



Oifig an  
Rialaitheora Pleanála  
Office of the  
Planning Regulator

30 September 2021

Mr. Peter Burke TD

Minister for Local Government and Planning

Department of Housing, Local Government and Heritage

Custom House

Dublin 1

D01 W6X0

**BY HAND AND BY EMAIL**

**Re: Notice Pursuant to section 31AM(8) of the Planning and Development Act  
2000 (as amended) – Kilkenny County Development Plan 2021-2027**

A chara,

I am writing to you in relation to the recent adoption by the elected members of the Kilkenny County Development Plan 2021-2027 (the 'Development Plan').

In particular, I am writing to you in the context of the statutory duty of the Office of the Planning Regulator ('the Office') pursuant to section 31AM(8) of the Planning and Development Act 2000 (as amended) (the 'Act') to issue a Notice to you on the basis that, having considered the Development Plan, the Office is of the opinion that:

- a) the Development Plan has not been made in a manner consistent with recommendations of the Office, which required specific changes to the Development Plan to ensure consistency with the Specific Planning Policy Requirement contained in the *Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change (July 2017)* published by the Minister under Section 28 of the Act; specifically the Development Plan does not indicate how the implementation of the Development Plan over its effective period will contribute to realising overall national targets on renewable energy and climate change mitigation and in particular wind energy production and the potential wind energy resource (in megawatts);

- b) the planning authority is required to comply with the above Specific Planning Policy Requirement in the performance of its duties under Section 28(1C) of the Act;
- c) the decision of Kilkenny County Council to make the Development Plan results in the making of a Development Plan in a manner that fails to set out an overall strategy for the proper planning and sustainable development of the area concerned, which is a breach of the requirements of the Act; and
- d) as a consequence, the use by you of your function to issue a direction under section 31 of the Act would be merited.

The reasons for the Opinion of the Office are set out in further detail in section 2 of this Notice letter. This letter is a Notice to you pursuant to section 31AM(8) of the Act.

## **1. Background**

The Draft Kilkenny County Development Plan 2021 – 2027 (the draft Plan) was on public display from 22<sup>nd</sup> December 2020 until 12<sup>th</sup> March 2020.

The Office of the Planning Regulator (the Office) made a submission to the draft Plan containing 8 no. recommendations and 8 no. observations. In relation to renewable energy the Office welcomed and commended Kilkenny County Council's approach in preparing the 'draft wind energy strategy' for the draft Plan having regard to the Government's commitment in the Climate Action Plan, National Policy Objective 55, and section 28 Wind Energy Development Guidelines (2006) and the *Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change (2017)*.

In particular the Office welcomed policy objective 11C in the draft Plan which set out a target to meet 100% of electricity needs for County Kilkenny from renewable sources by 2030. The Office also commended the draft Plan's helpful data contained in Table 11.2 in terms of the number of wind farm turbines and MW output approved relative to the required number of wind farm turbines and MW output to achieve the objective to generate 100% of its electricity needs from renewable sources by 2030. In support of this, the Wind Energy Development Strategy identified a total land area of over 50,000 hectares as 'acceptable in principle' for wind energy development.

The Office made no recommendations or observations to the draft Plan in relation to renewable energy as the draft Plan had identified targets and provided a reasonable basis for the delivery on same in terms of the identification of sufficient land area capable of providing the additional output needed to meet the target set. The elected members, having considered the draft Plan and the Chief Executive's (CE's) Report on submissions received, resolved to amend the Draft Kilkenny Development Plan 2021 – 2027 on the 29<sup>th</sup> June 2021. The material alterations to the draft Plan were on public display from Wednesday 30<sup>th</sup> of June to Wednesday the 28<sup>th</sup> of July 2021.

The material alterations included a number of changes to renewable energy policy including:

- Omission of the target to meet 100% of electricity needs for Kilkenny from renewable sources including wind energy, solar energy and bio energy set out in section 11.4 and Objective 11C, and the identification of 201 MW renewable energy to meet this target in section 11.5.1.
- A significant reduction to the total designated areas 'acceptable in principle' in the 'wind energy strategy' for wind energy development from approximately 50,000 ha to 35,000 ha.

