



26th June 2024

For the Attention of: Mr. John G McLaughlin, Chief Executive

Donegal County Council,
County House
The Diamond
Lifford
County Donegal
F93 Y622

**Section 31 of the Planning and Development Act 2000, as amended
Notice of Intention to issue a Direction to Donegal County Council
regarding the County Donegal Development Plan 2024-2030**

Dear John,

Consequent to a recommendation made to me as Minister by the Office of the Planning Regulator (the Office) on 12th June 2024 in connection with the County Donegal Development Plan 2024–2030, as adopted by the elected members of Donegal County Council on 16th May 2024, and pursuant to section 31 of the Planning and Development Act 2000 (as amended) (the Act), I write to give notice of my intention to issue a direction to Donegal County Council to take certain measures specified in this notice.

Opinion

On consideration of the recommendation made to me by the Office, I have formed the opinion that:

- (i) Donegal County Council, in making the development plan, has failed to implement recommendations made to it, as planning authority, by the Office under section 31AM of the Act;
- (ii) The Plan, as made, fails to set out an overall strategy for the proper planning and sustainable development of the area;
- (iii) The Plan is inconsistent with national and regional policy objectives specified in the National Planning Framework (NPF) and the Regional Spatial and Economic Strategy for the Southern Region (RSES);
- (iv) The Plan, as made, is not in compliance with the requirements of the Act.



A draft of the Direction accompanies this notice and I request that you publish notice of this draft Direction, no later than two weeks after receipt of this notice. The reasons for the Direction are set out in the Statement of Reasons incorporated in the attached draft Direction and further detail is provided in the Summary of Issues as set out below.

Process to Date

The draft County Donegal Development Plan 2024–2030 (the draft Plan) was on public display from 4th August 2023 to 13th October 2023. The Office of the Planning Regulator made a submission to the draft Plan on 13th October 2023, containing thirteen (19) recommendations and eight (5) observations which addressed a broad range of issues.

The elected members, having considered the draft Plan and the Chief Executive’s Report on submissions received (January 2024), resolved to amend the draft County Donegal Development Plan 2024–2030. Subsequently, Donegal County Council sent a notice letter under section 12(5)(aa) of the Act to the Office specifying the recommendations of the Office that were not complied with.

In particular, Recommendations 2, 5, 6, 7, 10, 11, 14 and 15, were not complied with in part or in full.

The material alterations to the draft Plan were on public display from 8th March 2024 to 5th April 2024. The Office made a submission on 5th April 2024 containing eight (8) recommendations and no observations. The Office’s recommendations at the Material Alterations stage included:

- MA Recommendation 1, 2, 3 and 4 – Zoning of land requirements
- MA Recommendation 5 – Settlement Frameworks
- MA Recommendation 6 – Fahan
- MA Recommendation 7 – Wastewater Supply Infrastructure
- MA Recommendation 8 – Flood Risk Management

The submission also noted the decision of the planning authority not to comply with Recommendations 2, 5, 6, 7, 10, 11, 14 and 15, in part or in full of the Office’s submission to the draft Plan (Settlement hierarchy, Zoning of land for residential, regeneration, Zoning of land for Business Enterprise and Access to National Roads).



The elected members of Donegal County Council resolved to make the County Donegal Development Plan 2024–2030 at a council meeting on 16th May 2024. Subsequently, the planning authority issued a notice letter under section 31AM(6) of the Act to the Office advising of the making of the Development Plan and specifying the recommendations of the Office that were not complied with.

