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# ***LAOIS COUNTY DEVELOPMENT PLAN REVIEW***

*Chief Executives Report*

*Public Consultation of Proposed Material  
Alterations/Amendments*

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LAOIS COUNTY COUNCIL  
Comhairle Chontae Laoise



***Laois County Council  
Comhairle Chontae Laoise***

**26<sup>th</sup> May 2017**

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## **Section 1: Introduction & Overview**

### **1.1 Introduction**

Laois County Council published the Draft Laois County Development Plan 2017-2023 on 5th May 2016 and the Draft Plan and accompanying Environmental Reports were available to view over a 10 week period from 5th August through 13th October 2016; the public consultation was extended by a further five weeks to 17th November 2016. A Chief Executive's Report on submissions and observations received during the publication consultation period was submitted to the Elected Members of Laois County Council for consideration on 12th January 2017.

Laois County Council considered the Draft Laois County Development Plan 2017-2023 and the Chief Executive's Report on the 20th March 2017 and approved Proposed Material Alterations/Amendments to the Draft Plan. The Elected Members also agreed to make the Development Plan, with the exception of the Proposed Material Alterations/Amendments. Notice of the Proposed Material Alterations/Amendments was given on 7<sup>th</sup> April 2017, in accordance with the requirements of Section 12 of the Planning & Development Act 2000 (as amended).

A copy of the Proposed Material Alterations Report was available to view from 7<sup>th</sup> April 2017 to 5<sup>th</sup> May 2017 at the following locations:

- Laois County Council offices, Aras an Chontae, James Fintan Lalor Avenue, Portlaoise, Co. Laois; and
- All branches of Laois Public Libraries (please check locally for opening times).

A total of 14 written submissions or observations were received during the public consultation period as follows:

The purpose of this Chief Executive's Report is to report on submissions and observations received and to give the Chief Executive's response in relation to the issues raised.

### **1.2 Environmental Considerations**

In accordance with Section 12(7)(aa) of the Planning & Development Act 2000 (as amended) the Chief Executive of Laois County Council made determinations that Strategic Environmental Assessment (SEA) and Appropriate Assessment (AA) were not required for the Proposed Material Alterations/Amendments. The SEA and AA determinations and SEA and AA Screening Reports were placed on display along with the proposed Material Alterations/Amendments.

### **1.3 Content and Format of Report**

This Chief Executive's Report forms part of the statutory procedure for the preparation of the Laois County Development Plan 2017 – 2023. Section 1 consists of an Introduction and Overview of the review process. Section 2 details the Legislative Background to the preparation of the Chief Executive's Report. Section 3 lists the Submissions Received during the consultation and the body or person that made the submission. Section 4 summarises the Issues Raised in submissions and sets out the Chief Executive's response to the issues raised. Section 5 sets out a determination, pursuant to Section 12 (10) of the Planning & Development Act 2000 (as amended) in relation to further modifications proposed to the proposed Material Alterations.

**Table 1.1: Summary of County Development Plan Process**

<b>Stage 1 - Pre-Draft (Complete)</b>	<b>Comment</b>
Notice of Review	9th October 2015
Stakeholder and Public Consultation	4 no. public information sessions were held at the following locations: Portlaoise, Portarlinton, Rathdowney and Killeslin.
Chief Executive's Report on Consultation Submissions to Elected Members	January 2016
Members consider Chief Executives Report and give direction regarding preparation of the Draft Plan	March 2016
Proposed Draft Development Plan prepared and submitted to members for consideration	June 2016
Members consider draft plan and can accept or amend	Special meetings of County Council to consider the proposed Draft Development Plan held in July 2016.
<b>Stage 2 Draft Plan (Complete)</b>	<b>Comment</b>
Notice of Draft Plan	August 2016
Public consultation on draft plan	3 no. public information sessions were held at the following locations: Abbeyleix, Ballylynan and Castletown.
Chief Executive's Report on submissions/observations submitted to members	January 2017
Members consider Report and Draft Plan and can materially alter if required	March 2017
<b>Stage 3 Material Alterations</b>	
Notice of proposed material alterations	April 2017
CE Report on submissions/observations submitted to members	May 2017
Members consider report and proposed material alterations and can make the plan with or without the proposed alterations.	June 2017
<b>Plan adopted</b>	<b>July 2017</b>

## ***Section 2 – Legislative Background***

### **2.1 Chief Executive’s Report on the Submissions and Observations Received**

Under the requirements of Section 12(8) of the Planning & Development Act 2000 (as amended) the Chief Executive is required to prepare a report on submissions and observations received in relation to the Proposed Material Alterations to the Draft Development Plan and to submit it to the members of Laois County Council for their consideration.

The Act requires that the Chief Executive’s Report shall:

- Lists the persons or bodies who made submissions or observations during the prescribed public consultation period;
- Summarises the issues raised by the persons or bodies in the submissions or observations received during the prescribed public consultation period;
- Gives the response of the Chief Executive to the issues raised, taking account of:
  - Directions of the members of the authority regarding the preparation of the Draft Development Plan
  - The proper planning and sustainable development of the area
  - The statutory obligations of the local authority
  - Any relevant policies or objectives of the Government or of any Minister of the Government.

This Chief Executive’s Report on submissions or observations received in relation to the proposed Material Alterations to the Draft Development Plan is hereby submitted to the members of the Planning Authority for consideration.

### **2.2 Consideration of Amendments, Chief Executives Report and Making of the Development Plan**

In accordance with Section 12(9) of the Planning & Development Act 2000 (as amended), the Elected Members of the Planning Authority are required to consider the Proposed Material Alterations/Amendments and the Chief Executive’s Report within 6 weeks of receiving the Report.

The Members of the Authority shall, by resolution, having considered the CE’s Report, make the plan with or without proposed alterations/amendments, except where they decide to accept the alterations/amendments subject to modification, which may include the making of a further modification to the alteration/amendment. A further modification to a Material Alteration/Amendment may be made where it is minor in nature and therefore not likely to have significant effects on the environment or adversely affect the integrity of a European Site; and shall not be made where it relates to an increase in the area of land zoned for any purpose or an addition to or deletion from the record of protected structures.

Pursuant to Section 12(17) of the Planning & Development Act 2000 (as amended), a Development Plan made under this section shall have effect 4 weeks from the day that it is made.

### **2.3 Relevant Considerations when Making the Development Plan**

Pursuant to Section 12(11) of the Planning & Development Act 2000 (as amended), in making the Development Plan, Laois County Council is restricted to considering the proper planning and sustainable development of the area to which the development plan relates, the statutory obligations of the local authority and any relevant policies or objectives of the Government or any Minister of the Government.

Within the context of the above, it should be noted that Section 28(1) of the Planning & Development Act 2000 (as amended), states that a Planning Authority shall consider the policies and objectives of the Minister contained in guidelines issued under Section 28, which may include specific planning requirements, when making a Development Plan. It is also a requirement to append a statement to the Development Plan in relation to (inter alia) how the Planning Authority has implemented the policies and objectives in such guidelines.

Section 34(2) of the Planning & Development Act 2000 (as amended), which relates to the making of a decision on a planning application by a Planning Authority, also states that where any requirements of Ministerial Guidelines differ from the provisions of a Development Plan, then the provisions of the Ministerial Guidelines, to the extent that they so differ, shall apply.

## Section 3 – List of Submissions Received

### 3.1 List of Persons / Bodies

A total of 14 submissions were received during the prescribed public consultation period. A list of all the persons/bodies that made submissions on the Proposed Material Alterations/Amendments to the Draft Plan during the prescribed consultation period is set out in Table 3.1 below.

**Table 3.1: List of Persons/Bodies that Made Submissions**

Submission No.	Name	Date Received
1	Department of Housing, Planning Community and Local Government	5 <sup>th</sup> May 2017
2	Transport Infrastructure Ireland	2nd May 2017
3	Environmental Protection Agency	3rd May 2017
4	Department of Education and Skills	5 <sup>th</sup> May 2017
5	Minister for Agriculture, Food and the Marine	7 <sup>th</sup> April 2017
6	Dublin Airport Authority	5 <sup>th</sup> May 2017
7	Kilkenny County Council	12 <sup>th</sup> April 2017
8	Kildare County Council	20 <sup>th</sup> April 2017
9	Irish Wind Energy Association	5 <sup>th</sup> May 2017
10	Element Power Ireland Ltd	5 <sup>th</sup> May 2017
11	Galetech Energy Services	5 <sup>th</sup> May 2017
12	Coillte	5 <sup>th</sup> May 2017
13	Keep Ireland Open	5 <sup>th</sup> May 2017
14	Dunnes Stores	5 <sup>th</sup> May 2017

Of the total number of submissions received, the following acknowledged receipt of the consultation documents but did not provide any formal submission.

Submission No.	Name
5	Minister for Agriculture, Food and the Marine
6	Dublin Airport Authority
7	Kilkenny County Council
8	Kildare County Council

Submissions were received from the following persons/bodies after expiry of the consultation deadline.

Name
Department of Communications, Climate Change and Environment

## Section 4 – Summary of Issues Raised and Chief Executive Response and Recommendation

### 4.1 Summary of Issues Raised

This section summarises all submissions received and sets out the response of the Chief Executive to the issues raised. Submissions from prescribed bodies are summarised and responded to in Section 4.2 below. Issues raised in all other submissions are summarised and responded to under the relevant chapter headings of the Draft County Development Plan in Section 4.3 below.

### 4.2 Submissions Received from Prescribed Bodies

Summary of Issues Raised	Chief Executive's Response
<b>1. Department of Housing, Planning, Community and Local Government</b>	
<p>The Department has outstanding concerns in relation to specific provisions of the plan related to wind energy development in the county and compliance of the plan with established national policy on renewable energy development.</p> <p>The Department previously requested the deletion of Policy EN7 and Section 6.1 (appendix 5 – wind energy strategy) as they were contrary to the objectives underlying national policy and guidelines on wind energy development in relation to maximising the contribution to renewable energy targets from wind energy and because they set mandatory exclusion zones around certain locations for wind turbine developments.</p> <p>The Wind Energy Guidelines 2006, which remain in full statutory force until an ongoing focused review is concluded later this year, set out national policy level advice on the planning for and location of wind farm developments with regard to sensitive properties like homes in the context of assessing various impacts including noise and shadow flicker.</p> <p>National policy clearly signals that at a 500 metre set back distance (sections 5.6 &amp; 5.12) noise impacts will not be significant.</p> <p>Furthermore, the guidelines above also signal the possibility of such proposals being sited closer than 500 metres once the impacts of both noise and shadow flicker are objectively assessed on a case by case basis.</p> <p>National policy with regard to planning for wind energy projects does not therefore allow the setting of mandatory exclusion areas for wind farm developments on a specified distance in metres basis.</p>	<p>The Chief Executive notes the submission and the advice provided by the Minister in relation to the proposed Material Alterations / Amendments.</p> <p>In respect of the submission in relation to draft Policy EN7, the submission does not relate to a specific Proposed Material Alteration / Amendment and therefore cannot be considered at this stage.</p> <p>In respect of the revised Wind Energy Map 1.6.5, the Chief Executive firstly wishes to clarify that revised Wind Energy Map 1.6.5 has not been produced in order to take account of the provisions of draft Policy EN7. Draft Policy EN7 and Wind Energy Map 1.6.5 are unrelated, in this respect.</p> <p>The Chief Executive notes and acknowledges that the Wind Energy Guidelines (2006) provide current Government policy with respect to planning for wind energy development around the country and that, in accordance with Section 28 of the Planning and Development Act, 2000, as amended, the Planning Authority has a legal requirement to have regard to their provisions in the performance of its functions. The Chief Executive also notes that the Guidelines will remain in full statutory force until an ongoing review is concluded later this year and new Guidelines are published.</p> <p>In order to contribute to meeting Ireland's legally binding obligations in relation to tackling the drivers of climate change, there is a need for the Planning Authority to plan positively for the future and this includes facilitating and promoting opportunities for sustainable, renewable energy development. Diversifying our current energy supply mix, with a particular emphasis on reducing our reliance on fossil fuel, will assist greatly in moving towards a low-carbon economy and society.</p>



The Wind Energy Guidelines 2006 also emphasise (Sections 3.4-3.6) the necessity to geographically identify areas of potential for wind energy development within a county and the importance of a mapping analysis approach to spatially identify these areas. A revised wind energy map (Map 1.6.5) is proposed under Material Alteration No.6-No.24 for the county which indicates the vast majority of the county as '*Areas not open for consideration*', a small area at the south western boundary of Laois with Tipperary as a '*Preferred area*' while no area is designated as '*Areas open for consideration*'.

