinion that the objectives of the local area plan have not been substantially secured, and

(III) confirmation that the sending and publishing of the notices may be deferred and the period for which they may be deferred.

(f) Notification of a resolution under paragraph (d) shall be published by the planning authority in a newspaper circulating in the area of the local area plan not later than 2 weeks after the resolution is passed and notice of the resolution shall be made available for inspection by members of the public during office hours of the planning authority and made available in electronic form including by placing the notice on the authority's website.

The Stillorgan Local Area Plan 2018 was adopted by DLR County Council at a Council Meeting on the 10th September 2018 and is valid for a period of six years. The provisions of Section 19 of the Planning and Development Act 2000 (as amended) mean that if the Council wishes to ensure that the lifespan of the Plan remains statutorily valid for ten years, a Resolution must be made not later than 5 years after the making of the Plan.

It is noted that the Government made a number of Orders under section 251A(4) of the Planning and Development Act 2000 (as amended), extending the duration of all relevant periods and timelines specified in planning legislation, as a result of the Covid-19 emergency. The Government Orders extending the duration of all relevant periods and timelines specified in planning legislation are applicable in calculation of the appropriate period within which the Elected Members may invoke their powers under Section 19 of the Planning and Development Act 2000 (as amended) and provide for the extension of the valid life of the Stillorgan LAP. This combined with the dead days of Christmas provided for in the planning Acts extends the five years to 19th December 2023.

2. The Stillorgan Local Area Plan 2018

The 2018 Stillorgan Local Area Plan superseded the 2007 LAP and was itself broadly consistent with the objectives of the 2007 LAP. Being adopted around the time of the downturn in the national economy and the property market crash, the objectives of the 2007 LAP went substantially unrealised. As such, the 2018 LAP reincorporated many of the same objectives, along with other updates to take account of changes to the County Development Plan and the broader national planning legislative and regulatory framework e.g. the introduction of the Core Strategy. This also included environmental assessments in the form of SEA and AA screening, and the preparation of a Strategic Flood Risk Assessment (SFRA). As such, many of the objectives of the 2018 LAP, as summarised herein, are long standing.

The LAP seeks to enhance Stillorgan's sense of community, vitality, and viability as a District Centre. It focuses on improving the quality of public spaces for pedestrians, cyclists, and public transport, while moderating the impact of private cars. It is envisaged that the high-quality regeneration of key sites, along with an improved public realm, will create a balanced urban environment. New residential development will diversify the housing mix, while protecting and integrating existing residential areas on the outskirts of the District Centre.

Page 20 of the LAP sets out several key objectives for the area as follows:

- To seek a comprehensive improvement in the public realm and pedestrian/cycle facilities supporting an Age Friendly Village environment.
- To reinforce and enhance the commercial and retail vitality of Stillorgan, reflecting its position in the settlement hierarchy as a 'District Centre'.
- To improve and enhance community facilities in the area.
- To improve accessibility to Stillorgan in particular by promoting the use of public transport, walking and cycling.
- To encourage high quality redevelopment in the area through the Site Framework Strategies that have been set out for key sites within the LAP area, as follows:
 - Stillorgan Shopping Centre
 - LeisurePlex, Library and Environs
 - Blakes/Esmonde Motors
 - Overflow Car Park
 - Mill House Site
 - Stillorgan Mall

A pre-draft public consultation process was conducted, and public submissions raised, *inter alia*, issues related to the public realm, pedestrian and cyclist facilities, social/community facilities, concerns relating to site redevelopment, as well as age related issues. These submissions were considered in the drafting of the LAP.

The Draft Local Area Plan was placed on display for a period of 6 weeks from the 12th January 2018 to the 23rd February 2018 during which submissions and observations were invited from the public and interested parties. Following this period of public consultation, a report summarising the issues raised and the Chief Executive's recommendation was prepared.

The Elected Members had 6 weeks to consider the report and opted to amend the Draft Local Area Plan. These 'Material Alterations to the Draft Local Area Plan' went on public display for a further period of 4 weeks.

The Local Area Plan was subsequently adopted on 10th September 2018.

2.1 Environmental Assessments

In accordance with the relevant planning and environmental legislation the Stillorgan LAP 2018 process involved screening for Strategic Environmental Assessment, Appropriate Assessment as well as undertaking a Strategic Flood Risk Assessment processes.

2.1.1 Strategic Environmental Assessment

The Stillorgan LAP was screened for Strategic Environmental Assessment (SEA) and it was concluded that the LAP is not likely to have significant effects on the environment. It was therefore considered that a full Strategic Environmental Assessment was not required.

