



4th November 2022

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

Limerick City and County Council,
Merchants Quay,
Limerick City
County Limerick

Section 31 of the Planning and Development Act 2000, as amended
Decision to Issue a Direction to Limerick City and County Council on the Limerick
Development Plan 2022 – 2028

Dear Pat,

I am writing to you to inform you of the following in relation to the Section 31 draft Direction issued to Limerick City and County Council on 28th July 2022, and the subsequent consideration by the Office of the Planning Regulator (the Office) of your report and the submission made directly to the Office in connection with the Limerick Development Plan 2022 – 2028, as adopted by the elected members of Limerick City and County Council on 17th June 2022.

BACKGROUND

The Office notified the Minister pursuant to section 31AN(4) of the Planning and Development Act 2000 (as amended) on the 28th September 2022 and recommended that I as Minister, issue the Direction, as attached to the Notice of Intention to Issue a Direction dated 28th July 2022, without minor amendment to the draft Direction.



The draft Direction contained two parts:

- Part 2(a) reinstate zoning objectives to those set out in the draft Plan in the case of five (5) individual material amendments; and
- Part 2(b) delete the Data Centre zoning objective on lands consisting of 33 hectares at Ballysimon.

I note, that there were 8 submissions received in total, following public consultation on the draft Direction under Section 31. These are as follows:

- Direct submission to the Office from an elected member opposing the draft Direction only in respect of Part 2(a)(i) MA No 142 (zoning objective at Ballykeefe);
- 2 submissions from prescribed authorities (OPW and Department of Agriculture) in support of Part 2(a), and
- 6 no. of submissions made to the Council by members of the public.

Having reviewed and considered the Office's notification letter pursuant to section 31AN(4) including your report on the draft Direction and submissions (dated 7th September 2022) and the submission made directly by an elected member of the Council to the Office, I am of the opinion that the Direction should be issued as attached, without amendment.

The Development Plan has not been made in a manner consistent with the recommendations of the Office and the Development Plan as made fails to set out an overall strategy for the proper planning and sustainable development of the area.

Also, the Development Plan as made is not in compliance with the provisions of the Act including s. 10(1), s. 12(18) and s. 28(1A) and is inconsistent with the National Planning Framework NPO 53 and 62 in relation to securing compact and sustainable patterns of development and NPO 57 which requires the avoidance of inappropriate development in areas at risk of flooding in



accordance with Ministerial Guidelines issued under Section 28 of the Act, *The Planning System and Flood Risk Management, Guidelines for Planning Authorities (2009)* ("the Flood Guidelines"). The Plan is also inconsistent with Ministerial Guidelines issued under Section 28 of the Act, specifically:

- the Development Plan Guidelines for Planning Authorities (2007) and the Development Plans, Guidelines for Planning Authorities (2022);
- the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009);
- the Spatial Planning and National Roads, Guidelines for Planning Authorities (2012).

Further to the above reasons, you as Chief Executive of the Planning Authority, prepared a report pursuant to Section 31(8) of the Act and has recommended that the draft Direction issued by the Minister is given effect, as drafted and without amendment.

Accordingly, Limerick City and County Council should **TAKE NOTICE** that on the 4th day of November, 2022 I have issued a Direction pursuant to Section 31 of the Planning and Development Act 2000 (as amended).

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.

A copy of this Direction is attached to this letter.

STEPS TO BE TAKEN

In light of the foregoing the 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 Limerick Development Plan 2022 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,

A handwritten signature in blue ink that reads "Peter Burke". The signature is written in a cursive style and is positioned above a solid horizontal line.

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

Copied to:

- Cathaoirleach, Limerick City and County Council, Merchants Quay, Limerick
- Mr. David Kelly, Director, Southern Regional Assembly, Assembly House, O'Connell Street, Waterford, X91 F8PC
- Office of the Planning Regulator, Fourth Floor (West Wing) Park House, Grangegorman, 191-193A North Circular Road, Dublin 7, D07 EWW4.

