

## **Notice of Draft Direction by the Minister for Housing, Local Government and Heritage as regards the making of the Kerry County Development Plan 2022-2028**

Notice is hereby given that on 12<sup>th</sup> August 2022, Kerry County Council received notification from the Minister for Housing, Local Government and Heritage of his intention to issue a Direction pursuant to Section 31 of the Planning and Development Act 2000 (as amended), consequent to a recommendation made to him by the Office of the Planning Regulator under Section 31 AM(8) of the Planning and Development Act 2000 (as amended).

The Draft Ministerial Direction related to the adoption of the Kerry County Development Plan 2022-2028. This Draft Ministerial Direction is now placed on public display for a period of two weeks, whereby submissions can be made to the Planning Authority with regard to the Draft Direction.

### **The Planning Authority is directed to take the following steps:**

- (a) Reinstate Map 12.4 of Volume 1 and Map 5 of Volume 4 to that of the draft Plan (amended under MA 12.9);
- (b) Amend the reinstated Map 12.4 of Volume 1 and Map 5 of Volume 4 to change the designation of all areas identified as 'Open-to-Consideration' to 'Permitted in Principle';
- (c) Amend the reinstated Map 12.4 of Volume 1 and Map 5 of Volume 4 to designate the following areas as 'Permitted in Principle':
  - i. those areas of the county identified as 'areas for further assessment' in Map 6.25 of the Wind Zoning Methodology (Appendix 6 of the Development Plan) and identified as of 'Low/Medium' or 'Medium' visual sensitivity in the Landscape Review (Appendix 7 of the Development Plan); and
  - ii. those areas identified as practical resource constraints relating to the 1km buffer zone identified for each settlement in the Wind Zoning Methodology;
- (d) Replace references to 'Open-to-Consideration' with 'Permitted in Principle' throughout Volume 1 and 4 of the Development Plan consistent with a. and b. above;
- (e) Delete material amendments MA 14.20 and 14.21.

### **Reasons stated for the Draft Direction:**

#### **I. Pursuant to section 31(1)(ba)(i)**

The Kerry County Development Plan 2022-2028 is inconsistent with the policy objectives of the National Planning Framework, specifically NPO 55, which states that it is an objective to 'promote renewable energy use and generation at appropriate locations.....to meet national objectives towards achieving a low carbon economy by 2050', and the requirements for the planning authority to comply with, and the development plan to be consistent with, the aforementioned National Policy Objective under sections 10(1A) and/or 12(11) read in conjunction with section 12(18);

#### **II. Pursuant to section 31(1)(c)**

Introduces a mandatory 1km setback distance for wind turbines from settlements through the Wind Zoning Methodology which significant constraint was not included as a material consideration in the Strategic Environmental Assessment Environmental Reports when taking into account likely significant effects on climatic factors.

#### **III. Pursuant to section 31(1)(c)**

The Development Plan does not have adequate regard to Ministerial Guidelines issued under Section 28 of the Act, specifically the requirement under the Wind Energy Development Guidelines for Planning Authorities (2006) that the development plan must achieve a reasonable balance in responding to overall Government Policy on renewable energy, enabling the wind energy resources

of the planning authority's area to be harnessed in a manner that is consistent with proper planning and sustainable development in order to provide a plan-led context to the assessment of individual wind energy development proposals. Specifically, the Development Plan as made, whilst informed by a step-by-step analysis of areas suitable for wind energy (or sieve analysis), the planning authority in conducting the analysis did not have adequate regard to section 3.5 of the guidelines. Specifically, in determining 'the most suitable location for wind energy development' the planning authority did not apply the landscape sensitivity ratings determined by the planning authority in its Landscape Review and provided no or no adequate reasons as to why the outcome of the review could not be implemented. Specifically, the Development Plan as made does not identify in the Development Plan maps key areas where there is significant wind energy potential and where, subject to criteria such as design and landscape planning, natural heritage, environmental and amenity considerations, wind energy development will be acceptable in principle.