Having reviewed the Chief Executive's reports on the draft Plan and material alterations to the draft Plan, the notice of the making of the Development Plan and the reasons in the notice letter, the Office has concluded that, with the exception of the items below, the recommendations of the Office have been responded to and have been addressed to the satisfaction of the Office, or are otherwise considered satisfactory within the legislative and policy context. The outstanding matters, therefore, relate to the following:

- Residential zoning objectives and material alterations:
 - o Recommendation 5 and MA Recommendation 2 (Buncrana)
 - o Recommendation 6 and MA Recommendation 3 (Ballybofey / Stranorlar);
- Settlement frameworks, MA Recommendation 5
- Business/ Enterprise zoning objectives, Recommendation 14
- Flood risk management, MA Recommendation 8.
- Access to National roads, Recommendation 15
- Boundary extension and policy for hotel and marina leisure tourism at Fahan, MA Recommendation 6.

To note, the Office in its notice letter issued under 31AM(8) of the Planning and Development Act, 2022 (as amended) identified that the inclusion of zoning objective Buncrana NR 2.16 would be contrary to the compact and sustainable growth of the town. However, that Office omitted to include a reference to that specific zoning objective in section 3 of the notice letter and at point 2 of the proposed draft Direction. Therefore, due to this administrative error, in particular the omission of this item from the recommended draft Direction sent to the Minister by the Office, the Draft Direction attached does not include a reference to zoning objective Buncrana NR 2.16.

Summary of Issues

OPR Recommendations 5 and 6 and MA Recommendations 2, 3 and 8

Having regard to the core strategy of the draft Plan; national and regional policy objectives for compact growth; tiered approach to zoning and flood risk management; the provisions of



the Development Plans Guidelines for Planning Authorities (2022); The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009); and section 10(2)(n) of the Act, the planning authority was required to make the Plan without certain specified amendments to land use zoning.

Notwithstanding the above, the elected members decided to make a significant number of the amendments referred to in the Office's submission, contrary to the majority of your recommendations as Chief Executive (with the exception of Ballybofey/Stranorlar NR 2.2). Having carefully considered the elected members' reasons, as set out in the section 12(5)(aa) Letter and 31AM(6) notice submitted, the Office accepted the rationale provided by the elected members for their decisions in a number of cases. However, with respect to lands identified in sections 2(a)(i), (ii), (iv) and 2(b)(i) to (vi) of the enclosed draft Direction, the Office has concluded that the zonings are inconsistent with objectives of national and regional planning policy, and fail to have regard to Ministerial planning guidelines under section 28 of the Act. Please see the statement of reasons incorporated in the draft Direction for specific details in this regard.

OPR MA Recommendation 5

Having regard to the core strategy of the draft Plan; national and regional policy objectives for compact growth, tiered approach to zoning, flood risk management; the provisions of the Development Plans Guidelines for Planning Authorities (2022); The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009); the Spatial Planning and National Roads Guidelines (2012); and section 10(2)(n) of the Act, the planning authority was required to make the Plan without certain specified additions, extensions and amendments to the Settlement Frameworks for Carrick / An Charraig, Bruckless, Mountcharles, Creeslough, Dunfanaghy, Merville, Newtowncunningham, and Kilmacrennan.

Notwithstanding the above, the elected members decided to make a number of the amendments referred to in the Office's submission, contrary to your recommendations as Chief Executive.

Having carefully considered the elected members reasons, as set out in the section 31AM(6) notice submitted, the Office has concluded that the amendments are inconsistent with objectives of national and regional planning policy, and fail to have regard to Ministerial planning guidelines under section 28 of the Act in respect to lands identified in sections 2(a)(i), (ii), (iv) and 2(b)(i) to (vi) of the enclosed draft Direction. Please see the statement of reasons incorporated in the draft Direction for specific details in this regard.



OPR Recommendation 14

Having regard to national and regional policy objectives for achieving urban infill / brownfield development and in meeting urban development requirements, tiered approach to zoning; the provisions of the Development Plans Guidelines for Planning Authorities (2022); and section 10(2)(n) of the Act, the planning authority was required to make the Plan without zoning objectives for Business/Enterprise in Buncrana and Ballybofey / Stranorlar.

