

2nd October 2020

Senior Planner, Planning Department, Kerry County Council, County Buildings, Rathass, Tralee, Co. Kerry, V92 H7VT.

Re: Draft An Daingean Electoral Area Local Area Plan 2020-2026

A Chara,

Thank you for your authority's work on preparing the draft An Daingean Electoral Area Local Area Plan 2020-2026 (the draft LAP).

The Office of the Planning Regulator (the Office) wishes to acknowledge the considerable and evident work your authority has put in to the preparation of the draft LAP against the backdrop of an evolving national and regional planning policy and regulatory context. The Office would like to commend your authority on the overall presentation and format of the plan and, in particular, the appropriate use of Geographical Information Systems (GIS) during the consultation period.

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

The Office has evaluated and assessed the draft LAP under the provisions of sections 31AO(1) and 31AO(2) of the Planning and Development Act 2000, as amended (the Act). The submission below has been prepared to provide a high-level input to your authority in finalising the proposed LAP.

1. Matters within the scope of section 19 of the Act

1.1 The review of the Kerry County Development Plan has recently commenced, through which the revised national and regional policy context, resulting from the making of the National Planning Framework (NPF) and Regional Spatial and Economic Strategy for the Southern Regional Assembly (the RSES) shall be incorporated, in accordance with the requirements of Section 11(1)(b) of the Act. Taking this into account, the timing of the making of the proposed LAP might have ordinarily expected to been commenced after the review of the county development plan has concluded.

Observation 1:

In view of the timing of the making of the proposed LAP, which precedes the incorporation of the NPF and RSES into the County Development Plan, it is requested that the planning authority inserts an objective in the LAP committing to commence procedures under section 20 to amend the LAP to ensure its objectives, including land use zoning objectives, are consistent with the development plan and its Core Strategy no later than six months after the making of the new development plan.

2. <u>Consistency with the hierarchy of statutory plans, including the RSES and the county</u> <u>development plan</u>

2.1 The objectives for compact growth are set out under both the NPF (NPO 3) and RSES (RPO 35), and in the objectives of the draft LAP (WK-OO-02, D-RES-3 and D-UF-1).

The Office notes, however, that under the draft LAP, the settlement boundary for An Daingean / Dingle town is proposed to be expanded to the northeast, by over 400m at Bóthar An Spa/An Baile Beag. This includes an area of c.1.14ha proposed to be zoned R1.6 New/Proposed Residential and an associated area as G1 Open Space. These lands, albeit adjacent to an existing local authority housing development, are not sequentially located relative to the centre of the settlement.

The planning authority has indicated that such lands, and associated lands on the opposing side of the road, were purchased by the Council some years ago in support of its public housing programme.

Government policy in relation to progressing the delivery of public housing is very much acknowledged and supported by this Office. However, extensions of zoning such as that proposed would ordinarily be regarded as non-sequential development and leapfrogging of better and more closely located lands for housing, relative to the town centre of Dingle and facilitating easy, non-car based, access to the towns amenities and services like schools, retail and community facilities. In this regard, the Office would recommend the following:

Recommendation 1:

- i. That the planning authority not proceed with the R1.6 New/Proposed Residential and associated G1 Open Space zoning, or the associated extension of the settlement boundary, unless it can provide a comprehensive, evidence-based justification for its inclusion by reference to the urgency of public housing provision on the subject lands, and the absence of any proximate alternative capable of sustaining delivery in line with the planning authority's approved public housing capital programme; and
- ii. The planning authority identifies any similar public housing lands not compatible with the sequential approach to zoning of land set out in the Development Plan Guidelines (2007), published by the Minister under Section 28 of the Act, and in relation to any future development plan and local area plan reviews, the planning authority engages with the Department of Housing, Local Government and Heritage in the identification of alternatives compatible with the above guidelines.
- 2.2 It is not clear from the draft LAP as to why the extensive, centrally located, infill lands of c.9ha to the west of the town centre have been zoned O1 Strategic Reserve, rather than being brought forward to accommodate compact growth for the settlement during the proposed plan period.

Given the location, it can reasonably be assumed that the subject lands, for which it is proposed to prepare a masterplan with adjoining lands (D-UD-8, refers), have full access to all critical infrastructural services.

Recommendation 2:

The lands proposed to be zoned O1 Strategic Reserve adjacent the west of the centre of An Daingean / Dingle town are sequentially preferable to other lands proposed to be zoned R1.6 New/Proposed Residential lands and would provide for more a more compact growth of the settlement consistent with RPO 35 of the RSES.

