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Forward Planning Department,
Laois County Council,
Aras an Chontae,
JFL Avenue,
Portlaoise,
Co. Laois
R32 EHP9

5 May 2017

Submitted by email to: cdp@Laoiscoco.ie

**Re: Draft Laois County Development Plan 2017-2023
(Amendments/Material Alterations)**

Dear Sir/Madam,

The Irish Wind Energy Association (IWEA) is the leading renewable energy representative body in Ireland and as such has an active interest in the potential for renewable energy, and in particular wind energy, in Ireland. IWEA works in a proactive and engaging manner with stakeholders in this area and as such feels it is both appropriate and important to make a submission on the proposed Amendments/Material Alterations and of the Draft Laois County Development Plan and make important observations regarding the CDP in general.

IWEA welcomes the opportunity to feed into the process undertaken by the Council we hope officials and elected representatives will be in a position to actively consider the positions presented herein.

IWEA believes the challenges and opportunities for Ireland regarding renewable energy and the need to move away from fossil fuel imports are sparking increased debate in communities and at local authority level. This debate is important and should be conducted with respect. Ireland is heavily dependent on imported fossil fuels to meet its energy needs. This high

dependency on foreign energy imports is unsustainable and leaves our country vulnerable both in terms of meeting future electricity needs and ensuring price stability.

However, increasingly, renewable energy sources, particularly onshore wind, have added significant capacity and greater levels of self-sufficiency. This can continue in the years ahead with clear, credible, evidence-based policy making.

Ireland has the capacity to benefit greatly from an ambitious renewable energy agenda. There are also associated positive economic and FDI impacts from the availability of wind and renewable energy in Ireland. IWEA believes Ireland can be a world leader in renewable energy generation and renewable energy technology.

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 stated 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 this submission.

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 the Environment, Heritage & Local Government (DoEHLG) Wind Energy Guidelines 2006. Such a proposal would terminate all potential future wind energy development in the county of Laois.

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 '*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.

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 on 2015 shows 25.3% (22.8% wind) of Ireland's electricity came from renewables. 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.

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 which is a former Bord na Móna 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.

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.

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 Dáil Question on April 13th 2017:

“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).”*

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 this an increasingly viable option for Ireland. Similarly, there is a role for solar energy development in Ireland as 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 **“onshore wind has to date been the most cost-competitive renewable electricity technology in Ireland.”**

IWEA believes greater social acceptance in host communities and prospective host communities of renewable energy projects is crucial to achieving increased renewable energy use in Ireland.

“It is clear much more work needs to be undertaken proactively in local communities to reach out, build relationships, confidence and trust with the public. It is important that this is done in a timely and transparent manner. This will require leadership both inside and outside of industry.” – IWEA Chief Executive Dr. Gary Healy

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.

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 the Draft National Mitigation Plan also states:

“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.”

Ireland requires policy certainty in the area of renewables. 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.

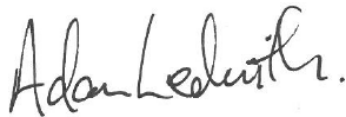
For example, under the current commercial rates regime in Laois IWEA calculates that a 20 megawatt (MW) wind farm in Laois, made up of 10, 2MW turbines, could generate an additional €130,000 a year in commercial rates paid to Laois County Council with additional development contributions over and above that. A wind farm of this nature would also produce electricity for 13,000 homes. Counties currently benefiting from commercial rates

paid by wind farm 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.

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 renewable energy, including wind, to transition to a low carbon economy.

IWEA would urge Laois County Council and its elected representatives to move away from the measures outlined in 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.

Yours sincerely,



Adam Ledwith
Head of Communication and Public Affairs

Annex 1 to IWEA submission re: Draft Laois County Development Plan 2017-2023 (Amendments/Material Alterations)

1. Introduction

- 1.1 The Draft Laois County Council Development Plan 2017-2023 (the “**Draft Development Plan**”) places unlawful restrictions on the development of wind energy in areas purportedly ‘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.
- 1.2 This negative objective is achieved by Section 6.1 of the Wind Energy Strategy (which features Development Control Standards for Wind Farms in Co. Laois) which requires a setback of 1.5km for wind developments from schools, dwellings, community centres and all public roads. This 1.5km arbitrary standard is also included in Policy Objective EN7 in Chapter 6 of the Draft Development Plan.

2. Executive Summary

- 2.1 The Draft Development Plan places unlawful restrictions on the development of wind energy in areas purportedly ‘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.
- 2.2 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 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 thereby sterilising the 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 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 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 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 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 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 1.5pm 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.