DIRECTION IN THE MATTER OF SECTION 31

OF THE PLANNING AND DEVELOPMENT ACT 2000 (as amended)

Limerick Development Plan 2022 – 2028

“Development Plan” means the Limerick Development Plan 2022 – 2028

“Planning Authority” means Limerick City and 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) ("the Act"), 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 Act , and consequent to a recommendation made to him by the Office of the Planning Regulator under section 31AN(4)(a) of the Act hereby directs as follows:

- (1) This Direction may be cited as the Planning and Development (Limerick Development Plan 2022 - 2028) Direction 2022.
- (2) The Planning Authority is hereby directed to take the following steps with regard to the Development Plan:
 - (a) Reinstate the following zoning objectives to that of the draft Plan:
 - (i) MA no. 142 i.e. the subject land reverts to Agriculture from Enterprise and Employment.

- (ii) MA no. 145 i.e. the subject land reverts to Community and Education from Mixed Use.
 - (iii) MA no. 146 i.e. the subject land reverts to Enterprise and Employment from Mixed Use.
 - (iv) MA no. 147 i.e. the subject land reverts to Enterprise and Employment/Open Space and Recreation from New Residential except in respect of the lands to be developed for housing under ABP SHD reference 311588.
 - (v) MA no. 148 i.e. the subject land reverts to Semi Natural Open Space from Enterprise and Employment.
- (b) Delete the Data Centre zoning objective on lands consisting of 33 hectares at Ballysimon.

STATEMENT OF REASONS

I. Pursuant to section 31(1)(ba)(i) and section 31(1)(b)

The Development Plan as made includes lands zoned for data centre development located in a non-sequential and peripheral location outside the boundary of the plan for Limerick City that is inconsistent with National Planning Framework National Strategic Outcome 1, National Policy Objective 53, National Policy Objective 62 in relation to securing compact and sustainable patterns of development.

No or no adequate reasons or explanations relating to the proper planning and sustainable development of the area have been provided to explain why lands have been zoned in such a way and how this approach (involving a failure to zone lands having regard to the relevant Guidelines) is consistent with an overall strategy for the proper and sustainable development of the area in accordance with section 10(1) and section 12(18) of the Planning and Development Act 2000, as amended.

II. Pursuant to section 31(1)(ba)(i), section 31(1)(b) and section 31(1)(c)

The Development Plan as made includes significant lands zoned in a manner that is inconsistent with National Planning Framework National Policy Objective 57, which

seeks to avoid inappropriate development in areas at risk of flooding having regard to Ministerial Guidelines issued under Section 28 of the Act, *The Planning System and Flood Risk Management, Guidelines for Planning Authorities* (2009) ("the Flood Guidelines"). Significant lands have been zoned in the plan as made without passing the provisions of the sequential approach and plan-making Justification Test detailed in the Flood Guidelines.

No or no adequate reasons or explanations relating to the proper planning and sustainable development of the area have been provided to explain why the lands have been zoned in such a way and how this approach is consistent with an overall strategy for the proper planning and sustainable development of the area.

Further, the statement under Section 28(1A)(b) attached to the Development Plan as made:

- (a) fails to include information which demonstrates that the planning authority has formed the opinion that it is not possible to implement the policies and objectives outlined at (I) and (II), above, as contained in the Guidelines, because of the nature and characteristics of the area or part of the area and to give reasons for the forming of that opinion and to explain why it is not possible to implement the policies and objectives, contrary to Section 28(1B)(b); and
- (b) fails to provide any or any adequate explanation, consistent with the requirement to deliver an overall strategy for the proper planning and sustainable development of the area, as to why the Development Plan provides for zoning of lands in a way that does not have regard to the policies and objectives set out in *The Planning System and Flood Risk Management Guidelines for Planning Authorities*, *the Development Plans Guidelines for Planning Authorities* and *Spatial Planning and National Roads Guidelines for Planning Authorities*.

III. Pursuant to section 31(1)(a)(i)(II) and section 31(1)(b)

The Development Plan has not been made in a manner consistent with and has failed to implement the recommendations of the Office of the Planning Regulator under Section 31 AM.

IV. Pursuant to section 31(1)(b)

In light of the matters set out at I to III, above, the Minister 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.

V. Pursuant to section 31(1)(c)

In light of the matters set out at I to IV, above, the Development Plan is not in compliance with the requirements of the Act.

GIVEN under my hand,

A handwritten signature in blue ink, reading "Peter Burke", is written over a horizontal line. The signature is cursive and stylized.

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

4th day of November, 2022.