



28th September 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
Decision to Issue a Direction to Laois County Council on the
Laois County Development Plan 2021 - 2027

Dear John,

I am writing to you to inform you of the following in relation to the Section 31 draft Direction issued to Laois County Council on 7th March 2022, and the subsequent consideration by the Office of the Planning Regulator (the Office) of your report and the submissions made directly to the Office in connection with the Laois County Development Plan 2021 – 2027, as adopted, by the elected members of Laois County Council on 25th January 2022.

The Office notified the Minister pursuant to Section 31AN(4) of the Planning and Development Act 2000 (as amended) on 18th May 2022 and recommended that I, as Minister, issue the Direction, as attached to the Notice of Intent dated 7th March 2022, with minor amendments.



PROCESS TO DATE

The draft Direction issued on 7th March 2022 required the following:

- a. The deletion of 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. To 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 zoning objectives for 4 parcels of land (references 85, 86, 89 and 92) to that of the draft Plan consistent with the recommendations of the Chief Executive’s Report dated 17th November 2021.

Subsequently, the Office, in their notification letter pursuant to Section 31AN(4) of the Planning and Development Act 2000 (as amended), recommended that the proposed final Direction be issued as follows:

- 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. Amend Objective CM RE 1 of the adopted Development Plan to state (amended text in red):

.....



CM RE 1 – Prepare a Renewable Energy Strategy (RES) for County Laois, including to identify 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 commencement of the variation to the County Development Plan within 1 year of adoption of the plan. Once adopted this will be by way of a variation to the Laois County Development Plan.

- 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:
 - i. Zoning amendment 85 (Portlaoise) – 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) – 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 92 (Stradbally) – reinstate the zoning status of the subject land to that of the draft Plan i.e. the subject land reverts to not zoned.

Wind Energy

The Development Plan is not consistent with National Policy Objectives set out in the National Planning Framework, specifically 55 (NPO 55) and the Wind Energy Development Guidelines (2006) (the Wind Energy Guidelines).

Building Height

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

Zoning

In relation to zoning amendments 85, 86 and 92, the proposed zonings for residential development are located in peripheral locations remote from the existing settlements of Portlaoise and Stradbally, which is inconsistent with the requirements for compact growth in NPO 3c and RPO 3.2, and the sequential approach to development having regard to Section 6.2.3 of the Section 28 Development Plan Guidelines for Planning Authorities, 2022 which state the following:

It is a policy and objective of these Guidelines that planning authorities adopt a sequential approach when zoning lands for development, whereby the most spatially centrally located development sites in settlements are prioritised for new development first, with more spatially peripherally located development sites being zoned subsequently.

In relation to Zoning Amendment 89 (listed as 2(d)(iii) in the Draft Direction), I note that the Office has given careful consideration to the detailed submission of elected members in respect of the Residential 2 zoning objective on the subject lands.

The submission states that these lands have been zoned for residential development since 2006 and are part of a larger land holding together with the lands to the north (zoned Residential 2). A masterplan has been prepared by the developer for the extended land holding. The submission references the preparation of the masterplan; proximity to an established neighbourhood centre

.....



(Kilminchy Avenue) and St. Marys CBS school; adjoining proposed and established housing on lands to the north, south and west, and Irish Water Confirmation of Feasibility for residential development and the capacity to serve the site within the plan period.

DECISION

Having reviewed and considered the following:

- the Office's notification letter under 31AN(4),
- your report on the draft Direction, and
- the submissions made directly by the elected members of Laois County Council to the Office,

I, as Minister, am of the opinion to issue the Direction to effect the following recommendations from the Office:

2(a), 2(c), 2(d)(i), 2(d)(ii) and 2(d)(iii) (previously listed as 2(d)(iv) in the draft Direction), and in that regard, I refer you to the Statement of Reasons set out in the enclosed Direction.

I am of the opinion not to include (2)(b) in the Final Direction for the following reasons:

1. There have been a number of significant and critical developments in relation to climate change and renewable energy to which I have given due consideration to in the context of my decision, namely;
 - i. Through the Climate Action and Low Carbon Development (Amendment) Act 2021 and the National Development Plan 2021 – 2030, the Government has committed to a binding target to reduce greenhouse gas emissions by 51% and increase the



share of electricity generated from renewable sources by up to 80% over the decade (2021 – 2030), and to achieving net-zero emissions no later than 2050.

- ii. The publication of the Climate Action Plan 2021 and the associated Annex of Actions identifies precise and targeted measures to ensure that Ireland achieves a 51% reduction in overall greenhouse gas emissions by 2030 and also to reach net-zero emissions by no later than 2050. The delivery of Action 102 set out in the Annex of Actions, commits to delivering clear and specific outputs that are required in order for development plans to accurately and proportionately address targets at a local authority level.