Furthermore, it is not clear if the analysis in formulating the above map takes account of the severely restrictive set back requirements of Policy EN7 from residential housing and public roads in particular – which would appear to potentially exclude any wind energy development from the county altogether.

This deficiency in the evidential basis of the policy is contrary to the guidelines above and which are intended to ensure a consistency of approach throughout the country in the identification of suitable locations for wind energy development and the securing of the maximum potential from the wind energy resources of the planning authority's area and to underpin wider Government policy in relation to meeting binding international legal obligations with regard to renewable energy production and tackling the drivers of climate change.

By including a mandatory exclusion zone for wind farm development of a minimum of 1500m around schools, dwellings, community centres and all public roads, the planning authority has departed from the provisions of the Wind Energy Guidelines 2006 and as a result will fail to maximise the potential from wind energy resources available as per the requirements of Chapter 3 of the Wind Energy Guidelines 2006 (section 3.4).

Such a requirement on future wind energy projects would seriously restrict the potential for the development of wind energy infrastructure in County Laois. The changes would be significantly in conflict with national and regional policy objectives to support the development of wind energy as a crucial component of the meeting Ireland's commitments to reducing greenhouse gas emissions and increasing renewable energy resources.

In 2013, the Department initiated a targeted review of the Wind Energy Guidelines 2006 which specifically identifies the issue of set back distances to dwellings for examination. The process of review is at an advanced stage and is likely to conclude later this year and the Department is giving

The advice of the Minister is noted, in particular in relation to the importance of utilising a mapping analysis approach to spatially identify areas of potential for wind energy development within the county.

Revised Wind Energy Map 1.6.5 has not been produced following a mapping analysis of the county. The intention of the Elected Members, in incorporating this revised Wind Energy Map, was to avoid centres of population within the county, where there is potential for conflict with wind farm developments in the future. The Chief Executive accepts and agrees with the Minister's submission, in respect of the need for a clear and objective evidential basis to underpin the county Wind Energy Strategy. It is considered that revised Wind Energy Map 1.6.5 is not underpinned by an appropriate evidence base and as such represents an inappropriate means of regulating wind energy developments within the county.

The Chief Executive notes the Minister's indication that consideration will be given to utilisation of powers under Section 31 of the Act, to direct the planning authority to remove the relevant plan provisions considered to be incompatible with established national policy on renewable energy development and the statutory Wind Energy Guidelines (2006).

### **Recommendation**

Having regard to the requirements of the Wind Energy Guidelines to have an appropriate evidential basis to underpin the Wind Energy Strategy for the county, it is recommended that revised Wind Energy Map 1.6.5 not be incorporated into the Laois County Development Plan 2017-2023 and the previous version of the Map be retained.

**Remove:** Revised Wind Energy Map 1.6.5 and incorporate Wind Energy Map 1.6.5 utilised within the Draft Plan.

<p>consideration to the issuing of interim advice by Circular Letter.</p> <p>The Material Alterations have proposed certain changes to the policies of the plan related to renewable and wind energy development. However, the amendments do not include the removal of Policy EN7 or Section 6.1 of the wind energy strategy (Appendix 5).</p> <p>In these circumstances, the Council is advised that consideration of the use of the Minister's powers under S.31 of the Planning and Development Act (as amended) will be given and to direct the planning authority to remove the relevant plan provisions considered to be incompatible with established national policy on renewable energy development and the statutory Wind Energy Guidelines (2006).</p>	
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Summary of Issues Raised	Chief Executive's Response
<b>2. Transport Infrastructure Ireland</b>	
<p><b>Material Alteration Ref. Section No. 6 – No. 4</b> The Authority notes the proposed amendment relating to replacement dwellings on non-motorway national roads and strategic regional roads. In the Authority's opinion, such proposals should relate to replacements where no new access and no intensification of traffic from an existing access to a national road arises, in accordance with the provisions of official policy. The authority considers that the Council should consider the inclusion of an additional bullet point requiring the upgrade or replacement of substandard accesses in the interests of road safety. In addition, TII considers it important that the policy is clear in that it relates to replacement dwellings only.</p> <p><b>Material Alteration Ref. Section No. 6 – No. 16</b> In relation to proposals to utilise landfill at Kyletalesha for alternative activities, the Authority acknowledges that access to the site is via the local road prior to access to the N80, national road. In that regard, TII requests that future development proposals are subject to Traffic and Transport Assessment, where appropriate, and that the strategic function of the adjoining national road network is safeguarded.</p> <p><b>Material Alteration Ref. Section No. 7 – No. 10</b> The Authority notes the proposed reference to the TII Code of Practice. The Council will be aware the Code of Practice is to provide a framework within existing legislation and policy to enable TII to progress with its programme of work in</p>	<p>The Chief Executive notes the submission from Transport Infrastructure Ireland (TII).</p> <p>Responses to the submission are provided on an alteration-by-alteration basis, as they have arisen within the submission.</p> <p><u>Material Alteration Ref. Section No. 6 – No. 4</u> comprises an additional policy for replacement dwellings on non-motorway national routes and strategic regional roads. The <i>Spatial Planning and National Roads Guidelines for Planning Authorities</i> provide Government policy in respect of development affecting national primary and secondary roads and the Council has a legal requirement to have regard to its provisions, in accordance with Section 28 of the Act.</p> <p>The Guidelines require Development Plans to incorporate planning policies which avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads, to which speed limits greater than 60 kmh apply. It is considered that the proposed policy is appropriate, in terms of controlling such proposals, but bullet 5 of the policy should contain additional clarifying text, to ensure compliance with the Guidelines.</p> <p><u>Material Alteration Ref. Section No. 6 – No. 16</u> comprises an additional policy relating to potential alternative uses</p>

accordance with the Government's Transport Strategy, whilst carrying out appropriate archaeological assessment and mitigation having regard to a set of principles and actions agreed by the Minister and TII.

#### **Material Alteration Ref. Section No. 7 – No. 21**

TII noted the objectives in Section 6.1.3.1 of the Draft Plan concerning the provision of strategic cycling links. Where such proposals have an interaction with national roads, TII advised that proposals should be developed to safely complement the strategic function of national roads. Consultation in relation to proposals impacting on national roads should be referred to TII.

Therefore, similar to comments previously outlined, consultation is requested in relation to proposals relating to Material Alteration Ref. Section 7 – No. 20 relating to the provision of developing long distance walking routes, including along the disused Mountmellick Line as there may be implications for the existing N80, national secondary road, that are required to be addressed.

#### **Material Alteration Ref. Retail Strategy - 2**

TII recommends updating the reference to the TII Traffic and Transport Assessment Guidelines to 2014.

#### **Other Material Alterations**

In addition to the foregoing, it is noted that the Chief Executive's Report on the TII submission on the Draft Plan states that the roads policies and objectives of the Draft Plan will be reviewed and updated where necessary to ensure that they have regard to the relevant DoE and TII Guidelines. In that regard, there are a number of matters raised in the Authority's final submission, for example, reference to the classification of the N80 in Section 6.1.2.2, review of Section 6.1.2.4 concerning roadside service stations, etc, that in the Authority's opinion would benefit from review but have not been expressly included in the proposed material alterations.

The Authority would welcome a review of these matters previously identified that have not been included in the proposed material alterations and TII advises that the position of the Authority, in relation to these matters, remains as set out in the initial submission on the Draft Plan.

of the County landfill site at Kyletalesha. Draft Policy TRANS 24 requires that development proposals with the potential to create significant additional demands on the road network prepare a Traffic and Transport Assessment including mobility management plans in accordance with the Traffic and Transport Guidelines 2014 and it is considered that this policy provides the Planning Authority with adequate control over future proposals at the former landfill site, to ensure that the strategic function of the adjoining national road network is safeguarded.

Material Alteration Ref. Section No. 7 – No. 21 comprises an additional policy to investigate the possibility of development long distance walking routes along the disused Mountmellick line. Consultation with TII is a Development Management matter and the Council will ensure TII are consulted on any proposals, as appropriate.

Material Alteration Ref. Retail Strategy – 2 relates to additional text clarifying when a Traffic and Transport Assessment will be required as part of certain retail development proposals. The request to update the reference to the TII Traffic and Transport Assessment Guidelines to 2014 is noted and agreed.

#### **Recommendation**

Further to proposed Material Alteration Ref. Section No. 6 – No. 4, it is recommended that the proposed additional policy be amended as follows;

**XX Consider permitting access for replacement dwellings for persons who [or their families] own the original house and site for a minimum of 10 years [documentary evidence in this regard to be submitted] subject to the following provisions:**

- The original dwelling is in-situ and is habitable;
- The cost of refurbishment of and/ or extension to the original dwelling is prohibitive;
- The applicant complies with the provisions of the local need factor of the rural housing policy as outlined in Section 2.6. 1;
- An alternative site with access onto a minor road is not available;
- The proposed development can be accommodated without the creation of a specific traffic hazard;
- The proposal would not result in the creation of a new access onto a national road in an area where speed limits of greater than 60km/h apply and Where possible an existing entrance is used;
- The Councils road standards are fully met;

- The site is of minimum size of 0.202 hectares [0.5 acres]; If necessary, a replacement septic tank drainage system in accordance with the requirements of the EPA Code of Practice: Waste Water Treatment and Disposal Systems Serving Single Houses (p.e ≤10) 2009 shall be installed on the site.