It was further considered that any localised environmental effects as a result of any proposed development within the LAP area could be dealt with through the assessment of individual planning applications.

2.1.2 Appropriate Assessment Screening

The Appropriate Assessment screening process considered potential effects which may arise during all phases of the implementation of the Stillorgan LAP.

Through an assessment of the pathways for effects and an evaluation of the LAP characteristics, taking account of the processes involved and the distance of separation between European Sites in the wider area, it was determined that there are no likely significant adverse effects on the qualifying interests and the conservation objectives of any designated Natura 2000 sites.

It was therefore concluded that it is unlikely that the LAP will give rise to any significant adverse effects on designated Natura 2000 sites, alone or in combination with other plans or projects. Consequently, a Stage 2 – Natura Impact Statement was not deemed to be required for the LAP.

2.1.3 Strategic Flood Risk Assessment

A Flood Risk Assessment (FRA) for the Stillorgan LAP was prepared (Appendix IV of the LAP) and was informed having regard to ‘The Planning System and Flood Risk Management Guidelines for Planning Authorities’, 2009 (DEHLG & OPW) and the Strategic Flood Risk Assessment (SFRA) undertaken at County level for Dún Laoghaire-Rathdown undertaken as part of County Development Plan 2016-2022 process.

The Stillorgan LAP incorporates flood risk management objectives and emphasises the inclusion of Sustainable Drainage Systems (SUDS) measures in future development proposals.

3. Chief Executive’s Opinion

3.1 Consistency with the DLR County Development Plan 2022-2028

The Stillorgan LAP 2018 was adopted in September 2018 under the provisions of the DLR County Development Plan 2016-2022. It is the opinion of the Chief Executive that the Stillorgan LAP remains broadly consistent with the objectives and Core Strategy of the recently adopted (April 2022) DLR County Development Plan 2022-2028.

Core Strategy

Regard is had to the Section 28 “Local Area Plans Guidelines for Planning Authorities” 2013 which specifically reference the fact that a LAP cannot be prolonged in lifespan if it is inconsistent with the core strategy.

The Core Strategy Map of the DLR County Development Plan 2016-2022 identified Stillorgan as a ‘Secondary Centre’ subservient only to the Major Centres of Dundrum and Dún Laoghaire on the settlement hierarchy of the County. The current 2022-2028 Development Plan identifies Stillorgan as a ‘District Centre’ which occupies the equivalent position in the current CDP.

Figure 1 below, which is an extract from the 2022-2028 development plan (page 45) outlines the LAP program for the County. It is noted that the table states that the Stillorgan LAP is broadly consistent with the core strategy.

Table 2.16: Local Area Plan-Making Programme

Local Area Plan	Plan Period	Adopted	Extended to	Compliance with Core Strategy
Ballyogan and Environs LAP 2019-2025	6 Years	July 2019		Broadly consistent with the Core Strategy.
Stillorgan LAP 2018-2024	6 Years	September 2018		Broadly consistent with the Core Strategy.
Woodbrook-Shanganagh LAP 2017-2023	6 Years	July 2017		Broadly consistent with the Core Strategy.
Blackrock LAP 2015-2021	10 Years	March 2015	March 2025	Broadly consistent with the Core Strategy.
Goatstown LAP 2012-2018	10 Years	April 2012	April 2022	Broadly consistent with the Core Strategy.
Kiltiernan-Glenamuck 2013-2018	10 Years	September 2013	September 2023	Broadly consistent with the Core Strategy. New Plan to be prepared.
Dundrum				Plan being prepared.
Dún Laoghaire and Environs				New Plan to be prepared.
Old Connaught				New Plan to be prepared.
Rathmichael				New Plan to be prepared.
Glencullen				New Plan to be prepared.
Sallynoggin				New Plan to be prepared.
Deansgrange				New Plan to be prepared.
Ballybrack/Loughlinstown				New Plan to be prepared.
Clonskeagh/UCD				New Plan to be prepared.

Figure 1: Extract from dlr CDP 2022-2028, Core Strategy (page 45)

The Demographic Profile section of the LAP (Section 2.3, page 13) notes that the Plan area contains a very limited quantum of residential development and thus provides an examination of the broader Stillorgan area that is served by the District Centre. This analysis indicated that the demographic profile trends toward the older population, with the proportion of retired families roughly twice the state average and with a significantly lower proportion of families with pre-school and school-going age children. The LAP also states that there is a requirement to consider the housing mix in the area and references the provision of apartments or smaller houses which would provide greater choice or opportunities for older people to downsize whilst staying in the area.

