

**MINUTES OF THE SPECIAL PLANNING MEETING OF KERRY COUNTY COUNCIL HELD IN THE COUNCIL CHAMBER, ÁRAS AN CHONTAE, TRALEE ON FRIDAY 22<sup>ND</sup> FEBRUARY, 2008.**

**MIONTUAIRISCÍ NA CRUINNITHE SPEISIALTA PLEANÁLA DE COMHAIRLE CONTAE CHIARRAÍ A THIONÓLADH I SEOMRA NA COMHAIRLE, ÁRAS AN CHONTAE, TRÁ LÍ, AR AN AOINE 22 FEABHRA, 2008.**

***PRESENT/I LÁTHAIR***

***Councillors/Comhairleoirí***

<b>R. Beasley</b>	<b>T. Buckley</b>	<b>M. Cahill</b>
<b>M. Connor-Scarteen</b>	<b>B. Cronin</b>	<b>T. Ferris</b>
<b>S. Fitzgerald</b>	<b>T. Fitzgerald</b>	<b>T. Fleming</b>
<b>N. Foley</b>	<b>D. Healy-Rae</b>	<b>D. Kiely</b>
<b>P. Leahy</b>	<b>B. MacGearailt</b>	<b>P. McCarthy</b>
<b>A. McEllistrim</b>	<b>C. Miller</b>	<b>T. O'Brien</b>
<b>B. O'Connell</b>	<b>J. O'Connor</b>	<b>P. O'Donoghue</b>
<b>M. O'Shea</b>	<b>L. Purtill</b>	<b>J. Sheahan</b>
<b>M. Healy Rae</b>		

***IN ATTENDANCE/I LÁTHAIR***

<b>Mr. T. Curran, Co. Manager</b>	<b>Mr. J.D. Flynn, Dir. of Corp. Services</b>
<b>Mr. J. O'Connor, Head of Finance</b>	<b>Mr. M. McMahon, Director of Planning</b>
<b>Mr. O. Ring, Dir of Water Services</b>	<b>Mr. G. O'Brien, A/SEO Corp. Affairs</b>
<b>Mr. T. Sheehy, SE Planning</b>	<b>Mr. D. Murphy, SEE Planning</b>
<b>Mr. P. Corkery, Press &amp; Comm. Officer</b>	<b>Ms. B. Reidy, S.S.O. Corp. Affairs</b>
<b>Ms. L. Sheehan, CO Corp. Affairs</b>	

The meeting commenced at 10.50am.

The Mayor, Cllr. M. Healy-Rae took the chair.

The Mayor commenced the meeting with a prayer.

**Votes of sympathy**

Cllr. D. Healy-Rae extended a vote of sympathy to the family of the late Micheál Breen, Gneeveguilla who died recently. All members said that they wished to be associated with this expression of sympathy.

Cllr. P. O'Donoghue extended a vote of sympathy to Donal & Ann O'Shea, Beaufort on the tragic death of their son. Donal is an employee of Kerry County Council. All members said they wished to be associated with this expression of sympathy.

**Provision of Two Lanes at the Entrance to the Cleeny Roundabout**

Mayor M. Healy-Rae referred to the approach road to Killarney near the Cleeny Roundabout and said that traffic is constantly backing up there. A second lane should be provided for traffic turning left onto the By-Pass road. This is the case on the Park Road and ensures a smooth flow of traffic. He understood there was almost enough width on the approach to the Cleeny Roundabout to allow for this and he asked the Director of Roads and Transportation to comment on this matter.

In response, Mr. C. O'Sullivan, Director of Roads, Transportation and Safety said that there are constraints at this locations and it would require the acquisition of land from a third party. This matter will be addressed and he would revert to members in due course.

**08.02.22.01 Confirmation of Minutes**

On the PROPOSAL of Cllr. R. Beasley, SECONDED by Cllr. M. Cahill it was resolved that the minutes of the Special Planning Meeting of Kerry County Council held on the 5<sup>th</sup> December, 2007 be confirmed.

**Duty of elected members under Ethics legislation**

The Mayor stated that he again wanted to remind members of their requirements of Part 15 Ethics Framework of the Local Government Act 2001 and the Code of Conduct for Councillors. Councillors should be aware that the onus for complying with requirement of the Act and the Code of Conduct lies with each individual Councillor.

He reminded Councillors that under the "Beneficial Interest" provision, and should that provision apply, a Councillor must:-

1. disclose the nature of his/her interest, or the fact of connected persons interest at the meeting and before discussion or consideration of the matter commences and
2. withdraw from the meeting for so long as the matter is being discussed or considered, and accordingly he/she shall take no part in the discussion or consideration of the matter and shall refrain from voting in relation to it.

The Mayor also advised members and members of the public that during the debate no interaction between elected members and members of the public would be permitted in the Chamber. He declared that property which he owned would be discussed when the Kilgarvan Plan was being considered and the recommendations in the Manager's Report for the zoning are on the grounds of proper and sustainable development and he would not be commenting on it. When a vote was being taken on the adoption of the South East Kerry Settlements Local Area Plan (of which Kilgarvan is a part) he would withdraw from the meeting, as would Cllr. D. Healy-Rae.

Cllr. M. Connor-Scarteen said that he also has some property in Kilgarvan and for this reason he would withdraw from the meeting when a vote was being taken on Kilgarvan.

Cllr. D. Healy-Rae informed the meeting that if a discussion was taking place on his shed in Kilgarvan that he would also withdraw from the meeting.

Cllr. M. Healy-Rae said that he would also withdraw from the meeting for that discussion as he was a connected person.

**08.02.22.02(i) Manager's Report on submissions or observations received on the proposed amendments to the West Iveragh Settlements Local Area Plan.**

Mr. T. Sheehy informed the meeting that he understood that members were in agreement with the recommendations in the Managers Report in relation to Waterville, Caherdaniel, Baile an Sceilg, Chapelstown, Dún Geagain, Maistir Gaoithe and An Chifín Liath.

Mayor M. Healy-Rae referred to a submission from Donal O'Shea which he understood was on public display as an amendment and he requested clarification on it.

Mr. T. Sheehy stated that this was not on public display as an amendment and therefore it could not be considered.

On the PROPOSAL of Cllr. P. O'Donoghue, SECONDED by Cllr. M. Cahill *this Council having considered the County Managers Report on submission received in relation to the Draft West Iveragh Settlements Local Area Plan and the County Managers Report on the proposed amendments that went on public display for the Draft West Iveragh Settlements Local Area Plan resolves to adopt the Managers Report in relation to Waterville, Caherdaniel, Baile an Sceilg, Chapelstown, Dún Geagain, Maistir Gaoithe and An Chifín Liath.*

A vote was taken on this resolution which resulted as follows:-

**For:** Cllrs. Beasley, Cahill, Connor-Scarteen, S. Fitzgerald, T. Fitzgerald, Fleming, Kiely, Leahy, O'Connor, O'Donoghue, Purtill, Sheahan, M. Healy-Rae **(13)**

**Against:** None **(0)**

**Not Voting:** None **(0)**

**Absent:** Cllrs. Brassil, Buckley, Cronin, Ferris, Foley, Gleeson, D. Healy-Rae, MacGearailt, McCarthy, McEllistrim, Miller, O'Brien, O'Connell, O'Shea **(14)**

The Mayor declared the resolution carried.

**General Submissions**

Mr. T. Sheehy informed the meeting that three general submissions were received and members were in agreement with the recommendations in the Managers Report regarding Submissions G2 and G3.

On the PROPOSAL of Cllr. S. Fitzgerald, SECONDED by Cllr. R. Beasley it was unanimously agreed to adopt the recommendations in the Manager's Report in relation to General Submissions G2 and G3.

**G1 – Department of Environment, Heritage and Local Government**

Mr. T. Sheehy informed the meeting that this submission was received from the Department of Environment, Heritage and Local Government regarding the provision in the Draft Plan for the prohibition of holiday homes in gaeltacht areas which was removed as an amendment. They have requested that this amendment be removed.

Cllr. S. Fitzgerald said that he understood that provision was made through the amendments for the allocation of 10% of houses for Irish speakers.

Cllr. T. Fitzgerald requested clarification on the legal position relating to this matter.

Mr. M. McMahon, Director of Planning, stated that there is a specific obligation on a planning authority under planning legislation to protect the Irish language and the planning authority will not be complying with this legislation unless homes are protected in gaeltacht areas for Irish speakers.

Mr. T. Sheehy stated that the amendment that went on public display allowed for 10% of houses for Irish speakers. It was a matter for members to decide if they want to adopt the amendment that went on public display.

Mr. J.D. Flynn, Director of Corporate Services, referred members to Page 74 of the minutes of the Special Planning Meeting held on the 5<sup>th</sup> December, 2007 which read as follows:-

*“Mr. T. Sheehy then referred to the objective in relation to the Irish language and said that an amendment could be considered by members as follows:- “That in relation to the West Iveragh Settlements Local Area Plan that the provision regarding the prohibition of holiday homes would be deleted in gaeltacht areas from the plan and that the plan shall include provision that 10% of dwellings permitted shall be reserved for Irish language speakers.”*

The resolution then adopted by the members was as follows:-

*“To delete the provision regarding the prohibition of holiday homes in gaeltacht areas from the plan and the plan shall include provision that 10% of dwellings permitted shall be for Irish language speakers.”*

The Mayor stated that he felt that this was a reasonable proposal.

