



7th March 2022

For the Attention of: Mr. John Mulholland, Chief Executive

Laois County Council,
Áras an Chontae,
James Fintan Lalor Ave,
Portlaoise,
Co. Laois, R32 EHP9

Section 31 of the Planning and Development Act 2000, as amended
Notice of Intention to Issue a Direction to Laois County Council on the Laois County
Development Plan 2021 - 2027

Dear John,

Consequent to a recommendation made to me by the Office of the Planning Regulator (the Office) on 22nd February 2022 in connection with the Laois County Development Plan 2021 – 2027, as adopted by the elected members of Laois County Council on 25th January 2022, and pursuant to Section 31 of the Planning and Development Act 2000 (as amended) (the Act), I write to give notice of my intention to issue a direction to Laois County Council to take certain measures specified in this notice.

On consideration of the recommendation made to me by the Office, I have formed the opinion that:

- (i) Laois County Council has failed to implement recommendations made to it, as planning authority, by the Office under Section 31AM of the Act;



- (ii) The Plan, as made, fails to set out an overall strategy for the proper planning and sustainable development of the area;
- (iii) The Plan is not consistent with national and regional development objectives set out in the National Planning Framework and the Regional Spatial and Economic Strategy;
- (iv) The plan is not consistent with specific planning policy requirements specified in guidelines issued by the Minister under subsection (1) of section 28, and
- (v) The Plan, as made, is not in compliance with the requirements of the Act.

A draft of the Direction accompanies this notice and I request that you publish notice of this draft Direction, no later than two weeks after receipt of this notice. The reasons for the Direction are set out in the Statement of Reasons Section of the attached draft Direction and further detail is provided in the Summary of Issues as set out below.

Process to Date

The Draft Laois County Development Plan 2021 – 2027 (the draft Plan) was placed on public display from 12th January 2021 until 23rd March 2021. The Office made a submission on the draft Plan containing 15 recommendations and 7 observations (23rd March 2021).

The elected members of Laois County Council, having considered the draft Plan and the Chief Executive's Report on submissions received, resolved to amend the Draft Laois Development Plan 2021 – 2027 on 1st September 2021. The material alterations to the draft Plan were on public display from 23rd September 2021 to 21st October 2021.

The submission to Laois County Council from the Office at material amendment (MA) stage (dated 21st October 2021) set out 5 recommendations containing a number of sub-recommendations and 2 observations. The 5 recommendations at MA stage included the following:



- MA.1 Setback distance from wind farms;
- MA.2 National renewable energy targets;
- MA.3 Zoning amendments;
- MA.4 Rural Housing Policy, and
- MA.5 Height limit for greenfield sites.

The planning authority was advised that the Office was of the view that a number of material alterations to the draft Plan, if adopted in their current form, would have the potential to lead to substantial breaches of strategic planning policies of the Minister.

A Chief Executive's report was prepared on the submissions received, including the submission made by the Office. It is noted that your report accepted the majority of recommendations and observations of the Office and recommended changes in response to the issues raised. The elected members of the planning authority did not accept a number of these recommendations.

The elected members of Laois County Council resolved to make the Development Plan on 25th January 2022.

Subsequently, in accordance with Section 31AM(6), you as Chief Executive, issued a notice letter dated 1st February 2022 to the Office which advised of the making of the Development Plan and further advised that a number of the recommendations issued by the Office at material amendment stage had not been complied with in full. The notice letter stated that MA Recommendations 1, 3, 4 and 5 had not been complied with in full and that the elected members had adopted further minor changes in respect of MA Recommendation 2, however this did not include a specific target for renewable/wind energy.

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 concluded that the recommendation relating to rural housing policy did not provide sufficient



grounds to make a recommendation to the Minister. The Office also accepted the reasons provided by the elected members, regarding 5 of the land parcels in support of the zoning amendments and considers that these changes would not unduly impact on the overall Core Strategy, or the compact and sequential growth of the aforementioned settlements.