The planning authority is required to justify the proposed zoning of these lands and, arising from same, this may necessitate the reconsideration of the zoning of these lands and other sites across the settlement in order to comply with the principles of compact growth and the sequential approach to land use zoning. 2.3 The draft plan notes the site location of two unfinished/derelict housing estates located outside the western boundary of Castlemaine. It is an objective of the Kerry County Development Plan 2015-2021 (HS-7) to address the issue of unfinished housing estates by implementing the guidance within *Managing and Resolving Unfinished Housing Developments (2011)*. This guidance advises that information on unfinished housing developments should inform the local area plan, including objectives, policies and specific development and Forward Planning refers).

The draft LAP indicates that the planning authority will seek to implement a site resolution plan for the entire site, which may include the demolition of structures, but there are no objectives or clear policies included for the Castlemaine sites in the draft plan.

In this regard, the Office notes that the two adjoining sites are located outside the settlement boundary, at a distance of c.500m from the built up area of the town, along a road that does not include pedestrian or cycleway facilities and would not contribute to compact growth or to sustainable transport patterns.

Accordingly, the Office would support the planning authority's decision not to include these unfinished units within the zoned area.

Observation 2:

The planning authority is requested to consider the inclusion of appropriate objectives and policies to conclude the resolution of the two unfinished housing estates located at a distance to the west of the settlement of Castlemaine, consistent with the guidance manual on Managing and Resolving Unfinished Housing Developments (2011).

In determining appropriate objectives and policies, the planning authority should take account of those sites' remote location and the absence of necessary pedestrian and cycle infrastructure connecting to the settlement, within the context of national and regional objectives for compact growth and sustainable transport.

2.4 The draft plan refers to lands proposed to accommodate Part VIII housing adjacent the west of the village of Baile an Fheirtéaraigh, for which justification is provided in the text. The subject lands do not appear to be indicated on the accompanying village plan or map.

Observation 3:

The planning authority is requested to indicate the lands proposed for Part VIII housing adjacent to the west of the village of Baile an Fheirtéartaigh, including the proposed land use zoning as may be appropriate.

2.5 The Office welcomes the priorities (section 2.2.2) and objectives (inter alia, OS-02, WK-OO-05, WK-OO-06 and WK-BE-02) of the draft LAP for regeneration and renewal of towns, villages and rural nodes, and the identification of opportunity sites and of regeneration areas that would help achieve these objectives.

The Office also strongly supports the proposal of the planning authority (section 2.5.4.1 refers) to encourage the implementation of regeneration areas through the application of reduced levies under the Kerry County Council Development Contributions Scheme 2017 (the DCS), but considers that this may be undermined by the inconsistency in the wording used in the draft LAP and in the Scheme.

Observation 4:

In order to facilitate the implementation of the proposed 'regeneration areas' of the draft LAP through the application of reduced levies under the Development Contribution Scheme, the planning authority is advised to:

- *i. include an appropriate definition of 'regeneration areas' that is consistent with the 'regeneration sites' and/or 'regeneration neighbourhoods' definitions under the County Development Contribution Scheme 2017; and*
- *ii.* set out criteria needed to be fulfilled by 'regeneration neighbourhood' areas in order to benefit from this reduction, as required by the Scheme.
- 2.6 It is the objective of the draft LAP that developments in urban areas shall have regard to the *Design Manual for Urban Roads and Streets* (DMURS)¹, and to ensure compliance with Transport Infrastructure Ireland's Publications DN-GEO-03084 (The Treatment of Transition Zones to Towns and Villages)².

The implementation of DMURS, through the preparation of an improved public realm with increased permeability and accessibility for active modes will, in tandem with compact growth, facilitate the '10-minute' town concept promoted by the RSES (RP0 176). This is

¹ WK-BE-03

² WK-BE-04

critical to engendering an improved modal shift towards active modes and sustainable public transport.

DMURS implementation will therefore play a critical role in achieving the Government's obligations and targets relating to climate mitigation including greenhouse gas (GHG) emissions reductions and reductions in energy use. The implementation of DMURS is also a specific objective of the RSES (RPO 151 Integration of Land Use Transport).

Observation 5:

The planning authority will be aware that the Design Manual for Urban Roads and Streets (revised 2019) is the applicable roads design standard within the 60kph speed limit and below, and that these standards will play a critical role in achieving sustainable transport patterns and therefore, consequently, mitigating climate change.