Further to proposed Material Alteration Ref. Retail Strategy – 2, it is recommended that the proposed additional text be amended as follows;

If and when deemed necessary by the Planning Authority, following consideration of all relevant factors, a Traffic and Transport Assessment (TTA) will be required for retail developments over a particular threshold (100sqm), as set out in the Traffic Management Guidelines 2003, and the Traffic Transport Assessment Guidelines 2014~~2007~~

Summary of Issues Raised	Chief Executive's Response
<b>3. Environmental Protection Agency</b>	
<p>We note and welcome the inclusion of additional commitments which provide for enhancing environmental protection and the appropriate management of environmental resources with the Plan area.</p> <p>These include aspects such as protecting rural amenities, natural heritage, visual amenities, sensitive landscape areas, ecosystems, conservation areas and the control and management of invasive species. We acknowledge the intention to consider developing greenway networks within the County and associated options links with regional and national greenway networks.</p> <p>We also acknowledge the intention to promote sustainable tourism initiatives, including Fáilte Ireland's "Ireland's Ancient East" tourism initiative, and similar commitments relating to supporting implementation of the proposed Erkina River Blueway Trail. These should take into account the requirements of the SEA, Habitats, Floods, Water Framework and EIA directives, as appropriate and where relevant.</p> <p>In relation to „Material Alteration Ref. Section 5 No 49“, we note the proposed new policy to “develop a management plan for specific busy tourist sites to facilitate the effective accommodation of large numbers of tourists at sensitive locations”. Environmental management plans should also be prepared to take into account aspects such as traffic management, waste and litter management; air quality,</p>	<p>The Chief Executive notes the submission from the Environmental Protection Agency (EPA).</p> <p>There are a number of elements of the submission which do not relate to specific Proposed Material Alterations / Amendments and therefore cannot be considered at this stage. The responses below relate solely to submissions in respect of specific Proposed Material Alterations / Amendments.</p> <p><u>Material Alteration Ref. Section 5 - No 49</u> comprises an additional policy to develop a management plan for specific busy tourist sites, in order to facilitate the accommodation of large numbers of tourists. Consideration will be given to the exact content of such plans, including the incorporation of environmental management plans, traffic management plans, air quality management plans, noise management plans, etc, at the initial drafting stage. This will be a matter for the Forward Planning Department to consider, at the appropriate time. The Chief Executive does not consider there is any requirement to amend the draft policy.</p> <p><u>Material Alteration Ref. Section 4 – No.10</u> comprises an additional policy to support, promote and facilitate the provision and the development of outdoor activities and seek to preserve, improve and extend recreational amenities. The inclusion of additional text, as is suggested within the condition, would provide the Planning</p>

noise, critical service infrastructure capacity (wastewater / drinking water) etc. that may arise, to ensure developments are carried out in an environmentally sustainable manner.

There is merit in amending „Material Alteration Ref. Section 4 – No.10” as follows: *“Support, promote and facilitate the provision and the development of outdoor activities and seek to preserve, improve and extend recreational amenities at appropriate locations”*.

We note the proposed additional objective „Material Alteration Ref. Section 5 No.15’, which describes that *“Plan and prepare for the future use of large industrial peat land sites when peat harvesting finishes in conjunction with NPWS, Coillte and ESB/ Bord na Mona and other stakeholders”*. It is useful to clarify what is being proposed (by Laois County Council) to prepare for the future use of the large industrial peatland sites. Where other plans/programmes are responsible for the development of these areas, the relevant measures needed to coordinate the future development and management of these areas, in collaboration with the relevant key stakeholders, could be described.

There is also number of key on-going plans / programmes / strategies that should also be taken into account. These include the Draft National Planning Framework (DHPCLG), Draft National Mitigation Plan (DCCAE) and the Draft River Basin Management Plan (DCHPLG). There is merit in including the relevant commitments to integrate these, upon their finalisation, in the County Development Plan, as relevant and where appropriate.

Laois County Council should determine whether or not the implementation of future proposed Amendments/Variations would be likely to have significant effects on the environment. This assessment should take account of the SEA Regulations Schedule 2A Criteria (S.I 436 of 2004).

Following adoption of the Plan, an SEA Statement, should summarise the following:

- How environmental considerations have been integrated into the Plan;
- How the Environmental Report, submissions, observations and consultations have been taken into account during the preparation of the Plan;
- The reasons for choosing the Plan adopted in the light of other reasonable alternatives dealt with; and,
- The measures decided upon to monitor the significant environmental effects of implementation of the Plan.

A copy of the SEA Statement with the above information

Authority with greater control over the specific locations in which recreational amenities might be preserved, improved or extended

Material Alteration Ref. Section 5 No.15 comprises an additional policy to plan for the future use of large peatland sites, after peat harvesting has finished. It is considered that the additional policy, as proposed, is appropriate at this stage. The Council will seek to engage with stakeholders to determine the most appropriate future uses for these sites, once harvesting is complete. It would be inappropriate at this stage to predetermine or prejudice the type of potential uses which could be accommodated.

### **Recommendation**

Further to proposed Material Alteration Ref. Section 4 – No.10, it is recommended that the proposed additional policy be amended as follows;

**XX Support, promote and facilitate the provision and the development of outdoor activities and seek to preserve, improve and extend recreational amenities at appropriate locations.**

should be sent to any environmental authority consulted during the SEA process.

## Summary of Issues Raised

## Chief Executive's Response

### 4. Department of Education and Skills

In our submission dated 17th November 2016 to the preparation of the Draft Plan the Department made the Council aware of the need to reserve a site of approximately 12 acres for a new 1,000 pupil post-primary school to open in September 2017 to serve the Portlaoise School Planning area.

Using the information provided in Section 3: Housing Policy on page 18 of the Proposed Material Alterations / Amendments to the Draft Plan document, the Department has calculated the educational infrastructure requirements arising from the Councils determination of housing needs outlined at section 3.3.1 (a). The last two columns of the table below outline the number of primary school classrooms and the number of post-primary school places which would be required to meet the projected demand if this level of growth was to materialise.

Strategic Area	Proposed No of new Residential Units	Average persons per household for County Laois	Resulting population increase	National Primary School Going Average 12%	Potential Primary Classroom Requirement Based on PTR 27:1	National Post-Primary school going Average (8.5%) Deficit of Places
Portlaoise	1,824	2.8	5,107	613	<b>23</b>	<b>434</b>
Portarlinton	271	2.8	759	91	<b>3</b>	<b>65</b>
Mountmellick	257	2.8	720	86	<b>3</b>	<b>61</b>
Graiguescullen	215	2.8	602	72	<b>3</b>	<b>51</b>
<b>Totals</b>	<b>2,567</b>		<b>7,188</b>	<b>862</b>	<b>32</b>	<b>611</b>

The additional educational infrastructure which may arise as a result of such a population increase would result in the need for an additional 32 classrooms at primary school level

The submission does not relate to a specific Proposed Material Alteration / Amendment and therefore cannot be considered at this stage.

and 611 school places at post-primary level across the four main towns where new residential units are being proposed. If none of these projected numbers were to be catered for in existing schools, this population growth would equate to the need for primary and post-primary accommodation in the relevant towns as outlined in the table above.

Please see appendix 1 for details in relation to how the Department calculates educational requirements based on demographic projections from the Council.

The population growth arising from the proposed level of residential development in the town of Portlaoise would create the need for a new 24 classroom primary school. Therefore, the Department feels it would be prudent of the Council to reserve a site of sufficient size to accommodate such a new school. A new primary school ranging in size from 16-24 classrooms, as a guide, requires 1.6 hectares (4 acres). As already mentioned, the Department has made the Council aware of the need to reserve a site of approximately 12 acres for a new 1,000 pupil post-primary school to open in September 2017 to serve the Portlaoise school planning area. It is expected that this new school, along with the existing post-primary schools serving the Portlaoise school planning area, should between them, be able to cater for the demand for an additional 434 pupil places.

The additional demand for 3 new primary school classrooms and 65 new pupil places in the Portarlinton school planning area is expected to be catered for by the existing schools in the area, with some expansion if required subject to site suitability and stakeholder agreement.

The additional demand for 3 new primary school classrooms and 61 new pupil places in the Mountmellick school planning area is expected to be catered for by the existing schools in the area, with some expansion if required subject to site suitability and stakeholder agreement.

The additional demand for 3 new primary school classrooms and 51 new pupil places in the Graiguecullen school planning area is expected to be catered for by the existing schools in the area, with some expansion if required subject to site suitability and stakeholder agreement.

It should be noted that additional school requirements may develop within the lifetime of the Development Plan. The Department notes the inclusion at 4.2.1 of the requirement for suitable sites to be identified and located at the most optimum locations within the Plan area. It is important that the documents referenced in appendix 2 of this submission are taken into account by the Council when sites are being zoned to cater for educational provision. The Department also notes that the Council will identify suitably located



lands to meet the educational infrastructure needs within the Development Plan in accordance with The Provision of Schools and the Planning System: A Code of Practice (DEHLG, 2008) and the Department of Education and Skills Technical Guidance Document TGD-025 for primary schools. In this regard land should be zoned where provision of services and access will not hinder the development of the school within the required timeframe. The Council is requested to consider favourable implementation strategies and phasing in the identification of school specific sites in order to ensure ready access to existing infrastructure and to avoid the risk of disproportionate costs by the Department towards such infrastructure to benefit the receiving communities.

The Department requests that site reservations are made, where possible, as close as possible to community facilities such as sports facilities, libraries etc. so that these can be shared between the school and the community. The Department is also open to the concept of multi-campus school arrangements, for example where two or three primary schools are located side by side or a primary school and a post primary school sharing the same site. Both of these approaches can have the effect of reducing the land take for school development. It would be strategically valuable for the educationally zoned lands to be placed beside open-space or green-belt zonings if possible, as this would allow ready access to these amenities and other aligned facilities by the schools and in the strategic long-term may future-proof these schools for possible future expansion should that be necessary.

Where possible, land adjacent to existing schools should be zoned appropriately to allow for the potential future expansion of these schools. In addition, the Council is requested to consider a policy of introducing a buffer zone around existing school sites, where possible. This would facilitate adequate separation from housing while allowing reasonable scope for increased school heights particularly in established neighbourhoods identified for consolidation or intensification of population.

A new programme of capital investment in schools, listing the school projects planned to go to construction up to 2021 was published in 2015. For your information, the school projects in the Laois area included on this programme are listed in Appendix 3 to this submission.