On 22nd February 2022, in accordance to Section 31AM(8) the Office notified the Minister for Local Government and Planning that the Laois County Development Plan 2021-2027 had not been made in a manner consistent with the recommendations of the Office, which required specific changes to the Development Plan:

1. 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 that the Development Plan:
 - i. 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); and
 - ii. introduces mandatory setback distances for wind turbines from specified land uses or classes of land use without demonstrating compliance with (i) above; and

2. to ensure consistency with the Specific Planning Policy Requirement 1 contained in the *Urban Development and Building Height Guidelines (2018)* published by the Minister under Section 28 of the Act, specifically that the Development Plan:
 - iii. introduces a policy with a mandatory height limit for residential development on greenfield land which provides for a blanket numerical limitation on building height; and



3. Omit 4 zoning objectives introduced by the members at material amendment stage that do not support compact growth and sequential development. (3 zoning objectives relate to Portlaoise, 1 zoning objective relates to Stradbally).

Summary of Issues

The Draft Direction sets out the following steps for the Planning Authority to take:

- a. Delete the setback distance of 1.5 km from Section 6.1 – Buffer Zones which is contained in the Development Control Standards for wind farms in County Laois in Section 6 of Appendix 5: Wind Energy Strategy of the adopted Development Plan.
- b. Take such steps as are required to identify, on an evidence-basis and using appropriate and meaningful metrics, the target which County Laois can contribute in delivering its share of overall Government targets on renewable energy and climate change mitigation over the plan period, and in particular wind energy production and the potential wind energy resource (in megawatts), and to amend the adopted Plan accordingly.
- c. Delete policy ‘Developments shall be no more than 3 storey on greenfield sites’ from the adopted Development Plan.
- d. Reinstate the following zoning objectives to that of the draft Plan consistent with the recommendations of the Chief Executive’s Report dated 17th November 2021.
 - i. Zoning amendment 85 (Portlaoise) – Revert from R2 New Residential Development and reinstate the zoning status of the subject land to that of the draft Plan i.e. the subject land reverts to not zoned.
 - ii. Zoning amendment 86 (Portlaoise) – Revert from R2 New Residential Development and reinstate the zoning of the subject land to that of the draft Plan i.e. the subject land reverts to Transport and Utilities.



- iii. Zoning amendment 89 (Portlaoise) – Revert from R2 New Residential Development and reinstate the zoning of the subject land to that of the draft Plan i.e. the subject land reverts to Strategic Reserve.
- iv. Zoning amendment 92 (Stradbally) – Revert from R2 New Residential Development and reinstate the zoning status of the subject land to that of the draft Plan i.e. the subject land reverts to not zoned.

Summary Overview

It is the opinion of the Minister that provisions of the development plan as made are inconsistent 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, Specific Planning Policy Requirement 1 contained in the *Urban Development and Building Height Guidelines (2018)* published by the Minister under Section 28 of the Act, National Planning Objective NPO3(c) and Regional Policy Objective RPO 3.2, and that the inclusion of such provisions, individually and cumulatively means the plan as made fails to set out an overall strategy for the proper planning and development of the area specifically;

- The Development Plan as made is inconsistent with Ministerial Guidelines issued under Section 28 of the Act, specifically the SPPR contained in the *Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change (2017)* due to the inclusion of a 1.5 km setback distance between wind turbines and residential / other land uses, and the absence of a target for renewable energy, and in particular wind energy production and the potential wind energy resource (in megawatts);
- The Development Plan as made is also inconsistent with Ministerial Guidelines issued under Section 28 of the Act, specifically the SPPR 1 contained in the *Urban Development and Building Height Guidelines (2018)* due to inclusion of a policy with a blanket numerical restriction on building height affecting greenfield land. This policy is also inconsistent with NPO 13 which



promotes standards for building height based on performance criteria, would undermine other objectives in the development plan that promote compact growth and more efficient use of land.

- The adopted Development Plan includes material amendments to the draft Plan which zone additional residential land in excess of what is required for the settlements of Portlaoise and Stradbally as set out in the Core Strategy and zone land for development inconsistent with the evaluation of zoning amendments in the Strategic Environmental Assessment of the likely significant effects on the environment which is particularly relevant for land further from the centre of settlements.