The planning authority is therefore requested to amend objective WK-BE-03 requiring that all development in urban areas within the 60kph speed limit shall comply with Design Manual for Urban Roads and Streets, rather than merely 'have regard' thereto.

2.7 The Offices notes objective G-09 of the draft LAP which states that developments of three or more residential units in An Ghaeltacht settlements shall be subject to linguistic and occupancy requirements in order to protect the linguistic and cultural heritage of An Gaeltacht. Section 2.5.6 of the draft LAP indicates that a Linguistic Impact Statement (LIS) shall be required for housing proposals of three or more dwellings in An Gaeltacht areas.

In the interest of facilitating the implementation of the policy requirement for an LIS, and in the absence of the adoption by the planning of a methodology for linguistic impact assessments under objective H-22 of the County Development Plan, it would be advisable to include guidance on the format and detail to be contained in the LIS within the draft LAP.

Observation 6:

It is advised that the draft LAP be amended to include clear guidance on the format and detail to be contained in the Linguistic Impact Statement required under section 2.5.6 of the draft plan.

3. Consistency with section 28 guidelines

3.1 The draft LAP³ provides that density will be considered on a case-by-case basis, based on the density of the surrounding development, if any, and the proximity to the town centre, as is reflected in objective WK-R-08.

Section 3.2.7 - Residential Development allows that an increase in density may be considered in Dingle / Daingean Uí Chúis subject to design, layout and location, and it recommends that all development complies with the section 28 *Sustainable Residential Development in Urban Areas Guidelines (2009)* and the *Urban Development & Building Heights Guidelines for Planning Authorities (2018)*. The draft LAP does not refer to the Sustainable *Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018)*.

These guidelines, which will play an important role in the implementation of the objective for compact growth under NPF and RSES, and in implementing sustainable settlement and transport strategies for the county and the draft LAP⁴. Notwithstanding the rural nature of the LAP area, there is likely to be some limited potential for higher buildings and for apartment development, at least in the main towns.

In view of the obligation on the planning authority to implement the Specific Planning Policy Requirements (SPPRs) included in the subject section 28 guidelines, the Office considers it necessary for the LAP to include a clear objective or objectives committing to the implementation of those guidelines, inclusive of the SPPRs, in order to facilitate compact growth in the area.

Observation 7:

In view of the obligation on the planning authority to comply, the carrying out of its planning functions, with the Specific Planning Policy Requirements included in the Building Heights Guidelines for Planning Authorities (2018) and the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018), it is advised that the relevant SPPRs are appropriately referenced and reflected in the draft LAP through its objectives and policies.

³ Section 3.1.1.2 - Residential Developments

⁴ Section 10(2)(n) of the Act

3.2 A Strategic Flood Risk Assessment (SFRA) has been carried out for the draft LAP. Although it is apparent from the SFRA that flood zone maps have been prepared and considered in the preparation of the proposed draft plan, these maps have not been provided as part of the SFRA.

The SFRA does not therefore accord with the requirements of the *Guidelines for Planning Authorities on Flood Risk Management (2009)*, which require flood zone maps, preferably overlaid on the proposed land use zoning maps.

In addition, the guidelines highlight the need for a sequential approach to managing flood risk, using mapped flood zones alongside considerations of the vulnerability of different types of development to give priority to development in zones of low flood probability.

Consideration should only be given to development in higher flood probability zones where there are no reasonable sites available in zones of low flood probability. The Justification Test as set out in the Guidelines does not appear to have been applied or reported in the preparation of the draft LAP, which may only be applied to urban centres⁵ and not to peripheral locations.

Recommendation 3:

The planning authority is required, in consultation with the OPW, to revisit the Strategic Flood Risk Assessment for the draft LAP. This should include the presentation of appropriate and relevant flood zone maps, preferably overlaid on the proposed draft land use zoning objectives of the draft plan, and must demonstrate that the sequential approach has been carried out for each proposed zoning in accordance with the Guidelines for Planning Authorities on Flood Risk Management (2009), inclusive of the Justification Test, as appropriate.

<u>Summary</u>

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) of the Act, in order to ensure that the LAP is consistent with relevant national policy obligations, guidelines and legislative requirements.

⁵ The core area of a city, town or village which acts as a centre for a broad range of employment, retail, community, residential and transport functions.

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.

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Anne Marie O'Connor Deputy Regulator and Director of Plans Evaluations, Office of the Planning Regulator