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

The Development Plan as made identifies, through material amendment MA 12.9, land where wind energy development is 'Open-to-Consideration' which was determined as unsuitable for wind energy development in the Wind Zoning Methodology carried out by the planning authority, and for which the SEA Environmental Reports concluded that significant effects could not be ruled out and the Natura Impact Reports concluded that potential direct and/or indirect adverse impacts on the conservation objective of European sites could not be ruled out;

V. Pursuant to section 31(1)(ba)(i)

The Development Plan as made does not support the achievement of the national strategic outcomes contained in the National Planning Framework, specifically NSO 2, to maintain 'the strategic capacity and safety of the national roads network';

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

The Development Plan as made does not have adequate regard to Ministerial Guidelines issued under Section 28 of the Act, specifically the requirement under the Spatial Planning and National Roads Guidelines for Planning Authorities (2012) that the development plan must 'implement the policy ... to 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 ... for all categories of development', and to the limited exceptions provided for under the guidelines. Specifically, the Development Plan as made includes objectives to facilitate and support planning applications for development that will result in the creation of new access points from new development and the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60 kilometres per hour (kmh) apply.

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

Further, the statement under Section 28(1A)(b) attached to the Development Plan as made fails to include information that demonstrates that the planning authority has formed the opinion that it is not possible to implement the policies and objectives outlined at (II), (III) and (VI), above, as contained in the guidelines, because of the nature and characteristics of the area or part of the area and to give reasons for the forming of that opinion and to explain why it is not possible to implement the policies and objectives, contrary to Section 28(1B)(b);

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

No adequate reasons or explanations relating to the proper planning and sustainable development of the area have been provided to explain why the wind energy strategy and the policy for access to national roads are consistent with an overall strategy for the proper planning and sustainable development of the area.

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

The Minister is of the opinion that the Development Plan has failed to implement a recommendation made to the planning authority by the Office and that the Development Plan as made fails to set out an overall strategy for the proper planning and sustainable development of the area.

A copy of the Draft Direction may be inspected for a period of 2 weeks from **24<sup>th</sup> August 2022 to 7<sup>th</sup> September 2022** (inclusive) online at <https://consult.kerrycoco.ie/> and at the following locations:

- Kerry County Council, County Buildings, Rathass, Tralee, County Kerry V92 H7VT
- Killarney & Listowel Area Offices
- All public libraries

Kerry County Council is making an explanatory document in relation to the direction available on its website.

Written submissions or observations in respect of the Draft Direction may be made to the Planning Authority during the consultation period and are hereby invited from members of the public, children, or groups or associations representing the interests of children and other interested parties. All submissions or observations must be received no later than **7<sup>th</sup> September 2022 at 11.59pm**. Late submissions will not be accepted.

**Submissions/ Observations** can be made via the following options only:

- Online at <https://consult.kerrycoco.ie/>  
or
- In writing to Damien Ginty, Senior Planner, Planning Policy Unit, Kerry County Council, Rathass, Tralee, Co. Kerry, V92 H7VT.

**Submissions should be in ONE medium only i.e. online or hard copy.**

All submission or observations made in respect of the Draft Direction, during this period, shall be taken into consideration by the Office of the Planning Regulator before it makes a recommendation to the Minister on the matter.

In respect of making a submission or observation please note the following:

- Submissions/observations should include your name and address, a map (if required for identification purposes) and, where relevant, details of any organisation, community group or company etc., which you represent
- Where possible, please include your name and address on a separate page to the content of your submission in order to assist Kerry County Council in complying with the provisions of the Data Protection Act. Your assistance on these issues is appreciated.
- Please note that by giving your contact details you are agreeing to the Council GDPR policy
- All valid submissions received shall be published on the Council website within 10 working days of their receipt and available to view at <https://consult.kerrycoco.ie/>

## **Fógra maidir le Dréacht-Ordachán ón Aire Tithíochta, Rialtais Áitiúil agus Oidhreachta maidir le Plean Forbartha Contae Chiarraí 2022-2028**

Tugtar fógra leis seo, ar an 12 Lúnasa 2022, go bhfuair Comhairle Contae Chiarraí fógra ón Aire Tithíochta, Rialtais Áitiúil agus Oidhreachta, ag cur in iúl go bhfuil sé ar intinn aige ordachán a eisiúint de bhun Alt 31 d'Acht um Pleanáil agus Forbairt, 2000 (arna leasú), de dhroim moladh a chuir Oifig an Rialálaí Pleanála faoina bhráid faoi Alt 31 AM(8) d'Acht um Pleanáil agus Forbairt, 2000 (arna leasú).

Bhain an Dréacht-Ordachán ón Aire le glacadh le Plean Forbartha Contae Chiarraí 2022-2028. Tá an Dréacht-Ordachán seo ón Aire á chur ar taispeáint phoiblí anois le haghaidh tréimhse coicíse, ionas gur féidir aighneachtaí maidir leis an Dréacht-Ordachán a chur faoi bhráid an Údaráis Pleanála.