The factors taken into account in forming this opinion are as follows:

- i. The commitment in the Climate Action Plan 2021 to achieve up to 80% 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 (2017) which state that the relevant planning authority shall carry out, inter alia the following:

'...(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

(3) Demonstrate detailed compliance with item number (2) above in any proposal by them to introduce or vary a mandatory setback distance or distances for wind turbines from



specified land uses or classes of land use into their development plan or local area plan. Such a proposal shall be subject to environmental assessment requirements, for example under the SEA and Habitats Directives. It shall also be a material consideration in SEA, when taking into account likely significant effects on climatic factors, in addition to other factors such as landscape and air, if a mandatory setback or variation to a mandatory setback proposed by a planning authority in a development plan or local area plan would create a significant limitation or constraint on renewable energy projects, including wind turbines, within the administrative area of the plan.'

- iii. The policy objectives in the adopted Plan, including climate mitigation objectives promoting wind farm development such as CM RE 5 and CM RE 7, and the overarching objectives in Chapter 1 which outline the County's commitment to climate action.

- iv. The Office's analysis of the implications of the separation distance contained in Section 6.1 of Appendix 5 – Wind Energy Strategy which concluded that it would not be possible to progress a wind energy project with a wind turbine in the vast majority of the county which would significantly limit or constrain renewable energy projects to the extent that is inconsistent with the requirement to demonstrate the contribution of County Laois to realising overall national targets on renewable energy and climate change mitigation, and such that the policy objectives of the development plan including climate mitigation objectives promoting wind farm development such as CM RE 5 and CM RE 7, and the overarching objectives in Chapter 1 which outline the County's commitment to climate action cannot be achieved having regard to the separation distances required by Section 6.1 of Appendix 5 – Wind Energy Strategy.

- v. The Specific Planning Policy Requirement 1 contained in the Urban Development and Building Height Guidelines (2018) which states:



'In accordance with Government policy to support increased building height and density in locations with good public transport accessibility, particularly town/ city cores, planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.'

- vi. The sequential approach set out in Section 4.19 of Development Plans Guidelines for Planning Authorities (2007) which states:

'Zoning should extend outwards from the centre of an urban area, with undeveloped lands closest to the core and public transport routes being given preference (i.e. 'leapfrogging' to more remote areas should be avoided)'

- vii. Directive 2001/42/EC of the European Parliament and Council of 27th June 2001 on the assessment of the effects of certain plans and programmes on the environment,

- viii. National Policy Objectives NPO 3(c), NPO 13 and Regional Policy Objective 3.2 which state:

NPO 3(c)

Deliver at least 30% of all homes that are targets in settlements other than the five Cities and the suburbs, within existing built-up footprints.

NPO 13

In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated



outcomes, provided public safety is not compromised and the environment is suitably protected.

RPO 3.2

Local authorities, in their core strategies shall set out measures to achieve compact urban development targets of at least 50% of all new homes within or contiguous to the built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.

- ix. The Core Strategy Table in the adopted Development Plan.
- x. The Chief Executive’s reports on submissions on the draft Development Plan and material alterations to the draft Development Plan.
- xi. The relevant requirements of Section 10, Section 12(18) and Section 28 of the Act.

Draft Direction

Accordingly, having considered the recommendation of the Office, I am issuing a draft direction pursuant to Section 31 of the Planning and Development Act 2000 (as amended), to direct Laois County Council with regard to the Laois County Development Plan 2021 – 2027.

The Planning Authority is hereby directed to take the following steps within the Development Plan:

- a. Delete the setback distance of 1.5 km from Section 6.1 – Buffer Zones which is contained in the Development Control Standards for wind farms in County Laois in Section 6 of Appendix 5: Wind Energy Strategy of the adopted Development Plan.



