



13<sup>th</sup> December 2019

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

**Re: Proposed Variation 3 to the Listowel Town Development Plan 2009-2015 (as extended)**

A Chara,

Thank you for your authority's work on proposed variation no.3 for the purpose of, inter alia, bringing the Listowel Town Development Plan 2009-2015 (as extended) into line with the draft Listowel Municipal District LAP 2018-2024 and with the National Planning Framework.

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 31AM(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 S.10 and S.10(2)(n)**

The Office has no comment in this regard.

**2. Consistency of proposed variation no.3 with the hierarchy of statutory plans**

The revisions included in the proposed variation provide for a considerably more consolidated and compact form to the future development of Listowel than is currently the case under the Listowel

Town Development Plan 2009-2015 (as extended).. The Office is therefore satisfied that, in general terms, the proposed variation is broadly consistent with the objectives of the National Planning Framework, and in particular NPO3c (compact growth).

At the same time, while acknowledging the work of your authority in progressively addressing the issue of excessive or inappropriate land use zoning objectives in the past, the Office does note that the extent of land zoned for residential development and for mixed residential development under the proposed variation would be somewhat in excess of the 15.25ha provided for in the core strategy of the Kerry County Development Plan 2015-2021, taking in to account the potential yield from brownfield lands and windfall sites.

Whilst proposed objective H1d to '*Prohibit development on lands zoned strategic residential reserve (R4) until 80% of all other residential zoned lands (R2) have been developed to the satisfaction of the Planning Authority*' might act to promote a phased and sequential approach to development of lands in a manner to ensure consistency with the core strategy of the Kerry County Development Plan, the revised land use zoning under the Town Development Plan does not include R4 or R2 land use zoning objectives.

A potential solution to this issue would be for your authority to consider the application of the R2 and R4 objectives as utilised in other plans in the county to the residentially zoned land to deliver a better match between the county-wide core strategy and the Listowel Town Plan (as varied).

Objective H1d, would retain flexibility to switch between zones to secure the progressive delivery of housing in the town as determined by rates of take-up.

Moreover, the availability or otherwise of services will be a determining factor in sequencing of future land development in the town.

**Recommendation 1** – In order to ensure prospective development under the variation of the Town Development Plan is consistent with the core strategy of the Kerry County Development Plan and NPO 3c of the National Planning Framework regarding compact growth, your authority is requested to:

- Consider the incorporation of a phasing sequence for zoned residential land (R1/R2/R4) taking in to account whether the subject zoned lands are serviced or serviceable (having regard to Appendix 3 of the National Planning Framework: *A Methodology for a Tiered Approach to Land Zoning*).

### **3. Relevant Section 28 Guidelines**

The Office notes that the proposed variation would appear to include zoning objectives for land (R1) at Castleisland adjacent the N69 and at Islandganniv North, that would enable vulnerable uses (residential) to be located in an area that your authority's Strategic Flood Risk Assessment would suggest are within flood zones A and / or B.

Having examined the assessment above, it does not appear that the justification test in accordance with the requirements of *The Planning System and Flood Risk Management Guidelines for Planning Authorities* (OPW, 2009) has been satisfied in respect of the proposed land use zoning of the two aforementioned parcels of land.

**Recommendation 2** - Your planning authority is requested to omit, or to amend as necessary, the proposed revised land use zoning objectives under variation no.3 accommodating vulnerable uses on the lands at Castleisland adjacent the N69 and at Islandganniv North within flood zone A and/or B. Alternatively, your authority is requested to demonstrate compliance with the justification test under *The Planning System and Flood Risk Management Guidelines for Planning Authorities* (OPW, 2009).

### **Summary**

The Office requests that your authority addresses the recommendations outlined above, which are made in the context of the provisions of Section 31AM(3)(a), in order to ensure that the proposed variation 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 13 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 31AM and 31AN 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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