



Oifig an
Rialaitheora Pleanála
Office of the
Planning Regulator

15th May 2026

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

Re: Proposed Variation No. 4 to the Kerry County Development Plan 2022-2028

A chara,

Thank you for your authority's work in preparing the Proposed Variation No. 4 (proposed Variation) to the Kerry County Development Plan 2022-2028 (Development Plan).

As Kerry County Council (Planning Authority) is aware, a key function of the Office of the Planning Regulator (Office) is the assessment of statutory plans to ensure consistency with legislative and policy requirements relating to planning. The Office has evaluated and assessed the proposed Variation pursuant to Part 3 of the Planning and Development Act 2024 (Act) and its functions under section 546 and this submission has been prepared accordingly.

Recommendations issued by the Office further to section 58(9) of the Act relate to clear breaches of the relevant legislative provisions, of the national or regional policy framework and/or of the policy of Government. As such, planning authorities are requested to implement or address any recommendations made by the Office in order to ensure consistency with the relevant policy and legislative provisions.

Observations issued by the Office pursuant to section 546 of the Act may take the form of a request for further information or justification on a particular matter, or clarification regarding

particular provisions of a plan on issues that are considered necessary to ensure alignment with policy and legislative provisions. Planning authorities are requested by the Office to action an observation.

A submission can also include advice on matters that the Office considers would contribute positively to the proper planning and sustainable development of the area. Planning authorities are requested by the Office to give full consideration to the advice contained in a submission.

On adoption of the Variation, the Office will assess it in accordance with the statutory framework in section 63 of the Act.

Overview

The Office acknowledges and welcomes the overall approach of your authority in the preparation of the proposed Variation and in addressing the National Planning Framework First Revision (2025) (NPF) and the Regional Spatial and Economic Strategy for the Southern Regional Assembly area, in accordance with section 58 of the Act.

In particular, the Office welcomes the policy approach, which focuses development on the regional towns of Listowel and Ballybunion within the Listowel Municipal District, in addition to the district towns of Ballyheigue, Ballylongford, and Tarbert, consistent with the settlement hierarchy of the Development Plan. In addition, the Office commends the goals of the proposed Variation to integrate sustainable transport, promoting modal shift, with a dual approach to improving street design in settlements and enhancing bus services.

The Office also welcomes policy support for the implementation of the Listowel and preparation of the Ballybunion Town Centre First Plans in the proposed Variation, the preparation of a Settlement Capacity Audit for regional and district towns; and the inclusion of policy objectives to support the delivery of the Listowel - Ballybunion Greenway and to leverage the benefits of the Listowel - Limerick Greenway.

The Office considers the approach to zoning as being consistent with the principles of compact, sequential, and proportionate growth for towns and villages, within the Listowel Municipal District and with the NPF Implementation: Housing Growth Requirements (2025).

Furthermore, it is clear that the proposed Variation provides a sufficient supply of zoned land to meet the housing needs of the area.

In relation to flood risk management, however, the Office recommends amendments to the Strategic Flood Risk Assessment (SFRA) to ensure that risk of flooding to people and property is avoided and managed and to ensure consistency with The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) (Flood Guidelines).

In terms of the Natura Impact Report (NIR), the Office welcomes the inclusion of Objective KCDP BD-16 in the proposed Variation. However, the Office notes that one of the two recommended mitigation measures in relation to land use zoning at Tarbert is not included in the proposed Variation and a recommendation is made in relation to this.

The submission below has been prepared to provide a strategic level input to your authority in finalising the proposed Variation. It is within the above context that the submission sets out two (2) recommendations, under the following key themes:

Key theme	Recommendation	Observation
Flood risk management	Recommendation 1	-
Environmental assessment	Recommendation 2	-

1. Flood risk management

The Office welcomes the preparation of the SFRA in accordance with National Policy Objective (NPO) 1 of the NPF and the Flood Guidelines.

The Office recognises flood risk objectives KCDP SP-16 to KCDP SP-20 of Variation No.1 to the Development Plan apply to this proposed Variation and welcomes the inclusion of land use zoning assessments at section 5.1 of the SFRA, which are a useful basis for a Plan Making Justification Test (Justification Test), in accordance with the Flood Guidelines.

Justification Tests have not however been undertaken for land use zonings for highly vulnerable and/or less vulnerable uses on undeveloped lands and existing development in areas at risk of flooding. This particularly applies in relation to proposed land use zonings within town and village centres. The Office recommends therefore that this matter is addressed to provide clarity and consistency with the Flood Guidelines.