On the PROPOSAL of Cllr. P. O'Donoghue, SECONDED by Cllr. J. O'Connor *this Council resolves to adopt the amendment that went on public display regarding holiday homes and the Irish language.*

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A vote was taken on this resolution which resulted as follows:-

**For:** Cllrs. Beasley, Cahill, Connor-Scarteen, Cronin, S. Fitzgerald, T. Fitzgerald, Fleming, D. Healy-Rae, Kiely, Leahy, McCarthy, O'Connor, O'Donoghue, Purtill, Sheahan, M. Healy-Rae **(16)**

**Against:** None **(0)**

**Not Voting:** None **(0)**

**Absent:** Cllrs. Brassil, Buckley, Ferris, Foley, Gleeson, MacGearailt, McEllistrim, Miller, O'Brien, O'Connell, O'Shea **(11)**

The Mayor declared the resolution carried.

### **Knightstown**

Mr. T. Sheehy informed that meeting that he understood that members were in agreement with the recommendation in the Managers Report in relation to Submissions KN1, 4, 5, 6 and 7.

Cllr. D. Healy-Rae referred to Submission KN4 from David and Anne O'Driscoll and he asked if a second access was being provided and was shown on the revised map.

In response, Mr. T. Sheehy stated that this submission relates to an indicative road which was shown to the east of Knightstown. The submission states that the ownership of these lands is unclear and they requested that an alternative access be shown. He confirmed that both accesses are now identified on the map.

Cllr. P. O'Donoghue referred to Submission KN7 from Seamus and Paudie Lynch who requested that proposed sea front open space area on their lands at Reenellen, Knightstown be deleted from the Local Area Plan as planning permission has already been granted for car parking in this area and it may be necessary to apply for further disabled parking.

Mayor M. Healy-Rae said that the boardwalk should be located outside their property. Planning permission has been granted and this supersedes anything that members may do in the Local Area Plan. They may need a piece of ground to extend their car park to provide disabled parking.

Mr. T. Sheehy informed members that it was not possible to debate the additional piece of ground outside the amendment that went on public display but he confirmed that the walkway would be located outside their property.

Mayor M. Healy-Rae said that this would enhance the area and that anything the Council could do to facilitate disabled parking would be welcome.

On the PROPOSAL of Cllr. P. O'Donoghue, SECONDED by Cllr. S. Fitzgerald it was unanimously agreed that the recommendations in the Managers Report in relation to Submissions KN1, 4, 5, 6 and 7 be adopted.

**Submission KN2 – Mick O'Connell**

**Submission KN3 – Michael Lyne**

Mr. T. Sheehy informed members that both these submission could be taken together. They relate to the zoning of land at the north of the island. These submissions were discussed at length at a meeting of the members from the Killorglin Electoral Area.

Cllr. P. O'Donoghue PROPOSED that part of the land shown on map KN7 be zoned residential. This is the only time a landowner proposed that there would be one house to the acre. Both these landowners have shown excellent community spirit and interest in making this proposal.

Cllr. M. Cahill SECONDED this proposal and said that he whole heartedly supported it.

Cllr. R. Beasley also supported the proposal and said that it is the first time that such a reasonable proposal was put to the Council in relation to any local area plan.

Mayor M. Healy-Rae said that these people have shown pride and respect for their locality and heritage in suggesting that there should be a maximum of one house to the acre. They want these lands included as part of Knightstown and it is a laudable proposal. He called for a vote to be taken on this resolution.

Mr. T. Sheehy stated that if this proposal is passed, the walkway along the northern shore should be extended along these lands.

Cllr. P. O'Donoghue said that this was not suggested to members at their recent meeting and he PROPOSED that this would not be agreed and that his proposal would stand.

Mr. T. Sheehy then indicated the lands the subject of these submissions on the map.

Cllr. M. Connor-Scarteen asked if these lands were zoned residential could an application for permission for any kind of housing be submitted.

Mr. T. Sheehy said that housing in accordance with the residential zoning of Knightstown would be considered.

On the PROPOSAL of Cllr. P. O'Donoghue, SECONDED by Cllr. M. Cahill *that this Council resolves that in relation to map KN7 submitted (Appendix 1) in relation to Submissions KN2 and KN3 that the part of the lands outlined in red be zoned for low density residential development not exceeding one dwelling to the acre.*

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A vote was taken on this resolution which resulted as follows:-

**For:** Cllrs. Beasley, Cahill, Connor-Scarteen, Cronin, S. Fitzgerald, T. Fitzgerald, Fleming, D. Healy-Rae, Kiely, Leahy, McCarthy, O'Connell, O'Connor, O'Donoghue, Purtill, Sheahan, M. Healy-Rae **(17)**

**Against:** None **(0)**

**Not Voting:** None **(0)**

**Absent:** Cllrs. Brassil, Buckley, Ferris, Foley, Gleeson, MacGearailt, McEllistrim, Miller, O'Brien, O'Shea **(10)**

The Mayor declared the resolution carried.

### **Portmagee**

#### **Submission PE1 – An Taisce**

Mr. T. Sheehy informed the meeting that one submission was received on Portmagee and there was no agreement on this. He indicated the lands the subject of this submission on the map and said that they are located to the southwest. The recommendation in the Managers Report is as follows:- *It is recommended that the amendments that went on public display be adopted with the exception of the following: it is recommended that the zoning be amended as indicated on Map PE1.*

Cllr. M. Cahill PROPOSED that the amendment that went on public display be adopted in accordance with the submission received from Julie O'Connell and that these lands would be zoned residential. He added that this was agreed by members and the land has road frontage. It is located beside the GAA grounds and there are other houses in the area and the area is served by the sewerage scheme. He understood that a new sewerage treatment plant would be provided in the near future. He called for a vote to be taken on his proposal.

Cllr. J. O'Connor SECONDED this resolution.

Cllr. M. Connor-Scarteen referred to the minutes of the Special Planning Meeting of the 5<sup>th</sup> December, 2007 which records that all this land was to be developed. This proposal was passed on a vote of 11 members in favour and no member voting against.

Mr. T. Sheehy stated that this land is very sensitive. Portmagee is one of the most sensitive areas in South Kerry and if this land is zoned it will result in a string of housing that will spoil Portmagee and will be held up as an example of bad planning. He said that he was opposed to the zoning of this land for residential development.

Cllr. J. O'Connor said the electoral area boundaries are presently being reviewed. There is a drop in population of 3000 people living in South Kerry and houses are urgently

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needed. He was concerned that areas that have been zoned will not be developed. In conclusion, he said that he had viewed these lands and they are located beside the GAA pitch.

Cllr. M. Connor-Scarteen said that no other development land is available in Portmagee.

Mr. T. Sheehy stated that this is not the case and he outlined the land zoned for residential development in Portmagee on the map. In conclusion, he said that more than adequate land has been zoned in the Draft Plan.

Cllr. M. Connor-Scarteen stated that the land previously zoned will not be sold.

Mr. M. McMahon stated that members are constantly stating that land zoned will not be sold, yet as soon as much of the land is zoned, a 'For Sale' sign appears on it. This is being used by members as an excuse to zone additional land.

Cllr. B. Cronin asked if there was any way a compromise could be reached on this amendment.

Mr. T. Sheehy stated that he would be willing to agree that a portion of the land which he then indicated on the map would be zoned for residential development. He pointed out that the Draft Plan did not include any of the land the subject of the amendment for residential development.

Cllr. Cronin then indicated an area on the map and asked would the zoning of the portion which he indicated for residential development be acceptable.

Mr. T. Sheehy stated that this land is at eye level and the houses would be too elevated.

Cllr. R. Beasley asked what how much land was above the road.

In response, Mr. T. Sheehy said that there is approximately 3 to 3 ½ acres and he added that he would not compromise on the land to the south.

On the PROPOSAL of Cllr. M. Cahill, SECONDED by Cllr. J. O'Connor *this Council resolves to amend the Managers Report in relation to Submission PE1 and to adopt the amendment that went on public display, Reference Map PE(Appendix 2).*

A vote was taken on this resolution which resulted as follows:-

**For:** Cllrs. Buckley, Cahill, Connor-Scarteen, S. Fitzgerald, D. Healy-Rae, Leahy, McCarthy, Miller, O'Connell, O'Connor, O'Donoghue, Purtill, Sheahan, M. Healy-Rae  
**(14)**

**Against:** Cllr. Beasley **(1)**



**Not Voting:** Cllrs. Cronin, T. Fitzgerald, Kiely (3)

**Absent:** Cllrs. Brassil, Ferris, Fleming, Foley, Gleeson, MacGearailt, McEllistrim, O'Brien, O'Shea (9)

The Mayor declared the resolution carried.