The Office made a submission to the material alterations to the draft Plan containing 5 no. recommendations. The Office's submission letter stated:

*'While some outstanding or related issues arising from the planning authority's response to the Office's recommendations or observations on the draft Plan are raised in the recommendations and observations below, the main area of significant concern relates to amendments affecting renewable energy policy and climate action. You will be aware of the importance of action on climate change, the commitment across all of government policy to address this issue, and the role of renewable energy as a means of reducing greenhouse gas emissions. Indeed, chapter 11 of your draft Plan outlines your authority's acknowledgment of, and commitment to, addressing this issue. These policy objectives are however, significantly undermined by the proposed amendments to the draft Plan which not only remove the objective to deliver 100% of electricity demand for the county through renewables by 2030, but*

*also significantly restrict the ability of County Kilkenny to contribute to realising the national target for 70% of electricity generation from renewable sources by 2030 in the Climate Action Plan (2019).*

Having considered the Report of the Chief Executive on submissions to the Draft Kilkenny City and County Development Plan 2021 – 2027, the Office made a number of specific recommendations (under MA Recommendation 3) in relation to renewable energy. The Office was effectively seeking to revert to the draft Plan however the Office accepted the following;

- a. the change to the Lingaun Valley area and the Bruckana wind farm, where the Office accepted the rationale for the proposed material alteration; and
- b. the deletion of ‘*acceptable in principle*’ in section 11.5.2 of the draft Plan which would have applied limitations to small-scale wind energy developments in areas that were otherwise identified as ‘*acceptable in principle*’, and for which there was no national policy basis.

The CE report on Submissions to the Proposed Material Alterations to the Draft Kilkenny City & County Development Plan 2021-2027, recommended implementing MA Recommendation 3.

The elected members of Kilkenny County Council resolved to make the Kilkenny County Development Plan 2021 – 2027 at the Special Adjourned Meeting of the Council held on Friday 3<sup>rd</sup> September 2021.

Subsequently, the Chief Executive sent a notice letter dated 9 September 2021 to the Office advising of the making of the Development Plan and that 3 no. recommendations issued by this Office to the material alterations had not been complied with.

Having reviewed the CE’s reports on the Draft Plan and material alterations to the Draft Plan, the notice of the making of the Development Plan and the reasons in the notice letter, the Office has concluded that, with the exception of MA Recommendation 3 below, the recommendations of the OPR have been responded to in the reports and/or Notice and have been addressed to the satisfaction of the Office.

### **MA Recommendation 3**

MA Recommendation 3 of the Office's submission to the material alterations to the draft plan required the planning authority to address item 2 of the Specific Planning Policy Requirement contained in the *Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change (July 2017)* published by the Minister under Section 28 of the Act in a manner that provided a policy framework (maps and policy objectives) consistent with achieving the targets previously contained within the draft Plan.

The Specific Planning Policy Requirement contained in the *Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change 2017* requires plans:

*'to indicate how the implementation of the relevant development plan or local area plan over its effective period will contribute to realising overall national targets on renewable energy and climate change mitigation, and in particular wind energy production and the potential wind energy resource (in megawatts).'*

**MA Recommendation 3** stated:

*'Having regard to the government's commitment in the Climate Action Plan to achieve 70% of electricity from renewable sources by 2030 (adding 12GW of renewable energy capacity nationally), National Policy Objective 55 which promotes renewable energy use and generation to meet national targets, and section 28 guidelines Wind Energy Development Guidelines (2006) and the Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change (2017), the planning authority is required to:*

- a. Reinstate the renewable energy targets within Section 11.4 of the draft Plan which sets out measurable objectives to generate electricity demand from renewables for the county by 2030 consistent with the Climate Action Plan,*
- b. Amend material alterations to the 'draft wind energy strategy' as follows;*

