



29 April, 2021

For the Attention of: Mr. Pat Gallagher, Chief Executive

Westmeath County Council

Áras An Chontae
Mount Street,
Mullingar,
N91 FH4N

Re. Section 31 of the Planning and Development Act 2000 (as amended)
Notice of Intention to Issue a Direction to Westmeath County Council
Westmeath County Development Plan 2021 – 2027

Dear Pat,

I write consequent on a recommendation made to me by the Office of the Planning Regulator on 16th April 2021, in connection with Westmeath County Development Plan 2021 - 2027 as adopted by the elected members of Westmeath County Council on 22nd March 2021.

In writing to you I am giving notice of my intention to issue a direction pursuant to section 31 of the Planning and Development Act 2000 (as amended) (the Act), to Westmeath County Council to take certain measures specified in this notice. A draft of the proposed Direction is attached to this letter and I request that you publish notice of this draft Direction, no later than two weeks after receipt of this letter.

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



- (i) Westmeath County Council has failed to implement recommendations made to it, as planning authority, by the Office of the Planning Regulator (the Office), in January 2021, 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 specific planning policy requirements specified in guidelines issued by the Minister under subsection (1) of section 28 of the Act;
- (iv) The Plan, as made, is not in compliance with the requirements of the Act.

The reasons for the proposed Direction are set out in the Statement of Reasons section of the attached draft direction.

PROCESS TO DATE

The Office wrote to Westmeath County Council, in relation to the material amendments to Westmeath County Development Plan 2021 - 2027 on 20th January 2021.

The submission made by the Office set out recommendations under four key themes including, core strategy; wind energy; rural housing; and, compact growth and sequential development.

The planning authority was advised by the Office that the recommendations related to significant breaches of policy and failure to address the matters raised prior to adoption of the county development plan could lead the Office to determine that the plan fails to set out an overall strategy for proper planning and sustainable development of the area concerned.

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, but that some of these were not accepted by the elected members of the planning authority.



The elected members of Westmeath County Council resolved to make the Development Plan at a Special Meeting of the Council held on Monday 22nd March 2021.

Westmeath County Council informed the Office of its decision not to comply with some of the Office's recommendations on 29th March 2021, in accordance with section 31AM(6).

On 16th April 2021, the Office notified the Minister for Local Government and Planning that the Westmeath County Development Plan 2021-27 had not been made in a manner consistent with the recommendations of the Office and that the Office is of the opinion that the Development Plan fails to set out an overall strategy for proper planning and sustainable development of the area.

SUMMARY OF ISSUES

The recommendations set out by the Office require changes to the Westmeath County 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)* issued by the Minister under Section 28 of the Act.

Westmeath County Council made the Development Plan without indicating 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 and also introduced mandatory setback distances for wind turbines without demonstrating compliance with above. A planning authority is required to comply with specific planning policy requirements under Section 28(1C) of the Act.

OFFICE OF THE PLANNING AND DEVELOPMENT REGULATIONS DIVISION



DRAFT DIRECTION

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

Please note that in accordance with Section 31(4) of the Planning and Development Act 2000, those parts of the Westmeath County Development Plan 2021 – 2027 Plan referred to in this notice shall be taken not to have not come into effect, been made or amended. These comprise the wind energy policy objective CPO 10.143, the wind energy capacity map and landscape character assessment.

NEXT STEPS - PROCEDURAL REQUIREMENTS

I wish to draw your attention to the public consultation obligations under section 31 of the Planning and Development Act 2000 (as amended), 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 and that they shall be taken into consideration by me, as Minister, before any final direction.

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.

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;

(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 must also send any such submissions to me, as Minister.

It will be a matter for the planning authority to indicate how the implementation of the development plan will contribute to realising overall national targets on renewable energy and climate change mitigation, and in particular wind energy production. While wind energy production is specified, it is noted that there is also scope for other forms of renewable energy production to also contribute to targets on renewable energy and climate change mitigation.

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.



Please find the Draft Direction attached. My officials are available to assist you, as necessary, in complying with the foregoing process now underway. Should you have any queries please contact Laura Courtney, Planning Adviser at laura.courtney@housing.gov.ie.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Peter Burke', is written over a horizontal line.

Mr. Peter Burke, T.D.,

Minister for Local Government and Planning

Copied to:

Cathairleach, Westmeath County Council, Áras An Chontae, Mount Street, Mullingar, N91 FH4N

Mr. Jim Conway, Director, Eastern and Midland Regional Assembly, 3rd Floor North, Ballymun Civic Centre, Main Street, Ballymun, Dublin 9, D09 C8P5

Office of the Planning Regulator, Fourth Floor (West Wing), Park House, Grangegorman, 191-193A North Circular Road, Dublin 7, D07 EWV4

DRAFT DIRECTION IN THE MATTER OF SECTION 31

OF THE PLANNING AND DEVELOPMENT ACT 2000 (as amended)

Westmeath County Development Plan 2021-2027

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

“Planning Authority” means Westmeath 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 the 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 (Westmeath County Development Plan 2021-2027) Direction 2021.
- (2) The Planning Authority is hereby directed to take the following steps with regard to the Development Plan :
 - (i) Delete wind energy policy objective CPO 10.143 in its entirety from section 10.23.2 of the Development Plan.

- (ii) Take such steps as are required to identify, on an evidence-basis and using appropriate and meaningful metrics, the wind energy production (in megawatts) which County Westmeath 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).

Such steps shall be accompanied by revisions to the Wind Energy Capacity Map and Landscape Character Assessment, and coordination of the objectives for wind energy development in the Development Plan with those of the neighbouring counties as are necessary to ensure a coordinated approach with wind energy objectives of adjoining local authorities having regard to requirements of section 9(4) of the Act.

STATEMENT OF REASONS

- I. The Development Plan 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 (July 2017)*, noting 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 the wind energy production (in megawatts) which County Westmeath can contribute in delivering its share of overall Government targets on renewable energy and climate change mitigation over the plan period.
- II. Policy objective CPO 10.143 renders it impossible to progress a wind energy project with a wind turbine tip height of over 100 metres or over 150 metres 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 Westmeath to realising overall national targets on renewable energy and climate change mitigation.

- III. The Development Plan contains conflicting objectives on wind energy development such that the Policy objectives supporting wind and renewable energy development in chapters 10 and 11 of the adopted Development Plan cannot be achieved having regard to the separation distances required by wind energy policy objective CPO 10.143.

- 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 that the Development Plan as made 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 April, 2021.