Notwithstanding the above, the elected members decided to make a number of the amendments referred to in the Office's submission, one of which was contrary to your recommendations as Chief Executive ((2)(a)(iii) Buncrana).

Having carefully considered the elected members' reasons, the Office has concluded that the zonings are inconsistent with objectives of national and regional planning policy, and fail to have regard to Ministerial planning guidelines under section 28 of the Act in respect to lands identified in sections 2(a)(iii) and (v). Please see the statement of reasons incorporated in the draft Direction for specific details in this regard.

OPR Recommendation 15

Having regard to to national and regional policy objectives; the provisions of the Spatial Planning and National Roads Guidelines for Planning Authorities (2012), Donegal County Council was requested to amend Policy T-P-12 of the draft Plan which seeks to permit access to an extensive section of the N56 National Secondary Road for one off rural housing and introduces a condition to the restriction on development which would result in the intensification of existing access points.

It is noted that Transport Infrastructure Ireland also separately requested the removal of this provision in its submissions to the planning authority, and that you as Chief Executive of Donegal County Council recommended that the provision in question should be removed from the Plan in line with the recommendation from the Office.

Notwithstanding the above, the elected members proceeded to make the plan inclusive of the provision in question. National and regional policy objectives clearly indicate the importance of maintaining the strategic capacity and safety of the national roads network.

Please refer to the specific provisions referenced in the statement of reasons incorporated in the draft Direction for further details.



OPR MA Recommendation 6

Having regard to national policy objectives to ensure that Ireland's coastal resources are managed to sustain its physical characteristics and environmental quality and water services infrastructure; and the provisions of the Development Plans Guidelines for Planning Authorities (2022); the planning authority was requested to make the Plan without MA 21(a).3 Policy SF-P-xx (to facilitate a hotel and marina leisure tourism development at Fahan Marina) and MA 21(b).9 part b which extends the settlement boundary for Fahan to include lands at Fahan Marina and its environs into the Lough Swilly SAC, and immediately adjacent to the Lough Swilly SPA.

It is noted that Uisce Éireann's submission indicates that there is no or inadequate public wastewater treatment in Fahan WWTP at present and there is no project committed to provide additional capacity within the plan period.

Notwithstanding the above, the elected members decided to make the amendments consistent with your recommendation.

Having carefully considered the elected members' reasons, as set out in the section 31AM(6) notice submitted, the Office has concluded that the amendments are inconsistent with objectives of national planning policy, and fail to have regard to Ministerial planning guidelines under section 28 of the Act in respect of 2(b)(xiv) and (xv), of the enclosed draft Direction. Please see the statement of reasons incorporated in the draft Direction for specific details in this regard.

In light of the above, the Development Plan made by Donegal County Council fails to set out an overall strategy for the proper planning and sustainable development of the area concerned, contrary to the requirements of Section 10(1) of the Act and is not in compliance with the requirements of the Act.

Decision

On review of the recommendation issued by the Office, corresponding documents and analysis, I, as Minister, am of the opinion to issue a draft Direction and in that regard, I refer you to the Statement of Reasons set out in the enclosed draft Direction and the considerations below.



I, as Minister, consider that the plan as made:

- is not in compliance with the provisions of the Act including:
 - Section 10(1), which requires the development plan to set out an overall strategy for the proper planning and sustainable development of the area.
 - Section 28, as the statement under section 28(1A)(b) that is appended to the development plan fails to include information which demonstrates that the planning authority has formed the opinion that it is not possible to implement the policies and objectives of the Minister contained in the Development Plans Guidelines (2022) and/or the Spatial Planning and National Roads Guidelines (2012) and/or the Planning System and Flood Risk Management Guidelines (2009); because of the nature and characteristics of the area, in addition to the reasons for the forming of that opinion contrary to section 28(1B)(b).