- i. *Retain Lingaun Valley area as ‘not normally permissible’ in accordance with the section 3.1.1.1 of the Report of the Chief Executive on submissions to the Draft Kilkenny City and County Development Plan 2021 – 2027.*
  - ii. *Reinstate areas designated at Templeorum/Mullenbeg to ‘acceptable in principle’ in accordance with the ‘draft wind energy strategy’ of the draft Plan.*
  - iii. *Reinstate areas designated at Castlebanny to ‘acceptable in principle’ in accordance with the ‘draft wind energy strategy’ of the draft Plan.*
  - iv. *Reinstate the 3 no. smaller areas to the south of the county as ‘acceptable in principle’ in accordance with the ‘draft wind energy strategy’ of the draft Plan.*
- c. *Delete ‘acceptable in principle’ in section 11.5.2 ‘small scale wind development projects’ under subsection (d).*
  - d. *Indicate how the development plan will contribute to meeting national renewable energy targets, including specific targets in megawatts for wind energy potential in the county, in order to fully implement the Specific Planning Policy Requirement contained in the Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change and in accordance with the provisions of section 28(1C) of the Act.’*

**MA Recommendation 3(a)**

The CE report on Submissions to the Proposed Material Alterations to the Draft Kilkenny City & County Development Plan, 2021-2027, recommended that the renewable energy targets (MA Recommendation 3(a)) be reinstated at a strategic level, i.e. the renewable energy targets relate to generating 100% electricity demand for the county through renewables by 2030.

However, the megawatts targets which were included in chapter 11 of the draft Plan were not reinstated. The draft Wind Energy Development Strategy, at Section 11.5.1

of the draft Plan had identified the megawatts required to meet the 100% of Kilkenny's electricity requirements from renewable energy sources by 2030, noting that the gap to meeting that target is currently 201 MW. The following objective was reinstated within the adopted plan:

*“To generate 100% of electricity demand for the County through renewables by 2030 by promoting and facilitating all forms of renewable energies and energy efficiency improvements in a sustainable manner as a response to climate change in suitable locations having due regard to natural and built heritage, biodiversity and residential amenity”.*

The members decided to accept the CE recommendation in relation to reinstating the Strategic Aim of providing 100% of electricity demand for the County through renewables by 2030. However the associated targets in relation to megawatts (as identified in section 11.5.1 of the draft Plan) required by MA recommendation 3(d) were not reinstated or otherwise addressed.

### **MA Recommendation 3(b)**

In relation to the amended 'Wind Energy Strategy' (MA Recommendation 3(b)) the material alterations had removed all areas designated 'acceptable in principle' situated to the south of the county as illustrated in Figure 11.4 Draft Wind Energy Strategy Areas' of the draft Plan. MA Recommendation 3(b) required that the material alterations to the 'draft Wind Energy Strategy' be removed and reinstated to that contained in the draft Plan. The CE report<sup>1</sup> recommended as follows:

- *Lingaun Valley will be retained as 'Not Normally Permissible' as per Section 3.1.1.1, CE's report (June 2021).*
- *Templeorum hills area to be re-designated as 'Acceptable in Principle' in accordance with Draft Wind energy Strategy,*
- *Castlebanny area to be re-designated as 'Acceptable in Principle' in accordance with Draft Wind energy strategy.*

---

<sup>1</sup> Report of the Chief Executive on Submissions to the Proposed Material Alterations to the Draft Kilkenny City & County Development Plan 2021-2027 dated 23<sup>rd</sup> August 2021

- *Three smaller areas to the south of the County will be re-designated as ‘Acceptable in Principle’ in accordance with the Draft Wind Energy Strategy<sup>2</sup>.*

The CE report states that the reinstatement of these areas as ‘Acceptable in Principle’ will “allow the Council to reinsert its Strategic Aim of providing 100% of electricity for the County through renewables”.