The Office welcomes the inclusion of unmapped watercourses at section 5.1.9 of the SFRA, however it is not clear that land use zonings either side of these watercourses have been

informed by this information. As such the Planning Authority should review if stage 3 flood risk assessments are required to inform the land use zonings and the SFRA.

In relation to climate change, the SFRA should consider the potential effects of climate change on flood risk in Ballybunion, in accordance with the Flood Guidelines, as it is not clear if lands might be at risk of flooding in the future.

Finally, the Office considers that existing and planned flood defences should be identified and considered in the SFRA, in particular for Abbeydorney, where there are existing defences and a flood relief scheme is underway.

Recommendation 1 - Flood Risk Management

Having regard to flood risk management, and having considered the following:

- NPO 78 of the NPF to avoid inappropriate development in areas at risk of flooding that do not pass the Plan Making Justification Test (Justification Test);
- RPO 116 of the RSES to consider future appropriate land-use policies in accordance with the requirements of The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) (Flood Guidelines); and
- the Flood Guidelines,

the Office recommends that the Planning Authority reviews and amends the Strategic Flood Risk Assessment to:

- (i) ensure that it is fully consistent with the Justification Test as set out in the Flood Guidelines, zoned lands that can accommodate vulnerable uses should be included and any zoning objective for highly vulnerable development (Flood Zone A or B) or less vulnerable development (Flood Zone A) that does not pass the Justification Test in accordance with the Flood Guidelines should be omitted or a determination provided on whether specified mitigation measures can effectively reduce the risks to an acceptable level while not exacerbating flood risk elsewhere;
- (ii) determine if stage 3 flood risk assessments are required for lands along either side of unmapped watercourses which have no flood risk extents illustrated on

the flood zone mapping, if required undertake stage 3 flood risk assessments and if necessary, re-zone lands for an appropriate use;

(iii) include commentary in relation to the effects of climate change on flood risk for Ballybunion, applying a precautionary approach in accordance with the Flood Guidelines; and

(iv) identify and consider existing and under construction flood defences in particular in Abbeydorney.

In the interests of clarity, highly vulnerable development should not be facilitated within Flood Zone A or B, or less vulnerable development in Flood Zone A, where the Justification Test has not been passed.

The Planning Authority is advised to liaise with the Office of Public Works to address this recommendation.

2. Environmental assessment

In terms of the NIR, section 8.3 provides a summary of mitigation measures to be included in the proposed Variation. The Office welcomes the inclusion of Objective KCDP BD-16, in this regard, however it is noted that one of the two recommended mitigation measures in relation to John F. Leslie Woodland in Tarbert is not included i.e. to amend the proposed land use zoning from G1 (open space / park) zoning to G5 (conservation) zoning. As such, given the mitigation measure relates to the integrity of the Lower River Shannon SAC, of which the proposed land use zoning is a part of, the Office considers that this mitigation measure should be integrated into the proposed Variation prior to adoption in order to support a conclusion that the variation will not adversely affect the integrity of the European Sites.

Recommendation 2 - Protection of European Sites

Having regard to the qualifying interests of the Lower River Shannon SAC, having considered the following:

- the Habitats Directive;
- NPO 85 of the NPF (conservation of biodiversity); and

- RPO 117 of the RSES (biodiversity and the Habitats Directive),

the Office recommends that the Planning Authority amends the proposed land use zoning for John F. Leslie Woodland in Tarbert from G1 (open space / park) zoning to G5 (conservation) in accordance with the Natura Impact Report accompanying the proposed Variation No. 4 to the Kerry County Development Plan 2022-2028.

Summary

The Office requests that your authority addresses the recommendations outlined above. As you are aware, the report of the Chief Executive of your authority prepared for the elected members under section 58(11) of the Act must summarise these recommendations and how the Chief Executive proposes they should be dealt with.

Where a Planning Authority makes a variation, it is required to notify the Office **within one week** of the decision to adopt the Variation. Where an authority decides not to comply with the recommendations of the Office, then it shall inform the Office as soon as practicable and provide reasons for the decision not to so comply.

Your authority is also required to send the Office a copy of the Variation and any submissions made by the Minister, the relevant regional assembly and the National Transport Authority during the Variation preparation process.

Please be advised that planning authorities are also required to publish notice of the Variation within a week of the adoption, stating that a copy of the Development Plan as varied will be available for inspection on a website and at a place specified in the notice no later than five weeks after the date of adoption.

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 plans@opr.ie.

Is mise le meas,

AM O'Connor

Anne Marie O'Connor

Deputy Regulator and Director of Plans Evaluation

Designated Public Official under the Regulation of Lobbying Act 2015