- is inconsistent with objectives of the National Planning Framework, in particular NPO 3c (Compact Growth), NPO 11 (Achieving Urban Infill / Brownfield Development), NPO 41a (Coastal resource), NPO 54 (Climate Action), NPO 57 (Flood Risk Management), NPO 63 (Water Services Infrastructure), NPO 72a, b and c (Land Use Zoning, Infrastructure and Services), NPO 74 (Delivery of National Strategic Outcomes specifically for enhanced regional accessibility, including the maintenance of the strategic capacity and safety of the national road network) and NPO 75 (Environmental Considerations).

- is inconsistent with objectives of the Regional Spatial and Economic Strategy for the Northern and Western Region specifically RPO 3.2 (Compact Growth), RPO 3.10 (Flood Risk Management), RPO 3.13 (Employment provision) and RPO 6.5 (Strategic Capacity and Safety of National Roads).

- fails to have regard to Ministerial Guidelines issued under Section 28 of the Act, specifically:
 - Development Plans, Guidelines for Planning Authorities (2022)
 - Spatial Planning and National Roads, Guidelines for Planning Authorities (2012)
 - The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)



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

Having regard to the matters set out above, the Development Plan fails to set out an overall strategy for the proper planning and sustainable development of the area and is not in compliance with the requirements of the Act.

Measures to be taken – Draft Direction

Accordingly, having considered the recommendation of the Office, I am issuing a draft Direction pursuant to section 31 of the Planning and Development Act 2000 (as amended), to direct Donegal County Council with regard to the County Donegal Development Plan 2024-2030.

In accordance with section 31AN(1) of the Act, having considered and taken account of the proposed draft direction submitted by the Office, the draft Direction as issued incorporates a minor editorial amendment which is not material in nature and does not alter the substance of the Office's recommended draft direction (numbering for MA 21(b) 8 Dunfanaghy Settlement Frameworks correctly referenced).

The draft Direction sets out the following steps for the Planning Authority to take:

- (a) Delete the following zoning objectives from the adopted Development Plan:
 - (i) that part of Buncrana NR 1.11 which was zoned Agricultural / Rural under the County Donegal Development Plan 2018-2024, i.e. the subject land reverts to not zoned from New Residential (Phase 1);
 - (ii) Buncrana NR 1.12, i.e. the subject land reverts to not zoned from New Residential (Phase 1);
 - (iii) Site to the south east of Buncrana in the townland of Ludden, i.e. the subject land reverts to not zoned from Business / Enterprise;



- (iv) Ballybofey/Stranorlar NR 2.2, i.e. the subject land reverts to not zoned from New Residential (Phase 2);
- (v) Ballybofey/Stranorlar BE1, i.e. the subject land reverts to not zoned from Business / Enterprise.

(b) Delete the following material alterations from the adopted Development Plan:

- (i) Buncrana MA 18(b).11, i.e. the subject land reverts to Open Space and Recreation from New Residential (Phase 1);
- (ii) Buncrana MA 18(b).12, i.e. the subject land reverts to Rural / Agricultural from New Residential (Phase 1);
- (iii) Buncrana MA 18(b).13, i.e. the subject land reverts to Rural / Agricultural from New Residential (Phase 1);
- (iv) Buncrana MA 18(b).15, i.e. the subject land reverts to Strategic Residential Reserve from New Residential (Phase 1);
- (v) Buncrana MA 18(b).16, i.e. the subject land reverts to Rural / Agricultural from New Residential (Phase 1);
- (vi) Ballybofey / Stranorlar MA 19(b).2, i.e. the subject land reverts to Rural Agricultural from New Residential (Phase 2);
- (vii) MA 21(b).1 Carrick / An Charraig, Settlement Frameworks;
- (viii) MA 21(b).3 Bruckless, Settlement Frameworks;
- (ix) MA 21(b).5 Mountcharles, Settlement Frameworks;
- (x) MA 21(b).7, parts 'B' and 'C', Creeslough, Settlement Frameworks i.e. the land subject of part 'C' reverts to 'Amenity Area';
- (xi) MA 21(b).8 Dunfanaghy, Settlement Frameworks;
- (xii) MA 21(b).12 Newtowncunningham, Settlement Frameworks;
- (xiii) MA 21(b).14 Kilmacrennan, Settlement Frameworks;
- (xiv) MA 21(b).9 part 'B' Fahan, Settlement Frameworks;
- (xv) MA 21(a).3, Policy SP-P-xx.