- b. Take such steps as are required to identify, on an evidence-basis and using appropriate and meaningful metrics, the target which County Laois can contribute in delivering its share of overall Government targets on renewable energy and climate change mitigation over the plan period, and in particular wind energy production and the potential wind energy resource (in megawatts), and to amend the adopted Plan accordingly.
- c. Delete policy 'Developments shall be no more than 3 storey on greenfield sites' from the adopted Development Plan.
- d. Reinstate the following zoning objectives to that of the draft Plan consistent with the recommendations of the Chief Executive's Report dated 17th November 2021.
 - i. Zoning amendment 85 (Portlaoise) – Revert from R2 New Residential Development and reinstate the zoning status of the subject land to that of the draft Plan i.e the subject land reverts to not zoned.
 - ii. Zoning amendment 86 (Portlaoise) – Revert from R2 New Residential Development and reinstate the zoning of the subject land to that of the draft Plan i.e. the subject land reverts to Transport and Utilities.
 - iii. Zoning amendment 89 (Portlaoise) – Revert from R2 New Residential Development and reinstate the zoning of the subject land to that of the draft Plan i.e. the subject land reverts to Strategic Reserve.
 - iv. Zoning amendment 92 (Stradbally) – Revert from R2 New Residential Development and reinstate the zoning status of the subject land to that of the draft Plan i.e. the subject land reverts to not zoned.

Please note that in accordance with Section 31(4)(c) and Section 31(6) of the Act, those parts of the Laois County Development Plan 2021 – 2027 referred to in this notice shall be taken not to have not come into effect, been made or amended.



Next Steps - Procedural Requirements

I wish to draw your attention to the public consultation obligations under Section 31 of the Act, and the initial requirement as Chief Executive under Section 31(7) to publish notice of the draft Direction no later than 2 weeks after receipt of this notice, stating that the draft direction may be inspected as specified in the notice, for a period of not more than 2 weeks.

The notice must also state that written submissions or observations in respect of the draft direction may be made to the planning authority during the consultation period.

Also in line with statutory requirements, a Chief Executive's report is to be prepared on the public consultation period under Section 31(8), and must be furnished to the Office, the elected members and myself as Minister, no later than 4 weeks after the public consultation process is completed, for further consideration.

In accordance with Section 31(9) of the Act, the report of the Chief Executive must

- a) summarise the views of any person who made submissions or observations to the planning authority;
- b) summarise the views of and recommendations (if any) made by the elected members of the planning authority;
- c) summarise the views of and recommendations (if any) made by the regional assembly, and
- d) make recommendations in relation to the best manner in which to give effect to the draft direction.

In addition, the elected members of the planning authority may make a submission to the Office of the Planning Regulator at any time up to the conclusion of the 2 week public consultation period referred to above and may also send any such submissions to me, as Minister.



The Office will then consider the Chief Executive's report together with any submissions made and will make a further recommendation to me, as Minister, regarding whether the Direction is to be issued with or without minor amendments, or not issued. Where I am in agreement with the further recommendation, I may issue the final direction.

Where the Office is of the opinion that a material amendment to the Draft Direction is required, or further investigation is necessary, or it is necessary for another reason, then the Office may appoint an inspector no later than 3 weeks after receipt of the Chief Executive's report, prior to making a final recommendation to me.

My officials are available to assist you, as necessary, in complying with the foregoing process now underway. Should you have any queries please contact Alma Walsh, Senior Planning Adviser at Alma.Walsh@housing.gov.ie.

Yours sincerely,

Peter Burke, T.D.,
Minister for Local Government and Planning

Copied to:

- Cathaoirleach, Laois County Council, Áras an Chontae, James Fintan Lalor Ave, Portlaoise, Co. Laois, R32 EHP9
- Mr. Jim Conway, Director, Eastern and Midland Regional Assembly, 3rd Floor North, Ballymun Civic Centre, Main Street, Ballymun, Dublin 9, DO9 C8P5.
- Office of the Planning Regulator, Fourth Floor (West Wing) Park House, Grangegorman, 191-193A North Circular Road, Dublin 7, D07 EWW4.

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

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

“Planning Authority” means Laois 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 at the Department of Housing, Local Government and Heritage pursuant to the Housing, Local Government and Heritage (Delegation of Ministerial Functions) Order 2020 (S.I. 559 of 2020).