The elected members decided to reject recommendation 3(b). The reason the members rejected MA Recommendation 3(b) was due to:

*‘concerns regarding the undue emphasis on wind as a renewable energy source, and the policy emphasis should be placed on alternative renewable energy sources, such as off-shore wind and solar’.*

The Office acknowledges the policy support for other forms of renewable energy sources, such as solar energy and bio energy. Kilkenny is not, however a coastal county and the reference to off-shore wind is not obviously relevant to the contribution of the county to realising overall national targets on renewable energy as required by the Specific Planning Policy Requirements specified in the guidelines for planning authorities made under section 28. Having regard to the target of meeting 100% of electricity demand for the County by 2030, the above reasoning given by elected members does not address how, or the extent to which, alternative renewable energy sources can compensate for the limitations on wind energy development.

The elected members also rejected MA Recommendation 3(b) for the following reason:

*‘to protect people in rural areas from the impacts of large-scale (180m high turbines) wind energy developments, such as shadow flicker, noise and visual pollution and property devaluation’.*

In relation to the protection of the amenities of rural communities, the Office acknowledges that the elected members may have concerns in this respect.

---

<sup>2</sup> It should be noted that the above CE Report contains an inconsistency regarding the three small areas to the south of the county whereby they are referenced in the main body of the text as to be reinstated but not in the stated Recommendation in the subsequent paragraph. This would appear to have been an error of omission.



However, the section 28 Wind Energy Development Guidelines (2006) contain guidance on relevant considerations in this regard to protect such amenities including, inter alia, shadow flicker (section 5.12), noise (section 5.6), siting and design (Chapter 6). It is noted that the Development Plan also contains guidance stating that all wind farm applications will be in accordance with the DEHLG's Wind Energy Development Guidelines, 2006 (and any subsequent update of these guidelines), including guidance in relation to noise, shadow flicker and set back distances. Therefore the rationale expressed by the elected members in rejecting MA Recommendation 3(b) is misplaced.

### ***MA Recommendation 3(c)***

In relation to small-scale wind development (5 or less turbines and output less than 5MW) the Office's MA Recommendation 3(c) required the planning authority to delete '*acceptable in principle*' in section 11.5.2 'small scale wind development projects' under subsection (d), which MA would have applied limitations to this type of development in areas that were otherwise identified as '*acceptable in principle*', and for which there was no national policy basis.

The CE's Report recommended the deletion of '*acceptable in principle*' within section 11.5.2 of the draft plan and the elected members accepted this recommendation. The adopted plan has addressed MA recommendation no. 3 (c) and as such no further action is warranted.

### ***MA Recommendation 3(d)***

Recommendation 3(d) to the material alterations required the planning authority to indicate how the development plan will contribute to meeting national renewable energy targets, including targets in megawatts for wind energy potential in the County, to fully implement the Specific Planning Policy Requirement in the Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change.

Rather than stipulating the reinstatement of the 201MW target in section 11.5.1 of the draft Plan, the Office had purposefully allowed some scope for the planning authority to address the SPPR requirement. However, while the CE's Report recommended to reinstate its Strategic Aim of providing 100% of electricity demand for the County through renewables, this did not include specific targets in relation to

megawatt requirements as required to ensure consistency with the SPPR. Furthermore, the adopted Plan also failed to demonstrate that the objective for 100% of electricity demand for the County through renewables by 2030 can be achieved within the policy framework of the Development Plan, and in particular taking account of the significant limitations imposed by the rejection of MA Recommendation 3(b) without providing sufficient compensatory measures.

No reasons were included in the CE's report or the notification letter to the Office that clarify the elected member's basis for not accepting the Office's recommendation in relation to this matter.

### **Summary**

Notwithstanding, that the CE's recommendations substantially addressed the issues raised in the Office's MA Recommendation 3 (parts a, b, c and d), the elected members resolved to make the development plan with material alterations which:

- a) Included an objective to generate 100% of electricity demand for the County through renewables by 2030 without identifying a specific target in megawatts which would quantitatively establish the basis for the objective above.
- b) Rejected MA 3(b) which sought to reinstate specific areas previously designated as '*acceptable in principle*' in the draft Plan.
- c) Accepted MA 3(c).
- d) Failed to indicate how the development plan will contribute to meeting national renewable energy targets, including specific targets in megawatts by failing to include such targets within the Plan (as per MA Recommendation 3(a)), and also failed to demonstrate that the objective for 100% of electricity demand for the County through renewables by 2030 can be achieved.