**08.02.22.02(ii) Making of the West Iveragh Settlements Local Area Plan**

On the PROPOSAL of Cllr. P. McCarthy, SECONDED by Cllr. T. Fitzgerald *this Council resolves to make the West Iveragh Settlements Local Area Plan subject to the amendments adopted by the Council.*

A vote was taken on this resolution which resulted as follows:-

**For:** Cllrs. Beasley, Buckley, Cahill, Connor-Scarteen, S. Fitzgerald, T. Fitzgerald, D. Healy-Rae, Kiely, Leahy, McCarthy, Miller, O'Connell, O'Donoghue, Purtill, Sheahan, M. Healy-Rae (16)

**Against:** None (0)

**Not Voting:** None (0)

**Absent:** Cllrs. Brassil, Cronin, Ferris, Fleming, Foley, Gleeson, MacGearailt, McEllistrim, O'Brien, O'Connor, O'Shea (11)

The Mayor declared the resolution carried.

**08.02.22.03(i) Manager's Report on submissions or observations received on the proposed variation to the Kerry County Development Plan 2003-2009**

Mr. T. Sheehy referred members to the County Manager's Report on the proposed Variation No.14 to the Kerry County Development Plan 2003-2009 regarding the West Iveragh Settlements Local Area Plan, which was circulated. He informed the meeting that 2 submissions were received, the first from Joe Barry, OPW which stated that there were no further comments to add to their submission on the Draft Local Area Plan. The second was received from John Joe O'Leary, Caherdaniel Village. Mr. O'Leary requested that the lands to the south of the pumps be re-zoned as mixed use. The area between the hostel and the junction of the N70 and the Coomnahorna Road should be zoned for mixed use and that the residential zoning subject of amendment be further expanded.

The response to this submission is that it does not relate to amendments on public display and cannot, therefore be considered. Mr. Sheehy added that it is recommended that the Kerry County Development Plan 2003-2009 be varied to incorporate the provisions of the West Iveragh Settlements Local Area Plan and to zone lands at and adjacent to Waterville, Caherdaniel, Knightstown, Portmagee, Baile an Sceilig, Chapeltown, Dún

Geagain, Mastir Gaoithe and An Chílín Liath and An Ghleann to reflect the provisions of the West Iveragh Settlements Local Area Plan as adopted.

It was unanimously agreed to note the Manager's Report circulated on this item.

**08.02.22.03(ii) Making of Variation No. 14 to the Kerry County Development Plan 2003 - 2009**

On the PROPOSAL of Cllr. P. McCarthy, SECONDED by Cllr. P. O'Donoghue *this Council resolves to vary the Kerry County Development Plan 2003 – 2009 to incorporate the provisions of the West Iveragh Settlements Local Area Plan and to zone land at and adjacent to Waterville, Cahirdaniel, Knightstown, Portmagee, Baile an Sceilig, Chapelstown, Dún Geagin, Maistir Gaoithe & An Chílín Liath and An Ghleann to reflect the provisions of the West Iveragh Settlements Local Area Plan as adopted.*

A vote was taken on this resolution which resulted as follows:-

**For:** Cllrs. Beasley, Buckley, Cahill, Cronin, S. Fitzgerald, T. Fitzgerald, D. Healy-Rae, Kiely, Leahy, McCarthy, McEllistrim, Miller, O'Connell, O'Donoghue, Purtill, Sheahan, M. Healy-Rae (17)

**Against:** None (0)

**Not Voting:** None (0)

**Absent:** Cllrs. Brassil, Connor-Scarteen, Ferris, Fleming, Foley, Gleeson, MacGearailt, O'Brien, O'Connor, O'Shea (10)

The Mayor declared the resolution carried.

**08.02.22.04(i) Manager's Report on submissions or observations received on the proposed amendment to the South East Kerry Settlements Local Area Plan.**

Mr. T. Sheehy informed the meeting that he understood that members were in agreement with the recommendations in the Manager's Report on the following:-General Submissions, Bonane, Castlecove, Lauragh, Templenoe and Tousist.

Mayor M. Healy-Rae referred to the Lauragh Local Area Plan and said that he wanted to ensure that the wording is clear, that a cluster type development would be permitted around the Shebeen Pub.

Mr. T. Sheehy confirmed that this is included in the Lauragh Local Area Plan.

Cllr. D. Healy-Rae said that this should also apply to the Tousist Local Area Plan.

Mayor M. Healy-Rae asked if it was agreed that Sheen Cottage, Bonane would be removed from the Record of Protected Structures.

Mr. T. Sheehy confirmed that it was agreed to remove Sheen Cottage from the proposed Record of Protected Structures.

On the PROPOSAL of Cllr. D. Healy-Rae, SECONDED by Cllr. C. Miller it was unanimously agreed that the recommendations in the Manager's Report in relation to the General Submissions, Bonane, Castlecove, Lauragh, Templenoe and Tuosist be agreed.

**Sneem**

Mr. T. Sheehy informed the meeting that he understood that members were in agreement with the recommendations in the Manager's Report in relation to Submissions SM2, 3, 4, 5, 6, 7, 10, 11 and 13.

Mayor M. Healy-Rae referred to Submission SM3, which relates to lands on the Castlecove side of Sneem. These lands form part of the village and he would like to see them included in the village plan and zoned for mixed use. He asked Mr. Sheehy if there was any way this could be accommodated.

In response Mr. T. Sheehy stated that this was not an amendment that went on public display and could not be considered.

Cllr. D. Healy-Rae referred to Submission SM5 and asked if there was any way this submission could be accommodated.

Mr. T. Sheehy informed the meeting that this was not an amendment that was on public display and could not be considered.

On the PROPOSAL of Cllr. C. Miller, SECONDED by Cllr. P. O'Donoghue it was unanimously agreed that the recommendations in the Manager's Report in relation to Submissions SM2, 3, 4, 5, 6, 7, 10, 11 and 13 be adopted.

**Submission SM1 – Mayor M. Healy-Rae on behalf of John V. O'Sullivan**

**Submission SM8 – Cllr. P. O'Donoghue on behalf of John V. O'Sullivan**

Mr. T. Sheehy informed the meeting that one of the issues raised in Submission SM9 is the same as Submissions SM1 and SM8 and is also similar to that raised in Submission SM12.

The Mayor requested that Submissions SM1 and SM8 be taken together.

Mr. T. Sheehy indicated the lands the subject of these submissions on the map and said that the zoning of this land would result in the leapfrogging of lands. The proposed zoning of these lands is contrary to the guidelines issued by the Department. He added that he was opposed to these submissions as it would lead to an increased demand for public services and would not contribute to the development of a compact settlement. He urged members not to agree these submissions.

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Cllr. P. O'Donoghue PROPOSED that Submissions SM1 and SM8 be adopted and said that the lands are adjacent to the Coolfada development. The road is good at these lands and a number of houses are built between these lands and the village. This is a serviced area.

Cllr. D. Healy-Rae SECONDED this resolution and said that the lands are actually in the village. Planners are always advising members to provide green areas and the lands between these lands and the village could be used as a green area. He added that these lands can be serviced.

Mr. T. Sheehy indicated the Coolfada development on the map together with the lands that members were referring to.

Cllr. B. Cronin asked how much land was involved.

In response Mr. T. Sheehy indicated the lands in question on the map and said that there was approximately four and a half acres in this land.

On the PROPOSAL of Cllr. P. O'Donoghue, SECONDED by Cllr. D. Healy-Rae, *that having regard to Submissions SM1 and SM8 this Council resolves to adopt Amendment No. 4 that went on public display.*

A vote was taken on this resolution which resulted as follows:-

**For:** Cllrs. Cahill, S. Fitzgerald, D. Healy-Rae, McEllistrim, Miller, O'Donoghue, Purtill, M. Healy-Rae (8)

**Against:** None (0)

**Not Voting:** Cllrs. Cronin, Leahy, O'Connor (3)

**Absent:** Cllrs. Beasley, Brassil, Buckley, Connor-Scarteen, Ferris, T. Fitzgerald, Fleming, Foley, Gleeson, Kiely, MacGearailt, McCarthy, O'Brien, O'Connell, O'Shea, Sheahan (16)

The Mayor declared the resolution carried.

### **Submission SM9 – An Taisce**

Mr. T. Sheehy informed the meeting that the recommendation in the Manager's Report in relation to this submission is as follows: '*It is recommended that proposed Amendment No. 4 and No. 7 should not be adopted.*' He added that a vote had already been taken on Amendment No. 4 and it would be necessary to discuss proposed Amendment No. 7.

Mayor M. Healy-Rae said that as you approach Sneem from Kenmare the first building is McCarthy's Garage with a big area around it. It is run as a garage and includes the landowner's home and a bus garage. Everyone considers Sneem village begins at this

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location. The zoning of this land would give the landowner an opportunity to demolish existing buildings and to start anew. It would leave it open for him to further develop his lands and this is part of the village. He could not understand how it was considered wrong to include this as part of the village.