WHEREAS the Minister of State at the Department of the Housing, Local Government and Heritage in exercise of the powers conferred on him by Section 31 of the Planning and Development Act 2000 (as amended) ("the Act"), 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 (Laois County Development Plan 2021-2027) Direction 2022.
- (2) The Planning Authority is hereby directed to take the following steps:
 - a. Delete the setback distance of 1.5 km from Section 6.1 – Buffer Zones which is contained in the Development Control Standards for wind farms in County Laois in Section 6 of Appendix 5: Wind Energy Strategy of the adopted Development Plan.

- b. Take such steps as are required to identify, on an evidence-basis and using appropriate and meaningful metrics, the target which County Laois can contribute in delivering its share of overall Government targets on renewable energy and climate change mitigation over the plan period, and in particular wind energy production and the potential wind energy resource (in megawatts), and to amend the adopted Plan accordingly.
- c. Delete policy *'Developments shall be no more than 3 storey on greenfield sites'* from the adopted Development Plan.
- d. Reinstate the following zoning objectives to that of the draft Plan consistent with the recommendations of the Chief Executive's Report dated 17th November 2021.
 - (i) Zoning amendment 85 (Portlaoise) – Revert from R2 New Residential Development and reinstate the zoning status of the subject land to that of the draft Plan i.e. the subject land reverts to not zoned.
 - (ii) Zoning amendment 86 (Portlaoise) – Revert from R2 New Residential Development and reinstate the zoning of the subject land to that of the draft Plan i.e. the subject land reverts to Transport and Utilities.
 - (iii) Zoning amendment 89 (Portlaoise) – Revert from R2 New Residential Development and reinstate the zoning of the subject land to that of the draft Plan i.e. the subject land reverts to Strategic Reserve.
 - (iv) Zoning amendment 92 (Stradbally) – Revert from R2 New Residential Development and reinstate the zoning status of the subject land to that of the draft Plan i.e. the subject land reverts to not zoned.

STATEMENT OF REASONS

- I. The Laois County Development Plan 2021 – 2027 as made is inconsistent with Ministerial Guidelines issued under Section 28 of the Act, specifically items 2 and 3 of the Specific Planning Policy Requirement contained in the Interim Guidelines for Planning Authorities on *Statutory Plans, Renewable Energy and Climate Change (2017)*, and the requirement for the planning authority to comply with the aforementioned Specific Planning Policy Requirements under Section 28(1C) and 12(18). The development plan as made therefore fails to set out an overall strategy for the proper planning and sustainable development of the area.

- II. The Laois County Development Plan 2021 – 2027 as made is inconsistent with Ministerial Guidelines issued under Section 28 of the Act, specifically Specific Planning Policy Requirement 1 contained in the *Urban Development and Building Height Guidelines (2018)*, and the requirement for the planning authority to comply with the aforementioned Specific Planning Policy Requirements under Section 28(1C) and 12(18). The development plan as made therefore fails to set out an overall strategy for the proper planning and sustainable development of the area.

- III. The Development Plan as made includes material amendments to the draft Plan, that are inconsistent with the evaluation of the Strategic Environmental Assessment and which individually and cumulatively are not consistent with the Core Strategy, national and regional planning policy, and the proper planning and sustainable development of the area, including:
 - a. Land zoned for residential development located in peripheral locations remote from the existing settlement, inconsistent with the requirements for compact growth in NPO 3c and RPO 3.2, and the sequential approach to development having regard to Section 4.19 of *Development Plans Guidelines for Planning Authorities (2007)*.

- b. Land zoned for residential development in excess of that needed to meet the Core Strategy housing supply targets for Portlaoise and Stradbally in the adopted Plan, and which would further undermine the achievement of the brownfield development targets in the Core Strategy Table.

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

- IV. 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,

A handwritten signature in blue ink, appearing to read 'Peter Burke', with a stylized flourish at the end.

Minister for Local Government and Planning

7th March 2022

Correction to Notice Letter

In accordance with the provisions of the Act cited in this paragraph i.e. Section 31(4)(c) and Section 31(6), the paragraph is to read as follows:

"Please note that in accordance with Section 31(4)(c) and Section 31(6) of the Act, those parts of the Laois County Development Plan 2021 – 2027 referred to in this notice shall be taken not to have come into effect, been made or amended".