By failing to indicate specific targets in megawatts for renewable energy potential in the county, the Development Plan as made is inconsistent with the Specific Planning Policy Requirement contained in the *Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change 2017* and the provisions of section 28(1C) of the Act.

Furthermore, because of the limitations on wind farm development in areas '*open for consideration*', including a threshold of not more than 5 turbines or 5MW, the downgrading of areas previously designated as '*acceptable in principle*' in the draft Plan to being only '*open for consideration*' at the material alterations stage means that the adopted Plan substantially and inappropriately restricts opportunities for contributing to the national targets for renewable energy.

In turn, this also results in conflicts with other policy objectives of the adopted Plan supporting mitigation of climate change such as policies 2B, 2E, 2G and 2H.

Having considered the reasons given by the elected members as set out above, the Office remains of the view that the adopted plan is inconsistent with Section 28 Wind Energy Development Guidelines (2006) and associated 2017 Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change, as it does not adequately indicate how the implementation of the development plan will contribute to realising national targets on renewable energy and climate change mitigation and, in particular, wind energy production and the potential wind energy resource (in megawatts). Further, the reduced extent of the area designated as '*acceptable in principle*' would significantly restrict and undermine other policy objectives supporting wind energy development such as policies 11A, including the objective to generate 100% of electricity demand for the County through renewables by 2030.

## **2. Opinion of the Office and Reasons**

Having considered the adopted Development Plan, the Office notes, under section 31 AM(7) of the Act, that the said Development Plan has not been made in a manner consistent with the recommendations of the Office. Further, because of the above lack of clarity in relation to the capability of the plan to align with national climate policy and the mandatory objective for development plans under Section 10(2)(n) of the Act to so do, the Office is of the opinion that the Development Plan fails to set out an overall strategy for the proper planning and sustainable development of the area concerned for the reasons set out below. In this regard, for the reasons set out above, the Office does not accept that the reasons given for not implementing the Office's recommendations in the notice letter dated 9<sup>th</sup> September 2021 adequately justify the failure to implement those recommendations or explain how,

notwithstanding that failure, the Development Plan as adopted sets out an overall strategy for the proper planning and sustainable development of the area.

As you will be aware, under section 31AM(1)(a-e) of the Act, the Office has a statutory duty to evaluate and assess local authority development plans. The following provisions of the Act are relevant in terms of the evaluation and assessment of local authority development plans such as this Development Plan:

- The provisions of section 31AM(2) as set out above.
- Under section 31 AM(3)(a), the Office shall make such recommendations in relation to the Office's evaluation and assessments to those authorities as it considers necessary in order to ensure effective co-ordination of national, regional and local planning requirements by the relevant planning authority in the discharge of its development planning functions.
- In performing its functions, the Office must, under section 31P(3) of the Act, take account of the objective for contributing to proper planning and sustainable development and the optimal functioning of planning under the Act.
- Under section 31S, the Office must, in performing its functions, have regard to:
  - a) the policies and objectives for the time being of the Government, a State authority (including Ministerial guidelines, policy directives and directions issued under *Chapter IV of Part II*), planning authorities and any other body which is a public authority whose functions have, or may have, a bearing on the proper planning and sustainable development of cities, towns, villages or other areas, whether urban or rural,
  - b) the public interest and any effect the performance of the Office's functions may have on issues of strategic, economic or social importance to the State,

- c) the National Planning Framework (or, where appropriate, the National Spatial Strategy) and any regional spatial and economic strategy for the time being in force, and
- d) the requirements of relevant acts of the European Union, in particular, those relating to—
  - (i) the Environmental Impact Assessment Directive,
  - (ii) Directive 2001/42/EC of the European Parliament and Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment,
  - (iii) the Habitats Directive, and
  - (iv) the Birds Directives,

in so far as those requirements relate to planning authorities by virtue of being designated competent authorities for the purposes of those acts.

