



13<sup>th</sup> December 2019

Senior Planner,  
Planning Department,  
Kerry County Council,  
County Buildings,  
Rathass,  
Tralee,  
Co. Kerry

**Re: Draft Listowel Municipal Local Area Plan 2019-2025**

A Chara,

Thank you for your authority's work on preparing the draft Listowel Municipal Local Area Plan 2019-2025.

The Office of the Planning Regulator (the Office) has evaluated and assessed the proposed variation to the development plan, above, under the provisions of section 31AO(1) and (2) of the Planning and Development Act 2000, as amended (the Act).

As your authority will be aware, one of the key functions of the Office includes assessment of statutory plans and strategies to ensure consistency with legislative and policy requirements relating to planning.

The Office is currently developing an overall evaluation and assessment methodology for statutory plans. The submission below has been prepared to provide a high-level input to your authority in finalising the proposed variation of the plan.

**1. Matters within the scope of section 10**

The Office has no comment in this regard.

**2. Consistency of proposed draft LAP with the hierarchy of statutory plans, including the RSES and the county development plan**

*Consistency with the RSES –*

The Southern Regional Assembly Regional Spatial and Economic Strategy (the RSES) is due to be made on 31<sup>st</sup> January 2019. Under the provisions of Section 11(1) of the Planning and Development Act 2000-2018 (as amended), a review of the Kerry County Development Plan 2015-

2021 would be required to commence within 13 weeks of the making of the SRA RSES on 31<sup>st</sup> January 2019.

Taking account of the above, the timing of the making of the proposed LAP might have ordinarily expected to been commenced after the review of the county development plan had concluded.

Notwithstanding the above, your authority has progressed the draft LAP for wider reasons but should consider including an objective committing to consider a review of the LAP in the event of it being out of step with a future iteration of the Kerry county development plan made in the light of the soon to be adopted RSES.

#### *Consistency with the County Development Plan –*

Ballybunion – The zoning of residential land would appear to be inconsistent with the core strategy and settlement strategy of the county development plan in terms of quantity of lands (12.75ha to accommodate 39 dwellings) allocated under table 3.6 of the development plan. Such a level of provision could provide for a very low density of development (in the region of 4 units per hectare), which would be markedly inconsistent with the approach adopted in other settlements.

A sequential approach to the zoning of lands required under section 3.1.2 of the development plan (in accordance with the recommendations of *Planning Guidelines for Planning Authorities on the Preparation of Development Plans* (DEHLG, 2007)).

The Office notes that the proposed land use zoning objectives for Ballybunion include the removal of existing residential zoned lands (c.5.1ha) located proximate to the town centre, to *strategic residential reserve* (R4), while proposing *new residential* (R1) to the south, significantly more distant from the town centre. The latter includes the introduction of a new parcel of land provided through an extension of the town's southern boundary. The proposed land use zoning therefore appears to be inconsistent with a sequential approach.

Such land use zoning objective would go against achieving compact growth of the town contrary to the objective of the NPF (NPO3c) and contrary to objectives of the draft LAP to objectives (LS-OO-04 and LS-R-05) to encourage infill development. The approach would also undermine the potential to achieve residential development of appropriate density, contrary to the *Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) Guidelines for Planning Authorities* (DEHLG, 2009).

#### **Recommendation 1: It is recommended that:**

- The planning authority reconsider its approach to including R1 zoned lands within the proposed extended settlement boundary to the south of Pairc An Dtur; and
- the R1 lands south of Sandhill Park be amended to R4; and

- the northern section of proposed R4 lands, within proximity to the MC town centre zone, to the east of Kit Ahern Road, be amended to R1 in order to be consistent with the sequential approach recommended under the DPG 2007; and
- the total extent of lands zoned R1 be reduced/and or a phasing objective included to better match the development objectives for Ballybunion under the core strategy and settlement strategy of the County Development Plan.

Village settlements of Lixnaw and Moyvane – Referring to WWTP capacity constraints within the settlements, the draft LAP anticipates that development of existing infill sites and redevelopment is likely to be sufficient to cater for any residential demand that will arise over the LAP period and, accordingly, no lands have been zoned for new residential (R1). Strategic residential reserve (R4) lands have been zoned for future residential development within those settlements.