References to technical guidance and other documents which relate to educational provision at appendix 2 and the projects included in the 6 year construction programme from 2016-2021 at appendix 3. All Technical Guidance Documentation used in the design of all new school buildings and extensions are available from the Department's



<p>website <a href="http://www.education.ie">www.education.ie</a></p> <p>Demographic changes in the Laois area will continue to be monitored on an ongoing basis and it should be noted that it is possible that further educational requirements may arise over the lifetime of the Development Plan.</p> <p>The Department is available to meet with Council officials to discuss in more detail the educational implications arising from the draft Plan. The Department will continue to liaise with the Council in relation to relevant LAPs etc.</p>	
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Summary of Issues Raised	Chief Executive's Response
<b>9. Irish Wind Energy Association</b>	
<p>IWEA has previously made submissions to Laois County Council regarding the new development plan for the county. IWEA has serious concerns about the approach being pursued by elected representatives in relation to wind farms and wind energy development in Laois. IWEA also wishes to advise elected members of the Council that its position remains significantly at variance with national government policy. The scale of impact this position would have on the wind industry is such that we feel it is imperative to advise the Council that the Draft Development Plan places unlawful restrictions on the development of wind energy in areas purportedly 'Open for Consideration' in Laois. These restrictions do not appear to be based on any objective evidence. We have outlined a series of concerns in this area and they are set out in Annex 1 of the submission.</p> <p>The proposed setback distance of 1.5km from dwellings is significantly out of step with the current 500m setback distance as set out in the Department of Environment, Heritage &amp; Local Government (DoEHLG) Wind Energy Guidelines (2006). Such a proposal would terminate all future potential wind energy potential in the county of Laois.</p> <p>A 1.5km setback distance contravenes national policy and government guidance on the matter with specific reference to Circular Letter PL20-13. This proposed change in Laois is also not in line with the policy measures of the Draft CDP, specifically EN3 which states that Laois County Council will</p>	<p>The Chief Executive notes the submission from the Irish Wind Energy Association.</p> <p>In respect of the submission in relation to draft Policy EN7, the submission does not relate to a specific Proposed Material Alteration / Amendment and therefore cannot be considered at this stage.</p> <p>In respect of the submission in relation to revised Wind Energy Map 1.6.5, the submission discusses in detail changes to the Council's Wind Energy Strategy at the Draft Plan stage, in addition to Proposed Material Alteration Ref. Wind Strategy – 8. Consideration can only be given at this stage to submissions in respect of specific Proposed Material Alteration / Amendments.</p> <p>The Chief Executive notes and acknowledges that in order to contribute to meeting Ireland's legally binding obligations in relation to tackling the drivers of climate change, there is a need for the Planning Authority to plan positively for the future and this includes facilitating and promoting opportunities for sustainable renewable energy development. Implementing Government policy in respect of renewable energy requires each Planning Authority to produce and implement sensible and reasonable planning policies in order to regulate such development.</p> <p>The Draft National Mitigation Plan provides up to date information in relation to both Ireland's commitments</p>

<p>'facilitate wind energy development in accordance with Guidelines for Planning Authorities on Wind Energy Development (Department of Environment, Heritage and Local Government, 2006) which appears to remain unchanged.</p> <p>The increasing demand for energy in Ireland as a result of growth in the economy shows there is a need to provide more renewable energy sources in order to support this. Official data published by SEAI in 2015 shows 25.3% (22.8% wind) of Ireland's electricity came from renewable. For Ireland to continue to progress with strong growth in renewable electricity, particularly from wind energy, SEAI estimates that 350MW (approximately) needs to be installed each year up to and including 2020. IWEA supports this analysis and believes that with support and policy certainty the wind industry can achieve this build out rate.</p> <p>Implementing agreed national energy policy requires each county and local authority area to implement sensible and reasonable development plans for their respective areas. The proposed Wind Energy Strategy (WES) contained in the Draft Laois CDP 2017-2023 proposed changes in classification through the complete removal or downgrading in classification of areas previously considered 'preferred areas' or 'Open for Consideration' to wind energy development. Four areas are currently identified as 'Preferred Areas' in the Current WES. The Draft WES sought to significantly reduce these areas and limit the 'Preferred Areas' to one specific area of the county in which is a former Bord na Mona cutaway bog near Rathdowney and in which six turbines are already operational. This one 'Preferred Area' constituted a minor 0.5% of the land area of the entire county, and when the proposed setback distance of 1.5km is taken into consideration there are no areas available for development within the 'Preferred Area' classification. Indeed, when the proposed setback distance of 1.5km is applied to 'Areas Open for Consideration', only 0.02% of LCT 5: Peatland Areas is available for potential wind energy development.</p> <p>However as indicated in the Material Alterations document, Laois County Council appear to have gone a step further again, and has now further amended the map appended to the WES (Map 1.6.5) to show that the entire county be classified as "Areas not open to consideration". This is in complete contradiction with national policy on wind energy and also the text of the Wind Energy Strategy document of the Draft Plan.</p> <p>IWEA would also like to draw attention to the following position of the Minister for Housing and Planning Simon Coveney TD in response to a Dail Question on April 13th</p>	<p>in respect of addressing climate change and also progress to date in meeting legally binding targets. Of importance in the current context is the target of Ireland delivering 16% of its final energy requirements from renewable sources by 2020. Interim reporting has shown that strong progress has been made towards meeting this target but there remains a requirement for a further 880MW to be installed by 2020 if the target is to be reached, requiring an increased rate of installation. To date, wind turbines with an energy output equivalent of 82MW have been permitted or built either within County Laois or immediately adjacent to the county boundary. This represents 2.9% of the total amount of electricity produced from wind energy developments nationally.</p> <p>The Wind Energy Guidelines (2006) provide current Government policy with respect to planning for wind energy development around the country and in accordance with Section 28 of the Planning and Development Act, 2000, as amended, the Planning Authority has a legal requirement to have regard to their provisions in the performance of its functions.</p> <p>The Guidelines highlight the importance of utilising a mapping analysis approach to spatially identify areas of potential for wind energy development within the county, providing an evidential basis to underpin the Wind Energy Strategy. Revised Wind Energy Map 1.6.5 has not been produced following a mapping analysis of the county. The intention of the Elected Members, in incorporating this revised Wind Energy Map, was to avoid centres of population within the county, where there is potential for conflict with wind farm developments in the future. The Chief Executive accepts, however, that the effect of this approach has been to effectively sterilise the entire county from future wind energy developments.</p> <p>It is noted that Section 3.4 of the Guidelines requires the County Development Plan should set out "<i>a positive and supportive statement of the importance of wind energy as a renewable energy source which can play a vital role in achieving national targets in relation to reductions in fossil fuel dependency...</i>" and, critically, "<i>objectives to secure the maximum potential from the wind energy resources of the planning authority's area commensurate with supporting development that is consistent with proper planning and sustainable development.</i>" Revised Wind Energy Map contradicts the requirements of the Guidelines in this respect, in unduly restricting further wind energy development without an appropriate evidence base to support the proposal.</p>
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<p>2017:</p> <p><i>“To meet Ireland’s legally binding obligations under international and EU level agreements in relation to tackling the drivers of climate change, which is the biggest global environmental challenge, central and local government must work together in diversifying our energy mix, reducing our reliance on fossil fuels and moving towards a low-carbon economy and society. Government policy is clear, that Ireland’s best short-to-medium term prospects to significantly expand renewable energy production is from on-shore wind energy and while other sources are emerging, they will take time, technological development and investment to emerge at the scale needed to meet our present and emerging targets.</i></p> <p><i>The 2006 Planning Guidelines on Wind Energy Developments, issued under Section 28 of the Planning and Development Act (as amended), are very clear that planning authorities must prepare and adopt policies that will maximise the contribution that wind energy can make in meeting overall binding EU commitments in relation to renewable energy generation, commensurate with reasonable local requirements such as protecting sensitive habitats or landscapes. However, where local authorities adopt policies such that they would effectively frustrate the achievement of national policy objectives of breach statutory requirements, the Oireachtas has provided me with powers to direct a planning authority to amend development plans under procedures set out in Section 31 of the Planning and Development Act 2000 (as amended).”</i></p> <p>IWEA believes Ireland requires a strong and stable diversified renewables mix to provide our energy. To date Ireland’s renewable energy has been dominated by onshore wind. While IWEA believes in a diversified mix for the future, it is impossible to see how onshore wind will not continue to dominate for many years to come. IWEA supports the development of off-shore wind energy for Ireland. Reduced costs in this area have made it an increasingly viable option for Ireland. Similarly, there is a role for solar energy development in Ireland as a part of a more diversified renewable energy agenda. However the case for onshore wind energy development in Ireland remains strong. Onshore wind costs are forecast to reduce by 26% by 2025. The Draft National Mitigation Plan, published by the Minister for Communications, Climate Action and Environment Denis Naughten, rightly notes that <i>“onshore wind has to date been the most cost-competitive renewable electricity technology in Ireland.”</i></p> <p>IWEA believes greater social acceptance in host communities and prospective host communities of</p>	<p>The Chief Executive therefore agrees that, as revised Wind Energy Map 1.6.5 is not underpinned by an appropriate evidence base, it represents an inappropriate means of regulating wind energy developments within the county. The approach taken also fails to plan positively for wind energy developments within the county, the maximisation of which is also a requirement of the Guidelines.</p> <p><b>Recommendation</b></p> <p>Having regard to the requirements of the Wind Energy Guidelines to have an appropriate evidential basis to underpin the Wind Energy Strategy for the county and also the requirement to plan for securing the maximum potential from the wind energy resources of the county, it is recommended that revised Wind Energy Map 1.6.5 not be incorporated into the Laois County Development Plan 2017-2023 and the previous version of the Map be retained.</p> <p><b>Remove:</b> Revised Wind Energy Map 1.6.5 and incorporate Wind Energy Map 1.6.5 utilised within the Draft Plan.</p>
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<p>renewable energy projects is crucial to achieving increased renewable energy use in Ireland.</p> <p>IWEA is committed to working with policymakers on clear achievable changes in this area. IWEA believes this work would benefit from the existence of new strategic partnerships with community-based organisations and clear national policy objectives that are proactively discussed on a regular basis with the public.</p> <p>IWEA supports efforts to bring about a more open and welcoming environment for renewable energy projects throughout the country. We believe there is a strong basis for this and note that Draft National Mitigation Plan also states:</p> <p><i>“A fully joined up and integrated approach, involving public sector bodies at national, regional and local level, will be necessary to address existing legitimate community concerns, and obstacles and delays that might hinder the achievement of low carbon targets for electricity generation. In particular, the expansion of renewable electricity and other forms of renewable energy raises issues of community engagement, participation and acceptance. While investment in infrastructure is an essential precondition for the expansion of renewable energy, community concerns have been raised in relation to the provision of this energy infrastructure. Effective community engagement is essential for building public confidence and will help Ireland achieve our transition to renewable electricity.”</i></p> <p>Ireland requires policy certainty in the area of renewable. IWEA believes Laois can play a strong and active role in Ireland’s renewable energy journey and we believe there would be significant benefits to the county in doing so.</p> <p>For example, under the current commercial rates regime in Laois IWEA calculates that a 20 megawatt (MW) wind farm in Laois, made up of 10, 2MW turbines, could generate an additional €130,000 a year in commercial rates paid to Laois County Council with additional development contributions over and above that. A wind farm of this nature would also produce electricity for 13,000 homes. Counties currently benefitting from commercial rates paid by wind farms include Clare (€360,000), Mayo (€550,000) and Offaly (€560,000). Other counties with a larger footprint of wind energy projects enjoy significantly larger financial benefit.</p> <p>IWEA will continue to urge Laois County Council and all local authorities to embrace the renewable energy challenges facing Ireland as an economy and a society. IWEA is very firmly of the view that Ireland requires clear national policy that explicitly supports increased indigenous</p>	
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<p>renewable energy, including wind, to transition to a low carbon economy.</p> <p>IWEA would urge Laois County Council and its elected members to move away from the measures outlined in the previous draft proposals that are designed to ensure Laois will play not a further role in wind energy development in Ireland. We believe this position is counter-productive for the county of Laois and is completely at variance with stated national policy.</p>	
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Summary of Issues Raised	Chief Executive's Response
<b>10. Element Power Ireland Ltd</b>	
<p>As detailed in our previous submissions, the proposed Wind Energy Strategy (WES) contained in the Draft Laois CDP 2017-2023 proposed changes in classification through the complete removal or downgrading in classification of areas previously considered 'Preferred Areas' or 'Open for Consideration' to wind energy development. Four areas are identified as 'Preferred Areas' in the Current WES 2011-2017. The Draft WES 2017-2023 sought to significantly reduce these areas and limit the 'Preferred Areas' to one specific area of the county which is a former Bord na Móna cutaway bog near Rathdowney and in which six no. turbines are already operational. This one 'Preferred Area' constituted a minor 0.5% of the land area of the entire county, and when the proposed setback distance of 1.5km (also proposed in the Draft WES 2017-2023) was taken into consideration there were no areas available for development within the 'Preferred Area' classification.</p> <p>Regarding 'Areas Open for Consideration', the Current WES 2011-2017 describes these as '<i>areas that exhibit economically viable wind speeds, are sparsely populated, have some capacity to absorb wind development but which are sensitive enough to require a detailed site-by-site appraisal before any assumptions are made as to the suitability of the area for development</i>'. The Current WES states '<i>applications in these areas will be treated on their merits with the onus on the applicant to demonstrate why the development should be granted permission</i>'. The Draft WES 2017-2023 proposed to reduce these areas from 14% to 8% of the county and when the proposed setback distance of 1.5km (also proposed in the</p>	<p>The Chief Executive notes the submission from Element Power.</p> <p>In respect of the submission in relation draft Policy EN7, the submission does not relate to a specific Proposed Material Alteration / Amendment and therefore cannot be considered at this stage.</p> <p>In respect of the submission in relation to revised Wind Energy Map 1.6.5, the submission discusses in detail changes to the Council's Wind Energy Strategy at the Draft Plan stage, in addition to Proposed Material Alteration Ref. Wind Strategy – 8. Consideration can only be given at this stage to submissions in respect of specific Proposed Material Alteration / Amendments.</p> <p>The Chief Executive notes and acknowledges that in order to contribute to meeting Ireland's legally binding obligations in relation to tackling the drivers of climate change, there is a need for the Planning Authority to plan positively for the future and this includes facilitating and promoting opportunities for sustainable renewable energy development. Implementing Government policy in respect of renewable energy requires each Planning Authority to produce and implement sensible and reasonable planning policies in order to regulate such development.</p> <p>The Draft National Mitigation Plan provides up to date information in relation both Ireland's commitments in</p>