Mr. T. Sheehy stated that the amendment that went on public display was to zone these lands for mixed use.

Mayor M. Healy-Rae PROPOSED that these lands be zoned for mixed use.

Cllr. D. Healy-Rae SECONDED this resolution.

Mr. T. Sheehy informed the meeting that if this land is zoned for mixed use there is a potential for residential development on the site and it is possible that apartments would be proposed for the site. He recommended a compromise that this land would be zoned for commercial development. This would allow for a continuation of the existing use but would not provide for mixed use development.

Mayor M. Healy-Rae said that an apartment block would not be constructed on these lands as the landowner lives there with his mother. The existing building is not great and if it is knocked he would provide a house for himself and there is existing commercial use on this site.

Cllr. B. Cronin said that in adopting previous local area plans where there were existing garages, shops and residences lands were zoned commercial. Mr. Sheehy's compromise is a fair and reasonable suggestion and he urged members to give it due consideration. He PROPOSED that the compromise suggested by Mr. Sheehy, that this land be zoned commercial, be adopted.

Cllr. R. Beasley SECONDED this proposal.

Cllr. T. Fitzgerald requested clarification on this compromise.

In response Mr. T. Sheehy said that the land could be zoned commercial to incorporate residential development in accordance with the existing use.

Mayor M. Healy-Rae said that at the last meeting it was agreed that these lands would be zoned mixed use and this amendment went on public display. Cllr. Cronin is proposing that the land would be zoned commercial. He had proposed that the land would be zoned mixed use in accordance with the amendment that was on public display.

Mr. J.D. Flynn, Director of Corporate Services, advised members that it would be necessary to take Cllr. Cronin's proposal first as it was an amendment to the original proposal.

Cllr. B. Cronin requested clarification on the vote to be taken.

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In response Mr. T. Sheehy stated that instead of zoning this land mixed use it would be zoned for commercial development.

On the PROPOSAL of Cllr. B. Cronin, SECONDED by Cllr. R. Beasley, *this Council having regard to Submissions SM9 and SM12 resolves that the land the subject of Amendment No. 7 be zoned commercial.*

A vote was taken on this resolution which resulted as follows:-

**For:** Cllrs. Beasley, Cahill, Cronin, Ferris, S. Fitzgerald, T. Fitzgerald, Fleming, Miller, O'Connor (9)

**Against:** Cllrs. Connor-Scarteen, D. Healy-Rae, O'Donoghue, Purtill, Sheahan, M. Healy-Rae (6)

**Not Voting:** None (0)

**Absent:** Cllrs. Brassil, Buckley, Foley, Gleeson, Kiely, Leahy, MacGearailt, McCarthy, McEllistrim, O'Brien, O'Connell, O'Shea (12)

The Mayor declared the resolution carried.

### **Gneeveguilla**

Mr. T. Sheehy informed the meeting that five submissions were received on Gneeveguilla and he understood that members were in agreement with the recommendation in the Manager's Report in relation to Submission GA1 only.

On the PROPOSAL of Cllr. T. Fitzgerald, SECONDED by Cllr. J. Sheahan, it was unanimously agreed that the recommendation contained in the Manager's Report in relation to Submission GA1 be adopted.

### **Submission GA2 – Gneeveguilla GAA Club**

Mr. T. Sheehy stated that the GAA do not agree with the amendment that was on public display and they want their car park zoned residential. The amendment that was on public display proposed that the lands be zoned residential with an indicative road through it. He understood the GAA had difficulty regarding access to lands to the rear. He discussed this issue with the members for the Killarney Electoral Area and advised that they should consider the following wording - *In the event that these lands are used for access to the rear a centrally placed corridor of 15m in width shall be provided as the access point*'. He added that in negotiations for the land there is no mandatory objective to have the road through it, however, if they did want to provide the road it would have to be centrally located.

Cllr. D. Healy-Rae PROPOSED that the lands the subject of Submission GA2 be zoned residential and stated that this also satisfies the Community Council.

Cllr. J. Sheahan stated that he had spoken to the Community Council and the GAA and they do not want the 15m corridor going through the car park as it undermines their case in getting the best price for the land. The proposed wording is too similar to the amendment that went on public display. He would accept that a planning condition would require that a road would be incorporated in any development but could not agree to this being incorporated in the local area plan.

Cllr. B. Cronin requested clarification on the amendment that went on public display and the submission received and the benefit of development of the adjacent lands as outlined to members at a recent meeting. He added that it is important that all members are clear in their understanding of the consequences of this submission for the community as a whole.

Mr. T. Sheehy indicated the GAA pitch and the car park on the map. He informed the meeting that the GAA are considering an expansion of their facilities and their car park is being zoned residential but an objective is being incorporated for access. The GAA do not want this. If a new pitch is required additional car parking will also be required. He then outlined the proposed amendment that went on public display. Parking will be provided with the Community Centre which would be adequate to replace the existing car park and any additional parking requirements. The landowner is in favour of this zoning and the portion of his lands, which Mr. Sheehy then indicated on the map, would be zoned for community use for tennis courts etc. Mr. Sheehy also indicated the portion of the land to be zoned amenity on the map. All that development would be dependant on the provision of the road as indicated on the proposed amendment. The GAA feel that any provision for the road, even a 15m road, would weaken their hand in any negotiations. His suggested wording would allow the GAA to develop the land in its entirety and he pointed out that they do not have to deal with this landowner. This land is centrally located and on that basis he felt that the amended wording should satisfy all parties. Members must take into account the proper planning and sustainable development of the town and the common good.

Cllr. D. Healy-Rae said that the GAA are the biggest grouping in Gneeveguilla and they do not accept that they must deal with this landowner as they have other options. They and the Community Council asked members not to accept the wording suggested by Mr. Sheehy and they requested that the car park be zoned residential.

Cllr. T. Fleming said that the response from the GAA to the suggested compromise wording was that it would not be acceptable as it would not allow them to get the maximum value from their property. He added that he was in favour of providing facilities in Gneeveguilla but said that the GAA would be placed in an impossible position as lands to the north will not be for sale for a long time and they will be very restricted. This is a personal matter between the GAA and the landowner.

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Cllr. T. Fitzgerald said that it was clear to all members that it was important that nothing would be done that would prohibit the future development of the village. He asked if these lands were zoned residential would it prohibit the development of this road.

Mr. T. Sheehy said that he did not want a laneway at this location but he wanted a publicly accessible roadway and open space. It is important that the width of the road is written into the plan for the future. If an objective is not included and an application is subsequently submitted with a six meter roadway the application would be refused. In the interest of clarification he suggested that the width of the roadway should be incorporated in the plan.

Cllr. J. Sheahan stated that the GAA need a football field and training pitch. This is a flourishing, growing club. A large number of the community are involved in sport and many players are on county teams. The requirements of the GAA are not being met and the only alternative is for Mr. O'Mahony to deal with them. It would not be right for the members to weaken the hand of the GAA.

Mr. T. Sheehy pointed out that all landowners have equal rights and members should be considering the proper planning and development of the village. This landowner is under no obligation to negotiate with the GAA. It is important not to adopt a plan simply to strengthen the hand of the GAA.

Cllr. B. Cronin stated that this matter was debated at the recent Killarney Area Meeting and it is important that members are fair and try to focus in on what is best for the common good. All arguments must be balanced. He stated that he did not know Mr. O'Mahony and that he has every right to make a submission. He asked in what village had any landowner volunteered to zone valuable land for a community facility. He was not detracting from the GAA but it was wrong to condemn a man for putting in a submission. He added that Mr. Sheehy suggested a compromise wording and he understood that the GAA were not in agreement with it. He asked what the village of Gneeveguilla wants. He emphasised the need to have a balanced plan which benefits the entire community. In relation to the construction of a Community Centre and the development by the GAA of their facilities, he asked Mr. Sheehy if he was satisfied that the compromise wording suggested would give the GAA a strong hand and would it protect their interests.

Cllr. T. Ferris said that she was very wary of voting based on statements made by members. Members had not put forward any arguments on proper planning ground and she called on those making proposals to give the planning reasons for their proposals.

Cllr. D. Healy-Rae said that he never slighted anyone in the debate. The Community Council agree with the request to have the car park zoned residential.

Mr. M. McMahon, Director of Planning, informed members that he was concerned about the quality of the debate on this issue. A number of inappropriate statements were made and it is important that members would not try to usurp the planning process in favour of



one landowner over another. Members must consider what is right for Gneeveguilla and landownership should not form part of this purpose. He added that Mr. Sheehy advised members that it is necessary to clarify this issue in the plan. If a planning application is submitted without adequate roadway it is likely to be refused. Members must consider what is right in deciding on this proposal.

Mr. T. Sheehy informed the meeting that the Community Council made a submission and they made no reference to this residential zoning. He understood they were happy with the amendment that went on public display. If the Community Council has now indicated that they want the land zoned residential it is zoned residential in the amendment that went out on public display.

Cllr. D. Healy-Rae said that two senior members asked him to ensure that this land is zoned residential and that no wording would be inserted regarding the roadway. They also approached other councillors regarding this issue.