- (c) Delete policy T-P-12 (b) and (c) and associated text in section 8.1.3.1;
and
- (d) Amend policy T-P-12(a) as follows (deletions in strikethrough red, additions in green)

It is a policy of the Council not to permit developments requiring new accesses, or which would result in the: ~~adverse intensification of existing access points onto:~~

i. intensification of existing access points onto National Roads where the speed limit is greater than 60 kph; or

ii. adverse intensification of existing access points onto the section of the R238 Bridgend-Buncrana Regional Road where the speed limit is greater than 60 kph.

Notwithstanding the foregoing, in exceptional circumstances, developments of national and regional strategic importance where the locations concerned have specific characteristics that make them particularly suitable for the developments proposed may be considered, subject to such developments being provided for through the Local Area Plan or Development Plan making process, including in consultation with the TII.

Please note that in accordance with Section 31(4)(c) and Section 31(6) of the Act, those parts of the County Donegal Development Plan 2024–2030 referred to in this notice shall be taken not to have come into effect, been made or amended.

Next Steps – Procedural requirements

I wish to draw your attention to the public consultation obligations under section 31 of the Planning and Development Act 2000 (as amended), and the initial requirement as Chief Executive, under section 31(7) to publish notice of the draft Direction no later than 2 weeks



after receipt of this notice, stating that the draft Direction may be inspected as specified in the notice, for a period of not more than 2 weeks.

The notice must also state that written submissions or observations in respect of the draft Direction may be made to the planning authority during the consultation period.

Also in line with statutory requirements, a Chief Executive's report is to be prepared on the public consultation period under section 31(8), and must be furnished to the Office, the elected members and myself as Minister, no later than 4 weeks after the public consultation process is completed, for further consideration.

In accordance with Section 31(9) of the Act, the report of the Chief Executive must:

- (a) summarise the views of any person who made submissions or observations to the planning authority;
- (b) summarise the views of and recommendations (if any) made by the elected members of the planning authority;
- (c) summarise the views of and recommendations (if any) made by the regional assembly, and
- (d) make recommendations in relation to the best manner in which to give effect to the draft Direction.

In addition, the elected members of the planning authority may make a submission to the Office of the Planning Regulator at any time up to the conclusion of the 2 week public consultation period referred to above and must also send any such submissions to me, as Minister.

The Office will then consider the Chief Executive's report together with any submissions made and will make a further recommendation to me, as Minister, regarding whether the Direction is to be issued with or without minor amendments, or not issued. Where I am in agreement with the further recommendation, I may issue the final Direction.

Where the Office is of the opinion that a material amendment to the draft Direction is required, or further investigation is necessary, or it is necessary for another reason, then the Office may appoint an inspector no later than 3 weeks after receipt of the Chief Executive's report, prior to making a final recommendation to me.



Should you have any queries in relation to complying with the foregoing process now underway, please contact ForwardPlanning@housing.gov.ie.

Yours sincerely,

Alan Dillion TD

Minister of State for Local Government and Planning

Copied to:

- Cathaoirleach, Donegal County Council, County House, The Diamond, Lifford, Co. Donegal, F93 Y622.
- Director, Northern and Western Regional Assembly, The Square, Ballaghaderreen, Co. Roscommon, F45 W674.
- Office of the Planning Regulator, Fourth Floor (West Wing) Park House, Grangegorman, 191-193A North Circular Road, Dublin 7, D07 EWW4.