The development of the leisure plex site (232 no. build to rent apartments under construction) will greatly increase the population of the LAP area itself and diversify the housing mix in the broader area, however, a build to rent development of this type may not suit the needs of older people looking to downsize, who may be more interested in purchasing a property, or the needs of families. The mix requirements in the CDP 2022-2028 address the issue of housing mix, requiring a greater proportion of larger and family-oriented apartments (Table 12.1, page 237 of the 2022-2028 CDP) which would broaden the mix within apartment developments and taken in conjunction with policies around age friendly housing, would both be consistent with and further the objectives of the LAP. The redevelopment of the balance of the key development sites identified in the LAP in accordance with their site development frameworks and in keeping with the mix objectives of the current CDP, is considered to be consistent with the core strategy.

Zoning

Under the DLR County Development Plan 2022-2028, the zoning of land within the LAP boundary has remained broadly similar, with the exception of a small portion of land located at St. Laurence's (parish hall), which was rezoned from 'NC – Neighbourhood Centre' to SNI – Sustainable Neighbourhood Infrastructure. The balance of the lands in the LAP area, including for lands at the six key development sites, remains unchanged from the zoning that was in place at the time that the LAP was adopted in 2018.

Development Plan Objectives 2022-2028

The DLR County Development Plan 2022-2028 includes several objectives and Specific Local Objectives (SLOs) relating to the LAP lands. The relevant objectives of the DLR County Development Plan 2022-2028 pertaining to the LAP area include the following:

Type	Objective	Response
Overall Strategy	Encourage potential redevelopment as higher density, urban mixed-use centre in accordance with general provisions of the adopted Local Area Plan. Limited expansion of convenience and comparison retail floorspace.	Consistent with and supportive of the terms of the LAP.
Policy Objective	RET6–District Centres: It is a Policy Objective of the Council to maintain the District Centres at Blackrock, Stillorgan, Nutgrove and Cornelscourt, and to promote the mixed-use sustainable town centre which is currently under construction in Cherrywood in accordance with the approved SDZ Planning Scheme.	Consistent with and supportive of the terms of the LAP.
Specific Objective	To promote the future redevelopment of Stillorgan as a multi-faceted, mixed-use sustainable District Centre having regard to the broad objectives of the adopted Stillorgan Local Area Plan.	Consistent with and supportive of the terms of the LAP.
Specific Objective	To protect, and, where possible, enhance the residential amenity of established residential areas on the fringes of the District Centre.	Consistent – The LAP seeks to protect the residential amenity of established residential areas on the fringes of the District Centre and, where possible, enhanced. This objective was also contained in the 2016-2022 CDP and was incorporated into the LAP.
Specific Objective	Net retail sales area ¹ in Stillorgan District Centre zoned	See detailed response below.

	lands to be capped at 20,000 sq. m	
Specific Local Objective (map based)	SLO 10 – To retain, improve and encourage the provision of sustainable neighbourhood infrastructure facilities	Located at Stillorgan Library Site, which is consistent with the relevant site development framework (page 36 of the LAP).
Specific Local Objective (map based)	SLO 15 – To accord with the policies of the adopted Stillorgan Local Area Plan.	Consistent with and supportive of the terms of the LAP.
Specific Local Objective (map based)	SLO 21 – To support and facilitate the provision of a swimming pool, leisure facility and Library within the Stillorgan area.	This SLO was included in the 2016-2022 CDP as SLO 151 and is referenced in the LAP (page 11).

Retail Floorspace Cap

The text of the Stillorgan LAP makes several references to the cap of 25,000 sq.m that was contained in the 2016-2022 CDP, but which has now been revised down to 20,000 sq.m in the 2022-2028 CDP. The references range from the summary of the relevant sections of the 2016 CDP under Section 2.1.2 in the 'Plan Area Context' chapter, which describes the role of district centres more broadly, to more specific references under Section 4, which sets out the retail/commercial objectives for the LAP (see Table 1 in the appendix for a full list).

Firstly, it is noted that many of the references to the cap in the LAP simply serve to summarise the provisions of the 2016 CDP with regard to district centres and the statement therein that district centres will range in size from 10,000 to 25,000 (page 87). The fact that the LAP summarises and refers to a previous document does not in itself render the document inconsistent with a new document, noting that some level of variance will always arise in the planning context where an LAP is extended to span more than one iteration of a given document. This is considered normal and to be expected in most, if not all, cases given the relevant timelines.