3. **Failure to comply with Ministerial Wind Energy Guidelines and to justify departure from Government Energy Policies**

- 3.1 The proposed arbitrary standard does not comply with National Guidelines. The Wind Energy Guidelines do not recommend a setback distance of 1500m. Section 5.6 of the Wind Energy Guidelines states that *“In general, noise is unlikely to be a significant problem where the distance from the nearest turbine to any noise sensitive property is more than 500 metres”*. Section 5.12 states that *“It is recommended that shadow flicker at neighbouring offices and dwellings within 500m should not exceed 30 hours per year or 30 minutes per day”*. The Wind Energy Guidelines are still in full force and effect. The elected members have been made aware of this by the Minister in his submission no. 69 (the “Minister’s Submission”) summarised in the Chief Executive Officers Report on Issues arising from Stage Two Consultation, dated 12 January 2017 (the “CEO’s Report”).
- 3.2 The December 2013 Targeted Review in relation to Noise, Proximity and Shadow Flicker which proposed revisions to the 2006 Guidelines recommended that there should be a minimum separation of 500m between any commercial scale wind turbine and the nearest point of the curtilage of any property in the vicinity in order to provide for other amenity considerations e.g. visual intrusion (Section 5.6.4). Section 5.6.9 proposed a permitted exception to that 500m setback for amenity purposes where the owner(s) of the relevant property or properties are content for the proximity of turbines to be less than the minimum setback.
- 3.3 The 2013 Targeted Review has been the subject of public consultation although no decision has been made to replace the 2006 Guidelines. Although the Targeted Review refers to a minimum setback distance of 500m, the recommended 500m setback distance of 500m in the 2006 Guidelines is the relevant standard.
- 3.4 Section 6.6.14 of the Draft Development Plan deals with the Wind Energy Guidelines. It recommends a 1.5 km set back distance, three times the distance set in the Wind Energy Guidelines. No evidence is provided which justifies this set-back restriction which appears to be based on an arbitrary reference to three times the hub height of a standard turbine. No scientific support has been given for the new proposed standards. No justification has been given as to why the nature and characteristics of County Laois justify this standard.

4. Failure and Inability to demonstrate how current Draft Development Plan implements the policies and objectives of the Minister's Wind Energy Guidelines

- 4.1 Section 28(1A) of the Planning Acts requires a planning authority to append a statement to the development plan when preparing and making a draft development plan. Section 28(1B) provides that the statement must demonstrate how the planning authority has implemented the policies and objectives of the Minister's guidelines when considering their application to the area of the draft development plan and the development plan.
- 4.2 Alternatively, the planning authority must demonstrate that it has formed the opinion that it is not possible, because of the nature and characteristics of the area or part of the area of the development plan, to implement certain policies and objectives of the Minister contained in the guidelines when considering the application of those policies in the area of the draft development plan. The planning authority must provide reasons for forming the opinion as to why the policies and objectives of the Minister have not been implemented. This section means that there is an overriding duty to implement policies and objectives of the Minister contained in the guidelines and that failures to do so must be explained.
- 4.3 Under s.28 of the Planning Acts, planning authorities are required to have regard to Ministerial guidelines and demonstrate how these are implemented. No reasons have been provided by the elected members to justify disregarding and departing from the 2006 Guidelines. The elected members have departed from the CEO's recommendation in the CEO's Report that "*[Objective] EN7 not be proceeded with pending the finalisation of both the review of the National Guidelines on Wind Energy and the Planning Policy Framework for Renewable Export*".

5. Failure to comply with other statutory duties

- 5.1 Section 15 of the Planning Acts 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, and it is incumbent on the planning authority to support these general duties. The arbitrary 1.5km setback distance clearly breaches rather than secures that objective.
- 5.2 Section 69(1)(f) of the Local Government Act 2001 (as amended) obliges local authorities to have regard to the need for a high standard of environmental and heritage protection and the need to promote sustainable development when performing its functions. Every local authority must perform those functions

which it is required by law to perform.

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. The case of *Keane v An Bord Pleanala* [1998] ILRM 241 states that implementing international duties is a relevant consideration for planning authorities.