Mr. T. Sheehy asked Cllr. D. Healy-Rae if he had read the amended wording to the two people who contacted him.

Cllr. D. Healy-Rae confirmed that he did.

Mr. T. Sheehy again read the comprise wording which he was suggesting as follows '*In the event that these lands are used for access to the rear a centrally placed corridor of 15m in width shall be provided as the access point*'. This wording is specifying the design guidance and the road can go through this land if the owner so wishes.

Cllr. D. Healy-Rae referred to the developer.

Mr. T. Sheehy cautioned Cllr. D. Healy-Rae against this type of comment.

Cllr. T. Ferris said that this zoning could be open to challenge if it is adopted.

Mr. M. McMahon stated that anyone can take any decision of the planning authority to court if they so wish. He was concerned that the issue of negotiations was being introduced into the debate and zoning should be decided on what is right for Gneeveguilla.

Cllr. T. Ferris informed the meeting that the last County Manager warned that members could be open to surcharge if they voted in favour of this type of proposal and there was a subsequent compensation claim.

Mayor M. Healy-Rae warned members to be careful and to have regard to the Code of Conduct for Councillors before proceeding further with the debate.

Mr. J.D. Flynn, Director of Corporate Services, advised members that it is clear in the Code of Conduct for Councillors that members must have regard to the proper planning

and sustainable development of the area in considering this submission. Mr. T. Sheehy had already explained this very well to members. They cannot quote the GAA and he urged them to be very careful. The Code of Conduct is very specific in this regard.

Cllr. B. Cronin PROPOSED that based on the sound planning advice given by Mr. Sheehy that his compromise wording be adopted.

Cllr. R. Beasley SECONDED this proposal.

Mr. T. Sheehy stated that there was no obligation on the GAA to give away their land.

Cllr. D. Healy-Rae said that he had proposed what the GAA and the Community Council had requested him to do.

Mr. J.D. Flynn, Director of Corporate Services, informed the meeting that Cllr. B. Cronin's amendment would be taken first.

Cllr. T. Fleming read the following excerpt from Submission GA2 from Gneeveguilla GAA Club *'They want the existing GAA car park designed as a residential space in its entirety and that the objective to provide an 18m corridor through the middle of the car park be removed from the plan.'*

*The 18m access corridor to the backlands would reduce the value of the land considerably, thus reducing the chances of offsetting costs incurred were a second football field to be obtained.*

*This would allow the club use the car park for building purposes (option open to the GAA prior to the original draft plan) or as collateral on any required loan. Inserting an 18m corridor in the car park is of no benefit to anyone other than the developer proposing to build houses behind the car park. The GAA Club does not see why its land should be devalued to suit what is a private planning application with a view to making profit.'* In conclusion Cllr. Fleming said that the GAA want to protect their position financially.

Mr. M. McMahon stated that he had tried to stop Cllr. Fleming. He added that the excerpt read out by Cllr. Fleming is a position taken by the GAA and he had to take it that Cllr. Fleming supported that position. The planning authority is obliged to provide members with a Manager's Report to summarise the submissions received but Cllr. Fleming's proposal is not acceptable. The GAA are effectively saying that Kerry County Council is not facilitating the GAA in getting maximum value for their lands.

Mayor M. Healy-Rae stated that Cllr. T. Fleming was simply observing what was written in the Manager's Report and debating the issue.

Mr. M. McMahon said that Cllr. Fleming had spoken in favour of the proposal and had read out what the GAA had stated in their submission and Cllr. Fleming supported it. However, Cllr. Fleming never read the last paragraph of the Manager's response to this

submission which reads as follows: *'The development of the existing GAA car park for residential development would not be allowed in the absence of alternative car parking being provided. Certainly the development of an additional pitch, while desirable, cannot be accommodated without car parking being provided. Under the current plan this car parking could be provided by sharing with the area for community uses. This community use, however, cannot be provided in the absence of the entrance.'*

Cllr. T. Fleming informed the meeting that he had quoted what he felt was relevant.

Mayor M. Healy-Rae said that Cllr. Fleming was simply giving an overview on this submission.

Mr. J.D. Flynn, Director of Corporate Services, informed members that he was formally cautioning them on this issue and they must have regard to the Code of Conduct for Councillors and the proper planning and sustainable development of the area in their discussions and decisions.

The Mayor then called for a vote to be taken on the proposal made by Cllr. B. Cronin.

On the PROPOSAL of Cllr. B. Cronin, SECONDED by Cllr. R. Beasley, *this Council resolves having regard to Submission GA2 that the following wording should be inserted in relation to the GAA park lands formerly zoned residential 'In the event that these lands are used for access to the rear a centrally placed corridor of 15m in width shall be provided as the access point.'*

A vote was taken on this resolution which resulted as follows:-

**For:** Cllrs. Beasley, Cronin, Ferris, S. Fitzgerald, T. Fitzgerald, Miller, O'Connor, Purtill (8)

**Against:** Cllr. Cahill, Fleming, D. Healy-Rae, MacGearailt, Sheahan, M. Healy-Rae (6)

**Not Voting:** Cllr. Foley (1)

**Absent:** Cllrs. Brassil, Buckley, Connor-Scarteen, Gleeson, Kiely, Leahy, McCarthy, McEllistrim, O'Brien, O'Connell, O'Donoghue, O'Shea (12)

The Mayor declared the resolution carried.

Mr. T. Sheehy referred to the other issue in relation to Amendment No. 4 that went on public display. It is proposed there would be an extension of zoning to facilitate the possible provision of future GAA pitches. The GAA indicated that the lands zoned residential in the area which he indicated on the map should not be zoned residential. He indicated the area which he felt was appropriate for an extension of the GAA facilities as it is in the proximity of two housing estates and would provide suitable facilities for the

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town at large and would be adjacent to the Community Council's proposed facilities. It would also integrate with the social infrastructure of Gneeveguilla.

Cllr. D. Healy-Rae asked how this zoning would facilitate basketball courts etc.

Mr. T. Sheehy said that it was not necessary to zone the extent of land which he indicated on the map. He again indicated the area to be zoned residential and the area to be zoned amenity.

Cllr. D. Healy-Rae PROPOSED that these lands revert to amenity as per the Draft Plan.

Mr. T. Sheehy pointed out that Cllr. D. Healy-Rae was proposing that proposed Amendment Nos. 4 and 10 would not proceed.

Cllr. D. Healy-Rae clarified that he was proposing that what was zoned amenity in the Draft Plan would revert to amenity.

Mr. T. Sheehy asked Cllr. D. Healy-Rae was he suggesting that the area zoned amenity to facilitate the GAA pitch would not then proceed.

Cllr. D. Healy-Rae said that he could not understand how the area zoned residential would not be acceptable as amenity. The zoning of this land residential would result in residential development behind existing residential development.

Mr. T. Sheehy said that the land behind the streetscape is already zoned residential.

Cllr. D. Healy-Rae said that the amount of residential development behind the streetscape is increasing.

Mr. T. Sheehy recommended to members that proposed Amendment No. 10 would proceed.

Cllr. D. Healy-Rae PROPOSED that these lands be zoned amenity.

Cllr. T. Fleming informed the meeting that there was a huge doubt that the land to the north of this field would ever become available.

Mr. T. Sheehy advised members that if this land is zoned amenity and a subsequent planning application is refused on grounds that it is not suitable for development it could leave the council open to a compensation claim. Provision must be made for a community facility next to the community hall. From a community planning point of view this is the best way forward.

Cllr. B. Cronin PROPOSED that proposed Amendment No. 10 be adopted.

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Mr. J.D. Flynn, Director of Corporate Services, advised the meeting that Cllr. D. Healy-Rae made a proposal which was not seconded. Cllr. B. Cronin then made a proposal and there was no seconder for his proposal.

Cllr. T. Fleming **SECONDED** Cllr. D. Healy-Rae's proposal.

Cllr. R. Beasley **SECONDED** Cllr. Cronin's proposal.

Mr. J.D. Flynn advised the meeting that it would be necessary to take Cllr. Cronin's proposal first as it was an amendment to the original proposal.

Cllr. N. Foley asked if Cllr. Cronin was proposing that the recommendation in the Manager's Report in relation to this submission be adopted.

Mr. T. Sheehy confirmed that was the vote that was about to be taken.

On the **PROPOSAL** of Cllr. B. Cronin, **SECONDED** by Cllr. R. Beasley, *this Council resolves to adopt the Manager's recommendation in relation to Amendment No. 10.*

A vote was taken on this resolution which resulted as follows:-

**For:** Cllrs. Beasley, Buckley, Cronin, S. Fitzgerald, T. Fitzgerald, Foley, Purtill **(7)**

**Against:** Cllrs. Cahill, Connor-Scarteen, Fleming, D. Healy-Rae, MacGearailt, Miller, Sheahan, M. Healy-Rae **(8)**

**Not Voting:** None **(0)**

**Absent:** Cllrs. Brassil, Ferris, Gleeson, Kiely, Leahy, McCarthy, McEllistrim, O'Brien, O'Connell, O'Connor, O'Donoghue, O'Shea **(12)**

The Mayor declared the resolution defeated.

