



Oifig an
Rialaitheora Pleanála
Office of the
Planning Regulator

9th July 2021

Mr Darragh O'Brien TD
Minister for Housing, Local Government and Heritage
Department of Housing, Local Government and Heritage
Custom House
Dublin 1
D01 W6X0

Re: Notice pursuant to section 31AN(4) of the Planning and Development Act 2000 (as amended) - Westmeath County Development Plan 2021-2027

A chara,

I am writing to you pursuant to section 31AN(4) of the Planning and Development Act 2000 (as amended) (the "Act") in the context of the Westmeath County Development Plan 2021-2027 (the "Plan"). In particular, I write arising from the consideration by this Office of the following:

- a) the Notice of Intent to issue a Direction issued to Westmeath County Council (the "Council") by your office on 29th April 2021, and
- b) the report of the Chief Executive of the Council dated 21st June 2021 on the submissions and observations received by the Council (the "Report").

I refer also to the submission made directly by elected members of the Council to this Office and considered by this Office pursuant to section 31(10)(a) of the Act. The Office received one submission containing the observations of the elected members, which is attached to this letter. This Office has carefully considered the Report and the submission made directly to this Office.

Draft Direction

Following detailed consideration of the Chief Executive's report, this Office now recommends that you as Minister issue the attached Direction.

In forming this decision, this Office reiterates the submissions made to the Minister under cover of Notice which issued from this Office to your office on 16 April 2021. However, in terms of a response to the position set out by the Chief Executive, you might please note the following:

Part 2(i)

The Office is satisfied that the Chief Executive's recommendation in respect of part 2(i) of the draft Direction is adequate as it would remove the requirement for separation distances between wind turbines and residential development contained in policy objective CPO 10.143 which is contrary to the Specific Planning Policy Requirement (SPPR) in the *Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change (2017)*.

Part 2(ii)

In respect of part 2(ii) of the draft Direction, the Chief Executive's recommendation proposes to amend the Plan to include a policy objective to *"Carry out an assessment of how the implementation of the Plan 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)"*. The Chief Executive's report also points to policy objective CPO 10.161 of the Development Plan which outlines a commitment to prepare a Renewable Energy Strategy **over the lifetime of the plan and subject to the availability of resources** [my emphasis]. The Office acknowledges the Chief Executive's consideration that that climate action is a cross cutting theme of the Development Plan and that there are policy objectives supporting various forms of renewable energy development including wind energy.

While the Office welcomes the proposal to carry out an assessment and agrees that the preparation of a Renewable Energy Strategy would provide the opportunity for an evidence-based approach to the requirement set out in the draft Direction, the Chief Executive's recommendation refers to the above being addressed within an unspecified time period after the making of the development plan, which is in breach of the aforementioned SPPR in the Guidelines. In this regard, the following points are relevant:

- i. The Climate Action Plan (2019) includes a target of an additional 8GW of onshore wind capacity by 2030 in order to achieve 70% of electricity generation from renewable sources. The plan period for the Development Plan is 2021-2027. This is, therefore, a critical period with regard to achieving the national targets for 2030 as set out in the Climate Action Plan. Having regard to the time periods involved in delivering this type of infrastructure, delays to the provision of an adequate development plan strategy undermines the ability of the Development Plan to contribute to realising overall national targets during the Plan period.
- ii. The urgent need for climate change action, and the importance of renewable energy targets to this objective, is reflected in the SPPR in the Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change (2017) which specifies that the requirement to indicate how the implementation of the relevant development plan will contribute to realising overall national targets must be carried out at the plan making stage and not deferred to some unspecified time during the plan period:

“It is a specific planning policy requirement under Section 28(1C) of the Act that, in making, reviewing, varying or amending a development plan, or a local area plan, with policies or objectives that relate to wind energy developments, the relevant planning authority shall carry out 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);”

Part 2(ii) of the draft Direction also required 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 the requirements of section 9(4) of the Act. In this regard, the following is considered relevant:

