



3rd August 2023

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

Clare County Council
Áras Contae an Chláir
New Road
Ennis
Co. Clare
V95 DXP2

Section 31 of the Planning and Development Act 2000 (as amended)
Decision to Issue a Direction to Clare County Council regarding the
Clare County Development Plan 2023 – 2029

Dear Pat,

I am writing to inform you of the following in relation to the section 31 draft Direction that issued to Clare County Council on 18th April 2023, 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 Clare County Development Plan 2023 – 2029, as adopted by the elected members of Clare County Council on 9th March 2023.

The Office notified the Minister pursuant to section 31AN(4) of the Planning and Development Act 2000 ('the Act') on 27th June 2023 and recommended that I, as Minister, issue the Direction as attached to the *Notice of Intention to Issue a Direction*, with minor amendments.

The draft Direction can be summarised as follows:

- Part 2.a. - reinstate nineteen (19) zoning objectives and associated text, and amend one (1) zoning objective and its associated text.
- Part 2.b. - delete a specified subsection of section 11.2.9.3 of the Plan.



A copy of the notice letter and proposed final Direction was submitted to the Minister by the Office along with supporting documentation, which included the following:

- Clare County Council Chief Executive's Report issued under section 31(8) of the Act;
- A copy of submissions received by the Office pursuant to section 31(10) of the Act.

Subsequently, on 6th July 2023 the Office of the Planning Regulator advised me in writing that specified corrections were required to certain numerical figures cited in its section 31AN(4) Notice Letter. I have reviewed these corrections and my decision is based on the most up to date information supplied.

Accordingly, having reviewed and considered the Office of the Planning Regulator's notification letter under section 31AN(4), your report of 7th June 2023 on the draft Direction and submissions received, and the submissions made directly by elected members of the Council to the Office, I am of the opinion that the Direction should be issued in line with the recommendations of the Office with minor amendments applied, in the interests of clarity. In the above regard, I refer you to the Statement of Reasons set out in the enclosed Direction.

In reaching my decision to issue the Direction I have noted your recommendations as Chief Executive under section 31(9) of the Act. I further note the Office's consideration of, and response to, those matters in its subsequent recommendation to me, as Minister, under section 31AN(4) of the Act.

I wish to further clarify that my decision to issue the Direction is reflective of relevant legislative and planning policy considerations as they currently apply. However, as you will be aware, a number of significant planning policy initiatives are currently underway at national level.

In this regard, Government recently decided to commence a revision to the National Planning Framework, which is underway and is expected to conclude in the spring of 2024. In order to



properly and robustly inform the revision, a review and analysis is required of the full suite of final Census 2022 results regarding population distribution, demographic trends and housing, so that the impact of these factors on future development and growth patterns may be fully considered.

This research, being undertaken by the ESRI on behalf of the Department of Housing, Local Government and Heritage, will examine a number of scenarios to determine projections for population and associated housing demand at national, regional and local authority level.

Once completed, the research will inform any revision required to be made to the NPF Strategy, and specifically the scenario that underpins the strategy including any adjustments to the overall national figure for population projections and associated housing demand arising. Thereafter, and on the final publication of the NPF, any necessary revisions to *Housing for All* and the Housing Need and Demand Assessment Tool will be undertaken and the appropriate approach to applying any revised population projections and associated housing demand figures at a regional and local level will be determined.

As a reserved function, the elected members of Clare County Council retain the prerogative to exercise their power to vary the Development Plan pursuant to section 13 of the 2000 Act, as may be appropriate, having regard to chapter 10 of the Development Plan Guidelines (2022). This process would be informed by environmental assessment, as well as public consultation, and would provide an opportunity for further engagement with the Office.

Accordingly, Clare County Council should **TAKE NOTICE** that on 3rd day of August, 2023 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 Act 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 enclosed.



In light of the foregoing, Clare County Council is required, pursuant to section 31(2) of the Planning and Development Act 2000 to comply with this Direction so as to rectify the matter in a manner that, in my opinion, will ensure that the Clare County Development Plan 2023–2029 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,

Kieran O'Donnell TD

Minister of State for Local Government and Planning

Copied to:

- Cathaoirleach, Clare County Council, Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2.
- Director, Southern Regional Assembly, Assembly House, Waterford, X91 F8PC.
- Office of the Planning Regulator, Fourth Floor, 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)**

CLARE COUNTY DEVELOPMENT PLAN 2023-2029

“Development Plan” means the Clare County Development Plan 2023-2029

“NPF” means National Planning Framework

“Planning Authority” means Clare County Council

“RSES” means Regional Spatial and Economic Strategy for the Southern Region

The Minister of State 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 (No.30 of 2000) and the Housing, Local Government and Heritage (Delegation of Ministerial Functions) Order 2023 (S.I. No. 116 of 2023), 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 (Clare County Development Plan 2023-2029) Direction 2023.
- (2) The Planning Authority is hereby directed to take the following steps with regard to the Development Plan:
 - a. Reinstate the following zoning objectives and associated text to that of the draft plan, and apply all necessary consequential updates to the text of the plan consistent with this requirement:
 - (i) Kilrush R5 – i.e. the subject lands revert to unzoned ‘white lands’ from Residential
 - (ii) Killaloe R6 - i.e. the subject lands revert to Tourism from Residential