Draft WES 2017-2013) was applied only 0.02% of the 'Areas Open for Consideration', were available for potential wind energy development.

However in the Material Alterations document, Laois County Council appear to have gone a step further again, and has now further amended the map appended to the WES (Map 1.6.5) to show that the entire county be classified as "Areas not open to consideration". This is in complete contradiction with National Policy on Wind Energy and also the text of the Wind Energy Strategy document of the Draft Plan which appears to be left unedited.

The Draft Development Plan and Material Alterations & Amendments places unlawful restrictions on the development of wind energy in areas purportedly 'Preferred' and 'Open for Consideration' in Co. Laois. These restrictions do not appear to be based on any objective evidence which supports the elected members' proposed decision and have the arbitrary effect of prohibiting the development of wind energy across Co. Laois and therefore sterilising wind energy development in Co. Laois as a whole.

Every local authority must perform those functions which it is required by law to perform. In proposing an arbitrary, unscientific setback distance of 1.5km for wind developments from schools, dwellings, community centres and all public roads in the Draft CDP and now further amending the map appended to the WES (Map 1.6.5) to show that the entire county be classified as "Areas not open to consideration" to wind energy with no evidential basis whatsoever, the elected members have:

- a. In effect, inserted an unlawful negative objective into its Draft Development Plan which is *ultra vires* the local authority because it effectively prohibits the development of windfarms in the entire County of Laois thereby sterilising all future development of wind energy in Co. Laois. An objective which aims to *prevent* development cannot be a development objective (*Glencar Explorations plc v Mayo County Council* [1993] 2 I.R. 237).
- b. Failed to comply with its statutory obligation of the Planning Acts to have regard to Ministerial policy – i.e. the Wind Energy Guidelines - adopted after public consultation and consultation with expert bodies under section 28 of the Planning Acts.
- c. Failed to comply with its statutory obligation under section 12(11) of the Planning Acts to restrict itself in making the development plan to considering the proper planning and sustainable development of the area to

respect of addressing climate change and also progress to date in meeting legally binding targets. Of importance in the current context is the target of Ireland delivering 16% of its final energy requirements from renewable sources by 2020. Interim reporting has shown that strong progress has been made towards meeting this target but there remains a requirement for a further 880MW to be installed by 2020 if the target is to be reached, requiring an increased rate of installation. To date, wind turbines with an energy output equivalent of 82MW have been permitted or built either within County Laois or immediately adjacent to the county boundary. This represents 2.9% of the total amount of electricity produced from wind energy developments nationally.

The Wind Energy Guidelines (2006) provide current Government policy with respect to planning for wind energy development around the country and in accordance with Section 28 of the Planning and Development Act, 2000, as amended, the Planning Authority has a legal requirement to have regard to their provisions in the performance of its functions.

The Guidelines highlight the importance of utilising a mapping analysis approach to spatially identify areas of potential for wind energy development within the county, providing an evidential basis to underpin the Wind Energy Strategy. Revised Wind Energy Map 1.6.5 has not been produced following a mapping analysis of the county. The intention of the Elected Members, in incorporating this revised Wind Energy Map, was to avoid centres of population within the county, where there is potential for conflict with wind farm developments in the future. The Chief Executive accepts, however, that the effect of this approach has been to effectively sterilise the entire county from future wind energy developments.

It is noted that Section 3.4 of the Guidelines requires the County Development Plan should set out "*a positive and supportive statement of the importance of wind energy as a renewable energy source which can play a vital role in achieving national targets in relation to reductions in fossil fuel dependency...*" and, critically, "*objectives to secure the maximum potential from the wind energy resources of the planning authority's area commensurate with supporting development that is consistent with proper planning and sustainable development.*" Revised Wind Energy Map contradicts the requirements of the Guidelines in this respect, in unduly restricting further wind energy development without an appropriate evidence base to support the proposal.

The Chief Executive therefore agrees that, as revised Wind Energy Map 1.6.5 is not underpinned by an appropriate

which the development plan relates, its statutory obligations and any relevant policies or objectives for the time being of the Government or any Minister of the Government – i.e. ‘Ireland’s Transition to a Low Carbon Energy Future 2015-2030’ and the ‘Wind Energy Development Guidelines for Planning Guidelines 2006’ (the “Wind Energy Guidelines”). The Wind Energy Guidelines remain in full force and effect and are the applicable guidelines to which the elected members must have regard and restrict themselves to considering when making the development plan.

- d. Failed to comply with its statutory obligation under section 28(1B) of the Planning Act to demonstrate in its written statement *how it has implemented* the policies and objectives of the Minister’s Wind Energy Guidelines when considering their application to the area of the draft development plan in County Laois. Instead, the planning authority has disregarded and departed from the Wind Energy Guidelines. There is an overriding duty to implement policies and objectives of the Minister contained in the Wind Energy Guidelines and failures to do so must be explained.
- e. Failed to comply with its statutory obligation under section 15 of the Planning and Development Act 2000 (as amended) (the “Planning Acts”), which imposes a duty on every planning authority to take such steps within its powers to *secure* the objectives of the development plan. It is a general policy objective in the Draft Development Plan to support renewable energy and to promote sustainable development. The arbitrary 1.5km setback distance and subsequent designation of the entire County of Laois as ‘Not Open to Consideration’ for wind energy clearly breaches rather than secures that objective.
- f. Failed to comply with its statutory obligation under section 69(1)(f) of the Local Government Act 2001 (as amended) (the “Local Government Act”), which obliges local authorities to have regard to the need to promote sustainable development when performing their functions. Alternative energy is one of the primary ways of achieving sustainable development and it is International, EU, Government and local authority policy to promote it. All local authorities are obliged to carry out and perform their functions in a manner which assists in delivering the International, EU and national commitments to promoting renewables in the electricity sector (*Keane v An Bord Pleanála* [1998] ILRM

evidence base, it represents an inappropriate means of regulating wind energy developments within the county. The approach taken also fails to plan positively for wind energy developments within the county, the maximisation of which is also a requirement of the Guidelines.

### **Recommendation**

Having regard to the requirements of the Wind Energy Guidelines to have an appropriate evidential basis to underpin the Wind Energy Strategy for the county and also the requirement to plan for securing the maximum potential from the wind energy resources of the county, it is recommended that revised Wind Energy Map 1.6.5 not be incorporated into the Laois County Development Plan 2017-2023 and the previous version of the Map be retained.

**Remove:** Revised Wind Energy Map 1.6.5 and incorporate Wind Energy Map 1.6.5 utilised within the Draft Plan.

- 24).
- g. Failed to comply with EU law on Renewables as public authorities which must contribute to Ireland's national obligations under the Renewable Energy Directive (Directive 2009/28/EC).
  - h. Failed to comply with its obligation as a local authority and public body under Section 15 of the Climate Action and Low Carbon Development Act 2015 to deliver the national transition to a low carbon economy.
  - i. Have violated the property rights of landowners and wind farm developers in County Laois because the arbitrary setback distance of 1.5 km and subsequent designation of the entire County of Laois as 'Not Open to Consideration' for wind energy effectively ensures that no windfarms can be built in Laois and that landowners in Laois cannot exploit the wind energy potential of their lands, and have provided no scientific reasons for this. Lands which have low economic values have now become even less valuable (*Mallak v Minister for Justice* [2012] IESC 59).
  - j. Failed to give any or any coherent scientific reasons for the arbitrary 1.5K setback distance and subsequent designation of the entire County of Laois as 'Not Open to Consideration' for wind energy as they are obliged to do (*Christian v Dublin City Council* [2012] 2 I.R. 506).
  - k. Failed to give reasons or justification for disregarding and departing from the Wind Energy Guidelines (*Christian v Dublin City Council* [2012] 2 I.R. 506).
  - l. Failed to give reasons for disregarding and departing from the express recommendation of the Chief Executive Officer to remove Policy EN7 and Section 6.1 of Appendix 5: Wind Energy Strategy of the draft Plan, both of which include the arbitrary 1.5km setback distance (*Christian v Dublin City Council* [2012] 2 I.R. 506)
  - m. Contravened the prohibition under section 66(6) of the Local Government Acts 2001 (as amended) on a local authority undertaking any activity that would involve wasteful or unnecessary expenditure by it, insofar as its proposed decision to impose Objective EN7 and Section 6.1 of Appendix 5 of the Draft Development Plan and what is effectively a restrictive ban on future wind energy developments in County Laois, in contravention of Government policy, the Wind Energy Guidelines and the Minister's express warnings in his submission no. 69 made in respect of the Draft Development Plan and will likely result in the local authority incurring the



significant costs of defending High Court proceedings challenging the Development Plan and using public monies for that purpose.