Accordingly, having considered the Development Plan in light of section 31AM(1)(a-e), section 31AM(2), section 31AM(3)(a), section 31P(3) and section 31S, and the letter from the planning authority of the 9<sup>th</sup> September 2021 issued under section 31AM(6), the Office is of the opinion that the Development Plan has not been made in a manner consistent with the recommendations of the Office under Section 31AM (7).

The Development Plan as made is inconsistent with Ministerial Guidelines issued under Section 28 of the Act, specifically item 2 of the Specific Planning Policy Requirement contained in the *Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change (July 2017)*, with which the planning authority, in the performance of its function in making the Development Plan was required to comply.

Furthermore, the adopted Development Plan contains conflicting objectives in relation to renewable energy, sustainable development and climate action. In particular, the renewable energy development objectives in chapter 11 of the adopted Plan, to ensure 100% of electricity demand from the County are met from renewable sources by 2030, cannot be achieved by the adopted Plan.

This is because the Plan adopted by the members, without providing sufficient compensatory measures, significantly reduced the extent of the areas indicated as 'acceptable in principle' across the county that were identified in the draft Plan as being necessary to achieve the target of 201MW to ensure consistency with the climate action plan.

The Development Plan as made therefore fails to set out an overall strategy for the proper planning and sustainable development of the area.

The factors that the Office has taken into account in forming this opinion are as follows:

- i. The Government's commitment in the Climate Action Plan to achieve 70% of electricity from renewable sources by 2030 (adding 12GW of renewable energy capacity nationally), National Policy Objective 55 which promotes renewable energy use and generation to meet national targets, and the section 28 *Wind Energy Development Guidelines (2006)*.
- ii. The Specific Planning Policy Requirement contained in the *Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change (July 2017)*, specifically item 2 which states that in making a development plan a planning authority shall:

*'(2) Indicate how the implementation of the relevant development plan or local area plan over its effective period will contribute to realising overall national targets on renewable energy and climate change mitigation, and in particular wind energy production and the potential wind energy resource (in megawatts); and*

- iii. Policy objectives supporting wind and renewable energy development in chapters 1 and 11 of the adopted Development Plan.
- iv. The failure of the Development Plan to identify renewable energy targets (in megawatts) which County Kilkenny can contribute in delivering its share of overall Government targets on renewable energy and climate change mitigation over the plan period, consistent with the requirements set out in the Specific Planning Policy Requirement in the Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate

Change (July 2017) in accordance with the provisions of section 28(1C) of the Act.

- v. The Plan adopted by the members, without providing sufficient compensatory measures, significantly reduced the extent of the areas indicated as 'acceptable in principle' across the county that were identified in the draft Development Plan by the Council as being necessary to achieve the target of 201MW in the draft Plan to ensure consistency with the climate action plan.
- vi. The Chief Executive's reports on submissions on the draft Development Plan and material alterations to the draft Development Plan.
- vii. The requirements of section 28(1C) of the Act.

In light of the above, the Office is therefore of the opinion that the Development Plan has not been made in a manner consistent with its recommendations and that the Development Plan fails to set out an overall strategy for the proper planning and sustainable development of the area.

### **3. Recommendation to the Minister**

Having regard to section 31AM(8) of the Act, the Office recommends the exercise of your function under the relevant provisions of section 31 of the Act taking such steps as to rectify the matter as set out in the draft direction to the planning authority accompanying this notice, i.e.

Amend the 'wind energy strategy' as follows;

- a. Reinstate sections 11.4 and 11.5.1 of the draft Development Plan, including the identification of 201 MW renewable energy to meet the objective for the generation of 100% of electricity needs from renewable sources for the county by 2030 consistent with the Climate Action Plan.
- b. Amend the adopted wind energy strategy map (reference Figure 11.4) to ensure consistency with the renewable energy target at (a) above as follows:
  - i. Reinstate areas designated at Templeorum/Mullenbeg to 'acceptable in principle' in accordance with the 'draft wind energy strategy' of the draft Plan.