### **Treoraítear don Údarás Pleanála na céimeanna seo a leanas a chur i gcrích:**

- (a) Mapa 12.4 d'Imleabhar 1 agus Mapa 5 d'Imleabhar 4 a aisiriú sa dréacht-Phlean sin (arna leasú faoi MA 12.9);
- (b) Mapa 12.4 d'Imleabhar 1 agus Mapa 5 d'Imleabhar 4 aisirithe a leasú chun ainmniú gach ceantar atá sainaitheanta mar 'Le Breithniú' a athrú go dtí 'Ceadaithe i bPrionsabal';
- (c) Mapa 12.4 d'Imleabhar 1 agus Mapa 5 d'Imleabhar 4 aisirithe a leasú chun na ceantair seo a leanas a ainmniú mar 'Ceadaithe i bPrionsabal':
  - i. na ceantair sin sa chontae atá sainaitheanta mar 'ceantair a bhfuil tuilleadh measúnaithe le déanamh orthu' i Mapa 6.25 den Mhodheolaíocht Chriosaithe Gaoithe (Aguisín 6 den Phlean Forbartha) agus sainaitheanta mar íogaireacht radhairc 'Íseal/Meánach' nó 'Meánach' san Athbhreithniú Tírdhreacha (Aguisín 7 den Phlean Forbartha); agus
  - ii. na ceantair sin atá sainaitheanta mar shrianta praiticiúla acmhainní a bhaineann leis an gcrios maolánach 1km atá sainaitheanta do gach lonnaíocht sa Mhodheolaíocht Chriosaithe Gaoithe;
- (d) Cuir 'Ceadaithe i bPrionsabal' in áit na dtagairtí do 'Le Breithniú' in Imleabhar 1 agus in Imleabhar 4 den Phlean Forbartha comhsheasmhach le a. agus b. thuas;
- (e) Leasuithe ábhartha MA 14.20 agus 14.21 a scriosadh.

### **Na cúiseanna arna lua leis an Dréacht-Ordachán:**

#### **I. De bhun alt 31(1)(ba)(i)**

Níl Plean Forbartha Contae Chiarraí 2022-2028 comhsheasmhach le cuspóirí beartais an Chreata Pleanála Náisiúnta, go sonrach NPO 55, ina sonraítear an cuspóir seo a leanas 'tacú le húsáid agus le giniúint fuinneamh in-athnuaite ag suíomhanna oiriúnacha.....chun cuspóirí náisiúnta a chomhlíonadh a bhaineann le geilleagar ísealcharbóin a chinntiú faoi 2050', agus na ceanglais nach mór don údarás pleanála a chomhlíonadh, agus ní mór don phlean forbartha a bheith comhsheasmhach leis an gCuspóir Beartais Náisiúnta thuasluaite faoi alt 10(1A) agus/nó alt 12(11) á léamh i gcomhpháirt le halt 12(18);

#### **II. De bhun alt 31(1)(c)**

Bunaítear fad slánachair éigeantach 1km le haghaidh tuirbíní gaoithe ó lonnaíochtaí tríd an Modheolaíocht Chriosaithe Gaoithe agus níor cuireadh an srian suntasach a bhaineann leis san áireamh mar bhreithniú ábhartha i dTuarascálacha Timpeallachta an Mheasúnaithe Straitéisigh Timpeallachta nuair a chuirtear éifeachtaí suntasacha dóchúla ar fhachtóirí aeráide san áireamh.

#### **III. De bhun alt 31(1)(c)**

Ní thugtar aird mar is cuí sa Phlean Forbartha ar Threoirínte ón Aire a eisíodh faoi Alt 28 den Acht, go sonrach an ceanglas faoi Threoirínte Forbartha Gaothfhuinnimh d'Údaráis Phleanála (2006) nach mór don phlean forbartha cothromaíocht réasúnach a chinntiú nuair a bhítear ag freagairt don Bheartas

