

**DIRECTION IN THE MATTER OF SECTION 31  
OF THE PLANNING AND DEVELOPMENT ACT 2000  
(AS AMENDED BY S.21 OF THE PLANNING AND DEVELOPMENT (AMENDMENT) ACT  
2010)**

**LAOIS COUNTY DEVELOPMENT PLAN DIRECTION 2017**

“Development Plan” means the Laois County Development Plan 2017-2023

“The Planning Authority” means Laois County Council

**WHEREAS** the functions of the Minister for Housing, Planning and Local Government under the Planning and Development Acts 2000 to 2016, other than Chapter 1 of Part VI of the Planning and Development Act 2000, have been delegated to the Minister of State at the Department of Housing, Planning and Local Government pursuant to the Housing, Planning and Local Government (Delegation of Ministerial Functions) Order 2017 (S.I. 352 of 2017).

**WHEREAS** the Minister of State at the Department of Housing, Planning and Local Government, for the reasons set out in the Statement of Reasons hereto, is of the Opinion that

- (i) Laois County Council in making the Laois County Development Plan 2017-2023 has ignored or has not taken sufficient account of the submissions made by the Minister in November 2016 and in May 2017,

and

- (ii) the Laois County Development Plan 2017-2023 is not in compliance with the requirements of s.10(2)(n), s.10(5) and s.10(5A), s.28 (1B)(b) and s.31(1)(c) of the Planning and Development Act 2000 (as amended).

**NOW, THEREFORE** in exercise of the powers conferred on him by s.31 of the Planning and Development Act 2000 (as amended), the Minister of State at the Department of Housing, Planning and Local Government hereby directs as follows:

- (1) This Direction may be cited as the Planning and Development (Laois County Development Plan 2017-2023) Direction 2017.
- (2) The County Council Laois County is hereby directed to take the following steps with regard to the Laois County Development Plan 2017-2023 ("the Development Plan").

(i) The text in Policy EN7 is to be deleted as shown below:

~~Ensure a setback distance of 1.5 km of Wind turbines from schools, dwellings, community centres and all public roads in all areas open for consideration for wind farm development~~

(ii) The text in Section 6.1 of Appendix 5- Wind Energy Strategy is to be deleted as shown below:

~~'Ensure a setback distance of 1.5 kms of wind turbines from schools, dwellings, community centres and all public roads in all areas open for consideration for windfarm development.'~~

(iii) The Map 1.6.5 – Wind Energy *as adopted* is to be removed. For ease of reference a copy of the said map is attached as Appendix 1 to this direction.

And

The Map 1.6.5 – Wind Energy as included in the Draft Laois County Development Plan 2017-2023 is to be included. For ease of reference a copy of the said map is attached as Appendix 2 to this direction.

## STATEMENT OF REASONS

1. The Laois County Development Plan 2017 – 2023 is not consistent with relevant guidelines to planning authorities issued by me under Section 28 of the Planning Development & Act 2000 (as amended) specifically the Wind Energy Guidelines 2006 and insufficient grounds have been stated for such departures as required under Section 28(1B)(b) of the Planning & Development Act 2000 (as amended). The plan is therefore in breach of Section 31(1)(c) of the Planning & Development Act 2000 (as amended).
  
2. (a) The Laois County Development Plan 2017-2023 does not meet with the requirements of Section 10(2)(n) of the Planning and Development Act 2000 (as amended), as the effect of Policy EN7, Section 6.1 (Appendix 5) and revised wind energy map 1.6.5, is to severely undermine and negate practical measures to adapt to climate change and reduce reliance on fossil fuels and;  
  
(b) The Environmental Report does not include information on *“any measures envisaged to prevent, reduce and as fully as possible offset any significant adverse effects on the environment of implementing”* Policy EN7, even though it will effectively run contrary to Policy EN1 and Aim 13 in the Development Plan, as adopted.

Consequently, the plan is not in compliance with the requirements of Sub sections 10(5) and (5A) of the Planning and Development Act 2000 (as amended) due to the fact that the environmental report which is required to accompany the plan (and without which the plan would be in breach of Directive 2001/42/EC) does not include information on mitigation to offset any significant adverse effects on the environment of implementing Policy EN7.

The plan is therefore in breach of Section 31(1)(c) of the Planning & Development Act 2000 (as amended).

3. The planning authority was advised in a submission made on 5<sup>th</sup> May 2017 under section 12 of the Planning & Development Act 2000 (as amended) of my opinion.
4. The inclusion of a wind turbine set-back stipulation in Policy EN7 and in Section 6.1 of Appendix 5, coupled with the requirements of Map 1.6.5 of the Laois County Development Plan 2017-2013, results in the introduction of an arbitrary and mandatory exclusion or setback distance of a minimum of 1.5 kilometres from schools, dwellings, community centres and all public roads in all areas open for consideration for windfarm development and effectively designates the vast bulk of the County as not open for considering wind energy proposals.

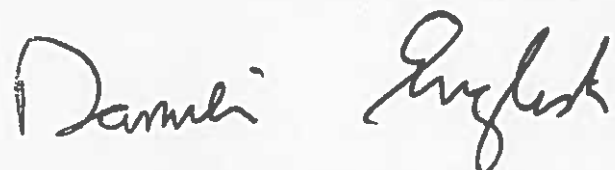
These requirements are in clear breach of Sections 5.6 and 5.12 of the Wind Energy Guidelines 2006 in that they remove the capability for a case by case assessment of wind energy applications based on objective analysis of their impact on the specified property types. Furthermore in practical terms the setback requirement introduces a setback distance considerably in excess of the non-mandatory guidance setback referred to in the statutory guidelines.

5. The mandatory and arbitrary exclusion zones introduced by Policy EN7 and Section 6.1 of Appendix 5, coupled with the requirements of revised Map 1.6.5 are in breach of the planning policy guidance contained in the Wind Energy Guidelines 2006, as they do not maximise wind energy potential in the county and are in direct conflict with the requirements of Section 3.4 of the guidelines *'to secure the maximum potential from wind energy resources of the planning authority's area commensurate with supporting development that is consistent with the proper planning and sustainable development.'*

The effect of the mandatory setback requirement and the requirements of Map 1.6.5 is to significantly restrict the potential for wind energy development in the county which is contrary to national energy policy supporting development of renewable energy resources including wind energy infrastructure.

6. The planning authority has not demonstrated sufficient and evidentially based reasoning, relating to the nature and characteristics of Laois, for the above significant policy departures from the guidelines on wind energy and has therefore failed to comply with the provisions of Section 28(1) and Section 28(1B)(b) and Section 31(1)(c) of the Act.
7. This deficiency in the evidential basis of the policy is contrary to the guidelines above 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.
8. 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 meeting Ireland's commitments to reducing greenhouse gas emissions and increasing renewable energy resources.

GIVEN under my hand,



Minister for Housing and Urban Development

this day of 27<sup>th</sup> September 2017.

**Appendix 1 - Wind Energy Map- as in adopted Laois County Development Plan**