The development of R4 lands within the LAP is generally constrained by objective LS-R-03 which prohibits *development on lands zoned as strategic residential reserve (R4) until 80% of all other residential zoned lands have been developed to the satisfaction of the Planning Authority.*

However, the mechanism to prevent the strategic residential reserve (R4) lands coming forward for development prematurely cannot have effect where settlements have not zoned appropriately located new residential (R1) lands in the first instance. Therefore, in such settlements the strategic reserve land (R4) would effectively operate as new residential R1 lands.

For villages like Lixnaw and Moyvane, with existing or imminent WWT capacity (significant capacity in the case of Lixnaw), there is likely to be pressure to more extensively develop the R4 lands (2.25ha and c.1.5ha, respectively), in the absence of appropriate restrictions or safeguards similar to objective LS-R-03. This may undermine the core and settlement strategy of the County.

**Recommendation 2: It is recommended that:**

- an amended version of objective LS-R-03, or some other appropriate mechanism, be considered to limit the potential development of R4 lands for the village settlements, in particular with regard Lixnaw and Moyvane, consistent to the scale and character of those settlements.

Rural Nodes - no settlement boundary, land use zoning objectives, or population targets are assigned to the rural nodes. Development is anticipated to be limited to individual dwellings serviced by onsite wastewater treatment systems and is proposed to be directed by objectives N-01 to N-05. This approach is considered reasonable. However, in the absence of an indicated settlement boundary for each of the rural nodes, it will not be feasible to implement the relevant objectives.

**Recommendation 3: It is recommended that;**

- settlement boundaries are defined in plan attaching to the LAP in order to facilitate the implementation of development nodes objectives, N-01 to N-05.

**3. Consistency with Section 28 guidelines**

*The Planning System and Flood Risk Management Guidelines for Planning Authorities (OPW, 2009)*

According to section 4.18 of the guidelines, one of the objectives of the Strategic Flood Risk Assessment is to include the production of flood risk maps that support the application of the sequential approach in key areas where there may be tension between development pressures and avoidance of flood risk.

The submitted SFRA does not include detailed flood risk maps for the settlements subject of the LAP. This makes it difficult to determine the appropriateness of the proposed zoning in settlements, with particular regard to the application of the sequential approach principles in flood risk management (and application of the justification test, as necessary), as required by the guidelines. This issue arises, in particular, for the proposed land use zoning for Ballylongford and Abbeydorney. Similar observations have been made by the OPW in its submission of 9<sup>th</sup> December 2019.

**Recommendation 4: It is recommended that:**

- the SFRA carried out for the LAP be reviewed to accord with the requirements of the guidelines, in consultation with the OPW, including through the delineation of the flood probability zones for the settlements concerned to inform the land use zoning objectives within the LAP, in compliance with the sequential approach and the application of the justification test, as necessary.

**Summary**

The Office requests that your authority addresses the recommendations outlined above, which are made in the context of the provisions of Section 31AO(3)(a), in order to ensure that the LAP is consistent with relevant national policy obligations, guidelines and legislative requirements.

The report of the Chief Executive of your authority prepared for the elected members under Section 20 of the Act must summarise these recommendations and the manner in which they should be addressed.

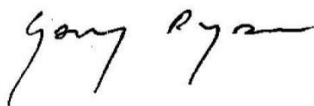
Your authority is required to notify this Office within 5 working days of the making of the local area plan and send a copy of the written statement and maps as made.

Where the planning authority decides not to comply with a recommendations of the Office, or otherwise makes the plan in such a manner as to be inconsistent with any recommendations made by the Office, then the Chief Executive shall inform the Office and give reasons for the decision of the planning authority.

Such notice requirements enable the Office to consider the matters further as regards the making of any recommendations to the Minister in relation to the provisions of Sections 31AO and 31AP of the Act.

Please feel free to contact the staff of the Office in the context of your authority's responses to the above, which we would be happy to facilitate. Contact can be initiated through the undersigned or at [plans@opr.ie](mailto:plans@opr.ie).

Is mise le meas,

A handwritten signature in black ink that reads "Gary Ryan". The signature is written in a cursive style with a long horizontal stroke at the end.

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**Gary Ryan**

Director, Office of the Planning Regulator

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076 100 2747

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