

# **DIRECTION IN THE MATTER OF SECTION 31**

## **OF THE PLANNING AND DEVELOPMENT ACT 2000 (as amended)**

### **Limerick Development Plan 2022 – 2028**

“Development Plan” means the Limerick Development Plan 2022 – 2028

“Planning Authority” means Limerick City and County Council

WHEREAS the powers and duties of the Minister for Housing, Local Government and Heritage under the Planning and Development Act 2000 (as amended) ("the Act"), other than the power to prosecute an offence, have been delegated to the Minister of State at the Department of Housing, Local Government and Heritage pursuant to the Housing, Local Government and Heritage (Delegation of Ministerial Functions) Order 2020 (S.I. 559 of 2020).

**WHEREAS** the Minister of State at the Department of the Housing, Local Government and Heritage in exercise of the powers conferred on him by section 31 of the Act , and consequent to a recommendation made to him by the Office of the Planning Regulator under section 31AN(4)(a) of the Act hereby directs as follows:

- (1) This Direction may be cited as the Planning and Development (Limerick Development Plan 2022 - 2028) Direction 2022.
- (2) The Planning Authority is hereby directed to take the following steps with regard to the Development Plan:
  - (a) Reinstate the following zoning objectives to that of the draft Plan:
    - (i) MA no. 142 i.e. the subject land reverts to Agriculture from Enterprise and Employment.

- (ii) MA no. 145 i.e. the subject land reverts to Community and Education from Mixed Use.
  - (iii) MA no. 146 i.e. the subject land reverts to Enterprise and Employment from Mixed Use.
  - (iv) MA no. 147 i.e. the subject land reverts to Enterprise and Employment/Open Space and Recreation from New Residential except in respect of the lands to be developed for housing under ABP SHD reference 311588.
  - (v) MA no. 148 i.e. the subject land reverts to Semi Natural Open Space from Enterprise and Employment.
- (b) Delete the Data Centre zoning objective on lands consisting of 33 hectares at Ballysimon.

## **STATEMENT OF REASONS**

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

The Development Plan as made includes lands zoned for data centre development located in a non-sequential and peripheral location outside the boundary of the plan for Limerick City that is inconsistent with National Planning Framework National Strategic Outcome 1, National Policy Objective 53, National Policy Objective 62 in relation to securing compact and sustainable patterns of development.

No or no adequate reasons or explanations relating to the proper planning and sustainable development of the area have been provided to explain why lands have been zoned in such a way and how this approach (involving a failure to zone lands having regard to the relevant Guidelines) is consistent with an overall strategy for the proper and sustainable development of the area in accordance with section 10(1) and section 12(18) of the Planning and Development Act 2000, as amended.

### **II. Pursuant to section 31(1)(ba)(i), section 31(1)(b) and section 31(1)(c)**

The Development Plan as made includes significant lands zoned in a manner that is inconsistent with National Planning Framework National Policy Objective 57, which

seeks to avoid inappropriate development in areas at risk of flooding having regard to Ministerial Guidelines issued under Section 28 of the Act, *The Planning System and Flood Risk Management, Guidelines for Planning Authorities* (2009) ("the Flood Guidelines"). Significant lands have been zoned in the plan as made without passing the provisions of the sequential approach and plan-making Justification Test detailed in the Flood Guidelines.

No or no adequate reasons or explanations relating to the proper planning and sustainable development of the area have been provided to explain why the lands have been zoned in such a way and how this approach is consistent with an overall strategy for the proper planning and sustainable development of the area.

Further, the statement under Section 28(1A)(b) attached to the Development Plan as made:

- (a) 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 outlined at (I) and (II), 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); and
- (b) fails to provide any or any adequate explanation, consistent with the requirement to deliver an overall strategy for the proper planning and sustainable development of the area, as to why the Development Plan provides for zoning of lands in a way that does not have regard to the policies and objectives set out in *The Planning System and Flood Risk Management Guidelines for Planning Authorities*, *the Development Plans Guidelines for Planning Authorities* and *Spatial Planning and National Roads Guidelines for Planning Authorities*.

### **III. Pursuant to section 31(1)(a)(i)(II) and section 31(1)(b)**

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

**IV. Pursuant to section 31(1)(b)**

In light of the matters set out at I to III, above, the Minister is of the opinion that the Development Plan fails to set out an overall strategy for the proper planning and sustainable development of the area.

**V. Pursuant to section 31(1)(c)**

In light of the matters set out at I to IV, above, the Development Plan is not in compliance with the requirements of the Act.

GIVEN under my hand,

A handwritten signature in blue ink, reading "Peter Burke", is written over a horizontal line. The signature is cursive and stylized.

**Peter Burke T.D.  
Minister of State with responsibility for Local Government and Planning**

4<sup>th</sup> day of November, 2022.