Rialtais maidir le fuinneamh in-athnuaite, rud a chumasaíonn acmhainní gaothfhuinnimh cheantar an údaráis áitiúil a ghabháil ar bhealach atá comhsheasmhach le pleanáil chúí agus forbairt inbhuanaithe chun comhthéacs pleanbhunaithe a sholáthar i ndáil le measúnú a dhéanamh ar thograí forbartha gaothfhuinnimh aonair. Go sonrach, ainneoin go bhfuil an Plean Forbartha arna dhéanamh bunaithe ar anailís céim ar chéim ar cheantair atá oiriúnach do gaothfhuinneamh (nó criatharanailís), nuair a bhí an anailís á déanamh ag an údarás pleanála níor thug sé aird chúí ar roinn 3.5 de na treoirlínte. Go sonrach, nuair a bhí cinneadh á dhéanamh maidir le ‘an suíomh is oiriúnaí le haghaidh forbairt gaothfhuinnimh’, níor chuir an t-údarás pleanála na rátálacha íogaireachta arna gcinneadh ag an údarás pleanála ina Athbhreithniú Tírdhreacha san áireamh agus níor soláthraíodh aon chúiseanna ná aon chúiseanna leordhóthanacha maidir leis an gcúis nach bhféadfaí toradh an athbhreithnithe a chur chun feidhme. Go sonrach, ní sainaithnítear sa Phlean Forbartha arna dhéanamh atá curtha ar fáil, sna príomhcheantair ar mhapaí an Phlean Forbartha, an áit a bhfuil poitéinseal suntasach ag baint le gaothfhuinneamh agus an áit a mbeidh sé inghlactha i bprionsabal, faoi réir critéir cosúil le dearadh agus pleanáil tírdhreacha, oidhreacht nádúrtha, breithniúcháin timpeallachta agus áineasa.

#### IV. De bhun alt 31(1)(c)

Sainaithnítear sa Phlean Forbartha arna dhéanamh, trí leasú ábhartha MA 12.9, talamh ar a bhfuil forbairt gaothfhuinnimh ‘Le Breithniú’ a cinneadh a bhí mí-oiriúnach d’fhorbairt gaothfhuinnimh sa Mhodheolaíocht Chriosaithe Gaoithe a chuir an t-údarás pleanála i gcrích, agus ar cinneadh i dTuarascálacha Timpeallachta SEA nach bhféadfaí éifeachtaí suntasacha a chur as an áireamh, agus cinneadh sna Tuarascálacha Tionchair Natura nach bhféadfaí tionchair dhíreacha agus/nó tionchair indéreacha phoitéinsiúla ar chuspóir caomhantais láithreán Eorpach a chur as an áireamh;

#### V. De bhun alt 31(1)(ba)(i)

Ní thacaíonn an Plean Forbartha arna dhéanamh le gnóthachtáil na dtorthaí straitéiseacha náisiúnta atá le fáil sa Chreat Pleanála Náisiúnta, go sonrach NSO 2, chun ‘acmhainn agus sábháilteacht an ghréasáin bóithre náisiúnta’ a chothabháil;

#### VI. De bhun alt 31(1)(c)

Ní thugtar aird chúí sa Phlean Forbartha arna dhéanamh ar na Treoirlínte ón Aire a eisíodh faoi Alt 28 den Acht, go sonrach an ceanglas faoi *Pleanáil Spásúil agus Bóithre Náisiúnta – Treoirlínte d’Údaráis Phleanála* (2012), nach mór don fhorbairt ‘an beartas a chur chun feidhme ... chun cruthú aon pointe rochtana breise ó fhorbairt nua nó cruthú trácht méadaithe ó bhealaí rochtana reatha chuig bóithre náisiúnta ar a bhfuil luasteorainneacha níos mó ná 60 km/h a sheachaint ... le haghaidh gach catagóir forbartha’, agus i ndáil leis na heisceachtaí teoranta dá bhforáiltear dóibh faoi na treoirlínte. Go sonrach, áirítear sa Phlean Forbartha arna dhéanamh cuspóirí chun iarratais phleanála a éascú agus tacú leo a bheidh mar bhonn le pointí rochtana nua ón bhforbairt nua a chruthú agus breis tráchta a chruthú ó bhealaí rochtana chuig bóithre náisiúnta atá ar fáil cheana féin lena mbaineann luasteorainneacha níos mó ná 60 ciliméadar san uair (kmh).

#### VII. De bhun alt 31(1)(c)

Anuas air sin, ní áirítear sa ráiteas a rinneadh faoi Alt 28(1A)(b) atá i gceangal leis an bPlean Forbartha arna dhéanamh faisnéis a léiríonn gurb é tuairim an údaráis pleanála nach féidir na beartais atá sonraithe ag (II), (III) agus (VI), thuas, mar atá le fáil sna treoirlínte, a chur chun feidhme, mar gheall ar nádúr agus ar shaintréithe an cheantair nó cuid den cheantar agus cúiseanna a shonrú a bhí mar bhonn leis an tuairim sin agus míniú a thabhairt maidir leis an gcúis nach féidir na beartais agus cuspóirí a chur chun feidhme, contrártha d’Alt 28(1B)(b);

#### VIII. De bhun alt 31(1)(c)

Níl aon chúiseanna nó mínithe leordhóthanacha curtha ar fáil maidir le pleanáil chúí agus forbairt inbhuanaithe an cheantair arb ionann iad agus míniú maidir leis an gcúis a bhfuil an straitéis

gaothfhuinnimh agus an bheartais le haghaidh rochtain ar bhóithre náisiúnta comhsheasmach leis an straitéis fhoriomlán do phleanáil chúí agus d'fhorbairt inbhuanaithe an cheantair.