- iii. In particular, the commitment to publish a framework to set out targets for onshore renewable electricity development to inform spatial plans will be a significant output to enable the disaggregation of national targets to a scale that can be applied at local authority level. The timeline for the publication of the framework is Q4 2022. It is desirable that such outputs and targets would be available to inform county development plans and that potential for renewables would not be prescribed prematurely, particularly given the life-cycle of development plans, which span six years. This will be applied to development plans when the framework to set regional and local targets for onshore renewable electricity development is available.

- iv. The publication of the Climate Action and Low Carbon Development (Amendment) Act 2021 makes provision for local authorities to prepare statutory Climate Action Plans for their own administrative area within 12 months of the receipt of a request from the Minister for the Department of the Environment, Climate and Communications. A local Climate Action Plan is required to specify the mitigation measures and the adaptation measures to be adopted by the local authority as well as being consistent with the most recent approved climate action plan.



Provision to align the Local Authority Climate Action Plans with the planning system is ultimately through Section 10(2)(n) of the Planning and Development Act 2000 (as amended), which requires that a development plan shall include objectives for:

- the promotion of sustainable settlement and transportation strategies in urban and rural areas including the promotion of measures to —
- reduce energy demand in response to the likelihood of increases in energy and other costs due to long-term decline in non-renewable resources,
- reduce anthropogenic greenhouse gas emissions and address the necessity of adaptation to climate change, taking account of the local authority climate action plan (within the meaning of Section 14B of the Climate Action and Low Carbon Development Act 2015), where such a plan has been made for the area in question; in particular, having regard to location, layout and design of new development.

2. The developments highlighted in Section 1 above supersede those documents listed in Section 3¹ of the Section 28 *Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change* published in 2017. The developments highlighted above are also referenced in more recent Section 28 Guidelines, *Development Plans Guidelines for Planning Authorities*, issued in July 2022, which provide updated planning policies and objectives with regard to climate action, renewable energy and development plans. Chapter 8 and Section 8.1.6 of the Development Plans Guidelines emphasise the role of Local Authority Renewable Energy Strategies to inform development plans, which will be applied to development plans when the framework to set regional and local targets for onshore renewable electricity development is available.

¹ The National Renewable Energy Action Plan 2010 (Irish Government submission to the European Commission); • The Government's Strategy for Renewable Energy 2012 – 2020 (DCENR); • The Government's White Paper on Energy Policy - Ireland's Transition to a Low Carbon Energy Future 2015-2030 (DCENR); and • The Government's National Mitigation Plan, July 2017 (DCCA).



3. These developments will generate a nationally and regionally integrated capacity assessment for renewable energy that will facilitate co-ordination with adjoining authorities, provide metrics to inform the development of local targets and enable a broader range of potential measures to be applied, on a statutory basis. In this context, I consider that it would not be in accordance with proper planning and sustainable development, that the Laois County Development Plan 2021-2027 address the issue at this stage in the manner recommended by the Office as this could preclude local scope for climate action, within the framework of updated national policy as outlined in Section 1.

4. Furthermore, in response to the Russian invasion of Ukraine, the European Commission has proposed an immediate joint European action programme, REPowerEU, to terminate the dependence on imported fossil fuels from Russia before 2030 while ensuring more affordable, secure, and clean energy for Europe. Recommendations include that the *“...planning, construction and operation of plants for the production of energy from renewable sources, their connection to the grid and the related grid itself are considered as being in the overriding public interest and in the interest of public safety and qualify for the most favourable procedure available in their planning and permitting procedures”*. On the acceleration of Europe’s clean energy transition, Member States are to establish “go-to” areas for renewable energy development. Given the ongoing efforts to address both energy security and the Commission’s proposal to terminate the dependence on imported fossil fuels, the inclusion of recommendation 2(b) of the Office in the Final Direction could preclude such action, which will require the rapid deployment of renewables.

The National Energy Security Framework, published in April 2022, sets out the Government’s response to Ireland’s energy security needs in the context of the war in Ukraine. This Framework identifies a number of potential measures under the planning system that could better support the timely delivery of additional renewable energy



sources and the required supporting infrastructure. One such measure identified is the provision of greater regulatory certainty, including timeframes, in relation to decarbonised generation which requires Government policy on relevant aspects of energy supply. These policies are currently being developed, one of which includes a national policy on renewables (solar and wind) as a specific energy type. Consequently, the detail of such a relevant and significant national renewable energy policy will need to be given effect through integration and implementation in the planning system, including the statutory plan-making process and is required to be completed to ensure the correct sequencing of policy formation at regional and local level can then be followed.