- 5.3 The Draft Development Plan by prohibiting windfarms has the effect of sterilising the future development of wind energy in Co. Laois. It is submitted that this is unlawful being a negative objective which is *ultra vires* the local authority. In **Glencar Explorations plc v Mayo County Council** [1993] 2 I.R. 237, the High Court held that the inclusion of a restrictive mining ban in the County Mayo Development Plan (which was negative in character) which in effect banned all mining in Mayo was *ultra vires* because the local authority was only entitled to implement development objectives which are positive in character. The High Court invalidated the decision because the elected members did not have due regard to the Minister for Energy's letter to them. In this case, the elected members have ignored the considered, scientific based guidelines issued by the Minister for Energy.
- 5.4 It was held by the High Court in *Glencar* that since a development plan consists of a written statement and plan indicating the development objectives for the area of the planning authority such development objectives must be positive in character and that an objective which aims to prevent development cannot therefore be a development objective.
- 5.5 Section 12(11) of the Planning Acts obliges the local authority to restrict itself in making the development plan to considering the proper planning and sustainable development of the area to 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 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. The elected members have contravened this prohibition.

6. **Proposed decision of the elected members is irrational**

- 6.1 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 selection of a setback distance of 1.5 km is arbitrary and unscientific. The .5km 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.

7. Failure to have regard to Renewable Energy Targets and Climate Change Commitments

- 7.1 Ireland has commitments towards reducing greenhouse gas emissions at International and European level which must be implemented.
- 7.2 The 2009 Renewable Energy Directive (Directive 2009/28/EC) sets a mandatory target for Ireland of 16% of gross final energy consumption to come from renewable energy sources by 2020. The target for the renewable electricity sector (RES-E) is 40%. The 2015 national policy paper 'Ireland's Transition to a Low Carbon Energy Future 2015-2030' states in Section 5.3 on p.53 that *"To achieve our target, the average rate of build of onshore wind generation will need to increase to up to 260 MW per year. The current rate of build is about 170 MW per year."*
- 7.3 Since the enactment of the Climate Action and Low Carbon Development Act 2015, the Oireachtas has enshrined a national legislative commitment to deliver on climate change commitments. Section 15 of the Climate Action and Low Carbon Development Act 2015 places general duties on certain public bodies, including local authorities, in delivering the national transition to a low carbon economy. Section 15(1) states that a relevant body (which includes local authorities) shall, in the performance of its functions, have regard to inter alia the furtherance of the national transition objective and the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State. The elected members of Laois County Council have not complied with these obligations.
- 7.4 As a matter of both European and national law, Ireland is required to deliver on its climate change targets and all public bodies including local authorities must have regard to this objective in performing their functions. The Minister in the Wind Energy Guidelines has adopted a national methodology for complying with EU requirements which has been prepared in consultation with relevant expert bodies and members of the public. It is not open to the elected members to disregard the national adaptation framework and sectoral adaptation plan on climate change promoting renewable energy and windfarms. The proposal for a 1.5 km setback is a violation of the local authority's obligation to comply with

climate change commitments and to ensure the sustainable development of its area.

8. Violation of Property Rights

- 8.1 The setback distance of 1.5 km thereby effectively ensuring that no windfarms can be built in Laois is a violation of the property rights of landowners in Laois who cannot exploit the windfarm potential of their lands and who are entitled to know the reasons for this. Lands which have low economic values have now become even less valuable. In *Mallak v Minister for Justice* [2012] IESC 59 the Supreme Court held that anyone affected by an administrative decision has a right to know the reasons and justifications for the decision. The Supreme Court held “*Several converging legal sources strongly suggested an emerging common view that persons affected by administrative decisions have a right to know the reasons on which they are based including Section 18 of the Freedom of Information Act 1997, Article 296 of the Treaty on the Functioning of the European Union (TFEU) and Article 41 of the EU Charter of Fundamental Rights, which provides that every person shall benefit from the right to good administration including the obligation of the administration to give reasons for its decisions*”.

9. Failure to provide reasons

- 9.1 The elected members have, in respect of their proposed decision to impose Objective EN7 and Section 6.1 of Appendix 5: Wind Energy Strategy of the Draft Development Plan, failed to give:
- (a) any or any coherent scientific reasons for the arbitrary 1.5K setback distance as they are obliged to do;
 - (b) any reasons or justification for disregarding and departing from the Wind Energy Guidelines; or
 - (c) any 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 1.5pm setback distance.
- 9.2 In *Christian v Dublin City Council* [2012] 2 I.R. 506, the High Court held that when elected members are not persuaded by a Chief Executive Officer’s position and adopt a provision in a draft development plan with which the Manager does not agree then there is an obligation on the elected members to include whatever reasons motivate their decision either directly in the resolution itself or in some documentation or materials referenced in the resolution which can allow an interested party to ascertain the reasons for the amendment.

ENDS.