Secondly, it should be acknowledged that the figure presented in both the Stillorgan LAP (on foot of the 2016-2022 CDP) and the figure presented in the 2022-2028 is a 'cap'(or a maximum) and not a target. That is to say, it is a level above which development should not exceed and once development remains below that level, whether by a large or a small amount, then the requirement is satisfied.

As such, it is not considered that the reduction of the cap in the 2022 CDP renders the LAP wholly inconsistent with the 2022 CDP, as retail floorspace will still need to remain below the 25,000 sq.m cap set out in the LAP, albeit at a lower level than stated. Had the cap been increased in the 2022-2028 CDP instead of being decreased, this may not have been the case, as the figure in the LAP would have been below that in the CDP and would therefore appear to allow a lesser quantum of development than the CDP (noting that the CDP would prevail in the event of an inconsistency). However, the lower figure in the CDP will maintain the net retail floorspace in the LAP area well below the cap/maximum stated in the LAP, which does not contradict its terms.

Building Height

The Building Height Strategy in the 2022-2028 CDP (Appendix 5) allows for the proposals which meet the performance based criteria set out therein to be permitted notwithstanding the provisions of any Local Area Plan. The building heights set out in the LAP are still achievable and the LAP can continue to serve as an indicator of appropriate building heights in the development management process.

3.2 The Objectives of the Local Area Plan have not been substantially secured

It is the opinion of the Chief Executive that the objectives of the Stillorgan LAP 2018 have not been substantially secured. Since the adoption of the LAP in 2018, there has been, and continues to be, significant ongoing public and private investment in the Plan area. Notwithstanding, a broad range of the objectives in the LAP have not yet been realised.

A key element of the plan is to encourage and facilitate the redevelopment of the 6 identified key development sites through the provision of a site development framework for each. The current situation as regards the 6 identified sites is as follows:

1. Stillorgan Shopping Centre – whilst the shopping centre has enjoyed a refresh in recent years, it has not been redeveloped in keeping with the framework set out in the LAP. As such, the LAP objectives for this site have not been substantially secured.
2. Leisureplex, Library and Environs – Permission was granted at the former leisureplex for a residential development under the SHD process for 232 build to rent apartments (ABP305176-19) as later amended by an LRD application (LRD23A/0165). At the time of writing construction activity is well advanced on this portion of the site. However, the balance of the site, including the dlr library site, still needs to be delivered in order to secure the objectives of the LAP.
3. Blakes/Esmonde Motors – this site is currently vacant having been cleared. Development is yet to commence, despite there being a significant planning history in place.
4. Overflow Car Park – the site remains an overflow car park with no planning activity since the LAP was adopted in 2018.
5. Mill House site – no progress has been made toward the redevelopment of this site, with no substantive planning permissions having been granted since the adoption of the LAP in 2018. The site remains predominantly a car park, with the temporary addition of a coffee kiosk.
6. Stillorgan Mall – no progress has been made toward the achievement of the LAP objectives for this site since the LAP was adopted in 2018. The only planning activity has been for changes to the existing building (demolition and extension – D21A/0740). The site remains dominated by surface car parking with a significant setback to the street.

3.3 Deferral of Notices

Given that the Stillorgan LAP 2018 is considered to be broadly consistent with the DLR County Development Plan 2022- 2028 and that the objectives of the LAP have not been substantially secured, it is appropriate that the sending and publishing of the notices specified under section 20(3)(a)(i) and (ii) of the Planning and Development Act 2000 (as amended) be deferred and that the period for which they be deferred should be 5 years, during which time the objectives identified in the LAP may be achieved either in whole or in part.

4. Concluding Opinion

The Stillorgan Local Area Plan as adopted in 2018 provides a robust framework and detailed objectives for the redevelopment of a number of key sites in Stillorgan, alongside objectives to continue to enhance the employment and amenity provision within the area.

Since the LAP was adopted development has commenced on one key site and some infrastructural elements under the Stillorgan Village Movement Framework have been delivered.

In summary, it is the opinion of the Chief Executive that:

- The Stillorgan LAP 2018 is broadly consistent with the objectives and Core Strategy of the DLR County Development Plan 2022-2028; and,
- The objectives of the Stillorgan LAP 2018 have not been substantially secured.