In light of the considerations and influencing factors set out above, I consider it is prudent and appropriate to allow for the scheduled and sequential preparation and publication of the relevant nationally and regionally integrated frameworks and plans to inform the Laois County Development Plan 2021-2027, particularly where statutorily provided for, to give the required effect to determining targets and potential measures that can be proportionately and reasonably applied at local authority level.

Furthermore, the resource requirements and efforts related to the preparation of the local authority climate action plans should be prioritised to effectively inform the development plan, having had regard to the most up-to-date national policy and legislation; Ireland's energy security requirements, which include the need for the diversification and rapid deployment of renewables.



DIRECTION

Accordingly, Laois County Council should **TAKE NOTICE** that on the 28th day of September 2022, I as Minister, have issued a Direction pursuant to Section 31 of the Planning and Development Act 2000 (as amended). A copy of the Direction is attached to this letter.

Pursuant to Section 31 (17) of the Planning and Development Act 2000 (as amended), this Direction is deemed to have immediate effect and its terms are considered to be incorporated into the plan.

STEPS TO BE TAKEN

In light of the foregoing Laois County Council is required, pursuant to Section 31(2) of the Planning and Development Act 2000 (as amended) to comply with this Direction so as to rectify the matter in a manner that, in my opinion, will ensure that the Laois County Development Plan 2021- 2027 sets out an overall strategy for proper planning and sustainable development and meets the requirements of the Act.

The Council should ensure that the Direction is available for inspection at its offices and on its website.

My officials remain available to assist you, as necessary, in complying with the foregoing process.

Yours sincerely,

Peter Burke, T.D.,
Minister of State with responsibility for Local Government and Planning



Copied to:

- Cathaoirleach, Laois County Council, Áras An Chontae, Áras an Chontae, James Fintan Lalor Avenue, Portlaoise, County 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 EWV4.

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 31AN(4) 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. Delete policy '*Developments shall be no more than 3 storey on greenfield sites*' from the adopted Development Plan.
- c. Reinstate the following zoning objectives to that of the draft Plan:
 - (i) Zoning amendment 85 (Portlaoise) – 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) – reinstate the zoning of the subject land to that of the draft Plan i.e. the subject land reverts to Transport & Utilities.
 - (iii) Zoning amendment 92 (Stradbally) – 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. Pursuant to Section 31(1)(a)(i)(II) and Section 31(1)(b)

The Minister is of the opinion that the Development Plan has failed to implement a recommendation made to the planning authority by the Office 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. Pursuant to Section 31(1)(ba)(i)

The Laois County Development Plan 2021-2027 is inconsistent with the policy objectives of the National Planning Framework, specifically NPO 55, which states that it is an objective to 'promote renewable energy use and generation at appropriate locations.....to meet national objectives towards achieving a low carbon economy by 2050', and the requirements for the planning authority to comply with, and the development plan to be consistent with, the aforementioned National Policy Objective under Sections 10(1A) and/or 12(11) read in conjunction with Section 12(18);

III. Pursuant to Section 31(1)(c)

The Development Plan does not have adequate regard to Ministerial Guidelines issued under Section 28 of the Act, specifically the requirement under the Wind Energy Development Guidelines for Planning Authorities (2006) that the development plan must achieve a reasonable balance in responding to overall Government Policy on renewable energy, enabling the wind energy resources of the planning authority's area to be harnessed in a manner that is consistent with proper planning and sustainable development in order to provide a plan-led context to the assessment of individual wind energy development proposals.

IV. Pursuant to Section 31(1)(ba)(i) & (ii)

The Development Plan contains conflicting objectives on wind energy development such that the Policy objectives supporting wind and renewal energy development of the adopted Development Plan cannot be achieved having regard to the separation distances required by Section 6.1 of Appendix 5: Wind Energy Strategy of the adopted Development Plan.

V. Pursuant to Section 31(1)(ba)(ii) and Section 31(1)(b)

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

VI. Pursuant to Section 31(1)(ba)(i), Section 31(1)(b) and Section 31(1)(c)

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) & subsequently *Development Plan Guidelines for Planning Authorities, 2022*.
- 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 Development Plan, and which would further undermine the achievement of the brownfield development targets in the Core Strategy Table.

GIVEN under my hand,

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

**Peter Burke T.D.,
Minister of State with responsibility for Local Government and Planning**

28th Day of September 2022