Members then accepted that the defeated proposal was a direct negative to the original proposal and Cllr. D. Healy-Rae's proposal was therefore deemed to be passed.

### **Submission GA3 – Cormac Collins, Chairman Gneeveguilla Community Council**

Mr. T. Sheehy informed the meeting that this submission related to the removal of the car park and the graveyard behind the Church and the amenity area. The Manager's Report recommends that the car park and graveyard remain. He understood that members did not agree with this recommendation. If members do not want these lands to be zoned they must disagree with the Manager's Report.

Cllr. D. Healy-Rae **PROPOSED** that members would not agree with the recommendation in the Manager's Report on this submission. This landowner does not want her land zoned. She would agree to a graveyard on her lands, but she does not want the car park.

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He was concerned that if any of these lands are zoned for a graveyard or a carpark she would not agree to sell the land for the graveyard. He PROPOSED that the amendment that went on public display be adopted.

Cllr. T. Fleming SECONDED this proposal.

Cllr. B. Cronin said that it is crucially important that land is identified for a graveyard. He asked if members reject the Manager's recommendation and do not zone land for an extension to the graveyard, where would that leave the Council seeking an extension of the graveyard in the future.

Mr. T. Sheehy advised members that the land would then be zoned rural general and this would not prohibit the purchase of the land and the provision of a graveyard in the future.

On the PROPOSAL of Cllr. D. Healy-Rae, SECONDED by Cllr. T. Fleming *this Council resolves, that in relation to Submission GA3, that proposed Amendment No. 7 should proceed.*

A vote was taken on this resolution which resulted as follows:-

**For:** Cllrs. Beasley, Buckley, Cahill, Cronin, T. Fitzgerald, Fleming, Foley, D. Healy Rae, MacGearailt, Miller, Purtill, Sheahan, M. Healy-Rae (13)

**Against:** None (0)

**Not Voting:** None (0)

**Absent:** Cllrs. Brassil, Connor-Scarteen, Ferris, S. Fitzgerald, Gleeson, Kiely, Leahy, McCarthy, McEllistrim, O'Brien, O'Connell, O'Connor, O'Donoghue, O'Shea (14)

The Mayor declared the resolution carried.

Mr. T. Sheehy then informed the meeting that the vote taken effectively dealt with Submissions GA4 and GA5.

### **Kilgarvan**

Mayor M. Healy-Rae informed the meeting that in accordance with Section 177 of the Local Government Act 2001 he would leave the meeting when a vote was being taken on the adoption of the Kilgarvan Local Area Plan as his lands would be included in this.

Cllr. B. Cronin referred to Submission KN4.

Mayor M. Healy-Rae said that it would be appropriate that members would deal with the submissions where there was agreement with the recommendations in the Managers Report.

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Mr. T. Sheehy said that he understood that members were in agreement with all the recommendations in the Managers report on all submission with the exception of KN4.

Cllr. D. Healy-Rae said that he had a query on that submission. The owner is seeking to have a half an acre of land zoned residential and he asked for the support of members for this request. This is a small increase, as it was already agreed that one third of an acre would be zoned residential for this landowner. More than half of this landowners land is to be zoned for an extension of a car park for the school and he asked that half an acre be zoned residential for this landowner.

Mr. T. Sheehy advised the meeting that this proposal did not relate to an amendment that went on public display and therefore could not be considered.

Mayor H. Healy-Rae supported the sentiments expressed by Cllr. D. Healy-Rae and stated that he was disappointed that this landowner could not be accommodated.

Cllr. B. Cronin stated that the members from the Killarney Electoral Area agreed, on the advice of Mr. T. Sheehy, that one third of an acre in a serviced area was adequate for the provision of a house, and that was what was agreed at the previous meeting.

Mayor M. Healy-Rae pointed out that this was contested at that time.

Cllr. D. Healy-Rae pointed out that this was an amendment that went on public display.

In response Mr. T. Sheehy stated that the amendment on public display proposed that one third of an acre would be zoned residential and it was not possible to increase the size of this residential zoning. There was a long debate on this zoning at the last meeting and on a legal point it could not be considered.

Cllr. D. Healy Rae said that he wished to record his disappointment that his proposal could not be considered. He asked, before this land owner could be considered for the granting of planning permission would he have to give the rest of the land for a town park.

In response Mr. T. Sheehy stated that this would not be necessary.

On the PROPOSAL of Cllr. B. Cronin, SECONDED by Cllr. C. Miller, it was agreed that the recommendation contained in the Managers Report in relation to all submissions received on the Kilgarvan with the exception of Submission KN4 be adopted.

### **Submission KN4 John Malone**

Mr. T. Sheehy then circulated a map to all members whereon a specific road is outlined rather than the indicative route of the road as previously indicated.

Cllr. B. Cronin requested clarification on the required width of this road.

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In response Mr. T. Sheehy said that the road would be a minimum of 7 metres wide and the footpaths would be additional. This was not specified as this road will go through the town park and the footpaths may meander through it.

Cllr. D. Healy-Rae asked if there were 2 metre verges either side of the footpath.

Mr. T. Sheehy said that there is variable verge width.

Mayor M. Healy Rae pointed out that this road must be provided.

On the PROPOSAL of Cllr. B. Cronin, SECONDED by Cllr. C. Miller, *this Council resolves, that in relation to Submission KN4, that the Manager's recommendation be accepted with the additional road layout as specified on the map submitted (Appendix 3)*

A vote was taken on this resolution which resulted as follows:-

**For:** Cllrs. Beasley, Buckley, Cahill, Cronin, S. Fitzgerald, T. Fitzgerald, Fleming, Foley, MacGearailt, Miller, O'Shea, Sheahan, M. Healy-Rae **(13)**

**Against:** None **(0)**

**Not Voting:** None **(0)**

**Absent:** Cllrs. Brassil, Connor-Scarteen, Ferris, Gleeson, D. Healy Rae, Kiely, Leahy, McCarthy, McEllistrim, O'Brien, O'Connell, O'Connor, O'Donoghue, Purtill **(14)**

The Mayor declared the resolution carried.

### **Scartaglin**

Mr. T. Sheehy informed the meeting that four submissions were received on Scartaglin and he understood that the members were in agreement with the recommendations in the Managers Report in relation to Submissions SN1, 3 and 4.

On the PROPOSAL of Cllr. T. Fleming, SECONDED by Cllr. J. Sheahan, it was unanimously agreed that the recommendations contained in the Manager's Report in relation to Submissions SN1, 3 and 4 be adopted.

### **Submission SN2      David Twomey & Co. Solicitors (on behalf of a client)**

Mr. T. Sheehy informed the meeting that this submission was received from Twomey Solicitors and his client is objecting to the inclusion of his property in the proposed plan as referred to at no. 3 and no. 10 on the proposed amendments. The submission requests that these 2 plots are removed from the final plan. This submission relates to 2 issues (1) the set down parking for the school and (2) the zoning for the extension to the graveyard.

Cllr. T. Fleming said that no approach has been made to the landowner to purchase land for an extension to the graveyard. Members are dealing with a very sensitive situation in



relation to this submission and he felt that it was in the best interests of everyone concerned if these lands were not zoned. The land proposed for parking is in this landowner's ownership and negotiations are at a very delicate stage. He had spoken to the landowner recently and he understood that he is open to negotiation. He PROPOSED that both these portions of land would not be zoned and that they would be strategically omitted from the Draft Plan and that this submission would be agreed.

Cllr. C. Miller SECONDED this proposal.

Cllr. T. Fleming requested that meaningful negotiations would be undertaken with this landowner immediately.

Mr. J. O'Connor, Head of Finance, said that he had previously undertaken that the Council would arrange negotiations with the landowner. He requested Cllr. Fleming to give him the details following the meeting.

On the PROPOSAL of Cllr. B. Cronin, SECONDED by Cllr. C. Miller, *this Council resolves, that having regard to Submission SN2, that Amendment No 3 and No.9 should not proceed.*

A vote was taken on this resolution which resulted as follows:-

**For:** Cllrs. Beasley, Cahill, T. Fitzgerald, Fleming, Foley, D. Healy Rae, MacGearailt, Miller, O'Shea, Sheahan, M. Healy-Rae (11)

**Against:** None (0)

**Not Voting:** Cllrs. Cronin, S. Fitzgerald (2)

**Absent:** Cllrs. Brassil, Buckley, Connor-Scarteen, Ferris, Gleeson, Kiely, Leahy, McCarthy, McEllistrim, O'Brien, O'Connell, O'Connor, O'Donoghue, Purtill (14)

The Mayor declared the resolution carried.

### **Glenflesk**

Mr. T. Sheehy advised the meeting that one submission was received on Glenflesk and that was from the NRA and the recommendation in the Managers Report is that proposed Amendment No. 1 should not proceed. He indicated the lands the subject of this submission on the map and said that it was proposed in the amendment that the land would be zoned commercial. There is an existing garage on these lands but following the receipt of the submission from the NRA he was recommending that this amendment would not proceed.