We would like to point out a recent response by Minister Coveney in the Dáil to a question from Willie Penrose TD which we have appended to this letter (appendix 1). On the 13th of April 2017 Minister Coveney said:

*“To meet Ireland’s legally binding obligations under international and EU level agreements in relation to tackling the drivers of climate change, which is the biggest global environmental challenge, central and local government must work together in diversifying our energy mix, reducing our reliance on fossil fuels and moving towards a low-carbon economy and society. Government policy is clear, that Ireland’s best short- to medium-term prospects to significantly expand renewable energy production is from on-shore wind energy and that while other sources are emerging, they will take time, technological development and investment to emerge at the scale needed to meet our present and emerging targets.*

*The 2006 Planning Guidelines on Wind Energy Developments, issued under Section 28 of the Planning and Development Act (as amended), are very clear that planning authorities must prepare and adopt policies that will maximise the contribution that wind energy can make in meeting overall binding EU commitments in relation to renewable energy generation, commensurate with reasonable local requirements such as protecting sensitive habitats or landscapes. However, where local authorities adopt policies such that they would effectively frustrate the achievement of national policy objectives or breach statutory requirements, the Oireachtas has provided me with powers to direct a planning authority to amend development plans under procedures set out in Section 31 of the Planning and Development Act 2000 (as amended).”*

We have already highlighted in our submissions our strong concern and we were clear it does not accord that a landscape clearly considered ‘Preferred’ or ‘Areas Open for Consideration’ in the Current CDP and WES which followed a clear and methodical approach undertaken by Laois Co Co independently in reaching these designations. It is simply not credible to attempt to suggest that a landscape which remains unchanged in relation to its character, views and prospects, ecological designations and sensitivity as presented in the Draft CDP and WES should be subjected to such significant reclassification without any reasoning or evidence base particularly as it was Laois Co Co who determined these classifications in the first place.

The Draft Laois County Development Plan, 2017-2023 Volume 1, Written Statement, Section 6.6.1.4 outlines the following clear policy measures in relation to Wind Energy (emphasis added):

*EN3 Promote and facilitate wind energy development in accordance with Guidelines for Planning Authorities on Wind Energy Development (Department of Environment, Heritage and Local Government, 2006) and the Wind Energy Strategy which forms part of this Plan, and subject to compliance with normal planning and environmental criteria; and*

Furthermore Volume 1 Written Statement, Section 6.6.1.4 specifically states:

*‘the Council will have regard to the Wind Energy Development Guidelines for Planning Authorities (DEHLG, 2006) in relation to the siting and development of wind turbines and the information required as part of the planning application’.*

These policy measures which are left unedited in the Draft Plan are in complete contradiction with revised Map 1.6.5. The Material Alterations document and revised Map 1.6.5 will unnecessarily and inappropriately terminate the implementation of European, National and Local policy to generate additional electricity from renewable sources which would otherwise satisfy the requirements of national policy and guidelines and the requirements of proper planning and sustainable development. Element Power would like to reiterate that wind energy is the most cost competitive, mature and readily available large-scale resource that can help Ireland meet its renewable energy targets.

The elected members of the planning authority have made an irrational proposed decision. They have departed from International, Government, Ministerial and EU policies without giving any reasons or any coherent reasons for doing so. The 500m setback distance was set by the Minister having considered expert advice and taking into account the views of appropriate expert bodies and members of the public. No coherent or feasible evidence has been provided by the elected members for departing from those guidelines. Making evidence-based decisions is a basic requirement in planning and in law. Furthermore, it is the Chief Executive’s responsibility to only give effect to the lawful directions of the elected members. As confirmed in *P.J. Farrell & Anor -v- Limerick County Council*, ([2009] IEHC 274), the Chief Executive has the power to treat a resolution as invalid where the elected members have ignored the Planning Authority’s expert advice to the extent that a policy would be contrary to proper planning and sustainable development of the area.

Summary of Issues Raised	Chief Executive's Response
<b>11. Galetech Energy Services</b>	
<p>Our client notes, and welcomes, Material Alteration Ref. Section No. 6 - No. 22 (Pg.118, Sub-Section 6.6.1.4) which sets out the Planning Authority's approach to wind energy development. Taken on its own, it purports to inform developers, landowners and the public of the most appropriate sites for the location of wind energy developments, including 'Preferred Areas', 'Areas Open for Consideration' and 'Areas Not [Open] for Consideration' in accordance with the <i>Wind Energy Development Guidelines for Planning Authorities 2006</i>. We further note and welcome Material Alteration Ref. Section 6 – No. 18 (Pg.116, Sub-Section 6.6.1) which recognises the considerable benefits for human health and ecosystems, including significant economic and employment benefits at local to national levels, of harnessing renewable energy resources.</p> <p>However, in our view, these positive Amendments/Material Alterations are set entirely at naught by the minimum setback requirements, previously included as part of Policy EN7 in the Draft Plan. As illustrated on the proposed amended Map 1.6.5 (Material Alteration Ref. Section No. 6 – No. 24 (Pg.118, Sub-Section 6.6.1.4)), the imposition of these minimum setback distances constitutes a <i>de facto</i> ban on wind energy developments within County Laois. As a consequence, the proposed amended Draft Plan, taken in its entirety, is internally incoherent, inconsistent, and is in direct contravention with national policy and (if adopted) would be wholly contrary to the legal obligations of the Planning Authority.</p> <p>We note that a number of previous recommendations on proposed amendments to the Draft Plan in relation to wind energy development included in the <i>Chief Executives Report on Issues arising from Stage Two Consultation</i> were not accepted by the elected members. However, we respectfully submit, that it is the Chief Executive's responsibility to only give effect to the lawful directions of the elected members. As confirmed in <i>P.J. Farrell &amp; Anor -v- Limerick County Council</i>, ([2009] IEHC 274), the Chief Executive has the power to treat a resolution as invalid where the elected members have ignored the Planning Authority's expert advice to the extent that a policy would be contrary to proper planning and sustainable development of the area.</p> <p>Equally, the Chief Executive is obliged to discount such a resolution where the elected members fail to outline any</p>	<p>The Chief Executive notes the submission from Galetech Energy Services.</p> <p>In respect of the submission in relation to draft Policy EN7, the submission does not relate to a specific Proposed Material Alteration / Amendment and therefore cannot be considered at this stage.</p> <p>In respect of the submission in relation to revised Wind Energy Map 1.6.5, the submission discusses in detail changes to the Council's Wind Energy Strategy at the Draft Plan stage, in addition to Proposed Material Alteration Ref. Wind Strategy – 8. Consideration can only be given at this stage to submissions in respect of specific Proposed Material Alteration / Amendments.</p> <p>The Chief Executive notes and acknowledges that in order to contribute to meeting Ireland's legally binding obligations in relation to tackling the drivers of climate change, there is a need for the Planning Authority to plan positively for the future and this includes facilitating and promoting opportunities for sustainable renewable energy development. Implementing Government policy in respect of renewable energy requires each Planning Authority to produce and implement sensible and reasonable planning policies in order to regulate such development.</p> <p>The Draft National Mitigation Plan provides up to date information in relation both Ireland's commitments in respect of addressing climate change and also progress to date in meeting legally binding targets. Of importance in the current context is the target of Ireland delivering 16% of its final energy requirements from renewable sources by 2020. Interim reporting has shown that strong progress has been made towards meeting this target but there remains a requirement for a further 880MW to be installed by 2020 if the target is to be reached, requiring an increased rate of installation. To date, wind turbines with an energy output equivalent of 82MW have been permitted or built either within County Laois or immediately adjacent to the county boundary. This represents 2.9% of the total amount of electricity produced from wind energy developments nationally.</p> <p>The Wind Energy Guidelines (2006) provide current Government policy with respect to planning for wind energy</p>

proper planning-based reason for rejecting expert advice. Indeed, the elected members, in exercising their reserved functions under the Act, are restricted solely to considering the proper planning and sustainable development of the area; the statutory obligations of the Planning Authority; and any relevant policies or objectives for the time being of the Government. They are not permitted to go outside that remit and are constrained from making decisions predicated upon considerations extrinsic to those three matters. There is nothing on the public record to indicate that the elected members took due regard of these matters and the Chief Executive (per *Child v Wicklow County Council* [1995] 2 IR 447) has no jurisdiction to accept such unlawful directions and is required to reject them of his own motion.

In this context, we note the submission of the Minister to the Draft Plan which unequivocally advised that a ban on wind energy development within County Laois is in clear breach of both Government policies on renewable energy and the provisions of the statutory *Wind Energy Development Guidelines for Planning Authorities 2006*, published pursuant to Section 28 of the Act. As clearly advised in the Minister's submission, the positive objectives in the Draft Plan supporting wind energy development are clearly at odds with Policy EN7. They are further plainly at odds with settled Government policy which proactively supports the development of wind energy infrastructure at appropriately sited locations.

The Minister has further advised that there is an explicit statutory obligation on the Planning Authority to support the implementation of national government policy in its statutory development plan. In fact, in December 2013 the Minister issued Circular PL20-13 expressly advising the Planning Authority to defer amending their existing wind energy policies, particularly in a manner which would unnecessarily and unreasonably fetter wind energy development, until such time as the current review of the statutory *Wind Energy Development Guidelines for Planning Authorities 2006* is complete. Accordingly, the Minister's submission makes it abundantly clear that the *de facto* ban of wind energy development in County Laois, as proposed by the elected members, is flatly in contradiction with their obligations under the Act.

The provisions of the Draft Plan, taken in their entirety, are also entirely contrary to the obligation of the Planning Authority under Section 15 of the Climate Change and Low Carbon Development Act 2015. In particular, the Planning Authority is obliged to have regard to the transition objective and "*mitigating greenhouse gas emissions*" in the discharge of all its functions. There is no evidence that the elected members had any regard to this obligation and it is difficult to square the banning of wind energy development

development around the country and in accordance with Section 28 of the Planning and Development Act, 2000, as amended, the Planning Authority has a legal requirement to have regard to their provisions in the performance of its functions.

The Guidelines highlight the importance of utilising a mapping analysis approach to spatially identify areas of potential for wind energy development within the county, providing an evidential basis to underpin the Wind Energy Strategy. Revised Wind Energy Map 1.6.5 has not been produced following a mapping analysis of the county. The intention of the Elected Members, in incorporating this revised Wind Energy Map, was to avoid centres of population within the county, where there is potential for conflict with wind farm developments in the future. The Chief Executive accepts, however, that the effect of this approach has been to effectively sterilise the entire county from future wind energy developments.

It is noted that Section 3.4 of the Guidelines requires the County Development Plan should set out "*a positive and supportive statement of the importance of wind energy as a renewable energy source which can play a vital role in achieving national targets in relation to reductions in fossil fuel dependency...*" and, critically, "*objectives to secure the maximum potential from the wind energy resources of the planning authority's area commensurate with supporting development that is consistent with proper planning and sustainable development.*" Revised Wind Energy Map contradicts the requirements of the Guidelines in this respect, in unduly restricting further wind energy development without an appropriate evidence base to support the proposal.

The Chief Executive therefore agrees that, as revised Wind Energy Map 1.6.5 is not underpinned by an appropriate evidence base, it represents an inappropriate means of regulating wind energy developments within the county. The approach taken also fails to plan positively for wind energy developments within the county, the maximisation of which is also a requirement of the Guidelines.