- iii. The wind capacity map (Map 48) in the Development Plan shows the entire county as having low capacity for wind energy with the exception of the Hill of Uisneach, which is reasonably identified as having no capacity. There is no indication in the Chief Executive's recommended policy objective that the proposed future assessment will include a review of the wind capacity map. The Office considers that a review of the wind capacity map must be undertaken as part of the evidence-based assessment to adequately respond to the SPPR and part (2)(ii) of the draft Direction. Further, the retention of the wind capacity map in the Development Plan has the potential to create an inconsistency with the policy objectives supporting wind and renewable energy development in chapters 10 and 11 of the Development Plan.
- iv. The Chief Executive's report submits that the landscape character assessment does not require review or revision. The report states that '*...the Westmeath Landscape Character Assessment, included as part of the Plan, has been developed using a robust methodology and as such it is not considered that a revision of same is appropriate.*' It is further submitted that the commitment under the RSES to prepare a regional landscape strategy should also be noted. The Office considers, however, that a coordinated approach to landscape character assessment which may have implications for wind energy development should be undertaken across county boundaries. Having regard to the Chief Executive's response, the Office considers that the matter can be adequately addressed through engagement between the Planning Authority and neighbouring authorities having regard to requirements of section 9(4) of the Act.

Having regard to the above, while the Chief Executive's recommendation is consistent with the substantive matter raised in the draft Direction, the Office considers that a precise timeframe for the assessment is required in order for the Chief Executive's recommendation to give effect to part (2)(ii) of the draft Direction. The Office considers that the matters raised in relation to the wind energy capacity map, landscape character assessment and co-ordination with neighbouring authorities must also be addressed in the recommended assessment.

Recommendation

Having regard to section 31AN(4) of the Act, the Office recommends the exercise of your function under the relevant provisions of section 31 of the Act, taking the steps set out in the Direction accompanying this notice, i.e.

(i) Delete wind energy policy objective CPO 10.143 in its entirety from section 10.23.2 of the Development Plan as per the Chief Executive's recommendation.

(ii) Include the following policy objectives:

*“Carry out an assessment of 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 and the potential wind energy resource (in megawatts) **within 6 months** of the date of the Minister's Direction, such assessment to be carried out on an evidence-basis and using appropriate and meaningful metrics, and on a coordinated basis with neighbouring authorities.*

Review and amend the Wind Energy Capacity Map to ensure that it is consistent with the assessment above.”

The above steps are required to rectify the matter in a manner that, in the opinion of this Office, will ensure that the Development Plan sets out an overall strategy for proper planning and sustainable development and meets the requirements of the Act.

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.

Yours sincerely,



Niall Cussen
Planning Regulator



**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 Minister at the Department of 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), and consequent to a recommendation made to him by the Office of the Planning Regulator under section 31AN(4) 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 as per the Chief Executive’s recommendation.
 - (ii) Include the following additional policy objectives :

*“Carry out an assessment of 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 and the potential wind energy resource (in megawatts) **within 6 months** of the date of the Minister’s Direction, such assessment to be carried out on an evidence-basis and using appropriate and meaningful metrics, and on a coordinated basis with neighbouring authorities.*

Review and amend the Wind Energy Capacity Map to ensure that it is consistent with the assessment above.”

STATEMENT OF REASONS

- I. The Office of the Planning Regulator is of the opinion that the Development Plan has not been made in a manner consistent with its recommendations and that the Development Plan as made fails to set out an overall strategy for the proper planning and sustainable development of the area.
- II. 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.
- III. 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.
- IV. The Development Plan contains conflicting objectives on wind energy development such that the Policy objectives supporting wind and renewal 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.
- V. The Chief Executive of the Planning Authority has made recommendations which support the amendments to the Development Plan as contained within this Direction.

GIVEN under my hand,

Minister for Housing, Local Government and Heritage
day of July 2021.