- (iii) Mullagh R3 - i.e. the subject lands revert to Agriculture from Residential
- (iv) Liscannor R3 - i.e. the subject lands revert to Agriculture from Residential
- (v) Broadford LDR1 - i.e. the subject lands revert to Agriculture from LDR
- (vi) Broadford LDR2 - i.e. the subject lands revert to Agriculture and Existing Residential from LDR
- (vii) Broadford LDR4 - i.e. the subject lands revert to VGA from LDR
- (viii) Broadford LDR5 - i.e. the subject lands revert to Mixed Use (MU) from LDR
- (ix) Broadford LDR6 - i.e. the subject lands revert to VGA from LDR
- (x) Broadford LDR7 - i.e. the subject lands revert to Agriculture and Existing Residential from LDR
- (xi) Broadford LDR8 - i.e. the subject lands revert to Existing Residential from LDR
- (xii) Broadford LDR9 - i.e. the subject lands revert to Existing Residential from LDR
- (xiii) Cooraclare LDR1 - i.e. the subject lands revert to VGA and Mixed Use (MU) from LDR
- (xiv) Cooraclare LDR2 - i.e. the subject lands revert to Agriculture and Existing Residential from LDR
- (xv) Cooraclare LDR3 - i.e. the subject lands revert to VGA from LDR
- (xvi) Cooraclare LDR4 - i.e. the subject lands revert to VGA and Agriculture from LDR
- (xvii) Cooraclare LDR5 - i.e. the subject lands revert to Agriculture from LDR
- (xviii) Cooraclare LDR6 - i.e. the subject lands revert to VGA from LDR

- (xix) Ballynacally VGA3 - i.e. the subject lands revert to Agriculture and Mixed Use from VGA

and in the case of the following, the zoning objective and associated text shall be amended consistent with the recommendation of the Chief Executive's Report dated 10th July 2022 and as per Volume 3a of the proposed amendments to the draft Plan dated 28th November 2022.

- (xx) Ennis LDR2 - i.e. the northern portion of the subject lands is amended to Open Space from LDR as per Volume 3a.

- b. Delete subsection 'Existing Accesses onto National Secondary Roads' under 'Exceptional Circumstances' of section 11.2.9.3 of the Plan.

STATEMENT OF REASONS

- I. The Development Plan as made includes material amendments to the draft Plan which zone additional residential land in excess of what is required for Clare County as set out in the Core Strategy. These zoning objectives and amendments are located in peripheral and/or nonsequential locations and would encourage a pattern of development in particular locations which is inconsistent with national and regional policy objectives promoting compact forms of development (NPO 3 of the NPF and RPO 35 of the RSES), which include lands that are not serviced or serviceable within the plan period inconsistent with the requirement to implement a tiered approach to zoning (NPO 72a-c of the NPF), and inconsistent with national policy to promoting proportionate growth of settlements (NPO 18a of the NPF), and fails to have regard to the policy and objective for a sequential approach to development under section 6.2.3 of the Development Plans, Guidelines for Planning Authorities (2022) issued under section 28 of the Planning and Development Act 2000.
- II. The Development Plan as made includes policy provisions for exceptional circumstances for access on to national roads, which are not consistent with the

National Strategic Outcome of the NPF for enhanced regional accessibility, including the maintenance of the strategic capacity and safety of the national road network, are not consistent with regional policy objective RPO 140 of the RSES to maintain the strategic capacity and safety of the national road network, and do not have regard to section 2.5 and section 2.6 of the Spatial Planning and National Roads Guidelines for Planning Authorities (2012) issued under section 28 of the Planning and Development Act 2000.

- III. The Development Plan as made includes zoning objectives and material amendments to the draft Plan which zone land for uses within flood risk zone A/B that are vulnerable and/or highly vulnerable to flood risk which lands have not passed the plan making Justification Test. These zoning objectives are inconsistent with national and regional policy objectives for flood risk management (NPO 57 of the NPF and RPO 116 of the RSES) and fail to have regard to The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) issued under section 28 of the Planning and Development Act 2000 by not demonstrating a solid evidence base that land use zoning objectives satisfy the Justification Test.
- IV. The statement appended to the Development Plan pursuant to section 28(1A)(b) of the 2000 Act 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 of the Minister contained in the Development Plans, Guidelines for Planning Authorities (2022), the Spatial Planning and National Roads Guidelines for Planning Authorities (2012) and The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) because of the nature and characteristics of the area, in addition to failing to include the reasons for the forming of that opinion and why the policies and objectives of the Minister have not been so implemented, contrary to section 28(1B)(b) of the Act.

- V. 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 31AM of the Act.
- VI. In light of the matters set out at I-V above, the Minister is of the opinion that the Development Plan as made fails to set out an overall strategy for the proper planning and sustainable development of the area.
- VII. In light of the matters set out at I to VI above, the Development Plan is not in compliance with the requirements of the Planning and Development Act 2000.

GIVEN under my hand,



Minister of State for Local Government and Planning

3rd August 2023