In these circumstances, and having regard also to progress made to date, in order to ensure that the remaining sites are delivered in keeping with the objectives of the LAP, it is appropriate that the life of the LAP be extended for a period of five years, during which time the objectives contained therein may be realised in whole or in part.

Recommendation

Notify the Chief Executive of the decision of the Planning Authority to defer the sending and publishing of the notices to make, amend or revoke the Stillorgan Local Area Plan 2018 – 2024 for the following reasons;

- The Stillorgan LAP 2018 is broadly consistent with the objectives and Core Strategy of the DLR County Development Plan 2022-2028; and,
- The objectives of the Stillorgan LAP 2018 have not been substantially secured.

Recommended Resolution

It is recommended that the following Resolution be passed:

That the Members having considered the Chief Executive's Report under Section 19(1)(e)(ii) and having addressed the provisions of Section 19(1)(e)(i), AGREE to the deferral of the required notice under Section 20(3)(a)(i) and 20 (3) (ii) for a period not exceeding five years and thereby approve the extension of the life of the Stillorgan Local Area Plan 2018, for a further period of 5 years from the 13th November 2023 to 13th November 2028.

Note.

For completeness, if the above resolution is agreed the Plan will be in place until the 28th December 2028. This takes into account a further 45 days (dead days of Christmas) as set out in the legislation (9 days x 5 years).

Appendix 1: References to 25,000 sq.m retail floorspace cap in the Stillorgan LAP 2018

LAP Section	Reference
Section 2.1.2 County Development Plan	District Centres are defined in the County Development Plan as places where a “good range of comparison shopping would be expected (though no large department store) some leisure activities and a range of cafés and restaurants and other mixed uses. They should contain at least one supermarket and ancillary foodstores alongside financial and other retail services. District Centres should generally range in size from 10-25,000 sq.m. net retail sales area catering for a population of between 10,000-40,000” (P.87).
2.1.2 County Development Plan	Net retail sales area in Stillorgan District Centre zoned lands to be capped at 25,000 sq.m. (P.92).
4.3 Retail/Commercial (Introduction)	The c.150 retail units (including retail services, restaurants etc) in Stillorgan comprise a cumulative 20,000sq.m of gross floor area. A subset of this gross floor area – the net retail sales area– is used for the calculation of the District Centre cap of 25,000 sq.m.in Stillorgan. The variation between gross floor area and net retail sales area can vary quite considerably from one retail unit to another, but a general rule of thumb is that the net retail sales area comprises approximately 2/3 of the gross floor area.
4.3.2.3 County Development Plan Retail Policy	<p>The County Development Plan 2016- 2022 sets out a Retail Hierarchy for the County. At the top level of the Hierarchy are the two Major Town Centres of Dún Laoghaire and Dundrum. The second tier in the hierarchy includes six District Centres of which Stillorgan is one. The strategy for Stillorgan, as stated in the Retail Hierarchy is to ‘Encourage potential redevelopment as higher density, urban mixed-use centre in accordance with general provisions of the adopted Local Area Plan. Limited expansion of convenience and comparison retail floorspace.’ The net retail sales area for the entire Stillorgan District Centre is capped by the County Development Plan at 25,000 square metres.</p> <p>This net retail sales area cap includes ‘retail services’ which are defined in the Retail Strategy for the GDA 2008-2016 as non-retail uses such as beauticians/banks/coffee shops occupying retail units).</p> <p>Applications for new retail development, or for amendments to existing retail development, in the Stillorgan District Centre will require to clearly identify and quantify the net retail sales area on any plans submitted with the planning application. This will help facilitate continued monitoring of the cumulative retail ‘cap’.</p>
Table 4.5.1.2 Stillorgan Shopping Centre – Site Development Framework	Constraints – Any redevelopment proposal must have regard to the overall 25,000sq.m net retail sales area cap for Stillorgan and the necessity to accommodate additional retail/retail services development, not just at the Shopping Centre, but also on the other District Centre lands.
Retail/Commercial Objectives (page 27)	R2 – It is an objective of the Council to limit the net retail sales area within Stillorgan District Centre to 25,000 square metres in accordance with the Dún Laoghaire-Rathdown County Development Plan.

Key Development Sites Objectives (page 28)	KDS7 – It is an objective of the Council that, when considering the cumulative redevelopment potential of District Centre lands, that net retail sales area in Stillorgan District Centre zoned lands continue to be capped at 25,000 sq.m.
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Owner: - Aidan Blighe, Director of Planning and Economic Development