Cllr. D. Healy Rae PROPOSED that the amendment would proceed and he pointed out that access to this property is not from the N22. He wanted to see this land zoned to allow this man to continue in business.

Cllr. M. Healy Rae **SECONDED** this proposal.

Mr. T. Sheehy stated that the continuation of existing use is not in question. There is no other development in this area and it is not appropriate to zone this land commercial. Any vehicles going to this business must stop on the national primary road and additional traffic would be generated. In principal it is a poor practice.

Cllr. D. Healy Rae said that any traffic travelling to Shroneaboy or Lough Guitane must also use this access.

On the **PROPOSAL** of Cllr. D. Healy Rae, **SECONDED** by Cllr. M. Healy Rae, *this Council resolves, that in relation to Submission GK1, that the amendment that went on public display be adopted.*

A vote was taken on this resolution which resulted as follows:-

**For:** Cllrs. Beasley, Cahill, Cronin, S. Fitzgerald, Fleming, D. Healy Rae, Miller, M. Healy-Rae **(8)**

**Against:** None **(0)**

**Not Voting:** Cllr. O'Connor **(1)**

**Absent:** Cllrs. Brassil, Buckley, Connor-Scarteen, Ferris, T. Fitzgerald, Foley, Gleeson, Kiely, Leahy, MacGearailt, McCarthy, McEllistram, O'Brien, O'Connell, O'Donoghue, O'Shea, Purtill, Sheahan **(18)**

The Mayor declared the resolution carried.

The Mayor informed the meeting that, in accordance with Section 177 of the Local Government Act 2001, he, Cllr. D. Healy Rae and Cllr. M. Connor Scarteen would leave the meeting before a vote was taken on the making of this plan South East Kerry Settlements Local Area Plan.

Cllr. T. Fleming then took the Chair.

Cllrs. M. Healy Rae, D. Healy Rae and M. Connor Scarteen then left the meeting.

**08.02.22.04(ii) Making of the South East Kerry Settlements Local Area Plan**

On the **PROPOSAL** of Cllr. T. Fleming, **SECONDED** by Cllr. C. Miller, *this Council resolves to make the South East Kerry Settlements Local Area Plan, subject to the amendments adopted.*

A vote was taken on this resolution which resulted as follows:-

**For:** Cllrs. Beasley, Cahill, Cronin, S. Fitzgerald, Fleming, Foley, Miller, O'Connor, Sheahan, (9)

**Against:** None (0)

**Not Voting:** None (0)

**Absent:** Cllrs. Brassil, Buckley, Connor-Scarteen, Ferris, T. Fitzgerald, Gleeson, D. Healy Rae, Kiely, Leahy, MacGearailt, McCarthy, McEllistrim, O'Brien, O'Connell, O'Donoghue, O'Shea, Purtill, M. Healy Rae (18)

Cllr. T. Fleming declared the resolution carried.

**08.02.22.05(i) Manager's Report on submissions or observations received on the proposed variation to the Kerry County Development Plan 2003 - 2009**

Mr. T. Sheehy referred members to the County Managers Report on proposed Variation No. 15 to the Kerry County Development Plan 2003 – 2009 regarding the South East Kerry Settlements Local Area Plan which was circulated. He advised members that one submission was received from the OPW. While they were not in a position to make comments specific to the 11 areas in question, they would like to draw members attention to a number of general issues which were set out in the report and this related to development and flood risk. The Managers Report recommends that no amendment to the proposed variation be made.

It was unanimously agreed to note the Manager's Report.

**08.02.22.05(ii) Proposed variation to the Kerry County Development Plan 2003 – 2009, to incorporate the South East Kerry Settlements Local Area Plan**

Mr. Sheehy informed the meeting that the Manager's Report recommends that the Kerry County Development Plan 2003 – 2009 be varied to incorporate the provisions of the South East Kerry Settlements Local Area Plan and to zone lands at and adjacent to Sneem, Gneeveguille, Kilgarvan, Scartaglin, and Castlecove to reflect the provisions of the South East Kerry Settlements Local Area Plan as adopted.

On the PROPOSAL of Cllr. S. Fitzgerald, SECONDED by Cllr. B. Cronin, *that this Council resolves that the Kerry County Development Plan 2003 – 2009 be varied to incorporate the provisions of the South East Kerry Settlements Local Area Plan and to zone lands at and adjacent to Sneem, Gneeveguille, Kilgarvan, Scartaglin and Castlecove to reflect the provisions of the South East Kerry Settlements Local Area Plan as adopted.*

## Minutes Special Planning Meeting

A vote was taken on this resolution which resulted as follows:-

**For:** Cllrs. Beasley, Cahill, Cronin, S. Fitzgerald, Fleming, Foley, Miller, O'Connor, Sheahan (9)

**Against:** None (0)

**Not Voting:** None (0)

**Absent:** Cllrs. Brassil, Buckley, Connor-Scarteen, Ferris, T. Fitzgerald, Gleeson, D. Healy Rae, Kiely, Leahy, MacGearailt, McCarthy, McEllistram, O'Brien, O'Connell, O'Donoghue, O'Shea, Purtill, M. Healy Rae (18)

The Mayor declared the resolution carried.

The Deputy Mayor Cllr. T. Fleming then stated that it was 1.30pm and the meeting would be adjourned for lunch until 2.15pm.

The meeting resumed at 2.30pm.

Mayor M. Healy Rae took the Chair.

### **08.02.22.06 Report from Cllr. T. O'Brien, Chair of the Planning SPC**

Cllr. T. O'Brien read the following report into the record of the meeting.

*The Strategic Policy Committee met on the 13 February 2008 and considered a number of issues including the Managers Report on the initial public consultation submissions received in relation to the review of the County Development Plan.*

*The members of the committee were of a strong view that any debate on the review of the County Development Plan and the Draft Development Plan which is to be prepared should be organised in a structured manner. In this regard meetings should be held to discuss specific issues and once these discussions are concluded those elements of the Draft Development Plan should not be revisited. This would ensure that all aspects of the review are properly considered and that successive meetings are not used to discuss issues already agreed or that any particular issue would dominate the discussions.*

*It is also recommended that the review of the Development Plan process should not now be used to include further lands into settlements which had not been included as part of the Local Area Plan process. It was pointed out by the Director of Planning that this would not be legally possible in any case as there are two distinct procedural processes set out in the Planning & Development Act 2000, one dealing with the review of the Development Plan and the variation of existing plans and a separate process dealing with the preparation of Local Area Plans.*

*The Committee also noted the decision to proceed with the introduction of a panel of approved site suitability assessors in relation to the on-site treatment of effluent.'*

In conclusion, Cllr. O'Brien PROPOSED that the procedure for dealing with the County Development Plan as set out in the report be adopted.

Cllr. B. Cronin SECONDED this proposal and added that the debate on the County Development Plan should have a similar format to the Budget debate, ie, a section dealing with Wind Energy Policy, One Off Rural Housing etc. He also concurred with the sentiments expressed by Mr. McMahon in relation to the review of the Development Plan and that this process should not be used to extend the zoning of land previously zoned in the making of the Local Area Plans.

The Mayor stated that all members supported the proposal made by Cllr. O'Brien and added that adequate land was already zoned in the Local Area Plans. This is a reasonable and more organised way in which to deal with the Draft Development Plan. He informed the meeting that he applauded the way that the Forward Planning Unit met with members at local level to discuss submissions received on the local area plans prior to full Council Meetings.

It was unanimously agreed that Cllr. O'Brien's proposal would be adopted.

**08.02.22.07    Manager's Report on submissions or observations received on the review of the County Development Plan 2003 – 2009**

Mr. M. McMahon informed the meeting that the review of the County Development Plan involves a process of up to 2 years. There is an obligation on a planning authority to commence the process not less than 4 years after the last plan was adopted. This process commenced on 24<sup>th</sup> October 2007 when an Issues Document was published. While the document was on public display six information meetings were held to facilitate the public who wanted to make submissions. These were held in Listowel, An Daingean, Caherciveen, Kenmare, Tralee and Killarney. The Manager is required to bring a report to Council setting out the details of all submissions received and summarising the issues involved and making recommendations. The Manager's Report may also suggest the issues to be dealt with.

In total 74 submissions were received and Page 34 onwards in the Managers Report lists the names of those who made submissions and summarises the issues raised. A wide range of issues were raised and these have been categorised in accordance with the categories in the present County Development Plan. It is recommended that the new Development Plan would have a similar format to the existing plan, but because of the importance of tourism to the County a section will be incorporated on tourism. He then outlined the specific objectives set out on Pages 1 and 2 to be incorporated in the Plan together with mandatory objectives. He added that other objectives could be considered and included provided they dealt with the proper planning and sustainable development of the County.