IX. De bhun alt 31(1)(a)(i)(II) agus alt 31(1)(b)

Is é tuairim an Aire gur theip ar an bPlean Forbartha moladh a chur chun feidhme a chuir an Oifig faoi bhráid an údaráis pleanála agus go dteipeann ar an bPlean Forbartha arna dhéanamh straitéis fhoriomlán a leagan amach do phleanáil chúí agus d'fhorbairt inbhuanaithe an cheantair.

Beidh cóip den Dréacht-Ordachán ar fáil chun críche iniúchta le haghaidh tréimhse coicíse idir **an 24 Lúnasa 2022 - an 7 Meán Fómhair 2022** (an dá lá sin san áireamh) ar líne ag <https://consult.kerrycoco.ie/> agus sna háiteanna seo a leanas:

- Comhairle Contae Chiarraí, Áras an Chontae, Ráth Teas, Trá Lí, Co. Chiarraí V92 H7VT
- Oifigí Ceantair Chill Airne & Lios Tuathail
- Gach leabharlann phoiblí

Tá doiciméad mínitheach maidir leis an ordachán seo á chur ar fáil ag Comhairle Contae Chiarraí ar a shuíomh gréasáin.

Is féidir aighneachtaí i scríbhinn nó breathnóireachtaí maidir leis an Dréacht-Ordachán a chur faoi bhráid an Údaráis Pleanála i rith thréimhse an chomhairliúcháin agus fáiltítear roimh a leithéid ó bhaill den phobal, leanaí nó grúpaí nó cumainn atá ag déanamh ionadaíochta ar leas leanaí agus páirtithe leasmhara eile. Ní mór gach aighneacht nó breathnóireacht a chur ar fáil tráth nach déanaí ná an **7 Meán Fómhair 2022 ag 11.59pm**. Ní ghlacfar le haighneachtaí a fhaightear ina dhiaidh sin.

Is féidir **Aighneachtaí/ Breathnóireachtaí** a dhéanamh ar na bealaí seo a leanas:

- Ar líne ag <https://consult.kerrycoco.ie/> nó
- I scríbhinn chuig Damien Ginty, Pleanálaí Sinsearach, Aonad Pleanála Beartas, Comhairle Contae Chiarraí, Ráth Teas, Trá Lí, Co. Chiarraí, V92 H7VT.

### **Níor cheart aighneachtaí a dhéanamh ach ar bhealach AMHÁIN i.e. ar líne nó cóip chrua.**

Cuirfidh Oifig an Rialálaí Pleanála gach aighneacht nó breathnóireacht a fhaightear maidir leis an Dréacht-Ordachán, i rith na tréimhse seo, san áireamh sula gcuirfear moladh faoi bhráid an Aire maidir leis an tsaincheist seo.

Ní mór aird a thabhairt ar an méid seo a leanas má tá sé beartaithe agat aighneacht nó breathnóireacht a dhéanamh:

- Ba cheart na sonraí seo a leanas a sholáthar i dteannta le haighneachtaí/breathnóireachtaí - d'ainm agus seoladh, mapa (más gá chun críche sainaitheanta) agus, más cuí, sonraí maidir le haon eagraíocht, grúpa pobail nó cuideachta etc., a bhfuil ionadaíocht á déanamh agat air/uirthi.
- Más féidir, cuir d'ainm agus seoladh ar fáil ar leathanach ar leith agus ní ar an leathanach céanna le hábhar d'aighneachta chun cur ar chumas Chomhairle Contae Chiarraí forálacha an Achta um Chosaint Sonraí a chomhlíonadh. Bheimis buíoch díobh as comhoibriú linn sa chomhthéacs seo.
- Tabhair faoi deara, is ionann do shonraí teagmhála a sholáthar agus comhaontú le beartas RGCS na Comhairle.
- Foilseofar gach aighneacht bhailí a fhaightear ar shuíomh gréasáin na Comhairle laistigh de 10 lá oibre ón lá a fhaightear iad agus beidh siad le fáil ag <https://consult.kerrycoco.ie/>