### **Recommendation**

Having regard to the requirements of the Wind Energy Guidelines to have an appropriate evidential basis to underpin the Wind Energy Strategy for the county and also the requirement to plan for securing the maximum potential from the wind energy resources of the county, it is recommended that revised Wind Energy Map 1.6.5 not be incorporated into the Laois County Development Plan 2017-2023 and the previous version of the Map be retained.

with the legal requirement to mitigate greenhouse gas emissions.

We further note that the Strategic Environmental Assessment (SEA), mandated under national and EU law as a critical part of the evidence-based rationale for the Draft Plan, includes no proper planning-based reasons for including amended Map 1.6.5 in the Draft Plan. Indeed, the SEA Screening Report on the proposed Amendments / Material Alterations, notes at Page 35 (in respect of the amended Map 1.6.5), that the proposed provisions of the Draft Plan, taken in their entirety, will severely limit the ability of the Planning Authority to contribute towards the National Renewable Energy Action Plan target of 40% of electricity demand to be provided by renewable energy by 2020 and, therefore, are neither consistent with Government policy nor the Planning Authority's obligations under law.

Accordingly, we submit that the Draft Plan fails to set out an overall strategy for the proper planning and sustainable development of the area; is not in compliance with the requirements of the Act; has ignored, or has not taken sufficient account of submissions or observations made by the Minister; and has not provided any proper planning-based rationale for the proposed amended Map 1.6.5 (pursuant to policy EN7). It is therefore fully open to the Chief Executive to treat the decision to ignore the expert planning and Ministerial advice as invalid and to strike-out Map 1.6.5 and, furthermore, to refuse to give effect to the unlawful directions of the elected members. In this regard we note the Minister's expressed intention to intervene under Section 31 of the Act if the Draft Plan is adopted by the Chief Executive. While our client welcomes that intention, such an intervention would be rendered unnecessary if the Chief Executive adopts the robust and pragmatic position of simply disregarding the unlawful resolutions as *ultra vires* the powers of the elected members. We further submit that the Chief Executive should recommend triggering the provisions of Section 12(10) of the Act to remove Policy EN7 from the Draft Plan. We submit that, given the internal inconsistencies in the Draft Plan described above, such a further modification would not be material such as to activate Section 12(10)(c) of the Act. Indeed, such a provision will clearly have an overall positive effect on the environment.

The Laois County Development Plan 2017-2023 has a vital role to play in establishing a positive land-use planning framework for renewable energy production within a cascading hierarchy of key national energy, climate and planning policy priorities. Government policy is clear - Ireland's best short-to-medium-term prospects to rapidly decarbonise energy production and to meet our present and emerging renewable energy targets is from onshore wind

**Remove:** Revised Wind Energy Map 1.6.5 and incorporate Wind Energy Map 1.6.5 utilised within the Draft Plan.

energy. The <i>Wind Energy Development Guidelines for Planning Guidelines 2006</i> are also very clear that the Planning Authority must prepare and adopt policies which will maximise the contribution that wind energy can make to meeting overall binding commitments. If Ireland is to achieve these obligations, it is absolutely essential that long-term policy certainty is provided in order to maintain and stimulate investment in appropriately located and scaled renewable energy technologies.	
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Summary of Issues Raised	Chief Executive's Response
<b>12. Coillte</b>	
<p>We note that the proposed revised Wind Energy Strategy (WES) identifies a single 'Preferred Area' constituting only 0.5% of the land area within the entire county. The remaining 99.5% of the county is classified as an 'Area Not Open to Consideration', as presented in the Updated Wind Energy Map Figure 1.6.5. This would have the effect of imposing a <i>de facto</i> ban accommodating future wind energy development in County Laois.</p> <p>Coillte's view is that the current proposal is both at odds with the stated objectives of the County Development Plan supporting wind energy development in the county, and also with National Policy. The proposed plan would also effectively nullify the positive impact of removal of policy EN7. Coillte firmly believes that there is no basis for the proposed changes to the wind area classifications. We are unaware of any changes arising during the lifetime of the previous plan to support such a change (whether scientifically, environmentally, technically, or socially related). As such, the reasons for the proposed changes to the designations appear to have been made without supporting objective evidence or justification thus raising possible due process considerations. In order to ensure that proper planning and sustainable development be implemented, thereby supporting Ireland's low carbon and sustainability ambitions, it is important that full regard is had to the Minister's submission and to the Planning Authority's expert advice.</p> <p>Ireland's decarbonisation ambitions to 2050 and 2100 is</p>	<p>The Chief Executive notes the submission from Coillte.</p> <p>The Chief Executive notes and acknowledges that in order to contribute to meeting Ireland's legally binding obligations in relation to tackling the drivers of climate change, there is a need for the Planning Authority to plan positively for the future and this includes facilitating and promoting opportunities for sustainable renewable energy development. Implementing Government policy in respect of renewable energy requires each Planning Authority to produce and implement sensible and reasonable planning policies in order to regulate such development.</p> <p>The Draft National Mitigation Plan provides up to date information in relation both Ireland's commitments in respect of addressing climate change and also progress to date in meeting legally binding targets. Of importance in the current context is the target of Ireland delivering 16% of its final energy requirements from renewable sources by 2020. Interim reporting has shown that strong progress has been made towards meeting this target but there remains a requirement for a further 880MW to be installed by 2020 if the target is to be reached, requiring an increased rate of installation. To date, wind turbines with an energy output equivalent of 82MW have been permitted or built either within County Laois or immediately adjacent to the county boundary. This represents 2.9% of the total amount of electricity produced from wind energy developments nationally.</p>

clearly set out in the 2015 Energy White Paper. All citizens, and arguably all counties, have a role to play in the decarbonisation transition. Doing so successfully will combat the effects of climate change in the long term and more specifically, in the near term, assist Ireland to comply with its legally binding 2020 national targets for energy generation from renewable energy sources. Laois County Council, through the CDP, has a fundamental role to play enabling national policy at County and local level. Specifically, it can do so by establishing the framework for wind energy development as the means to make positive steps towards assisting Ireland achieve committed renewable energy and decarbonisation targets.

Coillte therefore respectfully requests Laois County Council to review its wind energy strategy in respect of the wind area classifications as per our previous comments above and as stated in our previous submission.

In our view, the revised classifications to the Updated Wind Energy Map are significantly inconsistent with national policy as previously quoted and also incompatible with:

- The Climate Action and Low Carbon Development Act 2015 which sets out the national objective of transitioning to a low carbon, climate resilient and environmentally sustainable economy in the period up to and including 2050;
- The Department of Communications, Climate Action & Environment's Code of Practice for Wind Energy Development in Ireland, Guidelines for Community Engagement (dated December 2016) which is intended to ensure that wind energy development is undertaken in observance of best industry practices and with the full engagement of communities around the country;
- The Department of Communications, Climate Action & Environment's Draft National Mitigation Plan (draft dated March 2017) which is intended to provide the framework for the transition to a low carbon, climate resilient and environmentally sustainable economy by 2050; and
- The National Planning Framework – Ireland 2040, Our Plan: Issues and Choices paper (dated February 2017) as published by the Department of Housing, Planning, Community and Local Government which sets out to determine what future we want for our people and communities including the types of infrastructure that we may need, how we relate to our environment and how we adapt to the pressures and costs of climate

The Wind Energy Guidelines (2006) provide current Government policy with respect to planning for wind energy development around the country and in accordance with Section 28 of the Planning and Development Act, 2000, as amended, the Planning Authority has a legal requirement to have regard to their provisions in the performance of its functions.

The Guidelines highlight the importance of utilising a mapping analysis approach to spatially identify areas of potential for wind energy development within the county, providing an evidential basis to underpin the Wind Energy Strategy. Revised Wind Energy Map 1.6.5 has not been produced following a mapping analysis of the county. The intention of the Elected Members, in incorporating this revised Wind Energy Map, was to avoid centres of population within the county, where there is potential for conflict with wind farm developments in the future. The Chief Executive accepts, however, that the effect of this approach has been to effectively sterilise the entire county from future wind energy developments.

It is noted that Section 3.4 of the Guidelines requires the County Development Plan should set out *“a positive and supportive statement of the importance of wind energy as a renewable energy source which can play a vital role in achieving national targets in relation to reductions in fossil fuel dependency...”* and, critically, *“objectives to secure the maximum potential from the wind energy resources of the planning authority's area commensurate with supporting development that is consistent with proper planning and sustainable development.”* Revised Wind Energy Map contradicts the requirements of the Guidelines in this respect, in unduly restricting further wind energy development without an appropriate evidence base to support the proposal.

The Chief Executive therefore agrees that, as revised Wind Energy Map 1.6.5 is not underpinned by an appropriate evidence base, it represents an inappropriate means of regulating wind energy developments within the county. The approach taken also fails to plan positively for wind energy developments within the county, the maximisation of which is also a requirement of the Guidelines.

### **Recommendation**

Having regard to the requirements of the Wind Energy Guidelines to have an appropriate evidential basis to underpin the Wind Energy Strategy for the county and also the requirement to plan for securing the maximum potential from the wind energy resources of the county, it is



<p>change.</p> <p>Lastly, the recent analysis and findings by the EPA and presented in Ireland's Greenhouse Gas Emission Projections 2016-2035 (dated April 2017) provides the most current status update on Ireland's progress against its emissions targets for 2020 and beyond. There is now little doubt that the country will fall well short of its 2020 non-ETS targets, and that there is limited clarity available on the remedial plans to correct this position by 2030.</p>	<p>recommended that revised Wind Energy Map 1.6.5 not be incorporated into the Laois County Development Plan 2017-2023 and the previous version of the Map be retained.</p> <p><b>Remove:</b> Revised Wind Energy Map 1.6.5 and incorporate Wind Energy Map 1.6.5 utilised within the Draft Plan.</p>
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Summary of Issues Raised	Chief Executive's Response
<b>13. Keep Ireland Open</b>	
<p>We wish to support the following amendments:</p> <p><u>Section 1:</u> Introduction and Strategic Context All</p> <p><u>Section: 2</u> Development Plan Strategy(Core Strategy) 1</p> <p><u>Section 4:</u> Social, Community and Recreational Strategy 3, 4, 7 to 11 &amp; 14</p> <p><u>Section 5:</u> Economic Development 15, 18, 19, 22 to 28, 36 to 38 &amp; 44 to 47</p> <p><u>Section 6:</u> Infrastructure Strategy 8 to 10, 19, 21, 23, 27, 29 Unfortunately you have omitted the last sentence. It appears to be nothing in the Council minutes authorising the deletion. Perhaps this could be rectified in the final version of the Plan as an non-material alteration. Otherwise it could be dealt with by way of a Variation. 30 to 34</p> <p><u>Section 7:</u> Heritage Strategy 5, 10 to 12 13 We wish to strongly oppose this deletion. Ireland's National Parks are one of Ireland's great success stories in opening up our uplands and wilderness areas for public access. We would remind you of the very draconian legal situation in Ireland, unique in Europe, that once a person</p>	<p>The Chief Executive notes the submission from Keep Ireland Open.</p> <p>Responses to the submission are provided on an alteration-by-alteration basis, as they have arisen within the submission.</p> <p><u>Material Alteration Ref. Section No. 6 - No. 31</u> – whilst the submission refers to Material Alteration Section No. 6 – No. 29, it appears that submission relates to Material Alteration Ref. Section No. 6 - No. 31.</p> <p>The Chief Executive gave consideration to Keep Ireland Open's request for inclusion of an additional policy relating to promoting and facilitating co-location and clustering of masts and proposed an additional policy as part of the proposed Material Alterations / Amendments. It is considered that the proposed policy, as is currently worded, provides the Council with adequate control in relation to this issue.</p> <p><u>Material Alteration Ref. Section No. 7 - No. 13</u> – OBJ 3 was proposed to be deleted following receipt of the submission from the Council's Heritage Officer. In this respect it should be noted that the designations within the Slieve Blooms are already in place and outside of the control of the Local Authority. It is not considered that any revised or alternative objective, in lieu of this objective, is required.</p>



steps off a public road s/he is trespassing and can be summarily rejected by the landowner.