He added that the planning authority is obliged to include a Housing Strategy. A summary of the issues raised and the Managers response to them is set out from Pages 5 to 24 in the Managers Report. After each item the submission numbers which dealt with those issues are also set out in the report. Once they were categorised a recommendation was made on the objective they should be included with in the Development Plan. He referred members to Pages 25 – 29 in the Managers Report which sets out the Manager's recommendation on objectives to be included in the Development Plan. He advised members that the purpose of the meeting was to consider the Managers Report and the law provides that members may give direction to the Manager on the objectives they want considered and the Manager shall have regard to those objectives. He advised the meeting that members must have regard to Government Guidelines on the proper and sustainable development of the County in considering any objectives to be included. Consideration of the report can take up to 10 weeks from 21<sup>st</sup> January. His covering note of 17<sup>th</sup> January requested members to read the report and suggested that a Special Planning Meeting would be held and he hoped that the Managers Report could be dealt with conclusively at that meeting and this would then allow the Planning Authority to prepare the Draft Plan.

Mr. McMahon stated that in preparing the Draft Plan members views would be taken on board and the planning authority has 12 weeks in which to prepare the Draft County Development Plan. If the Managers Report was dealt with at that meeting, the Draft County Development Plan would be presented to members in June at which time they would have 8 weeks to consider it. He advised members that the County Development Plan should be dealt with in line with the recommendations of the Planning SPC.

Cllr. M. Cahill welcomed the review of the County Development Plan and said that the strongest possible emphasis should be put on facilitating the sons and daughters of landowners in rural areas. He added that it has been exceptionally difficult to get permission for cluster development and they should either be written out of the new Development Plan or it should be specified where cluster development will be permitted. In relation to tourism he said that as a coastal county every effort should be made to promote facilities such as marinas, harbours and piers to encourage more people to visit the county.

Cllr. D. Healy-Rae also called for a greater emphasis on facilitating family members who wish to get planning permission in rural areas. At present family members are being denied on national routes and he PROPOSED that in the new County Development Plan family members would be accommodated in using existing entrances on national routes. This will not result in an increase in traffic as it is possible that other family members would have moved away.

Cllr. M. Cahill supported the sentiments expressed by Cllr. D. Healy-Rae regarding access for family members onto national routes.

Cllr. J. O'Connor supported the sentiments expressed by Cllr. M. Cahill in relation to facilitating family members in rural areas and added that people with a tie to an area

should also be facilitated. Tourism should be further developed in the county through the provision of walkways and trails. This should involve farmers and their families who have a great knowledge of the area and could give guided tours. The establishment of local markets should also be promoted and local products should be promoted in hotel and restaurants. He called for a greater emphasis on job creation in the new County Development Plan and he said that small industrial units should be provided in all towns. Shannon Development is promoting e-Towns and this is an excellent incentive to encourage people to move out of cities. However, in order for this to be successful broadband must be provided.

Cllr. B. Cronin welcomed the review of the County Development Plan and said that a lot of controversial issues would have to be considered. He supported the case made by other members to facilitate family members in rural areas and said that in some. A number of submissions were made on the expansion of industrial zonings and this includes Coolcashlagh. Permission was granted in this area for industrial units on the basis of major improvements to the road and the provision of the Ring Road. However, this has not yet happened and it has proved to be a major issue for the people living in this area. This is a small narrow road and he called on the Planning Department to be cautious in granting permission in these rural areas. This effects people from the area who want to build homes there. The infrastructure is not in place to facilitate this type of development but it is important not to discriminate against locals. There was a lot of controversy regarding Kerry County Council's Telecommunications Policy and in particular the 1km provision. He added that if broadband is to be delivered to rural areas consideration must be given to the masts that are required as this service will be wireless. He emphasised the need to protect the environment and water sources and to maintain them to an acceptable standard. The Planning Department is focussing too much on A type roof designs and hip roofs can be very acceptable and this is a matter of choice.

Cllr. C. Miller said that he was approached by the residents from the Coolcashlagh area who was concerned regarding the increasing development in their area without an adequate road structure. It is incumbent on Kerry County Council to give serious favourable consideration would be given to farm family members to ensure that they are granted permission. He concurred with the sentiments expressed by Cllr. D. Healy-Rae regarding the granting of permission on national routes using existing entrances.

Cllr. M. O'Shea referred to the local area plans recently adopted and asked if there would be further zoning of towns and villages in the review of the County Development Plan. He referred to the N86 and national routes in general and said that applicants are being refused permission where the access is onto a national route. Permission is also regularly refused on the grounds that the proposed development would be 'visually obtrusive'. From Inch and Annascaul back to West Kerry the land is high but the people of these areas must be accommodated. He requested that the term 'visually obtrusive' should be removed from the new County Development Plan. Many people go on holidays abroad and he believed that if well designed tourist resorts were provided for in the County Development Plan, this would result in a large increase in the number of tourists visiting the county.

## Minutes Special Planning Meeting

Cllr. P. McCarthy asked what were the critical dates for the review of the County Development Plan.

Mr. M. McMahon, Director of Planning, said that if the members conclude consideration of the Manager's Report that day the Forward Planning Unit would then commence the preparation of the Draft County Development Plan. This would be done within 12 weeks and it would then be presented to the members possibly at the June meeting. Members would have 8 weeks to consider it following which it would be put on public display.

Cllr. P. McCarthy asked if members could suggest the criteria for the preparation of the County Development Plan.

Mr. M. McMahon said that any suggestions members have would be taken on board and should be made at that meeting.

Cllr. J. O'Connor referred to alternative energy and said that Ireland has the ability, through the use of wind energy to meet its own requirements and to be in a position to supply energy to other parts of Europe. Access to the national grid needs to be addressed at a national level. He suggested that study trips to Europe should be undertaken to study programmes of this nature throughout Europe. These trips could be organised through the NASC office in Brussels. He suggested that the IT in Tralee should also be involved in this project. Sea wave power is another resource that needs to be developed. There is a huge amount of forestry in Kerry which is not being maintained and at present Meitheal Forbartha Chiarraí operates a programme for the thinning of forestry.

Cllr. D. Healy-Rae requested that in preparing the Draft County Development Plan a request would be forwarded to the Department of Agriculture and the Department of Environment requesting them not to allow the planting of good agricultural land with forestry. Good land is rare in South Kerry and it should not be planted with forestry.

Cllr. M. O'Shea referred to the Wind Energy Policy and asked if areas where wind farms will be permitted were expanded especially in the West Kerry area. The Minister recently announced that people can construct a wind mill near the family home and he asked if this would be facilitated in the new County Development Plan.

Cllr. M. Healy-Rae concurred with the sentiments expressed by Cllr. D. Healy-Rae regarding the planting of good agricultural land and said that he understood that it was recommended at a national level that good land should be planted with forestry and he understood that in the future forestry would only be planted on good land and not in boggy areas. He advised members that if they wish to give direction to the planners on what should be incorporated in the Draft County Development Plan they should do so at that time. He added that rural planning is a very contentious issue and he appreciated that management, planners and elected members are trying to cater for farm family members. He supported the view expressed recently by the IRDA who state that only those affected by a planning application should have the right to object to it. He requested that an



objective to this effect would be included in the Draft County Development Plan. He acknowledged that he could not deny people the right to make an objection but added that when the planners see that the objection is by a person who is not directly affected by the proposed development they would not take it into account. He referred to the telecommunications mast in Killorglin town which is very large and is virtually in the school yard and said that while he acknowledged that telecommunication masts must be accommodated they should be located in more out of the way places. The new County Development Plan should be pro wind farms which should be located in less obtrusive areas where they will not have an adverse impact on others. It is the duty of the elected members to protect the county for the future and it is best to protect the land for farmers who will not pollute it. He suggested that in principal members should agree the issues presented in the Manager's Report and to instruct that the Draft County Development Plan be prepared.

Mr. M. McMahon informed the meeting that the Draft County Development would be prepared within a 12 week period. The Draft Plan would then be presented to members and they would have eight weeks to consider it before it would be put on public display. The Manager's Report on submissions or observations would then be prepared and presented to the council for consideration. He assured members that the issues raised by them would be incorporated in the Draft County Development Plan. He referred to Cllr. T. O'Brien's report from the Planning SPC which stated that this process cannot be used to zone land for residential or commercial purposes. He informed members that the most recent planning legislation provides for a substantial exemption for private wind mills, however, a large site is required and it sets the parameters on how far a windmill must be located from adjoining land.

Cllr. M. O'Shea asked if a farmer could erect a windmill to feed into the national grid.

In response Mr. M. McMahon said that this would require planning permission and a licence to connect to the national grid.

Cllr. J. O'Connor said that Cllr. Healy-Rae had requested that there would be no planting of forestry on good land in South Kerry. He pointed out that national legislation does not allow for the planting of forestry in SAC areas but the planting of native woodland is acceptable. He requested that an objective be included in the Draft County Development Plan that native woodland would be planted where possible. He also requested that provision be made in the Draft County Development Plan that golf courses would be permitted in SAC areas. Golf courses are very close to nature if properly managed.

The meeting concluded at 3.30pm.

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***Gerard O'Brien***  
***A/SEO Corporate Affairs***

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***Mayor of Kerry***