- ii. Reinstate areas designated at Castlebanny to 'acceptable in principle' in accordance with the 'draft wind energy strategy' of the draft Plan.
- iii. Reinstate the 3 no. smaller areas to the south of the county as 'acceptable in principle' in accordance with the 'draft wind energy strategy' of the draft Plan.

Please do not hesitate to contact the Office should you have any queries in relation to the above. Contact can be initiated through the undersigned or at [plans@opr.ie](mailto:plans@opr.ie).

Yours sincerely,



---

**Niall Cussen**

Planning Regulator

---

076 100 2747

[niall.cussen@OPR.ie](mailto:niall.cussen@OPR.ie)



**DRAFT DIRECTION IN THE MATTER OF SECTION 31**  
**OF THE PLANNING AND DEVELOPMENT ACT 2000 (as amended)**  
**Kilkenny County Development Plan 2021-2027**

“Development Plan” means the Kilkenny County Development Plan 2021-2027

“Planning Authority” means Kilkenny County Council

**WHEREAS** the powers and duties of the Minister for Housing, Local Government and Heritage under the Planning and Development Act 2000 (as amended), other than the power to prosecute an offence, have been delegated to the Minister of State for Local Government and Planning pursuant to the Housing, Planning and Local Government (Delegation of Ministerial Functions) (No. 2) Order 2017 (S.I. 352 of 2017).

**WHEREAS** the Minister of State at the Department of Housing, Local Government and Heritage in exercise of the powers conferred on him by section 31 of the Act 2000, and consequent to a recommendation made to him by the Office of the Planning Regulator under section 31AM(8) of the Act hereby directs as follows:

- (1) This Direction may be cited as the Planning and Development (Kilkenny County Development Plan 2021-2027) Direction 2021.
- (2) The Planning Authority is hereby directed to take the following steps with regard to the ‘wind energy strategy’ within the Development Plan:
  - a. Reinstate sections 11.4 and 11.5.1 of the draft Development Plan, including the identification of 201 MW renewable energy to meet the objective for the generation of 100% of electricity needs from renewable sources for the county by 2030 consistent with the Climate Action Plan.
  - b. Amend the adopted wind energy strategy map (reference Figure 11.4) to ensure consistency with the renewable energy target at (a) above as follows:

- i. Reinstate areas designated at Templeorum/Mullenbeg to 'acceptable in principle' in accordance with the 'draft wind energy strategy' of the draft Plan.
- ii. Reinstate areas designated at Castlebanny to 'acceptable in principle' in accordance with the 'draft wind energy strategy' of the draft Plan.
- iii. Reinstate the 3 no. smaller areas to the south of the county as 'acceptable in principle' in accordance with the 'draft wind energy strategy' of the draft Plan.

## **STATEMENT OF REASONS**

- I. The Development Plan as made is inconsistent with Ministerial Guidelines issued under Section 28 of the Act, specifically item 2 of the Specific Planning Policy Requirement contained in the *Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change (July 2017)*, which sets out the requirement for the Planning Authority to comply with the aforementioned Specific Planning Policy Requirement under section 28(1C). In particular, the Development Plan fails to identify renewable energy targets (in megawatts) which County Kilkenny can contribute in delivering its share of overall Government targets on renewable energy and climate change mitigation over the plan period.
- II. The Development Plan contains conflicting objectives on renewable energy sustainable development and climate action such that the adopted Plan, without providing sufficient compensatory measures, significantly reduced the extent of the areas indicated as 'acceptable in principle' that were identified in the draft Development Plan as being necessary to achieve the target of 201MW required to ensure that 100% of electricity demand for the County is met from renewable sources by 2030 and to ensure consistency with the climate action plan.

- III. The Development Plan has therefore not been made in a manner consistent with the recommendations of the Office of the Planning Regulator under Section 31 AM and fails to set out an overall strategy for the proper planning and sustainable development of the area.

GIVEN under my hand,

Minister for Housing, Local Government and Heritage

day of September, 2021.