However we accept your point that the designation of National Parks is not within the powers of the Council. We submit that you should include a revised wording: *Promote the **designation** of the Slieve Blooms as a **National Park** given its important ecological landscape.* See Westmeath 3.16 O-ST5.

15, 17 to 25

26 We note that *importance* requires to be added to make sense.

27 to 31

#### Section 8: General Location and Pattern of Development

5 We also note that you have omitted a number of provisions from the CEO's Report (page 146). The options for rectifying this are as per on comments on proposed amendment 29 in Sec 6

7

Finally, we would have to point out that in spite of the adoption of many of our amendments the Plan fails to comply with/have regard to/take into account all relevant provisions of:

- The Planning & Development Acts
- The NSS
- Plans in adjoining counties
- Midland Regional Planning Guidelines
- Development Plan Guidelines
- Heritage Act 1995

Material Alteration Ref. Section No. 7 - No. 26 – The submission requests the addition of the word 'importance' at the end of the proposed amended Policy GEOL 1. The Chief Executive notes the request.

Material Alteration Ref. Section No. 8 - No. 6 - whilst the submission refers to Material Alteration Section No. 8 – No. 5, it appears that submission relates to Material Alteration Ref. Section No. 8 - No. 6.

The Chief Executive is satisfied that proposed amended Development Management Standard DM66 provides the Council with adequate control in respect of the evaluation of development proposals for the erection of antennae and support structures.

#### **Recommendation**

Amend Policy GEOL 1 as follows:

**GEOL1** Work with stakeholders to protect, preserve, enhance, maintain, manage, conserve, recognise and, where appropriate, restore the character conservation value and integrity of these sites for their amenity, scientific, heritage and historic values(including County Geological Sites listed in Table 28, proposed NHA's, areas near site and areas of geomorphological importance.

Summary of Issues Raised	Chief Executive's Response
<b>14. Dunnes Stores</b>	
<p>The submission relates specifically to the established Neighbourhood Centre (NC) located along Mountmellick Road, Portlaoise. The sites NC status is recognised within the current County Laois Retail Hierarchy and within the Portlaoise Local Area Plan 2012.</p> <p>The Mountmellick Road NC which dates back to the 1980s is anchored by Dunnes Stores and a parade of small shop units including:-</p> <ul style="list-style-type: none"> <li>• Taste of Asia – Specialist Asian Food Store</li> <li>• Stephen's Greens – Fruit and Vegetables Store</li> <li>• Globus – Foods from Eastern Europe</li> <li>• Marie's Café</li> <li>• Hair Studio</li> </ul> <p>The subject site is located within the heart of Portlaoise</p>	<p>The Chief Executive notes the submission from Dunnes Stores.</p> <p>The submission relates to Material Alteration Ref. Retail Strategy-1.</p> <p>On review of the Draft Plan, it is noted that there is a typographical error in relation to Neighbourhood Centre designations within the county. This error has been carried through to the Proposed Material Alterations / Amendments and should be addressed prior to finalisation of the Plan.</p> <p><b>Recommendation</b></p> <p>Amend Table 1.1 as follows</p>

<p>northern suburbs making it a strategic/suitable site to serve the daily shopping needs of an established and growing residential community.</p> <p>Part 4 of the Material Alterations/Amendments to the draft Laois County Development Plan 2017-2023 proposes to delete reference to the Mountmellick Road NC within the County Laois Retail Hierarchy table.</p> <p>Deleting reference to the Mountmellick Road NC is considered unnecessary and contrary to proper planning and sustainable development, given the planning and land use zoning history of the site over the last 30 years.</p> <p>The site's current status within the county retail hierarchy is critical in ensuring its future development and modernisation. Deleting the established neighbourhood centre from the County's Retail Hierarchy could adversely limit the site's future development potential. Furthermore deleting reference to the Mountmellick Road site from the County's retail hierarchy could result in a devaluation of the site's property/land price.</p> <p>No reason or justification has been given in the Material Alterations/Amendments document or any other document for that matter to justify the proposed deletion.</p> <p>The RPG 2012 defines local centres and neighbourhood centres as comprising a small group of shops, typically comprising newsagent, small supermarket, sub post office and other small shops of a local nature serving small, localised catchment population. The Mountmellick NC clearly accords with the RPGs definition of a NC.</p> <p>Section 4.11.6 of the RPG 2012 further states that NC's serving local residential areas perform an important local function. Where a Planning Authority can substantiate the local importance of such units in defined local centres, they should safeguard them in Development Plans, through appropriate land-use zoning.</p> <p>The Mountmellick Road site has continuously been safeguarded for local retailing. In the last two Portlaoise Local Area Plans (2006 &amp; 2012) the site has been given a neighbourhood centre land-use zoning (see below). This is absolute proof of the importance of the centre within the wider, local community.</p> <p>In our opinion, a decision to exclude the centre from the retail hierarchy is irrational.</p> <p>The County Laois Retail Hierarchy for 2003 and 2011 both recognise the Mountmellick Road site as a designated NC.</p>	<table border="1"> <thead> <tr> <th colspan="2">County Laois Retail Hierarchy</th></tr> <tr> <th>Retail Function</th><th>Centre</th></tr> </thead> <tbody> <tr> <td>Major Town Centre MRPGS: Principal Town</td><td>Portlaoise</td></tr> <tr> <td>County Town Centre MRPGS: Key Service Town</td><td>Portarlinton</td></tr> <tr> <td>County Town Centre MRPGS: Service Towns</td><td>Mountmellick</td></tr> <tr> <td></td><td><del>Rathdowney</del></td></tr> <tr> <td></td><td>Mountrath</td></tr> <tr> <td></td><td>Stradbally</td></tr> <tr> <td></td><td><del>Durrow</del></td></tr> <tr> <td></td><td>Abbeyleix</td></tr> <tr> <td>County Town Centre MRPGS: Local Service Towns</td><td>Durrow</td></tr> <tr> <td></td><td>Rathdowney</td></tr> <tr> <td>Newly Emerging Local Service Town</td><td>Ballylynan</td></tr> <tr> <td>District Centre MRPGS: Service Town</td><td>Carlow Environs</td></tr> <tr> <td>Neighbourhood Centres</td><td>Fairgreen, Mountmellick Road, Portlaoise; Mountmellick Road, Portlaoise; Kilminchy, Dublin Road, Portlaoise; Mountrath Road, Portlaoise; Lismard, Timahoe Road, Portlaoise; Sandy Lane, Portarlinton; Graigue Village Shopping Centre, Killeshin Road, Graiguecullen; Numbers Road, Graiguecullen; and Connolly Road, Mountmellick.</td></tr> <tr> <td>Villages</td><td>Includes zoned villages only</td></tr> </tbody> </table> <p>Amend Table 12 of the Draft Plan to incorporate additional centres within Neighbourhood Centre designation table</p>	County Laois Retail Hierarchy		Retail Function	Centre	Major Town Centre MRPGS: Principal Town	Portlaoise	County Town Centre MRPGS: Key Service Town	Portarlinton	County Town Centre MRPGS: Service Towns	Mountmellick		<del>Rathdowney</del>		Mountrath		Stradbally		<del>Durrow</del>		Abbeyleix	County Town Centre MRPGS: Local Service Towns	Durrow		Rathdowney	Newly Emerging Local Service Town	Ballylynan	District Centre MRPGS: Service Town	Carlow Environs	Neighbourhood Centres	Fairgreen, Mountmellick Road, Portlaoise; Mountmellick Road, Portlaoise; Kilminchy, Dublin Road, Portlaoise; Mountrath Road, Portlaoise; Lismard, Timahoe Road, Portlaoise; Sandy Lane, Portarlinton; Graigue Village Shopping Centre, Killeshin Road, Graiguecullen; Numbers Road, Graiguecullen; and Connolly Road, Mountmellick.	Villages	Includes zoned villages only
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<p>Section 7.2.21 of the extant Retail Strategy (2011) clearly states that Dunnes Stores on Mountmellick Road is an established NC and needs to be formally recognised as such.</p> <p>The Mountmellick Road Site which is anchored by Dunnes Stores has been zoned as a Neighbourhood Centre (NC) in the last two Portlaoise LAPs with a zoning objective to serve the needs of new and existing residential areas.</p> <p>In fact in the current Portlaoise LAP (adopted October 2012) increased the size of the Mountmellick Road NC.</p> <p>The purpose of a NC as defined in the Portlaoise LAP 2012 is to serve the local community through the provision of retail facilities and other services. Ideally these should be within walking distance of the area they are intended to serve. The subject site clearly fulfils this role as it is anchored by a supermarket and a parade of small shops located within walking distance of an established residential community.</p> <p>It is also noted that the Mountmellick Road site has been designated an 'Opportunity Site', due to its strategic location along the N80, and a redevelopment opportunity. The LAP states that</p> <p><i>'an opportunity exists to intensify development at this location to provide a key landmark or gateway building from Mountmellick Road approach into the town centre'.</i></p>	
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## ***Section 5 - Determination of Compliance with Section 12 (10) of the Planning & Development Act 2000 (as amended) Regarding Further Modifications to Proposed Material Alterations***

The Chief Executive's Report includes recommendations regarding further modifications to proposed Material Alterations.

Section 12 (10) of the Planning & Development Act 2000 (as amended) allows for a further modification to a Material Alteration to be made where:

- (i) It is minor in nature and therefore not likely to have significant effects on the environment or adversely affect the integrity of a European site;
- (ii) It does not relate to an increase in the area of land zoned for any purpose; and
- (iii) It does not relate to an addition to or deletion from the record of protected structures.

Regarding (ii) and (iii) above, none of the Chief Executive's recommended further modifications relate to an increase in the area of land zoned for any purpose and none relate to the addition or deletion from the record of protected structures.

Regarding (i) above, and taking into account:

- The relatively minor in nature Chief Executive's recommendations regarding further modifications;
- The content of the Proposed Material Alterations / Amendments (and associated SEA Screening and AA Screenings); and
- The content of the Draft Plan (and associated SEA and AA).

it is determined that the Chief Executive's recommendations regarding further modifications are not likely to have significant effects on the environment or adversely affect the integrity of a European site.

Therefore, the Chief Executive's recommendations regarding further modifications to Proposed Material Alterations provide for compliance with the criteria set out under Section 12 (10) of the Planning and Development Act 2000 (as amended).